

PRINCIPAL LEADERSHIP AND LEARN

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TITLE IX SEXUAL HARASSMENT



Refresher

Title IX
regulations
update

SEXUAL HARASSMENT REFRESHER

- Heads up: October 2023- ED will amend regulations implementing Title IX, including designation of Title IX coordinator, dissemination of policy, adoption of grievance procedures, recipient's response to sexual harassment, and the grievance process for formal complaints of sexual harassment.
- This new provision in the proposed regulations states that 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.

SEXUAL HARASSMENT REFRESHER UNDER TITLE IX

- Definitions:
 - Sexual harassment- For purposes of the Title IX sexual harassment policies and procedures, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 - a. An employee of the recipient conditioning the provision of an aid, benefit or service of the recipient on an individual's participation in unwelcome sexual conduct (otherwise known as "quid pro quo");
 - b. 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; or
 - c. Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. § 12291(a)(10), domestic violence as defined in 34 U.S.C. § 12991(a)(8), or stalking as defined in 34 U.S.C. § 12291(a)(30).
- Page 41 of Student Handbook contains specific procedures to be followed
- Contact Title IX Coordinator- Marty McRae BEFORE imposing any punitive discipline.
- Can put remedial measures in place
- Can conduct some initial investigation

TITLE IX ATHLETIC TEAMS NEW PROPOSED REGULATIONS- FINAL RULE EXPECTED IN OCTOBER

- **Athletics rule foreshadows fight over federalism**
- The Department explained that the rule would be consistent with its interpretation that Title IX prohibits discrimination based on gender identity and sex characteristics in federally funded education programs. In the athletics context, current regulations allow schools to impose sex-related eligibility criteria for male or female teams “where selection for such teams is based upon competitive skill or the activity involved is a contact sport,” [34 CFR §106.41](#), but schools must allow try-outs in certain situations and must provide overall equal athletic opportunity “for members of both sexes.”
- Generally, the rule would require schools to allow athletic participation according to students’ gender identity except in limited circumstances. This clarification, the Department notes, “is particularly important as some States have adopted criteria that categorically limit transgender students’ eligibility to participate on male or female athletic teams consistent with their gender identity.”

TITLE IX ATHLETIC TEAMS NEW PROPOSED REGULATIONS- FINAL RULE EXPECTED IN OCTOBER

- The [proposed rule](#) would apply to public K-12 schools, as well as colleges, universities, and other institutions that receive federal funding. The Department explained in the [fact sheet](#) that the regulation:
 - Would prohibit schools from categorically banning transgender students from participating on sports teams consistent with their gender identity.
 - Would allow schools to develop policies that limit transgender students' participation on teams consistent with their gender identity through eligibility criteria that protect students from being denied equal athletic opportunity.
 - Such eligibility criteria must:
 - serve important educational objectives, such as ensuring fairness in competition or preventing sports-related injury;
 - account for the nature of the sport, level of competition, and grade/education level to which they apply;
 - not be premised on disapproval of transgender students or a desire to harm a particular student; 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.