

Summary of Changes to the Title IX Rules

In April 2024, the Biden administration [issued](#) a final Title IX rule strengthening protections against sex-based harassment and clarifying protections for LGBTQI+ and pregnant and parenting students.

The Biden administration's changes to the Title IX rule are significant because they:

- Undo many of the harmful 2020 rules put in place by the Trump administration—rules that were created with the help of “[men's rights groups](#)” and are rooted in deeply offensive stereotypes that label reports of sexual harassment as uniquely less credible than reports of other misconduct. The Trump rules encouraged and sometimes required schools to be complicit in harassment and violence by ignoring more sexual harassment and [conducting fewer investigations](#). They also required schools to use uniquely unfair, burdensome procedures for investigating sexual harassment that were not required for any other type of student or staff misconduct in schools.
- Clarify that Title IX has always protected LGBTQI+ students in its broad promise of gender equality. The rules make clear that state policies and laws that target students based on gender identity, sexual orientation, or sex characteristics (including intersex traits)—which have led to a [significant increase in hate crimes](#) in K-12 schools—violate federal nondiscrimination law.
- Provide much-needed updates regarding the rights of pregnant and parenting students. This is especially important now given the Supreme Court's evisceration of the federal constitutional right to an abortion in *Dobbs v. Jackson Women's Health Organization*, which has led to [increased birth rates](#) in states that have banned or restricted abortion.

Sex-Based Harassment

The Title IX rule changes require schools to respond to more incidents of sex-based harassment and respond with greater care. They also require fairer investigations than were required under the Trump 2020 rule. For example:

- **DEFINITION OF HARASSMENT:** Schools must address sex-based harassment when it impacts a person's ability to learn and feel safe in school, applying the same standard that is already used for race and disability harassment. This means survivors will no longer be forced to endure repeated and escalating levels of abuse before they can ask their schools for help.
- **OFF-CAMPUS HARASSMENT:** Schools must address incidents of sex-based harassment (and other sex discrimination) that occur in a school activity inside the U.S., even if it occurs off campus or online. In addition, schools must address any *hostile environment* that arises in a school activity, even if the underlying incident occurs outside of a school activity or outside the U.S. This means students who are harassed or assaulted while studying abroad, in off-campus housing, online, or at a fraternity that isn't officially recognized by their school can still receive help when they are required to attend classes with their rapist or abuser (or even taught by their rapist or abuser).
- **NOTICE OF HARASSMENT:** In higher education, all employees who are not designated as confidential employees must either report possible sex discrimination to the Title IX coordinator or tell the victim how to contact the Title IX coordinator. This means colleges and universities can no longer ignore sexual harassment just because it is reported to a lower-ranked employee, who might include a coach, athletic director, or professor.
- **TIMING OF COMPLAINT:** If an individual who is no longer in school makes a complaint about sex-based harassment (or other sex discrimination), their school must still respond as long as the incident happened while the victim was a student or applicant. This is important because it isn't unusual for students to drop out of school when they experience harassment or sexual assault—but that doesn't mean schools should be able to ignore their complaints.
- **SCHOOL RESPONSE:** Schools must respond to sex-based harassment (and other sex discrimination) by taking "prompt and effective action." This means schools must do much more than was required under the Trump rule and can no longer mistreat and even punish survivors without consequence.
- **SUPPORTIVE MEASURES:** Schools must offer supportive measures (such as counseling, academic accommodations, changes to housing, no-contact orders, and more) to all students who report sex-based harassment (or other sex discrimination), even if they do not want an investigation and even if their complaint is dismissed. This is important because many survivors do not want to go through a long and invasive investigation but still need supportive measures to help them learn and feel safe. Similarly, if the school dismisses a complaint after the reported harasser has graduated, retired, or transferred to another school, the survivor still has a right to supportive measures.
- **QUESTIONING PARTIES AND WITNESSES:** Institutions of higher education can either (1) interview all parties and witnesses in individual meetings; 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. The vast majority of federal appeals courts have said that adversarial cross-examination is not required to protect due process or fundamental fairness. This rule gives schools the flexibility to question students in a way that respects students' constitutional equality and due process rights and ensures fairness for all students.
- **STANDARD OF PROOF:** Schools must use a "preponderance of the evidence" standard ("more likely than not") in Title IX investigations or hearings unless they use a "clear and convincing evidence" standard ("*highly and substantially* more likely than not") for *all* other comparable proceedings, including race and disability discrimination and physical assault. The preponderance standard is the only standard that treats both sides equally and is the same standard that is used in all civil rights cases and nearly all civil litigation. The Trump rule allowed schools to single out sex-based harassment for a more burdensome standard even if other comparable proceedings used the preponderance standard. The new rule prohibits schools from singling out survivors for unfair treatment.

Anti-LGBTQI+ Discrimination

The Title IX rule changes explicitly affirm—consistent with decades of case law and agency guidance—that anti-LGBTQI+ discrimination is prohibited under Title IX. For example:

- **DEFINITION OF DISCRIMINATION:** For the first time, the Title IX rules explicitly define sex discrimination to include discrimination based on sexual orientation, gender identity, sex characteristics (including intersex traits), and sex stereotypes. Schools must address anti-LGBTQI+ harassment as detailed above in “Sex-Based Harassment.” This affirms what the courts have already said for decades: that sex discrimination includes anti-LGBTQI+ discrimination.
- **TRANSGENDER INCLUSION:** 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.
- **ATHLETICS:** Categorical bans on transgender, nonbinary, and intersex students in school sports would be prohibited. Non-categorical sports bans (bans limited to a specific sport, grade, or level of competition) would be sharply restricted and would not be justifiable based on overbroad generalizations or false assumptions. **(Note: The proposed athletics rule is not yet final, and so this summary of athletics protections is only based on the proposed rule.)**

Discrimination Against Pregnant and Parenting Students

The Title IX rule changes provide greater clarity about discrimination based on pregnancy or related conditions. For example:

- **DEFINITION OF DISCRIMINATION:** Schools cannot discriminate against students based on past, current, or potential pregnancy or related condition, which includes lactation, childbirth, termination of pregnancy, or recovery from these conditions. Schools must also address harassment based on pregnancy or related conditions as detailed above in “Sex-Based Harassment.”

- **NOTICE OF TITLE IX RIGHTS:** An employee who knows of a student’s pregnancy or related condition must provide the student with the Title IX coordinator’s contact information. The Title IX coordinator must then inform the student of their rights. This is important because most pregnant and parenting students do not know about their rights under Title IX. In particular, as more states pass laws banning or restricting abortion and even criminalizing miscarriages, it is all the more important for Title IX to clearly state that schools cannot discriminate against students who have an abortion or miscarriage.
- **PARTICIPATION IN SCHOOL:** Schools cannot require a student who is pregnant or has a related condition to get approval from a healthcare provider or any other person to participate in school unless such approval is required of all students. This means schools cannot exclude pregnant and parenting students from activities like a science lab or physical fitness activity using regressive sex stereotypes that are not based in medical science.
- **LEAVES OF ABSENCE:** Schools must allow students who are pregnant or have a related condition to take a voluntary leave of absence for at least as long as is medically necessary and to reinstate them to their prior academic and, if possible, extracurricular status when they return. This ensures that they do not have to choose between their health (or the health of their pregnancy or child) and their education.
- **ACCOMMODATIONS:** For the first time, students who are pregnant or have a related condition have an affirmative right to “reasonable modifications.” This is a significant change because the previous Title IX rules only required schools to accommodate pregnant students to the extent that the school accommodated students with temporary disabilities. The new requirement is similar to what schools must already provide employees under the Pregnant Workers Fairness Act, which Congress passed in 2022.
- **LACTATION ROOMS:** Schools must provide a private, clean, non-bathroom space for students to lactate or breastfeed. This new requirement is similar to what schools must already provide employees under the PUMP Act, which Congress passed in 2022.

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