

**GICA Compliance Collaborative
In-Person Trainings
Title IX Investigator Training**

Title IX Scenarios

**3:00 pm to 4:00 pm
September 2022**

Agenda

3:00 pm to 4:00 pm

Training Objectives:

- Using scenario-based training to understand the application of Title IX to various issues
- Attendees to identify scope of investigation, i.e., possible Title IX violation; who is Complainant, who is Respondent; what could be Supportive Measures; possibility of using Informal Resolution or Formal Resolution; intersection of FERPA

Scenarios - Synopsis

- Employee complaining about “harsh language”
- Co-worker making sexual advances
- Possible sexual harassment occurring at an out-of-town conference
- Flyers posted on campus
- Athletic Trainer and possible inappropriate relationship with student athletes
- Department Chair investigates a potential Title IX matter
- If student admits to Title IX violation, proceed through Informal Resolution or Formal Resolution?
- Respondent – institution problem or vendor problem?
- Father seeking information, no FERPA release, continued contact with Title IX Coordinator – what to do?
- Multiple witness who could be Complainants, no contact order violated, Complainant withdraws complaint – status of case?

Resources

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

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Title IX Investigations – Interview Techniques

**1:00 pm to 3:00 pm
September 2022**

Agenda:

1:00 pm to 3:00 pm

Training Objectives:

- Understanding of Title IX interview techniques
 - Investigations
 - Before interview
 - During interview
 - Ending interview
 - Different interview styles

Investigations

- Who should be an investigator?
 - General comments

Before First Interview

- Do you know Institutional policy?
- What resources are available to various individuals in the process?
- How to contact Counseling Services during day, night, and weekends?
- Do you have phone numbers for any department that you need to contact? (Title IX coordinator; campus police, local police, etc.)
- Plan questions
 - Standardized or customized
- Gather documents
- Understand purpose of interview
- Plan order of witnesses
- Practical tips

During interview

- Logistics
- Investigator demeanor
- Recognizing intersectionality
- Understanding responses

- How to begin
 - Questioning

Ending Interview

- Practical tips

Different interview styles

- Reid Training - investigative techniques
- Narrative style
- Echo style
- Note taking style

Resources

- OCR and Title IX
 - https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- Reid Training Programs
 - <https://reid.com/programs/program-descriptions/the-reid-technique-of-investigative-interviewing-and-advanced-interrogation-techniques>

**GICA Compliance Collaborative
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Title IX Investigator Training**

ASIS/ANSI Investigative Standards

**10:00 am to 11:00 am
September 2022**

Agenda:

10:00 a.m. – 11:00 a.m.

Training Objectives:

- Understanding of ASIS/ANSI Investigative Standards

What a lawsuit will focus on if allegation of improper investigation:

- Does the institution have a policy/procedure in place to govern investigations?
- Was there a written disclosure of allegation?
- Was there disclosure of objective purpose of investigation?
- Were the investigator(s) identified?
 - Documentation of education, training, previous experience
- Were both parties provided the same opportunity to tell their story to the investigator, provide documentation, review record, present their story to the hearing panel, cross-examine witnesses, and appeal?

Investigation

- Investigation defined
- Investigation framework
- Plan-Do-Check Act Model
- Investigation guiding principles

Information Types – Definitions

- Testimonial
- Documentary
- Physical
- Direct evidence
- Circumstantial or indirect evidence
- Forensic evidence

Roles and Scope

- Establishing investigation scope
- Establishing investigation roles
- Establishing investigation legal requirements

Investigator Skills

- Investigator competency skills

Investigator's Role

- Prior to investigation commencing
- Investigator's information collecting role
- Preparing investigation conclusions
- Evaluation investigation outcomes

Resources

- ASIS ANSI Standards
 - [Standards & Guidelines \(asisonline.org\)](http://asisonline.org)
- Investigative Interviewing: Psychology, Method and Practice 1st Edition, Eugene Ferraro. Found at [Amazon.com: Investigative Interviewing: Psychology, Method and Practice: 9780367868307: Ferraro \(CPP, SPHR\) Eugene: Books](https://www.amazon.com/Investigative-Interviewing-Psychology-Method-Practice/dp/9780367868307)

**GICA Compliance Collaborative
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Title IX Investigator Training**

Title IX – Policy Overview

**9:00 am to 10:00 am
September 2022**

Agenda

9:00 a.m. – 10:00 a.m.

- Training Objectives:
 - Introductions and Review of Title IX
 - Title IX NPRM

Title IX – Present Policy

- Definitions
 - Sexual harassment
 - Education program or activity
 - Recognized, off-campus student organizations
 - Misconduct outside educational program or activity
 - Formal complaint
 - Complainant
 - Respondent

Title IX – 2022 NPRM

- Jurisdiction
- Education program or activity
- Triggers for Recipient’s response obligations
- Initiating grievance process
- Grievance process – proposed Sec. 106.45
- Grievance process – proposed Sec. 106.46
- Training
 - First level – all employees
 - Second level – Title IX involved employees
 - Third level – Facilitators
 - Fourth level - Coordinators

Other applicable policies

- Title VII, Civil Rights Act of 1964
- Nondiscrimination Policy

Resources

- OCR and Title IX
 - https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- [Federal Register :: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#)
- [The U.S. Department of Education Releases Proposed Changes to Title IX Regulations, Invites Public Comment | U.S. Department of Education](#)

GICA Compliance Collaborative Program

2022 In-person and Zoom Title IX Hearing Panel Member Training - Overview (1 Hour Training – October 2022)

AGENDA

Overview

This training is designed to provide Title IX Coordinators, Deputy Coordinators, Investigators, Hearing Panel Members, Advisors, Appeal Officers, HR personnel, and anyone associated with administering Title IX with an up-to-date understanding of current compliance requirements using a scenario-based training.

Title IX Overview – Present Policy

- Definitions
- Sexual harassment
- Education program or activity
- Recognized off-campus student organizations
- Misconduct outside of education program or activity
- Formal Complaint
- Complainant
- Respondent

Investigative Process

- No conflict of interest or bias
- Reasonable prompt time frames
- Written notice required
- Presumption of not responsible
- Rights of Complainant and Respondent
- No gag order
- Inspect and review evidence
- Preliminary Report
- Investigator (Final) Report

Role of Advisor

- Advisor choice
- Restrictions

Resources

OCR and Title IX

https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

[Federal Register :: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#)

Presenter: Judy Spain, J.D., CCEP

Judy currently serves as the GICA Compliance Collaborative Program Consultant. She is a Professor Emeritus at Eastern Kentucky University, an attorney licensed in Kentucky, Ohio, and Pennsylvania, and is a Certified Compliance and Ethics Professional. Judy is a member of the SCCE Board. 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. Her book *“Higher Education Compliance: What Governing Boards Really Need to Know”* will be published in 2023.

GICA Compliance Collaborative Program

2022 In-person and Zoom Title IX Hearing Panel Member Training – Live Hearing (3 ½ Hour Training – October 2022)

AGENDA

Overview

This training is designed to provide Title IX Coordinators, Deputy Coordinators, Investigators, Hearing Panel Members, Advisors, Appeal Officers, HR personnel, and anyone associated with administering Title IX with an up-to-date understanding of current compliance requirements using a scenario-based training.

Title IX Overview – Live Hearing

- Must have live hearing
- Parties physically present
- Recorded
- Questions of parties and witnesses by Advisor
- Cross-examination
 - Must submit to cross-examination

Relevant Questions

- Determination by decision-maker
 - Explanation of ruling
 - Decision to allow/not allow argument by Advisor to ruling
- Relevant questions
- Not relevant questions
 - Rape shield protection
 - Information protected under legally recognized privilege
 - Any party's medical, psychological, and similar records unless the party has given voluntary, written consent
 - Hearsay

Credibility

- Credibility and weight of evidence
- Institutional decisions
 - Expert witnesses, character witnesses, polygraph tests, any other procedures that are outside of standard use in academic and non-academic conduct process.
- Status of party or witness
- Judgement

- Missing evidence
- Trauma-informed approaches

Written Determination

- Written determination required
- Content
 - Description of procedural steps
 - Findings of fact supporting the determination
 - Conclusions based on findings of fact
 - Lay out evidentiary basis for determining responsibility
 - Statement as to the rationale for each allegation of the disciplinary actions
- Procedure for appeal
- Notification to the parties
- Remedies

Practical Tips

- Establish specific rules of decorum and remind parties immediately before cross examination begins.
- Have a script prepared with common reasons for exclusions for easy reference. May even have some to add that are case-specific.
- Allow time for a pause or break on tough calls.
- Prepare ahead of time and be familiar with the facts. Know what *is* factually relevant going into the hearing.

Resources

OCR and Title IX

https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

[Federal Register :: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#)

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