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Department of Education Delays Release of Title IX Regulations Until October 2023

May 26, 2023

As discussed in our previous alert, on June 23, 2022, the 50th anniversary of Title IX of the Education Amendments of 1972 ("Title IX"), the U.S. Department of Education (the "Department") released proposed amendments to the regulations implementing Title IX (the "Proposed Rule"). The Proposed Rule could substantially change how schools, colleges, and universities must address allegations of sexual harassment in accordance with Title IX, the federal law which prohibits discrimination based on sex in education programs or activities at elementary, secondary, and postsecondary schools that receive federal funding. The final version of the Proposed Rule (the "Final Rule") was originally scheduled to be released this month.

However, earlier today, the Department announced that the release of the Final Rule would be delayed until October 2023 because "[t]he Department received more than 240,000 public comments on the proposed rule – nearly twice as many comments as the Department received during its last rulemaking on Title IX" and "[c]arefully considering and reviewing these comments takes time, and is essential to ensuring the final rule is enduring." The current regulations, which became effective in August 2020, remain in effect until the Final Rule becomes law.

Additionally, the Department announced that its final Title IX athletics regulations would be released in October 2023, stating that "the Department is updating its Spring Unified Agenda to reflect an anticipated date of October 2023 for its proposed Athletics regulation, which received over 150,000 comments during its recent public comment period from April 12 – May 15, 2023. The Department is currently reviewing each of these comments, and is grateful for the extensive public participation and comments received in this rulemaking process."

For additional information on the Proposed Rule, the Department has provided resources including a Fact Sheet: U.S. Department of Education's 2022 Proposed Amendments to its Title IX Regulations and a Title IX NPRM Summary of Major Provisions Chart. Additionally, you can access the Proposed Rule here and view submitted comments here. You can access the Athletics NPRM here, view submitted comments here, and find a fact sheet about the Athletics NPRM here.

We will continue to update alerts in order to keep you informed of the latest developments surrounding Title IX. Cullen and Dykman is here to assist you in reviewing your policies and procedures for Title IX compliance and provide training to students, educators, and all members of the community. If you have questions regarding any aspects of higher education law and any implications the pending regulations may have on your institution, feel free to contact Dina L. Vespia at (516) 357-3726 or **dvespia@cullenllp.com**, Jennifer A. McLaughlin at (516) 357-3889

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Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.

Practices

- Higher Education
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