



**Georgia Independent College Association
Compliance Collaborative Program**

2020 Title IX Role of Advisor Training

Tuesday, August 25, 2020

1-hour Webinar

Definitions

- Sexual harassment
- Education program or activity
- Formal complaint
- Complainant
- Respondent
- Non- Title IX Proceedings

Standard of Evidence

- Preponderance of evidence
- Clear and convincing

Role of Advisor

- Definition
- Role Advisor
- Represent or permit advisor participation
- Restrictions on who can be an Advisor
- Rules of decorum

Investigative Process

- No conflict of interest or bias
- Reasonable prompt time frames
- No gag order
- Written notice required
 - Presumption of not responsible
 - Rights of Complainant and Respondent
- Informal Resolution
 - Not permitted to require as condition of employment or continuing in education program

Not permitted to resolve allegations that employee sexually harassed a student

Formal Resolution

Inspect and review evidence

Preliminary Report

Investigative Report

Non-Disclosure agreement

Live Hearing

Must have Live Hearing

Option – Informal Resolution prior to adjudication

Parties physically present

Recording

Order of hearing

Advisor

Attendance at hearing

Must submit to cross-examination

Questions of parties and witnesses by Advisor

Cross-examination

Determination by Decision-maker

“Waiving” question

Relevant questions

Not relevant questions

Legally recognized privilege

Rape shield protection

Medical records

Hearsay

Written determination required

Remedies

Appeal

Both parties can appeal

Grounds for appeal

Additional bases for appeal

Requirements for appeal

Resources

OCR and Title IX

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

<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>

Federal Register

<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal#citation-1152-p30294>

Joint Guidance on Title IX -

<https://system.suny.edu/sci/tix2020/>

<https://system.suny.edu/media/suny/content-assets/documents/sci/tix2020/Live-Hearings,-Cross-Examination-and-Advisors-of-Choice.pdf>

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.