

TYPES NOT MAPPED YET August 12, 2020 | TTR not mapped yet | Scott Z. Goldschmidt, Aaron D. Lacey

Free Title IX compliance checklist for institutions of higher education

As institutions of higher education are acutely aware, the U.S. Department of Education's new [Title IX Rule](#) takes effect this Friday, August 14, 2020. Pursuant to the new rule, colleges and universities are required to prepare and implement a wide range of new policy and procedural requirements. These requirements focus on the resolution of allegations of sexual misconduct on campus, and touch on nearly every aspect of the process, from the initial response to the management of appeals. The new rule also includes a number of requirements that have proven particularly controversial, including the obligation to hold live hearings, to facilitate cross-examination and to provide an advisor where a party otherwise would not have one.

To assist institutions in their efforts to comply with the new rule's requirements, Thompson Coburn's Higher Education Practice has created a free compliance checklist. This self-audit tool is designed to assist institutions as they review their policies for compliance with the new rule's most significant requirements, and includes select quotations from the commentary that accompanied the new rule.

The Title IX Compliance Checklist can be used in conjunction with Thompson Coburn's free, six-part [Title IX Training Series](#), which assists institutions to comply with the significant training requirements in the new rule. Released last month, this online lecture series provides foundational training for those individuals who will be administering the new Title IX process this fall, including Title IX coordinators, investigators, advisors, hearing officers and appeal officers. Thompson Coburn welcomes institutions to use the Title IX Training Series at their discretion, and to include the lectures on their external websites (as required by the new rule).

A brief description of each module in the training series is set out below. Institutions also can [click here](#) to access the slide deck for each module in the series, and to download a comparison document showing the changes the new rule made to the Department's Title IX regulations.

- **Module 1 - An Introduction to Managing Title IX Sexual Harassment on Campus:** In the Fundamentals of the Law module, [Scott Goldschmidt](#) and [Aaron Lacey](#) provide an overview of the new Title IX rule. Starting with a background and history of Title IX, the module details key definitions, elements of a sufficient response to "Title IX sexual harassment," interim and supportive measures and recordkeeping requirements.
- **Module 2 - Formal Complaints of Title IX Sexual Harassment:** In the Formal Complaints module, Scott Goldschmidt and Aaron Lacey discuss the new regulation's framework for formal complaints of Title IX sexual harassment. The module details the ten core requirements for a formal complaint process and explains the requirements regarding dismissals and consolidation of complaints.
- **Module 3 - Title IX Investigations & Informal Resolutions:** In the Investigations and Informal Resolutions module, [Susan Lorenc](#), Scott Goldschmidt and Aaron Lacey explain the new regulation's requirements for investigations of formal complaints of Title IX sexual harassment. The module explores key concepts, notice requirements, confidentiality, evidence, serving impartially, issues of relevance, interviews, credibility determinations, collection and review of documentation and writing investigative reports. The module also explains the regulation's requirements regarding informal resolutions.
- **Module 4 - Title IX Hearings:** In the Hearings module, Retired Judge [Booker Shaw](#), Scott Goldschmidt, and Aaron Lacey, discuss the new regulation's hearing requirements for formal complaints of Title IX sexual harassment. The module delves into key concepts, the live hearing requirement, advisors, managing cross-examination, relevance, credibility, burden of proof, evidence and legal privileges.
- **Module 5 - Title IX Determinations:** In the Determinations module, Susan Lorenc, Scott Goldschmidt, and Aaron Lacey explore the new regulation's requirements for written determinations of responsibility following a

hearing. The module covers key concepts, the format and content of determinations, organizing facts and thoughts, excluding facts in evidence, weighing facts under applicable evidentiary standards, types of evidence, effective deliberations and writing a defensible determination.

- **Module 6 – Title IX Appeals:** In the final module of the series, Retired Judge Booker Shaw, Scott Goldschmidt, and Aaron Lacey explain the new Title IX rule's requirements for appeals. The module details key concepts, bases for appeal, drafting appeal decisions and requirements for appeal officers.

For inquiries regarding the Title IX Compliance Checklist, the Title IX Training Series, custom trainings and simulations, the development of updated policies or other issues relating to Title IX compliance, institutions are welcome to contact Scott Goldschmidt at sgoldschmidt@thompsoncoburn.com or Aaron Lacey at alacey@thompsoncoburn.com.

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About REGucation

Welcome to REGucation, the higher education resource that strives, through practical advice and insight, to help the higher education community manage a fast-changing and increasingly complex regulatory environment.

Our goal is to serve as a practical, concise, and accessible resource for institutions confronting regulatory and policy issues. The blog focuses on the extraordinarily broad and sophisticated set of legal challenges faced by contemporary post-secondary institutions, including those involving real estate, construction, joint ventures, litigation, intellectual property, immigration, taxation, financing, employees and benefits, and government relations, to name a few. We also cover the staggering collection of federal, state, and accrediting agency laws and standards specific to higher education.

If there are topics you would like us to cover, or questions you may have regarding a topic that already has been addressed, please do not hesitate to reach out. Finally, if you would like to contribute a guest article, we would love to hear from you.

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