



2024 Joint Guidance on Federal Title IX Regulations Analysis on Section 106.8(d): Training

July 8, 2024

Note: This document focuses on a summary analysis of Section 106.8(d), specifically Training.¹ For a full overview of the changes from the 2020 Regulations and the 2024 Final Regulations, see *Title IX Text for Text 2020 and 2024 Regulation Final Comparison*, available at <https://system.suny.edu/sci/titleix/>.

§ 106.8(d) – Training

§ 106.8(d) states:

(d) *Training.* The recipient must ensure that the persons described in paragraphs (d)(1) through (4) of this section receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. This training must not rely on sex stereotypes.

(1) *All employees.* All employees must be trained on:

- (i) The recipient's obligation to address sex discrimination in its education program or activity;
- (ii) The scope of conduct that constitutes sex discrimination under Title IX and this part, including the definition of sex-based harassment; and
- (iii) All applicable notification and information requirements under §§ 106.44(b)(2) and 106.44.

(2) *Investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures.* In addition to the training requirements in paragraph (d)(1) of this section, all investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or

¹ The effective date of these Regulations will be August 1, 2024 and will apply prospectively. The Department has stated it will provide technical assistance during the transition period and after the effective date.

terminate supportive measures under § 106.44(g) must be trained on the following topics to the extent related to their responsibilities:

- (i) The recipient's obligations under § 106.44;
- (ii) The recipient's grievance procedures under § 106.45, and if applicable § 106.46;
- (iii) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- (iv) The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under § 106.45, and if applicable, § 106.46.

(3) *Facilitators of informal resolution process.* In addition to the training requirements in paragraph (d)(1) of this section, all facilitators of an informal resolution process under § 106.44(k) must be trained on the rules and practices associated with the recipient's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

(4) *Title IX Coordinator and designees.* In addition to the training requirements in paragraphs (d)(1) through (3) of this section, the Title IX Coordinator and any designees under paragraph (a) of this section must be trained on their specific responsibilities under paragraph (a) of this section, §§ 106.40(b)(3), 106.44(f) and (g), the recipient's recordkeeping system and the requirements of paragraph (f) of this section, and any other training necessary to coordinate the recipient's compliance with Title IX.

Changes from the 2020 Regulations

- The way in which training requirements are framed generally;
- All employees must now be trained annually; and
- Training for employees who specifically have the authority to modify or terminate supportive measures.

Changes from the 2022 NPRM

- Clarification that training must occur for employees upon hiring or change of position that alters an employee's duties under Title IX, and then annually thereafter.

Summary and Analysis of the 2024 Final Regulations

Benefits, Time, and Expense of Training

The Department noted that in its own enforcement experience, inadequate training led to improper responses to sex discrimination.² The Department acknowledges that training requirements enable a recipient and its employees to consistently identify and address sex discrimination in accordance with their responsibilities under Title IX.³ The Department also found that while recipients may need to take additional time and resources to update their trainings, the benefit outweighs the potential additional time and cost that may take.⁴

The Department also declined to adopt any exceptions to who must be trained in this version of the regulations.⁵

Frequency of Training

If an employee's duties shift, it may require retraining in order to comply with Title IX. As noted in paragraph (d), it states that training must occur promptly upon hiring or change of position that alters their duties under Title IX, and then annually after that initial training.⁶

Impartiality in the Grievance Process

The Department recognizes that training is an important component of ensuring that grievance procedures are impartial.⁷ The Department stated that they have “long recognized Title IX to require that training materials and trainers, as well as recipient staff, operate without bias.”⁸

The Department did decline to recommend certain training practices or techniques aside from the requirements in the regulation, which leaves flexibility to a recipient to determine how to meet requirements in a manner that best fits their unique educational community.⁹ As noted in the Joint Guidance section for § 106.8(f), related to recordkeeping, recipients are also required to make training materials available for public inspection upon request, which the Department believes provides appropriate public accountability and transparency.¹⁰

Additional Training Topics

The Department specifically addressed declining to mandate trauma-informed practices training.¹¹ The Department was clear that while this is not mandated by regulation, a recipient

² Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 Fed. Reg. 33474, 33548 (Apr. 29, 2024) (to be codified at 34 C.F.R. Pt. 106) (hereinafter “2024 Title IX Final Rule”).

³ 2024 Title IX Final Rule, 89 Fed. Reg., at 33548.

⁴ *Id.*

⁵ *Id.*

⁶ 34 C.F.R. § 106.8(d).

⁷ 2024 Title IX Final Rule, 89 Fed. Reg., at 33549.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*; 34 C.F.R. § 106.8(f).

¹¹ 2024 Title IX Final Rule, 89 Fed. Reg., at 33550.

has flexibility to choose how to meet the training requirements in a way that best serves the needs and values of its community.¹² This includes selecting best practices, including trauma-informed practices, as part of its training.¹³ Nothing in the regulations prevents an institution from meeting or exceeding the legal requirements imposed by the final regulations.¹⁴

Individuals to be Trained

The Department stated that this section does not unreasonably burden entities that have a large number of temporary employees, such as adjunct faculty, because those institutions are already required to train temporary employees on institutional policies and applicable laws.¹⁵

The Department also noted that personnel required to be trained includes any advisors, graduate students, contractors, volunteers, or third-party agents who are performing roles that are directly involved in carrying out the recipient's Title IX duties.¹⁶ However, if persons in these roles are not directly involved in carrying out the recipient's Title IX duties and are not employees, they are not required to be trained.¹⁷

All employees are required to be trained by the recipient, and the recipient may not just simply make the training available to any employees. This is an important distinction because of the active role the recipient must take.¹⁸ Many recipients are also subject to state laws that require training for all employees on issues such as child abuse prevention, sexual harassment, and mandatory reporting.¹⁹ Title IX training can be incorporated into existing employee trainings to ensure this obligation is also fulfilled.²⁰

Training on the Definition of “Sex-Based Harassment”

Training on this definition applies only to employee training and does not require a recipient to provide training or instructional content on the definition of “sex-based harassment” to students.²¹

Training on Notification Requirements for Pregnancy or Related Conditions

The Department believes training requirements in this space will assist recipients with ensuring that students are not discriminated against based on pregnancy or related conditions, that

¹² *Id.*

¹³ 2024 Title IX Final Rule, 89 Fed. Reg., at 33550.

¹⁴ *Id.*

¹⁵ 2024 Title IX Final Rule, 89 Fed. Reg., at 33548.

¹⁶ 2024 Title IX Final Rule, 89 Fed. Reg., at 33550.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 2024 Title IX Final Rule, 89 Fed. Reg., at 33550-51.

²⁰ 2024 Title IX Final Rule, 89 Fed. Reg., at 33551.

²¹ *Id.*

complaints will be handled promptly, and that students who are pregnant or experiencing pregnancy-related conditions have equal access to the recipient’s education program or activity.²² The requirement in the new regulations is fairly modest, according to the Department, and can be incorporated into other existing trainings.²³

For most employees, the training will consist of how to promptly notify a student who informs them of their pregnancy or related conditions that the Title IX Coordinator can take specific actions to prevent sex discrimination and ensure equal access, and share the Title IX Coordinator’s contact information.²⁴

Live Trainings

Trainings are not required to be conducted in person, and may be conducted online or virtually, either synchronously or asynchronously to comply with the training requirements in the new regulations.²⁵ This has not changed since the 2020 regulations.²⁶

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²² *Id.*

²³ 2024 Title IX Final Rule, 89 Fed. Reg., at 33551.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*