

Conducting Effective Organizational Title IX Compliance Assessments: Tips and Tools

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Overview

- Background
- Organizational Structure Issues
- Assessment Plan
- Title IX Process and Compliance
- Drafting the Report
- Follow-up
- Questions/Discussion

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Background - Purpose

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Background

Compliance Management Strategy

- A general plan outlining tactics to bring an organization into compliance – level of sufficiency

Holistic Compliance

- Coherent versus fragmented efforts;
- Long-term scope; and
- Ability to simultaneously address multiple laws, regulations, internal procedures and policies, and other needs.

Ralph Foorthuis and Rik Bos, A Framework for Organizational Compliance Management Tactics, C. Salinesi and O. Pastor (Eds.): CAiSE 2011 Workshops, LNBIP 83, pp. 259–268, 2011.

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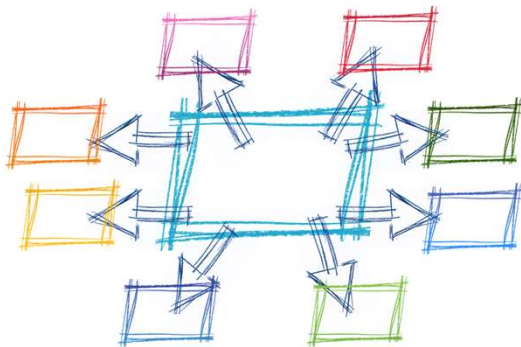
Background

- ▶ Two Approaches:
 - ▶ Rationalist
 - ▶ Focus is on cost/benefit analysis by the actor as motivator in decision to comply
 - ▶ Enforcement via punitive actions
 - ▶ Normative
 - ▶ Focus is on cooperation and assistance to stimulate compliance
 - ▶ Actions based on identities, roles, obligations, and consideration of appropriate, fair and legitimate action

Ralph Foorthuis and Rik Bos, A Framework for Organizational Compliance Management Tactics, C. Salinesi and O. Pastor (Eds.): CAiSE 2011 Workshops, LNBIP 83, pp. 259–268, 2011.

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Background – Framework



- ▶ 7 Elements of an Effective Compliance Program
 - ▶ Standards of conduct, policies, and procedures
 - ▶ Compliance officer and committee
 - ▶ Communication and education
 - ▶ Internal monitoring and auditing
 - ▶ Reporting and investigating
 - ▶ Enforcement and discipline
 - ▶ Response and prevention

* What does application of this framework look like in higher education?

** How about Title IX?

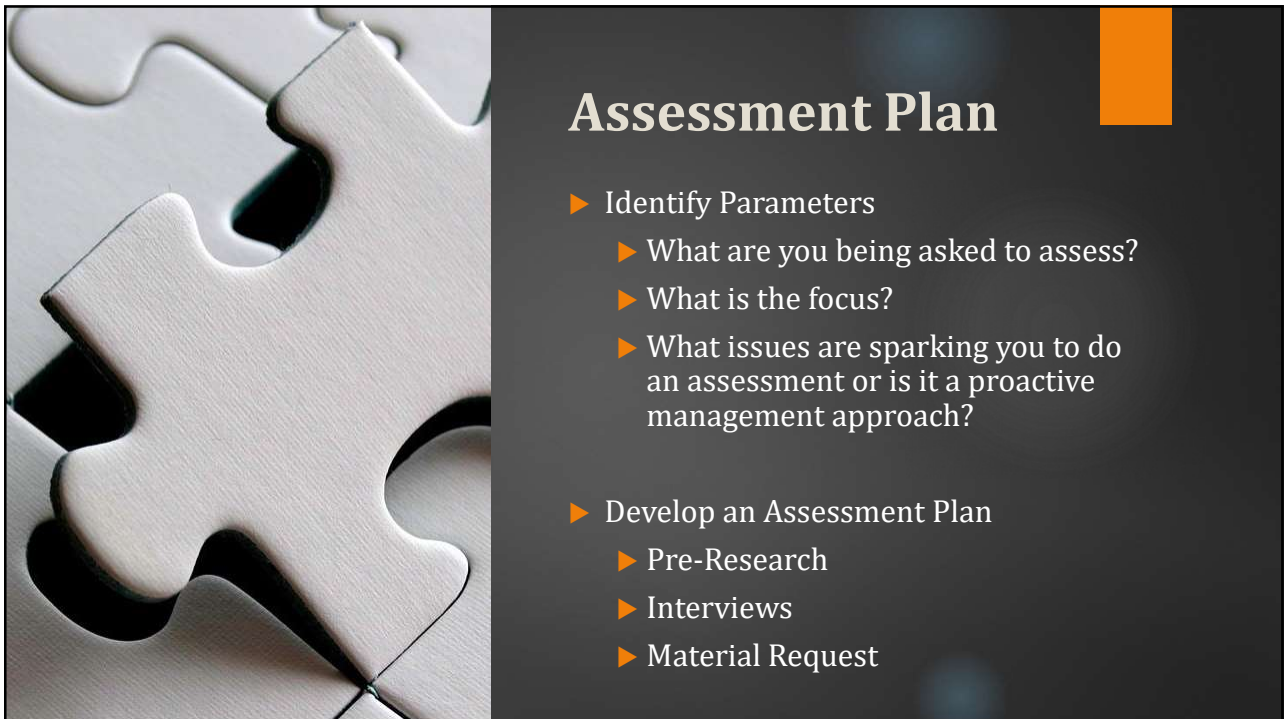
https://assets.corporatecompliance.org/Portals/1/PDF/Resources/CCEW/2019-ccew-7-elements-poster-for-web_8.5x11.pdf

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Organizational Structure Issues

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Assessment Plan

- ▶ Identify Parameters
 - ▶ What are you being asked to assess?
 - ▶ What is the focus?
 - ▶ What issues are sparking you to do an assessment or is it a proactive management approach?

- ▶ Develop an Assessment Plan
 - ▶ Pre-Research
 - ▶ Interviews
 - ▶ Material Request

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Assessment Plan: Pre-Research Tips and Tools

Initial Consultation or Response to Risk

- Who is making the request or are you instigating the assessment?
- What is the long-term goal? What will the assessment be used for? Who is going to view the report?
- What, if any, are the identified issues? Are there specific questions or guidance that is being sought?
- Are there specific individuals to speak with?

Website

- General review unless this is a major focus of the assessment
- Look for general ease of use, review online reporting forms, and any process guidance materials that may be posted

Organizational Structure

- Gather an understanding of the organizational structure currently in place and historically, if possible
- Assists with identifying prospective interviewees

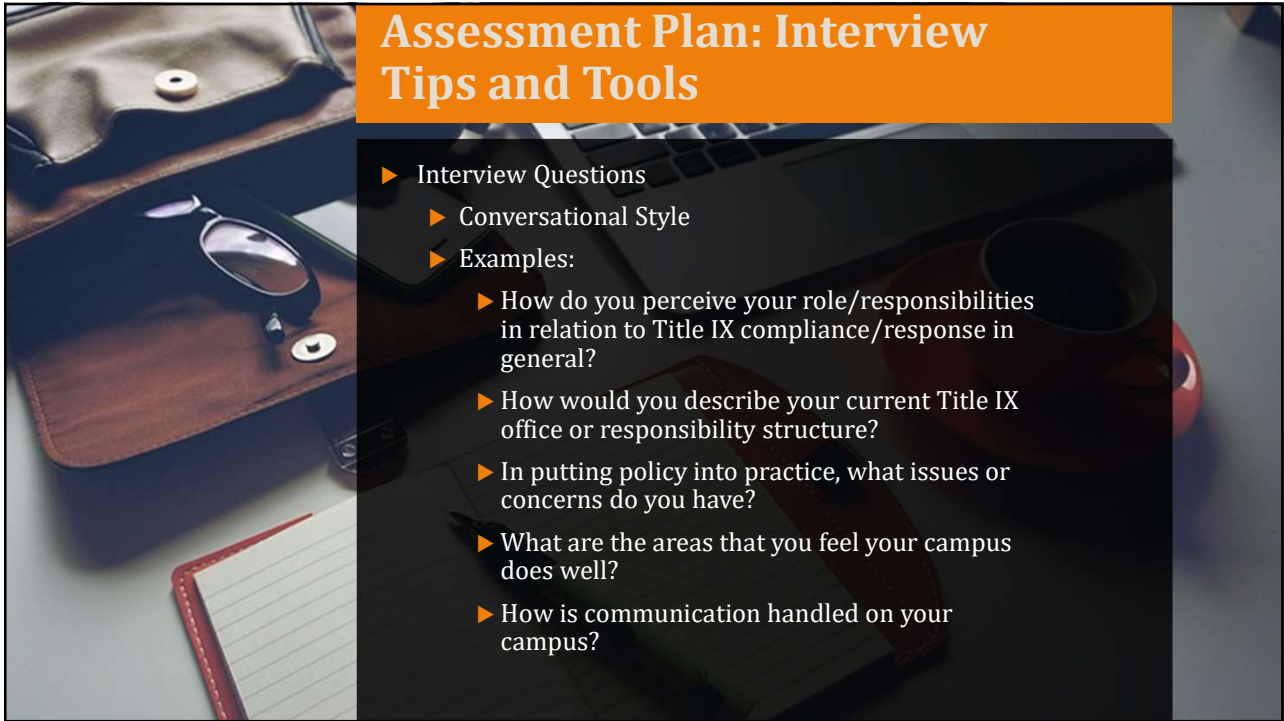
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Assessment Plan: Interview Tips and Tools

- ▶ Who?
 - ▶ Title IX Coordinator/Deputy Coordinators, Title IX Team members, Housing, Resident Assistants, Law Enforcement, Advocates, Counseling Staff, Athletics, etc.
- ▶ Consider:
 - ▶ Chancellor/President, Vice Chancellors/Vice Presidents ?
 - ▶ Students?



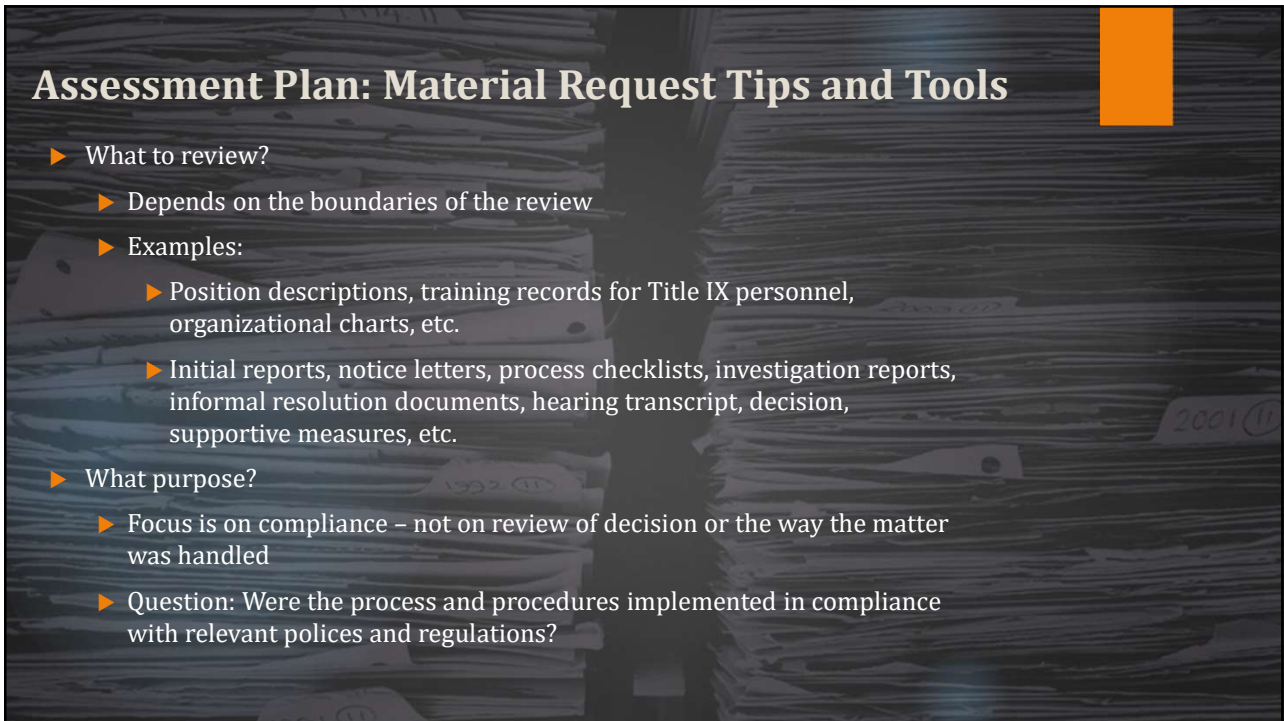
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Assessment Plan: Interview Tips and Tools

- ▶ Interview Questions
 - ▶ Conversational Style
 - ▶ Examples:
 - ▶ How do you perceive your role/responsibilities in relation to Title IX compliance/response in general?
 - ▶ How would you describe your current Title IX office or responsibility structure?
 - ▶ In putting policy into practice, what issues or concerns do you have?
 - ▶ What are the areas that you feel your campus does well?
 - ▶ How is communication handled on your campus?

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Assessment Plan: Material Request Tips and Tools

- ▶ What to review?
 - ▶ Depends on the boundaries of the review
 - ▶ Examples:
 - ▶ Position descriptions, training records for Title IX personnel, organizational charts, etc.
 - ▶ Initial reports, notice letters, process checklists, investigation reports, informal resolution documents, hearing transcript, decision, supportive measures, etc.
- ▶ What purpose?
 - ▶ Focus is on compliance – not on review of decision or the way the matter was handled
 - ▶ Question: Were the process and procedures implemented in compliance with relevant polices and regulations?

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Title IX Process and Compliance

- ▶ Identify key issues
- ▶ Synthesize materials and interviews
- ▶ Determine and explore organizational structure solutions
- ▶ Review wants and needs identified through the interviews
- ▶ Consider organizational culture



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Drafting the Report

- ▶ Focus:
 - ▶ Title IX Observations and Opportunities
 - ▶ Be mindful of language and assertions
- ▶ Suggestion:
 - ▶ Do not include interview summaries or references to interview specifics




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Drafting the Report

- ▶ Structure - Example:
 - I. Title IX Organizational Structure
 - i. Roles and Responsibilities of the Title IX Coordinator
 - ii. Organizational Structure
 - II. Title IX Process and Compliance
 - i. Intake and Supportive Measures
 - ii. Assessment, Title IX Coordinator Signed Complaints, and Dismissal of Formal Complaints
 - iii. Notice, Investigation, and Informal Resolution
 - iv. Hearing and Appeals
 - III. Communication
 - IV. Conclusion

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Drafting the Report - Breakdown

- ▶ Section Example – Using Title IX Organizational Structure:
 - ▶ Roles and Responsibilities of the Title IX Coordinator
 - ▶ Direct citation to regulations and/or guidance
 - ▶ Examples from other universities and/or best practices
 - ▶ Subsections:
 - ▶ Observations
 - ▶ Outline the campus information from your visit, materials, and research
 - ▶ Opportunities
 - ▶ Identify potential ways to address concerns or structural organization
 - ▶ Provide options

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Drafting the Report - Communication

- ▶ Information sharing:
 - ▶ Who is receiving case communication?
 - ▶ How big is the snowflake?
- ▶ Review Communication Strategies – Expectation, Plan, and Responsibility
 - ▶ Administration
 - ▶ Parties
 - ▶ Faculty
 - ▶ Staff
 - ▶ Students



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Drafting the Report - Goal

- ▶ Provide a tool
- ▶ Conversation map
- ▶ Create awareness
- ▶ Compliance
- ▶ Identify areas of risk
- ▶ Improve experience
 - ▶ Participants
 - ▶ Staff and personnel



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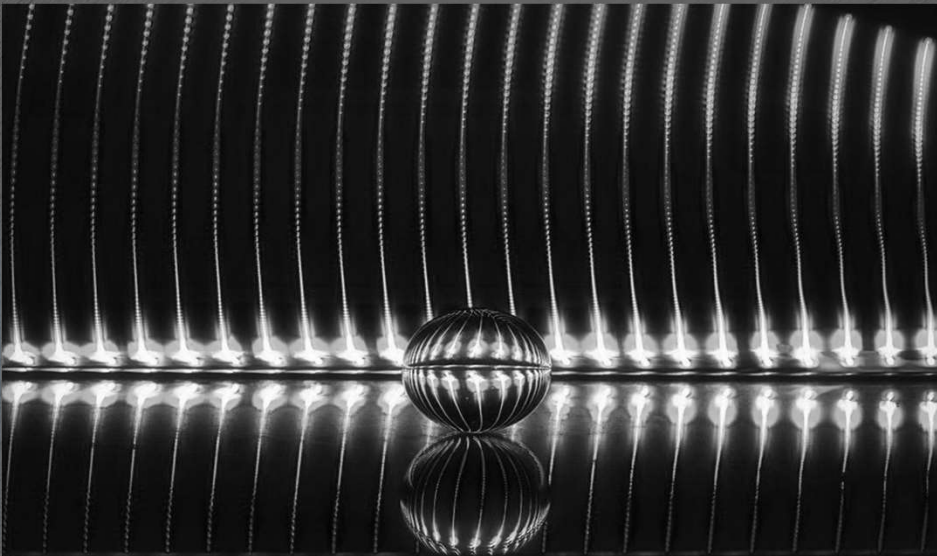
Follow-up

- ▶ Coordinate with General Counsel to consider any issues with public records or confidentiality
- ▶ Provide the Assessment Report
- ▶ Participate in follow-up meetings

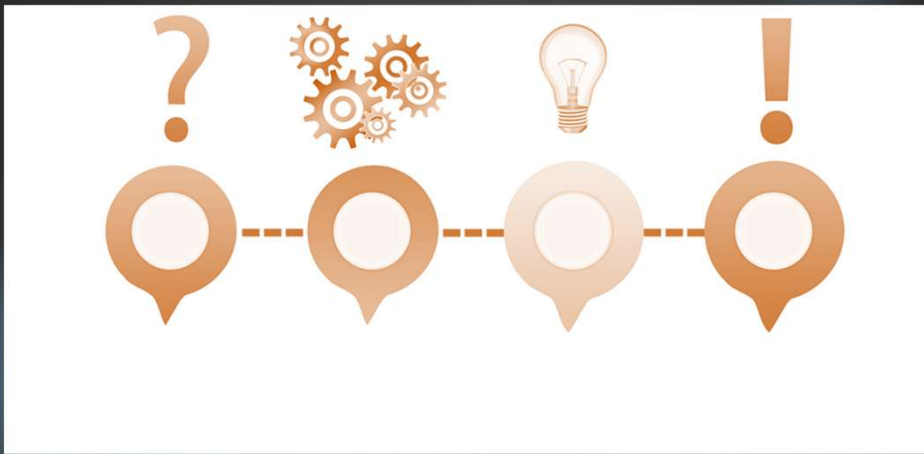


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Follow-up – Reflections from Practice



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Questions and Discussion