

LEGAL UPDATES

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# U.S. Department of Education Releases Final Title IX Regulations

Today, the U.S. Department of Education released the final version of its new Title IX regulations that govern institutional response to sex discrimination and sexual harassment. The regulations become effective August 1, 2024. The current regulations (from August 2020) remain binding until August 1. K-12 schools, colleges, and universities that receive federal funds have only a few months to revise their Title IX policies and train key personnel on the new regulations.

The final version of the Title IX regulations is similar in most respects to the proposed form of the regulations the Department of Education issued in the summer of 2022 and that prompted a large volume of public comments, some supporting the proposed regulations and others criticizing them. Among the most significant changes, the final regulations expand the definitions of sex discrimination and sexual harassment to include discrimination and harassment based on sexual orientation and gender identity. The final regulations also expand the geographic reach of Title IX to capture more off-campus conduct; modify the definition of hostile environment harassment; expand the scope of mandatory reporting by employees; require specific and detailed procedures for the investigation and resolution of sex discrimination complaints; expand the option for voluntary informal resolution in the absence of a formal complaint and to complaints of sexual harassment by students against employees at colleges and universities, if appropriate; and permit resolution of sexual harassment complaints involving college and university students through either a hearing implementing certain requirements or a single-investigator model with augmented due process protections, including a process for assessing credibility through party questioning by the decisionmaker. The final regulation also formalizes certain protections and accommodation rights for students who are pregnant or have pregnancy-related conditions; it also requires employees to provide students who disclose

a pregnancy or pregnancy-related condition with the Title IX Coordinator's contact information.

The final regulations released today do not include rules to address Title IX's application to sex-separate athletic teams.

Litigation challenging all or some aspects of the final version of the Title IX regulations is likely. Given current and historic disagreement between some federal courts on the scope of Title IX and the requirements of due process, the outcome of such litigation is uncertain. As such, it is prudent for institutions to begin immediate steps to come into compliance with the new regulations.

The unofficial version of the final regulations is available [here](#).

The Department of Education has also released a fact sheet and summary of key provisions.

The Husch Blackwell Education Team will fully analyze the final regulations and provide additional guidance and explanation in the coming days.

## **What this means to you**

The long-awaited final Title IX regulations are here, and institutions must come into compliance with them by August 1, 2024. Title IX Coordinators and other institutional officials should work with their legal counsel to analyze the final regulations, revise policy as necessary, and train key personnel on the new regulations, prior to the start of the 2024-2025 academic year.

## **Contact us**

For more information about the implications of the regulations for your institution, please contact any member of the Husch Blackwell Education Team. Husch Blackwell regularly publishes updates on industry trends and new developments in the law for our clients and friends. Please fill out this quick form if you would like to receive electronic updates and newsletters.

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