

PUBLICATION

OCR Issues New Title IX Guidance to Educational Institutions and Title IX Coordinators

April 29, 2015

On Friday, April 24, the Department of Education's Office for Civil Rights (OCR) issued three important communications that reemphasize the importance under Title IX of designating, training and supporting Title IX coordinators.

First, OCR issued a "Dear Colleague Letter" to remind all educational institutions about their obligations under Title IX to designate and provide sufficient support for their Title IX coordinators. The second communication is addressed directly to Title IX coordinators, thanking them for serving in such a vital position at their respective institutions and reminding them of the appropriate authority and support they are entitled to receive from their institutions in order to discharge their duties. Third, OCR published a resource guide that includes an overview of the scope of Title IX, a discussion about Title IX's administrative mandates and other key Title IX issues, references to Federal resources, recommended best practices for Title IX coordinators to help their respective institutions meet their Title IX obligations, and an explanation of institutions' obligations to report Title IX information to the Department of Education. A link to all three documents is provided below.

Baker Donelson's [Higher Education](#) team will host a complimentary webinar to discuss OCR's newest guidance and Title IX best practices on May 19. Baker Donelson monitors all Title IX-related OCR communications and developments in order to assist educational institutions with constructing and achieving winning Title IX compliance programs. For more details about OCR's newest guidance, Baker Donelson's upcoming webinar, and ways Baker Donelson can assist your institution with its Title IX compliance efforts, please read on.

OCR's April 24, 2015 Guidance Concerning Title IX Coordinators

The April 24, 2015 Dear Colleague Letter incorporates existing OCR guidance on the role of Title IX coordinators and provides additional clarification and suggestions about factors to consider when selecting a Title IX coordinator, the responsibilities and authority of that coordinator, and the level of support and training the coordinators need in their roles. Highlighted below are the primary components of the letter:

Designation of the Title IX Coordinator

The Title IX coordinator must be **independent** and serve in that capacity **full-time**. The letter emphasizes that independence is key to avoiding potential conflicts of interest and notes that certain persons (such as disciplinary board members, general counsel, the dean of students, a principal or an athletics director) might not be appropriate Title IX coordinators because their other roles may present conflicts of interest. To further ensure independence, the Title IX coordinator should report directly to the institution's senior leadership. By serving in the role full time, the coordinator minimizes the risk of a conflict of interest and ensures sufficient time is available to perform all of his or her responsibilities and to maintain sufficient, up-to-date training.

The Dear Colleague Letter also suggests that larger colleges and universities may designate multiple Title IX coordinators. Where multiple coordinators are designated, the institution should designate one lead Title IX

coordinator who has ultimate oversight responsibility and should encourage all its coordinators to work together to ensure consistent enforcement of the institution's Title IX-related policies.

Title IX Coordinator's Responsibilities and Authority

Prior OCR guidance outlines the duties and authority of the Title IX coordinator. The April 24, 2015 Dear Colleague Letter provides further clarification on Title IX coordinators' responsibilities to:

- Coordinate the institution's compliance with Title IX, including the recipient's grievance procedures for resolving Title IX complaints;
- Coordinate the institution's responses to all complaints involving possible sex discrimination, including monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate;
- Have knowledge of the institution's policies and procedures on sex discrimination and be involved in the drafting and revision of such policies and procedures to help ensure that they comply with Title IX; and
- Coordinate the collection and analysis of information from an annual climate survey if, as OCR suggests, the school conducts such a survey.

The letter also reiterates that the Title IX coordinator must be protected from retaliation in the performance of his or her duties.

The Institution Must Support, Train and Promote the Visibility of the Title IX Coordinator

The Dear Colleague Letter reminds educational institutions that Title IX coordinators must have full institutional support to be able to effectively coordinate the institution's compliance with Title IX. Such support includes ensuring that the Title IX coordinator is provided with the necessary authority, training and support to perform their duties and is adequately knowledgeable about Title IX and the institution's policies and procedures. Specifically, institutions must:

- Grant Title IX coordinators the appropriate authority to identify and proactively address issues related to possible sex discrimination as they arise;
- Inform the Title IX coordinator of all reports and complaints raising Title IX issues, even if the complaint was initially filed with another individual or office;
- Provide Title IX coordinators with access to information regarding enrollment in particular subject areas, participation in athletics, administration of school discipline and incidents of sex-based harassment;
- Not interfere with the Title IX coordinator's oversight of complaint investigations and monitoring of the institution's efforts to comply with and carry out its responsibilities under Title IX;
- Ensure that their Title IX coordinators are appropriately trained and possess broad knowledge in all areas over which they have responsibility in order to effectively carry out those responsibilities, including their specific institution's policies and procedures on sex discrimination and all complaints raising Title IX issues throughout the institution; and
- Ensure that their Title IX coordinators are knowledgeable about other applicable Federal and State laws, regulations, OCR guidance and policies that overlap with or explain different facets of Title IX.

Other forms of support include promoting the visibility of the Title IX coordinator's role in the school community by, for example, identifying the coordinator on the institution's website, providing a link to Title IX-related topics on the institution's home page, and providing a dedicated Title IX webpage with all pertinent Title IX information.

OCR also suggests posting a notice of nondiscrimination in any bulletins, announcements, publications, catalogs, application forms, and student and employee recruitment materials, which states that the institution does not discriminate on the basis of sex and that questions regarding Title IX may be referred to the institution's Title IX coordinator or to OCR. Institutions must ensure that the notice of nondiscrimination notifies readers of the Title IX coordinator's name, office address, telephone number and email address.

In cases where the role of the Title IX coordinator may be experiencing high turnover, the Dear Colleague Letter also provides tips to minimize the burden associated with republishing printed materials and resetting email addresses that contain names and contact information of persons who have left the position of Title IX coordinator.