

LEGAL UPDATES

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Department of Education Proposes Major Overhaul of Title IX Rules and Regulations

On June 23, 2022—exactly fifty years after Title IX of the Education Amendments of 1972 became the law of the land—the U.S. Department of Education (ED) released its latest and much anticipated Title IX Notice of Proposed Rulemaking. The proposed regulations run to 700-plus pages and respond to significant changes in Title IX sexual harassment policies and procedures for colleges and universities brought about by Trump Era ED regulations that were imposed in August 2020.

The latest proposed regulations would once again significantly alter the regulatory context of Title IX by:

Explicitly including as forms of sex discrimination under Title IX discrimination on the basis of pregnancy, sexual orientation, gender identity, sex stereotypes, or sex characteristics

Expanding the definition of hostile environment sexual harassment

Clarifying that harassment occurring outside of an educational program or activity can nevertheless violate Title IX if such harassment contributes to a hostile environment within an educational program or activity

Extending required Title IX grievance processes to complaints of all forms of sex discrimination

Reviving the single investigator model for Title IX grievance processes

Relaxing a number of procedural requirements for Title IX grievance processes including the live hearing requirement

Refining definitions of retaliation

Expanding institutional obligations to respond to sex discrimination

Once the notice is published in the federal registrar (likely within the next few days), interested persons, including colleges and universities, will have 60 days to provide comments. ED will then evaluate those comments and may—or may not—modify the proposed regulations in response. At the end of the comment process period, ED will issue regulations that will be binding on institutions, absent a successful lawsuit enjoining their issuance.

What this means to you

ED's proposed Title IX regulations will result in significant changes to Title IX compliance efforts. Your institution should carefully evaluate the proposed regulations and consider whether to provide comments to ED raising any concerns or suggested modifications. Under the assumption the proposed regulations may survive the comment process without significant changes, institutions should plan now for how they may need to modify their policies, practices, and procedures to align with the new regulations.

[View our Summary of Proposed Rules](#)

Contact us

For more insights on navigating the newly proposed Title IX regulations, please contact our Higher Education team or your Husch Blackwell attorney.