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2024 TITLE IX REGULATIONS: PLANNING FOR THE SIGNIFICANT EXPANSION OF EMPLOYEE TRAINING REQUIREMENTS

On April 19, 2024, the U.S. Department of Education (the “Department”) released its final amended regulations implementing Title IX. This client alert summarizes the substantially increased training requirements that all educational institutions will need to implement when the amended regulations take effect on August 1, 2024. We will continue to provide guidance as the deadline approaches, but we recognize that institutions may need significant lead time to plan and develop training programs that comply with the amended regulations.

Under the 2020 Title IX regulations currently in effect, only “Title IX personnel” must be trained on Title IX issues. The 2024 amended regulations significantly expand the training requirements imposed on educational institutions. **All employees** must receive training on Title IX at their time of hire, **whenever their position or responsibilities change** in a way that alters their Title IX responsibilities, and **annually** thereafter.^[1] There are now four categories of employees that require different levels of training.^[2]

- First, **all employees** must receive training on:
 - The institution’s obligation to address sex-based discrimination under 34 C.F.R. § 106.44;
 - The scope of conduct that constitutes sex-based discrimination (including the definition of sex-based harassment); and
 - The institution’s reporting and notification requirements for employees, which have been broadened under the 2024 amended regulations, which includes a requirement to provide any student, or person having the legal right to act on behalf of a student, who informs any employee that they are pregnant or have a related condition with the Title IX Coordinator’s contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student’s equal access to the institution’s education program or activity.^[3]

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¹ <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>, § 106.8(d) at 267.

² It should be noted that institutions are no longer required to publicly post training materials, but they will need to have a process and protocol for enabling them to be reviewed upon request. See <https://www.acenet.edu/Documents/Title-IX-2024-Rule-Key-Provisions.pdf>.

³ <https://www.acenet.edu/Documents/Title-IX-2024-Rule-Key-Provisions.pdf>

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- Second, in addition to the training that all employees must receive, **any employee involved in the institution's grievance procedures** – including investigators, decision-makers, informal resolution facilitators, and any others with (1) responsibility for implementing the institution's grievance procedures, or (2) the authority to modify or terminate supportive measures – must receive training on:
 - The obligations under 34 C.F.R. § 106.44, which specifies the steps an institution must require its Title IX Coordinator to take when there is knowledge of conduct that may reasonably constitute sex discrimination. This includes training on offering and coordinating supportive measures for both the complainant and respondent, how to initiate a complaint, and how to take prompt and effective action to end the sex discrimination and prevent further discrimination from occurring. This training also must cover when an informal resolution process is available and the prohibition on disclosing personally identifiable information.^[4]
 - The requirements for any institution's grievance procedures as outlined in 34 C.F.R. §106.45 and the additional grievance procedure requirements for postsecondary institutions, as outlined 34 C.F.R. § 106.46.
 - The requirements for serving impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
 - The determination of what questions and evidence are "relevant," and the types of evidence that are impermissible even if relevant under the grievance procedures (§§ 106.45, 106.46 if applicable).^[5]
- Third, **any employee specifically involved in the institution's informal resolution processes** must receive additional training on:
 - All of the training for each of the categories outlined above; and
 - The rules and practices associated with the recipient's informal resolution process and how to serve impartially in that process, including avoiding conflicts of interest and bias.^[6]

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4 <https://www2.ed.gov/about/offices/list/ocr/docs/t9-final-rule-summary.pdf>

5 <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf> § 106.8(d) at 268.

6 <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf> § 106.8(d) at 268.

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

■ Finally, the institution's **Title IX Coordinator(s)** must receive training on:

- All of the training for each of the categories outlined above; and
- Their specific duties under:
 - 34 C.F.R. § 106.8(a), which address the designation of a Title IX Coordinator and notification of who that person(s) is.
 - 34 C.F.R. § 106.40(b)(3), which address specific actions necessary to prevent discrimination and ensure equal access to those who are pregnant or have a related condition (including conditions related to or recover from childbirth, termination of pregnancy, lactation, and all related medical conditions and recovery).
 - 34 C.F.R. § 106.44(f) and (g), which address requirements for providing supportive measures.
 - The school's record-keeping system and the requirements of 34 C.F.R. § 106.8(f);
 - Any other training necessary to coordinate the recipient's compliance with Title IX.

The Department recognized that these updated training requirements may require significant time and funding, including expanding training programs and updating training sources and policy

manuals. But it determined that the additional requirements are warranted to enable institutions to consistently identify and address sex discrimination and concluded that the benefits of increased training for all employees would significantly reduce inconsistencies in responding to Title IX complaints. The Department noted that as long as an institution meets the requirements outlined in section 106.8(d) on training requirements, the regulations provide institutions with flexibility in how to structure and staff training in the way that works best for them.

Due to the significant expansion of those who must receive required training, institutions should not delay in assessing these requirements and planning for compliance. The amended regulations provide additional guidance on a number of significant regulatory requirements, including the required training on impartiality in grievance procedures, the circumstances in which certain non-employees may need to be trained, and the notification requirements for pregnancy or related conditions. The Department's guidance on each of these topics will need to be part of every institution's training program.

Please contact a member of Wiggin's Higher Education Practice Group should you have any questions regarding the expanded training requirements.