Department of Education Plans to Issue New Title IX Regulations in May 2023

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Since the Biden administration issued proposed Title IX regulations in June 2022, educators have faced uncertainty about the longevity of their current Title IX compliance schemes, many of which were completely reworked in 2020. New information from the Office of Management and Budget suggests that changes to Title IX policies and procedures may get underway as soon as May 2023.

The Office of Management and Budget provides public notices about the administration's regulatory agenda, and recently updated information to include a "Final Action" date of 5/00/23 for the proposed Title IX regulations. The "00" is a placeholder, which generally means that the Department of Education (DOE) has set the goal of publishing the rules sometime during the month of May. Institutions should be aware that the DOE does not always meet their goals; for example, Title IX regulations related to athletics that were scheduled to be published in December 2022 have yet to arrive.

Even if the Department does meet its goal of a May publication date, information is not yet available as to whether there will be significant changes from the proposed rules to the final rules, and the date by which institutions will have to comply with the new rules. Educators may recall that, in 2020, the rules were published in May with a required compliance date in August, which was met with much resistance particularly given the COVID pandemic. Court challenges to the new rules, once they are published, may also delay the compliance date.

While information is sparse, signs indicate that educators and administrators should be prepared to spend at least part of the summer of 2023 gearing up for changes to Title IX. This means revising policies and procedures and making sure that necessary personnel and infrastructure are in place to implement compliance with the new rules.

CLIENT TIP

Bowditch attorneys Brigid Harrington, Aimee Bierman and Chelsie Vokes gave a webinar on the proposed Title IX

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regulations when they were issued in June 2022. Please reach out to us to ensure that you are prepared to comply with the final version of these regulations.

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