

## U.S. Department of Education Releases Proposed Title IX Rule

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The U.S. Department of Education on Friday released its proposed updates to Title IX regulation, specifically adding new requirements for how schools must act to combat, prevent and respond to sexual harassment.

The updates are now available for 60 days of public comment before the rule is considered for adoption.

According to the department's news release on the proposed rule, it "seeks to ensure that all schools clearly understand their legal obligations under Title IX and that all students clearly understand their options and rights."

Some of the key provisions in the proposed rule:

- Requirement for schools to respond meaningfully to every known report of sexual harassment and to investigate every formal complaint.
- Highlights of supportive measures designed to preserve or restore a student's access to the school's education program or activity, with or without a formal complaint.
- Requirement of remedies for the survivor to restore or preserve access to the school's education program or activity when there has been an incident.
- Requirement for schools to apply basic due process protections for students. That includes a presumption of innocence throughout the grievance process, written notice of allegations and an equal opportunity to review all evidence collected and the right to cross-examination, subject to "rape shield" protections.
- Colleges and universities would be required to hold a live hearing where cross-examination would be conducted through the parties' advisors.
- Consistent with U.S. Supreme Court Title IX cases, the proposed rule defines sexual harassment as unwelcome conduct on the basis of sex that is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school's education program or activity.

The department has added a [one-page summary](#) of the proposed rule, a [deeper, section-by-section review](#) and the [full rule](#).

If you have any questions on the proposed rule and how it affects your school, please contact any member of the [Barley Snyder Education Practice Group](#).