



Joint Guidance on Federal Title IX Regulations: Analysis of Section 106.6(g): Title VII

June 12, 2020

Note: This document focuses on a summary analysis of Section 106.6(f) of the 2020 Final Title IX Regulations,¹ specifically on the interplay with Title VII. For a full overview of the changes from the Proposed Regulations, see *Title IX Text for Text Proposed to Final Comparison* and *Title IX Summary Proposed to Final Comparison*, available at system.suny.edu/sci/tix2020

§ 106.6(g): Title VII

As noted by the Department in both the Notice of Proposed Rulemaking (“NPRM”) and the preamble to the Final Rule, an employee of an educational institution may have rights not only under Title IX, but also Title VII and state law for sex-based discrimination.

While the Department states that the grievance process outlined in §106.45 does not contradict or expand Title VII, these rights are not fully coextensive. As in the NPRM, section 106.6(f) of the Final Regulations attempts to address this possible conflict by noting that nothing in the Final Regulations shall be read as a “derogation” of an employee’s rights under Title VII or any regulations promulgated thereunder. However, the Final Rule does not clearly address how an employer should proceed when such a conflict arises between the two laws as interpreted, as well as between the Final Rule and any other protections under federal or state law or regulation, or collective bargaining agreement.

For a full discussion of the application of the Final Regulation to employees, please see the Joint Guidance memo on *Directed Question 3: Application to Employees*.

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¹ The effective date for these regulations will be August 14, 2020 and will apply prospectively. The Department has stated it will provide technical assistance during the transition period and after the effective date.