



CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

Preparing for Compliance with the Final 2024 Title IX Regulations – What Colleges and Universities Should Be Doing Now

BY AMY FABIANO • MARCH 25, 2024

Colleges and universities across the country are anxiously waiting for the U.S. Department of Education (ED) to publish the Biden Administration's final revisions to the Title IX regulations.

On February 2, 2024, the ED sent their proposed final revisions to the Office of Information and Regulatory Affairs (OIRA), a statutory part of the Office of Management and Budget. OIRA is reviewing the proposed revisions and meeting with interested parties through at least April 4, 2024.

Given this timeline, we expect that the final Title IX regulations will be published in late spring or early summer, with an implementation date of August 2024. Sound familiar? When ED last revised the Title IX regulations in 2020, they released the final regulations in May 2020 in the midst of the COVID pandemic, with an implementation date of August 14, 2020, just as most colleges were returning to hybrid or remote classes.

While we're not worrying about the logistics of reopening schools under the cloud of a pandemic this time around, colleges and universities are already under strain due to the FAFSA delays, the gainful employment reporting expected this summer, and ongoing issues related to anti-Semitic and shared ancestry discrimination on campus.

So, what can in-house legal counsel and Title IX teams do now to prepare for compliance with the final Title IX regulations?

DETERMINE YOUR TEAM

Who should be involved in preparing for and ensuring your school's compliance with the 2024 Title IX regulations? Who needs to be trained on the new policies and processes?

CONSIDER ENGAGING OUTSIDE LEGAL COUNSEL

Does your college have the capacity to delve into hundreds of pages of preamble for the final rule, as well as understand the changes that need to be made to your college's policy to be consistent with Title IX as well as state law? Can your college revise its policies – and any related policies – over the summer while also developing and putting on trainings for the Title IX Coordinator, Title IX team, and others before the implementation deadline?

Many colleges benefited from using outside legal counsel in 2020 to outsource analyzing the new regulations and revising policies and procedures.

Outside legal counsel, such as [Bowditch's Higher Education Practice](#), can provide helpful, cost-effective resources to:

- Draft general policy templates based on the new regulations for a college to implement on top of their current policy, or draft college-specific revisions that overhaul the college's policy for compliance with the new regulations.
- Analyze the new regulations and preamble in response to specific, discrete implementation questions from a college's in-house legal counsel or Title IX team.
- Provide general Title IX training to a college's Title IX team on the changes brought by the new regulations.
- Provide college-specific Title IX training for a college's Title IX team and related staff, such as confidential resources on campus on the college's own policy and process changes.
- Provide trainings for and communications to a college's students, faculty, and staff generally about their responsibilities and expectations under a college's new policy.

Remember, the proposed regulations include much more flexibility and options for colleges than the prescriptive 2020 Title IX regulations. Colleges may want to engage outside legal counsel to discuss discrete issues around implementation options and best practices. Outside legal counsel may be able to offer a breadth of knowledge about compliance efforts across higher education that could benefit your institution.

GET READY (OR SIGN UP) FOR TITLE IX TRAINING

Colleges will be inundated with Title IX webinars and trainings as soon as the final regulations are published (including by Bowditch! [Keep an eye on our Events page here.](#)). These webinars can be helpful in distilling lengthy commentary on regulations into practical help in understanding the regulations.

Rather than get overwhelmed by the number of webinars, home in on the ones that make the most sense for your college.

- If your team is revising your Title IX policies and trainings by themselves, attend webinars put on by industry groups and select experts in the field.
- If your team is relying on outside legal counsel to revise your Title IX policies and/or conduct trainings, attend webinars put on by your outside legal counsel and OCR at a minimum.

Remember, any employees who work in the Title IX space will need to be re-trained based on the new regulations and how your college implements those regulations in its policies. Schedule those trainings now! We all know how calendars can get busy early in the academic year.

CONTINUE YOUR TITLE IX WORK CURRENTLY UNDERWAY

Title IX case work will continue and likely ramp up as we approach the end of the academic year. When the new Title IX

regulations are released, colleges will need to work on their ongoing cases while also juggling how to comply moving forward. Make sure that your Title IX team and others have the support they need to do this.

Keep all prior Title IX policies and procedures on file and readily accessible to help you in dealing with cases that may continue to arise from past incidents.

TAKE A BREATH

For those of us who have been practicing in the Title IX space for a decade or more, the whiplash around changing sub-regulatory guidance and the implementation of new regulations (again) can be exhausting. But dare we say that we're used to it now? Having gone through a short implementation period just four years ago, remember that while the work is hard and exhausting, it does get better once your revised policy is in place.

You are not alone. Touch base with peers at other institutions and remember, [Bowditch's Higher Education team](#) is here for you.