

Title IX Directives to Schools for Handling of Sexual Misconduct Claims Rescinded

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The U.S. Department of Education issued interim guidance addressing how the Office of Civil Rights will assess Title IX compliance when schools process claims of sexual misconduct, including peer-on-peer sexual harassment and sexual violence.

The latest "[Dear Colleague Letter](#)" sets in motion [plans announced by Secretary of Education Betsy DeVos](#) earlier this month to "revoke or rescind" Obama administration Title IX guidance that established very specific requirements for responding to complaints of sexual misconduct in schools.

In addition to officially withdrawing the 2011 "Dear Colleague Letter on Sexual Violence" and the 2014, "Questions and Answers on Title IX Sexual Violence," the department announced that schools are to rely on a newly issued "[Q&A on Campus Sexual Misconduct](#)" and the existing "[Revised Sexual Harassment Guidance](#)". Input is now being solicited from the public during a new rulemaking process.

The interim guidance indicates that schools may choose to apply either the "preponderance of the evidence" or "clear and convincing evidence" standard when addressing sexual misconduct complaints, but that they must apply the same standard to sexual misconduct infractions as used with all other student disciplinary matters. In addition, the interim guidance provides that schools may grant an appeal solely to the accused or to both parties. If the appeal is granted to both parties, appeal procedures must be equally applied to both parties.

We will continue to monitor developments related to these new directives. If you have questions, or if we can provide any additional assistance as you review your existing policies and procedures, please contact any of the attorneys in [Barley Snyder's Education Law Practice Group](#).