HOW HIGHER EDUCATION COMPLIANCE OFFICERS
LEARN TO MANAGE NEW REQUIREMENTS
IN A DYNAMIC REGULATORY ENVIRONMENT

by

Maria Hataier

Dissertation Committee:
Professor Marie Volpe, Sponsor
Professor Victoria Marsick

Approved by the Committee on
the Degree of Doctor of Education

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ABSTRACT

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As modern gender movements shift our cultural norms, the literature describing Title IX suggests possibly concerning trends in both hiring and policy. Many university administrations and recent legislation have promoted a defensive, legal-minded and objective approach to handling Title IX cases. Since the April 2011 Dear Colleague Letter, which delivered a mandated timeframe and eased the burden of evidence, the number of cases the Office for Civil Rights have grown significantly. The number of cases continues growing despite huge increases in labor hours and financial resources being diverted to Title IX enforcement. In contrast, research has demonstrated that education, such as bystander training is a proven deterrence to campus sexual assault. By prioritizing investigation and limiting compliance officers legally acceptable options, we have perhaps shifted officers time away from actions which might lead to more positive outcomes including reducing the overall campus-wide criminal incidence frequency.

This qualitative case study was designed to explore how higher education compliance officers learn to manage new requirements in a dynamic regulatory environment. The site for the study included private and public colleges and universities in the northeastern part of the U.S. The primary sources of data were in-depth interviews with nineteen Title IX compliance officers supplemented by an extensive review of relevant documents.
Key findings that emerged include: (1) A majority of compliance officers defined the need to interpret new regulations with general counsel before communicating resulting changes to stakeholders. (2) All regulators learn through informal learning means; dialogue and critical reflection were universally reported as the most frequent pathways by which regulators made meaning of new regulations. (3) Most compliance officers described sharing information with peers as most helpful to them in completing regulatory tasks.

Trends in Title IX compliance hiring and labor hour allocation appear to not address the growing frequency of OCR investigations. Real changes to campus policy, including budget priorities, training and the use of student activists may allow universities to better optimize the money and personal they invest toward Title IX.
DEDICATION

This dissertation is dedicated in loving memory of my father,
ACKNOWLEDGEMENTS

I am immensely grateful to my sponsor, Dr. Marie Volpe. She embodies the energy, wisdom and kindness I aspire to. She is a force of nature, an indefatigable grande dame of adult education, and one of the most authentic spirits one could hope to experience. To be one of her students is to be part of an academic family, one I am proud to have been embraced by and look forward to seeing more of in the future.

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M. H.
## TABLE OF CONTENTS

Chapter I—INTRODUCTION AND OVERVIEW ................................................................. 1  
Overview .................................................................................................................. 1  
Introduction .......................................................................................................... 1  
Defining Compliance Officers ............................................................................. 2  
Responsibilities of Compliance Officers ............................................................. 4  
Two Illustrative Regulations ................................................................................. 5  
Problems Posed by Confusing Environment Around Compliance ...................... 7  
Summary of Problem Statement ........................................................................... 10  
Purpose ................................................................................................................ 11  
Research Questions .............................................................................................. 12  
Approach ............................................................................................................. 12  
Design .................................................................................................................. 12  
Anticipated Outcomes ......................................................................................... 13  
Rationale and Significance .................................................................................. 14  
Assumptions ......................................................................................................... 16  
The Researcher .................................................................................................... 16  
Definitions .......................................................................................................... 17

Chapter II—LITERATURE REVIEW ........................................................................... 19  
Purpose ................................................................................................................ 19  
Identification of Topics ....................................................................................... 19  
Rationale for Literature Review Topics ............................................................... 21  
Topic I. Regulatory Environment ........................................................................ 21  
Current Conditions ............................................................................................. 28  
  The Compliance Officer’s Sandbox ................................................................. 31  
  A Paradigm That Does Not Currently Allow Much Feedback ......................... 32  
  The Higher Education Compliance Alliance (HECA) Matrix ......................... 34  
  Regulation in the Post-Truth Era .................................................................... 36  
  Summary .......................................................................................................... 38  
Topic II. Title IX .................................................................................................. 39  
  Unpredictable Changes to Regulations .......................................................... 39  
  *Doe v. Brandeis University* ........................................................................... 40  
  Title IX ............................................................................................................ 41  
  Sexual Misconduct in Higher Education ......................................................... 41  
  Examples of Clery Act Violations ................................................................... 42  
  Sexual Assault Timeline .................................................................................. 43  
  Influential Risk Factors .................................................................................. 47  
  Sexual Assault Educational Programs ............................................................. 48  
  Bystander Intervention ..................................................................................... 49  
  Legislation and Policy Development ................................................................. 50  
  Summary .......................................................................................................... 52  
Topic III. Self-Directed and Informal Learning .................................................... 53  
  Rationale ........................................................................................................ 53  
  Informal Learning ............................................................................................ 53
Incidental Learning .................................................................55
Critical Reflection .................................................................56
Experiential Learning ..............................................................56
Social Networking .................................................................59
Self-directed Learning .............................................................60
Critiques of SDL ........................................................................64
SDL (More Current Research) ......................................................64
Garrison’s Self-directed Learning Model .........................................66
Critiques of SDL in 2016 ............................................................67
Why Compliance Officers are Best Described Using SDL .................68

Chapter III—METHODOLOGY ..................................................70
Research Questions .................................................................70
Rationale for Qualitative Research Approach ....................................71
Rationale for an Interpretive Case Study ........................................73
Description of the Study Sample and Sampling Strategy .....................74
Demographic Data ...................................................................74
Contextual Data .......................................................................76
Methods of Data Collection .........................................................76
Interviews ...............................................................................76
  Literature supporting use of interviews ......................................77
  Disadvantages of interviews ....................................................78
Document Analysis ..................................................................79
  Literature on document/artifact use ...........................................79
Methods for Data Analysis and Synthesis .......................................80
Inter-Rater Reliability ...............................................................82
Issues of Trustworthiness ..........................................................83
  Credibility ...........................................................................83
  Transferability ......................................................................84
  Conformability .....................................................................84
Limitations of the Study ...........................................................85
  Common Critiques of Qualitative Research ...............................85
  Study-specific Pitfalls ............................................................85
  Researcher Bias ....................................................................87
Summary ..................................................................................88

Chapter IV—RESEARCH FINDINGS ............................................89
Findings .................................................................................90
Finding #1 .............................................................................90
  Need to understand and interpret new regulations .........................90
    Deciphering the language ......................................................93
    Identifying actual change .....................................................96
    Informing those affected ....................................................98
Demands create a need to identify and acquire additional resources 101
  New staff .............................................................................101
  Training/certification .............................................................103
Demands create a need to work with General Counsel 104
  Translate the law into common language .................................106
Bias check for Compliance Officer ........................................ 107
Support and borrowed authority ........................................ 107
Demands create a need for communication ......................... 108
Students need dialogue .................................................. 108
Activism ................................................................. 110
Reporting ................................................................. 110
Summary of research topic 1 ............................................. 111
Finding #2 ........................................................................ 111
Informal ........................................................................... 112
Work alone on confidential cases ........................................ 112
Conversations between compliance offices are frequent 
and significant .............................................................. 114
No longer expect to receive measurable guidance ............... 115
Reading ........................................................................... 117
Publications ...................................................................... 118
The law as written .......................................................... 118
The procedures and policies already in place ....................... 119
What others are saying/doing ............................................ 120
Critical dialogue ............................................................. 120
External ........................................................................... 124
Other Title IX officers ....................................................... 124
Professional organizations ................................................. 124
Listserv ............................................................................ 125
Webinars .......................................................................... 125
Facebook .......................................................................... 126
Internal ............................................................................. 127
General Counsel .............................................................. 127
Compliance officers who are not Title IX ......................... 128
Title IX staff ...................................................................... 129
Students ............................................................................ 129
Reflection on experience ................................................... 131
Linking to prior knowledge .............................................. 132
Unpack new knowledge ................................................... 133
In sum ............................................................................. 134
Finding #3 ........................................................................ 134
What helped ...................................................................... 134
Being authentic and transparent ....................................... 135
Learning from and sharing the workload with colleagues ... 136
Peers in Title IX .............................................................. 137
Peers on campus ............................................................ 137
What hindered ................................................................. 138
The fact that Title IX is highly specialized and difficult 
to explain ................................................................. 138
Hodgepodge .................................................................... 139
Contradictions with similar laws ....................................... 139
Resources ......................................................................... 140
Title IX misinformation ................................................... 141
Past trainings were based on past versions of 
Title IX ........................................................................... 142
Emotional nature of Title IX work .................................................. 143
Two views of the same event ....................................................... 144
Trying to remain objective ......................................................... 145
Trying to remain impartial .......................................................... 146
Who are you to tell me this is not “severe”? ................................. 147
Extra work impacted negatively on their personal lives ............... 148
Examples of negative impact ...................................................... 148
No-one is talking about it ......................................................... 149
Not reporting directly to the President ......................................... 150
The number of people making decisions ..................................... 150
The perception of power ............................................................. 151
Interacting with faculty and staff ................................................ 152
Interacting with students ............................................................ 153
Building trust .......................................................................... 154
In sum ..................................................................................... 155
Findings Chapter Summary .......................................................... 156

Chapter V—ANALYSIS, INTERPRETATION, AND SYNTHESIS OF
FINDINGS ................................................................................... 160
Purpose .................................................................................... 160
Research Questions ................................................................... 160
Analytical Categories ................................................................ 162
Legalists .................................................................................. 164
Social Activists ......................................................................... 164
Peacekeepers ............................................................................ 165
Analysis ................................................................................... 166
Analytic Category 1 .................................................................... 168
Legalist concerns, frustrations, and conflicts ............................. 174
Social Activist concerns, frustrations, and conflicts ................. 174
Peacekeeper concerns, frustrations, and conflicts .................... 176
Analytic Category 2 ................................................................... 177
Learning cycle among compliance officers ................................. 179
An inclusive culture is a marathon, not a sprint ......................... 180
Summary of Analysis, Synthesis, and Interpretation ................... 183
Contribution to Literature .......................................................... 184
Revisiting Assumptions .............................................................. 185

Chapter VI—CONCLUSIONS AND RECOMMENDATIONS ............... 189
Introduction ............................................................................... 189
Conclusion 1 ............................................................................. 189
Conclusion 2 ............................................................................. 191
Conclusion 3 ............................................................................. 191
Conclusion 4 ............................................................................. 192
Recommendations ...................................................................... 193
Recommendations for the Office for Civil Rights (OCR)
Title IX Enforcement ................................................................. 193
Recommendations for the President’s Office Regarding Title IX
Training ..................................................................................... 194
Recommendation for Augmenting Existing Title IX Internal Staff ... 194
Recommendations for Further Research ................................................................. 196
Recommendations for Current Title IX Compliance Officers ............................... 197
Recommendations for Those Seeking to Serve Their Communities in the Role of Title IX Enforcement .............................................................. 198
Researcher Reflections .......................................................................................... 199

REFERENCES ........................................................................................................... 201

APPENDICES
Appendix A—Conceptual Framework ..................................................................... 217
Appendix B—Participant Demographic Inventory .................................................. 219
Appendix C—Letter of Invitation ............................................................................ 221
Appendix D—Consent Form for Interview Participants .......................................... 223
Appendix E—Consent Form for Interview Participants .......................................... 225
Appendix F—Interview Protocol and Schedule ....................................................... 227
Appendix G—Thank You Letter .............................................................................. 228
Appendix H—Findings Chart Research Question I ................................................ 229
Appendix I—Findings Chart Research Question II ................................................ 231
Appendix J—Findings Chart Research Question III .............................................. 232
Appendix K—Document Review ............................................................................ 233
Appendix L—Participant Profiles .......................................................................... 234
Appendix M—Coding Scheme .............................................................................. 241
# LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>75</td>
</tr>
<tr>
<td>2</td>
<td>91</td>
</tr>
<tr>
<td>3</td>
<td>112</td>
</tr>
<tr>
<td>4</td>
<td>135</td>
</tr>
<tr>
<td>5</td>
<td>159</td>
</tr>
<tr>
<td>6</td>
<td>163</td>
</tr>
<tr>
<td>7</td>
<td>166</td>
</tr>
<tr>
<td>8</td>
<td>169</td>
</tr>
<tr>
<td>9</td>
<td>171</td>
</tr>
<tr>
<td>10</td>
<td>173</td>
</tr>
<tr>
<td>11</td>
<td>175</td>
</tr>
<tr>
<td>12</td>
<td>176</td>
</tr>
<tr>
<td>13</td>
<td>177</td>
</tr>
<tr>
<td>14</td>
<td>179</td>
</tr>
</tbody>
</table>

1. **Self-Reported Participant Demographic Data**
2. **Findings for Research Question 1**
3. **Findings for Research Question 2**
4. **Findings for Research Question 3**
5. **Study Design**
6. **Participants Sorted by Category**
7. **Evidence for Placement Within the Various Categories**
8. **Evidence of Legalist Learning Foci**
9. **Evidence of Social Activist Learning Foci**
10. **Evidence of Peacekeeper Learning Foci**
11. **Social Activist Concerns, Frustrations, and Conflicts**
12. **Peacekeeper Frustrations/Conflicts**
13. **Sharing Information with Peers Helped COs Comply with Regulatory Requirements**
14. **Adaptation**
## LIST OF FIGURES

<table>
<thead>
<tr>
<th>Figure</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Marsick and Watkins’s Informal and Incidental Learning Model</td>
<td>62</td>
</tr>
<tr>
<td>2</td>
<td>Learning Cycle Among Compliance Officers</td>
<td>181</td>
</tr>
</tbody>
</table>
Chapter I

INTRODUCTION AND OVERVIEW

Overview

Chapter I provides a background for this study of How Higher Education Compliance Officers learn to manage new requirements in a dynamic regulatory environment. This background begins with an overview of compliance officers, Title IX, and the current regulatory environment. Following the Introduction, this chapter continues by identifying the study’s Problem, Purpose, and Research Questions that represent the core elements of the research. The chapter continues with a discussion of the Approach, Assumptions, Rationale, and Significance and ends with the Researcher’s Perspective.

Introduction

The Title IX regulatory environment now requires sufficient knowledge acquisition; incoming information requires greater factual discrimination, and is immediately followed by swift action. Each and every action must be informed, evidenced, reported and justifiable, often to overlapping, or even diametrically opposed, stakeholders. These compliance officers, by nature of their role, need to be self-directed learners who continuously keep up with the needs of their institutions and the changing regulations that affect higher education and student life. Historically, these changes to existing regulation were incremental and could be received, digested and disseminated at
a pace which allowed for student and community feedback prior to campus adoption. In the past decade, however, the regulatory environment has changed considerably, as the volume and rate of regulation has skyrocketed.

Historically, ensuring compliance did not interfere with other community service roles and responsibilities. Compliance officers exercised the freedom to portion their time across multiple roles: community education, enforcement, and campus culture shaping. The problem that arises, which this study investigates, is whether and how they are able to learn what is needed in the new regulatory environment to ensure compliance, while at the same time, not compromise their historic higher education roles as stewards of community and spokespeople for the quality of the student experience in higher education.

This tension arises because compliance tasks are now bound to occur through federally mandated procedures and specific timelines. In the past, if a victim wanted to take a few days and heal prior to retelling the story of a violent crime committed upon her person she could. Now such a waiting period cuts dramatically into the enforcement side as cases must be completed (including a possibility of two appeals) within sixty days. As a result, officers prioritize enforcement over education and prevention and are forced by the restrictions to engage in a defensive, reactive pattern that extant research strongly suggests leads to a higher frequency of crimes, which in turn results in even more time spent on enforcement issues.

Defining Compliance Officers

This study investigates a particular kind of compliance officer: Title IX. How is this role defined? “The Title IX coordinator has a responsibility to coordinate the recipient’s efforts to comply with its obligations under Title IX and the Title IX regulations. These responsibilities include coordinating any investigations of complaints
received pursuant to Title IX and the implementing regulations” (U.S. Department of Justice [DOJ], 2017).

Title IX compliance officers (hereafter referred to as compliance officers) are of interest because of the lack of information available about how they learn to keep up with new regulations. They are also of interest because of their key and growing oversight and educational roles within colleges and universities. This is especially important today, given changes in both the number of regulations as well as their nature. Compliance officers learn much of what they know on the job or through other means of personally-initiated professional development and knowledge acquisition. Their informal learning rarely ends in formal qualifications or certifications; their learning is instead driven by task oriented needs.

It is common practice for regulatory agencies to make sudden changes without disseminating appropriate relevant information or training those who need to communicate and enforce those regulations, as well as collect and report the newly required regulatory data. This forms a gap in what is referred to as “knowledge capital.” Knowledge capital denotes intangible assets derived from the information and skills developed by the institution’s workforce; this capital can be ideas, processes, methods, intuitive talents or any of the abilities gained through work related experience and cooperation. Skills and information suddenly required by changes to regulations create voids in the compliance officer’s knowledge capital. When new regulations require new skills or knowledge, the compliance officer must assess how to go about addressing those shortfalls or rely on others to supplement their own skills or knowledge.

Because they work with relative autonomy and often make decisions based upon deeply esoteric regulatory or legal knowledge, compliance officers must figure out what they need independently, and then gain that knowledge or skill. One might say that their needs are self-assessed; their futures self-actualized. Compliance officers are to researchers of modern self-directed and informal education what the fruit fly was for
early geneticists—a varied, testable population that is growing and changing quickly. As such through these compliance officers we may learn much about the greater modern student population who are also feeling a similar shift in knowledge and skill acquisition.

**Responsibilities of Compliance Officers**

The position of compliance officer refers to a variety of higher education staff tasked with regulatory issues. A brief description of their duties includes but is not limited to:

- reporting to federal agencies responsible for oversight
- instructing others in the complexities of changing regulations
- investigating a variety of complaints
- adjudicating or referring to a higher authority the everyday conflicts common to campuses everywhere
- Raising awareness and educating the campus population about Title IX

Compliance officers bring the complexities and nuances of federated federal, state and local regulation to the extended campus while gathering and reporting data about many aspects of the campus back out to a growing crowd of interested parties (Vanderbilt University, 2015). Specific compliance titles or positions are not federally mandated; universities use personnel to complete regulatory tasks according to their institutional human resource conventions. Each institution determines which regulatory tasks require attention, defines the scope and range of each individual’s authority, and names the position or titles the individual according to its own institutional practices. Based on university job posting websites, a compliance officer’s job description, regardless of individual titles, delineates the following: the ability to work within a dynamic system, and an ability to remain current and educated regarding growing regulatory burdens (Pomona, 2017; Tuskegee University, 2017).
Compliance officers, as a population, are ubiquitous and yet invisible; little is reported in the literature about how compliance officers learn and incorporate new regulations into their evolving cognitive workload. What makes this problem especially salient is the pace and nature of the current regulatory environment. Compliance officers have always served the larger community of students and helped the institution ensure that it effectively met requirements and remained in good standing. When the need to stay informed eclipses the need to serve students, regulation has failed its primary mandate—to improve the quality and security of student life as described by the legislators who have voted time and again to renew or expand Title IX’s role in higher education.

Two Illustrative Regulations

Two regulations are illustrative of the scope and burden of modern higher education regulation. Title IX of the Education Amendments of 1972, 20 U.S.C. Â§1681 and the tangentially related Clery Act. Title IX is the federal law which prohibits discrimination on the basis of sex in any education program or activity which receives federal funds. Non-compliance is followed by the loss of those federal funds as well as other penalties. The chief objective of Title IX has been to avoid giving federal money in support of education programs that discriminate based on sex. Title IX now applies to nearly all aspects of federally funded education programs or activities (U.S. Department of Justice, 1972, 2017).

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, (20 U.S.C. § 1092(f)) is a federal statute supplemented by the U.S. Code of Federal Regulations at 34 C.F.R. 668.46. The Clery Act requires both public and private higher education institutions receiving federal student aid funds to disclose campus safety information. Additionally, the act imposes basic requirements for
handling reports of sexual violence according to its own controversial mandated procedural rules. Disclosures about crime statistics and summaries of security policies are required to be published by colleges and universities once a year in an Annual Security Report (ASR) which by federal law must be made open and available to the public.

Title IX and the closely related Clery Act have been included within this research because they exemplify the nuanced interactions and vague regulatory paradigm that compliance officers navigate and mitigate. This study seeks not to highlight the axiomatic—that compliance officers trend toward autonomous learning—but rather to illustrate how the increasing pace of compliance officers’ learning may be indicative of the future pace of adult learning. Title IX and Clery are living, changing documents that reflect the revolving door of federal government regulators. Knowledge capital related to these acts therefore demand fluid skill sets and regulatory details, needing regular sharpening and assessment. The skills required go beyond straightforward rule changes; changes to regulation require interpretations, judgments for which such officers may have not been trained or prepared. The potential dilemma they now face is that the letter of the law, can conflict with the spirit of the law.

Adding to the confusion is the fact that almost every higher education administrator is involved in federal government compliance efforts. This dissertation focuses primarily on Title IX coordinators, but many other compliance officers are faced with similar challenges posed by the growing pace, quantity and nature of compliance regulations and the responsibility that accompanies this phenomenon. Financial aid administrators must track and implement detailed Title IV regulations, and student affairs administrators must assess how specific Title IX guidance requirements are followed on their campuses. Security officials must stay on top of changes to the Clery Act and vagaries concerning the definitions of certain crimes and reporting requirements (Porter, 2015). “The U.S. Department of Education (DOE) issued approximately 270 ‘Dear Colleague Letters’ or
other guidance documents to amend or clarify rules related to institutional compliance in 2012 alone” (Kirwan & Zeppos, 2015, p. 10).

Problems Posed by Confusing Environment Around Compliance

Compliance has consequences for higher education community building. A parallel development in higher education communities is a rising concern for social justice on campuses. College students across America are protesting perceived threats and injustices. Whether it is a lone woman carrying her mattress to raise awareness of her own experience (Mitra, 2015) or a thousand Alabama State College demonstrators marching through campus demanding justice for a young African American shot by the police (Fox, 2016), students have risen to speak truth to power.

Dewey (1937) argued that a university’s responsibilities include the creation and maintenance of democracy. Dewey stipulated that universities represent “a social order in which all the forces that make for friendship, beauty, and knowledge are cherished in order that each individual may become what he, and he alone, is capable of becoming” (p. 474). In addition to Dewey, Freire (1970), Brookfield (2009), and others have connected education and social justice when describing the role universities play in promoting democratic ideals. When they work, modern federal regulations are our current best, though flawed, effort to realize Dewey’s vision. Defining who on campus bears the frontline responsibility to address concerns is difficult for the common student to discern.

Campus policy writing, regulatory enforcement, and responsibility for reporting to federal authorities are often tasked to three or more individuals working in as many different buildings or departments (June, 2014). This lack of clear reporting lines and demand for coordination across institutional boundaries can pose further problems. Regulation specific time constraints, language and procedures are often counterintuitive.
A report one office believes polished and complete may need an extensive rewrite, collaboration or supporting documentation when codified by another office. Like any childhood game of telephone, the meaning behind what one department asks another is subject to the pitfalls of modern language: unanswered requests, the lack of body language or tone inherent to email correspondence or the delays of phone tag to name a few.

Regardless of department or title, compliance officers inadvertently share the burden of negotiating the balance between educational equality, institutional reputation and risk management. Ideally, they work to create the most inclusive and safe environment their extended community can achieve while forced to incorporate new regulatory mandates and suggestions at an ever growing rate. It is not just that compliance officers are faced with growing numbers of regulations, it is also the very nature of what compliance represents poses potential dilemmas and conflicts for these officers. They are on the front lines of the conflict between enforcement and education.

Enforcement is the highest priority of the regulator who sees their primary task as risk management. But the fear of fines may limit innovation, and time spent pouring over detail may obscure the bigger picture. In contrast, the social activist who sees regulation as the natural progression of our society toward a positive self-actualizing future chafes at the slow incremental way in which laws change. The more politically inclined may seek consensus among stakeholders over clear, quick, by the book resolution. A regulator who finds comfort in following routine or authority might adjudicate cases without compassion or context drawing on his or her faith in the institutions of law and government where another might lean on empathy or compassion. But regardless of where individual regulators lie on the personality spectrum, evidence suggests those hiring regulators and those regulators remaining in the profession both are impacted by the regulation environment and trending in a definable direction.
Due to the dynamic nature of the regulatory compliance world, trends may prove more useful than landmarks to describe the system’s environment. According to Spear and Mocker (1984), understanding a learner’s environmental circumstances is important in promoting self-directed learning. Brookfield (1995) and Tisdell (2003) further elaborate that culture promotes or hinders learning. Not only has the development of higher education policy been incremental and isomorphic, but it has also evolved in response to pressing governmental and societal needs. As a result, federal policies have often responded to immediate needs without contemplation of future ramifications (Morgan, 2008).

While the current federal government/higher education paradigm defines compliance officers by mandating tasks, it often fails to fully define the regulations they are asked to enforce and document with evidence, and about which they need to provide education. Evidence of the enormity of the pace and complicated nature of regulation can be found in the number of Dear Colleague Letters and revisions, amendments and clarifications which follow the new or adapted regulation. Compliance officers are tasked with learning more each year; the volume and rate of new regulations they are expected to navigate has become overwhelming. Moreover, the consequences of making errors have increased for both the institution and the community of students they serve.

Several regulations, in particular, have grown into their own full time positions, eclipsing regulators’ other priorities to the point that this one specific regulation are all the compliance officer has the time to complete. Two of these all-consuming regulations are Title IX and the Clery Act. Unless recent compliance trends change, the professionals responsible for protecting universities from regulatory fines may be unable to learn and adapt to new regulation changes quickly enough to avoid fines. Hence, the focus of this study is on exploring how Title IX compliance officers learn to interpret and manage new requirements in a dynamic regulatory environment, along with the dilemmas and
consequences of their actions, in order to assist others to accelerate or economize their learning.

**Summary of Problem Statement**

While there is an abundance of regulations governing various aspects of university compliance processes (Title IV, the Clery Act, Title IX, Affordable Care Act, etc.), little is known about how higher education professionals adapt to the ever growing body of state and federal regulations. How do compliance officers (either titular or de facto) incorporate new guidelines and protocols while adapting to an increasing workload and keeping up with the complexity and multitude of regulations? Further research is warranted to determine how student affairs professionals are fulfilling the mandated requirements of the federal government and at the same time meeting the needs of the students they serve and their institutions that are responsible for providing evidence of regulatory compliance to the Federal Government. If research suggests that the regulatory environment is shifting compliance officers away from deep student interaction toward a more objective and legalistic mindset, how might that affect the balance these positions have historically held as enforcers, but also as educators and community builders?

The rate at which regulations are arriving, changing and burdening institutions may soon overtake any individual’s ability to learn, grow and adapt. This interpretive case study seeks to explain through first person descriptions what it is like to be a higher education compliance officer working the boundaries of our changing communities of learners. These learners represent a growing population who are tasked to do more with less each year. Although many of the themes expressed are relatable to the broader umbrella of federated local, state, federal and international regulation, this study focuses on Title IX, particularly on those moments when the compliance officers faced conflicting motivations. The study reviews not only the current version of the act but also
the good practices that extend beyond the letter of the law to embrace the spirit of the law.

Research which has built upon Knowles’s (1984) assumptions of self-directed learners suggests that compliance officers are ideal candidates for study. As seen in the ATIXA job description, Title IX compliance officers are recruited or promoted to these positions because those hiring them see evidence of the skills required for this particular regulatory environment. This environment requires rapid knowledge acquisition, far too rapid for traditional formal educational paths, requiring compliance officers to assess their own needs and fill them themselves.

Further this research builds upon the foundational research of Marsick, Volpe, and Watkins (1999) by contributing new information detailing Title IX compliance officers’ specific patterns to the larger study of informal learning. This form, which is largely based upon reflection and dialogue to compensate for a specific knowledge void common to the Title IX field, describes the process of interpreting each iteration of new Title IX regulation. The lack of a centralized curriculum for Title IX compliance officer training, as well as the constant changes to the law itself necessitate an ad hoc approach at odds with traditional formal learning environments or a consistent identifiable learning schema.

**Purpose**

The purpose of this interpretive case study is to shed light on the role and learning of Title IX compliance officers by exploring how nineteen compliance officers learn new government regulations and ensure institutional compliance in the current dynamic regulatory environment while also meeting the day-to-day needs of students and other stakeholders. A series of critical dialogues held between compliance officers allowed the researcher to codify and communicate experiences or perspectives common to
compliance officers. This study can be used to assist compliance officers in understanding and better managing their role, because it shed light on what universities must do to better to support their learning and work.

**Research Questions**

1. How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?
2. How do compliance officers learn to comply with new regulations?
3. What helps and/or hinders compliance officers in meeting the challenges they face?

**Approach**

This interpretive qualitative case study is designed to explore how compliance officers are fulfilling the mandated requirements of the federal government and at the same time meeting the needs of the students and institutions they serve. As a qualitative case study, in-depth interviews with compliance officers and document analysis are the primary method of data collection. The in-depth interview is a technique designed to elicit deeper meanings and contextual cues as to how those meanings are formed and tested by the evolving learner. While underlying universal reference points speak to generalizations we may make about their learning, so too the unique insights and values of the individuals also serve to punctuate individual outcomes.

**Design**

The qualitative research case study design drew on a convenience sample of nineteen interviews comprised of compliance officers from numerous universities who
each bear some institutional responsibility for Title IX regulation compliance. This sample set was chosen to include diversity of experience while maintaining a tight focal point, Title IX. Document review supported the interview questions and frame the discussion. Recruitment was via the snowball method which yielded nineteen candidates over a five-week period. It was difficult to find even that many willing participants due largely to the demanding pace set by most institutions. One was unable to get away from an ongoing investigation and was never able to grant an interview despite multiple attempts.

**Anticipated Outcomes**

It was the researcher’s intent that, upon completion of this study, she would be able to offer recommendations to provide Title IX compliance officers with insights and strategies to better meet the needs of the students they serve. If possible this research may indicate a future line of research from which institutional best practices which may reduce the cognitive burden placed upon its professionals, paraprofessionals, volunteers and other stakeholders through policy or electronic measures. Times change; individuals change, but the fundamentals of what makes us human remain.

The researcher’s assumptions were that today’s learners are essentially unchanged by the new tools. As such, the researcher expected the following to be revealed:

- There is a need to explain the reasons specific behaviors are being regulated in order to anticipate where and when they are likely to be violated, and by whom.
- Task-oriented learning is perceived as more beneficial than memorization. Learning activities grounded in the context of regulatory tasks reported as more readily adapted than nebulous theoretical information.
• Learning reflects the wide range of different backgrounds of learners; learning materials and activities similarly reflect different levels/types of previous experience with regulation.

• Compliance officers as self-regulated learners determine and evaluate knowledge sources for themselves without depending upon other people. Compliance officers seek guidance and help when mistakes are made or regulation is unclear through a diversity of human and electronic sources. Speed and accuracy feature as prominent characteristics in those choices.

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**Rationale and Significance**

The rationale for this study is that it provides insight into how compliance officers learn in their ever changing environment without neglecting their commitment to their students and keeping the institution in good standing. My fear is that as the letter of the law will become the focus of a professional’s learning the social justice aspects of their role and what Dewey (1937) described as the democracy that higher education cultivates becomes diminished. By allowing compliance officials to learn faster or to triage what they learn or delegate specific knowledge learning to others, we promote compliance officers having more time to interact with students, more time to be engaged in and aware of their communities.

The significance of this study is in its value to students, compliance officers, and the institutions they serve. Students benefit from compliance officers who have more time to reflect on the bigger picture of the campus climate. Along that line of reasoning, compliance officers may be intrinsically motivated by aspects of student interaction. Through interaction, both officer and students mutually generate social capital; allowing both to take risks and communicate openly and productively. In turn, greater interaction between officers and students may speed action time, mitigate emotional reactions to
setbacks and build reputation and revenue in the form of both enrollment and the avoidance of fines.

Growing numbers of higher education professionals are becoming responsible for some aspect of federal regulatory compliance. Each year the regulations grow in number, scope, and complexity, requiring colleges and universities to task employees to add new regulatory tasks to their workload. Failing to meet new guidelines or to adapt to regulatory changes puts institutions at risk of more than financial penalties; it opens them to a loss of knowledge capital and reputation damage. Compliance officers at their best do more than uphold the law; they build their communities through good practice, cultivating inclusion, opportunity, and connection.

In addition to the loss of knowledge capital, when institutions lose compliance officers, they also lose social capital; gaps appear within the normal network of relationships between the workers and learners within an institution’s society. The campus’s ability to function suffers, which is also detrimental to the rationale behind the regulatory perspective. Gaps can mean loss of information or access to both personnel and tools. Habitual information transfer is disrupted and routines break down or alter. All of these ripples within the pond disrupt the timely and organized flow of information.

Compliance officers are people of character who hold positions of fidelity and trust. Students may be less willing to accept vulnerability or assume a perceived risk if the person they are now speaking to is unknown to them. Interpersonal trust affects our interactions and is fundamental to the compliance officer’s role as protector and advocate, particularly in the case of the un-empowered, the marginalized or those who hold a minority view or status. To the administration the new officer’s temperament and discernment regarding threat evaluation may be equally unknown resulting in delay or confusion with what could be time sensitive information or conditions.
Assumptions

The researcher identified the following assumptions as she began the study:

1. Compliance officers would evidence self-directed learning because they work largely isolated from the rest of the campus administrators.
2. Compliance officers would evidence informal learning because the pace at which regulation arrives invalidates more traditional formal education.
3. Compliance reflects personal political views and institutional political pressures.
4. Compliance officers have to serve both student and institutional interests which may clash more often than they align.
5. The priorities the millennials hold are at odds with the priorities of the current Title IX compliance officers who are largely Generation X or Baby Boomers.

The Researcher

The researcher is the Director of Student Affairs of an Ivy League university. Her mid-level position has exposed her to regular regulatory updates and changes over her 20-plus years of university service up through the higher education ranks. Her decade-plus of experience at her current university and her hierarchical level, places the researcher in a position to interact frequently with the Title IX coordinator. Daily interactions with a student body of several thousand and the faculty, staff, volunteers, and seasonal/event hires allow for a robust immersive regulatory compliance experience. She reports evidence of Title IX compliance as a mandated reporter.

Serving currently as a compliance officer responsible for various aspects of New York State and Federal regulation, the researcher acknowledges her relationships within the regulatory compliance community as well as her association with the Title IX coordinator pose a threat to the validity of this research (Morse, Barret, & Mayan, 2002).
While being among the study group’s peers may be a possible cause for bias, the nature of the regulatory work, specifically its timeline and jargon, would make this research difficult for a true outsider (Dwyer & Buckle, 2009).

Growing numbers of higher education professionals are becoming responsible for some aspect of federal regulatory compliance. Each year the regulations such as Title IX and the Clery Act grow in number, scope and complexity requiring colleges and universities to task employees to add new regulatory tasks to their workload. Failing to meet new guidelines or to adapt to regulatory changes puts institutions at risk of more than financial penalties; it opens them to a loss of knowledge capital and reputation damage. Compliance officers at their best do more than uphold the law, they build their communities through good practice, cultivating inclusion, opportunity and connection.

**Definitions**

**Regulation** (noun)—a rule or directive made and maintained by an authority. Or the action or process of regulating or being regulated.

**Compliance officers**—ensure regulations, policies, and guidelines are followed in educational institutions. They are typically required to have knowledge of relevant laws, rules, and regulations. Educational requirements vary and professional licensing may be required. School compliance officers ensure faculty, staff and students operate within the guidelines and regulations governing an educational institution. Alternate job titles include compliance coordinator, compliance manager and compliance director. Though no specific postsecondary degree is required, compliance officers who focus on specific fields must have relevant educational or professional experience.

**Title IX of the Educational Amendments Act of 1972 (20 U.S.C. 1681)**—assures equal access to higher education opportunities regardless of gender. Title IX states: No
person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Clery Act—The Jeanne Clery Act was passed in 1990, and was a reaction to the assault and murder of a Lehigh University student by a fellow student. As a consumer protection law, the act requires all colleges and universities who receive federal funding to share information about crime on campus.

Sexual Assault—a term that is widely used to describe sexual misconduct and more specifically, according to Bohmer and Parrot (1993), “is a general term that describes all forms of unwanted sexual activity” (p. 3).

Autodidaxy—Candy (1991) urges that self-direction be differentiated as a goal for learner control of decision-making from an educational method in which teachers use processes for promoting self-direction. Autodidaxy refers to self-instruction that takes place outside of formal institutional settings.

Self-education—self-directed learning can be called something else from country to country or culture to culture. For example, in Russia it is known as self-education.

Self-Directed Learning—In its broadest meaning, self-directed learning describes a process by which individuals take the initiative, with or without the assistance of others, in diagnosing their learning needs, formulating learning goals, identifying human and material resources for learning, choosing and implementing appropriate learning strategies, and evaluating learning outcomes (Knowles, 1972).
Chapter II

LITERATURE REVIEW

Purpose

The purpose of this interpretive case study was to explore how nineteen compliance officers learn new government regulations and ensure institutional compliance in the current dynamic regulatory environment while also meeting the day to day needs of students and other stakeholders. A series of critical dialogues held between compliance officers may allow the researcher to codify and communicate experiences or perspectives common to compliance officers. Although each individual brings their own perspectives, assumptions, and questions to the discussion, several themes formed over time, reinforcing the researcher’s assumptions.

Identification of Topics

1. How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?

2. How do compliance officers learn to comply with new regulations?

3. What helps and/or hinders compliance officers in meeting the challenges they face?

Chapter II will present what is currently published regarding three broad topics within the research literature: Regulatory Environment, Title IX and Self-directed learning. Multiple viewpoints are included wherever possible because much of the Title
IX interpretation of the law can rely on community and personal definitions. Our regulations are an extension of our legal system which, though flawed, is predicated on the ideal of serving the most people it can as best it can. Large groups of individuals rarely completely agree and the regulation’s wording, history, supporters and opponents reflect that disagreement. The reader then may be serviced by both the retelling of their own views and the insight into what, relative to their own views, would be labeled “the opposition.” Topic I, *Regulatory Environment*, attempts to frame our study of compliance officers by demonstrating why the system within which they operate is dysfunctional. This topic frames research question 1: How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies? Topic I, *Regulatory Environment*, also contextualizes answers to research question 3: What helps and/or hinders compliance officers in meeting the challenges they face?

Topic II, *Title IX*, details Title IX’s history, the often intertwined Clery Act, and provide the supportive arguments, as well as contradictory evidence to both laws. This topic frames research question 2: How do compliance officers learn to comply with new regulations? The trends, as well as the impetus behind the trends, of both Title IX and Clery are explained as well as juxtaposed. Although Title IX serves as the common point that links all the case study participants, Clery has engulfed Title IX and therefore influences participant’s decisions.

Topic III, *Self-Directed and Informal Learning*, details the work of Knowles, Marsick, Volpe, and Watkins, and their epistemological descendants, as it relates to compliance officers as learners. This topic addresses learner self-assessment central to research question 2: How do compliance officers learn to comply with new regulations?
Rationale for Literature Review Topics

Without context, the answer to an interview question can appear illogical or at the very least counter-intuitive. There are three components to the interview answers collected. First, how did the answer fit within the regulatory environment, an ever changing dysfunctional landscape? Second, how did Title IX’s history and constraints contextualize and restrain the answer? Third, using the context of Self-directed learning how did the answer evidence the learner’s ways of assimilating new knowledge or skills? Through the critical lenses of paradigm, regulatory restriction and self-directed learning the answers, once framed correctly, made sense.

Knowledge of their environment, the precedents that shaped the regulation, and a common vocabulary with which to discuss learning allows us to better empathize with our study participants. By aligning ourselves with their frames of reference, deeper understanding is possible of, not only their answers, but also why they came to those answers. Answers reflected the experiences learned within the environment both by compliance officers interacting with people, an example of incidental learning, and reflecting on experiences a form of informal learning. Answers restricted by the legal bindings of the regulations are less callous when seen as a logical result of legal precedents, existence of personal choices made by the compliance officer.

Topic I. Regulatory Environment

The United States Supreme Court case *United States v. Grimaud*, 220 U.S. 506 (1911) established that Congress could, without violating the Constitution, delegate to a member of the executive branch the ability to make rules and regulations, as well as enforce them. Grimaud, a sheep rancher, had violated federal regulations written by the office of the Secretary of the U.S. Department of Agriculture when he attempted to sneak
his flock of sheep into the Sierra Forest Reserve. Grimaud argued that the constitution granted law writing ability to the legislative branch not the executive.

Legislators need to win elections to remain in power and the people have recourse if the congress makes bad laws. Opponents to regulation may make the case that this is not true for federal executive appointments and the bureaucracies they lead. At least one founding father feared where such delegation might lead. Constitutional originalists such as Supreme Court Judge Antonin Scalia might point to the founding fathers who clearly respected the danger of a powerful bureaucracy as they had seen in pre-revolutionary Europe.

When despotism has established itself for ages in a country, as in France, it is not in the person of the king only that it resides. It has the appearance of being so in show, and in nominal authority; but it is not so in practice and in fact. It has its standard everywhere. Every office and department has its despotism, founded upon custom and usage. Every place has its Bastille, and every Bastille its despot. The original hereditary despotism resident in the person of the king, divides and subdivides itself into a thousand shapes and forms, till at last the whole of it is acted by deputation. This was the case in France; and against this species of despotism, proceeding on through an endless labyrinth of office till the source of it is scarcely perceptible, there is no mode of redress. It strengthens itself by assuming the appearance of duty, and tyrannies under the pretense of obeying. (Paine, 1792, n.p.)

Later presidents voiced similar concerns over an incremental creep of scope and authority within regulation. At a campaign speech, Herbert Hoover (1928) stated, “Bureaucracy is ever desirous of spreading its influence and its power. You cannot extend the mastery of the government over the daily working life of a people without at the same time making it the master of the people’s souls and thoughts” (p. 1). To those of us who are not political wonks, regulation largely remains mysterious. “Regulation is one of the most important tools at the federal government’s disposal for achieving policy goals, yet the process by which regulation is developed--and the effects regulations have on society--are not well understood” (George Washington University, 2017, p. 1). Some
two centuries later the regulations are a bit more complex and despite cell phones and personal computers even harder to understand (Kirwan & Zeppos, 2015).

Not that the trend has been experienced only by the Department of Education (DOE). “Recent federal efforts to exert more control have in many ways strengthened the influence of local actors by providing avenues for school districts and other local ‘non-system’ players to challenge traditional governance arrangements” (Marsh & Wohlstetter, 2013, p. 1). The trend toward greater education regulation is systemic and therefore not just reserved to higher education.

No Child Left Behind (NCLB), the 2001 reauthorization of the Federal Elementary and Secondary Education Act, represented a sea change for the federal government’s role in k-12 education, a function reserved by the U.S. Constitution for the states. Prior to that year, the federal government had relied primarily on the equal protection clause of the Constitution to promote educational opportunity for protected groups and disadvantaged students and had done so in part with Title I grants to schools serving low-income students. Although it accounted for only 1.5 percent of school budgets in 2000, Title I funding served as the mechanism for the federal government to use NCLB to put pressure on all individual schools throughout the country to raise student achievement. While a state could have avoided the pressure of NCLB by foregoing its share of Title I funds, none chose to do so. (Ladd, 2017, p. 1)

The last line sums up the reason the DOE has been so successful in annexing what has been traditionally, the purview of the states. Federal funds come with federal strings. The choice to cut those strings can be more than a school district can stomach. When the shortfall in funding means an increase in taxes or decrease in services, most districts choose to stick it out and endure the regulation.

Other stakeholders reflect their own priorities.

Big philanthropy was born in the United States in the early twentieth century. The Russell Sage Foundation received its charter in 1907, the Carnegie Corporation in 1911, and the Rockefeller Foundation in 1913. These were strange new creatures—quite unlike traditional charities. They had vastly greater assets and were structured legally and financially to last forever. In addition, each was governed by a self-perpetuating board of private trustees; they were affiliated with no religious denomination; and
they adopted grand, open-ended missions along the lines of “improve the human condition.” They were launched, in essence, as immense tax-exempt private corporations dealing in good works. But they would do good according to their own lights, and they would intervene in public life with no accountability to the public required. (Barkin, 2013, p. 1)

These institutions, arguably historically tainted, have endured and continue to heavily influence policy.

One hundred years later, big philanthropy still aims to solve the world’s problems—with foundation trustees deciding what a problem is and how to fix it. They may act with good intentions, but they define “good.” The arrangement remains thoroughly plutocratic: it is the exercise of wealth-derived power in the public sphere with minimal democratic controls and civic obligations. (Barkin, 2013, p. 1)

These wealthy philanthropic agents, traditional educational systems, elected officials, student advocates, and special interests combine to form a cacophony of voices rather than a choir.

At the national level, debate about school reform typically has been characterized by clashing paradigms offering unicausal explanations and universal prescriptions. At the street level, where parents and practitioners wrestle on a day-to-day basis with questions of what to do, the terms of discussion more typically are concrete, rooted in local history and influential personalities. The former style of discourse tends to promote polarization and winner-take-all battles while the latter sustains a process of unguided “muddling through.” These two dynamics—clashing ideas and parochial practice—operate largely independently, but when they do intersect, it is more often in ways that are dysfunctional rather than enlightening. (Henig & Stone, 2008, p. 191)

As regulation works its way through the system, it is often placed for review prior to and after enactment. Executive orders and Office of Management and Budget guidance direct that “future regulations should be designed and written in ways that facilitate evaluation of their consequences and thus promote retrospective analyses and measurement of ‘actual results’” (Sunstein, 2011, p. 1). While this allows stakeholders a mechanism to reflect and comment upon the law/regulation/policy it remains difficult to discern success from failure unless the measure being reviewed defines its own intended consequence or impact.
The only way to know if a regulation has had its intended effect is to measure its real-world results after they have been in place. Scholars and subject matter experts agree that the best way for regulatory agencies to do this is to write specific plans into their final rules detailing what they intend to measure and how they intend to measure it. (Perez, 2016, p. 1)

Regulation is difficult to quantify because of the sheer number of variables within the calculations and the lack of consensus between government and industry experts.

“The federal government does not officially track total regulatory costs, as it does with taxation and spending. Estimates of these costs from various independent sources range from hundreds of billions of dollars to over $2 trillion annually” (Gattuso & Katz, 2012, p. 1). Tracking would allow us to describe the growth of regulation. Lacking a regulatory analogue to the OMB we must rely on economists to estimate regulatory cost. According to Dudley and Warren (2014), “spending on federal regulatory agencies has increased from $20.7 billion in 1990, and $50.9 billion in 2009, to more than $53.6 billion in 2014 (in constant 2009 dollars). Similarly, total staffing at regulatory agencies has grown nearly 6.6 percent since 2009” (p. 2). While true values remain elusive, cost projections are available through a branch of the OMB. But, despite executive order and legislative action, this office remains habitually backlogged.

For executive branch agencies, the integrity of cost analyses is the responsibility of the Office of Information and Regulatory Affairs (OIRA). There is currently an unusually large backlog of regulations awaiting approval at this office. According to OIRA data, 33 of the 94 regulations awaiting review in mid-March had been pending for more than 90 days, exceeding the maximum time allotted under Executive Order 12866, which governs the review process. Another 18 regulations were pending for more than 60 days. The backlog is not a function of careful and deliberate action.

In a recent Mercatus Center scorecard of the quality of agency regulatory impact analyses, none of the 108 analyses examined received more than a 3.2 score of a possible 5 meaning each was incomplete in some material way. If I were assigning letter grades, every one of these regulatory impact analyses would earn an F. (Ellig, 2015, p. 4)
The backlog is instead a function of regulatory increase. “With a staff of about 50, OIRA is reviewing the work of agencies that have a combined total of nearly 282,000 staffers, a personnel ratio of over 5,600:1” (Gattuso & Katz, 2014, p. 2). The scope of regulations as well as the jurisdiction of those regulators authorized to enforce them increase each year (Vanderbilt University, 2015).

Additionally, with each layer of regulation the possibility of regulatory jurisdictional overlap and contradictory expectations grows. Not only has the development of higher education policy been incremental and isomorphic, it has also evolved in response to pressing governmental and societal needs. As a result, federal policies have often responded to immediate needs without contemplation of future ramifications (Morgan, 2008).

So compliance officers answer to multiple agencies, public and private, each with its own concerns, calendars, priorities, allies and means of enforcing their wills. The complex has been constructed in fits and starts with no overarching plan. The states have served as laboratories and conflicting science and social movements have drafted changes often with little context beyond their own desires. At the end of this description remember this; most of the regulation does not apply to private institutions who do not receive federal funds.

Another challenge is the lack of direct regulation by the DOE. Regional accrediting agencies recognized by the DOE serve as by-proxy regulators of higher education in the US. At least on its face, by-proxy regulation suggests there is limited direct federal regulation of higher education. While this type of higher education regulation is consistent across all institutions in the US, the problem is that public institutions are also accountable at the state level but for-profit higher education institutions are not. This means that for-profit higher education institutions have fewer regulatory checks than their public and nonprofit counterparts (Myers & Mengistu, 2014).
In much the same way that the adoption of regulation is uncertain and rife with contradictions so too is the mechanism of adjudication. Standards of law such as due process, double jeopardy and even simple jurisdiction were all muddied by a letter in April of 2011 (Ali, 2011). Gertner (2015) contends we have not since 2011 established a universally adopted means of due process when it comes to Title IX and sexual assault charges. Some university systems resemble the star chamber often with a single administrator doling out justice. Worse, we do not even agree on what due process would look like as each advocacy group tends toward something just off-center in order to balance out their counterparts who similarly lean just off.

Hard cases make bad law is a legal maxim. This axiom simplifies the idea that an extreme case is a poor basis for a general law that would cover a wider range of less extreme cases. In other words, a general law is better drafted for the average circumstance as this will be more common. Jeanne Clery was brutalized, and every effort should be made to ensure nothing like her case ever happens again. As former judge and law professor Gertner (2015) puts it, unless a woman is safe, all the other guarantees of equal treatment are irrelevant. But while a speeding ticket can be assessed in simple mathematical terms, human sexual relations are less simple. Judges and those who regulate under Clery have to navigate recollection, intent and guess what information a defendant had or should have had (Ali, 2011).

Women enjoy relative equality compared to just a few decades ago; however, as we know from extended rape research they are by far the victim more often than the transgressor (Tjaden & Thoennes, 2000). While women in general are safer, individual women are frighteningly often victims’ multiple times. Add to this the new system (Ali, 2011) of trying cases both on campus and in the local criminal court and possibly an offender appealing the verdict, and the victim may find herself going through three trials. Three proceedings requiring her to relive or at least retell the events multiple times. Recent research in neurochemistry showed each time a memory is recalled it recalls any
previous distortion, this creates a one-person game of telephone where the true memory retreats further with each successive telling (Bridge, 2012; Bridge & Voss, 2014). By the third case anyone’s narrative could be contradictory to an earlier telling without subterfuge, simply from repetition.

Gertner (2015), describing the current condition of sexual assault criminal proceedings on campuses, argues, “But there has to be a hearing, a proceeding at which both sides are represented by counsel, where the decision-maker is a board and not a single administrator, where the board’s not conflicted by affiliations within the university, where it is as concerned as much with truth as with the university’s funding” (p. 2). The way we currently judge college students resembles a kangaroo court as often as it resembles the pure court room described in high school civics.

Each side seeks to defend a victim; each side looks to defend a hypothetical student who serves as a template, not for every case, but for the hard case. “It is critical that this debate not be silenced by ‘blaming the victim’ charges, on the one hand, and the old shibboleths about false accusations, on the other. The question we are both searching to answer is: What does that process look like?” (Gertner, 2015, p. 2).

The regulatory environment is haphazard in almost every conceivable messy way. Lacking a coordinated history, lacking a compass north with which to navigate, lacking leadership from the DOE, higher education regulation is at best described as an old dysfunctional city filled with people persisting rather than living. As much as individuals may strive to move forward the conditions within the system artificially limit what can be achieved (Zack-Decker, 2012).

**Current Conditions**

College students across America are protesting perceived threats and injustices. Whether it is a lone woman carrying her mattress to raise awareness of her own experience or a thousand Alabama State College demonstrators marching through a
campus demanding justice for a young African American shot by the police, students have risen to speak truth to power (Fox, 2016; Mitra, 2015). Dewey (1937), Freire (1970), Brookfield (2009), and others have established the connection between education and justice; but defining who on campus bears the frontline responsibility to address concerns is difficult for the common student to discern.

Campus policy writing, regulatory enforcement, and responsibility for reporting to federal authorities are often tasked to three or more individuals working in as many different buildings or departments (June, 2014). Regardless, of department or title, the professionals within these gathering storms are the compliance officers, men and women who bear much of the burden of negotiating the balance between educational equality, institutional reputation, and risk management. They work to create the most inclusive and safe environment their extended community can achieve while forced to incorporate new regulatory mandates and suggestions at an ever growing rate.

The position “compliance officer” refers to a variety of higher education staff tasked with regulatory issues. A brief description of their duties includes but is not limited to: reporting to federal agencies responsible for oversight, instructing staff, faculty, students, and other stakeholders on changing regulations, investigating a variety of complaints, adjudicating or referring to a higher authority the everyday conflicts common to campuses everywhere. These compliance officers bring the complexities and nuances of federated federal, state, and local regulation to the larger campus while gathering and reporting data about many aspects of the campus back out to a growing crowd of interested parties (Vanderbilt University, 2015).

Specific compliance titles or positions are not federally mandated; universities use personnel to complete regulatory tasks according to their institutional human resource conventions. Each institution determines which regulatory tasks require attention, defines the scope and range of each individual’s authority, and names the position or titles the individual according to its own institutional practices. Based on university job posting
websites, a compliance officer’s job description, regardless of individual titles, delineates the following: the ability to work within a dynamic system, and an ability to remain current and educated regarding the regulatory burden. Compliance officers, as a population, are ubiquitous and yet invisible; little is reported in the literature about how compliance officers learn and incorporate new regulations into their evolving cognitive workload.

The rate of regulatory changes is accelerating, which is to say that it is becoming greater in both the complexity of specific regulations as well as the sheer number of regulations (Kirwan & Zeppos, 2015). In higher education, compliance represents a significant and growing proportion of institutions of higher education budgets and staff hours. A recent study revealed the cost of higher education compliance has grown to between three to eleven percent of higher education institutions’ non-hospital operating expenses (Vanderbilt University, 2015). This is an appreciable rise in cost corroborated within the study by multiple institutions. Further, within the same study, it was discovered that “faculty and staff spend four to fifteen percent of their time complying with federal regulations” (p. 1). This cost increase is due to prolific additions to federal regulation. Colleges and universities find themselves subject to a growing array of state and federal statutes, regulations, initiatives, and judicial interventions (Garland & Grace, 1993). Changes demonstrably trend toward greater bureaucratic burdens such as the recent clarifications of Clery Act extending reporting responsibilities of institutions to include individuals studying abroad.

The ways compliance officers learn is important because regulation compliance is changing rapidly. Higher education positions that include the title of ‘compliance officer’ have grown by 33% in the past 10 years (Porter, 2015). Additionally, untitled professionals regularly complete compliance records or collect campus data for the compliance officers. Compliance has become of paramount concern to general counsel within higher education (Fox, 2016). Knowledge of federal policies and regulations is an
issue that many would say is more complicated today than in previous years for student affairs professionals (Lovell & Kosten, 2000). Examples of this complexity could include a 57-page “clarification” of a 17-page letter (Ali, 2011). As higher education oversight becomes more complex, compliance officers must learn more and faster each year to remain highly effective.

To be a compliance officer is to draw hard lines in shifting sands with each new regulation, knowing it must be rigidly enforced yet may be erased or moved soon. The men and women exist in a state of constant growth within a landscape redefined daily by distant authorities. Much has been made about the accelerated rate of change we are experiencing in higher education. “The speed of change has accelerated, the needs and expectations of our students have grown, and the pressure to satisfy a remarkable array of interests has increased” (Woodhouse, 2016, p. 1).

Compliance officers represent a small but growing population, one that is situated on the leading edges of various social justice challenges on college campuses. These edges of social change, spaces described as “precisely those where success and failure meet, where strategically focused risks can lead to advancement” are the responsibilities of the compliance officer (Eastman & Peters, 2015 p. 1). Compliance officers bring change to institutions which are venerated both for their unbroken histories and for their current carefully cultivated conditions.

The Compliance Officer’s Sandbox

To understand compliance officers, you must first know something of the nature of their world. According to Spear and Mocker (1984), understanding a learner’s environmental circumstances is important in promoting self-directed learning. Due to the dynamic nature of the regulatory compliance world, trends may prove more useful than landmarks to describe the system’s environment. Not only has the development of higher education policy been incremental and isomorphic, it has also evolved in response to
pressing governmental and societal needs. As a result, federal policies have often responded to immediate needs without contemplation of future ramifications (Morgan, 2008).

Almost every higher education administrator is involved in federal government compliance efforts. Financial aid administrators must track and implement detailed Title IV regulations, and student affair administrators must assess how specific Title IX guidance requirements are followed on their campuses. Security officials must stay attuned to the Clery Act and vagaries concerning the definitions of certain crimes and reporting requirements (Porter, 2015). “The U.S. Department of Education (DOE) issued approximately 270 ‘Dear Colleague Letters’ or other guidance documents to amend or clarify rules related to institutional compliance in 2012 alone” (Kirwan & Zeppos, 2015, p. 10).

A Paradigm That Does Not Currently Allow Much Feedback

While the officers and institutions face fines and loss of eligibility or access to federal educational funds for compliance failures, the DOE appears to suffer little to no consequence for similar failures. “The Department often fails to provide rules and guidance in a timely fashion, even when directed to do so by statute” (Kirwan & Zeppos, 2015, p. 14). By way of example, The Higher Education Opportunity Act (HEOA) (Public Law 110-315) explicitly requires the Secretary of Education to issue final regulations within 360 days of the date of enactment of any legislation affecting these programs (p. 15). The DOE regularly fails to meet this deadline yet it holds the schools accountable.

In contrast to this laudable past, the recent decade (2006-2016) has instead seen the focus of the DOE shift to a demand for evidence of regulation compliance (Porter, 2015). In 2014 the names of 50 schools were published as noncompliant. In 2015 that number of schools rose to 85 and in 2017 the number of schools found to be noncompliant has risen
to over 350. In excess of twenty-six million hours were spent in 2014 just to complete DOE-mandated forms (Porter, 2015). The Clery Act alone received 6 “Dear Colleague Letters” in 2015, this frequency indicating the Clery Act’s prominence in the department’s mission to improve higher education. (Clery, 2015)

The governing boards of universities’ dominant perspective tends toward protecting the status quo. The 2016 statement by the Association of Governing Boards on Campus Climate, Inclusion, and Civility gives us insight into the dominant perspective of college governing boards. “Boards, by their nature, are usually steeped in their college or university’s traditions and symbols and often see themselves as the protectors of those things, particularly when board members are alumni of the institution” (Fox, 2016, p. 3). Board members, being proud of the institution, and often identifying strongly with it, resist regulations which promote change. The same statement by the Association of Governing Boards goes on to state, “It should come as no surprise, then, that some boards might be resistant to change when constituencies and events cry out for a different approach” (p. 3). Risk mitigation and loss prevention appeal to this mindset; managing safely becomes preferable to leading through innovation.

Among compliance officers it is a common perception that Title IX and the Clery Act have grown and will continue to grow, taking more and more time until becoming seen by some as full time positions (June, 2014; Paul, 2016). To compliance officers, regulation represents a growing danger to the university’s reputation and finances. The inconsistent nature of regulatory change challenges two of the most fundamental and influential values within higher education: institutional independence and academic freedom. Institutional independence provides colleges and universities liberty from potentially oppressive external influence and allows each institution to define its own unique mission and achieve the institution’s differentiated goals.

Academic freedom, as an extension of free speech guaranteed under the First Amendment to the Constitution within the Bill of Rights, recognizes the right of faculty
members to conduct research and publish results without interference. Academic freedom also allows professors to instruct students in subject matter as their professional judgment and experiences lead. These freedoms facilitate the efforts of compliance officers, administration, faculty, and students to move institutions to develop an academic environment that thrives upon diverse opinions built through critical dialogue and the candid exchanges of perspectives and beliefs held by its stakeholders.

A consensus view of compliance is described by the National Association of College and University Attorneys (NACUA). One centralized matrix they maintain provides a resource to study the scope and range of regulations that define the paradigm. The Higher Education Compliance Alliance (HECA) Matrix, and its ancillary materials, provides insights into the perspective of the professionals who battle the DOE when audits and oversight define the institution as non-compliant.

**The Higher Education Compliance Alliance (HECA) Matrix**

The HECA is a creation of NACUA who worked with 30 other higher education associations to provide a centralized repository of information. The HECA Compliance Matrix, a comprehensive list of key federal laws and regulations, allows regulators a touchstone for many aspects and vagaries of higher education administrative law. The HECA matrix includes a brief summary of each law, allowing regulators easy vocabulary and real world applicable knowledge to pass on to their peers. The HECA matrix codifies applicable reporting deadlines allowing regulators to automate, or at least designate to others, deadlines with the mandated dates for reports and instruction. Links to additional resources are of use to both the compliance officer and those designated to extend their sphere of influence, reporting deans and department heads that often through training, experience or social capital are in better positions to see when regulation mandates are enacted.
Allowing the compliance officers to sort by date or topic allows them to adjust department priorities to better reflect upcoming reporting mandates and, when necessary, dive more deeply into regulatory specifics. The use of filters also allows more specific searches so a particular regulation, circumstance or group can be researched without wading through the bulk of the chapter title or act.

But in order to differentiate the regulation, define or describe the person, or even identify which major topic and then section and subsection you need to address takes cross disciplinary experience. Reality often only vaguely reflects practice. Campus life rarely reflects code and conditions outlined within a law. In this era of gender and race identification and trans-morphism, even pronoun choice and casual descriptive language has become potentially problematic. Protected classes can be assumed and those assumptions challenged. A student could potentially graduate a different sex from the one they were when they enrolled, creating reporting discrepancies. Populations change as quickly as regulation and new priorities reflect new socially constructed paradigms.

Regulations build upon past regulation or arrive like newborns unrecognizable as what they may become, and awkward in their initial interaction with their world. The summary of the regulations universities need to comply with are listed in the federal regulation matrix. This document serves as the codification (see Appendix A) of the published rules and regulation. Like the larger Code of Federal Regulation, the matrix is a living document in that it is both dynamic and growing. Due to the speed of changes, any such codified regulation fits current or past, not the next, generation of student or compliance officer.

The patterns that can be identified across studies of higher education regulatory compliance are clear. Rising costs, rising hours spent on compliance have led to the prevalence of an insurance actuary or a general counsel mindset. Complete paperwork and manage risks. The social justice aspect of compliance is largely secondary to risk
avoidance. Irregularities between institutions in how this population is defined and functions makes them difficult to study or sometimes even locate.

These conditions describe the world in which the compliance officers work. Because each regulation has unique, often layered, minutia the scope of this study was restricted to Title IX, a regulation my participants all have in common, and the competing, cooperative Clery Act, a regulation which has engulfed Title IX though a DCL (Ali, 2011). In the second part of this literature review I hope to illustrate why I believe these regulations exemplify dynamic, high stakes regulation requiring a great deal of on the job learning and self-direction.

**Regulation in the Post-Truth Era**

As President Trump’s administration rolled back environmental protections, financial protections and a host of other regulations, many wondered what would happen next. A Republican Congress, a Republican president, and a 5-4 conservative-leaning Supreme Court leave many at the time of this study unsure where any regulation stands. Traditionally, the Democrats have been the party of protection, of regulating to level the playing field, while the Republicans have largely stumped for deregulation and less government.

Regulations have been removed before. In President Obama’s State of the Union Address in 2016, he called for regulation review as he had in 2011. “I believe a thriving private sector is the lifeblood of our economy. I think there are outdated regulations that need to be changed. There is red tape that needs to be cut” (Obama, 2016). However, where the Obama era was governed by a stated desire to make the country work better for everyone, many see Trump’s unstated priority as making America more profitable for some. “We have undertaken a historic effort to massively reduce job-crushing regulations, creating a deregulation task force inside of every government agency. And
we are imposing a new rule which mandates that for every one new regulation, two old regulations must be eliminated” (Inauguration, 2017).

Once a regulation has taken effect and an institution has reacted, normally through new policies or procedures, the cost of maintaining that regulation is balanced against the cost of fines and less obvious financial harm (Zack-Decker, 2012). In the absence of the regulation, with its threat of fines, what will balance the cost of regulation compliance with a regulation no longer enforced? The institution will have to weigh its options. Unlike implementation of regulatory changes which can have many variables making compliance difficult to accurately budget for, deregulation has a track record (Kirwan, & Zeppos, 2015). The regulation will have accrued a cost for implementation and continuing enforcement that can be argued precisely (Zack-Decker, 2012).

“If I take care of my character, my reputation will take care of itself.” Attributed to D.L. Moody, an evangelist and publisher, this quote would be my answer to why a regulation should continue to be enforced in the absence of the threat of fines. Let us assume for a moment that people accept regulation as the government shining light into the dark alleys of our community and holding us accountable to an artificial construct of how we should behave. If we accept that axiom then what we do when the regulation passes, when the light passes, is in a real sense what we do in the dark. Reverend Moody had a word for what we do in the dark as well; he called it character.

Deregulation will prove either profitable or disastrous. The literature would not support the cost of continuing the Clery Act on most campuses. “The findings of this research suggest that the energy and emphasis devoted to the reporting requirements of the act may be misplaced” (Janosik & Gehring, 2003, p. 91). “Through my research, I found that female staff members tended to fear the crimes that were least likely to occur but were unaware of the crimes that had occurred on their campus” (Chimera, 2016, p. 169).
By contrast, the *Yale Law Journal* credits Title IX with assisting in the formation of a new civil rights movement, “led by smart, courageous survivors of gender-based violence and joined by multiple generations of anti-gender-based violence activists, attorneys, leaders, and scholars. Movement leaders have wisely chosen Title IX as their particular banner and organizing point” (Cantalupo, 2016, p. 16). Based upon history, if Title IX were to be deregulated, many would argue both sides of the sports team equity issue. It is less clear if the greater equity on campus that Title IX was a part of making would revert in its absence.

As women marched on Washington the day after President Trump’s inauguration, Senators Ben Cardin, Bob Menendez, Cory Booker, Sherrod Brown, Chris Coons, Dianne Feinstein, Kirsten Gillibrand, and Ed Markey reintroduced extending the deadline for ratification of the Equal Rights Amendment to the Constitutional amendment first proposed in 1923. The bill, if passed and signed, would extend the deadline for the states to ratify the 1972 Equal Rights Amendment. The 1979 deadline saw the amendment fall short of the three-quarters required by three states. Given the numbers of protesters seen across 50 states, perhaps it is time to consider this amendment again.

**Summary**

This abbreviated history of regulation, limited to how it affects *How Higher Education Compliance Officers learn to manage new requirements in a dynamic regulatory environment*, demonstrates why compliance officers must discern what and how to learn rapidly. In many ways, the regulatory environment mirrors the university system currently being experienced by our young adult students. We experienced a paradigm shift: students are no longer taught what to think but rather how to think; how to discover knowledge instead of memorizing lists of facts (Santens, 2017).

There may be a more recent paradigm shift from learning how to access information to filtering overwhelming information variations and deriving the most valid
information needed, in the moment, for the specific purpose. The value of that information may quickly decline as fashions and cultures shift, or in the case of the study participants, regulations change. If we can understand what compliance officers do well, we may be able to extrapolate from their narratives advice for our future students. In many ways the modern student, half tangible and visceral, half electronic and avatar, resembles the compliance officer. The compliance officer is at once a person and an office, a feeling and growing soul and an extension of a paradigm making piecemeal attempts to remove human choices from public interactions.

**Part II. Title IX**

In order to understand the answers to the forthcoming interview questions, Title IX and Clery need to be more exhaustively explored. While this literature review lacks the formality or precedence expected in a legal brief, or the passion of an activist’s rant, it endeavors to provide an objective timeline and argument for a rational approach to problems framed by an irrational environment. Balancing what to include and what to omit are a challenge to any literature review. Given the range of opinions about these laws and the deeply held beliefs held by many, the reader may find a choice of phrase either incendiary or callus; neither is intentional (Lipka, 2011). The intention is a brief description of how Americans, as a culture, have attempted to come to terms with the primitive horrors that walk amongst us in a way that reflects both our democratic principles and desire for justice. May we all be slower to anger, deliberate in our actions and compassionate and supportive to the victims.

**Unpredictable Changes to Regulations**

On April 4, 2011, the Department of Education released what would later come to be characterized as the “notorious dear colleague letter” (Lipka, 2011, p. 1). This letter
was seen by many as containing solid improvements in reporting and due process when it came to sexual assault. The letter required universities investigating allegations of sexual violence to use a “preponderance of evidence” standard to assign guilt or innocence (Ali, 2011, p. 10). This is significant in that most jurisdictions in which the case would otherwise have been adjudicated would use the much stricter common court standard of beyond a reasonable doubt rather than a 51% majority. Further, from this letter, appeal rights are established for both accuser and accused which ignore the traditional standard of protection against double jeopardy.

The Office of Civil Rights (OCR) had reduced sexual harassment and sexual assault to our judiciary’s lowest standard of proof and doubled the number of times an accused student could be tried. The 14-page letter has been amended or clarified multiple times, including a 53-page question-and-answer document. While 53 pages are not typical, it demonstrates the sometimes half-formed amendment process. While Title IX has seen steady measured refinement, the Clery Act’s almost random growth and complexity makes it an administrative nightmare. Furthermore, Title IX has been credited with anchoring one of the modern equality and equity movements, but Clery is often seen as a failure in its primary stated outcome, a better informed student body (Cantalupo, 2016; Chimera, 2016; Janosik & Gehring, 2003).

**Doe v. Brandeis University**

In 2016, the U.S. District Court for the District of Massachusetts ruled in favor of a motion to dismiss a Title IX action. As part of that 89-page ruling, the District Court issued one of the strongest rebukes of a university disciplinary system under the Department of Education’s issuance of a 2011 “Dear Colleague” letter. *Doe v. Brandeis University* serves as a warning to universities; it contained several specific concerns regarding students’ rights to fair and even treatment. The preponderance of evidence is targeted as one of the greatest sources of concern for the court. The ability to appeal
dismissed cases is identified as a violation of the accused student’s protection from double jeopardy.

Title IX

Title IX of the Educational Amendments Act of 1972 (20 U.S.C. 1681) assures equal access to higher education opportunities regardless of gender. Title IX states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” (20 U.S.C. 1681). Title IX is fascinating to this researcher because in hours of conversation with compliance officers, Title IX alone has presented stories of deep ambivalence.

Title IX represents a center of conflicting views, priorities, and standards. It brings creeping jurisdiction and a concurrent administrative burden that makes it indicative of the more general trends in higher education regulations to grow, engulf, and induce consternation. Title IX as a reference point allows the discussion of no win scenarios and issues one could easily find oneself on either side of. The sports side of Title IX is not the primary focus of our chosen population for this study so this literature review will focus on the sexual misconduct side alone.

Sexual Misconduct in Higher Education

Sexual misconduct among U.S. college students remains a problem, with 20% college-age women and 5% of college-age men being victims (Clement, 2015; Fisher, Cullen, & Turner, 2000). Furthermore, there is a lack of reporting to law enforcement and/or campus officials, with less than 5% of victims coming forward in an official capacity (Fisher et al., 2000). According to the U.S. Department of Justice (2014), for the period of 1995-2013, females aged 18-24 had the highest rate of sexual assault of any other age range, and a woman’s risk for being sexually assaulted was 25% (Koss, Gidycz, & Wisniewski, 1987).
Despite efforts to change this rate of assault among this population, there has been little movement forward for reducing this number and increasing the amount of reports to either law enforcement or university personnel. As attitudes and public consensus have evolved, estimates of reporting rape have remained difficult to verify but have probably not significantly changed since the 1980s. “Estimates of the reporting rate vary from 5 to nearly 50 percent, leaving most acquaintance rapes by any account unreported” (Scheppele & Estrich, 1987, p. 109).

Despite the advent of cellphones and the internet, women still under-report rape. Even if reported to someone in a confidential setting, that report may or may not be included in that institution’s annual crime report. “When you talk to 10 different institutions, you almost find 10 different ways of reporting under the law,” explains Marlon Lynch, president of the International Association of Campus Law Enforcement Administrators (Lombardi & Jones, 2010, p. 1). Choices at almost any level can be reflected in the data reported.

But there’s little doubt that the differing interpretations of the law are sowing confusion—with one school submitting sexual assault statistics beyond what’s required and another the bare minimum. Ultimately, these loopholes, coupled with the law’s limitations, can render Clery data almost meaningless. (Lombardi & Jones, 2010, p. 1)

**Examples of Clery Act Violations**

Misclassifying crimes. For example, not properly differentiating between forcible rape and non-forcible rape as defined by the Clery Act; Changing crime statistics reported from one annual campus security report to a subsequent campus security report, in regard to the same year; Failure to collect crime reports from a Campus Security Authority such as a dean, athletic coach, or residence hall adviser. (Lombardi, 2014, p. 1)

“Estimates of the reporting rate vary from 5 to nearly 50 percent, leaving most acquaintance rapes by any account unreported” (Scheppele & Estrich, 1987, p. 109). Federal task force recommendations suggest that surveys provide the best sexual assault statistics, so they now that require US universities to conduct a climate survey every
other year. “The bill follows a federal task force recommendation to conduct regular surveys, though the proposal has received pushback from the higher-education lobby” (Pauly, 2015, p. 1).

Sexual assault, harassment, stalking, domestic violence, dating violence, and rape all fall under the term sexual misconduct and therefore enforceable as per Title IX regulations. Sexual assault, as defined by Bohmer and Parrot (1993), “is a general term that describes all forms of unwanted sexual activity” (p. 3). Now given the broad sweep of that brush, compliance officers may be placed in a position where they must use the most general interpretation of the law.

**Sexual Assault Timeline**

As early as 1957, male aggression during dating was being studied (Kanin, 1957); however, it was not until the early 1970s that real changes began to occur. Beginning with Title IX of the Educational Amendments of 1972, and the 1975, rape laws being rewritten, disallowing the defendant’s lawyer to call the victim’s sexual history or dress into the trial as a rationale for the assault. “Reformers criticized traditional rape laws that defined rape narrowly; these laws would require both proof that the victim resisted her attacker and corroboration of the victim’s testimony” (Marsh, Geist, & Kaplan, 1982, p. 861).

Critics argued the pre-1975 laws allowed defense attorneys to place the focus of a rape case on the character and behavior of the victim. Later data would bear out. That the laws discouraged rape victims from reporting the crime to the police and erected significant barriers to the successful prosecution of rape cases. In response to these concerns, states enacted a variety of reforms. Some states replaced the single crime of rape with a series of gender-neutral offenses defined by the presence or absence of aggravating circumstances such as use of a weapon, injury to the victim, or commission of a contemporaneous felony.
Many states eliminated legal requirements that the victim physically resist her attacker and that her testimony be corroborated. Most states also enacted rape shield laws restricting the use of evidence of the victim’s reputation or past sexual behavior. (Caringella-MacDonald, 1984, p. 65)

“The reforms may have prompted more victims of simple rape to report the crime to the police” (Spohn & Horney, 1995, p. 872). This analysis showed that arrest rates climbed and convictions for forcible rape increased dramatically after the law’s passage, while the importance of plea bargaining seemed to diminish (Marsh et al., 1982). Because rape had the lowest conviction rate of any felony, some states replaced the word rape with sexual assault as a way of establishing various degrees of seriousness.

Unfortunately, colleges and universities have struggled to deal with sexual misconduct offenses since the 1980s. One of the first landmark cases involved a Syracuse University football player who pleaded guilty and was charged by civil authorities with rape and sexual assault (Bohmer & Parrot, 1993). Inexplicably, the university did not charge him with any offenses. The St. John’s University lacrosse team was charged with gang rape, sparking national attention. Despite being found innocent by civil authorities, St. John’s expelled three players for violating the student code on sexual assault. We see in these two cases extremes difficult to understand from our objective viewpoint. How could civil and higher institutional findings contrast so easily? In part, it is the nature of assault cases (Sinozich & Langton, 2014).

Prior to the Clery Act, universities were not under a mandate to report sexual assault to either the campus or larger community. Many viewed such an idea as tarnishing the school’s reputation or convicting the defendant prior to due process. There is evidence that some institutions saw it as a matter for local law enforcement and turned over victims with little to no follow up. This lack of record keeping means many cases are likely still unknown (Bohmer & Parrot, 1993).

As a reaction to mounting pressure for transparency on campuses concerning sexual misconduct, the Right to Know and the Campus Security Act was enacted in 1990.
Renamed in 1998 after Jeanne Clery, the act requires institutions to report crime in and around campus. Institutions are required to publish an Annual Security Report (ASR) each fall and make it available to all campus community members including prospective students and employees. Failure to report may result in as high as a $35,000 (per violation) fine (Clery Handbook, 2016).

Having completed my undergraduate training between 1991-1995, I must admit to being completely unaware of the Clery Act. My first recollection of reading an ASR was probably around 2001. These reports were, as defined by the law, written for me, yet I remained unaware until 1998 when I received training as a resident assistant. To date, I have been lucky enough to only have to file two reports although in my current capacity as a campus security authority (CSA) mandated reporter I receive an annual reminder of my training and responsibility and a query asking if I have submitted a report this year. I find, like my colleagues, a similar fuzzy lack of memory when it comes to trying to put a finger on when exactly I gained a clear competence of the Clery Act or ASRs. For most compliance officers, Clery became more focused, more tangible through trial/error and frustration.

The Clery Act was instrumental in the movement toward accountability and compliance for crimes occurring on college campuses in that it set a universal standard and coined terms that were interchangeable between institutions (Federal Register, 2014). Later in 1992, an amendment to the Clery Act required Institutions of Higher Education (IHEs) to provide certain assurances and rights to victims. Prevention programs became mandatory and loosely defined (Clery Handbook, 2016). These programs were either educational and/or strategies for preventing sexual assault. In hindsight, the Bystander research has shown that focusing on educating women and largely not including men limited the impact to the greater campus cultural norms. Frustrated by a lack of evidence that the Clery act was having the impact desired, it was augmented by the addition of the
Campus Sexual Violence Elimination Act (SaVE), a reauthorization of the Violence Against Women Act (VAWA).

VAWA provided $1.6 billion for investigation and prosecution of sexual assault cases. Further, it imposed mandatory recompense for victims. Perhaps its deepest cut into campus culture was allowing cases left un-prosecuted in criminal court to be prosecuted in civil court. This required IHE compliance officers to go ahead with campus investigations even in the absence of a criminal case.

Campus SaVE has three main objectives: First, it mandates the reporting of 12 defined crimes in the ASR. Second, it delaminates for the first time, clear countrywide victim’s rights to be enforced by stated disciplinary proceedings for sexual assault. Lastly, it holds IHEs responsible for education efforts to prevent sexual offenses. The Campus SaVE act established a level of transparency by naming procedures and positions in such a way that a student going from one campus to another should have a reasonable expectation of being able to navigate the sexual conduct policies and protections, and to be able to find and seek support from mandated personnel (Summary of the Jeanne Clery Act, 2017).

More recently, and arguably most importantly, the DCL issued by the OCR in 2011 (Ali, 2011) called for colleges and universities to take “immediate and effective steps to respond to sexual violence in accordance with requirements of Title IX” (U.S. Department of Education, 2011, para. 5), including several recommendations surrounding investigations, grievance procedures, interim protective measures, and notifications for all parties involved. Additionally, colleges and universities have always had to have someone assigned to Title IX compliance; however, the DCL stipulated that the identity of the Title IX coordinator must be explicitly clear, with name and contact information available to the campus community. The Title IX coordinator is responsible for overseeing all matters of compliance, addressing patterns of complaints and systemic
issues, and must be trained on sexual misconduct and sexual violence (U.S. Department of Education, 2011).

**Influential Risk Factors**

Even though colleges and universities have strived to decrease the rate of sexual misconduct through changes to policy and prevention programs, the rate of these occurrences remains largely unchanged from the results described by Koss, Gidycz, and Wisniewski (1987). Furthermore, the focus has shifted to the identified risk factors that have played a role in how these offenses are being examined. Through careful examination, much can be learned about how to prevent sexual misconduct and how to educate students to avoid potentially bad situations or circumstances.

Prior victimization is one of the predictors of sexual misconduct in the college setting. A mixed methods study of 330 first-year women during freshmen orientation, Himelein, Vogel, and Wachowiak (1994) found that women who were sexually victimized prior to entering their college years were more likely to be a victim during their time as a college student. Using a 120-item questionnaire, Himelein et al. measured dating history, sexual victimization, sexual history, and child sexual abuse history. Sexual victimization was measured through a known instrument, the Sexual Experience Survey (SES), while the other variables were measured through questions from the researcher. Following the questionnaire, participants were asked if they wanted to participate in a follow up study, but it is unclear how many were willing to participate in the subsequent study. This study indicates that prior sexual victimization before college is a strong predictor of sexual assault for women in higher education. However, Himelein et al. (1994) stated, “It is important to emphasize that the search for risk factors is motivated by the goal of prevention” (p. 417).

“Evidence that these variables heighten a woman’s vulnerability in no way mitigates the offender’s responsibility for his sexually aggressive behavior” (Himelein
et al., 1994, p. 414). This study sought to understand how prior sexual victimization can be a risk factor, thus informing content for prevention education programs.

According to Abbey and Harnish (1995), alcohol plays a role in one-third of sexual offenses. Alcohol use and how it is linked to possible crimes such as sexual offenses has been widely studied among students. Alcohol use by both the perpetrator and the victim are often discussed by administrators because of the inability to give consent and understand the situation while intoxicated (Lafrance, Loe, & Brown, 2012). Alcohol combined with drug use provides an environment that is predictably the most influential precursor to sexual victimization (Abbey & Harnish, 1995).

The Campus Sexual Assault (CSA) study (Krebs, Lindquist, Warner, Fisher, & Martin, 2007) suggests that there is considerable variation in how women understand what rape and incapacitated assault is. Based on the findings of the CSA study, the literature about risk factors, and the small amount of reported sexual misconduct cases, two things become clear. IHEs Clery ASRs under-represent the true crime rate, and a compliance officer’s successful navigation of reporting crimes in an objectively accurate way depends deeply on their ability to help the victim accurately define the crime. Knowledge of the Clery Act is inconsequential unless paired with an understanding of victim’s tendencies toward non-reporting and misunderstanding key terms. This is not reflected as a priority in many university Clery officer job descriptions.

**Sexual Assault Educational Programs**

As important as adjudicating crimes is to the compliance officer’s position, preventing crimes is arguably more important. Prevention programs aimed to educate students about sexual offenses on college campuses are developed from varying perspectives. Banyard, Plante, and Moynihan (2004) suggested the need for efforts that are focused on theoretical models, free from victim blaming, and that employ a larger community of support. Furthermore, research suggests that the community must be ready
to change and there is no one-size-fits-all approach, meaning that different programs will work for different types of people and the same is true for different campuses. Just as the list of prevention programs and ways to educate community members varies, so do the types of community members and campuses.

**Bystander Intervention**

Sexual offense educational programs vary in terms of effectiveness, delivery, and audiences. Past prevention programs have focused mainly on females and the use of self-protection as a technique to avoid being a victim of a sexual offense (Banyard et al., 2004). This has not had the impact that was predicted. Moving away from this type of technique, bystander intervention programs were developed to educate male and female students about how to intervene and prevent a sexual offense from occurring (Banyard et al., 2004; Banyard, Moynihan, & Crossman, 2009; Exner & Cummings, 2011; Moynihan et al., 2015).

This type of program offers a way for students to recognize a potentially dangerous situation, preparing them with the tools and capacity to intervene. In this prevention program model, the focus is on the belief that someone who is present can step in and interrupt a potentially dangerous situation (Banyard et al., 2004). One important piece that is critical to the success of someone acting as a bystander is that the person understands the need to intervene and has the ability to do so (Banyard et al., 2004). Along with providing community members with tools to intervene in a possibly dangerous situation, bystander intervention moves the focus away from victims and to the community as a whole.

When training bystanders, it is preferred that the training includes the types of situations and issues they may encounter in a real life situation. Bystander intervention training is important for sexual misconduct prevention in a way that is different from other programs by involving the community in an active and participatory way. Banyard
et al. (2004) stated that bystanders “need to have an awareness of the problem and its negative impact on the victim. They will be more likely to help if they are asked to make a commitment to help and to see themselves as partially responsible for solving the problem” (p. 69).

Lastly, bystanders need to feel as though they can intervene and have the skills to do so effectively. Whereas the outcomes of bystander intervention remain largely unstudied, this multi-faceted prevention approach has benefits that extend beyond assisting a victim during a potential dangerous situation. Bystander intervention teaches community responsibility and gives a broader context of the problem to its members through training and education (Banyard et al., 2004). Through bystander training, rape myths and common misconceptions are discussed and affect views of those receiving the training. Additionally, Banyard et al. expressed the need for more empathy for victims and recognition that this is a community issue that needs to be addressed.

**Legislation and Policy Development**

In conjunction with transparency and creating clear and understandable policies, colleges and universities face policy amendments. The student code of conduct describes the policies by which all students must abide. Each institution decides when and how to amend their policies. As a result of federal laws and the DCL of 2011, all institutions were required to amend their sexual offense policies, including dating violence, stalking, and domestic violence (Ali, 2011; Clery Handbook 2016). Creating these policies poses a great challenge for many universities that are trying to align with the mission of the institution, support student expression, and balance competing priorities (Lancaster & Waryold, 2008).

In response to institutions struggling with policy development and language, the National Institute of Justice (NIJ) released a checklist that is helpful when looking at changes in sexual assault policy (McMahon, 2008). McMahon stated, “Achieving these
nine parameters demonstrates the Institutions of Higher Education IHE commitment to promoting a campus climate that does not tolerate sexual violence” (p. 362). McMahon described several parameters of policy compliance. A definition of sexual misconduct must be clearly stated and can be portrayed in a descriptive scenario for understanding. Second, specifics must be given about the sexual offenses policy, such as where to find it and what it means. Next, the university must have personnel that are trained to respond and clearly state who can keep it confidential and who will need to notify the Title IX coordinator. Trained administrators must be able to provide resources as soon as a student reports that he or she has been a victim. The methods for reporting and what the adjudication process will look like need to be outlined clearly. The next parameter is prevention efforts and resources for victims on campus and off-campus. Where can students turn if they have been victimized? Finally, IHEs should remove any barriers to reporting such as loose policies and lack of confidentiality.

In a recent case against the University of Oregon, a student who was allegedly raped by three basketball players sued the university for mishandling her case. As a defense, the University of Oregon sought out records from the Student Counseling Center and used them as a defense in the case (New, 2015). Questions of what information can remain confidential and what can be released complicate cases and further the need for clear and consistent policies and practices. Lastly, student conduct guidelines should be included as a means to hold perpetrators accountable through appropriate sanctions. This combination of parameters creates a template for federal policy compliance as well as moving beyond that scope into a supportive and affirming environment for victims.

Whereas policy development and change can take months, institutions are not required to review policies regularly. Rather, it is suggested as a best practice to review policy annually and at least every 1-3 years (Lancaster & Waryold, 2008). In reality, policies and practices can and really should be reviewed continuously as sexual conduct standards evolve. According to the Association for Student Conduct Administration
policies and procedures must be transparent for the campus community and reflect the campus culture” (p. 10).

Summary

“With the changing regulations for policies, procedures, and sanctions, combined with new legislation, Title IX coordinators are struggling to figure out what approaches will be the most helpful and beneficial for the community” (Paul, 2015, p. 39). Sexual misconduct on college campuses continues to be a shifting complex issue, one with which Title IX coordinators continue to confront. Title IX requires institutions to respond to complaints quickly and effectively. In addition to transparency, institutions face difficulties in seeking to balance our judicial traditions of democracy and due process while ensuring victims receive recompense and support.

It is possible that as the landscape of Title IX continues to change, implementing new policies, procedures, and programming will replace learning as compliance officers try to balance learning with performing. And a regulations ever reduce the leeway compliance officers wield in terms of investigation and penalty, procedures may replace judgments. If the IHE’s options regarding policies, sanctions and investigations become more and more restrictive, removing the compliance officer from making decisions they currently make, much of compliance will essentially become automated.

Mandatory action and minimum sentences are the product of good intentions by legislators and in the case of the Clery Act regulators. Hard cases may bring national attention but they do not make good law. In much the same vein good intentions do not always make good policy; good results must also be evidenced. In regard to sexual misconduct, is justice best served by having regulators assign fixed penalties to a crime to which the majority of probable victims ill define? Or should the DOE and OCR leave IHEs more or less free to tailor sentences to the aggravating and mitigating facts of each criminal case within a defined range? What is the point of wielding the specialized
knowledge and experience without the freedom to act, to protect and to serve those in their care?

**Topic III. Self-Directed and Informal Learning**

**Rationale**

The following pages make the case for two assumptions. First, the researcher assumes the majority of compliance officers’ learning is not taking place in the classroom. Instead, that it is the compilation of individual research, work experiences and formal and informal interactions with students and staff. Second, the researcher assumes that of the possible adult education theories that exist the one that best describes the kind of learning we see among compliance officers is self-directed learning. Therefore, in order to provide milestones for this discussion of compliance officers learning, the researcher used terminology taken from years of research in both *Informal Learning* and the larger field of *Self-Directed Learning*.

**Informal Learning**

The researcher is limiting the discussion of learning to instances that take place outside of formal classroom learning. Informal learning can be defined as any learning existing outside the traditional structured classroom. “Informal learning is usually intentional but not highly structured. Examples include self-directed learning, networking, coaching, mentoring, and performance planning that includes opportunities to review learning needs” (Marsick & Watkins, 2001, p. 1). As each of the above examples is often part of the Title IX compliance officer’s day-to-day existence, the regulatory compliance environment could be said to favor informal learning to formal learning. Compliance officers work hand in hand with Clery-mandated CSAs and other regulators. Groups like the ATIXA foster professional networks, and informal
associations such as LinkedIn and Facebook allow a level of interaction uncommon to the pre-internet compliance world.

As learners develop they become increasingly emancipated, mature, and functionally autonomous (Mezirow, 1997). This development takes place in inverse proportion to their need for scaffolding, instructional support, and cultural mediation (Canning & Callan, 2010; Kenyon & Hase, 2010).

Most (80-90%) workplace learning is informal, with little of that activity being recorded in official statistics of vocational training (Marsick & Volpe, 1999). According to Chappell and Hawke (2005), informal learning at work is usually a social rather than an individual activity, with people working and learning in partnership. Thus, informal learning becomes an important element in workforce development and something to be factored into broader policies concerning work-related training. Informal learning—including learning from peers and colleagues, learning by trial and error, and individual reading—are important aspects of professional development (Stehlik, Simons, Kerkmam, Pearce, & Gronold, 2003).

Marsick and Volpe (1999) concluded that informal learning can be characterized as follows:

- It is integrated with daily routines.
- It is triggered by an internal or external jolt.
- It is not highly conscious.
- It is haphazard and influenced by chance.
- It is an inductive process of reflection and action.
- It is linked to learning of others (p. 5).

While self-directed, the informal nature of this learning does not divorce itself from the institution within which the compliance officer exists. The institution plays a role in the extent to which informal learning takes place. Informal learning can be deliberately encouraged by an organization or it can take place despite an environment not highly
conducive to learning. Incidental learning, on the other hand, almost always takes place although people are not always conscious of it (Marsick & Watkins, 1999, p. 12).

Marsick and Volpe’s (1999) characterizations, when applied to compliance officers, highlight some of the difficulties in studying informal learning. Because informal learning is integrated with daily routines it is largely invisible. This can make interviewing learners difficult “because much of it is either taken for granted or not recognized as learning; thus, respondents lack awareness of their own learning” (Eraut, 2004, p. 249). Since informal learning is triggered by an internal or external jolt, the trigger may prove more memorable than the learning that follows. As informal learning is not highly conscious it may not be assigned to long term memory. “The resultant knowledge is either tacit or regarded as part of a person’s general capability, rather than something that has been learned” (Eraut, 2004, p. 249).

**Incidental Learning**

“When people learn incidentally, their learning may be taken for granted, tacit, or unconscious. However, a passing insight can then be probed and intentionally explored” (Marsick & Watkins, 2001, p. 26). One of the many reasons incidental learning may be misunderstood is the natural tendency of humans to not want to dwell on mistakes. It is more likely perhaps that the learning is occurring subconsciously or the learner is unaware of their own error.

People often do not learn from their mistakes; instead, they reinforce their mistakes because they do not examine why they have failed. By subjecting our actions to the lens of critical reflection, we begin to see how beliefs, values, assumptions, contextual factors, and unintended outcomes shape actions and outcomes. Insight into what these factors are can lead to redesign of action, and with practice, to new ways of addressing challenges. (Marsick et al., 1999, p. 87)

This point is reflected in my interview questions and may be one of the more difficult sets of data to collect. “It is embarrassing, humiliating, to discuss personal
failures despite the value they become long term, the lessons hardest won can be too painful to explore” (Marsick & Watkins, 1990, p. 12). “Incidental learning, on the other hand, almost always takes place although people are not always conscious of it” (p. 12).

**Critical Reflection**

Critical reflection as previously described has been understood to be an introspective or private phenomenon that is kept private. Raelin (2001) presents an alternative social view of reflection, known as public reflection, which occurs in the midst of practice and may be shared in the presence of others. Taylor (1997) suggests that without the medium of relationships, reflection can be impotent and hollow, lacking the genuine discourse necessary for thoughtful and in-depth behavioral change.

Reflection can be defined as “the practice of stepping back to ponder the meaning to self and to others in one’s immediate environment about what has recently transpired” (Raelin, 2001, p. 11). Raelin claims that public reflection is the key to “unlocking the learning” from project-based learning” (p. 12). Reflection of this form is necessarily associated with learning dialogues. Rather than constituting an exchange of statements of points of view, dialogues surface in the safe presence of trusting peers the social, political and emotional data that arise from direct experience with one another. Often these data are precisely those that might be blocking operating effectiveness. Learning dialogues are also concerned with creating mutual caring relationships. Schön (1983) and Ferry and Ross-Gordon (1998) acknowledge that reflective practitioners seek to involve others in their search for new solutions.

**Experiential Learning**

Informal learning is “predominantly experiential and non-institutional, non-routine, and often tacit” (Marsick & Watkins, 1990, p. 7). Like the compliance world, such learning cannot be fully preprogrammed. Opportunities to learn occur spontaneously as
regulators perform their function, particularly educating the public and enforcing regulation (Paul, 2015).

Experiential learning theory, as initiated by Dewey (1938), emphasizes the role of action and experimentation in education. Dewey’s conception of the relationship between learning and experience rests on a few key ideas:

- All genuine education comes about through experience (p. 13).
- Experience must exhibit two major principles of continuity and interaction (p. 27).
- The principle of continuity of experience means that “every experience both takes up something from those which have gone before and modifies in some way the quality of those which come after” (p. 27).
- The principle of interaction of experience means that “an experience is always what it is because of a transaction taking place between an individual and what, at the time, constitutes his environment” (p. 41).

These ideas express the fundamental role experience plays in developing the student. Dewey postulated that students learn by working through an error or problem, by observing surrounding conditions, by developing and testing hypotheses about the problem through reflection, then finally taking action. Learning defined within this context is the process of transforming our experiential interactions with the environment into conscious deliberate actions. However, in order to learn see future implications we must connect what we are doing in the present with what we have done in the past. (Merriam & Caffarella, 1999). Difficult when the student is studying a dynamic entity.

Dewey (1938) also warned not all experience educates, often events mis-educate. Experience can “distort growth…, narrow the field of further experiences…, [and land people] in a groove or rut” (p. 13). Experiences can, as Brookfield (1985) attested, foster bias.
Judging the impact of any given experience, whether it actually produced learning is difficult because “every experience is a moving force. Its value can be judged only on the ground of what it moves toward and into” (Dewey, 1938, p. 31).


Kolb (1984) describes learning as a cyclical four stage process of “thinking” and “doing,” theoretical followed by practical, the classroom and the praxis. His four stages begin with concrete experiencing, the results of sense experience. His second stage is reflective observation is the process of internalizing what was just experienced. Active conceptualization, his third stage, is allowing the mind to muddle through new ideas fostered by the reflective observation. Finally, through active experimentation the learner extends what they have experienced into new action. Jarvis (1987) contrasts with Kolb, describing non-reflective learning processes, such as rote practice or memorization. These learning models are of course far less transformative the learning equivalent of a knee reflex. Jarvis went on to describe as non-learning responses to experience, such as presumption, non-consideration, or rejection.

Learning from experience in modern parlance is perhaps best described as “the way in which people make sense of situations they encounter in their daily lives” (Marsick & Watkins, 1990, p. 15). Marsick and Watkins’s model for understanding informal and incidental learning in the workplace is an eight-phase, problem-solving model that begins with individuals confronting a new experience by the following route:

- Framing the experience based on past experiences
• Diagnosing the new experience
• Interpreting the context
• Deciding on a solution
• Drawing upon or developing skills
• Producing a solution
• Assessing consequences
• Drawing further conclusions

Returning to experiences, attending to feelings, and reevaluating experiences are the three steps in Boud and Walker’s (1993) theory of learning from experience. This addition to earlier work incorporated how learners prepare for an experience, the experience itself, and the reflective processes surrounding the experience.

In summary, while each of these highlighted theories acknowledge the role of experience in learning yet differ on their explanations of the transformational processes, reflection is a common theme. It is only through reflection that students make meaning from experiences. And only once students have found meaning can they move forward with purposeful action. In the context of compliance officers, the judgment of a regulatory case is the purposeful action. Given the possible ramifications for both accuser and accused, reflection upon lived experience will deeply inform choices made.

Social Networking

Dewey (1937) believed that learning is fundamental to our American democracy. As a social process learning not only strengthens but defines our connections to others. Recent medical breakthroughs in brain mapping prove we only really know ourselves through interaction with others (Xu et al., 2015). When an individual confronts a problem that cannot be solved from existing knowledge and expertise, it is common to turn to one’s social network of friends and peers for assistance. Tennant and Pogson (1995) make the argument that social and historical context form the backdrop of adult learning.
and are integral to the learning which occurs. If true, then learning is culturally dependent and occurs uniquely within each frame of reference. Wilson (1993) states, “Knowledge and learning have to be understood as inextricably integrated in the setting in which they occur” (p. 73). The extent to which any knowledge or skill is transferable to another circumstance or population therefore become debatable.

Borgatti and Cross (2003) define learning in social networks as relationships “that underlie information seeking and sharing” (p. 433). The probability of seeking information “from another person is a function of: (1) knowing what that person knows; (2) valuing what that person knows; (3) being able to gain timely access to that person’s thinking, and (4) perceiving that seeking information from that person would not be too costly” (p. 432). In a social network, participants are likely to seek or exchange information with others when they perceive the benefits of sharing or obtaining knowledge are greater than the costs. Do individual compliance officers need to know everything or do they need to know who knows something? Does each university need an expert on every issue or can intercommunity resource sharing profit each institution by reducing duplication of effort?

**Self-directed Learning**

Self-directed learning, as defined by Hiemstra (1994), includes any form of study in which individuals have primary responsibility for planning, implementing, and evaluating their own learning. Hiemstra catalogues the following six characterizations of self-directed learning: “Individual learners can become empowered to take increasingly more responsibility for various decisions associated with the learning endeavor” (p. 9). The compliance officers under scrutiny in this study, may or may not choose to have more responsibility but success often assures additional responsibility (Kirwan & Zeppos, 2015; Myers & Mengistu, 2014; Paul, 2016; Porter, 2015).
“Self-direction does not necessarily mean all learning will take place in isolation from others” (Hiemstra, 1994, p. 11). Compliance officers interact with, and learn from, faculty, staff, and students who are applying the often theoretical and hands-on practice. This learning occurs through conversation and interaction with others. “Self-directed learners appear able to transfer learning, in terms of both knowledge and study skill, from one situation to another” (Hiemstra, 1994, p. 12). The basis of one of the interview questions, the ability to apply knowledge and experience in a fluid and often less than defined circumstances is vital to much of Title IX compliance work. Whether compliance officers learning is best described using SDL or Informal Learning terms is not described in the literature at this time. Acting upon or more often reacting to changes in both popular definitions of social norms and ever changing legal landscape requires the compliance officer to often extrapolate from new guidance or judicial decisions the best way to proceed on similar but not identical cases within their own institution. Hindsight may be 20/20, but handbooks and policies often must reflect the best knowledge currently available and, when possible, attempt prescience through evaluating social, communal, and legal trends.

“Self-directed study can involve various activities and resources, such as self-guided reading, participation in study groups, internships, electronic dialogues, and reflective writing activities” (Hiemstra, 1994, p. 13). Since 1994, we have added Massive Open Online Courses (MOOCs), blogs, and various internet resources. The ability to learn, more than the knowledge within, now defines success.

“Effective roles for teachers in self-directed learning are possible, such as dialogue with learners, securing resources, evaluating outcomes, and promoting critical thinking” (Hiemstra, 1994, p. 10). One of the questions I have for my interview participants is what has been the role that teachers or mentors on their learning. Research suggests that something as simple as writing down goals can focus a learner and help to decrease gender and ethnic achievement gaps (Schippers, Scheepers, & Peterson, 2015). In that
particular study, answering questions posed by the teacher acts as the triggering event such as that described by Marsick and Volpe (1999). Whether it is an interaction between the regulator and her mentor, her peers or the students she serves, informal incidental learning is taking place.

Beyond the population I studied, we are seeing nationally a shift in the higher education paradigm that may allow compliance officers to share their learning with others. Hiemstra (1994) may have been prophetic when he said, “Some educational institutions are finding ways to support self-directed study through open-learning programs, individualized study options, non-traditional course offerings, and other innovative programs” (p. 11). MOOCs and other forms of open educational content are already providing these opportunities and redefining higher education (Yuan, Powell, & Cetis, 2013).

According to Spear and Mocker (1984), understanding a learner’s environmental circumstances is important in promoting self-directed learning. I believe in the case of compliance officers, this represents the central context of a cycle similar to Marsick and Watkins’s Informal and Incidental Learning Model (see Figure 1).

![Figure 1. Marsick and Watkins’s Informal and Incidental Learning Model. Source: Marsick, & Watkins, 2001](image-url)
In the compliance officer’s circle, learning grows out of everyday encounters within a higher education setting governed by Title IX. Like the business model, we see a progression of meaning making that is neither linear nor sequential as inquiries frequently result in frustration rather than solutions and changes to existing regulation or cultural norms can make answers short lived. With each new regulation or case law, regulators may have to go back and question earlier understandings (see Figure 2).

The university hires a regulator to fill a need, to oversee compliance regarding a regulation or group of regulations. Possibly within days of being hired the compliance officer may find themselves learning new changes to regulations. This environment probably promotes self-directed learning by meeting Marsick and Volpe’s (1999) characteristics of such incidental learning settings.

Blaschke (2012) proposes that there is a natural developmental progression from the age old concept of pedagogy (leading the child) built upon teacher-led student engagement, to andragogy (leading the man) built upon the student-centered notion of learning cultivation, and to heutagogy (leading the self) built upon the self-determined notion of self-realization. Key conceptual components of self-directed learning are personal responsibility (Brockett & Hiemstra, 1991); initiative (Knowles, 1984); control (Carré, 2000); self-planning (Tough, 1971); and intentionality (Hake, 1999). Other proposed characteristics of the process of self-directed learning are reflection and action (Brookfield, 1986). When adults are engaged in self-directed learning, they change “perspectives, shift … paradigms and replace one way of interpreting the world by another” (Brookfield, 1986, p. 19). These may assist in learning transfer, i.e., the learner’s internalization of the learning and the changes that take place in thinking and practice as a result, is to occur (Caffarella, 2002).
Critiques of SDL

The common critique of SDL is a lack of consistency of definitions as well as terms used interchangeably. Disagreements appear in literature on what SDL is and how it is applied (Merriam, Caffarella, & Baumgartner, 2012). “As with the development of many new ideas, self-directed learning has created some confusion in that many related concepts are often used interchangeably or in similar ways” (Hiemstra, 1994, p. 12). Brookfield (1985) argued earlier that Knowles’ conceptualization of SDL ignores the relationship between the individual and society, ignoring collective action and human interdependence. Knowles’s (1984) concept of SDL is critiqued as being too sequential and linear. Learners can be more concerned with purpose and conscious action (Brookfield, 1988).

SDL (More Current Research)

Several studies have documented the trends in SDL research (Hiemstra & Brockett, 2012; Kirk, Shih, Holt, Smeltzer, & Brockett, 2012). Relevant to this study, researchers in SDL are studying the effect of a variety of digital tools (electronic learning systems, digital networks, problem-based learning, etc.) on the SDL outcomes of individuals (Conradie, 2014; Malan, Ndlovu, & Engelbrecht, 2014). Others are exploring the use of digital networks to allow students to learn together across great distances (Visser, Evering, & Barrett, 2014). Much of the research focuses either on tool or student.

As stated previously, much of SDL’s current research (Conradie, 2014; Malan et al., 2014) focuses on using new electronic tools to set the table for learning to occur, granting access to ever greater numbers of learners to greater amounts of information. Information per se is becoming less relevant than knowing how to access knowledge sources. Likewise, the current compliance environment is about being current while at the same time being wary of things that will become obsolete. While the app Twitter may fall out of use suddenly and without warning, both the current use numbers and its use as a model for electronic social media communication make it a valuable part of the larger
discussion. #Title IX and #Cleary currently display no use in the hashtags dot org 1%
analytic; however, as hashtags require organization and two similar hashtags can split a
topic or crowd, so it is possible that people are talking about these acts but using different
hashtag signifiers.

Researching the supposition that digital networks provide more authentic SDL
experiences, a correlation between discipline and SDL has been reported (Sisley, 2013).
Which states, “Discipline in terms of knowing where to find the best resources possible
for the industry, and finally, discipline in making conceptual connections of overarching
skills and knowledge” (p. 148). Sisley goes on to point out that while the research was
largely focused on the internet and digital systems, the responses to the interviews made
little mention of the tools and instead focused primarily on the learner.

Barabasi (2002) argues that the internet and digital networking have created new
occupations while reducing the need for much of the traditional organizational hierarchy.
Within the digital organization paradigm, he argues that people are now seen as
knowledge capital and no longer as career members of a greater whole. Universities have
long recognized knowledge capital in the hiring and promotion of faculty. So too,
compliance officers may in years to come be hired and promoted based upon knowledge
capital rather than skills and assets deemed of greater value in previous hiring paradigms.

Informal learning and deliberate practice among small business owners also
indicate a strong correlation between learners’ perceived self-interest and SDL project
success (Keith, Unger, Rauch, & Frese, 2015). In the same way money may motivate
business learning, an as yet undefined self-interest among Title IX compliance officers
may similarly motivate their own SDL. Unfortunately, while many small business owners
share an easily quantifiable common self-interest, the profitability of their company, Title
IX compliance officers are not profit based. Individuals and institutions will define Title
IX success differently but regardless of how it is defined, some success measurement
may indicate an extrinsic motivator to improve SDL outcomes.
Garrison’s Self-directed Learning Model

Garrison (1997) proposed a novel SDL model which integrated external management (contextual control), internal monitoring (cognitive responsibility), and motivational (entering and task) factors. Learners were seen to be motivated to assume personal responsibility and collaborative control of the cognitive (self-monitoring) and contextual (self-management) processes; constructing and confirming meaningful uniquely personal learning outcomes. This model assumes the learner bears the responsibility for construction of meaning while others confirm knowledge as worthwhile. Recent research (Xu, Chen, Zhao, & Yang, 2015) bears out the latter by demonstrating evidence that the reflected appraisal process is an important path for learning about one’s personality. Reflected appraisal allows a fellow learner to more accurately assess the learner’s abilities, bypassing the biases that may impede the more commonly practiced self-assessment.

For Garrison’s (1997) concept of self-management concerns the enactment of learning goals and the management of learning resources and support. Labeled as task control, these actions spring from the learner’s attempts to balance factors of proficiency, resources, and interdependence (Garrison, 1993). Proficiency describes the abilities and skills of both the educational facilitator and those of the learner. Resources encompass the campus (real or virtual) support across the educational setting. Interdependence describes institutional as well as subject standards and the learner’s choices within the educational framework.

Self-management of learning tasks represents a collaborative experience between the teacher and the learner. The teacher maintains an appropriate dynamic balance of external control necessary for successful educational outcomes (Prawat, 1992; Resnick, 1991).

Within Garrison’s SDL model, self-monitoring refers to multiple cognitive and metacognitive processes. Along with each learner’s individual educational toolbox, their
collection of adopted and personally adapted learning strategies, self-monitoring describes the meta aspect of thinking about thinking. Each learner takes responsibility for the construction of personal meaning, integrating new concepts and experiences with previous knowledge in their own way.

Garrison’s model, more than other SDL research models, may shed light on what we are currently failing to provide this population and in so doing shed light upon possible points we can improve. The environment within which regulators work as described earlier precludes many administrator’s immediate supervisors providing the support and dynamic balance Garrison describes as an essential role of the facilitator. The regulatory agencies which oversee their work, while having the arcane regulatory trivia, have no vested interest in the learner’s success. Most compliance officer’s supervisors or peers do not have enough Title IX knowledge to act as facilitators as described by Garrison.

Critiques of SDL in 2016

Research into much of the correlation between digital networking and specific digital models or systems was not useful because the correlations are most often simple praise for the device being studied. “There is a clear lack of documentation regarding how to promote and actualize SDL” (Morrison & Premkumar, 2014, p. 1). The communication skills required by compliance officers a focus of the interview process, particularly understanding where communication issues help or hinder completing regulatory tasks. As explained earlier due to recent changes in Title IX and Clery intercultural communication skills have become compulsory. As compliance officers now may need to communicate with counterparts world-wide this research must address in part the problems that have been associated with cultural hindrances to SDL (Frambach, Driessen, Chan, & van der Vleuten, 2012).
Student perception of some SDL opportunities remains mixed. One example, MOOCs, are reported to be populated by a large number of students who ‘lurk’ rather than adding or challenging ideas, or participate wholeheartedly in student discussions; this leaves active participants unhappy. These digital introverts, however, “felt that they were actively engaged in the course through the other three activities: aggregating information, remixing of it and sharing it with others” (Kop & Fournier, 2011, p. 20).

Motivation and performance can be affected by technology mediated instruction (Gabrielle, 2003). While the HECA provides technology mediated interaction among compliance lawyers little exists specifically for compliance officers. A revolving series of MOOCs could allow compliance officers to share new information. While it is true that MOOCs represent a growing unproven asset, their use until better models present themselves remains popular (Chen, Barnett, & Stephens, 2013). Further, the feeling of belonging and participating is a reliable intrinsic motivation (Deci, 1975). Even lurkers would, in theory, be more motivated from their limited, passive participation.

**Why Compliance Officers are Best Described Using SDL**

By studying these personifications of changing systems what might we discover about self-directed learning within shifting places and times? How might that redefine what we know about how Knowles’s (1984) assumptions fit this population? Many of today’s student populations are also themselves between the traditional educational environment and the new changing digital age of education, an environment ever in flux. Studying compliance officers’ unique self-directed approaches to learning and functioning within these complex systems may provide insight into not only this population but to the greater field of self-directed learning as well.

Of all the SDL definitions, perhaps Silen and Uhlin’s (2008) best describes why SDL encapsulates the way compliance officers learn as described by the compliance officers. Students become the active agents in the learning process, taking full
responsibility for assessing and meeting their educational needs as such needs relate to the topics introduced. Active agents autonomously designing, implementing and assessing the results of their learning by applying what they have gathered to the real world of compliance. This description, based on limited self-assessment, describes an ideal to be strived for not necessarily what is truly taking place.

Knowles grew to see learning more as a continuum, an evolution from pedagogy to andragogy, and less of an either or proposition. Knowles’s (1989) work, Andragogy, is less a theory of adult education as it is “a model of assumptions about learning or a conceptual framework that serves as a basis for an emergent theory” (p. 112). I hope to use andragogy as a touchstone or scaffold from which I can organize and present my findings and describe a unique and understudied population that due to its quickly evolving environment has unique demands and educational needs.

Mousavi, Low, and Sweller (1995) argued that instructional design can be used to reduce cognitive load in learners. Perhaps by studying these learners and comparing their practices, some insight that affords less time memorizing regulatory minutia and more time interacting with the populations they serve can be achieved. Compliance officers are the canary in the coal mine for university professionals. As self-directed learners we need to be able to self-assess confidently and learn new information in a timely manner. We must facilitate and engage in new approaches that can evolve as quickly as our students. These new approaches can neither drive popular opinion nor follow it but must instead objectively reflect real time shifts in regulation. Students expect an app for every campus issue. This is not a reaction to that desire to use technology; it is instead looking to connect with more people in a meaningful way perhaps through new technologies.
Chapter III

METHODOLOGY

The purpose of this interpretive case study is to explore how compliance officers learn new government regulations and ensure institutional compliance in the current dynamic regulatory environment while also meeting the day-to-day needs of students and other stakeholders. Nineteen compliance officers were interviewed to discover their perceptions of how they learn to comply with federal and state regulatory demands and, at the same time, meet the needs of the institutions they serve.

Research Questions

To carry out this purpose, the following three research questions were addressed:

1. How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?
2. How do compliance officers learn to comply with new regulations?
3. What helps and/or hinders compliance officers in meeting the challenges they face?

This chapter presents the methodology that was used to explore these research questions including: (a) rationale for qualitative research approach including the rationale for an interpretive case study; (b) description of the study sample and sampling strategy; (c) data sets; (d) methods of data collection including interviews and document analysis; (e) methods for data analysis and synthesis; (f) issues of trustworthiness including
validity, bias, credibility, reliability, transferability, and conformability; (g) limitations of the study; and (h) chapter summary.

**Rationale for Qualitative Research Approach**

If this study is to describe how compliance officers learn, then a research device or data collection tool which allows the researcher to understand the meaning of the participant’s experiences is required. This study needed a way to understand the context in which study participants make their choices and shape their own perspectives. The participants need to hear their narratives framed in such a way that they are able to do the metacognitive work of critically evaluating moments that may have, at the time, just been another Tuesday from that moment’s point of view. Given these conditions, Maxwell (2012) recommends the qualitative research format of the Interpretive Case Study.

Historically qualitative methodologies have been employed toward three goals: to explore, explain, or describe a phenomenon (Marshall & Rossman, 2006). Maxwell (2012) states the goal of qualitative research is to understand the meaning of participants’ perspectives as well as their experiences: to see the context in which they act. Maxwell also points out qualitative research allows us an understanding of the processes by which events and actions take place.

Qualitative research facilitates storytelling; storytelling empowers the narrator, offering a forum for their voice to be heard, if not amplified. “The only reality is that constructed by individuals involved in any given situation thus, multiple realities exist in any given situation” (Creswell, 1994, p. 4). By eliciting a multitude of stories we see a problem from multiple angles. An approach unseen by one may be visible to another. “Language is a tool for representing experience, and tools contribute to creative endeavors only when used” (Belenky, 1986, p. 25). It is my hope that solutions exist awaiting discovery.
The most compelling reason for the application of a case study to this line of research is the desire to answer a “how” or “why” question (Yin, 2003). Employing this strategy enables the researcher to gain a broader and more secure understanding of the issues under investigation (Maxwell, 2012) and provides corroborative evidence of the collected data (Creswell, 1998; Lincoln & Denzin, 2000).

Creswell (2013) describes how qualitative methodologies focus research on discovering the meanings held by participants framed by a stated problem or circumstance. From these individual perspectives, a gestalt whole begins to coalesce allowing the researcher to better validate overlapping, reinforcing evidence into coherent themes that hold true for the population under study and not just any one individual. Through multiple perspectives, the factors, conditions, and common frames of reference create a more holistic vision.

Historically, qualitative methodologies have been employed toward three goals: to explore, explain, or describe a phenomenon (Marshall & Rossman, 2006). In all three cases, as researchers seek to better understand some aspect of themselves and the world in which they act. Merriam (2009) describes that the overall purposes of qualitative research are “to achieve an understanding of how people make sense out of their lives, delineate the process (rather than the outcome or product) of meaning-making, and describe how people interpret what they experience” (p. 14). This describes the goal of this research, to look at how and not what, compliance officers learn. By walking back events and understanding connections, motivations and influences, researchers can make meaning even within a dynamic and oft illogical environment. It becomes necessary to study multiple compliance officers than to identify variables that cannot be easily measured and describe the participants place within their institution adequately to understand the phenomenon impacting them (Creswell, 2013).
Rationale for an Interpretive Case Study

“The use of the case study method has gained mainstream acceptance in both entrepreneurship and information systems research to develop conceptual and theoretical models that are novel, yet grounded in the literature” (Ponelis, 2015, p. 56). The point of these studies is to provide a deeply detailed description and analysis of a single well-defined group or individual framed within a specific context to facilitate an understanding of a real-life system (Merriam, 2009; Pickard, 2013).

But why an interpretive case study? Interpretive research as a paradigm can be said to be characterized by the search through the interviewees’ perceptions and frames of reference for subjective rather than objective truths. The interpretive, as opposed to the positivist, paradigm seeks explanations for existing phenomena through the subjective point of view of the participants. As such, relevance rather than rigor, is valued in this form of study. As the participants in this study have adapted to piecemeal changes reflecting shifting political ideologies, rational arguments based on a traditional externally derived metric seem less useful than consensus built from applying subjective norms.

Evaluating these studies then requires a criteria different than those applied to a positivist, objective paradigm (Lincoln & Guba, 1985). Instead of results that can be generalized to include a larger population, an interpretive study derives its value from how well it works within the perspective of the participants, in this study, compliance officers (Glaser & Strauss, 1967). While similar, there are marked differences in the vocabulary often used to express research standards within qualitative research. The following positivist terms are paired with their qualitative interpretive counterparts: dependability (reliability), credibility (validity), conformability (objectivity), and transferability (generalizability) (Bloomberg & Volpe, 2008).
The interpretive case study approach has several advantages including the flexibility of using a variety of research methods (Maxwell, 2012); and the rapport likely to be built while spending time with research subjects (Mouton & Babbie, 2001). Such studies can dredge up robust data, visceral descriptions transferable to similar groups (Merriam, 2009). Perhaps the greatest reason to choose a case study is the depth of insight and the relatively deep understanding that comes from the length of such associations (Maxwell, 2012).

**Description of the Study Sample and Sampling Strategy**

The study sample is a convenience sample of volunteers, to be drawn from a professional association membership roster, as described below. The individual interview sample consists of 19 regulatory compliance officers from ten public and eight private IHE’s. Ages ranged from mid-20s to late 50s. These men and women characterized in Table 1 represent a limited, but substantial, range of ages, orientation, sex, and political affiliation. The study was comprised of 16 women and 4 men. Title IX was chosen as the common factor although different levels of responsibility are represented in the form of compliance coordinators, mandated reporters and relative levels of IHE titles and responsibilities. While diversity was a driving component, ease of access to participants ultimately trumped all other considerations.

**Demographic Data**

Participants were selected by using the Association of Title IX Administrators (ATIXA) membership roster. From an initial interest e-mail I received 19 respondents who were then coded for six characteristics (a) age, (b) gender, (c) ethnicity, (d) type of
Table 1. Self-Reported Participant Demographic Data

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Location</th>
<th>Years’ Experience</th>
<th>Gender</th>
<th>Ethnicity</th>
<th>Education</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria</td>
<td>50+</td>
<td>NYS Comm. Col</td>
<td>20+</td>
<td>female</td>
<td>Latina</td>
<td>Masters</td>
</tr>
<tr>
<td>Wendy</td>
<td>45+</td>
<td>NYS Comm. Col</td>
<td>13+</td>
<td>female</td>
<td>Black</td>
<td>Doctorate</td>
</tr>
<tr>
<td>Lisa</td>
<td>NA</td>
<td>NYS College</td>
<td>NA</td>
<td>female</td>
<td>NA</td>
<td>Doctorate</td>
</tr>
<tr>
<td>Frank</td>
<td>35+</td>
<td>NYS College</td>
<td>11+</td>
<td>male</td>
<td>Latino</td>
<td>Doctorate</td>
</tr>
<tr>
<td>Zoe</td>
<td>35+</td>
<td>NY College</td>
<td>11+</td>
<td>female</td>
<td>Caucasian</td>
<td>Masters</td>
</tr>
<tr>
<td>Karen</td>
<td>35+</td>
<td>NYS College</td>
<td>6+</td>
<td>female</td>
<td>Black</td>
<td>Bachelors</td>
</tr>
<tr>
<td>Rebecca</td>
<td>45+</td>
<td>NY College</td>
<td>15+</td>
<td>NA</td>
<td>NA</td>
<td>JD</td>
</tr>
<tr>
<td>Georgia</td>
<td>35+</td>
<td>NY College</td>
<td>5+</td>
<td>female</td>
<td>Black</td>
<td>JD</td>
</tr>
<tr>
<td>Veronica</td>
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<td>NY College</td>
<td>2+</td>
<td>female</td>
<td>Caucasian</td>
<td>Masters</td>
</tr>
<tr>
<td>Patricia</td>
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<td>NY College</td>
<td>25+</td>
<td>female</td>
<td>Latina</td>
<td>Bachelors</td>
</tr>
<tr>
<td>Madeline</td>
<td>35+</td>
<td>NJS College</td>
<td>13+</td>
<td>female</td>
<td>Caucasian</td>
<td>JD</td>
</tr>
<tr>
<td>Samuel</td>
<td>45+</td>
<td>NJS College</td>
<td>13+</td>
<td>male</td>
<td>Black</td>
<td>Masters</td>
</tr>
<tr>
<td>Denise</td>
<td>35+</td>
<td>NJS College</td>
<td>13+</td>
<td>female</td>
<td>Caucasian</td>
<td>Doctorate</td>
</tr>
<tr>
<td>Toby</td>
<td>30+</td>
<td>NYS College</td>
<td>11+</td>
<td>male</td>
<td>Asian</td>
<td>JD</td>
</tr>
<tr>
<td>Theresa</td>
<td>45+</td>
<td>NJS College</td>
<td>20+</td>
<td>female</td>
<td>Black</td>
<td>Masters</td>
</tr>
<tr>
<td>Bethany</td>
<td>45+</td>
<td>NJS College</td>
<td>20+</td>
<td>female</td>
<td>Black</td>
<td>Doctorate</td>
</tr>
<tr>
<td>Suzanne</td>
<td>35+</td>
<td>PA College</td>
<td>20+</td>
<td>female</td>
<td>Caucasian</td>
<td>Masters</td>
</tr>
<tr>
<td>Kathleen</td>
<td>35+</td>
<td>NYS College</td>
<td>20+</td>
<td>female</td>
<td>Caucasian</td>
<td>Masters</td>
</tr>
<tr>
<td>Rosie</td>
<td>35+</td>
<td>NJS College</td>
<td>8+</td>
<td>female</td>
<td>Caucasian</td>
<td>JD</td>
</tr>
</tbody>
</table>

academic institution, and (e) length of time in regulatory compliance. A diverse sample of volunteers were selected based on these characteristics in order to be as representative as possible of the total pool. Once the 19 most diverse volunteers were identified, and accepted an invitation to be interviewed is established, interview appointments were scheduled and an initial broad request for documents were made. These documents are dated emails and other forms that describe and provide the timeline for reaction to the April 2011 DCL (Ali, 2011) and a learning moment of the participant’s choice. The
second moment was the most memorable learning event associated with Title IX regulation.

**Contextual Data**

The contextual data was collected through document analysis—primarily through two sources: (1) public information available on each of the schools’ websites, such as annual reviews and graduate survey data; and (2) data voluntarily provided by participants. Environmental factors were included such as: size of the campus, number of faculty, administrative support, student enrollment, budget and funding resources, staffing, reporting relationships, structure of the institution, systems and technology support, and the annual security review. The contextual data were collected through document analysis primarily through public information available on each of the schools’ websites, such as annual reviews and graduate survey data, and through the willingness of participants to provide such data. As an interpretive study this data further refined the participant’s frames of reference within the larger compliance world.

**Methods of Data Collection**

**Interviews**

Interviews within this study are designed to be meaningful dialogues, slow deliberate practice eliciting the deeper understandings. Because informal learning is not necessarily conscious the first step is establishing a better connection to the moment (Marsick & Volpe, 1999). Each participant was asked to ponder events that stand out in their memory prior to the interview: one common event, the April of 2011 DCL, and one personal event. The personal event, a moment in which they learned something would define as profound, would need to be something they feel comfortable articulating; this
could prove difficult to think of in the moment due to the confidential nature of most Title IX work. Each was also asked to collect and review any emails or other documents that contain their thoughts from the event being discussed, one common event, the April of 2011 DCL and one personal event, a moment in which they learned something profound they feel comfortable articulating.

I shared a personal event, with participants. My insurance provider refused payment for a procedure because I had not received a referral prior to service. It was a self-directed learning moment because I was on the opposite side of a regulatory event viewing it from any student’s perspective. As I navigated the system I saw places for improvement, redundancies and administrative choke points that were legacies of our prior electronic system patient access point. It changed the way my department and the associated agencies handles/receives cases.

The purpose of combining document collection and a demographic questionnaire with the primary mode of investigation (the interview) was to triangulate across data methods as described by Creswell (2013). In addition, the documents have an objectivity. Many contained a date stamp and served as reference points to help interview participants organize their memories. Some illustrated half-formed policies or even thoughts, or contain the questions the participant was seeking to answer indicating the exact information or skill the learner was chasing and where they were on the journey to discovery or ultimately frustration.

**Literature supporting use of interviews.** The interview is an integral component of qualitative research, and enables the researcher to learn the ways in which participants “understand the world in which they live” (Rubin & Rubin, 2011, p. 36). The qualitative interview allows the reader to better understand the world from the subject’s point of view, to learn the meaning of people’s experiences and vicariously explore their lived world. Qualitative interviews allow the researcher to capture the participants’ perceptions and lived experiences, particularly when considering that interviews are extensions of
ordinary conversation with the distinction that the interviewer listens “for what has not been said, as well as what has been said so as to hear the meaning of what interviewees are telling them” (Rubin & Rubin, 2011, p. 14).

Such interviews “yield data in quantity quickly” and as part of a critical two-way dialogue, “immediate follow-up and clarification” (Marshall & Rossman, 2006, p. 101). Collecting data through individual, in-depth interviews allows the interviewer a chance to explore a participant’s perspective of an event or an experience deeply (Creswell, 1994; Lincoln & Denzin, 2003). As experts in their fields and campuses, well-informed interviewees can provide important insights, historic and micro-cultural, into an examined event (Yin, 2003).

All interviews followed a semi-structured format to promote conversational interviews where questions flowed from previous responses either verbal or from the questionnaire. The hope was to create an environment that is both objective and welcoming, meta-cognitively valid and at the same time validating to the concerns and needs of participants.

Interviews with participants were be held in the participant’s office or via the phone whenever possible in order for the participants to have quick and easy access to anything they may wanted to refer to in the moment, as well as to provide touchstones to the day of the events in question. The length of each interview was nominally one hour although conversations often exceed that limit goal. All interviews, with participants’ permission, were digitally recorded for the purposes of transcription. The researcher transcribed the digital recordings immediately following each interview.

**Disadvantages of interviews.** Respect must be given to the nature of the interviewer/ interviewee interaction. Interviews are an asymmetrical power relationship. The researcher initiates and controls the interview situation; determining topics, posing questions, driving the pace and context of follow-up questions (Kvale & Brinkmann, 2009). With this power imbalance in mind, the resulting data obtained through an
interview largely rely then on two factors: (1) the level of comfort and openness of the interviewee, and (2) the listening and questioning skills of the interviewer (Marshall & Rossman, 2006).

Document Analysis

**Literature on document/artifact use.** “Documents of all types can help the researcher uncover meaning, develop understanding, and discover insights relevant to the research problem” (Merriam, 1998, p. 118). Document analysis will serve three primary functions in this study. The first is to add a validity check to the participant’s recollections. The second is to frame the memories in a place and time—hopefully jogging memories that might lie in the unconscious mind. Third, they serve as a reference point for the larger critical dialogue and, as such, function to some extent as a teaching tool to inform the interviewer and allow the interviewer to interact in a meaningful way with the participant, drawing connections and seeking deeper understanding.

Documents are objective and reflect a place and time, a snapshot of a larger work in progress. The metaphor being used in the interview is these are the vacation photos of the workplace. Documents are both “unobtrusive” and “nonreactive,” their inert nature protecting them from being changed by being studied during the research process (Marshall & Rossman, 2006, p. 108).

Document analysis is often used in combination with other qualitative research methods as a means of achieving triangulation. As a research method, document analysis is particularly applicable to case studies, which produce rich descriptions of a single phenomenon (Stake, 1995; Yin, 1994).

Bowen (2009) describes that the documents of most use may include, but are not limited to, agendas, attendance registers, and minutes of meetings; manuals; background papers; books and brochures; diaries and journals; event programs; letters and memorandum; newspapers and press releases; program proposals; organizational or
institutional reports; survey data; and various public records. These items can be used for a systematic evaluation of the participant or aspects of their environment or the paradigm that defines their niche.

In addition to other data provided by document analysis, content analysis can organize the excerpts, quotations into major themes (Labuschagne, 2003). Atkinson and Coffey (1997) describe documents through the term “social facts,” describing them as produced, shared, and used in socially organized ways (p. 47).

As the bricks laid within the history of the individual, as well as with in his or her institution, documents are true and un-nuanced witnesses to past events. Documents trap moment like amber traps an insect; and, like the amber, documents allow individual items to be seen afresh by viewing them from multiple objective angles and through a different light. Background information, time stamping, historical or contextual insight can fall from such observation. Studying documents allows researchers to concretely establish a chain of events while better understanding “the historical roots of specific issues and can indicate the conditions that impinge upon the phenomena currently under investigation” (Bowen, 2009, p. 29). Document analysis served to focus and ground the larger dialogue providing broad coverage from which questions may be asked. A single document illustrated a significant time span consisting of many events within multiple settings (Yin, 1994). Interview time was limited so anything discovered through readily accessed official records or websites can be learned apart from the participant.

Methods for Data Analysis and Synthesis

Only through systematic interpretation of data from a variety of methods can qualitative analysis construct meaningful concepts and explanations of the phenomena being studied (Denzin & Lincoln, 1998; Merriam, 1998; Miles & Huberman, 1994; Strauss & Corbin, 1998). This process, as described by Marshall and Rossman (2006), is
a dynamic process that is not linear. Merriam (1998) encourages researchers to make data collection and analysis a simultaneous activity in order to avoid the risk of repetitious, unfocused, and overwhelming data. The role of the qualitative researcher is to reduce enormous amounts of raw data to a coded organized manageable form from which the constructs or at least significant patterns may emerge. Seeking to pull patterns from the background noise, always conscious not to accidentally create an artificial pattern in the process.

The plan was to analyze documents prior to the interviews, annotating any date and surnames, reference points, for the interview dialogue. From this document analysis the interviews added the insights, point of view and the emotional weight of the circumstance and time being studied. The interview transcripts and document analysis were coded using the preliminary coding scheme identified through the literature review and included in Appendix M. The coding scheme was be tested and refined until it is finalized. Once coded, data excerpts will be examined for patterns. Themes were identified and categorized into major and minor themes based on patterns in the data, or a construct dependent upon where and how the data falls. In order to verify and solidify codes, patterns, categories, themes and themes, the researcher read and reread key interviews (Marshall & Rossman, 2006). Inter-rater reliability was also sought to assure the reliability of the final coding scheme. This was accomplished through the use of two fellow doctoral students. The first fellow rater was able to assist the researcher in coding. The second, a compliance specialist and Title IX trained although no longer a compliance officer was able to ensure the Title IX specific information was credible. This data analysis will be an ongoing, priority occurring parallel to the interview process: “The experienced qualitative researcher begins data analysis immediately after finishing the first interview or observation, and continues to analyze the data as long as he or she is working on the research” (Maxwell, 2012, p. 95).
The primary categorizing strategy employed to the data in this study analysis will start with be coding (Maxwell, 2012). The purpose of the coding is to “fracture” the data categories into smaller digestible or organized chunks which can be used to work out the theoretical models and concepts suggested by the earliest data and built upon or disproven by subsequent data (Strauss, 1987, p. 29). Once collected, the data need to be processed in such a way that the validity of themes and patterns which emerge are rendered into codes which describe the emerging patterns. These coded information patterns can then be assigned categories within a conceptual framework (Bloomberg & Volpe, 2008).

This distillation will begin with transcribing the interviews into a written format which will then be read and highlighted. As an auditory learner this step will allow me to mark out the rudimentary outline of a coding system as the data moves forward. I will be looking for recurring themes, particularly quote worthy articulation of deeply difficult to explain conditions or choices. The first division of the interviews will be by research question. Done largely chronologically, but also a second time by word choice to look for evidence of disjointed or out-of-sequence answers to other earlier questions that may be brought out by the interview. My own notes taken during the interview will augment the transcript.

**Inter-Rater Reliability**

The researcher used an inter-rater reliability exercise test (Miles & Huberman, 1994) relying on a professional within the field and one lay person. This is an interpretive case study, framed within the compliance paradigm dealing with compliance events and will be contextualized within that world. The use of these two raters was to clarify that the themes and patterns being coded are logical to those conditioned to interpret events using the specialized compliance mindset, an approach framed by the counterintuitive
regulatory environment described earlier, and to what extent the same patterns might be made understandable by someone outside of it.

Differences in coding were solved through discussion and reflection. Coding was continually revised as interviews came in and patterns are reinforced or discarded. An audit trail was maintained in the form of a daily journal, establishing a clear timeline of events that denote the evolution of theories, new questions and rationale to reinforce or discard codes and constructs (Lincoln & Guba, 1985).

**Issues of Trustworthiness**

In quantitative research, the standards that are most frequently used for convincing research are validity and reliability. However, since the interpretation of qualitative research contains an element of speculation, most indicators of validity and reliability do not fit qualitative research. Therefore, in seeking to establish the trustworthiness of a qualitative study, Lincoln and Guba (1985) use the terms **credibility**, **dependability**, and **transferability**, arguing that the trustworthiness of qualitative research should be assessed differently from quantitative research.

**Credibility**

Credibility, being believable and trustworthy, is acquired through evidencing good, transparent research practice. Only once the researcher “demonstrates that the inquiry was conducted in such a manner as to ensure that the subject was appropriately identified and described” is credibility established (Marshall & Rossman, 2006, p. 201). Methodological credibility is derived from matching the choice of method to the research questions and the phenomena being studied.

Qualitative research literature describes a number of strategies for augmenting methodological credibility (Lincoln & Guba, 1985). Merriam (1998) recommends
including triangulation, peer examination, and clarification of researcher biases. Triangulation through the use of document analysis and interviews both of which are being brought to the study for multiple sources further confirms the credibility of this method for this population at this time (Merriam, 1998). Using multiple research methods to achieve triangulation is essential to obtaining an in-depth understanding of the phenomena being studied (Bloomberg & Volpe, 2008).

**Transferability**

Transferability refers to the extent to which this particular phenomenon in this particular context with this particular population can transfer to another similar phenomenon, context, or population (Lincoln & Guba, 1985). Research offers two applicable treatments to increase transferability even in interpretive research. First the use of rich, thick descriptions of the context. Second a multi-site design to demonstrate on a macro level the transferability of concepts within the limited scope of the research paper (Merriam, 1998). Chapters I and II have provided a description of the regulatory paradigm and world in which these professionals work. Their own narratives will deepen the reader’s understanding of the nature of not only their relative positions but the immediate surroundings which influence their learning and decisions.

**Conformability**

Biases surround us and must be rooted out to ensure “the findings are the result of the research, rather than an outcome of the biases and subjectivity of the researcher” (Bloomberg & Volpe, 2008, p. 87). In maintaining an audit trail, an objective outsider, peers or my academic advisor, will have a tool to discover and correct any bias-related errors (Bloomberg & Volpe, 2008; Lincoln & Guba, 1985). Through this audit trail, the methodological validity is reinforced, and the process by which conclusions are drawn can be judged.
Limitations of the Study

As with all research, this study contained certain limitations; some limitations are common critiques of qualitative research design and methodology, while other limitations are specific to this study’s research design. Following the description of each limitation are the redresses in place to minimize the impact.

Common Critiques of Qualitative Research

Proponents of quantitative methods argue that there is a single “truth” that exists, independent of human perception (Lincoln & Guba, 1985). Qualitative methods, particularly when using interpretive criteria, draw truth from perspective. Critics of qualitative research argue the lack of unifying standards as seen in quantitative research breeds confusion about standards.

There are serious differences in perspective, but some means need to be found to at least reduce them, so as to increase the level of agreement across educational researchers’ judgments about what is and is not good quality work. Developing guidelines may serve a useful function in this. (Hammersley, 2007, p. 301)

It is the lack of standard that many find troubling not individual research occurring. “There are those who argue that much qualitative research is of poor standard, but more usually the complaint is that there is no clearly defined set of quality criteria available for judging it, so that it is of uncertain quality” (Hammersley, 2007, p. 287).

Study-specific Pitfalls

Specifically, this study suffers from classic interview method issues that arise studying informal learning. The researcher, as a stranger to the work setting, may need even simple acts and circumstances to be explained (Eraut, 2004). This is balanced by my own compliance experience though care was need to be taken to align my workplace reference points with the participants since schools vary in position titles and policies.
“Informal learning is largely invisible, because much of it is either taken for granted or not recognized as learning; thus, respondents lack awareness of their own learning” (Eraut, 2004, p. 249). Bringing the invisible to light was the use of the document analysis, placing people and actions in a timeline which was then through hindsight be objectively explored. “I would have done that differently…” or words to that effect were a frequent part of the interview narratives, indicating learning which was then explored more fully with probing questions.

“The resultant knowledge is either tacit or regarded as part of a person’s general capability, rather than something that has been learned” (Eraut, 2004, p. 249). Separating new from existing knowledge is the reason for the second experience question. By comparing the April 2011 DCL to a learning experience of the participant’s choice, we are traveling on ground recognized by the participant as a learning watershed moment (Ali, 2011).

“Discourse about learning is dominated by codified, propositional knowledge, so respondents often find it difficult to describe more complex aspects of their work and the nature of their expertise” (Eraut, 2004, p. 249). Again the use of documents such as emails and university policies that reacted to the April 2011 DCL allowed participants solid frames of reference to ground the narrating of their experiences (Ali, 2011). Also, as a compliance officer, the interviewer can quickly move past the framing of responses within the paradigm in order to get to the learning that was occurring as evidenced by documents that illustrate decisions but not how those decisions were made.

Most respondents still equate learning with formal education and training, and assume that working and learning are two quite separate activities that never overlap, whereas our findings have always demonstrated the opposite, i.e. that most workplace learning occurs on the job rather than off the job. (Eraut, 2004, p. 250)

A number of factors work in favor of the research in this regard. As professionals in IHEs, many of these compliance officers have some background in metacognition. As
compliance professionals, they are often asked if a person knew that they were doing was breaking a regulation and asked how to train or educate the masses about Title IX. As part time educators of adults, these men and women have had the individual experience of having to translate their own knowledge into a digestible broadcast-able medium.

“Most respondents still equate learning with formal education and training, and assume that working and learning are two quite separate activities that never overlap, whereas our findings have always demonstrated the opposite” (Eraut, 2004, p. 249). Getting interview subjects to equate learning with events and conversations that occur in situ may prove the biggest hurdle to this study. The population works in education and as such may be more open to if not schooled in the metacognitive process of thinking about learning. “Adults whose metacognitive skills are well developed are better problem-solvers, decision makers and critical thinkers; are more able and more motivated to learn, and are more likely to be able to regulate their emotions (even in difficult situations), handle complexity, and cope with conflict” (Dawson, 2008, p. 15).

The pitfalls described by Eraut suggested the need for each interview subject to be challenged or checked through a more objective measure. The researcher requested each interview subject use emails and policy drafts to review the path to the final published policy. Due to most universities intellectual property standards and the nature of Title IX the researcher was unable to see any version other than the final version cleared by the appropriate administration for publication. These reflective tools are dated giving the subject’s exact times. They also, through email addresses and editing comments, identify people involved in decisions and help the interview subject to credit others who helped shape their learning.

**Researcher Bias**

The researcher is a compliance officer and associates with several of her study participants on a professional and/or social level. Her interest in this study, perceptions
about this world and perceptions about Title IX rise from her unique and personal field experiences. By describing her assumptions (Chapter I), the researcher has attempted to make plain any pre-existing bias that may skew the study. The researcher, through conversations with compliance officers not involved in the study but familiar with Title IX, at the Women’s Leadership Institute Conference in December was able to gain fresh perspectives on her ongoing coding. The researcher was looking for anecdotal evidence that reinforced participant’s narratives relating to findings. The researcher through conversations with her colleagues, participants and advisor, checked as many influences upon the credibility of this work as could be reasonably identified.

Summary

Chapter III provides an overview of the research. The research path chosen was discussed as well as the criteria used for evaluating which methods to employ, the study’s discoveries and the possible implications. The research design, method, sample and tools were described and the chapter concluded with the limitations with respect to the use of case studies as a research method.
Chapter IV

RESEARCH FINDINGS

The purpose of this research study is to explore with 19 compliance officers how higher education compliance officers learn to interpret and manage new requirements in a dynamic regulatory environment. This chapter provides a discussion of the three key findings that emerged from the participants’ responses to the research questions. Participants in this study, identified by pseudonyms, shared their perceptions and experiences with Title IX. As noted in Chapter III, supporting evidence from the document review has been embedded in the chapter in order to reinforce the research findings. The purpose of this study was framed by the following research questions: How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies? How do compliance officers learn to comply with new regulations? What helps and/or hinders compliance officers in meeting the challenges they face? Each of the participants added their story to the greater whole, building upon each other’s work, to fill in gaps in our current understanding of this population.

Participant profiles are presented in Appendix L to facilitate a more comprehensive understanding of the context within which the interview data was gathered. Participants in this study were comprised of 19 Title IX compliance officers drawn from a variety of backgrounds, a diversity of ethnicities, and varied working titles. For less than half, Title IX is their single role on campus. The balance of the population
was responsible for additional campus roles due to the smaller available staff at smaller campuses.

Findings

The three major findings that were uncovered through the data collected in this study largely addressed the three research questions: 1) How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies? 2) How do compliance officers learn to comply with new regulations? 3) What helps and/or hinders compliance officers in meeting the challenges they face?

1. A majority of compliance officers (94%) defined the need to interpret new regulations with general counsel in order to communicate relevant changes to stakeholders.

2. All regulators (100%) learn through informal learning processes; dialogue, and critical reflection were universally reported as frequent pathways through which regulators made meaning of new regulations.

3. Most compliance officers (94%) described sharing information with peers as most helpful to them in completing regulatory tasks.

Finding #1 (see Table 2)

A majority of compliance officers (94%) defined the need to interpret new regulations with general counsel and then translate and explain the relevant changes to constituents.

The findings for research question #1 are outlined in Table 2.

Need to understand and interpret new regulations. The majority of participants (94%) defined the need to interpret new regulations with general counsel and communicate relevant changes to stakeholders as central to the demands they face. When regulation changes are announced, the Title IX office is the central repository for Title IX
Table 2. Findings for Research Question 1

Research Question 1. How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?

Finding: A majority of compliance officers (94%) defined the need to interpret new regulations with general counsel and then translate and explain the relevant changes to constituents.

Need to understand and interpret new regulations with general counsel (94%)
  Deciphering the language
  Identifying actual changes
  Informing those affected

Demands create a need to identify and acquire additional resources (94%)
  New staff
  Training / Certification

Demands create a need to work with General Counsel (74%)
  Translate the law into common language
  Bias check for Compliance Officer
  Support and borrowed authority

Demands create a need for student communication (68%)
  Students need dialogue
  Activism
  Reporting

information and its officers are the sexual harassment experts on campus as evidenced by the participants’ websites and others as seen below:

The Title IX Coordinator is an expert in the subject matter and regularly provides training for campus, community, and national audiences on Title IX compliance. The Title IX Coordinator, Deputy Coordinators, and Investigators complete biannual recertification to ensure the University is matching best practices and meeting all regulatory requirements. (Ohio State University, 2014)

Laws like Clery, Title IX, VAWA, Enough is Enough and recent case law have educated Title IX mandated reporters not only to the statistics surrounding sexual violence but in identifying those on campus who are most at risk. In recent years Title IX officers have become the experts in sexual violence, as Victoria explains below.
The other piece was that the training component changed dramatically in terms of us understanding what we needed to do to make sure we were 100% up to speed about the work that we were going to be encountering related to sexual violence, in particular. We had been experts at sexual harassment prevention for years, domestic violence for years.

In addition to being the experts, ultimately the Title IX compliance officers will be held responsible for all aspects of the university’s execution of Title IX regulation as described by Rebecca.

So it’s your reputation. It’s your work. It’s your name, that’s on the line. If there’s a case, “The title nine coordinator said this. The title nine coordinator didn’t do this.” So even if you’re saying what if the institution is telling you to do something and you don’t really agree with it? Figure out a way to push back. And say that, that’s not the way we should do this for these reasons. Because you’re supposed to be the expert in this area. Other people are experts in [their areas]. Head of financial whatever is an expert in finance. You’re supposed to be the expert in this area. So you have to figure out how to push back and say this is why we shouldn’t go in this path.

As many compliance officers commented, both administration and students, particularly student activists, will have questions within a day of a regulatory release.

Most schools don’t have a budget for Title IX, and as the demands increase and the regulations change, you have to keep changing, updating, and training. Again, every time there’s a change, you have to train everyone, low version. You have to show that you are in compliance. (Patricia)

Who is impacted? What is called for that is not currently being done on campus? Where and how does the evidence get reported? When do the changes need to be implemented? What happens if university fails to be in compliance?

Compliance Officers report relying on peers, general counsel, and outside organizations such as the Association of Title IX Administrators (ATIXA) and National Association of College and University Attorneys (NACUA) to help them interpret regulatory language. Most described a pretty standard pattern resulting from new regulation announcements. Victoria described it this way.

Every time the government or a government entity sends out new changes to protocol through regulations, we have to be right at the beginning analyzing what the impact does on our practices and policies. I have to
familiarize myself with them immediately because we ask questions about them from the administration to help interpret the guidance with our legal counsel. (Victoria)

Three demands were consistently described by the Compliance Officers: deciphering the language, conferring with counsel and disseminating information to those affected.

**Deciphering the language.** Many respondents described the first step as deciphering the regulation in a broad sense. Conferring with general counsel, compliance officers attempt to define key terms and interpret what changes need to occur.

The first demand is figuring out what the regulations are, and interpreting them and understanding what they’re going to mean for my work, and then for larger institutional policies. That’s the first; figuring out what they are. (Madeline)

Rebecca pointed out that while sometimes there is no right answer, compliance officers need to have an answer. She used an example from law school to illustrate her point.

When Obama was in office and whoever was his head of department of Education, or the Office of Civil Rights, even if I had called that person, and asked them “What do we do?” I don’t think they would’ve been able to give me an answer. I don’t think there is a right answer for everything…. With the potential of the press coming down on you all the time, like your school doesn’t protect people. Like there’s a lot of potential for making it look bad for us even though there is no right answer.

Veronica described working with students to decipher the language into student info graphics:

There were a bunch of students who really wanted to help make publications easier to understand. And we had the Bill of Rights, but they wanted like a supplement to that. Of like, here’s resources, plain, easy to understand, easy to hand out to others. Something that could be in plain sight. And since the Bill of Rights was getting posted all over campus in the various buildings, they said, “Why don’t we make another poster to go along with it, and just say that it’s required too? Unnamed Private University’s requiring it.”
Because these Title IX changes often occur without warning, compliance officers described Title IX work as crisis management and reacting to changes more than causing changes. Reacting to changes with poise according to many of those interviewed takes a certain skill set and personality. Many ranked being good in a crisis or ‘clutch’ as important as legal knowledge. Veronica described the kind of personality required for this kind of crisis management.

You kind of have to have a personality where you’re able to run easily with those changes and then just are able to adapt after the fact, and figure out what your next step of action is. You talk to others and get other opinions that have been in the field longer; whether or not it’s Title IX related or just some general student issue that comes up. Leaning on others for advice about your best first move, is important, and how you can best support students right off the bat. In general, when there’s a student concern even if it’s unrelated to Title IX, what do we do first, what do I do first, what do we need to prioritize?

Victoria states the need to know is about being able to answer questions with confidence and authority.

You have to know that you feel confident about the work that you do. You have to be clear about how you communicate what you need, and sometimes that means people ask you questions that you’re surprised about.

Title IX coordinators echoed Veronica’s response citing objective collaboration as central to the work completed on the first day a regulation change is rolled out.

Interpreting the meaning of new legislation is complicated.

Well, what’s the ultimate goal? Because if the goal is just to say we did something, well, we could do that. But if the goal is to change mindsets and change culture, that is a longer project. That’s marathon, not a sprint. (Lisa)

Rebecca made the point that compliance has its subjective moments, and reality is defined by the OCR if they are charging the university with a violation. The responsibility to change their mind falls to the Title IX officer not the president or provost.
You little title nine coordinator over there wearing twenty hats. If there is ever an Office of Civil Rights investigation, they’re going to say, “Did you authorize that? Why did you do that?” (Rebecca)

Execution is largely in the hands of the students, so Title IX officers need to inform them.

Trying to break it down and figure out, “Well, what information do the students actually need in order to understand what we’re doing and why we’re doing it?” That’s kind of a challenge. (Madeline)

When the Office of Civil Rights (OCR) begins an investigation, the university is held to the OCR standard of acceptable behavior not the university’s own policies as described by FIRE’s website.

Prior to the April 4 OCR letter announcing the new mandate, Stanford University, Harvard Law School, Princeton University, Columbia University, Yale University, the University of Pennsylvania, Duke University, and Cornell University, among others, all employed a higher standard of proof—typically, the “clear and convincing evidence” standard, an intermediate standard between “beyond a reasonable doubt” and “preponderance of the evidence.” All of these institutions must substitute OCR’s judgment for their own, and some already have done so.

The question for the compliance officer therefore is, does this regulation mean what I think it means? Madeline’s interpretation, with its foundation in her conversations with the ATIXA listserv, her General Counsel’s advice, and numerous dialogues with Title IX peers, was a stark contrast to media reports and student expectations as she describes below.

The other piece that I think sometimes is challenging is helping others understand what it means. For example, when the Betsy DeVos’s Department of Ed rescinded the Dear Colleague letter (DCL) and the FAQ document, everyone was saying, “Oh, Title IX isn’t going to be enforced anymore and there’s going to be all these changes.” Kind of trying to help educate some of my colleagues. I’m like, “Well, no this is what actually happened when those regulations or when that guidance was rescinded. It’s not as drastic as we all think it could be. Right now, it’s not as bad as it could
be.” And, talking people down from the ledge when new guidance comes out or new regulations come out.

DeVos, the current Secretary of Education, was featured prominently, as would be expected, from Title IX officers discussing changes to regulation. DeVos responded, “No more, no more.” Rebecca asks: How does a Title IX Compliance office respond to that level of instruction?

What does she mean? How do we determine what she meant by this? What does this mean for the work we have to do? Meaning okay she’s saying we don’t have to do things in 60 days, or we don’t have to have you know, a standard of evidence? We have open cases, are we following current law? Are we following what it was when the case opened?

The majority of participants identified the need to understand and interpret the regulation changes they faced as the primary demand placed on their office. Discerning meaning from statements, tweets, and Dear Colleague Letters was described as a consensus approach.

**Identifying actual change.** Many respondents described step two of interpreting regulations as looking at policies and procedures already in place. Most pointed out the largest difficulty in this step is the campus politics and manifest resistance to change. Sometimes in states like New York where *Enough is Enough* was recently enacted, the state law is actually more rigorous than the federal guidelines. “I am in New York we have *Enough is Enough*. So we already have to follow that [law] and VAWA already codified a lot of this stuff” (Rebecca).

Meaning a change to federal statutes may only mean the rest of the country has caught up with something a New York State university is already doing. However, when significant change is required, Madeline described the most common second step was aligning campus policy with the new guidelines, with stakeholders’ traditional campus priorities in mind.

Second is figuring out is what we have. Currently compliant with whatever this new regulation is. And if they are not, what changes are we
going to have to make in order to make them compliant? Then, are there other issues that are going to come out of that.

Although few or even no changes may be required, every change requires a thorough review of current practice.

Institutionally, the demands were about making sure we have procedures in place, all the things that were prohibited or outlined in federal or state guidance was included in our procedures and policies that there was an established grievance procedure that people could identify of where to take complaints and, depending on what the complaint was, that we had policies in place for reviewing our policies, making sure that we’re continually updating those and that we had structured training available for faculty, staff, and students and that none of our policies and practices were discriminatory in nature.

Any crime, actual or perceived, creates multiple points of view each oriented individually. Justice, escape from punishment, the desire to protect—these drives inform actions, and those actions and desires often conflict. Title IX policy directives will bump up against campus personalities as Victoria explains.

The administration’s priorities might be, “Can we suspend a student today because the rest of the community is unsafe?” A student who was involved with this crime may say, “I don’t want that to happen,” and the university may have to make a decision or the college make a decision that says, “No, we have to balance this with the higher priority for us to make sure you and everyone else are safe.” As much as the victim steers this, the college has the right to also take into consideration these other issues to make decisions for the best of the institution.

Early in interpretation, the university needs to manage financial and reputational risk. One of the reasons it remains so difficult to accurately assess that risk is a fundamental lack of guidance, even if you have a university conglomerate assisting you.

Assessing risk was reported as one of the largest factors in identifying actual changes to policy required by a change in regulation. Frank describes the limitations of the Unnamed State System (USS):

It gives you a framework, but doesn’t give you particular guidance. Because within the USS system, everyone does things a little bit differently to still be in compliance with it. So, within our institution we have a trained investigator that only addresses Title IX and gender discrimination. Within
other USS’s you have one person who’s doing that and other parts. So, they
give you a framework, but the institution’s responsible how to fill it. (Frank)

As Frank stated above, the USS framework lacks the guidance a less veteran
compliance officer might expect. In covering the breadth of possible offices, the system
cannot tailor advice; relying instead on the education and initiative of the officers
themselves.

**Informing those affected.** Unless the office frames how students think about Title IX they will have to rely on other sources to inform their choices. Rebecca described

   “Okay, well I read on the news somewhere, now title nine doesn’t mean
   anything. So what happens when I was just assaulted you know last
   weekend, does it not mean anything? Are you not going to take care of
   him?” Whatever. So it’s trying to put everybody at ease but I think the
   administration first have to figure out, what are you saying?

Frank described how a hospital harassment case could have been prevented
through more regular training scheduling.

   You would get a case where someone who was sexually harassed for years and there was one point where they just said, “Screw it, I’m done.” So, looking at it, you start trying to figure out why this person never reported it before. Sometimes you’ll get the answers, “Well, I didn’t know this existed. I didn’t know that I could.” Something like that could have easily been addressed through an orientation or a recertification of a training... Because sometimes cases are very complicated, it’s not because of what it is, it’s because it continues or it was addressed inappropriately because you had a supervisor who takes it upon themselves to try to address it without doing it appropriately. So, it just makes it bigger.

Frank went on, as many did, to describe the role of training in stopping incidences
often by defining acceptable behavior under current regulation. Though often involving
small changes, “tweaking the cultural norms” was described as a valuable component of
the office.

   One, they are aware of the behaviors, but two, now they’re aware they
   need to report, or there’s a place to report…. I don’t know how long, but it
   should balance out where people are not engaging in the behaviors anymore.
   (Rebecca)
Many described two responses that they often receive to training. The first, those
trained expressed possessing little to no information about the topic and second,
participants described surprise that specific behaviors had to be addressed at all, finding
them so obviously repellent that it had not occurred to them someone would have to be
told “this isn’t acceptable.” Frank recounted a recent training response, “Sometimes
you’ll get the answers, ‘Well, I didn’t know this existed. I didn’t know that I could.’”

Last year we had a big issue when we had to put signs up about
bathrooms, and here we are, we think, we’re at Unnamed University. We’re
talking XX industry; of course we should get gender issues, right? We
should. Well, not so much. So we’ve got to be really careful about
stereotyping ourselves and others. (Karen)

Zoe expressed the limits placed upon her office when a victim wants to educate not
report.

I had one particular student who didn’t want to go through a process
because she didn’t want to make herself known that she’s reporting it to the
accused but wanted some education to happen to that person but there was
no clear way we could educate around that person but we couldn’t go to
them and say, “We’re concerned that you had an interaction that could be
considered this, let’s talk about it and let’s figure out how to help you
understand that better.” It felt limited in that way that sometimes they
couldn’t educate, just had to follow the process. (Zoe)

While many compliance officers shared that other campus personnel were
interested in promoting an inclusive and safe culture on campus, regulatory impact on
day-to-day operations was often a brief to-the-point conversation.

I spend a lot of time at my level also educating cabinet members and
deans on what the impact is. They may hear in the news a headline like, Oh;
there was a new Dear Colleague letter for Title IX that was issued by the
presidential administration. What does that mean for me and what does that
mean in my day to day work? (Victoria)

Title IX coordinators are routinely asked to answer the unanswerable question. No
one is ever going to give you the definitive answer from the agency delivering the
regulation so it falls upon the Title IX compliance officer to find an answer.
I don’t think there’s any right way to learn how to do your job. Because no one is ever going to give you the definitive answer how to do your job. There’s just multiple ways of gaining that information and making the best decision with that information. (Rebecca)

A third part of interpreting regulations is figuring out how to economically and accurately collect and transmit evidence. Correct legal interpretation without accurate evidence collection doesn’t avoid fines. There are multiple reasons why reporting is so important, both the need to avoid fines and the need to self-assess being common responses. Problematic to that reporting can be who the office ultimately reports to within the university hierarchy. Linda explained her own school’s restructuring.

This position did report to student affairs. Let’s see, beginning November 1st, I start reporting to legal affairs. I know we’re small enough that we were all working together anyways, but I do think the resource support and who you report to, it definitely correlates, right? And how much political capital that supervisor has on campus is really, really important. I mean, it wasn’t even talking about political capital, social capital, if someone likes you, or doesn’t like you, right?

Several compliance officers expressed frustration stemming from reports or requests being cut off before reaching the school’s president, or because well-meaning, but improperly trained, individuals attempting to solve issues themselves.

I’ve got the coaches thinking that because a player might not have been found responsible it means the females lied and should’ve been.... I should be investigating them. Totally divergent, huge, total, very different.... Just totally opposed perceptions of what this process even is and what’s going on. I have to placate both those voices and try to speak to both sides in a way that’s going to help them to understand. (Rosie)

When information is not relayed or individuals take it upon themselves to fix issues without due process, or adherence to policy, final resolution of the problem often costs more time, money or effort than simply following procedures would have involved.

Something like that, where at least some employee or the student would know that there is a department that actually deals with it could’ve prevented other complaints or other issues that arises from an investigation. Because sometimes cases are very complicated, it’s not because of what it is, it’s because it continues or it was addressed inappropriately because you had a
supervisor who takes it upon themselves to try to address it without doing it appropriately. So, it just makes it bigger. (Frank)

Compliance officers understand the need to reduce the information they disseminate to a palatable amount; failure to do this increases pushback from training participants.

I think that’s the biggest challenge in working with students. And also, this is just complicated. These regulations and all these compliance obligations are complicated. So, trying to break it down and figure out, “Well, what information do the students actually need in order to understand what we’re doing and why we’re doing it?” That’s kind of a challenge also instead of being, “Well, I’m going to talk to you for two hours now about Title IX.” Cause they don’t want that. (Madeline)

Demands create a need to identify and acquire additional resources.

New staff. Nearly all respondents included hiring staff as a dominant need that grows from changes to regulation. Rebecca described the need for new staff as the direct result of increased regulation.

Well, one of the things that I would think to do is sometimes you have to hire additional staff. You’re being pulled in all these different directions, especially with compliance regulatory needs; you need to make sure the institution is in compliance. So you may need somebody to help you maintain. I know a lot of new institutions since new regulations have come down, have really beefed-up staffs.

Frank describes his own current staff insufficiencies.

We’re still working with the same number of people in our office and we’re expected to do so much more. And so, a person can only work a certain amount of time before they get tired or the work weeks over. And so, we can’t provide as much as we used to provide because our resources are being moved or shifted over so our priorities are being shifted over.

In many cases, respondents described working understaffed as “doing more with less.” Many balance new needs by trimming tasks they had hoped to complete but which were not strictly ‘required’ events or training. As Frank described earlier, a common belief was that training ultimately were perceived as preventative or even palliative in
nature; keeping events from either happening or escalating through knowledge. When money doesn’t come with the new regulation it will be found somewhere.

You’ll need money for something. If we can’t get the staff, then can we get partnerships with different organizations, like ATIXA or NACUA. Or with different organizations so at least we can get some help with doing some of the work. It might be a cheaper way to figure out and a way to talk to other people maybe it’s a consortium of coordinators in your area that can work together, “Oh if we’re buying this webinar, we’ll buy it this month, you buy it next month and we can get training that way.” But it is going to be costlier and some of the institutions have to find some money somewhere. (Rebecca)

Title IX offices with a staff of one are still commonplace, as evidenced by 7 of the 19 officers interviewed in this sample were the single person in their office. However, as more universities fall into OCR fines and investigations, universities are finding the risk reward ratio trending toward supporting the decision to hire larger members of permanent staff. As Theresa points out, following an OCR action the university found the money to hire an additional Title IX compliance officer.

I’ve been an investigator and I’ve been a hearing board member, but I think when you’ve been in those individual roles, as either an investigator or a hearing board member, as opposed to somebody who has to have a full breadth of the whole process, you’re probably less impacted by those changes, unless there’s something specifically about the changes that say, “Investigators used to do this, now they have to do this. Up until one week ago ... my position has not changed. What I’m going to tell you is that the institution has hired an additional Title IX staff person.

Kathleen describes her own efforts to double staff size with a hire.

Because I’m an individual person for the entire Title IX area, I don’t have an investigator. I do intake and investigations at this point. We’re working to get an investigator so I think that will help dramatically, soon. Then on top of that a requirement of federal law, is to get out and do campus education and try to reach students, faculty, and staff in a way that creates some buy-in for the expectations that I have for faculty and staff being responsible employees. I do a lot of work with student groups a kind of table at their events; I do short presentations. Those are mostly kind of evening commitments. Then, just staying on top of compliance in terms of reviewing policies regularly and making sure that we are meeting kind of expectations, both from the state and federal level.
**Training/certification.** Communication is about information. Training both for themselves and others was a common thread throughout multiple facets of the larger conversation as described by Victoria.

I can remember my first sexual harassment prevention case, like this first allegation. It was a staff allegation. I didn’t have the requisite training. I needed to get more training. After that first case, I was like, “You’ve got to send me to training,” I was sent to the EEOC to get trained on sexual harassment. I was sent to Cornell University to get training on conducting equal opportunity investigations. Those programs really helped shape how I could apply those same skills in a specific Title IX case. I knew how to do interviews in a way that would not ask leading questions that would be objective that would provide some empathy that had open and frame and close an interview with somebody. That was super helpful. (Victoria)

When Victoria added staff she made sure they were trained as well.

When I had the opportunity to have staff take on those responsibilities, the first thing I did was send them to those trainings before I even sat them in a room with somebody, and I would have them shadow me and sit in on interviews that I conducted while they were learning how to do interviews so that they wouldn’t feel like they were completely on their own, because I didn’t like that feeling myself when I first started.

Georgia describes being stretched, trying to do too much.

We have about eighteen hundred students.... The difficult part is that, because I’m investigating…, I’m doing the trainings, I’m making sure that our policies are in compliance with whatever new changes come out in Albany or in Washington. I’m not getting to do as much training as I would like myself.

Some tasks, such as training, require a limited time commitment or specialized skills. Hiring someone for a few days may prove more expensive than hiring an agency to outsource the task. According to Georgia and others, what gets dropped when resources are unavailable is the quality or frequency of training.

Because you can’t get everything done. It’s not possible. Something is going to fall to the side. Like I said, I felt like the biggest part that was falling to the side was the training piece…. It was getting to be too much. I had to figure out a better way to do it, because things were just slipping. Mostly it was the training.

According to Toby, outsourcing can provide a remedy.
Our institution of seventeen thousand students and although it’s not saying all seventeen thousand have to be trained, it’s causing it to be about two or three thousand students. Well, in order to do the training for that we’re trying to figure out: Do we do it in person? Do we do it online? We chose to do it in person training because we thought that would be the most effective way to talk about sexual assault, sexual misconduct. But, that means that we’re meeting with these students once a year, that many students.

Denise describes outsourcing training to some extent to student organizations.

I kind of rely on the students to help me with prevention. A lot of it, I kind of outsource out to them, to those who are interested, when I can. I’m lucky I do work with a lot of different departments and offices who do make a lot of the trainings mandatory but, again, it’s difficult for me, being the person who oversees a number of staff members and office, student life separately, and then to do Title IX in terms of the coordination, the investigation, the education, all of that.

Demands create a need to work with General Counsel. Madeline described a typical event that would lead to a call to the General Counsel’s office.

Every once in a while there are definitely issues that come up where we’re caught between a rock and a hard place where we’re like, Okay, well if we do that, we’re kind of potentially screwing one side and then if we do this, we’re potentially screwing the other side.” So, that’s when I call the General Counsel’s office.

General Counsel features prominently in all responses, with several participants citing a working legal knowledge base as a must for this line of work. General Counsel advice begins with interpretation and continues as a close dialogue throughout the drafting and execution of campus policy changes. All of the respondents describe larger groups to which they belong which they touch upon daily to assure they are using the current legal interpretation. Most compliance officers named a specific list-serve that notifies them immediately of changes, and all described using news alerts. Many described frustration when they were required to rely upon others when they could not execute some Title IX function themselves.

Rebecca described how her own legal experience and education speeds her offices ability to respond to changes.
Because part of that training, which is probably true in some ways, but part of that training is being able to skim through something for what is the most important and move on that.

Madeline described a typical legal conundrum as a result of Betsey DeVos’s statement, “No more, No more.” On this point, Madeline said,

At least the New York State law *Enough is Enough* is law, whereas what just came out is just guidance. I feel like if it actually does go through, there’s still a precedent and if they do manage to pass some sort of federal law that contradicts that, it’s just going to be a giant pain for all of us and make us even more of a compliance nightmare.

Madeline described why one Title IX task, a climate survey, was left incomplete last year.

Title IX requires that you do a climate survey. A lot of schools haven’t done it, including us, because we didn’t have the money to do it, and then we didn’t have the time.

When questioned about the Department of Education’s expectation that a survey would be completed annually, Madeline responded.

Usually Title IX is written assuming it will be handled by multiple people but, except for big schools, we (compliance officers) don’t have more than one position. So again it’s that burden of the time and work.

More than half (55%) reported relying on being part of a multiple school system which assist, them in the performance of large tasks like the climate survey. Victoria described the assistance of Unnamed State System (USS).

USS has done a lot of heavy lifting in this area in terms of rewriting language or helping craft policy or creating guidance for us because they have a legal team in the USS central office that has helped us a lot, and so I anticipate that my counterpart at private institutions have had it harder because they’ve been on their own with their own legal teams trying to do this.

Several participants expressed being grateful because time not spent sorting legal language is time that can be applied to more direct student needs. Toby in particular spoke to this when he described the loss of resources when his department has to complete unsupported tasks.
We used to do a lot of student programming. And now, we have to take away time and energy from that and do more compliance programming. And so, it’s different ... you’re reallocating the resources we have because we’re not getting new money so it’s changing jobs we do slightly to fit that compliance model…. And now, we’re changing it more to we have to follow the law. So, it’s a different approach and a culture that even though the individuals in my office are very much about creating inclusive and respective places, now we’re saying, We have to do this because it’s the law.

**Translate the law into common language.** Part of the ongoing task of making changes understandable and policies palatable is translating legal jargon and idioms into everyday language. Madeline described bridging the gap between general counsel and administration to understand regulation changes and how an outside agency was needed to fully explain the risks of underfunding her office.

I think trying to help the institution understand, helping our administration understand what our obligations are can be difficult. Explaining that what they’re reading in the newspaper is not necessarily accurate. These are what our actual obligations are and what we need in order to implement them. Trying to help people who don’t work in this field every day understand what some of the risks are. So, if you underfund our office, if you under staff our office, these are the things we can’t do and this is the risk of us not being able to do it.

According to Madeline, Title IX is highly specialized, its offices are routinely underfunded, as she and others point out, it takes more than one perspective to understand and communicate some of the risks involved even when speaking to accomplished professionals who desire to do the right thing.

Victoria describes why administration takes a lot of her time. “I spend a lot of time at my level also educating cabinet members and deans on what the impact is of compliance regulation.”

Frank explains why lawyers are infrequently used by students.

Unless a case blows up and becomes a really bad issue, you’re not dealing within a court system. You’re dealing within a process. You’re looking at the situation through your individual policies or student code of conduct or whatever policies the University or college has. So, it’s not that type of field yet. It’s very specialized.
Victoria described separating message and messenger when talking to students.

I always talk about message and messenger. I think in some cases the message that you’re sending has to be tailored. It should be tailored to make sure it’s about the person’s stake, what they have as a stake in this situation. They’re all different stakeholders as far as I’m concerned. Students are stakeholders because they may be impacted by these rules. They may be participating in a process, and they need to know exactly how detail affects them. When the 129 B law came out and it was very clear that students had Bill of Rights, well, guess what that means? That I’m explaining the Bill of Rights to the students, and one way which talks about how it helps them to participate in a process fairly.

**Bias check for Compliance Officer.** Madeline described how a legal perspective, such as a General Counsel, is necessary to balance a Title IX compliance officer who may have more of a human resources background. Madeline, with her background in both human resources and legal training was able to articulate the bias check aspect more clearly than other officers.

I think this is where I have a huge benefit of being within student affairs versus the Title IX coordinator who’s in ethics and compliance office or an HR office, because I really can look to my colleagues to help me figure out well how are we going to meet the students’ needs best but still make sure we’re not getting ourselves into legal hot water.

**Support and borrowed authority.** Often the concern expressed to General Counsel is what to do given a peculiar set of circumstances. Sometimes the concern is that of being either too harsh or too soft responding to a clear violation. The concept of working under the aegis of another often came up as well. Linda describes working with her General Counsel.

I think I’m fortunate because I report to our general counsel who is very much like, “I have no tolerance. I have no tolerance for faculty or staff abusing our students.” Right? “I have no tolerance for all of these things,” so I have that support from someone who’s in a really important, significant position on campus.

The need for some legal background or at least a familiarity with how the legal system works was referenced by 13 of the 19 compliance officers interviewed, 9 of the 19
mentioned who the Title IX office reported to mattered in terms of the resources made available to them. When taken holistically the trend was for compliance officers to say that either their working legal knowledge or their borrowed knowledge through their General Counsel’s facilitated completing regulatory tasks.

**Demands create a need for communication.** Clear communication was the third overarching demand every participant cited. Most of the compliance officers (74%) specifically cited communication. Rebecca described one of the many times she was unable to meet a deadline through bungled communication.

They decided that they were going to write to every school president and make sure that the schools have policies and they covered all the areas that are important. Well, nobody notified Title IX coordinators. All the presidents were notified, of course, presidents don’t necessarily read all their emails. So, we were already late by the time I got the email.

All but two compliance officers (90%) followed by saying this is why they are part of a larger Title IX network and check updates from NACUA or other sources daily citing the networks reputation for fast and clear communication of breaking news and changes.

If a law goes into effect August first, you’re not scrambling September 30th to try to get things up to speed. You’re like this was always our law. (Rebecca)

**Students need dialogue.** The Title IX office serves as a repository of current information and combats rumor and half-truths daily according to the officers interviewed.

But, it’s a constant need to reeducate. I had some students come to me right after the Title IX guidance was rescinded and they were like, “Well, what does this mean?” And, it’s a student who is part of a student group that actually does a lot of peer education and I realized they were telling people the completely wrong thing. So, it was trying to make sure that the people who were sharing information are not misinformed also. (Madeline)

Victoria explained the human or student affairs component Title IX.
I’m accountable to make sure that those things happen, so there’s a level of pressure to make sure that, number one, you do things correctly. There’s a huge liability if you don’t. There’s consequences on human life. There’s consequences on human beings. It’s not just a number or a legal thing. It’s like students who are impacted by these things. You want to make sure you’re giving them everything that they’re supposed to have to make it a fair and supportive process. There’s accountability there, if they change the way of us doing something, we need to make sure we’re following through for the benefit of our students.

Toby described how his mentor’s words frame how he thinks about cutting programs.

One of my mentors said, “Always remember the human component and that if you do what’s best for the students, you’re doing what’s right.” And so, that’s kind of been my guiding principle when it comes to these regulations is some individual off our campus made a regulation that we’ve got to follow. How can we implement it in the most palatable manner for both our students but also our faculty and staff? Some of our faculty and staff are very protective of our students and want to know, “Why are you doing this? Why are you implementing this?”

Madeline described how a title IX office reporting to student affairs frames how Title IX is viewed through that lens.

I think I look at it a little differently just because I am lucky enough to be within student affairs. So, I’m like, “Okay, this is part of the student affairs side of my job. It’s not necessarily part of the compliance piece.” It’s making sure that I’m engaging students and keeping the students informed about what’s going on also. But, it kind of makes me think about, “Well, how else we can get this information out to our students in a way that’s timely and easily digestible and not going to stir up any controversy.”

A common refrain among the compliance officers was the deeply held belief that they are here primarily to service the students and promote student welfare. Toby described how making training and other communication easier makes the university more likely to be in compliance.

We’ve got to make it palatable for them as well because we need the entire campus behind it. I mean just because my office receives something, well I can say, “It’s because of the law. We have to do it.” If I don’t have buy-in from across the community, then people are not going to be in compliance. So, they’re only going to be compliant to my face and then go
back and do their own thing, they’re going to do something that might not be proper.

**Activism.** As Rosie stated: Activism is allowing some Title IX administrators to build relationships and foster communication through events and program partnerships. “Students want to feel heard, informed and valued” and her partnerships facilitate all three of those goals” (Rosie).

When Kathleen and her students work together, Kathleen brings certification and knowledge, and her students bring exuberance and an electronic communication and action network of volunteers. Together they are able to organize events that would otherwise overtax Title IX offices limited time.

I have students who are starting clubs that relate to *One Love*, which is about dating violence. I have a student who wants to kind of promote me and my office so that students, faculty, and staff understand the person behind the door and what resources this office can provide. I have a really great relationship with other stakeholders on campus, like the counseling center, the office of public safety, and our police on campus. I think because of those partnerships being developed, the goals that I have against all of the demands and priorities that were kind of set for me, I can delegate a little, right? To kind of get some of that, get support with some of that help or some of that work.

**Reporting.** If training is how information passes from compliance officers to students, then reporting could be said to be the other half of the dialogue.

In 2015, when Governor Cuomo came out with Enough is Enough, we needed to do a very quick review of our policies around how we work with sexual assault reports to make sure we were in compliance. Thankfully, we had already done some work, probably seven to eight years prior to that, working with students on campus to, and I was part of that, to kind of develop a process that supported both the reporting and responding parties to make sure that their need were being met. We really only needed to make a couple of tweaks. We were lucky to be in compliance. We have had an audit, and so far so good. (Kathleen)

As described by multiple compliance officers, if people know the law, they will let you know when it is being violated. Three compliance officers reported being surprised
early in their careers by a surge of incident reports following training or other campus
events. Karen described on a such aha moment.

I didn’t even realize it until I actually had to write a report from one of
our outside lawyers this summer. And when I read it and I said, wait a
minute, why was there such an uptick and then I looked at the dates and I
was like, oh that’s why. Reporting is audited and while not described with
the same importance as say training reporting is very much on working
regulators’ radar.

**Summary of research topic 1.** The majority of compliance officers defined the
need to interpret new regulations with general counsel and then translate and explain the
relevant changes to constituents. This process can be described as iterative, with multiple
conversations between the Title IX compliance officer and General Counsel. As Title IX
officers refine their interpretations through dialogue with peers and regulators, general
counsel is consulted to ensure general counsel’s understanding of the policy and training
changes align with the latest version of Title IX. This could be argued to be a form of
general counsel Title IX training and underscores why so many universities are limiting
Title IX compliance hiring to lawyers or those with strong legal rather than human
resources experience. When asked why universities do not simply hire lawyers to handle
Title IX, the most common answer was that they increasingly are, but that does not
negate the need to consult general counsel in much the same way a lawyer accused of a
crime would hire another lawyer to argue their case.

Regulation changes become known quicker than ever through activism web alerts
and the twenty-four-hour news cycle. Compliance officers need to work with general
counsel to interpret new regulations quickly. They need to answer unanswerable
questions and then bring their interpretations of new regulations to targeted populations
on campus, many of whom will resist training in what they perceived as the latest of
many insubstantial Title IX changes.
Finding #2 (see Table 3)

All regulators (100%) learn through informal learning processes; dialogue, critical reflection, were universally reported as frequent pathways through which regulators made meaning of new regulations.

Table 3. Findings for Research Question 2

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<tr>
<th>Research Question 2. How do compliance officers learn to comply with new regulations?</th>
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<td>Finding: All regulators (100%) learn through informal learning processes; dialogue, critical reflection, were universally reported as frequent pathways through which regulators made meaning of new regulations.</td>
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<td>• Informal</td>
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<td>• Reading</td>
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<td>• Dialogue 100%</td>
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<td>• Regulators learn through informal learning processes; critical dialogue, critical reflection, and reading were universally reported as frequent pathways through which regulators made meaning of new regulations.</td>
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<td>o The law as written</td>
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<td>o What others are saying / doing</td>
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Informal.

Work alone on confidential cases. Nine of the 19 (47%) compliance officers interviewed reported working alone in their offices. Georgia, Susanne, Karen, and Victoria shared insight on the office of one experience.

Georgia described the experience of working alone while holding multiple roles.
I’m doing it all by myself. I’m all alone, I would say the biggest hindrance is the size of the staff. I know I’m not alone in this, because when I go to professional development conferences and I meet with other either Title IX people or EEO individuals, it’s the same thing. We don’t have the staff. (Georgia)

Suzanne describes the need for just one more person to facilitate timeliness and have a better work life balance.

I absolutely think there is a need for at least one other person who can just kind of help share some of the work. And then I just feel like we’ll do more of what we need to do in a timely manner plus I will have a better work-life balance. (Susanne)

Karen shares the common refrain of Title IX offices in every institution.

I know I’m not unique in that it’s the battle cry of every college everywhere, private, public, and everything in between. But it’s very difficult because one, there’s nothing that we do that doesn’t cost money, but two, it’s not just the money resources, but it’s physical time. Like I said, I am the person in front of these folks, right? And I am one person. I unfortunately don’t have a clone; I don’t have a machine to clone myself. But if ever there was one, I’d want to buy it.

Victoria explained one of the ways she insulates her staff from feelings of abandonment within their new roles or positions.

Actually, when I had the opportunity to have staff take on those responsibilities, the first thing I did was send them to those trainings before I even sat them in a room with somebody, and I would have them shadow me and sit in on interviews that I conducted while they were learning how to do interviews so that they wouldn’t feel like they were completely on their own, because I didn’t like that feeling myself when I first started.

Title IX work was reported as largely confidential with eleven of nineteen compliance officers (58%) describing some aspect of that confidentiality leading to feelings of separation or performance anxiety. The confidentiality burden was described by Rebecca.

Another big burden is the issue of confidentiality. So you have to be so careful about; when you speak to people, where you talk to them, where your office is, who sees students coming in and out.

Patricia described the stress that accompanies confidentiality.
So you have to be really careful, and that creates a lot of stress because you’re under pressure and you want to make sure you do the right thing, so you really have to know how to protect the confidentiality, even password protected.... It’s a lot to think about because you really have to strategize about everything, from the room that you are going to be in to who’s going to be in your office.

Kathleen described befriending campus department chairs as difficult. “One of my hard to complete tasks is to get out to all of the department chairs and present myself to their departments and try to befriend them.” Karen has found a humorous way to introduce herself.

I often introduce myself in group settings as the affirmative action officer, Title IX coordinator and all around queen of all Roman numerals. I don’t know if I ever really wanted to be royalty, and I don’t know this is the kind of royalty I was imagining here. But as far as demands, what that means is that I am the person who gets to not only investigate, but remedy or make recommendations really for remedies where it comes to a lot of things around bad behavior.

**Conversations between compliance officers are frequent and significant.** Nothing in the literature led me to expect the level of communication reported, or the reported frequency of discussion between compliance officers.

It really helps being part of the USS system. If this was a standalone university, I would have to, again, and I’m a lawyer by training, but still, I would have to get the information about the new policies, sit down and dissect it, come up with the sample documents. A lot of that luckily comes out of our system office. I still read the legislative notes and all of that, but they really break it down into, “Look, people, this is what we actually need to do. Here are some sample documents.” That really helps. (Georgia)

This interpersonal communication isn’t just about being ready for changes yet to come or responding to changes already made, it represents a level of commitment and care compliance officers extend to each other. Georgia described how either fellow Title IX officers or fellow professionals outside the office help.

The other thing that helps a lot and this is not just with the Diversity Council, but forming internal groups. They’re not Title IX, but they’re almost deputized. They’re not officially a Title IX officer or a Title IX investigator.
Victoria pointed out a compelling reason not to work alone.

I think part of what I had always said to myself was I never wanted to be an office of one in this field. I think you have to have people you can close the door and talk to about what the challenges and opportunities are in this role.

This informal learning fosters an inclusive safe environment where Title IX professionals can air grievances, share frustrations and most importantly develop as professionals in a field few outsiders can authentically understand. “Just staying connected to colleagues who are doing this work is I think another really good way to get information,” stated Madeline while Samuel described the sharing of information.

We share information. Being a part of ATIXA. ATIXA shares information regarding updates, best practices and things like that. I’m also a member of the Title IX group on LinkedIn and various different people share articles that comes out with regards to Title IX.

Victoria, who earlier stressed the care she extends new employees in the Title IX office, talked about easing emotions through peer dialogue and support.

It’s really easy to get burnt out, and part of that, to me, is about having a very close network of trusted colleagues you can help resolve issues with and that you can vent to when you need to because something’s super upsetting or frustrating, and that you trust.

**No longer expect to receive measurable guidance.** At a time when answers are not coming from the government through its agencies, compliance officers are instead finding meaning through each other and their associated general counsels. Frank explains how the lack of consistency in hiring Title IX professionals leads to the USS not being able to provide a one-size-fits-all-guidance.

It gives you a framework, but doesn’t give you particular guidance. Because within the USS system, everyone does things a little bit differently to still be in compliance with it. So, within our institution we have a trained investigator that only addresses Title IX and gender discrimination. Within other USS’s you have one person who’s doing that and other parts. So, they give you a framework, but the institution’s responsible how to fill it.
This lack of guidance reflects the evolution of the Title IX office since 1972 when Title IX was first enacted.

Historically there was no real guidance to it because if you start looking at different institutions you don’t see the actual education behind it. You don’t see a common education. Not everyone’s a lawyer. Not everyone has an Ed.D…. But with someone who deals with issues of Title IX, it’s an ever changing field. So, the background expertise is all changing. Even around 2011, most of the diversity professionals would’ve dealt with issues of Title IX. They were either academic or came from an academic background, or just given the assignment because people had check box to fill.

Compliance officers reported using state systems and national organizations for research, best practices, support and alerts when regulations change. Title IX’s accelerated environment requires officers to obtain information as soon as possible to remain in compliance.

Frank relies on the Unnamed State System for centralized guidance.

The New York State statute [Enough is Enough] just keeps the 2011 mandates clear so they’re still things that are in discussion in respect to expectations from our institution but, luckily, we’re also part of a larger USS that’s also addressing the same thing. So, there’s some centralized guidance on how to look at it.

Karen attends the USS diversity conferences as well as utilizing their guidance emails.

The USS is having their diversity conference, which always, always includes Title IX. Every November I go to the National Association for Higher Ed diversity officers’ conference.

Victoria expressed gratitude for the work the USS performs for state schools while wondering what smaller unaffiliated schools do to remain compliant.

The USS has done a lot of heavy lifting in this area in terms of rewriting language or helping craft policy or creating guidance for us because they have a legal team in the USS central office that has helped us a lot, and so I anticipate that my counterpart, that private institutions have had it harder because they’ve been on their own with their own legal teams trying to do this, and some of this is like, “Well, the system said I have to do it this way, so I’m going to move on.”
Georgia also values USS email alerts and communication.

I’m part of the USS system of colleges and universities. One of the good things is that there’s a network of Title IX people and also our council at the system level, not necessarily at the campus level, but at the system level really does an excellent job of keep us abreast of new regulations. (Georgia)

Attending USS conferences allows compliance officers to network and focus on regional as well as national compliance priorities as described by Veronica.

Connecting with others that are in the area, especially there’s been a bunch of conferences that they had over the summer and webinars that the USS General Counsel Office has done, and attending those because really that’s where I feel most of the New York State schools are creating their policies around and things like that, again because it’s so different from the federal legislation.

**Reading.** All of the compliance officers described reading in some form, be it alerts, new regulations, or correspondence from peers. Reading is, for most, the first thing they described doing when they get to work in the morning. With one exception, compliance officers described reading regulatory communications such as DCLs as the first step toward understanding changes and in making meaning that will inform future action.

I already receive updates from the Department of Education from the XX State Department of Education, as well as a few law firms that I’m subscribed to and I get updates. What happens is I’ll go in and actually read the new legislation, but then luckily, like I said, we have council’s office who stays on top of it, they usually will provide a summary saying, “Okay, that 64-page document, we sort of put that in concise version and this is what actually needs to happen.” That’s how I get the information. (Georgia)

Seeing the law as written allows Rebecca to break down the wording and begin interpreting.

So I guess, this recent one, I think it was when VAWA was or when *Enough is Enough* was codified. They had all these requirements, so basically what we have to do is, we actually have to read the law. You have to put your eye; I mean at least for me because I am.... Put your eyes on it. Try to break down on what is my understanding of what this is? And then if you’re talking with either other administrators who do this, probably lawyers
too, or your outside council.... Are we reading it the same way? We all now determined this is the way to go?

Rebecca described the importance of two publications, *The Chronicle of Higher Education* and *Inside Higher Ed*.

Well for instance, one thing I do ... I don’t know if I’m really part of title nine, but what I do is, yes I read the Chronicle or I scan the Chronicle every day. I scan inside Higher Ed. every day. Right now I’m getting, some of these associations like ATIXA and NACUA, they will send out weekly or daily Title Nine in the News. Because at least, I saw today, some bill was proposed about making title nine a law.

Kathleen described how reading informs the conversations she will have that day; how her morning reading arms her for the buzz on campus.

I read those very carefully. I try to pay attention to CNN and news reports and things to see kind of what kind of chatter’s happening out in the world, because it typically directly relates, right, to what’s going to happen on campus, so that. There’s some conferences that are available for me, and I have a lot of support to go to them. I’m looking forward to those that get offered through ACPA, American College Personnel Association, and ATIXA. Webinars that are available that are typically free, I usually sign up and watch. Sometimes it’s repetitive information, but that’s fine, right?

**Publications.** *The Chronicle of Higher Education* and *Inside Higher Ed* publications both featured prominently in the interviews. *The Chronicle* was mentioned by ten of those interviewed and *Inside Higher Ed* was brought up by five of those interviewed. An additional four mentioned publications but didn’t name specific periodicals.

There’s an article in the *Chronicle* this week about, or inside higher ed about law firms in title nine cases. I’m just thinking of organizations, there’s so much information. I get flooded every day with like “Oh, we’re having this webinar. We’re doing this on title nine issues.” There’s so many places but I really do think my two top places that I would go to would be NACUA and ATIXA. (Rebecca)

**The law as written.** At the time of this study, three legislative components are at loggerheads in New York State as described by the compliance officers. These laws are Enough Is Enough, the Violence Against Women Act (VAWA) and Betsy DeVos’s
public statements that the DCL of 2011 no longer applies to Title IX cases. As described in the interview excerpts below, depending upon which law or directive you are quoting, a student may or may not have the right to an attorney, may or may not have the right to an appeal and may or may not have the right to ask that an investigation continue beyond sixty days. Rebecca described reading the laws, opinions from experts and the state system guidance.

My process is, let’s take a moment. Where are we? And then realize because I am in New York we have Enough is Enough. So we already have to follow that and VAWA already codified a lot of this stuff. So it’s not completely changing out…. They’re going to do away with the attorneys. Now, they do away with the attorneys, then we have VAWA who says we have to have attorneys, which law? Which one takes precedence? So that’s going to be a conflict, that all of us, especially in New York with Enough is Enough, which one takes precedence at the moment?

Frank described reading the laws, opinions from experts, and the state system guidance.

When regulations change, we are made aware of it through the news or made aware of it through the Federal Government or made aware of it through USS. It depends on what the change is, and most of the time they have time-frames of implementation…. They had implementation dates. So, then we had to interpret them. We had to interpret what they meant, when to do it, and then plan accordingly.

The procedures and policies already in place. As an example of the review process provided by those interviewed: when Governor Cuomo came out with Enough is Enough, compliance officers needed to review their own policies; clarifying sexual assault reports and making sure their institutions were in compliance through training and policy changes. Toby described the results of his review.

We now have to identify who are the responsible employees, they all have to be trained, the students have to be trained but there is no funding for this training and it requires manpower. And so, the issue becomes how are the institutions going to find out which individual should be doing the training and then allocate resources to that.

Kathleen found little change was necessary as the result of her policy review.
When Governor Cuomo came out with *Enough is Enough*, we needed to do a very quick review of our policies around how we work with sexual assault reports to make sure we were in compliance. Thankfully, we had already done some work, probably seven to eight years prior to that, working with students on campus to, and I was part of that, to kind of develop a process that supported both the reporting and responding parties to make sure that their need were being met. We really only needed to make a couple of tweaks. We were lucky to be in compliance. We have had an audit, and so far so good.

Rebecca spoke of similar adjustments but also of the need to reassure students that similar laws still protect them.

Once you kind of figure out what that is, then going forward with every case, every report do you have to make an adjustment…. You have to put out a statement into the community. *This* changes things. *This* doesn’t change things. We still support our students. We have other laws that we have to follow…. So it’s trying to put everybody at ease but I think the administration first have to figure out, what are you saying?

**What others are saying/doing.** An outsider looking at three or four universities might wonder why each has different deadlines when they are all complying with the same law. Frank explained the discrepancy for his system was the result of negotiations with the federal government.

So, it’s every couple of months because it’s some decision that was met with USS and the Federal Government so, for example, part of the resolution was for every College, every University to be in compliance. That’s why we have different time-frames within the USS system, the UCS system, there’s a basic timetable. For Community Colleges, it was different. UCS’s are different and USS Universities were different. It’s training and, hopefully, convincing people to hire more help.

**Critical dialogue (100%).** Critical dialogue skills were widely reported as a beneficial tool for reflective Title IX practice. Victoria spoke of the need to ask questions of others facilitating them in examining their own underlying biases and assumptions.

We would do that regularly, like if you needed a person as a sounding board, as a way to help say, “Did you consider that? Did you consider this?” which was always part of the learning curve because it seems like the learning curve is never ending because every case is really unique and different because of the context and the place and the parties. I spend a lot of time meeting with colleagues, talking with colleagues.
Zoe spoke of sharing resources through networking.

I think the biggest element that I found really important was just the access of resources, also the human resources of could other people do the work, how do you create connections and network? I was able even though I didn’t have fiscal resources, I didn’t have staff support, being able to create those human connections, being able to find our community partners to do some of the heavy lifting for us was extremely important. I think that I’ve expressed that throughout but that’s the only other thing I would reiterate.

Training is a major starting point for many Title IX conversations, as Wendy described below.

There is a large demand especially now that we have increased the Title IX and trainings and we comply on *Enough is Enough*. There is a demand for us to train athletes and student leaders, but not only do we do that, we take it a step beyond because it’s important that all students and staff know about their rights and responsibilities that pertain to Title IX. So we trained student leaders, athletes, and we also have started training with our freshmen classes.

Compliance officers stated peer conversations allow Title IX professionals to examine underlying biases and assumptions that could otherwise interfere with good practice. Karen discusses people’s bias toward believing in grey areas when the law is more black and white.

I think there’s a rigidity that for some is troublesome. And doesn’t allow for gray areas as much as I think folks don’t understand these are the realities of certain things. And so what happens is that sometimes we will have, be it students or employees, who have an expectation because they’ve heard the rigidity issues on the nightly news. And they have an expectation where the threshold is not what they believe.... You do believe that this is what’s happening for you. You do believe this is a hostile work environment. But there is a threshold, there is something that’s there and it does make certain aspects of what I do tough when that happens.

Kathleen has developed relationships that strengthen her understanding of Title IX and her credibility on campus.

We have a center for faculty excellence on campus. There’s a director for that program who is a former faculty member, but basically provides in-service trainings for faculty and things. I’ve developed a relationship with
him, and he’s really doing some great work with me to help establish credibility in my position and my role.

Rosie relies on a fellow alumnus for inspiration as well as information useful in framing how she approaches educating and investigating domestic violence.

I did my graduate work at the Unnamed University and there was someone named Susan who had done some really groundbreaking work with domestic violence research early on and people have been doing this research for about 40 years, a little more, that’s really changed social systems and the way we respond to that kind of violence. Those folks are not always being utilized. We have to respond to dating violence, in my opinion, differently than we do sexual assault, because it’s a very different dynamic.

Karen seeks a deeper conversation about higher education’s notion of what compliance means. As she states below, “tick the box” is no longer enough.

The notions of what compliance means in the higher ed world I think need to shift. I think they are shifting somewhat, but just the notion that it’s this tick the box kind of attitude is really, really not the way. It’s not how ... It’s not a best practice obviously, but it’s also not what this world, at least from what the regulators want us to do. It’s no longer enough to tick the box in any of this. So what you thought you were doing is no longer enough. You need to step it up.

Critical dialogue as described by compliance officers is a collaborative act in which peers assist each other in mutual examination of new regulation.

Right now, I have some of the most supportive Deans of Student Affairs and the Vice President of Student Affairs, so we’ve designated some Title IX deputies who are deans, and they are completely dedicated to doing the right thing, take advice, collaborate well, communicate what they need, work with me well. A good example is we train our conduct boards with them, and we’ve done great partnerships in getting the right information to the right people. (Victoria)

This collaboration is reported as necessary because assumptions and biases are too easily overlooked in solitary reflection, especially when applied to situations where race, ethnicity, or economic status privilege one group over another.

I spend a tremendous amount of time on a number of different committee meetings, which include our 20/20 vision.... A lot of our committees on student life I chair and/or co-chair. I also work with our border trustee’s high committee to help co-chair, also a committee at student
life. So a lot of my job entails looking at issues to improve campus life for students. How to get them better engaged, which ultimately will impact hopefully positively retention and attrition. (Bethany)

Kathleen seeks perspective and objectivity, finding it through conversations with others on campus that have different experiences and orientations:

Just too kind of get different perspective from different positional people I think has been helpful. Then, really I rely on some of my colleagues, too, to get information about kind of how perhaps they’re thinking about these laws as it relates to the students they serve, right? Like the LGBT Center, what does that individual think about and trying to collaborate in that way.

Madeline describes how Title IX professionals learn when reading just isn’t fast enough. The collaborative division of labor she describes was echoed by other interviewees.

When I first started here and we didn’t have as many reports and I didn’t have as many responsibilities as I have now, I would set up a Google alert on my computer and every day kind of see what came in and make sure I was familiar with any new cases and guidance that was.... I mean the guidance part is a little easier but make sure that I was aware of any new cases and any new articles or any new, anything really related to Title IX and sexual violence and I would read all that as much as I could. Now, we don’t have the time to do that anymore.

Wendy supplements her reading with networking as well.

In order to stay abreast the nuances of this decision I read various publications, I network internally and externally. Within this region and outside of the country as well. With regards to training and getting information from other people. Organizational affiliations. Focus groups are also a way of doing it.

Based upon the interview responses of those studied, the dialogues compliance officers engage in can be broken roughly into two categories, external communication and internal communication. External communication largely deals with communication with professional organizations, state school Title IX or general counsel support systems and Title IX compliance officers from other universities while internal communication refers to conversations which occur on campus. As described in the excerpts below, external communication features more prominently early in the learning process while
internal communication comes into play both at the initial stages but then also at later stages.

**External.**

*Other Title IX officers. Title IX compliance officers rely on each other for timely alerts, as much as for consensus building around the meaning of new regulatory changes.*

I have a working group of friends who are in the trenches with me and when we see something big coming around, we all e-mail each other and say, “Hey, this came out. Make sure you tell your president. Make sure you tell your student leadership that this came out.” Our goal is to be the ones who get the information to student leadership as opposed to them reading it in the newspaper somewhere or a colleague telling them about it themselves. So, this little group gets together. We send out e-mail very quickly. (Toby)

Zoe finds consensus by bouncing ideas of the other Title IX coordinators.

Finding Title IX coordinators at other institutions who are dealing with similar issues who you could just bounce ideas off of or say, “OK, so we just got this guidance or got this, this is how we’re interpreting it, how are you interpreting it? Are those the same? What if they’re not the same, how do we work through those things?” That was the biggest elements, the human element of who can I talk to, who’s doing the training, who’s presenting a webinar that I can interact with on those things?

*Professional organizations. Rebecca and others pointed out that there is a wealth of misinformation so she sticks to the professional listserv as one of her primary information sources. In order to be confident in what she is saying, she sticks to the most credible sources.*

I wouldn’t trust just anyone, there’s too much information and you have to get it right. You don’t have the option of getting it wrong and so if you’re going try and have somebody tell you this is what you need to do in these cases, you need to be able to trust your organization. I think NACUA definitely, ATIXA would be my number two. I probably would not trust too many other people with giving me information about Title IX and what I need to do as a coordinator.

Victoria has found training and workshops to be more than ticking the boxes required for compliance. She reiterated her belief that training and workshops inform her daily practice.
It was really accessing trainings that were available that I went to. I think I went to more workshop conferences as a Title IX coordinator than I did any other time and it was usually training oriented finding some of the self-proclaimed experts in the field, going to trainings for them, and then the biggest part was finding a community of Title IX coordinators who were also doing the work.

Listserv. Without electronic alerts and email alerts sent from Listserv and university systems it is easy to miss regulation changes. In some cases, it’s just a matter of an announcement being lost in the volume of correspondence received by the office in other cases it’s never received by the office because it was delivered elsewhere.

When Betsy DeVos rolled back the 2011 guidance, somehow I’m on a list from some school and I got that first. I was like oh my god, it’s here. I didn’t know she was rolling it back. But luckily I’m on this list. Somehow I got on it. And then you forward it to other people. It happened! It happened! It was slowly building because then I got a couple emails from other people. If I’m not paying attention, I don’t do that every day, I’ve got other things to focus on, I’m not going to see that…. Again I think it’s just whatever organizations people belong to for professional development, just to stay abreast of new developments and what’s going on. (Rebecca)

Theresa uses the listserv to avoid problems before they arise on her campus.

Listserv people are constantly asking questions about what they’re struggling with. And then you pick that up and you go, “Oh, that’s really very interesting.” It can help, because your institution has resolved a particular policy implication, or it never even occurred to you that that might be a problem, so someone else asking the question helps you get yourself educated.

Karen puts up with extra emails to avoid missing anything important.

I think at the risk of not knowing, I’d rather get the seventeen emails or whatever to make sure that I’m in the know with it. And then the other is again, having tapped into these resources, having tapped in to the national organizations that do this work, and the regional ones that do this work, and attending those conferences.

Webinars. Webinars came up 27 times throughout the interviews. They were reported to be a more cost-efficient alternative to sending people on campus for training.

Well, with this new 2017 Dear Colleague letter, I really just try to participate in as many webinars that were made available and invite as many people who I thought would be impacted by the information as possible to
get them in the same room at the same time so we could have discussions around it. (Kathleen)

Rosie has a particular favorite, a lawyer from Tennessee who has a company called ICS. Rosie joined her group because Courtney Bullard has this really nice southern drawl, and Rosie can watch her webinars for hours and feel relaxed.

She’s not saying anything different than a lot of people, but that’s been a cost-effective way because I can then give all of her webinars to my investigators to watch. I’m a member of her webinars, so whenever something happens, she’s my person that I just feel comfortable with.... She was a general counsel at Tennessee during some pretty tumultuous Title IX times and she’s a cost-effective option for us. That’s just is who I went with. (Rosie)

Wendy finds that webinars sometime precede new changes.

Generally, I found that when there is a new compliance coming down the pipe there may be a webinar and so before it actually takes form, per se. There would be some type of informational session with regards to that compliance issue or topic so that we are all aware of it in the field.

Facebook. One form of social media, Facebook, was mentioned specifically. Title IX Girls and Know Your Title IX were mentioned as helpful sites. Other groups which do not have Title IX in their name but are significant include Fire (Foundation for Individual Rights in Education) and Faculty against Rape and Rape on Campus. Fire facilitates respondents in preparing their defense. Social media was reported as a tool for organizing campus populations but also as the source of much misinformation.

I’m also a member of all the student advocacy groups on Facebook, which sounds a little weird, but like Know Your Title IX, Rape on Campus, Faculty Against Rape. I try to keep track of their posts, articles, and what they’re doing. They participated in a webinar with Joe Biden and all of student activists recently. Trying not to separate myself from that conversation, although it is one that I probably need to spend.... I have to say although I follow Fire, which is that group for respondents. I haven’t actually participated in one of their webinars, so I would say I have been socialized in the era of victim centered approaches. (Rosie)

As Victoria and Zoe pointed out, your actions and the events that trigger the investigation may appear on social media.
I’m telling you, I opened up social media today and saw a post by this student, and I said, “She’s talking about us. She’s talking about this situation.” She has the right to do it. It’s a difficult situation, but you say to yourself, “She’s not let it go, and it’s been how many years?” That brings it right back to, yeah, you can’t always just … If you’re a human being, and you don’t just go through this with a robotic lack of empathy. You know what you mean? You have to have some empathy.

While Victoria feels empathy for the victim Zoe expressed the “ever present anxiety” described by Theresa being exacerbated by social media.

There were particular cases that I was like, “This could be the one” because it just takes one or two cases going to social media and sharing their experience, whether it is the full experience or not that really can … and there were definitely some ones that it was like, “This could be it.” I am human and there’s human error and there’s a couple things that I didn’t do well or write or could have done differently and I was always waiting for those students to be like, “I’m going to blow it up” and it never happened. (Zoe)

Madeline and Veronica described the growing role of social media in Title IX. Madeline has been able to hire a staff position that is able to assist in forming a positive social media presence.

I’ve been lucky enough to be able to hire a training coordinator, it’s a grant funded position, and really a lot of her responsibility is trying to figure all that out like revamping our website and giving us some sort of social media presence and trying to engage student groups a little bit more so that they do know what’s going on hopefully a little more proactively instead of reactively. (Madeline)

For Veronica social media is about keeping up with students, remaining current.

For myself, it’s more so of a learning what’s going on, keeping up with the trends, especially as it relates to things on social media, and what students are seeing with celebrities and other high profile individuals, and how that’s going to have kind of a trickledown effect on what they’re going to be looking for from university administrators.

Internal.

General Counsel. Most of the compliance officers (74%) referred specifically to conversations with general counsel as described in the first research finding. Dialogue with the general counsel’s office allowed compliance officers to interpret the new regulatory changes and check their own opinions particularly to avoid gaps in legal
knowledge or procedures. General counsel is reported as particularly needed in cases such as the discrepancies currently ongoing between VAWA, *Enough is Enough* and the latest guidance regarding the 2011 DCL instructing institutions on Title IX procedures and student rights. As discussed in the previous research finding, general counsel is a regular partner to the Title IX office.

*Compliance officers who are not Title IX but face similar dilemmas.* Title IX officers reported building teams with other professionals and student groups. Karen used a baseball analogy to describe why she needs stakeholders to effectively perform.

Like I mentioned one of the key things is really having stakeholders and having teammates. I can’t pitch in and bat at the same time, right? So I really have to forge a lot of relationships around campus with folks to make sure that I’m able to leverage those relationships in order to affect the things that need to happen. So we can take it be it working with our director of labor relations or be it working with our dean of students or our assistant dean of students, that is my bread and butter for me because it’s the only way I can actually assess things. Because otherwise I feel as though I’d be spinning. I’d be spinning a wheel in order to try and get things done.

Kathleen talked about the difficulty of getting people on the same page, particularly when enthusiasm exceeds actual knowledge.

I think about getting everyone on the same page and establishing buy-in, because I think people can interpret legislation in very different ways and it translates for them very differently. Coming to an agreement on campus about how we understand the particular legislation, right? And how we think it applies collectively with consensus is difficult, you know? What I think is difficult is that there are people who are interested in the topics, but not particularly knowledgeable.

Veronica described the iterative learning cycles that involve multiple campus spheres of responsibility. Though each department occupies a different campus niche they pull together for Title IX compliance.

So Public Safety, General Counsel, Human Resources, all those offices I have really great collaborative relationships with, which is extremely useful in this work where they will co-sponsor, and will be present, and will be attending professional development opportunities with me, and sending me things, and I’ll be sending them things, and really trying to best educate
ourselves. So I think that this whole process is just like a continual education experience really for everyone. It’s figuring out how we can best support our students on campuses.

*Title IX staff.* Intra-office communication and cooperation also serves as a bias check and support system allowing compliance officers perspective and insight.

Just to kind of get different perspective from different positional people I think has been helpful. Then, really I rely on some of my colleagues, too, to get information about kind of how perhaps they’re thinking about these laws as it relates to persons they serve, right? Like the LGBT Center, what does that individual think about and trying to collaborate in that way. (Kathleen)

Victoria received a report from a student who had dropped out of school for over a semester because she was inappropriately touched by a professor. Victoria’s investigator called upset after the interview; we see in the following.

She was just beside herself, and if she doesn’t have me to call, then what happens, right? We can talk about it because it’s confidential together. She can vent to me. She can raise her concerns and her frustrations with me. She can empathize with the student with me. She can talk about her concerns about everything related to what’s going on with me, and that, to me, creates that balance, too, because we can kind of keep each other balanced and ensure that we’re really focused on the right kinds of work, and that we realize some of this is difficult and some of this is normal, and you’re dealing with difficult situations.

*Students.* Three years ago, Unnamed University underwent a federal investigation of its compliance with Title IX. The following is a redacted excerpt from the university newspaper.

Amidst an ongoing federal investigation into Unnamed University’s handling of Title IX cases, many students are unfamiliar with the law and the method by which UU investigates sexual harassment/violence claims that occur on its campus. “Title IX—it sounds familiar but I can’t say what it is,” Mark a junior health science major, said. Other students, like junior biology major Ava, junior psychology major Trini and senior mechanical engineering major Yash, did not know what Title IX was, nor had they heard about the law or the investigation process before.

Three years later, in 2017, the same UU newspaper is writing about campus stakeholders voicing opposition to the Betsy DeVos retraction of the 2011 guidance.

“Members from various campus political and social organizations voiced their opinions
on DeVos’s news, expressing differing views over the new regulations concerning Title IX.” This one school’s story shows the range from Title IX being largely unheard of to larger familiarity with this document. This was described by compliance officers as the result of yearly mandated training and many evening events.

Kathleen spends hours interacting with students. Her presence puts a face to her office so when a student needs Title IX guidance the student isn’t approaching an unknown quantity (s)he is going to see Kathleen.

I do a lot of work with student groups to kind of table at their events, do short presentations. Those are mostly kind of evening commitments. Then, just staying on top of compliance in terms of reviewing policies regularly and making sure that we are meeting kind of expectations, both from the state and federal level.

Veronica described why students don’t always see the complete picture and why it is sometimes necessary to pick and choose what students are told.

You know it’s definitely challenging, because there are needs of the institution that don’t always make sense to the students, and it’s not necessarily something that they even always need to be privy to. So it’s not easy all the time, and I think that it specifically becomes a challenge for our students that are very advocacy-oriented and don’t understand something as silly as, why can’t we just put up this flyer? Like why do we need the approval for it? And I mean that’s a very silly example as to how the different challenges that they see sometimes, but really helping to have them understand why things are a certain way.

Samuel finds there are not enough resources to hit every part of the whole: As reported before by others, Samuel often finds the unfunded mandates stretch available resources.

It can be very difficult trying to deal with the training aspect and the investigative aspect and the ... making sure the student is updated and the students in the matter are updated. So the resources are a major issue.

Denise works with students to help with prevention. Her interactions are bearing fruit in terms of social capital and knowledge capital as she describes below.

I also advise the student groups who help with those things, so I kind of rely on the students to help me with prevention. A lot of it, I kind of
outsourcing out to them, to those who are interested, when I can.... I feel like I’m pretty comfortable with what we’ve done in terms of training. Then, again, we can always do more, but our students seem to know more each year, and they come to me more often as each year goes on.

Patricia described the role training plays in clearing confusion.

I think like, we train all the students, and we do a lot of training so that people are aware. So there’s that small percentage of students that say something and don’t realize it’s a mandated report. I don’t think students are going to go around saying “gee I want to talk to you about a mandated report. I think for students, even more education, there will still be that percentage of students that get caught up in having said something and not really meaning to make a ... at all.... And then the rest of the students I think are very grateful for educating them, and letting them know that there is recourse and that there are all these resources. It’s healthy. But then I think that sometimes their own anger turns into frustration ... under Title IX.

**Reflection on experience (100%).** While compliance officers did not report using past legislation as a specific predictor of future legislation, they did report being able to spot a few trends that were helpful to long term planning. Frank expects Dear Colleague Letters each April.

Usually I would tell my president, “Hey, it’s the month of April. Expect the Dear Colleague letter.” And, the minute it would drop we knew that it would make the news. We would see it inside higher ed. We’d see it in the Chronicle. I made sure to tell my staff if they saw it drop to immediately let me know and we would write up a one to two-page brief executive memo regarding the changes and how to implement them on our campus and we would send that out in conjunction with a letter to our senior administration so that way they were not blindsided by someone calling them and telling them, “Hey, did you see this change?” But also, they didn’t get too excited about some change that might be misinterpreted by somebody else. And, we felt the need that we had to do it very quickly every year.

Wendy’s office has developed a rhythm, and Title IX updates are met with and unpacked soon after arrival.

Let me see, we had requirements disseminated information in a different format put that way, any updates to Title IX that we had. I would say we adjusted pretty quickly to it. It’s a lot of team effort, again and just following the pattern of when the document comes down, let me go back, before it comes down we get information on it the discussion had. Once it comes down, we basically discuss how we are going to disseminate the information
and implement it. It’s reviewed throughout administration so that it’s approved and then we implement the process.

Disruptions in this pattern caught Frank’s office off guard.

There was one year where the letter dropped on a Friday. We waited until Monday and it was already too late because senior administration already started talking about it. So since then, we decided this was going to be our plan of action. And, most times we knew the changes we had to make and senior administration understood that this is coming from the Department of Ed.

Rebecca uses the Title IX listserv specifically ATIXA listserv and the NACUA listserv as her predictive instruments using past experience to interpret the credence of other’s speculations.

So that’s why I’m thinking in my head, there could be a conflict coming down the road about, how do we maneuver? Most likely with that kind of regulation stuff, you have to seek out the attorneys who are representing you and just say, “But what do we do?” Do we want to continue with the attorney process because people have become used to it? Does it look like we’re not being good people? Or can we use the law and say the law says we don’t have to. Or they’re not required so we’re not going to? Honestly nobody wants an attorney process if you don’t have to have one. It’s just spinning every day.

**Linking to prior knowledge.** Compliance officers reported recent changes over the past decade underline for them the changing environment of Title IX. In addition to regular conversations with general counsel, these officers reported regular conversations with peers about prior changes and past experiences. These conversations, framed by prior knowledge, inform policy.

It’s just really interesting that in the past 7 to 8 years, people have become experts on Title IX in a really different way than they were 15 years ago but primarily finding my resources on campus, even if they couldn’t answer questions that were specific around Title IX, they could help me work through how the implementation piece so I would really closely with my general counsel around legal aspects and what does this look like, working closely with judicial affairs about those processes and then finding Title IX coordinators at other institutions who are dealing with similar issues who you could just bounce ideas off of or say, “OK, so we just got this guidance or got this, this is how we’re interpreting it, how are you interpreting it? (Zoe)
Prior to the 2011 DCL, Title IX was reported as being perceived as an athletics issue. The current Title IX offices need to work with, and train, many populations on campus. A common complaint was the misunderstanding that Title IX was an athletics issue.

I would say in the past, before the Dear Colleague letter, I would absolutely agree that most places thought Title IX was just the athletics purview. I remember the call that went around, like, “Is our Title IX coordinator the athletics person women’s administrator?” Right? Well, that’s a person. Yes, and that’s now considered a deputy person who’s going to have a line of communication with the Title IX coordinator. That changed completely for us, too. (Victoria)

Denise and others described large institutions like universities as slow to change course: the past dictating the present and influencing the future.

I think most institutions are going to continue with the policies that they’ve spent a lot of time in the past years adopting, adapting to, and putting money into.

**Unpack new knowledge.** Victoria described the initial unpacking of new knowledge. This is done prior to the initial conversation with general counsel.

Every time the government or a government entity sends out new changes to protocol through regulations, we have to be right at the beginning analyzing what the impact does on our practices and policies. I had a day off the day that the regulations came out, and I was getting e-mailed from my job to make sure I knew and I was aware of them. I have to familiarize myself with them immediately because I may get asked questions about them from the administration to help interpret the guidance with our legal counsel.

Wendy, has at times felt overwhelmed and has learned to step back from time to time, to find balance and a healthy level of objectivity.

In order to stay abreast the nuances of this decision I read various publications, I network internally and externally. Within this region and outside of the country as well. With regards to training and getting information from other people. Organizational affiliations. Focus groups are also a way of doing it. I have learned to take a step back. I would say it’s like having a huge meal. You have to take a step back and then just take small bites a time and digest what you can.
In sum. All compliance officers (100%) reported learning through informal learning processes. Dialogue was reported as the way compliance officers make meaning, keep their office current and uniform with other Title IX offices, as well as share the burden of the confidential and sometimes dark nature of their caseloads. Title IX officers reported that through critical reflection, they were able to avoid repeating past mistakes and predict upcoming changes by evaluating current trends. All Title IX officers reported reading, particularly e-mails and alerts, as one of the first actions they take to remain current each morning as they arrive at work.

Title IX officers described their learning as being largely a derivative of an ongoing and significant professional discourse with each other and various on and off campus personnel. Dialogues were frequently across the same level of power (peer to peer) and even when directed toward less powerful individuals, the nature of the work (student protection and empowerment) trends toward discussions which evidence mutual respect and cooperation. Through the two step process of training and reporting, Title IX officers reported multiple student / staff interactions which facilitated learning on the part of the Title IX compliance officer.

Finding #3 (see Table 4)

Most compliance officers, (94%) described sharing information with peers as most helpful to them in completing regulatory tasks. At the same time, many compliance officers (79%) reported that Title IX is highly specialized and difficult to explain and that hinders compliance work.

What helped. Compliance officers report factors which helped or hindered regulatory compliance. Being authentic and transparent helped to foster trust and to build social capital across campus. Dialogue with persons on and off campus allows more efficiency in completing tasks and as described previously was reported as a factor which facilitated learning.
Table 4. Findings for Research Question 3

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<th>Research Question 3. What helps and/or hinders compliance officers in meeting the challenges they face?</th>
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<td><strong>Factors that help</strong></td>
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<td>• Being authentic and transparent</td>
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<td>• Learning from and sharing information with colleagues 100%</td>
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<td>Peers in Title IX</td>
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<td>Peers on campus</td>
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<tr>
<td><strong>Factors that hinder</strong></td>
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<td>• The fact that Title IX is highly specialized and difficult to explain</td>
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<td>Hodgepodge</td>
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<tr>
<td>Contradictions with similar laws</td>
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<tr>
<td>Resources</td>
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<tr>
<td>• Title IX Misinformation</td>
</tr>
<tr>
<td>Building trust</td>
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<tr>
<td>Past trainings were based on past versions of Title IX</td>
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<tr>
<td>• Emotional nature of Title IX Work</td>
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<td>Two views of the same event</td>
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<tr>
<td>Trying to remain objective</td>
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<tr>
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<td>Define ‘Severe’</td>
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<td>• Not reporting directly to the President</td>
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<td>The number of people making decisions</td>
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<td>The perception of power</td>
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**Being authentic and transparent.** Compliance officers reported being authentic and transparent as influences on student and faculty perceptions of their office and of Title IX. Gender does not currently fall under Title IX protection, only sex. This presents Kathleen with an authenticity dilemma: enforce the spirit or the letter of the law?
I think one thing that we struggle with really, and this is kind of an extension, kind of extends Title IX, is when we start talking about gender. Title IX talks about sex, right? Not gender. When I have students who feel like they’re not being respected during classrooms as a result of their gender expression or identity, we don’t have a lot of policy to kind of fall back on and to support the students.

Being authentic for Karen is exemplified by her choices in presenting information and engaging students who question her compassion.

I have to communicate to and educate the campus so that they understand what all this all means and what qualifies as a hostile work environment, what qualifies as stalking. Is it one incident? Is it many incidents? And making sure our policies define and outline all prohibitive conduct and things like that. But what happens particularly in our environment here, is that then you are held to the letter of the law. And folks will make it work for their case because of course they want it to work for their case, right? So they ask, “Who are you to tell me this is not severe?”

Responding to student needs reflects Veronica’s commitment to authenticity.

So lucky for me, I think I’m in a unique perspective; I’m a social worker. Many people in these positions are lawyers or have different backgrounds, so I’ve always come from a higher education field. My background is in counseling and community organizing. So to me programming has been always second nature. So something that student’s affairs background is that we can throw together a program in five days, or even 24 hours sometimes, and have it running. So I think that, that’s something that specifically helps me to adapt to this kind of work is being able to really move quickly with what our students need, and recognize that, and then find a way to support them.

Following up on adjudicated cases evidences Rosie’s authentic desire to protect the students she serves.

Because I joint degree in Law and Social Work, I have a lot of case management experience, so that’s the approach I take to the cases. I meet, after a year even after a case is finished, to revisit these students and what happened because it’s really interesting to see the retention data and different aspects of where the students are after a year. A lot of times, students are withdrawing or having difficulties a year after a case, so that’s really important to follow up on and not just leave the case.

Learning from and sharing the workload with colleagues (100%). Madeline describes the division of labor within her office.
We each have a pretty clearly defined role. I have someone who really is focusing on a lot of the proactive education and the training. I have someone whose primarily responsibility is investigation and responding to all the reports that come in. And then, I’m trying to make sure that I’m the one who’s looking at things a little more strategically and looking more at our big picture… So, that way when something does come up, there’s always someone else there so the whole thing doesn’t fall apart.

Victoria’s experience supports Madeline’s assertion by describing what happens when this level of staff isn’t present.

Every time I’m behind closed doors with someone, there’s someone else who’s not getting paid attention to. It can be really difficult. Even though I have some support staff and I have a colleague who assists me in doing this work, it does feel like some people need more attention than others, and it can be a hindrance not to have the number of staff and resources that you need to really get the job done in a timely way, or in their perception of a timely way.

*Peers in Title IX.* Veronica stated the importance of networking with other Title IX compliance officers.

Making sure that you can connect to others who are doing very similar work to kind of check in and see what their campus is doing, has been the most helpful to me, because it’s a unique position I think at universities, and I think that those collaborations with others is really key when it comes to this work… It’s just really important in this field to have connections to other universities and to other coordinators, because depending on what school you’re at, it may or may not be a big department of people that are doing this.

*Peers on campus.* Kathleen described how delegating tasks to trustworthy professionals and students lightens her workload.

I have a really great relationship with other stakeholders on campus, like the counseling center, the office of public safety, and our police on campus. I think because of those partnerships being developed, the goals that I have against all of the demands and priorities that were kind of set for me, I can delegate a little, right? To kind of get some of that, get support with some of that help or some of that work.

Theresa and Wendy both described how cooperating with general counsel on tasks lightens her workload. Theresa described using her legal service.
We also have really good access to legal resources on our campus. We have in-house counsel, and we have another firm that’s on retainer. So I have never, under any circumstances, felt like I’m going to have to make a big decision or operate in the gray, without legal support and advisory council. That’s definitely available here to us at Unnamed University.

Being able to rely on the university’s legal department allows Wendy to focus time on other obligations.

It’s a small staff with regards to the diversity and the based on the action however the collaborative effort here with the legal system is phenomenal. So working together it’s very helpful in the way it’s structured here.

Frank described working with other department to split the costs of programs such as training.

Sometimes departments have gotten a little bit better with how to divert costs and how to promote different trainings and opportunities for the faculty staff. Using internal resources and trying to extend out just a little bit further so it could cover more people instead of specifically one or two types of employees.

**What hindered.**

*The fact that Title IX is highly specialized and difficult to explain (94%).* Frank expressed frustration at the lack of understanding common to administrators regarding Title IX.

I’m not really sure what the administrators believe. I think it’s because they’re fearful of legal questions or legal issues that may arise. I think that’s why they are focusing more on the legal background on it…. It’s very specialized. You know with other fields, like accounting, you know what you get. But with someone who deals with issues of Title IX, it’s an ever changing field. So, the background expertise is all changing. Even around 2011, most of the diversity professionals would’ve dealt with issues of Title IX. They were either academic or came from an academic background, or just given the assignment because people had checkbox to fill.

As Madeline explains changes only confuse people not working in Title IX even more.

The other piece that I think sometimes is challenging is helping others understand what it [Title IX news] means. For example, when they rescinded the Dear Colleague letter and the document, everyone was saying, “Oh, Title IX isn’t going to be enforced anymore and there’s going to be all these
changes.” Kind of trying to help educate some of my colleagues…. And, talking people down from the ledge when new guidance comes out or new regulations come out.

_Hodgepodge._ A confused mixture, a hodgepodge, was described in the literature as well as by the study participants; the natural consequence of Title IX law being refined multiple times by multiple parties to reflect contrasting points of view regarding Title IX’s role in society. As Rebecca stated “legislators, they don’t always have the best input from the people on the ground doing the work.” Frank described what this means for him as a Title IX compliance officer.

I think, in the future, you’ll probably see more specialization within this particular field. Right now, I believe that it’s very much a hodgepodge. So, it’s a lot different collecting ideas, but I think that in the future you’ll see more specialization within it because it takes a lot of parts of different types of employees that has created a position like, well, myself. It includes aspects of Human Resources Sales, it includes aspects of student development and administration.

The patchwork has holes as described by one of Patricia’s experiences.

Again, every time there’s a change, you have to train everyone, low version. You have to show that you are in compliance. The OCR decided that they were going to write to every school president and make sure that the schools have policies and they covered all the areas that are important. Well, nobody notified Title IX coordinators. All the presidents were notified, of course, presidents don’t necessarily read all their emails. So, we were already late by the time I got the email.

_Contradictions with similar laws._ At the time of this study three legislative components are at loggerheads in New York State as described by the compliance officers. These laws are Enough is Enough, the Violence Against Women Act (VAWA) and Betsy DeVos’s public statements that the DCL of 2011 no longer applies to Title IX cases. As described in the interview excerpts below, depending upon which law or directive you are quoting: a student may or may not have the right to an attorney, may or may not have the right to an appeal, may or may not have the right to ask an investigation to continue beyond sixty days. Rebecca and Frank described reading the laws, opinions from experts and the state system guidance.
I am in New York we have *Enough is Enough*. So we already have to follow that and VAWA already codified a lot of this stuff. So it’s not completely changing out…. They’re going to do away with the attorneys. Now, they do away with the attorneys, then we have VAWA who says we have to have attorneys, which law? Which one takes precedence? So that’s going to be a conflict, that all of us, especially in New York with *Enough is Enough*, which one takes precedence at the moment? (Rebecca)

Frank described how USS alerts him to changes, then works with individual universities within the USS, developing the working calendar and coordinating compliance goals and standards:

When New York State passed the law, *Enough is Enough*, they have a lot of requirements in it. So, then, USS and individual universities and colleges were determining what expectation, using the framework by the state, which codified the law. They had implementation dates. So, then we had to interpret them. We had to interpret what they meant, when to do it, and then plan accordingly.

*Resources.* Seventeen of 19 compliance officers (89%) mentioned a lack of resources as a leading factor leading to regulatory tasks either not being completed or resulting in suboptimal product. In addition, 10 of the 19 (53%) cited the DOE or the OCR penchant for unfunded mandates as factors leading their offices to fall behind schedule and/or go over predicted annual budgets.

I would say the factors that hinder us are resources. Every time I’m behind closed doors with someone, there’s someone else who’s not getting paid attention to. It can be really difficult. Even though I have some support staff and I have a colleague who assists me in doing this work, it does feel like some people need more attention than others, and it can be a hindrance not to have the number of staff and resources that you need to really get the job done in a timely way, or in their perception of a timely way. (Victoria)

Unfunded mandates reduce the efficacy of Frank’s office, not only do changes to the law give his office more to do, since they do not come with the funds to execute the new responsibilities he has to spend time convincing administration to allocate funds.

So when regulations and compliance change the number one issue is that most these changes are unfunded mandates. And so, there’s an expectation that the institution is going to implement the regulations whether it be *Enough is Enough* or Title IX for example. Let’s say that we now have to identify who are the responsible employees, they all have to be trained,
the students have to be trained but there is no funding for this training and it requires manpower.

Georgia reported the lack of staff requires leaving good work undone, impacting her university’s compliance.

I would say the biggest hindrance is the size of the staff. I know I’m not alone in this, because when I go to professional development conferences and I meet with other either Title IX people or EEO individuals, it’s the same thing. We don’t have the staff. (Georgia)

Samuel is an office of one underfunded and unable to execute the responsibilities in the manner he could if he was better staffed and had access to any additional resources.

I would say resources. Resources are a major factor. I’m a one-man team, for the most part. It can be very difficult trying to deal with the training aspect and the investigative aspect and the ... making sure the student is updated and the students in the matter are updated. So the resources is a major issue.

Victoria described the lack of resources as more than a regionally systemic issue. Critical dialogue with peers at conferences has convinced her universities have not kept pace with Title IX funding requirements.

Resources, 100%. It’s always resources. And I know I’m not unique in that it’s the battle cry of every college everywhere, private, public, what have, and everything in between. But it’s very difficult because one, there’s nothing that we do that doesn’t cost money, but two, it’s not just the money resources, but it’s physical time.

**Title IX misinformation (78%).** Title IX misinformation can keep people from seeking services as described by Susanne while misinformed professionals can innocently derail procedure. Susanne thinks one of the biggest factors in people just being afraid to come forward is because they believe the University is serving its own interests first.

There are just a lot of other barriers. We’re a diverse institution so sometimes culture plays into it. Things might be happening with an international student but they either are not recognizing what is happening to them or they are but in their culture, they don’t talk about those things and they don’t bring those things forward. Some of it can just be flat-out, for the student, embarrassment or fear of retaliation.
Samuel finds regardless of the amount or method of training people have natural tendencies that overwhelm society’s constructs such as Title IX.

Yes, educating and training, yes. But again, no matter how much you educate and how much you train, people tend to not do the right thing when they’re called to do the right thing. Not saying what they’re doing is being done out of malice, but they feel that the student confided in them, and they are trying to help the student and not necessarily disclose it to anyone. But, understanding that there is a responsibility for them to report.

Well-meaning but undertrained individuals complicate Title IX enforcement and education.

Something like that, where at least some employee or the student would know that there is a department that actually deals with it could’ve prevented other complaints or other issues that arises from an investigation. Because sometimes cases are very complicated, it’s not because of what it is, it’s because it continues or it was addressed inappropriately because you had a supervisor who takes it upon themselves to try to address it without doing it appropriately. So, it just makes it bigger. (Frank)

Past trainings were based on past versions of Title IX. Victoria also described faculty or staff who either through a lack of training or based upon previous trainings believe they only report credible accusations.

For example, the Bill of Rights speaks to a fundamentally believing the issue that’s coming forward. You have the right to be believed, right? Well, if you have the right to be believed, that means the faculty member who’s hearing the story for the first time who’s going to make a referral to the Title IX coordinator needs to know that they should not engage in certain behaviors that actually create this belief. There’s a practical piece. You may not believe it, but that’s not your judgment call. That’s not your place. You’re supposed to pass them along. You’re supposed to get the resources.

Karen believes the problem is larger; that administration’s view or definition of the responsibilities of the office needs to modernize and Title IX’s larger scope and ramifications are ignored at the university’s peril.

The notions of what compliance means in the higher education world need to shift. They are shifting somewhat, but just the notion that it’s this tick the box kind of attitude is really, really not the way. It’s not a best practice obviously, but it’s also not what this world, at least from what the regulators want us to do. It’s no longer enough to tick the box in any of this.
So what you thought you were doing is no longer enough. You need to step it up and really re-look at how you do things, right?

Victoria described a nuance lost on some professionals even after training.

We had been experts at sexual harassment prevention for years, domestic violence for years. The central Title IX piece is a different animal, and it does require additional training. We had fair and good investigations, we had really thorough work that we had worked with side by side with other colleagues in prevention, but this kind of stepped that up dramatically. (Victoria)

**Emotional nature of Title IX work (64%).** The compliance officers interviewed for this study described a hectic and dynamic environment filled with reports of sexual assault and stalking. Stories of alcohol and rampant cultural misogyny were joined by stories of professors using positions of power and influence to fulfill basic animal urges. Despite confidentiality preventing specific cases from being discussed, these professionals listed details about the dark and haunting nature of Title IX crimes on universities and the kind of personality required to survive hearing and working through the reports filed. “I think I’m kind of a professional optimist, which helps me in my role” (Kathleen). Rebecca feels the pressure of the office every day, a background buzz of responsibility like a foot ready to drop on you if you fail.

If you don’t make the right decision. So that’s a lot of pressure on somebody. If you slip up and you’re like “You know what? I thought we could wait to do the Persona Non Grata. Like we didn’t have exact information.” And then something happens over the weekend, it’s on you. You waited to do the PNG.

For Theresa, the length of the meetings and the sheer number of people who will try to involve themselves with a case makes it difficult to complete a fair investigation swiftly.

These meetings can go on for an hour, an hour or more, and then I get a follow-up call the next day from a parent. And then I get a phone call from another parent. And then I get a call from a coach. The time you spend with the community members and the constituencies of one or two or god forbid, more than two students involved, is also this un-factored it’s not something that anybody factors in how much time you spend trying to be a good
communicator and manage the privacy of all the students for everybody who also wants you to know they care about the kids who are involved.

Two views of the same event. Most cases involve only two people. The investigator may hear from each student’s parents and coaches and others; but only two people really know what happened in the moment that is being investigated. Even those who have never been the victim of a crime can hold deep convictions on either side of the Title IX debate as evidenced by a Letter to the Editor:

Unnamed University’s newspaper recently published a letter to the editor titled UU’s Title IX policies are asinine. The following is a redacted excerpt.

Why does Unnamed University not crack down on this? Why are rules not stricter? In a word: lawsuits. If you’re the victim of an assault, you can’t blame the university because they have measures in place. But if you’re the assailant and you’re innocent, but you’ve been punished by the university, you can sue. Or worse, if you’re the assailant and you’re guilty but you’re found innocent or charges are never brought you can sue the university. In order to protect itself, U university would rather counsel you on the torment you’ve endured, blow a lot of smoke about how it is a problem they take very seriously and ultimately do nothing.

In contrast UU’s own survey of a population of over 10,000 revealed the following:

• Students are well aware of policies, procedures and resources (both on- and off-campus) relating to sexual assault and the relationship violence at U University, including the role of the Title IX Officer and where and how to report incidents;

• Responding students reported a low prevalence of sexual assault and relationship violence at Unnamed University;

• Most students would intervene to help a student at risk of sexual misconduct, if safe to do so;

• A relatively modest number of students who experienced sexual misconduct while at Unnamed University indicated that they reported the experience; and

• Of those who reported, a majority were at least somewhat or very satisfied with the reporting process.
Fifteen percent of UU’s students responded. This is at the very bottom of the
response generated across three hundred universities in the National Survey of Student
Engagement who collected between fourteen and seventy percent. The survey stands in
stark contrast to the student’s letter to the editor. As Rebecca sees it, cases are almost
always between two people both of which believe their story, however when the case is
decided only one will receive what they believe is justice.

We’re making life decisions for the accused person, the complainant. For any of the witnesses that are involved. Are we putting this person back in our community? Did they really do this? Should they be back in our community? Nobody knows. Most recent incidents take place between two people. And we’re having to decide that. You know? I don’t think there’s any right way to learn how to do your job. Because no one is ever going to give you the definitive answer how to do your job. There’s just multiple ways of gaining that information.

Trying to remain objective. Given that either the complainant and/or the respondent
could be the righteous party or that both have suffered, compliance officers reported
taking measures to remain objective. They feel empathy for both but provide each party
due process, taking the time to fully investigate each case while trying to see cases
resolved within sixty days. Training plays a key role as does explaining the overlapping
laws to every person involved, many of whom have no wish to have their identities made
known to the respondent.

Victoria leans on training both for herself and as we have seen for her staff’s
development as well. Training allows her the objectivity and the skills to maintain an
objective practice.

Those [training] programs really helped shape how I could apply those same skills in a specific Title IX case. I knew how to do interviews in a way that would not ask leading questions that would be objective that would provide some empathy that had open and frame and close an interview with somebody. That was super helpful. The last thing you want to do is compromise your objectivity because of that. You want to be able to be as objective as possible, and sometimes it’s very difficult.
Denise needs to explain the objective nature of the policies and procedures in place to students who often mistake what they have seen on police dramas as how campus or Title IX function.

We have this pretty large case right now, and we have some witnesses who wish to remain anonymous, and we’re unable to allow that unless.... We would consider it if it was like a serious safety threat, but we have to retract their statements because to be in compliance with VAWA, we have to ensure that the complainant and the respondent are fully aware and have as much information as possible including the names of those involved so that they can.... So it’s a fair and just process. The students have a hard time navigating that. (Denise)

Even after a case is adjudicated, the compliance officers must remain objective. What Theresa described earlier as the “ever present feeling of anxiety” warns the compliance officers that what they say in a moment of compassion could return to haunt them in litigation. Denise is a mom and she described the difficulties involved in remaining objective even describing times she has gone right to the edge of the professional line because students needed advice and help.

I have said things after Title IX, we wrapped up with an investigation, or and I’ve stopped taking notes to say, “Listen,” but I have to be really careful about that, because it all comes down to at the end of the day, am I following their policy? And I think about every single situation. If a lawsuit came out against us and came out.... If somebody sued us, what would my words say in a transcript in terms of this report? Would I be seen as being biased? Am I being fair? Is this a just process?

While Samuel relies on following the law and procedure as written to assure objectivity and professional detachment.

There are because you want to make sure that you’re adhering to the law, you want to make sure that you’re taking all the necessary steps to make sure both the complainant and then the respondent are provided due process

_Trying to remain impartial._ In addition to being objective, any person involved in a Title IX case must remain impartial. Both sides must be afforded due process and neither can receive preferential treatment or advantage. Compliance officers struggle to consistently be a neutral and balanced party. Compliance officers make both parties
comfortable and listen with an open mind, often to behavior they have spent years educating the university population to avoid. Sadness, anger and frustration are laid aside to be dealt with later, after the investigation(s).

Rosie has close ties to her students and has expressed the time and resources she puts into not only educating them but protecting them as well. When she has to adjudicate between two of her students she puts the same care and time into seeing due process is afforded to the complainant and respondent.

I’d say the biggest demand is being this impartial person. That has to give resources to both an accused party and.... I’m going to talk more about the complaint process than prevention, education, and training. The important piece is that you’re providing resources impartially and equally to both parties and trying to protect both parties through a process…. I do have a role in trying to make sure that the investigation process itself is accurate, impartial, and following a best practice model of fact finding.

Denise will use distance and a moment to recover her composure until she is able to see her students are able to receive due process in the face of troubling circumstances.

I’ve had to leave the room sometimes because I’ve had emotional reactions to things, as well, that they’ve told me. So it’s difficult, and where I want to put my mom hat on and say something, again, because then I’m not being ... I’m biased.

Patricia explains how sometimes slowing down and connecting to students allows the student and the Title IX professional to achieve more in their time together.

Yeah, and getting people comfortable so that they know they are safe, that they are.... This is an investigation, that determination has not yet been made. So you have to care for both parties until you finish the investigation. So those things create a lot of demand. Sensitive and making sure that you connect with the student, making sure that they know what their rights are.

Who are you to tell me this is not “severe”? The laws are not always clear. As pointed out in the Letter to the Editor earlier, they may even appear to be purposefully vague. This was reported to lead to a clash of definitions between Title IX professionals and the populations they serve. Karen stated a perception about how people perceive Title IX.
I have to communicate to and educate the campus so that they understand what this all means and what qualifies as a hostile work environment, what qualifies as stalking. Is it one incident? Is it many incidents? And making sure our policies define and outline all prohibitive conduct and things like that. But what happens particularly in our environment here, is that then you are held to the letter of the law. And folks will make it work for their case because of course they want it to work for their case, right? But no you say, severe, and I think this is severe. And who are you to tell me this is not severe?

Victoria described the weight placed upon Title IX compliance officers to investigate and comply, and the cost their actions have upon the two people involved.

I’m accountable to make sure that those things happen, so there’s a level of pressure to make sure that, number one, you do things correctly. There’s a huge liability if you don’t. There’s consequences on human life. There’s consequences on human beings. It’s not just a number or a legal thing. It’s like students who are impacted by these things. You want to make sure you’re giving them everything that they’re supposed to have to make it a fair and supportive process. There’s accountability there, if they change the way of us doing something, we need to make sure we’re following through for the benefit of our students.

Extra work impacted negatively on their personal lives (53%).

Examples of negative impact. How do compliance officers adapt to managing all the demands placed on them? Madeline replied, “I drink a lot of coffee.” Compliance officers reported recurrent bad dreams, unhealthy caffeine consumption, negative changes in beliefs and feelings, feeling keyed up, hard time sleeping and trouble concentrating. Some even went so far as to describe feeling uncomfortable being alone with respondents. Theresa describes the ever present feeling of anxiety.

You live in this ever-present anxiety of understanding that when a Title IX case comes to your attention, because of the oftentimes, just absolute seriousness and sadness of what we’re dealing with, in the times of incidents that our students are dealing with, they rise right to the top of your pile of stuff, because you look at what a young person is experiencing, and this is what needs to get my full attention, so everything else drops away.

Georgia describes the weekly overtime experienced by many Title IX compliance officers. Most described this as something that occurred early in their career the exception being the two who were relative newcomers and experiencing it now:
At home, it wasn’t feasible for me to work five days a week and then still come in on the weekends just to try to catch up on things that were not Title IX related. (Georgia)

Zoe felt without her voicing Title IX concerns no one else would bring them up. She also expressed the need to put in extra time to see tasks completed and students served correctly:

I do think for me personally it was very challenging to balance my own personal mental and professional well-being in that position, just feeling like if it wasn’t me at the table saying it, I don’t know if anybody else would be talking about it, which may or may not have been true but that was just how I felt, like, if I didn’t raise the conversation about where are we working on Title IX, how are we supporting our students, how are we supporting our faculty and staff, then no one else would have that conversation.

Rosie developed a much needed self-care program. She found she was not alone when she spoke to other title IX compliance officers about the negative impacts of compliance work on her home life.

I developed a self-care training for Title IX administrators at a conference, which was pretty fun. I have never presented at a conference with as much talking as happened with that one. It was funny because the first thing I said was, “How many people are sleeping at night?” Everybody said pretty much that they were sleeping. Then I was like, okay, let me try this different. “How many people are tired right now?” Everybody raises their hand. “How many people are over caffeinated?”

No-one is talking about it. Title IX officers spoke frankly about an aspect of the office that, while apparently obvious to the Title IX community, was not known to the researcher. Many Title IX officers are coping with the lack of personnel and resources by extending existing personnel and resources. Many times this impacted negatively on the officer’s life as described below. Theresa spoke plainly that as a Title IX veteran, someone who has seen the Title IX field for decades, she has not heard professionals on either the Title IX or administrative side talking about the negative impact the work has upon the people doing it.

The self-care, I don’t think anyone gave; no one is providing strategies for how you manage that. I have to imagine that in other fields, like being a
police officer or being a counselor, or just being a doctor or surgeon or somebody where you know you’re going to deal with trauma on a regular basis as part of your professional preparation, should have some parallel piece in there about how do you make sure you keep a hold of you in the process of all this. Student Affairs and higher education doesn’t pay attention to that at all.

Zoe is feeling responsibilities increase without a matching increase in staff size.

We’re still working with the same number of people in our office and we’re expected to do so much more. And so, a person can only work a certain amount of time before they get tired or the work weeks over. And so, we can’t provide as much as we used to provide because our resources are being move or shifted over so our priorities are being shifted over. (Zoe)

Lisa recognizes she is not taking the time to take care of herself. She sees self-care as a vital yet overlooked part of being a professional and how you should approach Title IX work.

But the work that we do is not easy and it is taxing and it is emotional. If people don’t take time to re-energize and step away from their job, then they’re going to be burnt out relatively soon, which is always sad because this is the type of job that is not meant for everybody. That’s not a bad thing, it’s not a good thing. It’s just there are certain things that it’s ... not everybody can do it. To lose good people because they burnt out because they couldn’t take time to focus on themselves ... it’s important that we do so. (Lisa)

Not reporting directly to the President. One of the few areas of disagreement was identifying the ideal person for Title IX to report to on campus. While the Title IX officer is ultimately responsible for any Title IX related decision, opinions varied as to if they should fall under Human Resources, Legal or the university president’s office. Karen has recently experienced a new reporting structure.

I now report back into the president’s office, which brings back the visibility of the position. And brings back just a different perception around campus about what it is that I do and its importance, right? The double edge sword in that is that now that people know, this is where I’m back and I’m reporting again too. It makes them even more eager to report because they have the trust back. They know that somebody’s listening.

The number of people making decisions. While the Title IX officer is ultimately responsible for any Title IX related decision, any person between them and the university
president is a potential roadblock. As described earlier Title IX is a field both highly specialized and full of misinformation. Any person making decisions on the offices behalf could be expected to be operating under less than optimal conditions and with less than the latest information or current legal interpretation. Kathleen expressed concern about the length of time and the effort involved in coordinating campus departments and personal agendas.

If you need to make a change in a policy for compliance that has to go through several channels on campus before that is put into place. Sometimes timing is essential in that whole process. It changes by the time, like right by the time I get that policy, language gets updated or improved, there’s already been changes that need to applied, right? Because it takes so long. I think about getting everyone on the same page and establishing buy-in, because I think people can interpret legislation in very different ways and it translates for them very differently.

Frank described the difference between the regulatory pace and campus pace.

The regulations can change quickly; implementing it is slow on campuses. Campuses are notoriously slow. I’ve worked in corporate culture before and there we could change things very quickly if need be, higher ed not so much…. So, it’s a much slower pace in the institutions. But, when the regulations come in sometimes they can’t even be implemented as fast as they need to be because of the nature of higher ed.

The perception of power. University president, legal or human resources, who you report to was described as a large factor determining the level of visibility, respect and support Title IX receives. Karen describes the result of reporting to the president’s office.

They know that somebody’s listening. They know that they can report, so I have seen a volume tick since that. But I also saw a volume tick during the campaign cycle. Oh yeah, huge, huge, huge. From students, from employees, all of the above. It was palpable tick.

Theresa’s experience leads her to believe the reporting structure makes a difference in staffing and resources. For her the move to human resources works well:

I think it matters who the compliance officer reports to, human resources. So I think our decision to have that person report to HR and our VP for Human Resources, I think it’s a good decision for our campus. I don’t think it was an easy decision, because I think it could very easily have
reported to student affairs, either to me as the AVP or to our VP for Student Affairs.

Frank stated the importance of administrations goals aligning with Title IX priorities.

Leadership goals, like if you have leadership supporting something, you’ve got more resources for it, but when you don’t have leadership supporting something, you get a lot less resources for it and sometimes they move it. Let’s say, if you have a pot that can only hold so much and that’s the only thing you have, if the leadership view is to support this, then they shift monies to it and then less monies for other parts of it. What does the leadership describe as important? Because that’s where you see the resources go to.

Interacting with faculty and staff. Experience has taught Rebecca that faculty may resist training.

I’ve had faculty in trainings trying to tell me that they know what “harassment” is and they can…. I don’t come in here and tell you how to be an engineer. This is my area of expertise; I mean I wouldn’t say it like that. But this is my area. I’m supposed to be the expert here and you don’t even respect the fact that I’m the expert here. I am telling you what sexual harassment is and what it looks like. What we need you to do. But I do think that the degrees help.

Toby has found in his experience staff or administration may resist compliance or at the very least entertain the notion of not being in compliance. “You’re trying to tell people we have to comply the regulations or the mandates and the response is, ‘Well, what happens if we don’t?’” For Kathleen, networking and relationships drive compliance.

It does circle back to relationships. I have a committee for policy procedure review that is kind of a cross representation of our college population, faculty, staff, students. What I think is difficult is that there are people who are interested in the topics, but not particularly knowledgeable. Do you know what I mean?

For Frank community buy in is the best way to ensure true compliance.

I can say, “It’s because of the law. We have to do it.” If I don’t have buy-in from across the community, then people are not going to be in compliance. So, they’re only going to be compliant to my face and then go
back and do their own thing, they’re going to do something that might not be proper.

As Samuel described sometimes things are not done correctly with the best intentions.

I don’t believe anyone doesn’t take it seriously. I just believe that as much as you may train an individual on, when I say faculty and staff on the proper things to do, and what must be done, I think that some of the faculty and staff may think that them not following Title IX may be in the best interest of a complainant…. Not saying what they’re doing is being done out of malice, but they feel that the student confided in them, and they are trying to help the student and not necessarily disclose it to anyone. But, understanding that there is a responsibility for them to report.

Interacting with students. Madeline accounted for two reasons why students are reluctant to come forward; the belief Title IX serves the institution not the student and the size of the school preventing closer relationships.

I think in terms of assisting students, I think they don’t necessarily trust our office. I think they’re like, “Well, you work for the university and your job is to make sure the university is being compliant so I’m not going to trust that you’re looking out for my best interest.” And, that’s a challenge especially in an institution this size where we can’t get out and meet every student. So, I think that’s the biggest challenge in working with students. And also, this is just complicated.

Kathleen reported that people push back and resist training.

It is not always easy. And it does help if you think that you’re trying to educate people, however much they’re pushing back because they, all of them, whatever, staff, faculty, students, always push back on wanting to learn this. Nobody wants to talk about it. We want you to see something, say something.

Veronica takes what she learns and brings that knowledge to others so they too can educate and protect students.

I think like I said earlier a little bit, figuring out how to be an advocate for the students that you’re working with, and their needs, and their experience, and then relaying that to others who, depending on their position, may or may not have such a high level of contact with the students. And then I also think that, that really is one of the most important things that I do.
**Building trust.** Compliance officers described being new or unknown on campus made it less likely for students, staff, or faculty to seek them out. Building social capital with faculty administration and students as well as others in the larger community is an ongoing process. Compliance officers such as Angie, Veronica and Frank expressed taking care while crafting their message to promote their offices as open and seeking to serve the entire community, the people of the institution not the institution. But despite yearly training sometimes people don’t reach out.

As Angie explains, Title IX incidents are deeply emotion and deeply personal. Bringing them to an unknown person in an office can be daunting.

If you’re already going through a very difficult thing and it’s already hard to talk about something, I think people think, “Well, I’m not going to take it to some administrator who’s sitting here in an office, working 9:00 to 5:00 to get a paycheck. Are they really going to help me?” I also combat the fact that people say, “Well, you work for the University so you’re going to take care of the University interests first. If what I tell you could hurt the University, you’re going to try to kind of brush me to the side or whatever.” Yeah, definitely that taking time to communicate and to build that trust is huge and being able to come to a resolution at the end.

Figuring out different ways to make Title IX more easily accessible for students, and figuring out different ways to collaborate drives Veronica to work closely with her students.

If they don’t understand it, then figuring out and working collaboratively with them, which is something that I’ve been doing and we have been doing for the past few semesters, is working with our students on campus that are advocacy-based in their organizations, or who just are very involved around these issues in various ways, whether that be on campus or off campus, and really working with them to also help better translate our policies for students, because while what we have in our policy might sometimes get confusing.

Frank described how people working for an institution for years can still be ignorant of their rights and protections.

You would get a case where someone who was sexually harassed for years and there was one point where they just said, “Screw it, I’m done.” So,
looking at it, you start trying to figure out why this person never reported it before. Sometimes you’ll get the answers, “Well, I didn’t know this existed. I didn’t know that I could.”

**In sum.** Most compliance officers (94%) described sharing information with peers as most helpful to them in completing regulatory tasks. At the same time, many compliance officers (79%) reported that Title IX is highly specialized and difficult to explain and that hinders compliance work. As described in the previous findings, compliance officers learn through dialogues both with other Title IX professionals and with others on and off campus. Title IX compliance is also more efficient if the office is perceived as being authentic and transparent.

Several factors were reported as hindering the completion of vital Title IX regulatory tasks. Title IX is highly specialized and difficult to explain due to the patchwork way in which it has evolved and the hiring practices that have been employed were often reactions to regulatory shifts making individual university Title IX histories as scattered and an inexplicable as Title IX regulations. Title IX often overlaps and contradicts state laws and union contracts resulting in time and resources spent solving issues. Each time Title IX is changed, compliance officers must identify and acquire new resources or miss deadlines or go over projected budgets.

Title IX misinformation results from news and social media sources and necessitates annual training. The emotional dark nature of working on sexual harassment and assault cases create a difficult work environment as evidenced by reports of negative impacts on the Title IX officer’s lives. Title IX officers reported the need and difficulties involved in being objective and impartial.

Campus hierarchy directly affects the level of power and resources Title IX officers have at their disposal. This echoes in the ways in which Title IX officers interact with staff, faculty and students. Sexual assault and harassment is often about power and authority and addressing sexual harassment was also described as having a power and authority component.
Findings Chapter Summary

This chapter presented the three major findings revealed through the study participant’s narratives. Findings were organized in the order of the research questions. Data from individual interviews and document analysis revealed research participants’ perceptions vis-à-vis their experiences as Title IX compliance officers. As is typical of qualitative research, extensive samples of quotations from participants were included within the report. By using participants’ own narrative, the researcher aimed to build the confidence of readers by accurately representing the reality of the persons and situations studied.

1. The first finding of this study was that compliance officers defined the need to interpret new regulations with general counsel in order to communicate changes to constituents. Although each officer had a unique value and skill set, they collectively felt interpretation through dialogue was a universal need experienced by all compliance officers. Several expressed this as the need to have the clearest factual “letter of the law” understanding, while others were more focused on aligning their own universities with what others were doing. Regardless of focus, cooperation with general counsel was widely reported as the bedrock of legal interpretation and the beginning of communicating changes to others.

2. The second finding was that compliance officers learn through a variety of informal processes primarily through a mix of critical thinking and (sometimes critical) reflection. While the motivations and information sought varied, compliance officers employed the same techniques largely describing not only the same processes but similar timelines and the same order for information acquisition. Reading primary source material was followed by reading secondary interpretations, followed by critical reflection and dialogue with general counsel and or others in the field. This led to a second stage of dialogue largely
concerning communication and cooperation with campus staff, faculty and students. This communication and learning was expressed as an iterative process with each information loop either building on a previous loop or destructively interfered with as residual information now rendered obsolete became a barrier to new policies or constructs.

3. The third finding was that compliance officers, described sharing information with peers as most helpful to them in completing regulatory tasks. At the same time, compliance officers reported that Title IX is highly specialized and difficult to explain and that hinders compliance work. Although individuals recounted different priorities and agendas held by their own institutions, the compliance officers spoke collectively about the difficulty in translating Title IX administrative and legal jargon. All spoke of the difficulty in choosing when and how to train, one of the fundamental Title IX tasks. Despite annual trainings and hours planning and executing websites and events Title IX is still often misunderstood or sensationalized by news coverage and social media.

A finding emerged from this study for which the researcher had not anticipated. Many of the frustrations and challenges these professionals face are a direct result of federal policies which do not fit the specific localities where these officers work. The northeast for example, has a robust history of unions. Many university positions are represented by collective bargaining agreements which are revisited and collectively bargained for every three to five years. Three to five years is far greater a timeframe than regulation changes allow for new policy initiatives to be constructed, enforced and most importantly evidenced. As a result, universities must either bargain with union members for a contract rider or break the contract and enforce the new regulation even if it denies a liberty or right, implicitly or explicitly stated in the contract. Policies do not exist in a vacuum, they interact with and either reinforce or disrupt other behavioral norms.
In an effort to seek deeper meaning from her findings for analysis, the researcher aligned each research question with the major findings statements and then proceeded to answer the central question of the study—How Higher Education Compliance Officers learn to manage new requirements in a dynamic regulatory environment. The answers to that central question became the analytic categories that were used to frame the findings for analysis and interpretation. The narrative that fit with the findings was that compliance officers learn to interpret and manage new requirements in a dynamic regulatory environment by first, critically reading regulatory changes for intent, then consulting with legal counsel prior to communicating changes to constituents. (Analytic Category 1). Second, sharing information with peers helped compliance officers comply with regulatory requirements (Analytic Category 2). Findings were then analyzed through these analytic categories as shown in Table 5 on the following page.
Table 5. Study Design

<table>
<thead>
<tr>
<th>RQ</th>
<th>Finding Statement</th>
<th>Compliance officers in higher education learn to manage regulatory requirements by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?</td>
<td>Compliance officers defined the need to interpret new regulations with general counsel in order to communicate changes to constituents.</td>
<td>First, critically reading regulatory changes for intent, then consulting with legal counsel before prior to communicating changes to constituents.</td>
</tr>
<tr>
<td>How do compliance officers learn to comply with new regulations?</td>
<td>All compliance officers indicated that they learned through informal means; reading, dialogue, and critical reflection.</td>
<td>Second, sharing information with peers helped COs meet comply with regulatory requirements</td>
</tr>
<tr>
<td>What helps and/or hinders compliance officers in meeting the challenges they face?</td>
<td>Compliance officers described sharing information with peers as most helpful to them in completing regulatory tasks.</td>
<td></td>
</tr>
</tbody>
</table>
Chapter V

ANALYSIS, INTERPRETATION, AND SYNTHESIS OF FINDINGS

Purpose

The purpose of this interpretative case study was to explore with a group of compliance officers how they learned to manage new regulatory changes quickly and efficiently. The researcher hoped to uncover the ways in which compliance officers understand, in the absence of an authoritative governmental voice, what the new regulations mean and how to go about making changes on their campus that allow a smooth transition and maintain compliance from one iteration of the law to the next. It was also hoped that this study would yield insights into how to provide critical support to compliance officers to aid them in their learning and policy execution.

Research Questions

1. How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?
2. How do compliance officers learn to comply with new regulations?
3. What helps and/or hinders compliance officers in meeting the challenges they face?

The three major findings uncovered through the data collected in this study largely addressed the three research questions:
1. The majority of compliance officers (94%) defined the need to interpret new regulations with general counsel in order to communicate changes to constituents.

2. All compliance officers (100%) indicated they learned through informal learning means: reading, dialogue, and critical reflection.

3. The majority of compliance officers (94%), described sharing information with peers as most helpful to them in completing regulatory tasks.

This chapter attempts to provide analytical and interpretive insights with respect to the findings that were presented in Chapter IV. Much of Title IX learning is informal, consisting largely of conversations about a specific task or construct. This made it a difficult metacognitive exercise for those interviewed to describe specifics of how they had learned. “Informal learning is largely invisible, because much of it is either taken for granted or not recognized as learning; thus, respondents lack awareness of their own learning” (Eraut, 2004, p. 249). Therefore; much of what was learned was from comparing and contrasting participants who occupy variations in either years of experience or organizational philosophies. By talking about events, their “aha moments,” through the lens of human interactions and emails, participants were able to recall details and feelings from which they were able to articulate the foundations of their decision making.

The researcher has used participants’ collective data to suggest possible categorizations for additional research, which may influence the emergence of theoretical and practical developments. While the findings chapter provided objective data in small narrative segments that were aligned around the respective research questions, this chapter integrates the various parts into a cohesive view of the research phenomenon.

The following analytic categories, which were introduced at the conclusion of the previous chapter, guided this process. Compliance officers in higher education learn to manage regulatory requirements by:
1. First, critically reading regulatory changes for intent, then consulting with legal counsel prior to communicating changes to constituents.

2. Second, sharing information with peers helped compliance officers (CO’s) comply with regulatory requirements.

The above analytic categories have enabled the researcher to extract deeper meanings from her findings. Thus, the current chapter is organized around the above mentioned analytic categories, followed by a discussion of the related findings. Following the discussion of the interpretation of the findings, the researcher (1) revisits the assumptions underlying this study that were presented in Chapter I, (2) presents contributions to the literature, and (3) offers researcher reflections.

**Analytical Categories**

Years of experience working in Title IX has impressed upon these compliance officers the need to learn and act quickly, as well as the cost of making mistakes. Throughout the data collection process, the Title IX compliance officers spoke bluntly about their experiences with new regulations, the ways in which they conceptualize their conversations with others, and the effects that a Title IX office has had on their lives. The variation in responses among these professionals was an indication that there would be a variance in the ways that they processed and integrated the experiences. Taking into account participants’ descriptions of their experiences, the researcher was able to identify three qualitatively different groups among the sample as seen in Table 6 below.
Table 6. Participants Sorted by Category

<table>
<thead>
<tr>
<th>Categories</th>
<th>Participants</th>
<th>Commonalities expressed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legalists</td>
<td>Madeline, Frank, Madel</td>
<td>Prioritizes letter of the law</td>
</tr>
<tr>
<td></td>
<td>Georgia, Rebecca, Lisa</td>
<td>Risk management mindset</td>
</tr>
<tr>
<td></td>
<td>Patricia, Zoe, Toby</td>
<td>Tends to align more readily with general counsel</td>
</tr>
<tr>
<td></td>
<td>Samuel</td>
<td>Narrower interpretation of Title IX</td>
</tr>
<tr>
<td>Social activists</td>
<td>Veronica, Victoria, Theresa</td>
<td>Prioritizes spirit of the law Student safety mindset Aligns easily with students</td>
</tr>
<tr>
<td></td>
<td>Denise, Rosie S</td>
<td>Broader interpretation of Title IX</td>
</tr>
<tr>
<td>Peacekeepers</td>
<td>Karen, Wendy, Kathleen</td>
<td>Prioritizes consensus Seeks balance avoids conflict Remains neutral</td>
</tr>
<tr>
<td></td>
<td>Bethany, Wendy</td>
<td></td>
</tr>
</tbody>
</table>

The categories listed are not identities; they instead describe common approaches or paths used to interpret changes to Title IX. Each approach has characteristics that describe priorities and patterns of task management. This categorization was based upon participants’ responses to questions. Certain word and phrase choices as well as narrative foci expressed the participant’s priorities. The researcher acknowledges that the limitations of data collected make it impossible to determine if other compliance officers might not show up differently if an alternative method of data collection was used over time. Many participants described evolving within the role of compliance officer and likely would have been assigned to a different category earlier within their tenure as a
compliance officer. While education and work experience correlated with the characteristics of each group, they more likely reflected interests already held by the individual rather than a causal relationship. Each group—Legalists, Social Activists, and Peacekeepers—will be described below, and will be used to analyze compliance officers’ experiences learning and educating others about Title IX. It should be kept in mind that people move freely from group to group as their own experiences and a school’s administrative priorities influence both the compliance officer and the environment in which they act.

**Legalists**

As stated by three participants, Title IX is trending toward hiring people with strong legal backgrounds. It is not surprising then that the largest category would represent behaviors that reflect strict adherence to the law, especially the letter rather than the spirit of the law, as a foundational aspect of a recommended approach to compliance. The legalist is not afraid to fight because (s)he has prepared and understands the law in question thoroughly. Actions will prioritize enforcing the law as written, extending the will of the people’s duly elected government. The legalist acts as though she believes in the social constructs of justice and order through institutions. The legalist reflects upon what is already going on and looks to plug holes in the institution’s defenses. The legalist focuses on legal language and consensus about new policy. The legalist seeks new policies that reinforce existing safeguards. The legalist is frustrated by vague language and factors which could be seen as interfering with a letter of the law approach to completing tasks. This approach aligns well with the general counsel’s office but may bump against student and administrative priorities.

**Social Activists**

Some participants view Title IX as a means to the end of ensuring a person’s liberty to pursue their education. For professionals taking this stance, the law is a tool not
the measure of success. Title IX is the tool which prevents bullies from disrupting any
given student’s claim for a brighter future. The spirit of the law guides people when they
take this approach. A social activist compares new regulation to their own internal
compass and moves according to their interpretation of what is best for the students, staff
and faculty. The activist looks for ideas that move the campus in what they perceive as
the right direction (inclusivity, safety, justice, victim and respondent rights).

**Peacekeepers**

There are those who value the smooth operation and balance within society, both
the campus body and the nation as a whole. These compliance officers seek balance. In
this study those who adopted these behaviors strove to educate rather than punish, to lift
up rather than force out. While protective they shunned conflict wishing to use other
means to bring consensus. Peacekeepers looked for ways others were communicating
changes and seeking consensus. Peacekeeping behavior seeks community consensus,
seeks stability and equilibrium. Many described a world view in which people create and
inhabit their own realities. The Peacekeeper communicates changes to others in the most
palatable manner while seeking consensus across campus.

A number of factors—age, gender, number of staff, the university’s history with
Title IX, mentors, length of time in current position, reporting structure—were examined
in an attempt to provide evidence for what acting in ways consistent with one or others of
these idealized behavior stances regarding Title IX as stated below in Table 7.
Table 7. Evidence for Placement Within the Various Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Narrative Excerpt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legalist</td>
<td>Toby</td>
<td>Before our role was more ... what’s the word for it? Creating a culture of inclusion and respect. Now, we’re changing it more to we have to follow the law. So, it’s a different approach and a culture that even though the in my office are very much about creating inclusive and respective places, now we’re saying, “We have to do this because it’s the law.”</td>
</tr>
<tr>
<td></td>
<td>Samuel</td>
<td>Well our first course of action is because we have our University policy on Title IX, any changes will be looked at by our Office of General Council.</td>
</tr>
<tr>
<td></td>
<td>Georgia</td>
<td>I already receive updates from the Department of Education from New York state Department of Education, as well as a few law firms that I’m subscribed to and I get updates. What happens is I’ll go in and actually read the new legislation, but then luckily, like I said, we have council’s office who stays on top of it, they usually will provide a summary saying, “Okay, that 64-page document, we sort of put that in concise version and this is what actually needs to happen.” That’s how I get the information.</td>
</tr>
<tr>
<td></td>
<td>Madeline</td>
<td>I really feel like it forced institutions to hire people like me who have a legal background and are really familiar with the regulations and are going to make sure we can ... I feel like it was no longer an option to just do what’s best for students because you might not check one of those compliance boxes as you were doing that. So, it really added that whole piece of responsibility onto this kind of work.</td>
</tr>
<tr>
<td></td>
<td>Frank</td>
<td>Now, when you’re looking at it, the more recent hires either have years of experience, so you have people dealing with it in the field, or you have people looking for a legal background. It’s changing, a lot of things are changing. That’s also true for the Title VII, but less so. So, I haven’t seen that type of issue with the Title VII stuff. Most of the time, they would get into a general HS or a general HR. Someone within human resources.</td>
</tr>
<tr>
<td></td>
<td>Rebecca</td>
<td>This is where I think having a legal background is helpful. Because part of that training, which is probably true in some ways, but part of that training is being able to skim through something for what is the most important and move on that.</td>
</tr>
<tr>
<td>Social Activist</td>
<td>Karen</td>
<td>I think others need to recognize and I think having other constituents, faculty and your community understanding that this is not just because it’s against the law. It’s a better way. I know that might be very Polyanna of me to view, but just that this is in a learning environment, and an educational environment. Certain things are just not what we want to see and how we should behave</td>
</tr>
<tr>
<td>Category</td>
<td>Participant</td>
<td>Narrative Excerpt</td>
</tr>
<tr>
<td>------------------</td>
<td>-------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Social Activist</td>
<td>Susanne</td>
<td>First of all, acknowledging, acknowledging their feelings, acknowledging where they’re coming from, to the best of my ability, making them feel that they’re a priority when they’re talking to me and that I do think that their case is important or that their issue is important and that I am dedicated to helping them resolve it.</td>
</tr>
<tr>
<td></td>
<td>Rosie</td>
<td>Because I joint degree in Law and Social Work, I have a lot of case management experience, so that’s the approach I take to the cases. I meet, after a year even after a case is finished, to revisit these students and what happened because it’s really interesting to see the retention data and different aspects of where the students are after a year. A lot of times, students are withdrawing or having difficulties a year after a case, so that’s really important to follow up on and not just leave the case.</td>
</tr>
<tr>
<td>Peace-keeper</td>
<td>Kathleen</td>
<td>A requirement of by federal law, is to get out and do campus education and trying to reach students, faculty, and staff in a way that creates some buy-in for the expectations that I have for faculty and staff around being a responsible employee.</td>
</tr>
<tr>
<td></td>
<td>Denise</td>
<td>So I think there’s a certain difference when you go to law school. You have a different level of training, and I have a higher education background and so I’m naturally much more of a feely empathetic... Not to say that lawyers aren’t empathetic. My husband would laugh at that, but you know what I mean. I think about the whole student’s experience and I do think about all those other things so, yes, it gets very challenging for me personally in being compliant, but also being a human being.</td>
</tr>
<tr>
<td></td>
<td>Zoe</td>
<td>Some of the formality pieces of it don’t want to take that away but sometimes even the opportunity to educate through that process even though the outcome was campus removal from the institution, it felt like that was taken away because we didn’t interact with the student in the same way. You didn’t have the “Do you understand this conversation.” It was really like, here’s all the facts and here’s the decision and then here’s the sanction if there is one and so it felt like it was becoming less and less educational even though it was part of an educational process.</td>
</tr>
<tr>
<td>Peace-keeper</td>
<td>Lisa</td>
<td>It’s a combination of making sure that I am aware of the current trends, any changes in laws and regulations. It’s making sure that I have a pulse of what’s happening on the climate and the culture and the community at large. It’s always looking ahead, not just to what’s happening and what’s in front of me, but assessing what is currently happening and the decisions that we’re making and the process that we’re following. How is that going to affect us in six months, in one year, in six years? So it’s also looking at the sustainability of everything but also frequent assessment and adjustment as needed and looking at any changes or challenges as opportunity for assessment and to reevaluate.</td>
</tr>
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</table>
Analysis

Analytic Category 1

*Compliance officers in higher education learn to manage regulatory requirements by first, critically reading regulatory changes for intent, then consulting with legal counsel prior to communicating changes to constituents.*

This analytic category will be used to analyze two research questions: How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies? (Research Question 1), and how do compliance officers learn to comply with new regulations? (Research Question 2).

Compliance officers described the fast dynamic and stressful environment in which they learn. They described a paradigm wherein the governmental regulations they are tasked with enforcing are often published with vague or incomplete wording requiring them to fill in the blanks by processing the incomplete regulatory instructions and by comparing them to existing case law and years of evolving court precedence. When instruction does follow law, it is not in itself a law. The guidance helps to frame the enforcement by clarifying how the department issuing the guidance will pursue institutional compliance. While guidance documents are not law, they describe to schools how the Department will review and enforce Title IX complaints (Know your IX, 2018).

Because each claimant is an individual and each compliance officer must make his or her own meaning and develop his or her own way to go about completing regulatory tasks within a unique community, Title IX is a paradox: While the law is uniformly enforced it is individually pursued, individually interpreted, individually understood.

Rebecca pointed out:

Because it is difficult. You know? And on calls you’re probably, if it’s on a call, I would say everyone, but maybe one person, lawyer and we’re all administrators who do this work, won’t know the answer. Like what do we do? There is no like definitive answer. Every case is different.
In Chapter IV, we learned that Title IX compliance officers have a fairly uniform way of learning: first reading then developing a consensus with others, often a state system, before consulting with general counsel to develop policy changes which will allow the university to remain in compliance. What varied in the compliance officer’s narratives was the foci of the learning. Compliance officers in higher education learn to manage regulatory requirements by: First, critically reading regulatory changes for intent, then consulting with legal counsel prior to communicating changes to constituents.

Table 8 illustrates how legalists focused on the letter of the law and understanding what new regulations mean to the responsibilities of their office.

Table 8. Evidence of Legalist Learning Foci

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legalist</td>
<td>Toby</td>
<td>Toby described the trend away from “creating a culture of inclusion and respect” shifting toward ‘we have to do this because it’s the law’.</td>
</tr>
<tr>
<td></td>
<td>Samuel</td>
<td>Samuel stressed the need to coordinate early with general counsel. In addition to using a traditional approach to breaking down new law, Samuel’s extensive legal experience allows him a familiarity and comfort level that is becoming common among new Title IX hires throughout higher education.</td>
</tr>
<tr>
<td></td>
<td>Georgia</td>
<td>Georgia relies on the general counsel’s office to augment per own legal expertise. With their help she can efficiently if not quickly reduce large documents into consumable text “we have council’s office who stays on top of it, they usually will provide a summary saying, ‘Okay, that 64-page document, we sort of put that in concise version and this is what actually needs to happen.’ That’s how I get the information.”</td>
</tr>
<tr>
<td></td>
<td>Madeline</td>
<td>Madeline agrees that the trend will continue until Title IX is run by lawyers or at least professionals with strong legal backgrounds. “I really feel like it forced institutions to hire people like me who have a legal background and are really familiar with the regulations and are going to make sure we can ... I feel like it was no longer an option to just do what’s best for students because you might not check one of those compliance boxes as you were doing that.”</td>
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Table 8 (continued)

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legalist</td>
<td>Frank</td>
<td>Frank repeated the assertion that the future of title IX compliance is legally minded individuals able to converse in the jargon of the courtroom. “Now, when you’re looking at it, the more recent hires either have years of experience, so you have people dealing with it in the field, or you have people looking for a legal background.”</td>
</tr>
<tr>
<td></td>
<td>Rebecca</td>
<td>For Rebecca the legal training extends beyond understanding the language, the knowledge allows the user to move quickly past extraneous information or verbiage. “This is where I think having a legal background is helpful. Because part of that training, which is probably true in some ways, but part of that training is being able to skim through something for what is the most important and move on that.”</td>
</tr>
</tbody>
</table>

Legalists reported consulting with general counsel once they had exhausted their individual knowledge, before looking to what others were doing. Where the Social activist might dialogue with a peer first then take an idea to counsel in order to clean up language, the legalist goes straight to counsel. By emphasizing this step by using phrases such as “of course you go to general counsel” the legalist shares with us the high regard and deep respect they hold for our society’s rule of law. This is seconded by the order of people who see changes before they are presented as new policy or policy changes.

Compliance officers in higher education learn to manage regulatory requirements by: First, critically reading regulatory changes for intent, then consulting with legal counsel prior to communicating changes to constituents. As can be seen in Table 9, Social Activists focus their learning on the spirit of the law, protecting students while raising the quality of their lives.
Table 9. Evidence of Social Activist Learning Foci

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Activist</td>
<td>Karen</td>
<td>Karen focuses on what she needs to learn in order to in turn to educate her students. Once trained the people who make up the university will ensure compliance through understanding not fear of punishment. “I think others need to recognize, having other constituents, faculty and your community understanding that this is not just because it’s against the law. It’s a better way”</td>
</tr>
<tr>
<td></td>
<td>Susanne</td>
<td>Acknowledging student’s perspectives builds empathy and establishes social capital, allowing Susanne to continue working with students long after the event or issue that brought them to her office has been resolved. “First of all, acknowledging, acknowledging their feelings, acknowledging where they’re coming from, to the best of my ability, making them feel that they’re a priority when they’re talking to me and that I do think that their case is important or that their issue is important and that I am dedicated to helping them resolve it.”</td>
</tr>
<tr>
<td></td>
<td>Rosie</td>
<td>Rosie meets a with participants a year after each case is finished, to revisit these students and discover what happened. She finds it tremendously valuable and really interesting to see the retention data and different aspects of where the students are after a year. “A lot of times, students are withdrawing or having difficulties a year after a case, so that’s really important to follow up on and not just leave the case.”</td>
</tr>
</tbody>
</table>

The spirit of the law is perhaps a more subjective viewpoint. For the Social Activist, the student’s needs supersede her own and even those of the institution. These officers described the process in greater detail than the law. They discussed individuals where the legalists tended to discuss events. Social activists included individuals’ names while legalists related dates. Social activists recalled student or faculty objections to procedure in a way that demonstrated empathy where the legalist expressed frustration at the participant’s legal knowledge void.

Social activists in this sample anchored ideas they were trying to articulate through the lens of a given topic’s impact on a person’s life, the benefit or harm bestowed by the item of discussion. The people in this study found humans just as frustrating as the legalists but for very different reasons. Where the legalist held the law as the just and
ultimate measure of action and redress, the social activist saw perception as the end-all and be-all of the claimant’s interaction with the Title IX office.

Peacekeepers in this study protected the status quo and balanced claimant and respondent. Of the three categories, these professionals used words of equivocation. These professionals reported striving to hear all sides; communicating and empathizing while facilitating a path for victims to regain equilibrium after a trauma. Impartiality and objectivity were their watchwords and the law was a means through which due process protects and serves claimant and respondent alike. A case is decided by testimony and procedure; objective policies allow multiple people to come to a consensus before any action is taken. Where the legalist could be mistaken for being cold and indifferent the Peacekeeper could be seen as too empathetic to either side of a case in trying to be fair to both sides.

As stated previously, social activists are people-oriented who tend to see problems through the interactions of specific individuals. As seen in Table 10, an integral part of peacekeeping is focusing on interaction building social capital, establishing common ground.

The Peacekeeper knows regardless of what they decide someone will lose, and most likely see the peacekeeper as the embodiment of the system that ruled against them. The peacekeepers reported that the ‘hard’ work of compliance for such individuals is making decisions, naming a respondent culpable or a claimant unsubstantiated. While people from all three outlook groupings related stories of being blamed for rulings going a certain way or had had their impartiality questioned, only the peacekeepers described such rebukes in personal emotionally resonant terms. The legalists made statements like, we had to do it that way according to the law, while the social activists said things like, the decision was clearly in the best interest of this person or group.
Table 10. Evidence of Peacekeeper Learning Foci

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peacekeeper</td>
<td>Kathleen</td>
<td>Where others may perceive training only as a requirement of federal law, Kathleen perceives value in communicating with the populations she serves valuing her time “to get out and do campus education and trying to reach students, faculty, and staff in a way that creates some buy-in for the expectations that I have for faculty and staff around being a responsible employee.”</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Denise</td>
<td>Denise credits her perspective as a function of her training. “I have a higher education background and so I’m naturally much more of a feely empathetic ... Not to say that lawyers aren’t empathetic. My husband would laugh at that, but you know what I mean. I think about the whole student’s experience and I do think about all those other things so, yes, it gets very challenging for me personally in being compliant, but also being a human being.</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Zoe</td>
<td>Zoe feels the entire process is less about education and trending toward punitive defensive action when training could prove better in the long term. “You didn’t have the, ‘Do you understand this conversation.’ It was really like, here’s all the facts and here’s the decision and then here’s the sanction if there is one and so it felt like it was becoming less and less educational even though it was part of an educational process.”</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Lisa</td>
<td>Lisa reported the importance of seeing the big picture the trends as well as the current standards. “It’s a combination of making sure that I am aware of the current trends, any changes in laws and regulations. It’s making sure that I have a pulse of what’s happening on the climate and the culture and the community at large. It’s always looking ahead, not just to what’s happening and what’s in front of me, but assessing what is currently happening and the decisions that we’re making and the process that we’re following.”</td>
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</table>

Regardless of approach-legalist, social activist or peacekeeper, - Title IX tests individuals regularly. There are no certitudes in Title IX. It is in the end, as defined by these professionals, a world of informed guesses. Fear was reported in many forms and correlated to many causes. For example, the lack of concrete facts and procedures put the legalists in fear of misinterpreting the law, the Social Activists in fear of student harm,
and the peacekeeper in fear of ruling in favor of the wrong party. Each of them has a fear that is the flip side of the coin that holds their strengths as its opposite side. None of these is a baseless phobia; all three were expressed and recounted numerous times within the narratives. But we are defined by our fears as much as by our beliefs, for our fears telegraph our priorities and the darkness we try to avoid while we fulfill our role within our system.

**Legalist concerns, frustrations, and conflicts.** Why then does the legalist, who believes the law is sacrosanct, reach out to others for opinions? If the law is a fixed reality, why seek others input? A diamond is hard and unchanging but seen from different perspectives, flaws or cracks may be seen which are invisible to the first person’s perspective. As explained by three of those interviewed, by engaging others, the legalist strengthens their own position, reinforces their beliefs and confirms their own diligence.

**Social Activist concerns, frustrations, and conflicts.** As stated previously the social activists in this study tended to see problems through the interactions of specific individuals. When conflicts arose they were often reported subjectively with attention paid to relating specifics like what another person’s perceived intentions were in the moment or leading up to an action or event. For example, athletic coaches or directors who resisted Title IX dialogue were featured in three responses. Frustrations were stated as an inability to bring people in to alignment with the Title IX offices goals and the pushback individuals gave training, reporting and communicating. The officers described the individuals who pushed back against Title IX training as individuals who were the most likely to harm others or who felt a sense of entitlement which harmed the development of an inclusive campus culture. Other campus personalities who lacked compassion or who disrespected the importance of Title IX frequently frustrate their offices.
Table 11. Social Activist Concerns, Frustrations, and Conflicts

<table>
<thead>
<tr>
<th>Participant</th>
<th>Narrative Excerpt</th>
<th>Perception</th>
</tr>
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<tbody>
<tr>
<td>Karen</td>
<td>Small campus subcultures promote a great deal of poor behavior leading to Karen seeing predictable combatable systemic problems “I’m fighting a fight here. And having to really correct a lot of behavior that was learned long, long, long ago. So it’s not easy to do, but that’s the way I’m trying to leverage it to really affect some sort of change and address it.”</td>
<td>Title IX has grown and evolved, throughout that time there have been individuals who either prefer the status quo or remain ignorant of the harms Title IX is meant to address. Multiple people reported it is sometimes it is difficult not to assume stubborn malice in the face of what could still be ignorance.</td>
</tr>
<tr>
<td>Rosie</td>
<td>You’re dealing with Athletic Directors, and basketball coaches, and people who have a lot power and control and are used to having that power and control. I have to sometimes influence those individuals with some of the goals of my office... I try to say it like, nobody’s forcing me to come up here and train you guys. I’m doing this because I care about you, whether you believe it or not. I’m trying to prevent this behavior and prevent you from getting in trouble, but it’s a difficult ... It’s difficult</td>
<td>Athletes who strive on competition and individual prowess and accomplishment have, in the experiences of at least four respondents, characterized training as insulting</td>
</tr>
<tr>
<td>Denise</td>
<td>I don’t want to say this, it’s not easy, but it’s just different to be the person who’s a general counselor or a lawyer who’s writing the policy and who’s making sure, who’s checking in with me to say, “Are you doing this? Did we follow our policy?”, than it is to be me dealing with the students and the parents, and the feelings and emotions, though.</td>
<td>Denise, as well as others, describes the gulf that lies between the theoretical and the practical. Others described how even the most basic of tasks, such as compiling witness reports, is often subjected to interference from well-meaning but misguided coaches, parents and friends.</td>
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Many issues in title IX are binary. Either you rule in favor of the claimant or the respondent, either you report or you do not report. Lacking nuance or degrees of freedom the peacekeeper often finds herself stuck making a decision between two nearly identical
options. It may be that both sides have good points or that both sides were wrong in some manner and it is up to the peacekeeper to look to the future and how any given decision will effect campus rather than the past where the legalist would find clear guidance. Two examples from the narratives were a model student who committed a questionable act while under the influence who then entered a drug treatment plan before charges are brought and an off campus person who was banned for being involved in an incident not truly of their own making. In both cases the ultimate decisions were not decided by the strict black and white code of those with a more legalist mindset. The detoxing student was granted probation while the non-student was banned from the campus. In both cases the peacekeepers looked forward as much as they looked to the report crime. Both of these decisions bore risk. Having violated the zero tolerance policy, the first could have acted inappropriately again endangering trust in the Title IX office. The neighborhood man who was banned from campus could have hired a lawyer and even if he did not win a legal case, just the expense and time loss to the university could have been harmful.

**Peacekeeper concerns, frustrations, and conflicts.**

Table 12. Peacekeeper Frustrations/Conflicts

<table>
<thead>
<tr>
<th>Participant</th>
<th>Narrative Excerpt</th>
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</thead>
<tbody>
<tr>
<td>Lisa</td>
<td>Lisa wishes people could see the big picture the long view. “So that is a challenge because you have the student body population, that’s a transient population. They’re only here for a few years... So a student might say, ‘Well, I’ve been here for the tenure of my academic career. I haven’t seen any changes.’”</td>
</tr>
<tr>
<td>Zoe</td>
<td>Zoe finds none else is protecting students the way her office does “Just feeling like if it wasn’t me at the table saying it, I don’t know if anybody else would be talking about it, which may or may not have been true but that was just how I felt. Like, if I didn’t raise the conversation about where are we working on Title IX, how are we supporting our students, how are we supporting our faculty and staff, then no one else would have that conversation.”</td>
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Table 12 (continued)

<table>
<thead>
<tr>
<th>Participant</th>
<th>Narrative Excerpt</th>
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</thead>
<tbody>
<tr>
<td>Karen</td>
<td>Karen’s greatest frustration is a lack of time. “It’s not just the money resources, but it’s physical time. Like I said, I am the person in front of these folks, right? And I am one person. I unfortunately don’t have a clone; I don’t have a machine to clone myself. But if ever there was one, I’d want to buy it.”</td>
</tr>
</tbody>
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Analytic Category 2

*Compliance officers in higher education learn to manage regulatory requirements by: second, sharing information with peers helped COs comply with regulatory requirements.*

“Legislation is a matter of more or less intelligent improvisation aiming at palliating conditions by means of patchwork policies” (Dewey, 1936, p. 47). Title IX illustrates Dewey’s definition of legislation. Since its 1972 creation, Title IX has been modified, adjudicated, added to and argued. These compliance officers work in a morass created by good intentions cobbled together by politicians, bureaucrats, activists and judges holding vastly different perspectives. It could be argued that we are still trying to move Title IX forward by means of patchwork policies. However, through critical dialogue, Legalists, Social Activists, and Peacekeepers are achieving brilliant adaptations which reflect their sometimes-overlapping points of view.

Table 13. Sharing Information with Peers Helped COs Comply with Regulatory Requirements

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Narrative Excerpt</th>
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</thead>
<tbody>
<tr>
<td>Legalist</td>
<td>Georgia</td>
<td>I think some of the best ways is interacting with other individuals who do what I do. When I go to professional development conferences, I try to really develop relationships and find out, “So what are you doing about this issue? What are you guys doing about the bathroom issue? What are you doing about the me too campaign? What are you doing on campus?” Speaking to other people who are in the same role.</td>
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<tr>
<td>Category</td>
<td>Participant</td>
<td>Narrative Excerpt</td>
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</tr>
<tr>
<td>Legalist</td>
<td>Rebecca</td>
<td>You know what policy; what law are we following? So as an administrator, you have to figure all of that out and you’re probably going to seek guidance from maybe other administrators because we’re all in the same boat.</td>
</tr>
<tr>
<td>Legalist</td>
<td>Toby</td>
<td>I’m part of the National Association of College and University Attorneys and we have a listserv that people post on every day about upcoming issues or issues they’re dealing with on their campus. And so, when something big hits, it goes onto listserv and people have conversations about it. And so, I check that every day.</td>
</tr>
<tr>
<td>Activist</td>
<td>Rosie</td>
<td>NACUA has a website which is helpful for case law... The most helpful thing is a little Q&amp;A that’s ongoing where people can ask questions to each other. Those aren’t really Title IX coordinators though so that would be cool if there was something equivalent for Title IX coordinators. They’re usually general counsels, which have a slightly different perspective.</td>
</tr>
<tr>
<td>Activist</td>
<td>Madeline</td>
<td>I really can look to my colleagues to help me figure out well how are we going to meet the students’ needs best but still make sure we’re not getting ourselves into legal hot water.</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Veronica</td>
<td>For myself, it’s more so of a learning what’s going on, keeping up with the trends, especially as it relates to things on social media, and what students are seeing with celebrities and other high profile individuals, and how that’s going to have kind of a trickledown effect on what they’re going to be looking for from university administrators.</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Denise</td>
<td>I really rely on I think people who are Title IX coordinators full time, or who have a compliance job that’s full time, they’re probably doing a lot more than I’m doing. That’s why I rely on those people, too, sometimes. So there are people in this group that I will email every month or every once in a while just to say like, “Hey, are you aware of this? What are your thoughts on this?” We compare processes. So I really have to rely heavily on my colleagues when I don’t think I’m getting enough information.</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Zoe</td>
<td>I’m part of the NACUA and we have a listserv that people post on every day about upcoming issues or issues they’re dealing with on their campus so, I check that every day.</td>
</tr>
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</table>
Table 14. Adaptation

<table>
<thead>
<tr>
<th>Category</th>
<th>Participant</th>
<th>Narrative Excerpt</th>
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</thead>
<tbody>
<tr>
<td>Legalist</td>
<td>Rebecca</td>
<td>You’ll need money for something and whether it’s if we can’t get the staff, then can we get partnerships with different organizations. Like ATIxA or with NACUA. Or with different organizations so at least we can get some help with doing some of the work.</td>
</tr>
<tr>
<td>Legalist</td>
<td>Toby</td>
<td>I have a working group of friends who are in the trenches with me and when we see something big coming around, we all e-mail each other and say, “Hey, this came out. Make sure you tell your president. Make sure you tell your student leadership that this came out.”</td>
</tr>
<tr>
<td>Activist</td>
<td>Susanne</td>
<td>I’ve found that the biggest thing is communication, so to be able to say to someone, “Thank you very much for sending this to me. I will get back to you within 24 to 48 hours.” Because I’ve found as long as I am communicating and they know that I’ve received it and they know that I’m getting to it and maybe have a timeline of when I’m getting to it, then they’re less uneasy.</td>
</tr>
<tr>
<td>Activist</td>
<td>Rosie</td>
<td>If I have a Pakistani student-on-student dating violence case, I can refer them, at least the females, to this resource where they can speak their own language and have some communication about the laws and the differences for international students, but they don’t have any male resources. They’re all female focused, especially in those...That’s when it becomes really interesting. Are we being impartial? If we offer all these resources to the female, what about the male? I’ve had to rely on religious leaders to help counsel the male students, because that’s what was most comfortable for them, but it’s not ideal the way it’s sort of in that particular area.</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Kathleen</td>
<td>Just to kind of get different perspective from different positional people I think has been helpful. Then, really I rely on some of my colleagues, too, to get information about kind of how perhaps they’re thinking about these laws as it relates to who they serve, right? Like the LGBT Center, what does that individual think about and trying to collaborate in that way.</td>
</tr>
<tr>
<td>Peacekeeper</td>
<td>Karen</td>
<td>I think educating the campus and educating students is the key. Not only because that’s what our job is here, right? We are in the business of education so we have to do that. But two, there is part of it is the college course you never register for, adulting 101...You’ve got to...These are things you’ve got to know and understand.</td>
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**Learning cycle among compliance officers.** As illustrated below, a learning cycle emerged among the compliance officers in this study. Narratives, from this small study, were both specific and consistent. Regardless of regulatory outlook or learning focus, compliance officers exhibited commonalities of practice when it came to learning. Title IX often requires officers to examine previously unchallenged assumptions, work through
previously unconsidered perspectives, or to revise the way in which they construe regulation and policy making experiences in order to face new challenges. The critical dialogues described below evidenced frank exchanges of perspectives and beliefs held by title IX compliance officers and those with which they were interacting. The critical thinking involved in reading pertained to individuals describing a skepticism or suspension of assent toward either changes in regulation or the printed interpretation offered by the regulatory body. The critical reflection was largely reported as challenging, the power dynamics, either male / female, teacher / student or institution / individual that frame Title IX policy practice. This was described as leading to sometimes uncovering and challenging hegemonic assumptions.

It is important to note that compliance officers, in their role as educators, influence future regulation, closing what would otherwise be a linear progression back upon itself. In this way each step leads toward and influences the next part of the cycle illustrated below. The labels critical dialogue are opportunities for such to occur but are as often more simple, straight forward, communication between two parties sharing a common point of view.

**An inclusive culture is a marathon, not a sprint.** One moment stands out as so extraordinary that it both summarizes the analysis and introduces the need for the next chapter. As one of the last interviews, Lisa, with her legal experience and passion for students embodies many of the best traits discussed previously. She had one facet of Title IX that in hindsight I wish I had thought to discuss with the other participants: Do we ever see, can we help others see the slow but inevitable shift toward freer more diverse and inclusive campuses? Lisa began by saying:

It is a challenge because you have the student body population, that’s a transient population … a student might say, “Well, I’ve been here for the tenure of my academic career. I haven’t seen any changes.” What they may not realize is a lot of the foundational work that’s being done happens underneath, below ground, where it’s not necessarily visible. While they
Figure 2. Learning Cycle Among Compliance Officers

1. Training educates various campus populations through carefully tailored media or events. Feedback from those populations informs future trainings.

2. After months, legislators and regulators release new changes to Title IX.

3. Electronic alerts notify Title IX coordinators of the regulations release. Compliance officers begin a peer dialogue together.

4. Campus policy drafts are reviewed by General Counsel. State regulations may conflict at this stage.

5. Learning Cycle of Title IX Compliance Officers

6. Compliance officers read the initial releases of new information.

7. Compliance officers dialogue with peers constructing individual interpretations of how new regulations are most likely to be enforced.

8. State university systems convene physically or electronically to form a consensus as to the meaning of the new regulation.

might not see it during their tenure here, come back for their class reunion and it’s there.

Students can be perceived as self-centered. Activating them and educating them is a Title IX responsibility, but it may be better to tap into technology, to social movements, to ideas they themselves have yet to conceive to facilitate their own meaning making about Title IX and their own place within a historical time-line more than two decades older than this year’s undergraduates. Lisa described the perceptions and sustainability issues with her own office and university administration when she said:

And so when people talk about a cultural shift, everybody loves to say that but people need to also realize that to take on that magnitude of work which is necessary and needed, it’s something that takes time. It’s not something that is going to happen within a short span of time because if you see movement within a short span of time, and its significant movement, usually it’s not sustainable movement. It might be where there’s a current fever of people but then once those people move on, things die out. (Lisa)

In the end, just as you are part of an administration, you are part of a continuum of people who have held or will hold your responsibilities if not your office. Goals are good, vision is good, but long term cultural shifts are something you will be part of but remain beyond your power to control, as Lisa stated when she concluded her thought with the following:

But if you’re looking at having permanent change, that’s a gradual effect that takes time, especially when you’re dealing with people. It’s just human nature. A lot of people don’t like changes, and there’s a natural resistance to change. That also takes time. I think that’s a challenge with the balancing, where people want something and they want it yesterday. While I understand and I can respect that, I have to remind people, “Well, what’s the ultimate goal?” Because if the goal is just to say we did something, well, we could do that. But if the goal is to change mindsets and change culture, that is a longer project. That’s marathon, not a sprint.
Summary of Analysis, Synthesis, and Interpretation

In order to effectively enforce Title IX, compliance officers need to interpret the legal ramifications of new changes and articulate what those changes mean to campus stakeholders through clear training. Resources such as funding and manpower are chronically below evolving requirements. Title IX remains misunderstood on all levels of campus despite recent training and a national focus on women’s safety and abuse. While many factors hinder the efficient enforcement, dialogue and the cooperation of campus stakeholders allow most Title IX offices to avoid fines and reputational damage.

Title IX is trending toward hiring persons with greater legal knowledge while not evidencing a clear trend in where such offices fit within the organizational hierarchy in terms of their relationship to the general counsel’s office. When resources are scarce, training is delayed or dropped to maintain enforcement which in turn leads to greater frequency of incidents and greater threat of the OCR finding the university is in breach of establishing a safe and inclusive environment. These two items together mean we should expect to see reported violations increase unless significant funds are allotted to offset new changes to Title IX on an ongoing basis. Colleges are spending more on Title IX every year and should budget accordingly. Hiring will align with current trends or schools will discover that while a Title IX compliance officer will cost an additional 50 to 150 thousand, a single investigation handled improperly will cost between six and seven figures before judgment is rendered and the cost could potentially be significantly higher should he school be found out of compliance.

Title IX compliance officer’s ability to interpret new laws was directly related to their legal experience and training. Officer’s abilities to successfully employ students and other campus professionals were related to their own human resources experience and training. Title IX remains a highly specialized field requiring a breadth and depth of experience, knowledge, and skills that need to be in place at the onset of employment.
This study showed that while the way in which officers learn was surprisingly similar, the focus of their learning fell into three readily identifiable groups. Further, the temperament and orientation within learning can lead to predictable but correctable campus issues. Competencies required for the position have shifted with changes in the national dialogue about Title IX and are often either learned or fortified through service in this changing field.

**Contribution to Literature**

The current study has made three contributions to the literature:

The first contribution is the suggestion that due to the current and increasing expense this office poses to any institution of higher education’s budget and financial security, individual university cost analysis should be augmented by a federal cost benefit analysis to answer several questions. First, what is Title IX costing institutions, described in such a way that the myriad of college and universities can establish a baseline budget and more easily staff office requirements. Second, going forward, any new regulation should include baseline budget considerations either direct funding, indirect funding or suggestions to institutions as to what level of funding must be redirected toward their newly mandated compliance efforts.

The second contribution is the discovery of a need to study the psychological and emotional impact Title IX work is having on compliance officers. The evidence of the lack of self-care combined with the aforementioned resource and time demands placed upon this population is resulting in less than efficient Title IX task completion. If the government and our institutions of higher learning are sincere in the desire to achieve safe inclusive campuses, we must begin by protecting those we ask to spearhead it’s compliance. Sleep deprivation, loss of spouse or significant other, working through
weekends and bringing children to work were all reported and would not be considered acceptable in other fields.

A third significant contribution to the literature is the suggested need to conduct a more thorough study of the frequency and best practices of title IX training. If, as reported, training leads to an increase in reporting followed by a decrease in actual violations, training could be a primary indicator of significant compliance. Training ensures that responsible employees with the authority to address sexual violence know how to respond appropriately to reports of sexual violence. Title IX ensures that other responsible employees know that they are obligated to report sexual violence to appropriate school officials; and that all other employees understand how to respond to reports of sexual violence. *Current funding means that we are not universally providing training* to all employees likely to witness or receive reports of sexual violence, including teachers, professors, school law enforcement unit employees, school administrators, school counselors, general counsels, coaches, and resident advisors.

**Revisiting Assumptions**

The researcher identified the following assumptions as she began the study:
Participants will share common narrative themes representative of the dilemmas posed in the problem statement between “policing” and “community stewardship.” The narratives collected will support that compliance officers are informal learners and the challenges they face are posed by the new changes in the regulatory environment rather than by their own challenges in learning in an informal learning manner. The deepest assumption, derived from my own informal learning and based primarily on casual dialogue among compliance officers at American College Personnel Association (ACPA) or National Association of Student Personnel Administrators (NASPA), is that this population is best viewed in an interpretive rather than positivistic manner. The participants and researcher
understand that much of the environment which define them is difficult to describe in a meaningful way to an outsider and through a critical dialogue will influence each other’s view of regulatory paradigm.

Participants did share common narrative themes representative of the dilemmas posed between “policing” and “community stewardship.” However, descriptors were found to describe this dilemma. The dilemma is actually one of balancing investigating and training. These are the reactive and proactive sides of the compliance coin. Investigations react to incidents while training ultimately prevents them. Taken as an aggregate the participants described a need for both more funding and persons to meet the minimal requirements of the office on many campuses. The disparity between expectation and actual findings informs one of the conclusions to come in the next chapter.

The narratives collected did in fact support the assumption that compliance officers are informal learners. Specifically, there was great evidence of reading, dialogue and critical reflection. Beyond this was the discovery of how interactive these learning activities are and the role they play in offsetting the current lack of top down guidance. Critical reflection and dialogue are a function both of the need to make meaning but also to establish communication and mutual avenues of support for a position and officers who find themselves often very much alone or isolated for much of their workday. This dialogue and the incidental nature of their learning appears to be compounded by the ethics, specifically the need for confidentiality among title IX investigators.

The assumption that this population is best viewed in an interpretive rather than positivistic manner very much proved to be valid. A common practice during the interview was what the researcher began to call a reflective restart. A participant would begin to explain an experience or procedure and then find that in order to fully explore their point they had to stop and restart their story back further. To explain the impact of Betsey DeVos, you need to understand *Enough is Enough*. To understand *Enough is*
Enough, you need to understand the April 2011 dear colleague letter. Participant after participant found they had to explain an answer without prompting because they knew as the words were said they lacked the context or framing required to make logical sense to anyone outside Title IX. The participants understand that much of the environment which define Title IX is difficult to describe in a meaningful way to an outsider and through our critical dialogue we influenced each other’s view of regulatory paradigm.

Several compliance officers warmed to the process to the point of asking to go off record to make a joke. Some asked that a particular segment not be quoted when they found they were communicating things that taken out of context did not meet the level of professional discourse they aspire to meet. Expressions of relief at being able to share the burden of what they go through on a regular basis were common although unexpected. The frustrations were easily validated by later interviews and although internally consistent within the study, entirely missing from the literature review. These professionals lead isolated, sometimes lonely, work lives and a chance to safely discuss fears and sadness was well received. “We don’t ever talk like this. If we did it might help,” said one after a heartfelt laugh. Lisa described it through this analogy:

There’s a trust factor in terms of we [title IX peers] can laugh at some of the silliness and that helps to alleviate stress. I know that I often hear it in the medical profession, in terms of the dark humor, where a third party, a passerby, wouldn’t understand how somebody can make light and joke after there might have been a patient who might not have survived a situation, but it’s a matter of self-preservation.

Self-preservation is a real and present concern among Title IX officers. For the newly appointed the concern is their own well-being, their own survival. For veterans the concerns voiced were for those under their care or new compliance professionals they meet at conferences. Officers within large state university systems worried for the individual one person operations frequently found at smaller institutions. These solitary individuals who are going it alone without the collective general counsel services the
state schools receive. Finally, the compliance officers who work as part of a team, they worry about the single compliance officer working alone.

These officers serve with admirable stoicism and resolve. They endure pain and hardship without display of feeling, without complaint to those outside of their inner circle. They believe in the importance of Title IX and in the institutions they serve. Their suggestions for the future are hopeful and purposeful reflecting a commonality in their outlook, service to others, service to their peers as well as those in their care.
Chapter VI

CONCLUSIONS AND RECOMMENDATIONS

Introduction

The purpose of this interpretative case study was to explore with a group of compliance officers how they learned to manage new regulatory changes quickly and efficiently. The researcher uncovered the ways in which compliance officers learned to understand, in the absence of an authoritative governmental voice, what the new regulations meant and how to go about making changes on their campus that allow a smooth transition and maintains compliance from one iteration of the law to the next. This study, through a frank and critical discussion which relied upon anonymity, revealed ways several factions involved in Title IX could provide critical support to compliance officers to aid them in their learning and policy execution.

Deriving data from the previously listed major findings and interpretations, the researcher has drawn the following four conclusions:

Conclusion 1

Since Title IX incidents, fines and costs are increasing; therefore, schools should project budget increases for training for the foreseeable future regardless of election outcomes.

Training is expensive and alternatives to traditional methodologies should be explored. These alternatives include greater use of on campus and regional activists, webinars and electronic mediums. Trainings should reflect the best practices in reaching
adult learners and anticipate trainee pushback. Determining the balance between too little information and too much information is vital in developing the critical dialogue respondents valued within the training educator, trainee paradigm.

Training is perceived by Title IX professionals, NACUA and the OCR as preventative. Training initially increases reporting, before reducing the overall incident frequency. This initial increase in reporting can startle administration and should be included in their annual training. Additionally, training frames the campus wide Title IX conversation by providing clear and consistent vocabulary as well as accountable and demonstrable behavioral norms which can shift culture (albeit glacially).

Campus culture could be described as an iceberg. The surfaced section representing visible behaviors and outcomes; the hidden part signifying the shared beliefs and assumptions we have uncritically acquired in childhood as part of our American socialization. These outdated ideas no longer serve to assist us in the modern world but were unfortunately reinforced through our adolescence by peers, parents, any adult we trusted understood the world on a level we ourselves did not yet fully conceive. We have identified the beliefs that drive the behavior, which in turn underlie the outcomes, we wish to alter. Further we have identified those groups most at risk to engage in criminal behavior (Ali, 2011). Through training we challenge beliefs hopefully to the point of altering them, aligning them with views more inclusive and more likely therefore to achieve compliance.

Training cracks these long frozen societal constructs by offering different viewpoints and allowing beliefs to be reconsidered without attacking factors which often shape identity such as race, ethnicity, nationality, religion, gender, and family. Training offers a safe place to explore new roles and experiment with new ideas. Role play and Bystander education have, for example.
Conclusion 2

*Self-care is not part of the current dialogue, and for many it has led to poor choices and health issues; therefore, supervisors and administrators need to be aware of these potential negative effects.*

These behaviors may prove difficult to report or record, being of a shameful nature and a negative reflection upon the person reporting them. However, in the context of correcting the conditions which precipitate the necessity of working unhealthy amounts of overtime, Title IX officers were willing, even eager to relate their own experiences. Title IX officers may be induced to report others behavior or even their own if anonymity was assumable as it was in this study.

Upper echelon (administrative) Title IX training should be expanded to recognize the emotional toll that being involved in sexual assault or misconduct cases can take on investigators. Work life balance training may be proactive for new hires and annual reviews should include questions designed to facilitate addressing possible temporary or future staff shortages due to regulation changes stressing the current workforce.

According to the officer’s own experiences, significant missteps were associated with sleep deprivation and or extended periods of unduly extended shifts or work-weeks.

Conclusion 3

*Since more compliance officers are becoming legalist, less time is given to the human dimension of Title IX; therefore, Title IX compliance officers need to work with other campus staff to meet the needs of constituents.*

Title IX compliance officers are trending toward a common frame of reference and hiring practice. Indeed, the first line of the nation’s leading Title IX professional organization ATIXA presents a Juris Doctorate degree or Master’s degree as the primary preferred qualification for a Title IX investigatory position. The current hodgepodge of Title IX officers, consisting of professionals drawn from human resources and other
compliance departments is rapidly giving way to legally trained and experienced professionals. This constitutes a reactive rather than proactive approach that does nothing to address either the campus or national culture.

As Title IX employees become ever more legally informed and adopt more objective and legally critical mindsets, it becomes important for university administrations to balance the offices interaction with students by employing a variety of persons capable of prioritizing the spirit of the law above the letter of the law. Whether counselors, investigators or educators, the idiosyncratic, emotional side of the Title IX tasks need to be accomplished as well as the objective legal functions. As described earlier, buy in and empathy proved a great indicator of true compliance and a great help in overcoming the natural and nearly universally reported tendency of campus populations to resist training.

**Conclusion 4**

*Students, particularly activists, when properly engaged have proven to be a cost effective viable auxiliary workforce; therefore, compliance officers should seek out students as allies and means of support.*

Title IX professionals described students taking responsibility for and executing various compliance tasks under trained leadership. The construction and implantation of training materials, the development of student messaging and education, the execution of large scale but nuanced direct communication efforts to reach at risk populations; were all achieved through the use of student volunteers. Dialogue between students and administration about Title IX was reported to require an authenticity and transparency on the part of the administration to alleviate the perception that Title IX officers would not challenge the greater administration on behalf of the student population if necessary.

Millennials are more liberal than previous generations and have a greater need for social justice. Title IX officers have used these traits to enforce compliance through
yoking student’s desires for justice into action on campus such as bystander efforts and voluntary training. Failure to tap into this generational zeitgeist risks alienating these same millennials. Additionally, it was reported that through working with student activists Title IX professionals were able to earn social and knowledge capital they valued as much as that they earned in more traditional training. Through dialogue with students, professionals were able to head off potentially embarrassing conflicts between students and administration, grow trust in their offices and educate consistently difficult to reach portions of campus populations.

Recommendations

Recommendations for the Office for Civil Rights (OCR) Title IX Enforcement

1. The OCR should hire experienced Title IX compliance officers to oversee some level of the investigation and remediation of failing Title IX programs. Currently, only one of the five OCR Enforcement Directors has a public record of experience working in an educational institutional setting. Although legal knowledge is paramount in an investigator, it is not the only set of skills required for compliance. As described by ATIXA’s sample Title IX job description, preferred qualifications include “Experience working with college students. Professional experience conducting investigations in a University setting. Experience investigating cases of interpersonal violence. Knowledge of complexities surrounding investigations in a college setting.” It would seem prudent then that those who correct these officers should understand their common experience and cultural viewpoints. Without a common frame of reference and a working experiential archive, deep understanding between the two parties appears unlikely.

2. As demonstrated earlier, Title IX is interpretive on multiple levels. Title IX enforcement either at the university or OCR level does not operate along objective straightforward lines in the same way speeding might be enforced. Incorporating
individuals on the enforcement level and policy making level could make aligning campus procedures and policies easier as could greater dialogue between the OCR and the institutions it oversees. As described previously, Title IX is working at the micro level because the standards in place are achievable. Where schools are currently unable to comply is at the macro level, the campus environment and campus culture levels. For an enforcement officer to judge that larger macro level, skills and experiences beyond the courtroom become significant.

**Recommendations for the President’s Office Regarding Title IX Training**

Senior university staff should set aside emergency budget allotments to be used in the event Title IX regulation changes require additional incidental training beyond the normally scheduled DOE and OCR described annual training. Annual reoccurring training budgets should rise to better reflect the risk management role training occupies. The preventative nature of training may not be plain to see but the trends in Title IX enforcement and damage awards schools are paying out are clearly rising and financially significant. Even if training did not reduce overall incident frequency, training would still remain the backbone of creating a defendable proactive campus culture. Training establishes a working vocabulary, speeding and refining witness statements allowing investigators to more efficiently and accurately complete a multitude of compliance tasks. While training initially is reported to increase the incidents reported it does over a period of months decrease actual incidences and has been reported as a factor in student retention.

**Recommendation for Augmenting Existing Title IX Internal Staff**

Self-care issues were reported as symptomatic of the lack of funding which often results from regulation changes within institutions of higher education. As such, the University Presidents Office should review the state of Title IX funding compared to schools of similar size and risk. Further, the President’s office should be made aware of
the tendency among this population to put student and university needs before their own and the dangers to the institution when its chief Title IX protection is understaffed or postponing training or other vital tasks due to an increased number of investigations.

The following are tasks associated with the ATIXA sample Title IX job description which have been reported as being successfully delegated to closely monitored student activists and volunteers, often working as a committee:

1. Provide information to students, employees and others regarding the Student Conduct Code and University policies related to discrimination and harassment. (Accomplished through the use of a Student Organizations resource fair and Orientation)

2. Create and facilitate training/presentations to students and student groups regarding the University’s policies. (Accomplished by a student committee who generated graphics to better relate Title IX material to millennials. Student survey data suggested a marked improvement in content and delivery attributed to a new focus on personal stories and updated vocabulary)

3. Identifying and integrating best practices into the complaint resolution process. (Accomplished by a student committee who reviewed multiple Title IX websites and helped to make recommendations to the university Information Technology team for annual website clean-up)

4. Cultivate relationships between campus stakeholders (e.g., faculty, students, and staff). (Accomplished through a student activist group conducting a focus group among campus personnel to develop clearer lines of reporting to avoid multiple reports of the same event as separate events; additionally, coordinating campus calendars to facilitate more efficient Clery reporting)

5. Develop and maintain relationships and clear lines of communication with campus and community partners. (Accomplished through community activists working with local battered women shelter)
6. Stay abreast of current movements in the field of student conduct investigations by participating in conferences, workshops, etc. (Accomplished through mentoring of up and coming student activists who were attempting degrees in order to return to campus life after law school; also through the use of student trainer’s role playing investigations with student leaders during student organization leadership Title IX training)

7. Review current literature and research. Millennials tend to be tech savvy and assisted a Title IX office in setting up Google, Chronicle, and NACUA email alerts which speed response time to the latest Dear Colleague letters because in several cases the alerts predated the Dear Colleague Letter by upwards of 24 hours.

8. Participate in local, regional, and/or national professional associations and organizations. (Accomplished through activists traveling to a neighboring college to learn about implementing the Know Your Title IX Campus Organizing Toolkit and to learn from activists at the larger university how they could communicate and support each other within the larger state school system)

Recommendations for Further Research
1. First, the research should be validated by a larger study of a more diverse population. Recruitment was through the snowball method. The resulting population of nineteen compliance officers were all from the New England region of the north eastern United States. Narratives from a larger area or from more Title IX professionals might offer valid insights not found in the experiences of the population studied. New York and New Jersey both have laws and systems in place that reinforce the provisions of the 2011 Dear Colleague Letter which allows many of the compliance officers studied to ignore the recent changes enacted by the DeVos DOE. New York and New Jersey have been
consistently Democratic, progressive bastions and do not represent traditionally conservative values. Therefore, a larger national study is needed.

2. The research would suggest a funding survey to describe in monetary terms the cost of new regulations to suggest annual Title IX budget increases. Asking for money was widely reported as an annual task that drew Title IX officers away from more immediate matters and resulted in longer investigation times. As described earlier, Title IX budgets directly affect self-care and training and each April are found to need augmentation as new regulation demands come down from the DOE or OCR. The Title IX budget affects the universities ability to hire and retain qualified personnel. Those universities currently assigning Title IX tasks to persons already engaged in other compliance work should consider the cost / benefit ratio of devoting that professional to full time Title IX compliance. A survey of current trends in office personal salary, legal action settlement cost, training budgets and how incidental regulation changes annual costs would allow universities to better staff and allocate resources without taking the Title IX officers away from investigations or other tasks. Ideally the use of webinars, student volunteers and staff resource sharing should be included to allow campuses to tailor their annual and seasonal staffing priorities.

**Recommendations for Current Title IX Compliance Officers**

Title IX compliance officers have limited time and resources. You cannot add hours to your day but you can ensure they are used efficiently. The advice offered to other compliance officers from those interviewed was to avoid the urge to reinvent the wheel or to learn everything there was to know the minute a new regulation change is received. If you are part of a large school system, then participation in the discussion will allow you to multiply the effect of your time spent. If you are not part of a large system, it is vital to network with those who are and lean on their larger budgets and staff. Critical dialogue was the leading indicator of success in developing responses to new regulation.
The management of your offices available labor hours includes your own self-care and edification. Neglecting either makes you less effective, it is not selfish to use your limited time to sharpen your skills or to avoid potential problems later on.

As Title IX compliance officers become more and more legally minded it becomes of greater importance that someone else in the staff is balancing the student’s needs. Phone applications change frequently and odds are that someone else on campus or in the field is ahead of you. Similarly, website design and automated data mining is a specific set of skills that are better left to specialists. In a position defined by accountability, a record of whether an email has been read or not goes a long way toward holding people accountable for responding to communications they may not otherwise be inclined to prioritize. Automation frees up office time and reduces some of the human element for error. Further, your tech choices may allow others greater ability or freedom to complete their own portion of group tasks facilitating easier deadline management.

**Recommendations for Those Seeking to Serve Their Communities in the Role of Title IX Enforcement**

Consistently respondents agreed no amount of study prepares you for the realities of the position. Your ability to shape others views and your ability to learn and adapt will serve you well. The law is tested and changed frequently and revised to meet the political views of incoming administrations both federal and campus. Your ability to educate powerful leaders about nuanced issues will be tested, repeatedly. According to those interviewed the number one point that must be understood is this; the Title IX officer is ultimately responsible for Title IX decisions. Do what you do well yourself and build coalitions to complete the tasks you are less skilled in performing. The spirit of the law does not always align with the letter of the law. Regardless of which you deem more important, be authentic and consistent in your investigations and policy choices and be kind to those who hold the opposing viewpoint. Accepting a position with an institution
whose Title IX position does not align with your own may lead to a fundamental inability to perform your role to the highest professional standard.

Listen and really hear those you serve. Regardless of any other priority, you must be perceived as someone open to dialogue and who responds appropriately to valid arguments. You are asking people to trust you with two precious commodities, their safety and their futures. As neither is in itself tangible; they exist as perceptions of the mind, social constructs, making words and visible actions are your tools. Your availability, reputation and transparency will be assets under daily scrutiny. Social media will help or hurt these three depending on your choice to either yoke it to your needs or allow it to wander, spreading half-truths and fear. Reality is difficult to evidence in an office which requires so much confidentiality. Since there is so much you cannot share openly it is important that everything you can reveal is not only plain but easily understood and demonstrates a consistent credible plan to defend the community. You are obeying and enforcing not only the letter but the spirit of the law, there will always be those who are misinformed about the realities of your office. Your choices of where, how and when to engage them are as much your responsibility as meeting reporting deadlines and investigating cases. When you respond to inaccuracies do it with volume highlighting your offices accomplishments, your conviction and reputation will open many within your community to dialogue while inoculating you from further inaccuracies.

**Researcher Reflections**

As the field of Title IX trends ever toward our political right, the country’s demographics are moving toward our political left. It is important to note that all of the above recommendations have been framed with millennials in mind. The current paradigm of Title IX staffing reflects the current thinking and viewpoints of the DOE and OCR and the institutions of higher education administrators who average well over twice
the age of the average graduate. Title IX staffing is a reaction to the increase in OCR investigations, settlements and the general consensus of those involved in Title IX that the future of Title IX will be an objective legal environment largely separated by its complexity from the very people Title IX defends. While this occurs within Title IX, the current generational sensibilities and bias are currently trending toward our nation’s political left. Each year more and more persons are reflecting upon the need to attend school physically at all. A Title IX office that is perceived as primarily focused on defending the school against lawsuits, rather than its students against those who would harass them, will only push those already heading away from your campus to leave that much sooner. Millennials do not value long relationships the way generation X or the baby boomers did. They are far quicker to relocate, and far more sensitive to perceptions of cooperate (or administrative) negligence. This generation of students expects a level of authenticity and dialogue previous generations did not. Let your students, faculty, and staff know they matter and will be held accountable in a way they have never been held accountable before. Eliminate the harassment, prevent its recurrence; address its effects. Stop the violence, educate and help the damaged heal. All of these goals are facilitated through brave and critical dialogue.
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Appendix A

Conceptual Framework

I. Demands / Needs
   - interpret new regulations and resultant changes
   - identify and acquire additional resources
   - rely on General Counsel advice
   - communicating changes with constituents
   - hire new staff
   - outsourcing tasks
   - self-care
   - funding
   - student dialogue

II. Learning
   - Reading including:
     - new regulation releases,
     - google alerts,
     - state university system guidance
   - Critical dialogue:
     - between peers,
     - congregations of large state systems
   - Critical reflection on research:
     - impact on campus policy,
     - conflicts with state law
   - Critical reflection on experience:
     - past wins
     - losses
     - surprises
   - Listserv including:
     - ATIXA,
     - NACUA,
     - SUNY,
     - CUNY,
     - NJASCU
   - Professional organizations:
     - ATIXA,
     - NACUA
III. Helps

- Peer dialogue
  - electronic alerts,
  - timelines
  - legal interpretations

IV. Hinders

- Title IX changes frequently but in subtle often illogical ways including:
  - conflicts with state regulations,
  - changes in reporting requirements,
  - recent 400% increase in OCR investigations

- Misconceptions including:
  - I have already been trained,
  - facts from a previous training which no longer are true,
  - confusing Title IX with Cleary, VAWA or Enough is Enough

- Extra work impacted negatively:
  - overtime,
  - loss of nights and weekends,
  - home life being ‘on hold’,
  - postponing or working while on vacation

- Lack of resources
  - money
  - staff
  - access
  - time

- Who you report to matters
Appendix B

Participant Demographic Inventory

Teachers College, Columbia University

**Demographic Profile**

The information collected from this questionnaire is completely confidential and will only be used for the purposes of this research study.

**Demographic**

First Name:________________________   Last Name:________________________

Gender: _____Female   _____Male

Current Age:

- 25 – 34 years
- 35 – 44 years
- 45 – 54 years
- 55 – 64 years
- 65 + years

**Educational Background (highest)**

- High school (or equivalent)
- Associates
- Trade/Specialty
- Diploma/University/Bachelor’s (or equivalent)
- MBA
- Master’s (or equivalent)
- Doctorate/Terminal (or equivalent)

**Ethnicity/Race (Select all that apply):**

- Black/African American
- Asian/Pacific Islander
- Caucasian/ not Hispanic or Latino
- Hispanic/Latino
- Middle Eastern
- 2 or more races
How long have you been in your current career field?
- less than 24 months
- 2-5 years
- 6-10 years
- 11-15 years
- 16-24 years
- 25+ years

How long have you been in your current role/title?
- less than 24 months
- 2-5 years
- 6-10 years
- 11-15 years
- 16-24 years
- 25+ years

Do you engage in professional development or specific continuing education/training opportunities?
- Yes
- No

How frequently would you estimate that you engage in professional development/continuing education opportunities?
- Never
- Rarely
- Moderately
- Frequently
Appendix C

Letter of Invitation

Interview Participants

Teachers College, Columbia University

Dear [Enter compliance officer’s name here],

I would like to invite you to participate in a doctoral research study being conducted through Teachers College, Columbia University. The purpose of the study is to understand how compliance officers learn and adapt to new regulations or regulatory changes. As regulations grow in scope and range many compliance officers are finding singular regulations eclipsing their other responsibilities and the balance of learning and functioning is trending toward learning keeping many professionals finding less and less time to interact with those they serve. Little is known about the manner in which we acquire the needed knowledge and skills to allow us to successfully fulfill and document regulatory compliance. This research seeks to codify the best practices currently employed by working compliance regulators and to provide feedback to the department of education regarding the dissemination of new regulations. Researching this subject could have implications for both compliance officers as well as those who develop their training courses.

Your participation could enable you to contribute feedback to the DOE and voice your concerns in a professionally appropriate forum. You will be provided with a summary of the results.

**Participation Criteria:** In order to qualify for the study, you must: (1) have worked in some aspect of title IX, with a minimum of 1-2-year management experience within the past five years; (2) Master’s degree or higher (3) Member in good standing of ATIXA or similar professional organization. If you fit these criteria and are interested in participating, please respond by replying to this e-mail and providing your name, phone number, and preferred e-mail address so I can contact you to provide more details. My contact information is below. Thank you very much.

**Researcher Expectations:** If you choose to be a participant in this study, you will be asked to complete a brief pre-interview questionnaire, which provides background information for research purposes only. Upon completion of the questionnaire the researcher will schedule an interview to discuss your personal experiences related to managing multicultural project teams. The questionnaire will take about 10 minutes to complete. The interview will take approx. 60 – 90 minutes.

Any information collected will be held in the strictest confidence and no individual identities will be disclosed in the dissertation discussion, narrative or in academic or professional circles.
Informed Consent and Confidentiality Agreement: Enclosed you will find an Informed Consent and Confidentiality Agreement. Please review both forms. If you are interested in participating in the study, please sign both forms and mail them back using the self-addressed stamped envelope. You may also fax the forms or return them to me personally by 08/1/2017.

Thank you very much for your time and consideration.

Sincerely,
Maria Hataier
Hataier@tc.edu
(212) 678-3779
155 Thorndike
Teachers College Columbia University
525 West 120 street NYC New York 10027
Appendix D

Consent Form for Interview Participants

Teachers College, Columbia University

INFORMED CONSENT AND CONFIDENTIALITY AGREEMENT

DESCRIPTION OF THE RESEARCH: You are invited to participate in a research study on how compliance officers learn and adapt to new regulations. You will be asked to complete a pre-interview questionnaire and participate in an interview. The interview will be digitally recorded with your permission. The recording will be destroyed after the study is finalized. The research will be conducted by Maria Hataier, a doctoral candidate at Teachers College, Columbia University. The interview will take place at a mutually agreeable time and place, either in person or by phone.

RISKS AND BENEFITS: The harm or discomfort anticipated in the research is no greater than what would normally be encountered when you discuss your work with those outside your organization. You will not be required to reveal information such as specific project names, technologies, or proprietary information that would be inappropriate to share with external parties.

You will receive a final copy of the research once completed. It is anticipated that the results of this study will provide information about what your peers are doing to enable them to balance learning and serving the people of their institutional communities.

DATA STORAGE TO PROTECT CONFIDENTIALITY: Strict provisions will be made to ensure your privacy and to preserve and maintain the confidentiality of all data collected. At no time will you, or your institution, be referred to by name either in conversation or in writing. Pseudonyms for you, and your institution of higher learning, will be used throughout so that at no time whatsoever will any information be associated with you. All data that is collected will be used for research purposes only. All pre-interview questionnaires, interview transcripts, and signed consent forms will be securely stored in a locked file cabinet to which only the researcher will have access. Digital recordings of the interviews will be securely stored on the researcher’s home computer which has no internet access. Following the defense of the dissertation, the researcher will destroy all recordings.

TIME INVOLVEMENT: The pre-interview questionnaire will take about 20 minutes to complete. The interview will take approx. 60 - 90 minutes.
HOW WILL RESULTS BE USED: The results of the study will be used to complete a doctoral dissertation at Teachers College, Columbia University. The research may also be published in journals or presented at conferences as appropriate (while maintaining the strict provisions of confidentiality as described above). Since all study participants will be assigned pseudonyms, there will be no way to identify the participants in the publication of the research data.
Appendix E

Consent Form for Interview Participants

Teachers College, Columbia University

PARTICIPANT’S RIGHTS

Principal Investigator: Maria Hataier

Research Title: How Higher Education Compliance Officers learn to interpret and manage new requirements in a dynamic regulatory environment

- I have read and discussed the Research Description with the researcher. I have had the opportunity to ask questions about the purposes and procedures regarding this study.

- My participation in research is voluntary. I may refuse to participate or withdraw from participation at any time.

- The researcher may withdraw me from the research at his/her professional discretion.

- If, during the course of the study, significant new information that has been developed becomes available which may relate to my willingness to continue to participate, the investigator will provide this information to me.

- Any information derived from the research project that personally identifies me will not be voluntarily released or disclosed without my separate consent, except as specifically required by law.

- If at any time I have any questions regarding the research or my participation, I can contact the investigator, who will answer my questions. The investigator’s phone number is (212) 678-3779. I can also contact the investigator’s advisor, Dr. Marie Volpe, at (201) 868-1438.

- If at any time I have comments, or concerns regarding the conduct of the research or questions about my rights as a research subject, I should contact the Teachers College, Columbia University Institutional Review Board /IRB, attention Jennifer Grossman, Compliance Associate. The phone number for the IRB is (212) 678-4105. Or, I can write to the IRB at Teachers College, Columbia University, 525 W. 120th Street, Box 151, New York, NY, 10027.

- I should receive a copy of the Research Description and this Participant’s Rights document.

- If video and/or audio taping is part of this research, I ( ) consent to be audio/video taped. I ( ) do NOT consent to being video/audio taped. The written, video and/or audio taped materials will be viewed only by the principal investigator and members of the research team.
- Written, video and/or audio taped materials ( ) may be viewed in an educational setting outside the research ( ) may NOT be viewed in an educational setting outside the research.
- My signature means that I agree to participate in this study.

Participant’s signature: ________________________________ Date: ___/___/____
Name: _________________________________

Investigator’s Verification of Explanation

I certify that I have carefully explained the purpose and nature of this research to ____________________________ (participant’s name). He/She has had the opportunity to discuss it with me in detail. I have answered all his/her questions and he/she provided the affirmative agreement (i.e. assent) to participate in this research.

Investigator’s Signature: _________________________________
Date: ______________________
Appendix F

Interview Protocol and Schedule

Whenever possible interviews will be made by phone to allow participants the greatest flexibility and ease of participation. When participants express a desire to meet face to face interviews will take place in the closest available off campus coffee house or similar public setting conducive to good audio recording. The script, Appendix H, includes unread portions for interviewer instructions and reference in italics.

Interview agenda:
- Answer any questions that need to be addressed prior to recording
- Establish authorization to record interview
- Establish identity of participant
- Establish title and location of participant
- Read script allowing participant enough time to fully explore each question
- End interview by expressing gratitude for participating
- Send debriefing email and thank you

Participant Interview Protocol

1. Let me begin by asking you to talk about what are the demands you see placed on you and your students when regulations change.
2. How do you manage the new demands placed on you the students you serve and institution?
3. When regulations change what does mean for you, the student and the institution?
4. Can you walk me through a recent regulation change, how your office adapted to new rules?
5. How you adapt to all of the regulatory changes come down from government?
6. Tell me about a regulation in which you had to adjust to changes over which you had no control. How did you handle it?
7. When priorities in regard to regulation change quickly how do you know what to do?
8. Let me ask you to talk about how you learn to manage the balance needed between the needs of the students and institution in regards to compliance with regulation?
9. Have you ever been put in a position where your regulatory responsibilities interfered with the needs of your students?
10. What guides or influences how you go about your Title IX learning?
11. What do you do when new regulations come down from the federal and state government how do you know how to respond?
Appendix G

Thank You Letter

Teachers College, Columbia University

Dear [enter participant’s name]:

Re: Thank you for your participation!

Thank you very much for participating in the research study on How higher education compliance officers learn to interpret and manage new requirements in a dynamic regulatory environment.

I look forward to providing you with a summary of the research and will be happy to talk through the results with you once completed. Please accept my sincere thanks for contributing to this research.

Sincerely,

Maria Hataier
Hataier@TC.edu
(212) 678-3779
155 Thorndike
Teachers College Columbia University
525 West 120 Street NYC, New York 10027
Appendix H

Findings Chart Research Question 1

Research Question 1: How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?

<table>
<thead>
<tr>
<th>N=19</th>
<th>need to understand and interpret new regulations and resultant changes</th>
<th>Demands create a need to identify and acquire additional resources</th>
<th>Demands create a need to rely on General Counsel advice</th>
<th>Demands require communicating changes with constituents</th>
<th>Demands create a need to hire new staff or outsourcing tasks</th>
<th>Extra work impacted negatively on their personal lives</th>
<th>unfunded mandates create funding demands</th>
<th>Students need two direction communication</th>
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need to understand and interpret new regulations and resultant changes

Demands create a need to identify and acquire additional resources

Demands create a need to rely on General Counsel advice

Demands require communicating changes with constituents

Demands create a need to hire new staff or outsourcing tasks

Extra work impacted negatively on their personal lives

Unfunded mandates create funding demands

Students need two direction communication

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<th>Demands create a need to identify and acquire additional resources</th>
<th>Demands create a need to rely on General Counsel advice</th>
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<td>17 (89%)</td>
<td>16 (84%)</td>
<td>14 (74%)</td>
<td>14 (74%)</td>
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Major finding: Majority of compliance officers (94%) defined the need to interpret new regulations with general counsel in order to communicate relevant changes to stakeholders.
Appendix I

Findings Chart Research Question 2

Research Question 2: How do compliance officers learn to comply with new regulations?

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<th>Critical Dialogue</th>
<th>Critical reflection on experience</th>
<th>Drawing on past experience</th>
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(100%)       (100%)         (100%)          (100%)          (74%)          

Major finding: All compliance officers (100%) indicated that they learned to comply with new regulations largely through informal means: critical dialogue, critical reflection, drawing on past experience and reading.
Appendix J

Findings Chart Research Question 3

Research Question 3: What helps and/or hinders compliance officers in meeting the challenges they face?

<table>
<thead>
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<th>What Helped</th>
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<tr>
<td>Learning from and sharing information with colleagues</td>
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<tr>
<td>The fact that Title IX is highly specialized and difficult to explain</td>
<td>Title IX misinformation</td>
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<tr>
<td>Emotional nature of Title IX Work</td>
<td>Lack of resources</td>
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<td>19 (100%)</td>
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</table>

Major finding: All compliance officers (100%) indicated were helped with learning from and sharing information with colleagues.
Appendix K

Document Review

Public and Private Institutions

Public and Private Academic Institutions Websites (General & Title IX sections)
University Title IX Initiatives
University Title IX Policies
University Human Resource Manuals
University Human Resources Websites
University Title IX Trainings
University Title IX Outreach Plans
University Clery Report
University Division of Student Affairs Annual Report
University Division of Student Affairs Briefing Book
University Annual Report
University Annual Financial Report
University Student Newspapers
University Student Group/Organizations
University Fact Sheet
University Mission Statement and Goals
University Strategic Plan
ATIXA Website/Resources
Chronicle of Higher Education
Title IX Websites
Appendix L

Participant Profiles

**Victoria** is a 50+-year-old Hispanic/Latina woman who is the Affirmative Action Officer/Title IX Coordinator at a New York community college. Victoria has been in her present position for over 2 years and in the overall compliance/regulation profession for over 20 years. Her current responsibilities involve oversight of all functions of the Affirmative Action and Title IX (e.g., supervision, budget management, compliance/regulation management, facilitating the strategic planning process, etc.) with a team of two staff members. Victoria’s educational profile includes a master’s degree; she has always been involved in compliance work and engages in professional development at least twice a year.

**Wendy** is a 45+-year-old Black/African American woman who is the Affirmative Action Officer/Deputy Title IX Coordinator at a New York community college. Wendy has been in her present position for less than 2 years and in the overall compliance/regulation profession for over 13 years. Her current responsibilities involve functions of the Affirmative Action and Title IX (e.g., supervision, budget management, compliance/regulation management, Title investigations, training, etc.) with a team of one staff member. Wendy’s educational profile includes a doctoral degree; she has always been involved in compliance work, and engages in professional development at least five times a year.

**Lisa** declined to state her age or gender. Her current responsibilities involve Employment Equity Questions, Equity/Diversity Complaints, Sexual Harassment, Sexual Misconduct, Gender Bias Complaints, Diversity Training, Title IX Training, Accessibility Questions, Search and Selection Concerns and Questions, AAP Questions. Lisa’s educational profile includes a doctoral degree; she has always been involved in compliance work and engages in professional development at least five times a year.
**Frank** is a 35+-year-old Hispanic/Latino man who is the Assistant Director of Diversity and Equity at a New York State university. Frank has been in his present position for over 2 years and in the overall compliance/regulation profession for over 11 years. His current responsibilities involve employment equity, equity/diversity complaints, sexual harassment, sexual misconduct, gender bias complaints, diversity training, Title IX training, search and selection concerns, diversity research and special projects with a team of five staff members. Frank’s educational profile includes a doctoral degree; he has always been involved in compliance work and engages in professional development at least twice a year.

**Zoe** is a 35+-year-old Caucasian woman who is the Title IX Coordinator at a New York State private college. Zoe has been in her present position for over 2 years and in the overall compliance/regulation profession for over 11+ years. Her current responsibilities involve functions of Title IX Coordinator (e.g., supervision, budget management, compliance/regulation management, Title investigations, training, etc.), being a staff of one within her office. Zoe’s educational profile includes a master’s degree; she has always been involved in compliance work and engages in professional development at least twice a year.

**Karen** is a 35+-year-old Black/African American woman who is the Affirmative Action Officer at a New York State public college. Karen has been in her present position for over 2 years and in the overall compliance/regulation profession for over 6 years. Her current responsibilities involve functions of an Affirmative Action Officer (provides compliant resolution and investigates complaints regarding discrimination, affirmative action and Title IX issues) and being a staff of one within her office. Karen’s educational profile includes a bachelor’s degree; she has just recently been involved in compliance work and engages in professional development at least five times a year.

**Rebecca** is a 45+-year-old who did not choose to identify race or gender and is the Director of Equity at a New York State private college. Rebecca has been in her present
position for less than 2 years and in the overall compliance/regulation profession for over 15 years. Her current responsibilities involve functions of a Director of Equity (e.g., in working with faculty, staff, and students with regard to equity, anti-discrimination, due process, and sexual assault, and other gender-based misconduct concerns) and being a staff of four within her office. Rebecca’s educational profile includes a juris doctorate degree; she has always been involved in compliance work and engages in professional development at least five times a year.

**Georgia** is a 35+-year-old Black/Latina woman who is the Director of Office of Diversity and Inclusion at a New York State public college. Georgia has been in her present position for over 2 years and in the overall compliance/regulation profession for over 5 years. Her current responsibilities include compliance with federal, state policies that prohibit discrimination in employment and education, Title IX compliance programs, gender discrimination prevention policies, and being a staff of two within her office. Georgia’s educational profile includes a juris doctorate degree; she has just recently been involved in compliance work and engages in professional development at least five times a year.

**Veronica** is a 25+-year-old Caucasian woman who is the Title IX Officer for Student Issues at New York State private college. Veronica has been in her present position for over 2 years and in the overall compliance/regulation profession for over 2 years. Her current responsibilities involve functions of a Title IX Officer (e.g., overseeing the University’s response to reports and complaints by students against students under this policy of sexual harassment, relationship violence, and sexual misconduct; and for addressing any patterns or systemic problems revealed by such reports and Complaints against students) and being a staff of one within her office. Veronica’s educational profile includes a master’s degree; she has just recently been involved in compliance work and engages in professional development at least five times a year.
**Patricia** is a 55+-year-old Hispanic woman who is the Human Resources Officer/Title IX Coordinator at New York State private college. Patricia has been in her present position for over 13 years and in the overall compliance/regulation profession for over 25 years. Her current responsibilities involve functions of a Human Resources Officer/Title IX Coordinator e.g., overseeing the University’s human resources responsibilities as well as response to reports and complaints of sexual harassment, relationship violence, and sexual misconduct and being a staff of two within her office. Patricia’s educational profile includes a bachelor’s degree; she has just recently been involved in compliance work and engages in professional development at least five times a year.

**Madeline** is a 35+-year-old Caucasian woman who is the Director of Student Affairs Compliance and Title IX Coordinator at New Jersey State public college. Madeline has been in her present position for over 2 years and in the overall compliance/regulation profession for over 13 years. Her current responsibilities involve functions of a Director of Student Affairs Compliance/Title IX Officer (e.g., investigation of all reports of sexual violence, stalking, and relationship violence involving students, and regularly provides education and training to the university students, staff and faculty on these issues and overseeing the University response to the reports) and being with a staff of three within her office. Madeline’s educational profile includes a juris doctorate degree; she has just recently been involved in compliance work and engages in professional development at least twice a year.

**Samuel** is a 45+-year-old Black/African American man who is a Director of Title IX at a New Jersey state university. Samuel has been in his present position for less 2 years and in the overall compliance/regulation profession for over 13 years. His current responsibilities involve functions of the Director of Title IX Officer (e.g., investigation of all reports of sexual violence, stalking, and relationship violence involving students, and regularly provides education and training to the university students, staff and faculty on
these issues and overseeing the University response to the reports) with a team of one staff member. Samuel’s educational profile includes a master’s degree and a current doctoral candidate; he has always been involved in compliance work and engages in professional development at least twice a year.

Denise is a 35+ year-old Caucasian woman who is an Associate Dean of Students/Title IX Coordinator at New Jersey private college. Denise has been in her present position for less than 2 years and in the overall compliance/regulation profession for over 13 years. Her current responsibilities involve functions of an Associate Dean of Students/Title IX Coordinator (e.g., prepare students holistically through leadership development, co-curricular programming, community engagement, and dialogue around inclusion and diversity. She is responsible for investigation of all reports of sexual violence, stalking and relationship violence involving students, and provides education and training to the university’s students, staff and faculty) and being with a staff of eight within her office. Denise’s educational profile includes a doctorate degree; she has just recently been involved in compliance work and engages in professional development at least twice a year.

Toby is a 30-year-old Asian/Pacific Islander man who is the Chief Diversity Officer/Title IX Coordinator at a New York State public university. Toby has been in his present position for over 2 years and in the overall compliance/regulation profession for over 11 years. His current responsibilities involve functions of the Chief Diversity Officer/Title IX Coordinator (e.g., oversees diversity and inclusion for the college, student allegations of discrimination and compliance with Title IX) with a team of three staff members. Toby’s educational profile includes a juris doctorate degree; he has always been involved in compliance work and engages in professional development at least five times a year.

Theresa is a 45+-year-old Black/African American woman who is the Associate Vice President/Dean of Students at a New Jersey private college. Theresa has been in her
present position for less than 2 years and in the overall student affairs/compliance/regulation profession for over 20 years. Her current responsibilities involve functions of an Associate Vice President/Dean of Student (e.g., programs and services to create a safe community that encompasses diversity and promotes student development and responsibility for Title IX compliance) and being a staff of five within her office. Theresa’s educational profile includes a master’s degree; she has been involved in compliance work and engages in professional development at least five times a year.

Bethany is a 45+-year-old Black/African American woman who is the Dean of Students and Campus Life at a New Jersey State public college. Bethany has been in her present position for less than 2 years and in the overall student affairs/compliance/regulation profession for over 20 years. Her current responsibilities involve functions of a Dean of Students and Campus Life (e.g., programs and services to create a safe community that encompasses diversity and promotes student development and responsibility for Title IX compliance) and being a staff of four within her office. Bethany’s educational profile includes a doctorate degree; she has been involved in compliance work and engages in professional development less than twice a year.

Suzanne is a 35+-year-old Caucasian woman who is a Title IX/ADA Coordinator at Pennsylvania public college. Suzanne has been in her present position for less than 2 years and in the overall compliance/regulation profession for over 20 years. Her current responsibilities involve functions of a Title IX/ADA Coordinator (e.g., oversee prompt investigation of complaints pertaining to dating violence, domestic violence, sexual assault, and stalking; ensure awareness of and training on sex discrimination, sexual harassment and sexual misconduct across campus, review and recommend modifications to policies; and conduct campus assessments pertaining to these issues) and being with a staff of three within her office. Suzanne’s educational profile includes a master’s degree; she has just recently been involved in compliance work and engages in professional development at least five times a year.
Kathleen is a 35+-year-old Caucasian woman who is the Title IX Coordinator at New York State private college. Kathleen has been in her present position for less than 2 years and in the overall compliance/regulation profession for over 20 years. Her current responsibilities involve functions of a Title IX Coordinator (e.g., overseeing the University’s response to reports and complaints by students against students under this policy of sexual harassment, relationship violence, and sexual misconduct; and for addressing any patterns or systemic problems) and being a staff of one within her office. Kathleen’s educational profile includes a master’s degree; she has just recently been involved in compliance work and engages in professional development at least twice a year.

Rosie is a 35+-year-old Caucasian woman who is a Title IX/EE/AA Officer at a New Jersey private college. Rosie has been in her present position for over 2 years and in the overall compliance/regulation profession for over 8 years. Her current responsibilities involve functions of a Title IX Officer (e.g., investigation of all reports of sexual violence, stalking and relationship violence involving students, and regularly provides education and training to the university’s students, staff and faculty) and being with a staff of one within her office. Rosie’s educational profile includes a juris doctorate degree; she has just recently been involved in compliance work and engages in professional development at least twice a year.
Appendix M
Coding Schema

Research question #1. How do participants describe the regulatory demands and subsequent needs placed on them by federal and state agencies?
Interviews revealed the following Demands / Needs:

- 1A Need to understand and interpret new regulations and resultant changes
- 1B Demands create a need to identify and acquire additional resources
- 1C Demands create a need to rely on General Counsel advice
- 1D Demands require communicating changes with constituents
- 1E Demands create a need to hire new staff or outsourcing tasks
- 1F Extra work impacted negatively on their personal lives
- 1G Unfunded mandates create funding demands
- 1H Students need two direction communication

Research question #2. How do compliance officers learn to comply with new regulations?

- 2A Reading
- 2B Critical dialogue
- 2C Critical reflection on research
- 2D Critical reflection on experience
- 2E Listserv
- 2F Professional organizations

Research question #3. What helps and/or hinders compliance officers in meeting the challenges they face?

- 3A Share information with peers
- 3B Title IX changes frequently but in subtle often illogical ways
- 3C Misconceptions
- 3D Extra work impacted negatively on their personal lives
- 3E Lack of resources
- 3F Who you report to matters