

Evolving Protections: Title IX & CCC's Board Policy

A Comparative Look at Sex-Based Discrimination/Misconduct Policy Changes



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Introduction

- **Purpose:** Highlight key differences between two policies to understand the evolution of protections against sex-based discrimination and misconduct.
- **Focus:** Definitions, reporting, procedures, and training.

New Regulations

- New regulations were released April 19th, 2024
- Effective August 1st, 2024

New Regulations

- The final regulations advance Title IX's promise of ensuring that no person experiences sex discrimination, including sex-based harassment or sexual violence, in federally funded education.
- The final regulations aim to restore and strengthen vital protections for students and provide schools with information to meet their Title IX obligations while offering appropriate discretion and flexibility to account for variations in school size, student populations, and administrative structures.

New Regulations

- **Protect against all sex-based harassment and discrimination.**
- **Promote accountability and fairness.**
- **Empower and support students and families.**

Title IX Definition

- **Policy:** Defines sexual harassment narrowly, focusing on sexual assault, domestic violence, stalking, and severe or pervasive sexual harassment that denies access to education.
- **Update:** Significantly expands the definition of sex-based discrimination to include discrimination based on:
 - Sex stereotypes
 - Sex characteristics
 - Pregnancy or related conditions
 - Sexual orientation
 - Gender identity
 - Quid pro quo harassment
 - Hostile environment harassment
 - Specific offenses of sexual assault, dating violence, domestic violence, and stalking

Definition of Harassment

- **Policy** : Focused narrowly on "sexual harassment," requiring conduct of a sexual nature.
- **Update**: Expands definition to "sex-based harassment," encompassing a wider range of discriminatory behaviors beyond just sexual conduct. This includes:
 - Harassment based on sex stereotypes (e.g., assumptions about how someone should behave based on their gender).
 - Harassment based on gender identity or expression (e.g., misgendering, using incorrect pronouns).
 - Harassment based on sexual orientation (e.g., homophobic slurs, assumptions about dating preferences)

Consolidation of Harassment Types

- **Policy:** Treated "quid pro quo" (something for something) and "hostile environment" harassment as separate, distinct categories.
- **Update:** Unifies both types under the umbrella of "sex-based harassment," emphasizing the overall impact of the behavior on the victim's ability to participate in or benefit from the educational environment.

Inclusion of Additional Offenses

- **Title IX 2020:** covered sexual harassment, but did not address other forms of sex-based harassment and prohibited unwelcome sex-based conduct only if it is “so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.”
- **Update:** The final regulations define hostile environment harassment as 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 recipient’s† education program or activity.

Expanded Reporting Responsibility

- **Policy:** Limited the definition of "Designated Responsible Employee" to administrative staff only.
- **Update:** Expands this to include "any non-confidential employee" who has authority to take corrective action or holds a leadership role in the college's educational programs. This creates a broader network of individuals responsible for reporting potential incidents.

Defined Procedures

- **Policy:** Briefly mentioned formal processes for resolving complaints but lacked specifics.
- **Update:** Provides a more comprehensive overview of the procedure, referencing specific documents outlining steps for both informal and formal resolution, ensuring greater transparency and clarity for those involved.

Enhanced Training Requirements

- **Policy:** Mandated "periodic" training on sex-based discrimination awareness but did not specify frequency.
- **Update:** Requires new hire and *annual* training for all employees, covering Title IX obligations, the full scope of sex discrimination (including new definitions), and notification procedures. Additionally, specialized training is mandated for investigators, decision-makers, and Title IX coordinators.

Inclusion of Complainant and Respondent Definitions

- **Policy:** Did not explicitly define these terms within the policy itself.
- **Update:** Clearly defines who is considered a "complainant" (person alleging discrimination) and "respondent" (person accused of discrimination) for the purposes of the policy and subsequent investigations.

Inquiries and Investigations

- **Policy:** Outlines a process with initial inquiry, investigation, draft/final reports, hearing, and determination.
- **Update**
 - Provides a more detailed procedural overview.
 - Explicitly prohibits retaliation against participants in the Title IX process.
 - Expands the written notification to parties to include information about:
 - Title IX grievance procedures and informal resolution
 - Details of allegations
 - Right to an advisor
 - Right to access relevant evidence
 - Prohibition on false statements
 - No hearing requirement

Timeframes

- **Policy:** Mentions a general 60-day timeframe for investigations, with possible extensions.
- **Update:** Establishes specific timeframes for each stage of the grievance procedure:
 - 10 days for parties to respond to draft investigation report
 - 10 days between final report and live hearing
 - Overall 60-day goal, subject to exceptions and written extensions