



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

**To:** Superintendents, Member School Districts (K-12)  
County Superintendents, Member County Offices of Education

**From:** Jessica E. Ozalp, Associate General Counsel 

**Subject:** Requirements under New Title IX Regulations  
Memo No. 06-2024

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This Legal Update summarizes new federal requirements for school district, county office of education, and charter school complaint policies and procedures under Title IX of the Education Amendments of 1972. For more detailed information, please see our upcoming training opportunities.

On April 19, 2024, the U.S. Department of Education (“DOE”) finalized substantial changes to the Title IX regulations (“Final Rule”) governing how educational institutions must handle allegations of sex discrimination and sex-based harassment. For California K-12 school districts and county offices of education (“COE”), this represents an overhaul with several important changes from the 2020 Title IX regulations, described below. **Districts and COEs are required to be in compliance with the new Title IX regulations by August 1, 2024.**<sup>1</sup>

For 2024-25, Districts and COEs are encouraged to proactively consult legal counsel and promptly make appropriate training plans, update their policies, grievance procedures, student and employee handbooks, websites, and practices to align with the new Title IX requirements.

**The 2024 Final Rule will require all school districts and COEs to broaden the scope of the Title IX complaint procedures and change their approach**

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<sup>1</sup> Importantly, school districts and COEs must keep their 2020 policies and procedures in place alongside new ones, because the new regulations are not retroactive. The 2020 regulations will continue to apply to any future complaints about conduct that allegedly took place before August 1, 2024. The 2024 regulations will apply to complaints about conduct taking place on or after August 1, 2024.



**in many ways, including:**

- Replacing the term “sexual harassment” with “sex-based harassment,” which as defined broadens the scope of what could constitute a hostile environment;<sup>2</sup>
- Defining sex discrimination more broadly;<sup>3</sup>
- Applying Title IX procedures even if no formal written complaint is filed, and even if the complaining student or employee has since left the school;
- Adding specific accommodation requirements for pregnant and parenting students and staff, such as class breaks, lactation space, and other individualized supports;
- Applying Title IX procedures to all complaints of discrimination on the basis of sex. Going forward, districts cannot have separate policies and procedures for sex discrimination vs. sex-based harassment;
- Adding required training on Title IX reporting and referrals for **all staff** (although many schools already do this, it is now required, and content must be updated);
- Providing flexibility to schools by repealing the specific investigative report format requirements, and repealing the ten-day evidence review and ten-day report review (instead requiring “a reasonable opportunity” to respond); and
- Allowing schools to conduct a Title IX process with a smaller team, more like the uniform complaint procedures, by repealing the requirement to have separate individuals serve as the Investigator, Decisionmaker, and Title IX Coordinator.

**By August 1, 2024, Districts and COEs must take the following key steps:**

1. Ensure all employees, not only those involved in the Title IX process, receive updated training on the expanded scope of mandatory reporting, before the school year starts.
2. Ensure all employees involved in the Title IX grievance process receive updated training reflecting the Final Rule, including pregnancy and related conditions.
3. Merge and update their Title IX sex-based harassment policies and other discrimination policies in light of the new rules.

Compliance with the Final Rule will demand consistent focus and diligent work from Superintendents, District Boards, legal counsel, Title IX Coordinators, student services administrators, special education administrators, and others. The 2024 regulations, unlike the 2020 regulations, provide many discretionary decision points that Boards need to consider.

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<sup>2</sup> Sex-based harassment is now defined to include “unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the education program or activity (i.e., creates a hostile environment”) (34 C.F.R. § 106.2).

<sup>3</sup> The new Title IX regulations codify the U.S. DOE’s previous guidance confirming that Title IX covers discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression. Education Code already required schools to prohibit discrimination on the basis of sexual orientation, gender identity, and gender expression (Ed. Code §§ 200, 220).



Districts are recommended to utilize a Board policy subcommittee that can meet during the summer to expedite their usual policy update process.

This Legal Update only covers the highlights from the DOE's Final Rule, which is 1,577 pages long. The DOE's summary of major provisions can be accessed at <https://www2.ed.gov/about/offices/list/ocr/docs/t9-final-rule-summary.pdf>

SCLS Attorneys are ready to assist school districts and COEs with compliance by the regulatory deadline. We are continuing to review the materials from the DOE, and preparing the following training opportunities for our clients in the coming weeks:

- **Overview of Major Changes to Title IX Regulations:** 60-minute on-demand webinar, released on or before June 15, 2024.
- **Training School Employees on the 2024 Title IX Regulations:** On-demand webinar with training materials to use with district and COE staff, released on or before July 15, 2024.
- **Implementing the 2024 Title IX Regulations:** In-person training at SCLS, late August 2024 (date TBD).

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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