

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](#)

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.