

The U.S. Department of Education Confirms that 2020 Title IX Rule is in Effect

January 31, 2025

On January 31, 2025, the U.S. Department of Education Office for Civil Rights (“OCR”) issued a [press release](#) and [Dear Colleague Letter \(“DCL”\)](#) formally stating that the 2020 Title IX Rule is back in effect, following the [vacatur of the 2024 Title IX Rule](#).

Notably, the letter advises that “open Title IX investigations under the 2024 Title IX Rule *should be immediately reoriented to comport fully with the requirements of the 2020 Title IX Rule*” (emphasis added). The DCL confirms that OCR will enforce Title IX in compliance with the 2020 Rule, including the definition of sexual harassment, procedural protections afforded to complainants and respondents, school reporting processes, and the interpretation of “sex.”

The DCL also notes that, in addition to the Eastern District of Kentucky’s decision to vacate the 2024 Title IX Rule, on January 20, 2025, President Trump signed an [Executive Order](#) entitled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.” As stated in the DCL, this Executive Order requires that all Executive Branch agencies and departments enforce and promote “[the] fundamental and incontrovertible reality” that there are “two sexes, male and female.”^[1] Accordingly, the DCL directs that institutional Title IX policies must not only comply with the 2020 Title IX Rules, but also be consistent with President Trump’s Executive Order as it relates to the interpretation of “on the basis of sex.”

While this directive pertains to conduct that meets the definition of Title IX Sexual Harassment and the institutional policies that apply to such behavior, institutions must evaluate whether state and local law requires broader protection for students and employees. For New York institutions, where state nondiscrimination laws prohibit discrimination on the basis of sexual orientation and gender identity or expression, institutional policies should continue to define sexual harassment in conformance with state law, provided it is clear that it is a separate and distinct definition from any federal Title IX definitions and policies.

Cullen and Dykman LLP is here to assist you in adapting your policies and procedures to comply with the 2020 Rule, including how to effectively communicate this change to your campus community and how to best transition open investigations to procedures that are compliant with the 2020 Rule. Cullen and Dykman LLP’s [Higher Education](#) team will continue to monitor for important developments surrounding Title IX and will provide updates as necessary.

Should you have any questions about the impact of the Final Rule on your institution's Title IX policies and practices, please contact Jennifer McLaughlin (jmclaughlin@cullenllp.com), Dina Vespia (dvespia@cullenllp.com), or Nicole Donatich (ndonatich@cullenllp.com).

This advisory provides a brief overview of the most significant changes in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.

Footnotes

[1] See January 20, 2025 Executive Order, [Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government – The White House](#).

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