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Key Changes to the Title IX Regulations in 2022 Proposed Amendments

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July 06, 2022

On June 23, 2022, the 50th anniversary of the Title IX Education Amendments of 1972, the Biden Administration's Department of Education issued its proposed amendments to the current Title IX regulations. These proposed amendments expand protections afforded by Title IX and significantly change some of the procedures required under the current regulations. These new regulations will be in the comment-and-review period for 60 days. However, major substantive changes are not expected.

Here are some of the key changes in the proposed amendments:

- Strengthened protections for LGBTQI+ students who face discrimination on the basis of sexual orientation and/or gender identity. Note that separate rules will be issued to address students' eligibility to participate on particular male or female athletics teams.
- Providing parents of elementary and secondary school children additional rights to support their children, such as participation in grievance procedures.
- Protections to students who are pregnant or have pregnancy-related conditions.
- Allowing schools to offer informal resolution procedures for resolving sex discrimination complaints.
- No requirement for a live hearing for evidence evaluation.
- Allowing schools to use a single-investigator model, if the school determines that would constitute a fair and reliable process.
- A requirement that schools have a process for the decisionmaker to assess the credibility of parties and witnesses with live questioning, but no requirement for cross-examination by the parties. Post-secondary institutions may allow for cross-examination if they choose or if it is otherwise required by law.
- A requirement to use the preponderance-of-the-evidence standard of proof unless the school uses the clear-and-convincing-evidence standard in all other comparable proceedings.
- A requirement for schools to offer supportive measures to students who have brought complaints of sex discrimination; not just students who have brought complaints of sexual harassment.

Title IX policies and procedures in place at your institution will likely need to be reviewed and revised after the proposed amendments are finalized in August of this year. Contact [Jennifer Curry](#) or your Baker Donelson Title IX attorney for assistance in preparing for these changes.