Client Alert: U.S. Department of Education to Enforce 2020 Title IX Regulations

BY MEAGHAN E. BORYS • FEBRUARY 3, 2025

On Friday, January 31, 2025, the U.S. Department of Education's Office for Civil Rights (OCR) issued a Dear Colleague Letter (DCL) clarifying that, effective immediately, OCR will enforce Title IX in accordance with the 2020 Title IX regulations and consistent with President Trump's January 20, 2025 Executive Order, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.*

The DCL specifies that any ongoing Title IX investigations initiated under the 2024 Title IX regulations must be adjusted to fully comply with the 2020 Title IX regulations. This marks the first official confirmation from the current administration regarding its Title IX enforcement practices going forward.

KEY CONSIDERATIONS FOR HIGHER EDUCATION ADMINISTRATORS

As Title IX and sexual misconduct policies are critical components of institutional compliance, higher education administrators may want to consider the following steps in response to this DCL:

1. **Review Current Investigations**: If your institution is currently conducting Title IX investigations initiated consistent with the 2024 regulations, immediately review and revise them to align with the 2020 regulations. Ensure that certain required procedural elements—such as timeframes for evidence review and live hearings involving cross-examination—are implemented, as applicable. It's also essential to notify all parties of such changes.

2. **Update Policies**: Ensure that your institution's Title IX policies reflect the 2020 regulatory framework, including definitions of prohibited conduct. This may involve revising grievance procedures, updating definitions of sexual harassment, and modifying training materials for Title IX coordinators, investigators, hearing officers, and others involved in implementing supportive measures or responding to reports of sexual misconduct.

3. **Communication with Stakeholders**: Promptly update internal staff and external contractors involved in Title IX processes to confirm they are informed of the regulatory shift and any changes to the institution's policies. It's important that all stakeholders understand their roles and responsibilities under the 2020 regulations.

4. **Review State Law**: Given that local laws may have broader anti-discrimination provisions than the 2020 Title IX regulations and/or provide certain requirements for responding to sexual misconduct reports, consult legal counsel to discuss continued compliance at the state level.

CONSEQUENCES OF NON-COMPLIANCE WITH 2020 TITLE IX REGULATIONS

Failure to comply with the 2020 Title IX regulations could expose colleges and universities to increased scrutiny and potential legal consequences, including challenges to federal funding. Therefore, institutions should take immediate

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steps to review and adjust their Title IX policies and procedures, as needed, and ensure that all ongoing and future matters are aligned with the requirements of the 2020 Title IX regulations.

If you have any questions about how these changes may impact your institution or need guidance on revising your policies and procedures, please do not hesitate to reach out to the Bowditch Higher Education team for assistance.

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