# Gratz College
# Role of Advisor

## February 6, 2023
## 2 Hour Training


## Training by Judith W. Spain, J.D., CCEP
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**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
- Rues 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

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Judy is the President, Higher Education Compliance Consultants. She currently serves as the GICA Compliance Program Consultant. She is a Professor Emeritus, Eastern Kentucky University, an attorney licensed in Kentucky, Ohio, 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. Her third book, *Higher Education Compliance: What Governing Boards Really Need to Know"* was published in 2023.