

Practice Update

The U.S. Department of Education Formally Rescinded the 2024 Title IX Rule and Reinstated 2020 Regulations

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Summary

On September 28, 2026, the U.S. Department of Education (the DOE or the Department) announced that it had formally rescinded the Biden administration’s 2024 Title IX rule and reinstated the 2020 Title IX regulations in the Code of Federal Regulations. The Final Rule was published in the *Federal Register* on September 29, 2026, and is effective upon publication. According to the DOE, nothing changes in practice, as the Department has been enforcing the 2020 regulations since January 31, 2025. The formal rulemaking removes the 2024 rule from the C.F.R. so that schools, students, and families can readily identify the Title IX regulations actually in effect.

Background

The 2024 Title IX rule, promulgated under the Biden administration, expanded the definition of sex discrimination to encompass sexual orientation and gender identity. Eight federal courts issued injunctions against the rule, and two courts vacated it, including a January 2025 decision by the U.S. District Court for the Eastern District of Kentucky that vacated the rule nationwide. On January 31, 2025, the Department issued a Dear Colleague letter announcing it would enforce the 2020 rule going

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forward. After the courts dismissed the remaining challenges to the 2024 rule in 2026, the Department was able to formally recodify the 2020 regulations.

The DOE issued the 2026 rule without notice-and-comment procedures, stating that a comment period would be “contrary to the public interest” and would “considerably delay” codification of the regulations reflecting final, non-appealable court decisions. The Department stated that the 2024 rule had been vacated and was no longer enforceable nationwide.

Secretary Linda McMahon stated, “Today’s rulemaking clears the Biden administration’s illegal rewrite of Title IX from the Code of Federal Regulations and restores the commonsense language promulgated in the first Trump administration, which we have been enforcing since the first days of the administration.”

What the 2026 Rule Does

The 2026 rule reproduces the text of the 2020 Title IX regulations, which are characterized by a narrower definition of sexual harassment, a narrower jurisdictional scope, and enhanced due process protections for respondents, including live hearings with cross-examination at the postsecondary level. However, the 2026 rule departs from the original 2020 text in the following respects:

- The 2026 rule does not reinstate the sentence in 34 C.F.R. § 106.45(b)(6)(i) that barred postsecondary decision-makers from relying on statements of parties or witnesses who did not submit to cross-examination at a live hearing and barred adverse inferences from non-participation. This reflects prior litigation that vacated that provision. The Department explained that the provision had previously been vacated by a federal court and therefore would not be restored. The 2020 rule originally included a compliance adjustment period; the 2026 rule does not reinstate it. No compliance adjustment period.

- The 2020 rule provided a one-year implementation timeframe for institutions to assess policies and implement necessary changes; the 2026 rule omits that provision.

The Department emphasized that the action “does not reopen debate” on either rule and does not represent a policy choice between the two. The Department’s fact sheet states: “Nothing changes in practice for individual students, parents, and teachers. The rules promulgated today are the rules the department has been enforcing since January 31, 2025.”

Practical Takeaways and Action Items for institutions

- Confirm that Title IX policies and grievance procedures track the 2020 regulatory framework, not the 2024 rule.
- Review postsecondary hearing procedures in light of the non-reinstatement of the cross-examination exclusion provision. Institutions should evaluate whether their procedures adequately address statements from parties or witnesses who do not submit to cross-examination.
- Update policy references, citations, training materials, handbooks, and websites to reflect the reinstated regulations and current C.F.R. citations.
- Consider applicable state and local laws, which in some jurisdictions may impose broader anti-discrimination obligations than the reinstated federal regulations.
- Monitor further guidance and enforcement activity from the Department, including any future actions relating to Title IX and athletics.
- Coordinate with legal counsel to assess compliance and address any questions arising from the transition.

Akerman is always available to assist institutions with compliance assessments, policy updates, training, and related matters when the need arises.

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