GICA Compliance Collaborative

2020 In-Person and Webinar Training

Title IX – Investigator Training – Parts I, II, and III

(3 Hour In-Person, Webinar, and Videotaped – August 2020)

AGENDA

Title IX Investigator Training – Part I
Definitions
    Sexual Harassment
    Education Program or Activity
        Off-Campus Student Organizations
    Formal Complaint
    Complainant
    Respondent

Jurisdiction
    Triggering Event
    Actual Knowledge
    Official with Authority
    Mandatory Reporter/Responsible Employee
    No Formal Complaint
        Filing by Title IX Coordinator
        Unwilling Complainant
    Unknown Respondent

Dismissal of Complaints
    Mandatory Dismissal
    Discretionary Dismissal
    Non-Title IX Proceedings

Standard of Evidence
    Preponderance of Evidence
    Clear and Convincing
    Same Standards

Emergency Removal
    Purpose
        Individualized assessment
    Administrative Leave
Supportive Measures
Definition
Offered to Complainant and Respondent; offered to student and employee
Restore/Preserve Equal Access

Training Materials Publication Requirements Overview
Publication Requirement
Up-to-date Training

Title IX Investigator Training – Part II
Informal Resolution
Definition
Not Permitted Use – condition of employment or enrollment
Not Permitted Use – Employee sexually harasses student
Investigative Process
No Conflict of Interest or Bias
Reasonably Prompt Time Frames
Written Notice of Allegations
Rights of Complainant and Respondent
No Gag Order
Inspect and Review Evidence
Preliminary Report
Communication with Advisor, if any
Investigative Report
Communication with Advisor, if any
Role of Advisor
Advisor of Choice
Restrictions
Rules of Decorum

Title IX Investigator Training – Part III
Live Hearing
Must Have
Options – Informal Resolution
Decision-Maker
Definition
Parties Physically Present
Recording
Questions of Parties and Witnesses by Advisor
Cross-Examination
Must Submit
Relevant Questions
Determination of Relevancy
Rape Shield Protection
Hearsay
Medical Records Exception
Privilege Exception
Written Determination
Content
Remedies
Appeal
Both Parties Can Appeal
Grounds for Appeal
Additional Bases for Appeal
Requirements for Appeal

Resources Provided
OCR and Title IX
https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

Joint Guidance on Title IX -
https://system.suny.edu/sci/tix2020/

Presenter: Judy Spain, J.D., CCEP
Judy currently serves as the GICA Compliance Program Consultant. She is a Professor Emeritus, Eastern Kentucky University, an attorney licensed in Kentucky, Ohio, New York, and Pennsylvania, and is a Certified Compliance and Ethics Professional. She served as General Counsel and Chief Ethics and Compliance Officer at Eastern Kentucky University and Manhattanville College, where she developed and implemented compliance programs. She has served in multiple Title IX roles and has lectured extensively in this area. Judy is the author of the first book on higher education compliance, “Higher Education Compliance: Blueprint for Success”. Judy is also the author of “Compliance Risk Assessments: An Introduction” published by the Society for Corporate Compliance and Ethics.