

The New Title IX Rules: What You Need to Know Now

Lynne C. Adams
2024-25 School Year



602-640-9000 • omlaw.com
2929 N Central Ave, Suite 2000 • Phoenix, AZ 85012

Big Picture

Title IX requires schools to **respond** appropriately to **notice** of **sex discrimination** in their programs and activities.

The scope and definition of each of these terms has changed repeatedly with new administrations.



General Overview

- **The new Rules are effective August 1, 2024.** Rules will not be enforced retroactively, so they only apply to complaints made on or after August 1. Complaints about conduct occurring before August 1 are handled under the school's prior Title IX policy.
- Several lawsuits filed, and some courts have stayed the implementation of the new rules, but only in certain states or other specific instances – Arizona is not currently one of the states in which the rules are stayed.
- Assume these new rules will go into effect unless you are told otherwise.



General Overview

- New rules reflect the views of the current administration about the scope of Title IX.
- In addition, they also require that all employees must be trained annually about what the Title IX rules cover, the school's obligations under the rules, and every employee's reporting obligations.
- Your school has a Title IX policy that explains what Title IX is and explains how the grievance procedures work.



Broader Scope of Title IX

Rules expand definition of “sex discrimination.”

The new rules cover sex discrimination, which *includes*:

- sex-based harassment, and
- pregnancy accommodations.

“Sex” now includes sexual orientation, sex characteristics, sex stereotypes, gender identity, and pregnancy or related conditions.

“Sexual harassment” is now called “sex-based harassment.”



Broader Scope of Title IX

Rules change definition of “sex-based harassment.”

“Sex-based harassment” includes sexual assault, dating violence, stalking, quid pro quo harassment and “hostile environment” harassment.

Hostile environment harassment is unwelcome sex-based conduct, that is:

- ✓ “subjectively and objectively offensive and
- ✓ is so severe or pervasive
- ✓ that it limits or denies a person’s ability to participate in” the school.



Broader Scope of Title IX

Rules specifically prohibit peer-to-peer retaliation.

In addition to prohibiting sex discrimination, the rules prohibit retaliation against anyone for a reason related to Title IX, including making a complaint or participating in a Title IX investigation or response. Retaliation specifically includes peer retaliation.

Retaliation actions include intimidation, threats, coercion, or discrimination.



Gender Identity and Sex Separation

Rules address specific issues related to gender identity.

The new rules state that differential treatment or separation of students based on gender identity harms that person and violates Title IX.

In other words, the rules indicate that not allowing students to access bathrooms, locker rooms, and shower facilities consistent with their gender identity would violate Title IX.



Fewer Complaint Formalities

Rules remove the need for a “formal complaint.”

Complaints may be made verbally or in writing.

“Complaint” is defined broadly: any statement that could be reasonably understood to be a request to investigate and take action regarding sex discrimination.

A student, an employee, a parent, or a “legal representative” of an employee or student can make a complaint.



Broader Staff Reporting Requirements

Rules require staff to report potential sex discrimination.

Knowledge by a school employee of conduct that *may be* sex discrimination triggers a school's obligations to respond to the information.

All employees **must** notify the school's Title IX Coordinator of **any conduct they think might be sex discrimination**. Not limited to reporting potential sex-based harassment.



Broader Staff Reporting Requirements

Your Title IX Coordinator:

- **EAGLE South Mountain:**
Rebecca Hancock
Rebecca.Hancock@eagleprep.org
(602) 323-5400
- **EAGLE Mesa:**
Stephanie Phillips
Stephanie.Phillips@eagleprep.org
(602) 638-0802
- **EAGLE Maryvale:**
Julie Verlei
Julie.Verlei@eagleprep.org
(602) 638-0820



Broader Staff Reporting Requirements

If you cannot report to your school's Title IX Coordinator for any reason, report to:

Ximena Echeverria
Director of Federal and State Programs
Ximena.Echeverria@eagleprep.org
(602) 638-0820



Potential Sex-Based Harassment

Examples of behavior that may violate Title IX and should be reported:

- Trevor is a fourth grader, and other students repeatedly call him “girly” over a period of several weeks.
- Eden, a transgender student, alleges that his social studies teacher has made negative comments about transgender persons during class and graded Eden harshly because Eden is transgender.



Potential Sex-Based Harassment

Examples of behavior that may violate Title IX and should be reported:

- Reyna attended the school two years ago. She calls the school Principal to report that while she was a student, her P.E. teacher propositioned her for sex. She wants the school to investigate and fire the teacher.
- Julia shares photos of her classmate Andie with other students in the school. In one of the photos, all of which were taken during a sleep-over at Julia's house, Andie is topless.



Sex Discrimination

It can be difficult to determine whether young children's actions are sex discrimination. Sex discrimination under Title IX is not limited to what we typically think of as "discrimination."

The definition of sex discrimination is multi-faceted and considers factors like the students' ages and maturity and their previous interactions.

Do not try to figure out whether the conduct falls within the new rules and do not try to resolve the situation on your own – report the conduct and your concerns.



School Response to Complaints

Once a school is notified of conduct that “may reasonably” constitute sex discrimination, it must respond “promptly” and “effectively” to end sex discrimination, prevent its recurrence, and remedy its effects.

- School’s response may include a spectrum of actions, including informal resolution, supportive measures, formal investigation.
- Title IX Coordinator will decide how to proceed, and you should fully cooperate with all instructions.



Pregnancy Notification Obligation

When a student, a parent of a student, or a student's legal representative informs you about a student's pregnancy or related conditions, you must:

- provide that person with the Title IX Coordinator's contact information, and
- inform them the Title IX Coordinator can work with the student to ensure the student can participate in school or take a leave.

Related conditions include childbirth, termination of pregnancy, lactation, related medical conditions, or recovery.



Final Thoughts

Based on this training you should have an understanding of the breadth of Title IX and its requirements.

1. Can you identify actions or situations that might violate Title IX?
2. Do you know who to contact if you learn of situations that might violate Title IX?

