

Chart of Changes to the Title IX Rules

This chart compares [Biden's 2024 rule](#) with the previous Title IX rules (including [Trump's 2020 rule](#)). The new rule strengthens protections against sex-based harassment and clarifies protections for LGBTQI+ and pregnant and parenting students. **Major rule differences are bolded.**

Part I. Sex-Based Harassment

Duty to Address Sex-Based Harassment		
	Trump Rule (2020)	Biden Rule (2024)
Definition of harassment	Schools must address sexual harassment if it is so "severe" and "pervasive" that it "effectively denies" a person equal access to a school program or activity. § 106.30(a).	Schools must address sex-based harassment if it is so "severe or pervasive" that it "denies or limits" a person's ability to participate in a school program or activity. § 106.2.
Off-campus harassment	Schools must address sexual harassment that occurs off-campus and inside the U.S. if it occurs: - In a school program or digital platform; - In an official student group's building; <u>or</u> - Under the school's "substantial control." §§ 106.44, 106.45(b)(3)(i).	Schools must address an <u>incident</u> of sex-based harassment (or other sex discrimination) that occurs off-campus and inside the U.S. if it occurs: - In a school program or digital platform; - In an official student group's building; <u>or</u> - Under the school's "disciplinary authority." Regardless of where an underlying incident occurs (e.g., off campus, outside the U.S.), schools must address any resulting hostile environment that arises: - In a school program or digital platform; - In an official student group's building; <u>or</u> - Under the school's "disciplinary authority." § 106.11.
Complainant status	Schools must address a complaint of sexual harassment only if the complainant was participating or trying to participate in school at the time of filing the complaint. § 106.30(a).	Schools must address a complaint of sex-based harassment (or other sex discrimination) if the complainant was participating or trying to participate in school at the time of the incident. § 106.2.
Respondent status	Schools can dismiss a complaint of sexual harassment at any time if the respondent is no longer a student or employee at the school. § 106.45(b)(3)(ii).	Schools can still dismiss a complaint of sex-based harassment (or other sex discrimination) at any time if the respondent is no longer a student or employee at the school, but they must also offer supportive measures. §§ 106.45(d)(1)(ii), 106.45(d)(4).
Notice of harassment	K12 schools must respond to alleged sexual harassment if any employee has actual knowledge of it. Institutions of higher education (IHEs) must respond to alleged sexual harassment if a Title IX coordinator or an official with "authority to institute corrective measures" has actual knowledge of it. § 106.30(a).	All non-confidential K12 employees must report possible sex-based harassment (or other sex discrimination) to the Title IX coordinator. All non-confidential IHE employees must report possible sex-based harassment (or other sex discrimination) to the Title IX coordinator <u>or</u> tell the victim how to contact the Title IX coordinator. §§ 106.44(c)(1)-(2).

Responding to Sex-Based Harassment

	Trump Rule (2020)	Biden Rule (2024)
Standard of care	Schools must respond to sexual harassment in a way that is not “deliberately indifferent.” § 106.44(a).	Schools must respond to sex-based harassment (or other sex discrimination) with “ prompt and effective action. ” § 106.44(a).
Supportive measures	Schools must offer supportive measures to all people who report sexual harassment, even if there is no investigation. Supportive measures must be non-punitive and not unreasonably burdensome on the respondent. The school can reasonably burden the respondent. § 106.30(a).	Schools must offer supportive measures to all people who report sex-based harassment (or other sex discrimination), even if there is no investigation and even if the complaint is dismissed. Supportive measures must be non-punitive and not unreasonably burdensome on the respondent. The school can reasonably burden the respondent. §§ 106.2, 106.44(g)(2).
Informal resolutions	Schools can use an informal resolution process, such as mediation or a restorative process, to resolve a complaint of student-on-student sexual harassment. § 106.45(b)(9).	Schools can use an informal resolution process, such as mediation or a restorative process, to resolve a complaint of any sex discrimination, except employee-on-student sex-based harassment in a K-12 school. § 106.44(k).
Retaliation	Schools cannot retaliate against anyone to (i) interfere with their Title IX rights or (ii) punish them for their participation or lack thereof in a sex discrimination proceeding, including by: • Charging someone for misconduct that arises out of the same facts as the reported sex discrimination. • Charging someone for a “false statement” based solely on the school’s decision in an investigation. § 106.71.	Schools cannot retaliate against anyone to (i) interfere with their Title IX rights or (ii) punish them for their participation or lack thereof in a sex discrimination proceeding, including by: • Disciplining someone for any misconduct for the purpose of retaliation. • Disciplining someone for making a “false statement” or engaging in consensual sexual conduct based solely on the school’s decision in an investigation. §§ 106.2, 106.45(h)(5), 106.71.

Investigating Sex-Based Harassment

	Trump Rule (2020)	Biden Rule (2024)
Time frame	Schools must resolve complaints of sex discrimination in a “prompt” manner. In investigations of sexual harassment, schools can impose “temporary” delays for “good cause,” including because there is a concurrent criminal investigation. §§ 106.8(c), 106.45(b)(1)(v).	Schools must resolve complaints of sex discrimination in a “prompt” manner. In investigations of sex-based harassment (or other sex discrimination), schools can impose “reasonable” delays for “good cause.” §§ 106.8(b)(2), 106.45(a)(1), 106.45(b)(4), 106.46(a), 106.46(e)(5).
Presumption of non-responsibility	Schools must presume the respondent is not responsible until the end of an investigation of sexual harassment. §§ 106.45(b)(1)(iv), (b)(2)(i)(B).	Schools must presume the respondent is not responsible until the end of an investigation of sex-based harassment (or other sex discrimination). §§ 106.45(b)(3), 106.46(c)(2)(i).

Questioning parties and witnesses	In institutions of higher education's (IHEs) following an investigation of sexual harassment, the school must allow the parties' advisors to conduct cross-examination at a live hearing. In K12 schools' investigations of sexual harassment, the school must allow the parties to submit written questions for the school to ask of the other party and witnesses. §§ 106.45(b)(6)(i)-(iii).	In IHEs, for complaints of sex-based harassment involving 1+ students, the school must (1): interview each party or witness in individual meeting(s); or (2) have a decision-maker question all parties and witnesses at a live hearing, where the school has the option of also allowing the parties' advisors to conduct cross-examination. In all other investigations of sex discrimination (besides the above), the school must use a process to assess the credibility of parties and witnesses. §§ 106.45(g), 106.46(f)(1), 106.46(g).
Standard of proof	Schools must use either a "preponderance of the evidence" standard or "clear and convincing evidence" standard in sexual harassment investigations, <u>as long as</u> the school uses the same standard for students and employees. § 106.45(b)(1)(vii).	Schools must use a "preponderance of the evidence" standard in all investigations of sex-based harassment (or other sex discrimination) <u>unless</u> the school uses a "clear and convincing evidence" standard in all "comparable" proceedings (such as for race and disability discrimination or physical assault). § 106.45(h)(1).
Appeals	In a sexual harassment investigation, the parties can appeal if there was a procedural irregularity, new evidence, or bias or conflict of interest that affected the outcome. § 106.45(b)(8)(i).	In all investigations of sex discrimination: (i) the complainant can appeal a dismissal of their complaint, <u>and</u> (ii) the parties must have the same appeal rights as in all "comparable" proceedings (such as for race and disability discrimination or physical assault). In an institution of higher education's investigation of sex-based harassment involving 1+ students, the parties can also appeal if there was a procedural irregularity, new evidence, or bias or conflict of interest that would change the outcome. §§ 106.45(i), 106.46(i)(1).

Preventing Sex-Based Harassment		
	Trump Rule (2020)	Biden Rule (2024)
Training	N/A.	Schools must train all employees on how to recognize and report sex discrimination. Additional training is required for all Title IX officials : coordinators, investigators, decision-makers, informal resolution facilitators, and those who can modify or terminate supportive measures. § 106.8(d).
Prevention & monitoring barriers to reporting	N/A.	Schools must prevent sex discrimination from recurring (including when a complaint is dismissed) and monitor and address barriers to reporting . §§ 106.44(b), 106.44(f)(1), 106.45(d)(4)(iii).

Part II. Anti-LGBTQI+ Discrimination

	Previous Title IX Rules	Biden Rule (2024)
Definition of discrimination	While the previous rules did not explicitly address it, courts have held for years that Title IX prohibits discrimination based on sexual orientation and gender identity. In 2020, the Supreme Court confirmed this is the case under Title VII in <i>Bostock v. Clayton County</i>. The Department has stated that intentional misgendering is sex-based harassment.	Sex discrimination includes discrimination based on sexual orientation, gender identity, sex characteristics (including intersex traits), and sex stereotypes under Title IX. Schools must address anti-LGBTQI+ harassment (see Part I). §§ 106.2, 106.10.
Transgender inclusion	While the previous rules did not explicitly address transgender inclusion, federal courts have repeatedly held that Title IX prohibits exclusion of transgender students from school facilities.	Schools must allow individuals to participate in classes and activities, use bathrooms and locker rooms, and dress and groom themselves consistent with their gender identity. § 106.31(a)(2).
Athletics	While the previous rules did not explicitly address this, a number of federal courts have held that Title IX prohibits excluding transgender students from sports consistent with their gender identity.	<u>Note: This proposed rule is not yet final.</u> Categorical anti-trans sports bans in schools would be prohibited. Anti-trans sports bans would also be prohibited in nearly all cases in K-8 and in most cases in high school. Any policy that limits or denies a transgender student's participation in sports would have to: • Be specific to a sport, grade level, or level of competition; • Be “substantially related” to an important educational objective; <u>and</u> • Minimize harm to transgender students. Schools could not justify an anti-trans sports ban based on overbroad generalizations or false assumptions. § 106.41(b)(2).

Part III. Discrimination against Pregnant and Parenting Students

	Previous Title IX Rules	Biden Rule (2024)
Definition of discrimination	Schools cannot discriminate against students based on pregnancy or related conditions. Related conditions include childbirth, termination of pregnancy, and recovery from any of these conditions. § 106.40(b)(1).	Schools cannot discriminate against students based on past, current, or potential pregnancy or related conditions. Related conditions include childbirth, termination of pregnancy, lactation, and medical conditions or recovery related to any of these conditions. Schools must address pregnancy or related harassment (see Part I). §§ 106.2, 106.10.
Notice of rights	N/A.	An employee who knows of a student's pregnancy or related condition must inform them of the Title IX coordinator's role and contact information. The Title IX coordinator must then inform the student of their rights. §§ 106.40(b)(2), 106.40(b)(3)(i).

Participation and exclusion	A pregnant student can participate in an alternate program if it is voluntary, and the program is comparable to those offered to their peers. A school cannot require a student who is pregnant or has a related condition to get a doctor's approval to participate in a school program or activity unless it is required of students with other physical or emotional conditions. §§ 106.40(b)(1), 106.40(b)(3).	A student who is pregnant or has a related condition may participate in an alternate program if it is voluntary, and the program is comparable to those offered to their peers. A school cannot require a student who is pregnant or has a related condition to get approval from a healthcare provider or anyone else to participate in a school program or activity unless it is required of all students. §§ 106.40(b)(3)(iii), 106.40(b)(5).
Leaves of absence	Schools must allow a leave of absence for pregnancy or related conditions for as long as a student's doctor deems medically necessary. Upon return, the student must be reinstated to their prior status. § 106.40(b)(5).	Schools must allow a voluntary leave of absence for pregnancy or related conditions for at least as long as a student's healthcare provider deems medically necessary. Upon return, the student must be reinstated to their prior academic status and, where practicable, prior extracurricular status. § 106.40(b)(3)(iv).
Accommodations	Schools must offer services and benefits to students who are pregnant or have a related condition if they are offered to temporarily disabled students. § 106.40(b)(4). While the previous rules did not explicitly address it, a 2013 guidance stated that reasonable modifications include elevator access, a larger desk, or more frequent trips to the bathroom.	Schools must consult with a student who is pregnant or has a related condition to offer individualized and voluntary "reasonable modifications" unless this would "fundamentally alter" the school's program or activity. Reasonable modifications include elevator access, a larger desk, a footrest, breaks from class, absences, online courses, schedule changes, extensions, rescheduled exams, and counseling. § 106.40(b)(3)(ii).
Lactation	While the previous rules did not explicitly address it, a 2013 guidance stated schools should provide a lactation room for students.	Schools must provide a private, clean, non-bathroom lactation space for students. § 106.40(b)(3)(v).
Limitation on documentation	N/A.	Students who are pregnant or have a related condition need not submit documentation to get a modification, leave of absence, alternate program, or lactation space if: their need is obvious or is water, a bigger desk, sitting or standing, breaks, or lactation; prior documentation was sufficient; or documentation is not required of other students. § 106.40(b)(3)(vi).
Parental, family, or marital status	Schools cannot apply a rule about a student's actual or potential parental, family, or marital status that treats them differently based on gender. § 106.40(a).	Schools cannot apply a policy, practice, or procedure about a student or applicant's past, current, or potential parental, family, or marital status that treats them differently based on gender. §§ 106.21(c)(2)(i), 106.40(a).