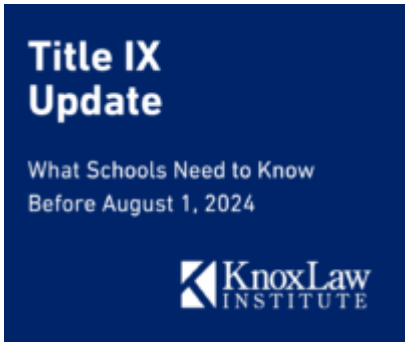
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Title IX Update: What Schools Need to Know Before August 1, 2024

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After several delays and nearly two years of anticipation, the United States Department of Education (DOE) issued a final rule on April 19, 2024, amending the regulations which implement Title IX of the Education Amendments of 1972 (Title IX).

These new regulations, which go into effect on August 1, 2024, alter the way schools must enforce Title IX for students and staff at all levels.

Among other things, the new regulations expand the scope of prohibited sexual and sex-based harassment, clarify the definition of "sex" for purposes of Title IX, and streamline the grievance procedure in most cases. There are a large number of significant amendments to the regulations.

Three of those changes are highlighted below:

1. Defining "Sex" and "Sexual Harassment" For Purposes of Title IX

Under the revised regulations, the DOE makes clear that all forms of discrimination on the basis of sex, broadly defined, are prohibited. In particular, the regulations clarify that Title IX prohibits discrimination, including harassment, on the basis of sex, sex-based characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

The regulations also clarify that both "sexual harassment" and "sex-based harassment" includes quid pro quo sexual harassment, sexual assault, dating violence, domestic violence, stalking, and hostile environment harassment.

2. Streamlining the Grievance Procedure

The new regulations make a number of significant changes to the Title IX grievance procedure which will lead to a more streamlined process, bringing welcome relief to schools in their efforts to maintain Title IX

compliance. Among some of the most impactful changes is the return of an option to use a “single-investigator” model in most Title IX cases.

Since 2020, schools have been required to identify multiple Title IX officials, including investigators, decision makers, and appeal decision makers, who were free from potential bias and who could not be the same person. This was particularly taxing on smaller school communities, with fewer administrators. Beginning August 1, 2024, schools will have the option of using a “single-investigator” model in many cases, as long as the school’s policy makes clear when it will be used, allowing for the Title IX coordinator to also serve as the investigator and decision maker in those cases.

The new regulations also increase access to the informal resolution process, offering schools the option to utilize the process even before a formal complaint is issued, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary or secondary school student or would be otherwise contrary to law.

3. Identifying and Reporting Potential Sexual or Sex-Based Harassment

Under the previous regulations, ***any*** school employee with “actual knowledge” of conduct that could constitute sexual harassment in an education program or activity was required to report that information to the Title IX Coordinator. The school entity was then required to respond in a manner that was would not be ***deliberately indifferent***.

The 2024 regulations clarify the reporting requirements and also carve out an exception for certain confidential employees, as specifically defined under the regulations. Under these amended regulations, any employee who is not a confidential employee must notify the Title IX Coordinator when the employee ***has information about conduct that reasonably may constitute*** sex discrimination under Title IX. Confidential employees are responsible for disclosing their confidential status to the reporter or alleged victim of sexual harassment and for providing them information on how to report the harassment to the Title IX Coordinator. Upon receipt of a report of sex discrimination, including sexual or sex-based harassment, the school entity is then responsible for responding ***promptly and effectively***.

Important to Note

Education institutions are reminded that the new regulations take effect on August 1, 2024. Schools are responsible for implementing new Title IX policies which incorporate these changes and must update their grievance procedure before August 1st.

Schools are further reminded that all Title IX officials must be trained on the new Title IX regulations before they can play a role in the grievance process as of August 1st. Finally, the new Title IX regulations require that *all employees* be trained on delineated Title IX topics.

Knox Law is committed to providing our education clients at all levels guidance on the new Title IX regulations. Attorneys **Jennifer Gornall** and **Julia Herzing** are developing an updated Title IX training for Title IX Coordinators, Investigators, Decision Makers, and Informal Resolution Facilitators. This training will be held in July of 2024. They are also preparing a more condensed program to satisfy the Title IX “all employee” training requirement.

Schools interested in having their Title IX officials attend this training, who are in need of updated Title IX policies, or would like access to an “all employee” training program should contact Knox Law for more information.



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