



Association of
Title IX Administrators

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ATIXA's Guide to Complying with the 2020 Regulations (Again!)

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Any advice or opinion provided during this training, either privately or to the entire group, is **never** to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

Our Presenters Today



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Regulatory Whiplash

- The 2024 Title IX Regulations were vacated by a federal court on January 9, 2025
- On February 4, 2025, the Department of Education (ED)'s Office for Civil Rights (OCR) issued a Dear Colleague Letter (DCL) relating to ED's interpretation of Title IX
 - ED will enforce "sex" as relating to biological sex assigned at birth
 - ED clarified that it will enforce the 2020 Regulations
 - Any open investigations must be evaluated, and if appropriate, use the 2020 grievance procedures
- Over the past two months, ED and other federal agencies have been quick to initiate investigations related to the Trump Administration's (TA) interpretation of "sex"
 - Denver Public Schools
 - Investigations into various states and athletic associations

Executive Orders

- The TA has issued multiple Executive Orders (EOs) that directly, or indirectly, intersect with our work as Title IX practitioners
 - An EO is a directive to federal agencies (such as ED) and is often followed by agency action that may provide direction to recipients of federal funding (such as through the DCL)
 - *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*
 - *Keeping Men Out of Women's Sports*
- Additional EOs that intersect with Title IX or other Civil Rights Laws have also been issued

Immediate Action Steps

- Ensure that you are operating with a policy that is in line with the 2020 Regulations
 - Including re-evaluating current investigations to ensure compliance
- Communicate changes, if any, to various stakeholders
 - Templates are available in the TIXKit
- Consult legal counsel on applicability of new guidance from TA, federal agencies, and state government
 - This could include taking inventory of various programs
 - Especially if the scope of your office includes functions that may fall under a “DEI” umbrella

Policy & Procedure (P&P) Updates

- As of January 9, 2025, all institutions should have a 2020 compliant policy
 - 2024 Policies should be archived or removed
- Consider updates to existing 2020 policies
 - Benchmark against ATIXA model policies
- Evaluate the need to create or expand other policies and processes (such as Process B) to enhance protections and jurisdiction beyond what is required by regulation
 - ATIXA's 1P2P Version 6.1
 - ATIXA's P&P Builder



The Case for Process B

- Title IX is not limited to reports of sexual harassment, but the 2020 Regulations have a narrow focus
 - Narrow with respect to both “what” and “where”
- For most institutions, many if not most complaints will fall outside of the regulations
 - This is especially true for off-campus behavior
 - State statutes may afford additional protections that fall outside of Title IX
- Creating a robust Process B helps to ensure compliance with the 1975 Regulations, along with other state and federal laws
 - Fair Housing Act
 - VAWA

Thinking Beyond 2020

- Pregnancy
 - Discrimination against someone based on their pregnancy is sex discrimination
 - Reasonable modifications are put in place to ensure someone continues to have equal access
 - The refusal to provide appropriate reasonable modifications could be discriminatory
 - Other federal laws may also apply for employee cases
 - PUMP Act
 - PWFA
- Other forms of discrimination
 - Disparate Treatment
 - Other protected characteristics

Training Refresher

- Training
 - The 2020 Regulations require training for members of the Title IX Team
 - No “annual” requirement but remember the regulations set the floor, not the ceiling
 - Training Materials must be posted on your website
 - Don’t forget about employee training
 - Mandated Reporters and Confidential Resources may need updated training on your policies and procedures
- It is easy to forget the nuances of the 2020 Regulations

What's Next?

- Anticipate more guidance documents from TA and ED in the coming months
 - Existing documents are already being challenged in courts
- Enforcement under the 2020 Regulations and other civil rights law is still occurring and may ramp up
 - End DEI Portal, etc.
- State legislatures and government may choose to ramp up protections
 - Already seeing this in some states
- Create an open line of communication with legal counsel and others to receive updates
 - Monitor ATIXA blog and listserv for additional resources and training opportunities



Contact ATIXA: Engage ATIXA for policy reviews, training, and compliance support..

Training, consulting, and policy review services available