



Register for ICS's **Two-Day Title IX Investigator Training**

**Thursday, April 4th
and Friday 5th, 2019**

Indy North Campus of
Indiana Wesleyan University

Learn the A to Z of investigations from Courtney Bullard, Owner and CEO of Institutional Compliance Solutions (ICS) during a two-day Title IX Investigator Training. ICS's in-person training is appropriate for all experience levels but especially helpful to those new to the role.

For more information and to register visit:

icslawyer.com/ics-events/

Title IX Conduct | What It Is and What It Isn't

ICS WEBINAR: **March 28, 2019 at 2:00 PM, EST**

With the increased attention on sexual misconduct, more and more faculty, staff and students are bringing forward complaints; however often the conduct alleged does not meet the definition of sexual misconduct, stalking or relationship violence. In this webinar, Courtney Bullard and Tiffany Cox, Title IX Coordinator for Rhodes College, will clarify what conduct implicates Title IX and what conduct does not. This discussion will include examples of conduct that may implicate more than one campus policy and how to navigate those matters, best practices and considerations in policy drafting to assist when these situations arise, and the increasing trend of "sending everything to Title IX" when that may not be appropriate. This webinar is appropriate for Title IX Coordinators, Student Affairs and HR Professionals, and any other administrators who touch a campus Title IX process.

To register click on the url below or visit:

<https://zoom.us/meeting/register/936b9c5c67290c488c34be5db4a05ad8>

Resources of Interest

The Sex Talk: The Conversation That Is Not Happening about Campus Sexual Assault – Interviews of 24 individuals by higher education reporter Kate Murphy and visual journalist Meg Vogel.

Visit: <https://www.cincinnati.com/pages/interactives/the-sex-talk-the-conversation-that-isnt-happening-about-sexual-assault/>

Sex in the States – Learn how your state compares to other states in regards to sexual issues for teens. The site highlights various topics of sexuality and suggest ways an individual can become an advocate for a specific cause and make a difference in their community.

Visit: <https://sexetc.org/action-center/sex-in-the-states/>

ICS Membership



**As an ICS Member,
knowledge is at
your fingertips.**

ICS Membership
Benefits Include:

- Training
- Model Policies
- Compliance Aids
 - Webinars
 - And more

For more information
or to sign up visit:

icslawyer.com/membership/

Upcoming ICS Membership Informationals

Join Courtney Bullard, Owner and CEO of Institutional Compliance Solutions, at one of these upcoming ICS Membership Informationals to learn about the benefits of becoming an ICS Member.

March 27, 2019 | 1:00 PM (EST)

[CLICK ON DATE TO REGISTER](#)

August 28, 2019 | 1:00 PM (EST)

[CLICK ON DATE TO REGISTER](#)

ICS Members, Register for Upcoming ICS Members-Only Zoom Meetings...

During these interactive quarterly Zoom meetings, ICS Members hear updates from Courtney Bullard on relevant developments in the law. Members may also collectively share their experiences and are given the opportunity to ask Courtney questions.

May 7, 2019 | 2:00 (EST)

[CLICK ON DATE TO REGISTER](#)

September 10, 2019 | 2:00 (EST)

[CLICK ON DATE TO REGISTER](#)



Blog of the Month

Department of Education's New Proposed Title IX Regulations

In November of 2018, the Department of Education released its anticipated proposed Title IX rules. Following a formal notice and a 60 day comment period, the Department of Education has over 100,000 comments to now sift through and make its next move. If the rules are finalized as currently written, many institutions will find themselves tweaking their compliance efforts yet again.

The new proposed rules provide a number of definitions, which limit when a Title IX case is triggered to the following:

1. Conduct meeting the definition of “sexual harassment” has taken place;
2. The school has “actual knowledge” of the conduct;
3. The conduct occurred within the school’s programs, including classes and extra curriculums.¹

If the Title IX process is triggered, a formal complaint is then written by the complainant or the school’s Title IX Coordinator. Under the new proposed regulations, this begins a very prescriptive process for formal investigations and requirements of the university. The regulations provide for prompt time frames for the grievance process, written notices, a presumption of innocence for the accused, a live hearing (with advisor of choice or one provided), cross examination with some limitations, and a written determination to be made following the hearing. The proposed regulations make references to “due process” for the respondent during this period, and this prescriptive process has been criticized by some as requiring the schools to become “mini courts.”

In addition, one of the most notable changes contained in these proposed rules is a prohibition on the single investigator model in the grievance process. As stated in the DOE’s fact sheet, there will be “[a] prohibition of the single-investigator model, instead requiring a

decision-maker separate from the Title IX Coordinator or investigator” to make the final determination of responsibility.

What has traditionally been known as “interim measures” is replaced in the new proposed regulations by the phrase “supportive measures.” As has been true in the past, under the new rules, schools may still continue to offer these measures even if the complainant elects not to file a formal complaint. Furthermore, informal resolution is still permitted at any point during the process before the final resolution, as long as both parties are given written notice.

Finally, the proposed regulations give schools a choice of evidentiary standards to use for its Title IX cases – “preponderance of the evidence” OR “clear and convincing,” but with restriction. The standard of evidence that a school uses for its Title IX cases must be the same standard of evidence that it uses for other kinds of cases within its code of conduct that carry similar penalties. Moreover, the same standard of evidence must be used for all Title IX cases, whether they include students, employees or faculty. As a result, if a university uses a clear and convincing standard for an accused tenured professor, that must also be the standard of evidence used for students and employees.

With so many comments received, it may be some time before the Department of Education decides whether to finalize the rules as proposed, or make changes. In the meantime, the Department of Education’s sub-regulatory September 2017 Q&A on Sexual Misconduct should continue to be a guiding document for schools on its Title IX responsibilities.

¹ If the school wishes to do more than is required by the new proposed regulations, they may still do so within their own school code of conduct.



ICS MEMBERS' CORNER

The University of the South | Dr. Sylvia Gray

ICS introduces The University of the South, known familiarly as “Sewanee,” as one of its valued members. Sewanee is located on a 13,000 acre campus in Sewanee, Tennessee on the Cumberland Plateau between Chattanooga and Nashville. It has an enrollment of approximately 1,700 undergraduate students who can choose from 36 majors, 43 minors, and 15 special programs, along with pre-professional programs in business, health/medicine, education, engineering, and law. The university has had 26 Rhodes Scholars—a number that puts Sewanee in the top four nationally among American liberal arts colleges.

Dr. Sylvia Gray serves as Title IX Coordinator at Sewanee. She is a native of Memphis, TN with a background in Higher Education Administration. Sylvia’s experience ranges from working in athletics at the University of Tennessee at Chattanooga (UTC) to teaching a variety of courses on the undergraduate and graduate level in the College of Education at Southern Illinois University, Carbondale (SIUC). Sylvia also served in the Office of Student Rights and Responsibilities at SIUC where she investigated, adjudicated, and issued sanctions for conduct and Title IX cases. After receiving her Ph.D. at SIUC, Sylvia Gray began as the Deputy Title IX Coordinator at the University of the South in Sewanee, TN in October 2017. Her role primarily included investigations and overseeing the day-to-day compliance with University policies, procedures and practices related to Title IX, the Clery Act, VAWA and other federal, state, and local laws related to responding to sex discrimination. By July 2018, Sylvia was promoted to Title IX Coordinator with a broader scope of responsibility that includes writing policy, overseeing prevention, training of all campus employees, development of partnerships, production of data analytics, and collaborating to positively improve campus sexual climate. When Sylvia is out of the office, she enjoys travel, music, painting, a good book or binge watching episodes of *Family Guy* with Kettle Corn popcorn and flavored carbonated water. Outside of these things, you can expect that Sylvia will be asleep with a weighted blanket on her lazy boy recliner which is really her favorite thing to do!



Legal and Consulting Services for Colleges, Universities, Elementary & Secondary Schools.

ICS provides a full range of legal and consulting services for elementary and secondary schools and institutions of higher education with a specialization in compliance. We partner with school districts and institutions to assist with campus-specific training and policy drafting and review, independent investigations, assistance with Office for Civil Rights and other federal investigations, and litigation.

Services include:

- Higher Education
- Training
- Speaking
- Special Counsel
- Mediation Services
- Title IX Expert Witness