2020 Title IX Regulations

→ Issued May 6, 2020

→ Effective and Enforceable August 14, 2020
  • Amend the Code of Federal Regulations and have force and effect of law
  • Previous DCLs were simply guidance
  • Some provisions already mandated by case law in some jurisdictions
  • Emphasis on need for well-trained team, no bias, and no conflicts

→ The Regulations
  • Significant changes, legalistic, prescriptive, and very due process heavy
  • Enforceable by OCR
  • Preempts state law
Key Changes: Just A Few…

- Supportive Measures
- Mandatory Dismissals
- Jurisdiction Changes
- Emergency Removals
- Access to Informal Resolution
- Advisor Role
- Questioning Process
- Questioning Requirements
- Definitions (Clery, OCR, VAWA)
- Evidence Reviews
- Posting of Training Materials
- Mandated Reporting
- Officials with Authority (OWA)
- Decision Makers
- Training Requirements
- Standards for Notices
- Added Timeframes
- Emphasis on Bias/Conflict
- Emphasis on Centralized Decision Making by TIXC
Impact of Title IX Regulations

- Developed and implemented one sexual harassment and sexual misconduct policy with two procedures

- Replaced employment sexual harassment policy and student sexual misconduct policy (1P2P model)
What is staying the same?

- Same commitment to respond, resolve, remedy and provide support to all parties involved in the resolution process.
- Title IX still includes sexual assault, domestic violence, dating violence, and stalking.
- Same offices will coordinate and investigate Title IX sexual harassment.
- Despite narrower definition of Title IX sexual harassment, policies continue to address a broader scope of misconduct.
- Preponderance of the evidence standard.
What is different?

- Universities are required to use a formal grievance process for certain types of allegations. That formal process includes an investigation, a live hearing, questioning of the parties through their advisors, a determination by an objective decision-maker, and an appeal.

- During the live hearing – the parties don’t have to be in the same room, but they have to see and hear each other.

- Complainants must be current participants or seeking to participate in programs or activities.

- If a party does not have a hearing advisor, the university must provide one for the purpose of asking a party’s questions.

- Statements provided by parties or witnesses who don’t attend the hearing and submit to live, advisor-led cross examination, must be excluded and cannot be relied upon in making a determination.

- Federal regulations require a presumption that the Respondent is not responsible until a decision has been rendered by a neutral decision maker.

- The regulations have now created options for informal/adaptable resolution that were discouraged by the Dear Colleague Letter.
What Happens Next?
What happens next?

- Seeking campus feedback
- Reviewing other policies and procedures
- Monitoring impact on resources
- Monitoring for variables that may impact enforcement of regulations
  - Lawsuits, election, etc.
- Updating web and paper materials
- Ongoing training
- Building *Adaptable Resolution* resources
  - Mediation, restorative practices, etc.
What can you do if you have questions?

- Consult with the OSMRC
  - osmrc@uiowa.edu
- Invite a speaker to a departmental meeting
- Review the *Interim Policy on Sexual Harassment and Sexual Misconduct*
- Send us questions or comments about the Interim Policy
  - [https://uiowa.qualtrics.com/jfe/form/SV_6PvQPQO2JtRyLhX](https://uiowa.qualtrics.com/jfe/form/SV_6PvQPQO2JtRyLhX)
Response to Title IX Regulations >> OSMRC

Questions and Discussion