



CONSIDERATIONS FOR BUILDING A TITLE IX ADVISOR POOL

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DAN SCHORR, LLC

OUR SERVICES

- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Hearing and Process Advisors
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage

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DAN SCHORR

President
New York



Dan Schorr is a former criminal prosecutor and municipal inspector general with more than 20 years of legal and investigative experience. He manages a variety of complex assignments, including investigations into sexual misconduct, Civil Rights, and fraud allegations at educational institutions, corporations, and government entities. In addition to specializing in Title IX investigations, Dan assists higher education and K-12 schools by conducting policy and program reviews, training personnel on all aspects of Title IX and Civil Rights compliance, and serving in hearing officer and decision maker roles. Dan is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

ALYSSA-RAE MCGINN

Vice President, Investigations
Boston



Alyssa-Rae McGinn has extensive experience leading a variety of complex investigations, with particular expertise in conducting investigations at educational institutions and corporations into allegations of sexual misconduct and identity-based harassment involving students, faculty, staff, and corporate leadership. Alyssa-Rae was previously a Senior Associate at Ankura, where she and Dan established the firm's Title IX and Civil Rights Investigations practice and grew it to assist institutions nationwide. Prior to Ankura, Alyssa-Rae was an Associate Director in Kroll's Business Investigations & Intelligence practice.

THE ADVISOR'S ROLE

- Advisors (even attorney advisors) are not new to Title IX proceedings
- Advisors have historically served as support and/or guidance during the misconduct process
- Parties can choose who serves as advisors
- Schools can place reasonable limits on an advisor's role, including attorneys
- General role of complainant advisors
- General role of respondent advisors
- ADA accommodations

THE ADVISOR'S ROLE

- The 2020 Title IX regulations shifted the role of the advisor
- An advisor may still act as:
 - Emotional support
 - Assistance in understanding the process
 - Guidance in preparing statements, evidence, and other materials
 - A second perspective on the matter
- Under the 2020 regs, an advisor also acts as:
 - Representation during the hearing
 - Cross-examiner of other parties and witnesses

CHOOSING ADVISORS

- When a party elects to have an advisor, it should be someone of their choice
- An advisor can be:
 - A parent
 - A friend
 - A trusted faculty or staff member
 - A counselor
 - An attorney
- However, an advisor should not be:
 - A witness
 - Someone who may influence the party's account

BUILDING AN ADVISOR POOL

- In higher education, school must provide an advisor at no cost
- School should develop a pool/network of advisors who can be appointed when needed
- Advisors can be from a variety of sources, including:
 - Private sector attorneys/experts
 - Pro bono attorneys/experts
 - Law students
 - School employees
 - Common pool developed with other institutions
- Provided advisors should be well-trained in the misconduct process, including hearing rules, evidence evaluation, and cross-examination

EMPLOYEES SERVING AS ADVISORS

- Must make sure employees are interested in serving as advisors and comfortable with the subject matter
- Do not assign/force an employee to serve as a Title IX advisor if they do not wish to do so
- Serving as a Title IX advisor is a challenging and stressful experience, especially for employees who have not worked within the Title IX process
- Important to be aware of and address concerns
- Essential that training be provided

COMMON CONCERNS

- Subject matter concerns
- Cross-examination
- Personal morality/ethics
- Personal liability – school should explain what protections they have

TRAINING ADVISORS

- Relevant federal and state law
- Relevant institution policies
- Understanding consent
- Expectations before, during, and after the investigation and hearing
- Guiding parties through the process and necessary decisions
- Evaluating evidence and credibility
- Designing appropriate and effective cross-examination questions
- Preparing parties and witnesses to undergo cross-examination
- Conducting cross-examination

OBSTACLES TO A SUCCESSFUL ADVISOR POOL

- What challenges are you confronting in recruiting and maintaining successful advisors?
- What concerns have you heard from potential advisors?
- What types of training have worked or not worked for potential advisors?
- Best practices for encouraging and recruiting advisors, and making them feel comfortable and supported

THE FUTURE OF TITLE IX ADVISORS

- Anticipated Title IX reform in the Biden Administration
- What changes can we expect for Title IX hearings?
- What changes can we expect for the role of advisors in Title IX proceedings?

THE TITLE IX AND CIVIL RIGHTS

PODCAST



WEEKLY EPISODES
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