



Association of
Title IX Administrators

Key Compliance Updates and Trends for K-12 Schools

2026 Keystone Title IX & Education Law Summit

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Management Solutions



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Daniel Swinton, J.D., Ed.D.

- Chief Consulting Officer and Partner, TNG/ATIXA
- Senior Resolution Officer, FAIR Center
- Daniel.Swinton@tngconsulting.com
- www.tngconsulting.com
- www.atixa.org



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ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

AGENDA

- 1 Title VI
- 2 Title IX
- 3 Athletics
- 4 Section 504

Department of Education (ED) Updates

- **Significant staffing reductions** and closure of some regional offices
 - Recently starting to see more complaint-driven investigations again, posting agreements online
 - Bringing staff back temporarily to handle the backlog
- **Federal funding and oversight shifts**
 - Executive Order (EO): *Improving Education Outcomes by Empowering Parents, States, and Communities* (3/20/25)
 - Directed the Secretary of Education to “facilitate closure of the Department” and “return authority to the States and local communities”
 - Civil Rights enforcement remains in OCR, but other agencies (e.g., Health and Human Services (HHS) and Department of Justice (DOJ) appear to be ramping up enforcement in certain areas

Title VI Focus and Updates

Trends

Recent Resolution Agreements

Title VI of the Civil Rights Act of 1964

“No person in the United States shall, on the ground of **race, color, or national origin**, be **excluded from participation in, be denied the benefits of, or be subjected to discrimination** under any **program or activity receiving federal financial assistance.**”

- 42 U.S.C. § 2000d

VI

Definitions

Race

- Membership in a group based on physical or cultural characteristics associated with a certain race, ancestry, or ethnic heritage

Color

- Skin color, tone, pigmentation, shade, or complexion, regardless of racial or ethnic background

National Origin

- Ancestry, ethnicity, or country of origin; includes linguistic and cultural characteristics

Title VI Applicability

Prohibited Conduct

- **Discrimination** (including harassment) on the basis of **race, color, or national origin** (includes shared ancestry and ethnic characteristics)

Jurisdiction

- **Program or activity** defined as **all operations** of:
 - a local educational agency, system of vocational education, or other school system
- School/District has **disciplinary authority over the environment or individuals involved** in the alleged behavior

Primary purpose is to prohibit discrimination against students

- Limited applicability to employees
- In K-12, some protections extend to parents/guardians

Real World Examples

- A high school regularly hosts heritage celebrations and cultural history units but excludes Islamic and Jewish traditions, despite requests from students and families to be included — signaling to those students that their identities are not valued or respected.
- A group of Black middle school students is regularly taunted with racial slurs and told they "don't belong" during lunch and recess, but staff consistently fail to intervene or report the behavior despite witnessing it.
- Latino students receive suspensions for minor behavioral issues such as tardiness or talking back, while White students engaging in similar conduct are given warnings or counseling referrals.

Sources of Title VI Compliance Obligations

- The compliance environment is evolving, especially in the education field
 - There are no comprehensive Title IX-style regulations guiding compliance
- Title VI compliance sources are a combination of:
 - Executive Orders
 - OCR Resolution Agreements
 - OCR sub-regulatory guidance
 - Department of Justice (DOJ)
 - Court cases
 - State laws



Essential Compliance Elements

Title VI policy and procedures should permit the school/district to **promptly** respond to actual or constructive notice of discrimination or harassment on the basis of race, color, or national origin

1

STOP discriminatory conduct

2

PREVENT recurrence, on both individual and school/district levels

3

REMEDY the effects of discrimination, on both individual and school/district levels

School Responsibilities Under Title VI

- Non-Discrimination policy/statement and accompanying grievance procedures
- A protocol to respond to reports and complaints
 - Prompt and effective response
 - Remedies
 - Documentation
- Training and prevention efforts

Increased Focus on Title VI

- Multiple federal agencies leveraging Title VI enforcement
 - Anti-Semitism and anti-Diversity, Equity, and Inclusion (DEI)
- A few anti-DEI efforts have been struck down in courts as **unconstitutional** under the First and Fifth Amendments
 - Dear Colleague Letter (DCL) in February 2025 on DEI and race-based practices
 - ED's certification requirements for K-12 districts re: "illegal DEI practices"
- ED intends to create regulations to make changes to **enforcement mechanisms**
- Title VI DOJ regulations eliminating disparate impact liability (December 9, 2025)
 - Stemming from EO directive
 - Disparate impact cases typically look to statistical disparities/comparator data as proof of discrimination

Takeaways from OCR Resolutions

- Need to recognize that even single incidents can be a hostile environment
- Schools/Districts not seeing and addressing patterns
 - Need to recognize climate issues
- Recent focus on complaints related to shared ancestry category
 - Which can sometimes have some overlap with religion
- Focus on community remedies

Key Takeaways

- Title VI Is rapidly evolving — schools/districts need skilled, centralized oversight
- Schools/Districts have obligations under Title VI to respond **promptly and effectively** to discrimination on the basis of race, color, and national origin
 - Nondiscrimination statements
 - Policies and procedures
- Peer-on-peer **OR** actions involving employees can implicate Title VI
 - Document your response, especially any remedies provided
- Title VI has potential overlap with many other federal and state laws

Designating a Title VI Coordinator

Title VI Coordinator (TVIC)

- Oversees school/district Title VI compliance
- Designated individual to:
 - Respond to reports or complaints of discrimination based on actual or perceived **race, color, or national origin**
 - Lead efforts to ensure equal access to educational resources and programs across the entire school/district



Training

- **Annual training for officials involved in investigating and/or resolving complaints**
 - On various topics including school/district policies, procedures, and how to conduct an investigation
- **Who should be trained?**
 - District- and building-level administrators
 - School resource officers (SROs)
 - School counselors
 - Teachers and other instructional staff
 - Students



Title IX Updates

Re-orientation to the 2020 Title IX regulations

New Fondling definition

Federal Changes Impacting Title IX

- ED released a DCL reinstating 2020 Title IX Regulations enforcement (02/04/25)
- **Executive Order: *Defending Women from Gender Ideology Extremism and restoring Biological Truth to the Federal Government* (01/20/25)**
 - Defines sex as a binary concept – man or woman
 - Limited *Bostock v. Clayton County*'s holding, says it only applies to Title VII
 - Dept of Justice issued guidance on 02/12/25 that *Bostock* does not apply to Title IX
 - Prohibits federal funds and grants from promoting gender ideology
- **Executive Order: *Keeping Men Out of Women's Sports* (02/05/25)**
 - Prohibits transgender women from playing women's sports
 - Subject of active and rapid enforcement by Federal government
- **NIBRS User Manual Update:** Replaced “fondling” with “criminal sexual contact” and provided a new definition (06/23/25)

Title IX Scope

Title IX

Sex Discrimination

- Disparate Treatment
- Program Access and Equity

Retaliation

Sexual Harassment*

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

* 2020 Regulations only apply to Sexual Harassment

2020 Title IX Regulations

- All of K-12 reverted back to the 2020 Title IX Regulations in January 2025
- Key components and current best practice hallmarks:
 - Mandated reporter/responsible employee designation for all staff with designated confidential employees
 - Separation between TIXC, investigator, decision-making roles
 - Appeals for both parties

Sexual Assault: Fondling (revised definition)

Title IX Regulations:

- The intentional touching of the clothed or unclothed **body parts**
- without the consent of the victim
- for the purpose of **sexual degradation**, sexual gratification, or **sexual humiliation**
- including instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or incapacity

Examples

- New behaviors that may be reportable as “fondling”
 - Kissing
 - Shoulder rubbing
 - Hugging
 - Thigh touching
 - Picking a piece of lint off someone’s shoulder (???)
- These behaviors would still need to be both non-consensual and for the purpose of sexual gratification, humiliation, or degradation

Title IX and Athletics Updates

Executive Order re: Sex and Gender

Defending Women from Gender Ideology Extremism and restoring Biological Truth to the Federal Government (01/20/25)

- Defines sex as a binary concept – man or woman
- All agencies must ensure that intimate spaces are designated by sex, not gender identity
- Limited *Bostock v. Clayton County*'s holding, says it only applies to Title VII
 - Dept of Justice issued guidance on 02/12/25 that *Bostock* does not apply to Title IX
- Prohibits federal funds and grants from promoting gender ideology
- Revokes all Biden administration EOs addressing gender identity
- Directs OCR to prioritize investigations/litigation to enforce rights and freedoms to binary nature of sex
- Does not address sexual orientation
- Courts initially paused enforcement, but the EO is now in full effect

Executive Order re: Gender and Athletics

Keeping Men Out of Women's Sports (02/05/25)

- Prohibits transgender women from playing women's sports
 - Cited as necessary for “safety, fairness, dignity, and truth”
- Applies definitions from *Defending Women from Gender Ideology* EO
- Threatens withdrawal of federal funds
- Will use Title IX to enforce on a prioritized basis
- Seeks to eliminate Olympic competition based on gender identity or testosterone reduction
- Does not prohibit transgender men from participation
- Subject of active and rapid enforcement by Federal government

Defining Sex

Should schools/districts implement the Executive Order's definition of biological sex definition?

- Likely depends on state law and court rulings in jurisdiction
 - Litigation pending in several states where DOJ has sought to enforce the EO
 - *West Virginia v B.P.J.* and *Little v. Hecox*
- Considerations:
 - *Bostock* applies an expansive definition of sex in employment
 - Residential schools are subject to the Fair Housing Act (FHA, aka Title VIII)
 - FHA Regulations are still in effect and protect sex expansively
- According to some federal court cases, sex includes sex discrimination that implicates sex stereotypes and sex characteristics (Circuit dependent)

Disability Law Updates

Section 504

- Proposed overall regulatory changes are still “pending”
 - May 2022 announcement of intent to propose amendments to the 504 regulations, with no action taken
 - Shrinking OCR impacts timing/likelihood
- Status of gender dysphoria in HHS’s Section 504 regulations and NPRM
- Compliance deadlines for Title II ADA rule on web and mobile app accessibility
- Enforcement trends:
 - Designation of a 504/ADA Coordinator
 - Clear grievance procedures that cover disability discrimination and retaliation



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Questions?



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