

insights

TYPES NOT MAPPED YET April 19, 2024 | TTR not mapped yet | Scott Z. Goldschmidt, Stephanie C. Fredman

Title IX (Joe's Version) Dropped This Morning

We interrupt your Tortured Poets Department** listening party to inform you that the Biden administration has released its long awaited **Title IX rules**. The new rules, published this morning in unofficial form, will be formally published in the Federal Register shortly.

In its [press release](#) announcing the new rules, the Department also published a [fact sheet](#), a [summary](#) of the major provisions of the final regulations, and a [resource](#) for drafting Title IX nondiscrimination policies, notices of nondiscrimination, and grievance procedures.

Thompson Coburn's Higher Education team is currently in the process of reviewing the final rules*, including the preamble which provides the Department's response to the significant, relevant issues raised in public comments and a statement providing the basis and the purpose of the rule. We will be providing additional information about the rule and resources for institutions of higher education in the coming weeks.

Importantly for institutions, it is important to note that the final regulations are effective on *August 1, 2024*, and apply to complaints of sex discrimination regarding alleged conduct that occurs on or after that date. This means institutions have **104** days to have a revised Title IX policy and grievance procedure in place.

In light of this timeframe, institutions need to start reviewing the final rule and developing a plan for compliance now - particularly before many important campus constituencies start to disappear for vacations or summer break. Accordingly, here are a few initial steps that institutions can be taking now that the final rules are published:

Assemble a Title IX Compliance Team

As a first step, we recommend that institutions identify a dedicated Title IX compliance team. This team should be led by a Title IX Coordinator and can include representatives from various departments across the institution. Key departments to consider include:

- **Office of the President:** Buy-in and a sense of urgency from the top leadership is crucial for successful implementation of Title IX policies and procedures.
- **Office of Student Affairs:** This department will play a key role in outreach, education, and support services for students impacted by sexual harassment and other violations of Title IX.
- **Office of Human Resources:** HR will be responsible for ensuring compliance for faculty and staff, including addressing complaints, training, and resolution procedures.
- **Office of the Provost:** Academic leadership needs to be involved in ensuring clear communication and consistent application of Title IX policies throughout academic programs.
- **Campus Law Enforcement:** Collaboration with law enforcement is essential for addressing potential criminal aspects of violations of Title IX.
- **Office of Communications:** Developing a clear communication plan to inform the entire campus community about the new regulations and reporting procedures is vital.
- **Office of General Counsel and/or Compliance:** Legal guidance will be crucial in navigating the complexities of the new regulations and ensuring compliance.

This team should meet regularly, set clear deadlines, and have the authority to allocate resources necessary for compliance by August 1, 2024.

Conduct a Thorough Review and Analysis of Current Policies and Documents

Institutions should undertake a comprehensive review of all relevant documents to identify areas needing adjustments to comply with the new regulations. This includes:

- **Current Title IX Policies and Procedures:** Gather and review existing policies and procedures to identify gaps and areas for revision based on the new regulations.
- **State Laws:** Certain state laws may have specific requirements regarding sexual harassment and discrimination based on sex reporting, investigations, or definitions that must be considered when crafting compliant policies.
- **Collective Bargaining Agreements:** If the institution has collective bargaining agreements with faculty or staff unions, these agreements may prescribe standards of evidence or grievance procedures that need to be reviewed for alignment with the new Title IX regulations.

Training Plan Development

The regulations require that schools train employees about the school's obligation to address sex discrimination, as well as employees' obligations to notify or provide contact information for the Title IX Coordinator. Here are some aspects to consider:

- Identify required training topics for Title IX coordinators, investigators, decisionmakers, anyone involved in grievance procedures, and anyone with the authority to modify or terminate supportive measures.
- Identify any additional training for all employees on sex discrimination, and Title IX policies and procedures.
- Plan how these trainings will be conducted, by whom, and when.

Develop a Communications Plan

As institutions will be changing their Title IX policies and procedures, it is important to develop a plan to proactively communicate those changes to the student body, faculty, and employees and to explain why those changes are being made.

- Develop a communication plan to proactively inform students, faculty, and staff about the upcoming changes to Title IX policies and procedures.
- Explain the reason for these changes, how to report complaints, the new requirements outlined in the regulations, and where to go with questions or concerns.
- Clearly communicate the effective date of the new policy.

Plan on Continuous Improvement

Institutions should consider revisiting the new policies and procedures regularly to ensure compliance and to take institutional changes into account.

By taking these steps proactively, colleges and universities can ensure a smooth transition to the new Title IX regulations and demonstrate their commitment to fostering a safe and inclusive learning environment for all.

****As of the publication of this blog post, the Department has not released a secret second round of regulations - a 2AM version if you will - but the Thompson Coburn Higher Education team will be sure to alert the REGucation community of any surprises.**

***Swiftie Translation:** decoding the easter eggs.

Institutions that would like assistance with the new Title IX rules are welcome to contact Scott Goldschmidt (sgoldschmidt@thompsoncoburn.com), Stephanie Cohan (scohan@thompsoncoburn.com), or Aaron Lacey (alacey@thompsoncoburn.com). We also invite institutions to visit our Higher Education Resources page, which includes links to our most recent webinars, training series, desk guides, whitepapers, and blog posts.

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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