

# CLIENT ALERTS

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## Title IX Changes as to Hearings, LGBTQ, Pregnancy, Alleged Assault Victims

### Client Alert

4.26.2024

The handling of student hearings concerning LGBTQ rights, pregnancy rights, alleged assault victim rights, and other aspects of Title IX hearings will change under new regulations that amend the requirements for federally-funded providers of education programs and activities. Those operating in the education industry have only three months to prepare by changing their policies and procedures for handling allegations of sex-based mistreatment before the August 1, 2024 effective date.

Title IX prohibits sex-based mistreatment of students across an educational institution's various programs. The Title IX regulations set out the rules for enforcing Title IX. On April 19, 2024, the U.S. Department of Education/Biden Administration released new rules for Title IX relating to, among other changes, Title IX hearings, LGBTQ coverage, pregnant student coverage, and alleged assault victims.

The most notable of the new regulations' changes relate to:

- Title IX will now recognize as protected statuses LGBTQ and pregnant students, a significant expansion.
- There are fewer adversarial procedures compared to Trump Administration rules. The objective appears to be providing a less intimidating environment for an alleged victim.
- Separate meetings/hearings for alleged victims and accusers are permitted.
- The alleged victim will have the opportunity to attend the hearing remotely.
- The new regulations indicate that cross-examination is no longer required, but the federal 6th Circuit Court of Appeals has found in *Doe v. Baum* that cross examination is part of

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required due process, so this will have to be reconciled. For now, educational institutions within the 6th Circuit Court of Appeals territory (Michigan, Ohio, Tennessee, and Kentucky) are advised to retain cross-examination.

- The definition of sexual harassment has been expanded, allowing more subjectivity. The Trump Administration rule emphasized objectively offensive behavior.

The new rules may be reviewed by [clicking here](#).

### **Action Items:**

Educational institutions should, at least unless and until these new Regulations are changed by another administration, prepare to amend policies, rules, and procedures to bring them into compliance with the new U.S. Department of Education Regulations.

Please contact a Butzel Education Industry Group attorney for help with preparing, revising, and implementing thoughtful changes to your policies and procedures for handling allegations of sex-based mistreatment and for preventing same.

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