Description:
Nearly all Title IX practitioners will have to respond to retaliation complaints at some point during their career. They’re materially different than other Title IX complaints, with respect to analysis and assessment of intent.

The ATIXA Best Practices for Addressing Retaliation Complaints Seminar is designed to provide practitioners with a deep dive into the framework and core concepts for evaluating the merits of a retaliation allegation, managing retaliation complaints amidst ongoing resolution of the underlying complaint, and how to minimize the risk of Cat’s Paw liability.

ATIXA’s expert faculty members will highlight considerations specific to responding to retaliation allegations, including conducting retaliation investigations. Participants will also learn how to apply appropriate supportive measures and intervention strategies to cases of retaliation with an employee as a party.

Learning Outcomes:
After completing this seminar, participants will be able to…
- Define retaliation
- Understand the key role of intent in assessing whether conduct is retaliatory
- Operationalize the concepts of adverse actions, protected activity, legitimacy, and pretext
- Apply the three-part framework to analyze a retaliation allegation
- Execute ATIXA’s recommended practices for investigating retaliation allegations
- Identify possible supportive measures and interventions for responding to retaliation

Seminar Topics
Framework
- Retaliation Definition and Elements
- Statutory, Case Law, and Regulatory Insights
- What is “Protected Activity?”
- Understanding Adverse Action
- Reporting, Filing a Report, Assisting Someone in Reporting
- Participation in the Process
Jackson v. Board of Education
Connection Between Protected Activity and Adverse Action – The Intent Requirement

Best Practices
- Communication with Parties, Witnesses, and Others
- Anti-retaliation Training and Prevention
- Retaliation by Third Parties (including from individuals outside the school or institution) and Protecting Third Parties from Retaliation
- Understanding and Avoiding the Cat’s Paw

Investigation Considerations
- Options to Manage Investigation Within Existing Investigation or Separately
- Direct vs. Indirect Evidence
- Inferring Intent Based Upon Close-in-Time Proximity
- Are There Legitimate Non-Retaliatory Reasons for the Adverse Action?
- Were the Non-Retaliatory Reasons Pretextual?

Supportive Measures and Intervention Tools
- Stop, Prevent, Remedy
- Supportive Measure Options
- Common Supportive Measures in Employee Settings
- Common Supportive Measures in Student Settings

Case Review
- K-12
- Higher Education
- Employee-Specific

Note: Seminars do not include a standard break. Participants are welcome to eat and/or drink during the seminar and step away for other needs as necessary. Seminar start and end times for in-person events are determined by the host site. All virtual seminars take place from 12:00 – 2:00 PM ET unless otherwise specified.