



TITLE IX

Proposed Regulations

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Associate Dean of Title IX Compliance

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TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

"No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance."

How Did We Get Here?

- **1972 - Title IX of the Education Amendments**
 - *Title IX* revised federal funding laws to prohibit sex-based discrimination in higher education.
- **2001 - Revised Sexual Harassment Guidance**
 - Department of Education Office for Civil Rights (OCR) guidance explored *Title IX* sexual harassment protections. "[S]chools need to ensure that employees are trained so that those with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials."
- **2011 - April 2022 Dear Colleague Letter**
 - Noting that sexual assault had become an epidemic on college campuses, OCR reiterated that *Title IX* guarantees all students an education free from sexual harassment and violence. OCR also recommended that "all schools implement preventive education programs" as part of their orientation programs for new students, faculty, and staff.

How Did We Get Here?

- **2020 - Title IX Final Rule**
 - May 19, 2020: Updated *Title IX* regulations (commonly referred to as the "Final Rule") published in the Federal Register after engaging in a formal notice-and-comment process.
 - August 14, 2020: Updated *Title IX* regulations implemented.
- **2022 - Draft Title IX Regulations Released**
 - June 23, 2022: Department of Education released proposed regulations.
 - July 12, 2022: Formal notice-and-comment process commenced.
- **April 2023 - Draft Title IX Sex-Related Eligibility Criteria for Male and Female Athletic Teams Regulations Released**
- **October 2023 - Anticipated Release of Updated Title IX Regulations**

Mandatory Reporting

■ Campus Security Authority (CSA)

- Under the *Clery Act*, a CSA is a Collin College employee who has significant responsibility for student and campus activities.
- CSAs are responsible for ensuring that information regarding a crime reported or known to them is conveyed to the appropriate Collin College official(s) for record keeping and reporting purposes.
- When a *Clery Act* crime is reported to a CSA, the CSA **must** complete the [Campus Security Authority \(CSA\) Crime Reporting Form](#).

■ Child Abuse and Neglect Reporting

- Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a responsibility under state law to immediately report the suspected abuse or neglect to an appropriate authority.
- The term "child" is defined in state law as a person younger than 17 years of age.
- When an employee suspects child abuse or neglect, they **must** report it through the [Texas Abuse Hotline Website](#).

Mandatory Reporting

- **Texas Higher Education Code Section 51.252 (aka Texas Senate Bill 212)**
 - Requires a Collin College employee who witnesses or receives information regarding an incident of **Dating Violence, Sexual Assault, Sexual Harassment, or Stalking** that is alleged to have been committed by or against a person who was a student enrolled at or an employee of Collin College at the time of the incident to promptly report the incident to Collin College's Title IX Coordinator or Deputy Title IX Coordinator.
 - Confidential employees (e.g., Counselors) are only required to state the type of incident reported and may not include and information that would violate a student's expectation of privacy.
 - Employees **must** complete the [Mandatory Reporting Form for Incidents of Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, and Stalking.](#)

Conduct Prohibited by Title IX

- **Dating Violence**
- **Domestic Violence**
- **Gender-Based Harassment**
 - The Department of Education has made it clear that *Title IX* protects LGBTQIA+ individuals.
- **Retaliation**
- **Sex Discrimination**
- **Sexual Assault**
 - Including attempted sexual acts and the *Clery Act* categories of fondling, incest, rape, and statutory rape.
- **Sexual Harassment**
- **Stalking**

Current Title IX Processes

■ Informal Resolution Process

- Similar to mediation
- Only available if both parties agree in writing
- Not available in cases involving an Employee Respondent and a Student Complainant
- Anticipated Time Frame
 - **Board Policy:** 30 College District business days
 - **Federal Law:** Within a reasonably prompt timeframe

■ Formal Resolution Process

- Involves Investigators, Live Hearing Advisors, Live Hearing Officers, and Appeal Decision Makers
- An Investigation Report is created by Investigators
- Culminates in a Live Hearing with cross-examination
- Anticipated Time Frame
 - **Board Policy:** 60 College District business days
 - **Federal Law:** Within a reasonably prompt timeframe

Proposed Changes to Title IX

- **The proposed regulations would:***

- Clearly protect students and employees from all forms of sex discrimination.
- Provide full protection from sex-based harassment.
- Protect students and employees who are pregnant or have a pregnancy-related condition(s).
- Require schools to take prompt and effective action to end any sex discrimination in their education programs or activities, prevent its recurrence, and remedy its effects.
- Require schools to respond promptly to all complaints of sex discrimination with a fair and reliable process that includes trained, unbiased decision makers to evaluate all permissible evidence.

*This information was taken from the “FACT SHEET: U.S. Department of Education’s 2022 Proposed Amendments to its Title IX Regulations” document available at <https://www2.ed.gov/about/offices/list/ocr/docs/t9nprm-factsheet.pdf>.

Proposed Changes to Title IX

- **The proposed regulations would:***

- Protect LGBTQIA+ students from discrimination based on sexual orientation, gender identity, and sex characteristics.
- Require schools to provide supportive measures to students and employees affected by conduct that may constitute sex discrimination, including students who have brought complaints or been accused of sex-based harassment.
- Clarify and confirm protection from retaliation for students, employees, and others who exercise their *Title IX* rights.
- Improve the adaptability of the regulations' grievance procedure requirements so all institutions can implement *Title IX's* promise of nondiscrimination fully and fairly in their educational environments.
- Ensure that schools share their nondiscrimination policies with all students, employees, and other participants in their education programs or activities.

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Proposed Changes to Title IX

- **New Scope Section and Changes to Definition of Sex Discrimination (§ 106.10)**
 - Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

- **New Term: Sex-Based Harassment (§ 106.2)**
 - Sex-based harassment means sexual harassment, harassment on the bases described in § 106.10 (i.e., sex discrimination), and other conduct on the basis of sex that is:
 - Quid Pro Quo Harassment
 - Hostile Environment Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking

Proposed Changes to Title IX

■ Education Program or Activity

○ Proposed:

- ...includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by a postsecondary institution, and conduct that is subject to the recipient's disciplinary authority...even if sex-based harassment...occurred outside the recipient's education program or activity or outside the United States.

○ Current:

- ...includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Proposed Changes to Title IX

▪ Hostile Environment Harassment

○ Proposed:

- Unwelcome sex-based conduct that is **sufficiently severe or pervasive** that, based on the totality of the circumstances and evaluated subjectively and objectively denies or limits a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment).

○ Current:

- Unwelcome conduct determined by a reasonable person to be **so severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the recipient's education program or activity.

Proposed Changes to Title IX

- **Discrimination Based on Parental, Family, or Marital Status and Pregnancy or Related Conditions (§§ 106.2, 106.21(c), 106.37(a)(3), 106.40, and 106.57)**
 - A recipient must not adopt or apply any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.
 - A recipient must not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions.
 - A recipient must ensure that when any employee is informed of a student's pregnancy or related conditions by the student or a person who has a legal right to act on behalf of the student, the employee promptly informs that person of how the person may notify the Title IX Coordinator of the student's pregnancy or related conditions for assistance and provides contact information for the Title IX Coordinator, unless the employee reasonably believes the Title IX Coordinator has already been notified.

Proposed Changes to Title IX

- **Discrimination Based on Parental, Family, or Marital Status and Pregnancy or Related Conditions (§§ 106.2, 106.21(c), 106.37(a)(3), 106.40, and 106.57)**
 - Once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator must promptly...[i]nform the student, and if applicable the person who notified the Title IX Coordinator, of the recipient's obligations to:
 - Prohibit sex discrimination, including sex-based harassment;
 - Provide the student with the option of reasonable modifications to the recipient's policies, practices, or procedures because of pregnancy or related conditions;
 - Allow access, on a voluntary basis, to any separate and comparable portion of the recipient's education program or activity;
 - Allow a voluntary leave of absence;
 - Ensure the availability of lactation space...; and
 - Maintain grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination, including sex-based harassment.

Proposed Changes to Title IX

- **Discrimination Based on Sexual Orientation, Gender Identity, and Sex Characteristics (§§ 106.10, 106.31(a)(2), and 106.41(b)(2))**
 - In the limited circumstances in which *Title IX* permits different treatment or separation on the basis of sex, a recipient must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, unless otherwise permitted by *Title IX*.
 - Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.

Proposed Changes to Title IX

- **Discrimination Based on Sexual Orientation, Gender Identity, and Sex Characteristics (§§ 106.10, 106.31(a)(2), and 106.41(b)(2)) - Athletics**
 - If a recipient adopts or applies sex-related criteria that would limit or deny a student's eligibility to participate on a male or female team consistent with their gender identity, such criteria must, for each sport, level of competition, and grade or education level:
 - Be substantially related to the achievement of an important educational objective, and
 - Minimize harms to students whose opportunity to participate on a male or female team consistent with their gender identity would be limited or denied.

Proposed Changes to Title IX

■ Requires Two (2) Grievance Procedures

- § 106.45: Grievance procedure for the prompt and equitable resolution of complaints of sex discrimination.
 - Sex Discrimination
 - Pregnancy and Parenting Discrimination
 - Sex-Based Harassment Involving an Employee Complainant **and** an Employee Respondent
- § 106.46: Grievance procedure for the prompt and equitable resolution of complaints of sex-based harassment involving student complainants **or** student respondents.
 - Student Complainant and Student Respondent
 - Student Complainant and Employee Respondent
 - Employee Complainant and Student Respondent
- No requirement for a Live Hearing under either of these grievance procedures.

Collin College's Title IX Coordinators

Title IX Coordinator for Students

Terrence Brennan
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Question & Answer Session

