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.