



Association of  
Title IX Administrators

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# **ATIXA's Guide to Complying with the 2020 Regulations (Again!)**

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Strategic Risk  
Management Solutions



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# Our Presenters Today



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# Regulatory Whiplash

- The 2024 Title IX Regulations were vacated by a federal court on January 9, 2025
- On February 4, 2025, the Department of Education (ED)'s Office for Civil Rights (OCR) issued a Dear Colleague Letter (DCL) relating to ED's interpretation of Title IX
  - ED will enforce "sex" as relating to biological sex assigned at birth
  - ED clarified that it will enforce the 2020 Regulations
    - Any open investigations must be evaluated, and if appropriate, use the 2020 grievance procedures
- Over the past two months, ED and other federal agencies have been quick to initiate investigations related to the Trump Administration's (TA) interpretation of "sex"
  - Denver Public Schools
  - Investigations into various states and athletic associations



# Executive Orders

- The TA has issued multiple Executive Orders (EOs) that directly, or indirectly, intersect with our work as Title IX practitioners
  - An EO is a directive to federal agencies (such as ED) and is often followed by agency action that may provide direction to recipients of federal funding (such as through the DCL)
  - *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*
  - *Keeping Men Out of Women's Sports*
- Additional EOs that intersect with Title IX or other Civil Rights Laws have also been issued

# Immediate Action Steps

- Ensure that you are operating with a policy that is in line with the 2020 Regulations
  - Including re-evaluating current investigations to ensure compliance
- Communicate changes, if any, to various stakeholders
  - Templates are available in the TIXKit
- Consult legal counsel on applicability of new guidance from TA, federal agencies, and state government
  - This could include taking inventory of various programs
  - Especially if the scope of your office includes functions that may fall under a “DEI” umbrella

# Policy & Procedure (P&P) Updates

- As of January 9, 2025, all institutions should have a 2020 compliant policy
  - 2024 Policies should be archived or removed
- Consider updates to existing 2020 policies
  - Benchmark against ATIXA model policies
- Evaluate the need to create or expand other policies and processes (such as Process B) to enhance protections and jurisdiction beyond what is required by regulation
  - ATIXA's 1P2P Version 6.1
  - ATIXA's P&P Builder



# The Case for Process B

- Title IX is not limited to reports of sexual harassment, but the 2020 Regulations have a narrow focus
  - Narrow with respect to both “what” and “where”
- For most institutions, many if not most complaints will fall outside of the regulations
  - This is especially true for off-campus behavior
  - State statutes may afford additional protections that fall outside of Title IX
- Creating a robust Process B helps to ensure compliance with the 1975 Regulations, along with other state and federal laws
  - Fair Housing Act
  - VAWA



# Thinking Beyond 2020

- Pregnancy
  - Discrimination against someone based on their pregnancy is sex discrimination
    - Reasonable modifications are put in place to ensure someone continues to have equal access
    - The refusal to provide appropriate reasonable modifications could be discriminatory
  - Other federal laws may also apply for employee cases
    - PUMP Act
    - PWFA
- Other forms of discrimination
  - Disparate Treatment
  - Other protected characteristics

# Training Refresher

- Training
  - The 2020 Regulations require training for members of the Title IX Team
    - No “annual” requirement but remember the regulations set the floor, not the ceiling
    - Training Materials must be posted on your website
  - Don’t forget about employee training
    - Mandated Reporters and Confidential Resources may need updated training on your policies and procedures
- It is easy to forget the nuances of the 2020 Regulations

# What's Next?

- Anticipate more guidance documents from TA and ED in the coming months
  - Existing documents are already being challenged in courts
- Enforcement under the 2020 Regulations and other civil rights law is still occurring and may ramp up
  - End DEI Portal, etc.
- State legislatures and government may choose to ramp up protections
  - Already seeing this in some states
- Create an open line of communication with legal counsel and others to receive updates
  - Monitor ATIXA blog and listserv for additional resources and training opportunities

**Contact ATIXA:  
Engage ATIXA for policy reviews,  
training, and compliance support..**

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