

Global Compliance Network

Title IX

Approximate Time: 15 min

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Title IX is part of the Education Amendments of 1972, prohibiting discrimination on the basis of sex in education programs and activities receiving Federal assistance. For over three decades, Title IX has worked to promote equality in educational opportunities, yet it continues to face opposition. This tutorial will discuss the impact and importance of Title IX in schools. We will also discuss how to stay in compliance with the law. In this tutorial, you will learn the following objectives. - What is Title IX? - 10 Key Areas Addressed by the Law - Who Enforces Title IX? - How to File a Complaint - Grievance Procedures - Filing with the OCR; and the Updated 2024 Regulations. Updated 6/5/2024 to address the scope and definition of Sex Discrimination and Sex-based Harassment. Also includes notification requirements referenced under statues PA106.40 and PA106.44 (where applicable).

Slide 1: Introduction

Title IX, part of the 1972 Education Amendments, prohibits gender-based discrimination in federally funded education programs and activities. It has promoted educational equality for over 40 years, despite ongoing challenges. The U.S. Department of Education's regulations help schools meet Title IX requirements while allowing flexibility based on their unique characteristics. This tutorial covers Title IX's impact on schools and compliance strategies.

Slide 2: Objectives

This tutorial will cover: ~What is Title IX? ~10 Key Areas Addressed by the Law ~Enforcement of Title IX ~How to File a Complaint ~Grievance Procedures ~OCR Filing and 2024 Regulation Updates

Slide 3: What is Title IX?

Title IX ensures no one in the U.S. is discriminated against based on sex in any education program or activity receiving federal assistance. Federally backed agencies include school districts, post-secondary institutions, and other educational organizations, which must operate without discrimination. Updates extend protections to include sex characteristics, pregnancy, sexual orientation, and gender identity. Schools must inform students, employees, and applicants of their nondiscrimination policies and maintain confidentiality, with exceptions like parental consent.

Slide 4: Scope of Title IX

Title IX covers: ~Recruitment, admissions, and counseling ~Financial assistance ~Treatment of pregnant and parenting students ~Discipline ~Single-sex education ~Employment. Retaliation for opposing discriminatory practices or participating in complaint actions is prohibited.

Slide 5: 10 Key Areas Addressed by the Law

Title IX addresses: 1.Access to Higher Education 2.Athletics 3.Career Education 4.Education for Pregnant Students 5.Employment 6.Learning Environment 7.Math and Science 8.Sexual Harassment 9.Standardized Testing 10.Technology

Slide 6: Access to Higher Education

Before the 1970s, many colleges limited female admissions. Title IX expanded educational opportunities for women, leading to increased degrees in traditionally male-dominated fields and economic progress.

Slide 7: Recruitment

Title IX prohibits sex-based discrimination in recruitment or admission in vocational, professional, graduate, and public education institutions. It also bans discrimination in counseling and guidance for students.

Slide 8: Financial Assistance

Institutions cannot discriminate based on sex in financial assistance. Exceptions include:
~Awards created by wills, trusts, or foreign governments, provided they are nondiscriminatory overall
~Study awards for foreign institutions if comparable opportunities exist for the other sex
~Athletic financial assistance

Slide 9: Athletic Opportunities for Women

Title IX requires equal athletic opportunities for women, demonstrated by any one of the following: ~Proportional participation ~History of expanding opportunities for underrepresented genders ~Meeting the interests and abilities of female students

Slide 10: Career Education

Schools cannot limit access to career training based on gender, ensuring both males and females can pursue vocational training of their choice.

Slide 11: Education for Pregnant and Parenting Students

Title IX requires schools to accommodate pregnant students by: ~Excusing medically necessary absences ~Providing special services (e.g., homebound instruction) similar to those for other temporarily disabled students ~Requiring medical certification only if also required for other students Updates mandate reasonable modifications for pregnancy-related conditions, lactation breaks, and private lactation spaces for students and employees. Schools must inform students of their rights and cannot disclose personal information without consent, except in limited cases.

Slide 12: Employment

Title IX has increased employment opportunities for women in education, though gaps in top positions and equal wages remain. Despite continuing under-representation in top educational positions and in equal wages, Title IX has allowed these gaps to narrow.

Slide 13: Learning Environment

Schools must provide a learning environment free of harmful gender stereotypes, treating all students equally and encouraging diverse career aspirations. A school must not separate or treat people differently based on sex in a manner that subjects them to more than de minimis harm, except in limited circumstances permitted by Title IX.

Slide 14: Single-Sex Classrooms and Schools

While generally prohibited, single-sex education is allowed for specific needs or to improve achievement, with voluntary enrollment and equal coeducational options.

Slide 15: Science and Technology

Title IX combats stereotypes about women's abilities in math and science, ensuring equal opportunities and preparation for careers in these fields. Title IX also ensures women have equal access to computer courses and technology, vital for future job opportunities.

Slide 16: Sexual Harassment

Sexual harassment includes any unwanted conduct of a sexual nature that is sufficiently severe, persistent or pervasive as to limit a student's ability to participate in, or benefit from, the educational program, or which creates a hostile educational environment. The definition of sexual harassment has been updated to include acts of: ~Sexual assault ~Dating violence ~Domestic violence ~Stalking ~Quid pro quo

Slide 17: Examples of Sexual Harassment

Examples of sexual harassment or conduct include: Making sexual propositions or pressuring students for sexual favors; Touching or writing graffiti of a sexual nature; Displaying or distributing sexually explicit drawings, pictures, or written materials; Performing sexual gestures or touching oneself sexually in front of others; Telling sexual or dirty jokes; Spreading sexual rumors or rating other students as to sexual activity or performance; or Circulating or showing e-mails or websites of a sexual nature.

Slide 18: Updates to Title IX Protections

As of April 2024, Title IX updates include: ~Clear, accessible reporting options for sexual harassment ~Empowering survivors to decide how schools respond ~Supportive measures like class reassignments or no-contact orders ~Addressing sex-based hostile environments, even if off-campus or outside the U.S. ~Prompt response by K-12 schools when any employee is aware of harassment ~Colleges responsible for off-campus harassment at school-sanctioned fraternities and sororities ~Fairness in college proceedings, with rights to notice, advisors, and cross-examination ~Protecting survivors from facing the accused or answering personal questions during hearings ~Choosing between "preponderance of evidence" or "clear and convincing evidence" standards ~"Rape shield" protections and no requirement to divulge privileged records ~No intimidation or retaliation against those reporting or participating in Title IX processes ~Equal appeal rights for both parties ~Flexibility to use technology for investigations and hearings ~Prohibition against using Title IX to infringe on First Amendment rights ~Option for a single-investigator model in grievance procedures

Slide 19: Sexual Harassment

Courts require proof that a school official was aware of the harassment. While OCR has adopted a "knew or should have known [about the harassing behavior] standard" in their enforcement criteria, in practice that Office has stated that the school is always given actual notice and an opportunity to take corrective action. Schools must investigate and take prompt,

fair action to stop and prevent recurrence. If initial responses fail, escalating measures are expected. If student misconduct does not qualify as sexual harassment, other disciplinary actions may be taken for behaviors like obscene language, inappropriate contact, or possession of pornography.

Slide 20: Standardized Testing

Under Title IX, standardized testing must be developed as an unbiased predictor of academic success. The types of questions and their wording must reasonably reflect the areas which are being tested. If a test doesn't meet that standard and yields disproportionately lower test results among members of one gender, the test may be unlawful.

Slide 21: Who Enforces Title IX?

The Office of Civil Rights (OCR) enforces Title IX by investigating complaints and providing guidance for voluntary compliance. Schools have the option to offer an informal resolution process for sex discrimination complaints, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or unless such a process would conflict with federal, state or local law.

Slide 22: Title IX Coordinator

Title IX Coordinator Title IX mandates that districts designate a "Title IX Coordinator" to ensure compliance. Schools should update this information annually and provide multiple contact points (phone, email, office address).

Confidential Employees The 2024 regulations define three categories of confidential employees who do not need to notify the Title IX coordinator about potential sex discrimination. These employees must inform individuals about their confidentiality, how to contact the Title IX coordinator, make a complaint, and get help.

Decreased Autonomy for Title IX Coordinators Under the 2024 regulations, the Title IX coordinator can only initiate a complaint if the conduct poses a serious health or safety threat or hinders equal access to the school's programs based on sex.

Slide 23: How to File a Complaint

Schools are required to adopt and publish internal grievance procedures in handling violation complaints promptly and fairly. Anyone who believes there has been an act of sex discrimination, including sexual harassment or sexual violence, may file a complaint with their Title IX Coordinator within 180 days of the last act of alleged discrimination. This complaint can come from a victim of discrimination or on behalf of another person or group.

Slide 24: Grievance Procedures

Schools must offer supportive measures to maintain access to education during grievance procedures. These measures cannot be punitive or overly burdensome. 1. Complainants have the right to: Present their case an impartial investigation equal opportunity to present evidence and witnesses equal appeal processes for both parties. Parents and guardians can act on behalf of minors 2. Complainants must be informed of: the investigation timeline, complaint outcome, appeal process, if applicable 3. Complaints are decided using a "preponderance of the evidence" standard. 4. Complainants have the right to written notification of the outcome. 5. Informal resolution methods, like mediation, are allowed but not for sexual assault cases. Complainants can end informal processes anytime to start formal proceedings.

Slide 25: Filing with the OCR

While internal grievances are preferred, complainants are not required to use them before filing with the OCR. If a complainant uses both an institutional process and files with OCR, the OCR complaint must be filed within 60 days of the last act of the institutional process. Otherwise, the OCR complaint should be filed within 180 days of the incident. Additionally, a complainant may file a lawsuit seeking damages.

Slide 26: Additional Information

For additional information about Title IX, filing a complaint directly with the OCR, or a copy of the regulations that detail the requirements of Title IX, write or phone the OCR enforcement office which serves your state or territory, or you may call 1-800-421-3481. Or you can visit the following websites: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html www.titleix.info/