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K-12 Schools And Title IX: New Regulations Require Immediate Attention And Action

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Months before the U.S. Department of Education released [new final Title IX Regulations](#) on May 6, 2020, schools that receive federal funding were expecting changes to how the Department requires them to address issues of sexual harassment in school activities and programs. In February, Education Secretary Betsy DeVos announced, in a Department [press release](#), that she was directing the Office of Civil Rights to “tackle the tragic rise of sexual misconduct complaints in our nation’s K-12 campuses head on” through compliance reviews and “raising public awareness about what’s actually happening in too many of our nation’s schools.”

The secretary’s February statement served as a prelude to the new final regulations issued, not as guidance, but with the full force of law. Amid the COVID-19 pandemic, as school districts confront fundamentally difficult questions such as how to safely reopen their school buildings in the fall, superintendents, principals, school boards and other administrative leadership must also focus on complying with new Title IX regulations, which take effect Aug. 14, 2020.

Title IX prohibits sex discrimination in a school’s activities and programs and requires all schools, from K-12 to post-secondary institutions, to take appropriate steps to prevent and redress issues of sex discrimination. For many years, while the public’s focus has been drawn to Title IX at institutions of higher education, Title IX has always

been and remains equally applicable to K-12 schools. Now, the initial question for many K-12 schools, is “What do the new final regulations mean for us?” For districts that have a Title IX policy in place, this question will prompt a series of other questions that will need to be asked and answered, such as:

- Do we have an identified Title IX coordinator?
- Is our Title IX coordinator and their contact information identified on our district website?
- Are the current Title IX policy and procedures available on our district website?
- How are our district personnel trained in Title IX?
- Do we consistently offer supportive measures and what are those options?
- How do we document an incident, notify the parties and parents or guardians, conduct an investigation and inform the appropriate and necessary people about the final outcome?

The above questions offer K-12 schools a small sample of what the final regulations direct districts to incorporate in their new or revised policy and procedures. As states across the country are debating budgets, school funding and all the direct and collateral consequences of the pandemic, K-12 schools cannot ignore and must take the immediate step of addressing how to implement the new Title IX regulations. After taking the preliminary step of reading the regulations and the Department's [summary](#), school district administrators and leadership should consider the following steps as an outline of some of the things that will need to be done:

- Review their current Title IX policy and identify who is currently responsible for implementing Title IX and responding to incidents in their district
- Revise an existing or draft a new Title IX policy that is compliant with Department directives
- Identify a Title IX Coordinator and clearly define their role

- Identify what other personnel may be needed to effectively implement and support their Title IX policy and procedures which could prompt hiring considerations or shifts in existing personnel and their roles
- Notify all parents or guardians of students, students and employees about the Title IX Coordinator and how to report an incident of sex discrimination in a program or activity it operates
- Understand what the Department defines as *actual* knowledge of a Title IX incident that triggers K-12 personnel's duty to report to the district Title IX Coordinator
- Distribute and conspicuously post information and conduct training regarding the district's approved Title IX policy and procedures
- Provide training that is comprehensive and continuous for all Title IX or Title IX-related personnel to ensure they are knowledgeable about Title IX policy and procedures and are able to perform their roles free from any conflict of interests or bias
- Ensure a prompt and equitable grievance process that is compliant with all Department directives
- Ensure effective documentation procedures are in place for how the district receives and maintains information
- Determine how to allocate the funding needed, within the district's budget, to implement the Department's directives

The Department expects compliance. Parents, students and the school community expect safety and learning. A [decision](#) delivered on May 22, 2020 in federal court in the Eastern District of Pennsylvania offers timely insight into the importance of this subject in K-12 schools. The ability to be effective in the implementation of a new Title IX policy will rely heavily on how effective the lines of communication are with educating and responding to any concern that suggest a student's safety or access to an educational opportunity is infringed upon based on sex.

Additional Information

- [Final Title IX Regulations](#)
- [Press Release: Secretary DeVos Announces New Civil Rights Initiative to Combat Sexual Assault in K-12 Public Schools](#)
- [Department of Education Summary of Major Provisions of Final Title IX Regulations](#)
- [Decision: Roussaw V. Mastery Charter High School, Et Al.](#)

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