

# **Special Edition Time with IX:** Exploring the Effect of the *Cardona* Decision on Cross- Examination and Live Hearings

Thursday, September 2, 2021

3:00PM – 4:30PM ET

# ZOOM MEETING ETIQUETTE:

**This program is being recorded and will be provided to all attendees within seven business days.**

- **Please Keep your Microphone Muted Throughout the Meeting**
  - On your video screen you should see a mute/unmute button
  - When muted you will see your microphone appear in red on your video screen
  - You can choose to have your video on or off throughout the meeting
- **To Ask a Question Please Use the “Raise Hand” Feature**
  - Click on “participants” at the bottom of your screen. A participant box will appear and at the bottom you will click “raise hand”
  - Keep your hand raised and we will call upon you to speak. Please remember to unmute your microphone to ask your question and mute again when you finish speaking
  - If you click raise hand by accident or if your question is answered, you can click the button again to lower your hand
  - If you would like to ask a question anonymously, you can send that to the moderator in a private chat.
- **Chat Feature**
  - Please reserve the chat feature for more informal communication, not content-based questions. You can chat here with other attendees and ATIXA staff! You can choose to chat privately with other attendees as well. We will also post links in the chat for resources discussed during the event



Brett A. Sokolow, J.D.  
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## PRESENTERS FOR TODAY'S TIME WITH IX EVENT

# ATIXA TIME WITH IX

## Today's Topic:

## Exploring the Effect of the *Cardona* Decision on Cross-Examination and Live Hearings

### Upcoming Time with IX

Implementing the One Policy, Two Processes  
(1P2P) Model Policy

- Open to the Public
- Friday, September 17, 2021
- 3:00pm – 4:30pm ET

### Register:

[www.atixa.org/events/](http://www.atixa.org/events/)

## Learning Outcomes:

- Explore the history of the *Cardona* litigation, to understand its context
- Understand the effect of the ED Guidance on 8/24/21 in response to the *Cardona* decision
- Understand what this change means and what it does not (live hearings are still required!)
- Gain tools to evaluate what changes to their own policies and procedures should result, and when
- Explore whether/how a rule change might affect complaints that are currently in the resolution process
- Learn how to operationalize this rule change, how training should shift, and what the impact will be with respect to how hearings are conducted and unfold
- Gain clarity on whether inferences can be drawn from non-participation/refusal to answer by a party/witness
- Discuss the implications of changing this rule with respect to the viability of cross-examination, and how this rule change may undermine the entire cross-examination scheme within live hearings for colleges and universities

# MODEL PROCEDURAL LANGUAGE

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.



# Upcoming Training and Events

## September

- 14 | Rationale Writing Workshop for Decision-Makers and Investigators
- 20-21 | Title IX Coordinator Level One: Foundations
- 22-23 | Civil Rights Investigator Level One: Foundations
- 28-29 | Hearing Officer & Decision Maker
- 30 | Consent Workshop

## October

- 4 | Report Writing
- 5-6 | Title IX Coordinator Level Two: Pressures, Politics, Sanctions, Minors, and MOUs
- 7 | ADA/504 Coordinator
- 12-13 | Civil Rights Investigator Two: Advanced
- 14 | Title IX Athletics
- 18 | Gender Identity in the College Classroom Workshop
- 25-26 | Civil Rights Investigator Three: Sexual Violence/Sexual Harassment Case Processing and Resolution
- 27-28 | Informal Resolution Level One: Foundations

## November

- 2 | Title IX Hearing Advisors
- 3 | Title IX Hearing Chairs
- 4 | Title IX Hearing Officer and Decision-Maker: Interactive Mock Hearing (Non-certifying)
- 3, 10 & 17 | Civil Rights Investigator One: Foundations
- 4, 11 & 18 | Civil Rights Investigator Four: Advanced Interviewing Skills & Strategies
- 8 | Violence Risk Assessment with NABITA endorsement

# ATIXA MEMBERSHIP

## ATIXA offers three membership levels: Super, Institutional, and Individual.

ATIXA exists to help the field of Title IX with access to tools that advance gender equity, motivate change, and implement best practices. Furthermore, its members receive up to the minute consultation and value in the many benefits provided below.

- Member Listserv
- Member-only Resource Library
- 20-Minutes-to...Trained access
- Discount on Training and Events
- Weekly Newsletter
- Member List
- 2020 Regulations Resources
- Member Webinars

**To learn more, visit [atixa.org/join](https://atixa.org/join)**

### Why Join ATIXA?



Nationwide network of  
top industry experts and  
Title IX colleagues



Commitment to advancing  
gender equity within  
schools and colleges



Real-time takeaways on  
compliance



Investment in professional  
development



Unparalleled Title IX  
expertise

# ATIXA DIGITAL BADGES

## Showcase your achievements!



It's now easier than ever to **share** your **achievements** and **credentials**! In addition to the certificates of completion provided by ATIXA following a certifying event, we also offer **personalized badges**.

Benefits of digital badges include:

- **Shareable** – ability to link to social platforms like LinkedIn, Twitter, and Facebook, as well as one's email signature.
- **Always accessible** – Your credential will always be present at its web address.
- **Secure** – ATIXA partners with the leading digital badge company, Accredible, to securely issue and track badges.
- **Verified** – A directory lets searchers quickly and definitively validate an Accredible badge.

To learn more, visit [atixa.org/digital-badges](https://atixa.org/digital-badges)

# 2021 ATIXA ANNUAL CONFERENCE

## Registration is now open!

### This year's Virtual Conference will feature:

- Opening Keynote Speakers **Jennifer Hirsch** and **Shamus Khan**, Authors of “Sexual Citizens: A Landmark Study of Sex, Power, and Assault on Campus.”
- Six featured speaker sessions and six live concurrent sessions on a variety of **Title IX topics relevant to both higher ed and K-12** professionals, all inclusive of time for Q&A.
  - **Two roundtable sessions**
  - **A networking reception**
- A Plenary session on “The State of the Field,” featuring the TNG Partners & ATIXA Advisory Board Member, Catherine Spear, J.D.
- A Closing Keynote Panel Discussion, “Why the Fight for Trans Inclusion in Sports is the Civil Rights Issue of Our Time: A Panel Discussion inspired by *Changing the Game*.”



# TITLE IX TOOLKIT (TIXKIT)

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TIXKit is a 300+ document repository of best-in-class templates, forms, models, and checklists to support the operational efficiency and compliance of college and school Title IX offices.

## What's included?

- Policy and Procedure documents
- Sample reports
- Case studies
- NDAs
- And more!



**Bundle discount:** For a limited time, you can bundle [TIXKit](#) with an ATIXA Certification Course for a special price by adding it to your cart upon checkout!

To download the TIXKit Forms and Templates Table of Contents, visit [atixa.org/TIXKit](https://atixa.org/TIXKit)

# Register Today!



## **What?**

In-Person Title IX Training & Certification Event



## **When?**

January 24-28, 2022



## **Where?**

Hilton Orlando Lake Buena Vista  
Orlando, FL



## **More Details?**

<https://www.atixa.org/events/orlando-2022/>