



KROKIDAS & BLUESTEIN LLP

From 2024 Back to 2020: How Schools Should Respond to Recent Title IX Developments

On January 9, 2025, the United States District Court for the Eastern District of Kentucky issued an order that had the effect of vacating the 2024 Title IX regulations nationwide (the “Order”). Shortly thereafter, the U.S. Department of Education’s Office for Civil Rights confirmed in guidance documents that the 2024 Title IX regulations are no longer in effect and that the 2020 Title IX regulations are controlling once again. As a result, schools receiving any federal financial assistance – that were previously expected to adopt a Title IX policy and grievance procedure (a “Title IX policy”) compliant with the 2024 regulations – must now review and revise those Title IX policies to ensure compliance with the 2020 regulations.

There are a number of distinctions between the 2020 and 2024 Title IX regulations which schools should consider when reviewing and updating their Title IX policies, including the following:

- **Scope of sex discrimination:** The 2024 Title IX regulations clarified that discrimination on the basis of sex included discrimination based on sexual orientation, gender identity, sex stereotypes, sex characteristics, and pregnancy or related conditions. The 2020 Title IX regulations do not recognize those categories as included within the definition of discrimination on the basis of sex, meaning discrimination on those bases is not prohibited under Title IX in the way they were under the 2024 regulations.^[1]
- **Jurisdiction:** Under the 2024 Title IX regulations, discriminatory conduct that occurred outside the United States or outside the school’s education program or activity could be opened for Title IX investigation, but such conduct may not be opened for investigation under the 2020 Title IX regulations.
- **Notice:** The 2020 Title IX regulations require that notice must be given to a respondent at the time a formal complaint is filed, whether or not the complaint is ultimately opened for investigation, whereas notice must only be given to a respondent upon the opening of a Title IX investigation according to the 2024 Title IX regulations.
- **Timing:** The 2020 Title IX regulations include mandatory timeframes for certain phases of the grievance process that were not imposed by the 2024 Title IX regulations.
- **Investigative Report:** The 2020 Title IX regulations require an investigative report to be written and shared with the parties; such a report was not required under the 2024 Title IX regulations.

Schools are encouraged to consult with legal counsel to determine how best to respond to the vacatur of the 2024 Title IX regulations, both with respect to a

school's Title IX policy as well as to any active Title IX investigation(s) a school may have.

^[1]Please be reminded, however, that Massachusetts law and Massachusetts Department of Elementary and Secondary Education guidance have included robust protections against discrimination and harassment based upon gender identity, sexual orientation, and pregnancy and related conditions, so Massachusetts schools should address discrimination on those bases in other school policies.

Krokidas & Bluestein is committed to providing clients with updated guidance and best practices across all the Firm's practice areas as policy changes in the new presidential administration develop. **If your school requires policies, grievance procedures, and/or templates with respect to Title IX**, please reach out to K&B attorneys Bettina Toner (btoner@kb-law.com) or Eric Jordan (ejordan@kb-law.com) in Krokidas & Bluestein LLP's Education Law Practice.

Krokidas & Bluestein LLP's [Education Law Practice](#) provides a full array of advice and guidance to charter schools and other education entities on a wide range of legal matters including student discipline, special education, employment, governance, tax, regulatory and compliance matters, real estate, financing, and litigation.