

U.S. Department of Education Releases New Title IX Regulations

PUBLISHED ON
April 22, 2024

Last week, the U.S. Department of Education released new Title IX regulations for colleges and universities, set to take effect on August 1. Title IX is a federal law that prohibits sex-based discrimination in education programs and activities. The new regulations-spanning over 1,500 pages-reflect the Biden administration's efforts to revise contentious rules put in place in 2020 during the tenure of former President Donald Trump.

These regulations introduce several key changes that institutions need to be aware of and address through updated policies and procedures.

Expanded Coverage

Compared to the 2020 rules, the new regulations expand the scope of Title IX protections to encompass a broader range of individuals and situations:

- LGBTQ individuals, pregnant individuals, and parents are now explicitly covered by Title IX protections.
- Institutions will be required to address allegations of sex discrimination occurring outside the United States, including those arising from study abroad programs, if the discrimination affects the complainant in some way within the United States.
- Institutions are required to address a wider range of off-campus conduct using their Title IX grievance procedure, aligning their response with their general disciplinary authority. If the institution would apply its non-Title IX discipline process to the context in which off campus conduct occurs, then the Department of Education will require the institution's Title IX process to address sex discrimination that occurs in those same off campus contexts.
- The definition of hostile environment discrimination has been revised, requiring institutions to address sexual harassment if the conduct can be deemed severe *or* pervasive. The 2020 regulations, in contrast, permitted institutions to address such allegations only if the conduct could be deemed severe, pervasive, *and* objectively unreasonable. So the new regulations mark a substantial expansion of the type of conduct that will trigger an institution's Title IX grievance procedure.
- The new regulations will permit former students and non-students to initiate Title IX grievances. The 2020 regulations required that an individual had to be participating in the College's education programs or activities at the time that the formal complaint was signed.

Increased Institutional Flexibility

The new regulations grant institutions more flexibility in fulfilling their Title IX obligations compared to the rigid procedural requirements of the 2020 rules:

- Institutions can now opt for a single adjudicator approach, allowing the same individual to investigate and decide the outcome of sex discrimination allegations.
- The new regulations provide institutions with greater flexibility in addressing sex discrimination complaints involving employees, allowing institutions to adopt streamlined human resources methods for situations involving non-student employees.
- While the new regulations impose significant procedural requirements for allegations of "sex-based harassment," institutions can limit those procedures to situations involving students.

More Training Required

The new regulations mandate that covered institutions provide training not only to employees directly involved in the Title IX grievance procedure but also to all employees. Such training must address all employees' obligations to report potential instances of prohibited sex discrimination, how students can seek confidential assistance, and how students can initiate the Title IX grievance procedure.

Looking Ahead

These regulations will become effective August 1 absent court intervention. Institutions will have to collaborate closely with their legal counsel to develop necessary policies, procedures, and training over the next three months.

This summary covers only a fraction of the changes introduced by the new regulations. If you have questions concerning your institution's Title IX compliance efforts, please reach out to Barley Snyder partners [David Freedman, Esq.](#) or [Joshua Schwartz, Esq.](#)

WRITTEN BY:



David J. Freedman

Partner

Tel: (717) 399-1578

Email: dfreedman@barley.com