

U.S. Department of Education Office for Civil Rights Releases Guidance Package Related to Role and Responsibilities of Title IX Coordinators

Title IX of the Education Amendments of 1972 prohibits sex discrimination in education programs and activities. Its implementing regulations require colleges and universities to designate at least one employee to coordinate Title IX compliance.¹ On April 24, the U.S. Department of Education’s (“ED”) Office for Civil Rights (“OCR”) released a three-document guidance package focused on such employees, referred to as “Title IX coordinators.” The package largely restates previous OCR guidance, but it also clarifies prior guidance and recommends certain practices. Furthermore, the guidance highlights OCR’s view that Title IX coordinators are key to an institution’s Title IX compliance efforts. According to OCR:

[S]ome of the most egregious and harmful Title IX violations occur when a recipient fails to designate a Title IX coordinator or when a Title IX coordinator has not been sufficiently trained or given the appropriate level of authority to oversee the recipient’s compliance with Title IX. By contrast, OCR has found that an effective Title IX coordinator often helps a recipient provide equal educational opportunities to all students.²

This issue brief summarizes aspects of the guidance package and flags selected points that OCR has not previously conveyed in formal guidance.

- **Guidance package components:** The guidance package consists of a [Dear Colleague Letter on Title IX Coordinators](#); a [Letter to Title IX Coordinators](#); and a [Title IX Resource Guide](#). OCR has previously issued guidance that addresses a Title IX coordinator’s responsibilities.³ According to OCR, “those documents remain in full force.”⁴
 - The 7-page [Dear Colleague Letter](#) outlines factors an institution should consider when designating a Title IX coordinator; describes a Title IX coordinator’s responsibilities and authority; and reminds institutions to support Title IX coordinators in various ways.

¹ 34 C.F.R. § 106.8(a).

² U.S. Department of Education, Office for Civil Rights, Dear Colleague Letter: Title IX Coordinators (Apr. 24, 2015), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf> (hereinafter, the “Dear Colleague Letter”).

³ E.g., U.S. Department of Education, Office for Civil Rights, Questions and Answers on Title IX and Sexual Violence (Apr. 29, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> (hereinafter “Questions and Answers”).

⁴ Dear Colleague Letter at 1.

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- The 2-page [Letter to Title IX Coordinators](#) thanks the Title IX coordinator, refers the Title IX Coordinator to the Dear Colleague Letter and Resource Guide, and offers technical assistance from OCR.
- The 26-page [Title IX Resource Guide](#) addresses Title IX’s scope; a Title IX coordinator’s responsibilities and authority; Title IX administrative requirements (e.g., grievance procedures, notice of nondiscrimination); Title IX’s application to various issues (e.g., recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; pregnant and parenting students; discipline; single-sex education; employment; retaliation); and requirements to collect and report to ED certain information about Title IX coordinators. The discussion of Title IX’s application to various issues includes OCR’s recommended best practices for the Title IX coordinator with regard to each of those issues.
- **Title IX coordinator designation and independence:** The Dear Colleague Letter emphasizes that the position “may not be left vacant”—there must be “at least one person designated and actually serving as the Title IX coordinator at all times.”⁵
 - The Dear Colleague Letter stresses that the Title IX coordinator “should be independent” to avoid any potential conflict of interest. Although Title IX “does not categorically exclude particular employees from serving as Title IX coordinators,” OCR recommends that institutions not designate an employee whose other job duties may create a conflict of interest, such as a disciplinary board member, general counsel, dean of students, or athletics director.⁶ The Resource Guide states that the institution’s notice of nondiscrimination should state any other job title that the Title IX coordinator holds.⁷
 - The Dear Colleague Letter also states OCR’s position—not previously mentioned in formal guidance—that the Title IX coordinator “should report directly to the recipient’s senior leadership, such as . . . the university president.”⁸
 - Echoing previous guidance,⁹ OCR notes that designation of a full-time Title IX coordinator “will minimize the risk of a conflict of interest” and “in many cases” will enable the Title IX coordinator to have sufficient time to perform required responsibilities.¹⁰ OCR cautions that if a single employee is designated to coordinate compliance with Title IX and other laws, it is “critical” that the employee have “the qualifications, training, authority, and time” to address all complaints.¹¹
 - OCR observes for the first time in formal guidance that, although not required by Title IX, it may be “good practice” for some institutions, such as larger universities, to designate multiple Title IX coordinators.¹² If an institution does so, its notice of nondiscrimination and Title IX grievance

⁵ *Id.* at 2.

⁶ *Id.* at 3.

⁷ U.S. Department of Education, Office for Civil Rights, Title IX Resource Guide 6 (Apr. 2015) *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf> (hereinafter, “Resource Guide”).

⁸ Dear Colleague Letter at 2.

⁹ Questions and Answers at 12.

¹⁰ Dear Colleague Letter at 3.

¹¹ *Id.* at 3.

¹² *Id.* at 3.

procedures should describe each coordinator’s responsibilities and one coordinator should have ultimate oversight responsibility.

- **Responsibilities and authority of a Title IX coordinator:** The guidance explains that a Title IX coordinator’s “primary responsibility” is to coordinate compliance with Title IX, including the institution’s grievance procedures for Title IX complaints.¹³
 - The Dear Colleague Letter and Resource Guide reflect a broad view of the various activities in which a Title IX coordinator should be engaged, including proactive monitoring of the institution’s compliance with Title IX in a number of areas.
 - In the Dear Colleague Letter, OCR clarifies that although Title IX “does not specify” who should determine the outcome of Title IX complaints or the actions that an institution will take in response to such complaints, a Title IX coordinator “could play this role, provided there are no conflicts of interest, but does not have to.”¹⁴
 - OCR reiterates previous guidance that the Title IX coordinator must have knowledge of institutional policies and procedures on sex discrimination;¹⁵ however, in the Dear Colleague Letter, OCR goes further to suggest that the Title IX coordinator should “be involved in the drafting and revision of such policies and procedures to help ensure that they comply” with Title IX.¹⁶
 - In the Resource Guide, OCR states that Title IX coordinators should provide training and technical assistance on institutional policies and offer programs on issues related to Title IX.¹⁷
 - According to the Dear Colleague Letter, the Title IX coordinator should coordinate the collection and analysis of information from an annual climate survey if, as recommended by OCR, the institution conducts such a survey.¹⁸
- **No retaliation against Title IX coordinators:** OCR reminds institutions that Title IX’s anti-retaliation provision protects Title IX coordinators from discrimination, intimidation, threats, or coercion, and that an institution must not interfere with a Title IX coordinator’s participation in Title IX investigations or monitoring of an institution’s compliance efforts.¹⁹
- **Support for Title IX coordinators:** Title IX coordinators “must have the full support of their institutions.”²⁰ OCR defines such support to include: (1) making the role of the Title IX coordinator visible in the campus community and (2) ensuring the Title IX coordinator is sufficiently knowledgeable about Title IX and applicable institutional policies and procedures. The Dear Colleague Letter

¹³ *Id.* at 3.

¹⁴ *Id.* at 4. *See also* Questions and Answers at 11 (“ . . . a school may decide to give its Title IX coordinator additional responsibilities, such as: . . . investigating facts relevant to a complaint, and determining appropriate sanctions against the perpetrator and remedies for the complainant . . .”).

¹⁵ *See e.g.*, Questions and Answers at 10 (“This means that the Title IX coordinator must have knowledge of the requirements of Title IX, of the school’s own policies and procedures on sex discrimination . . .”).

¹⁶ Dear Colleague Letter at 4.

¹⁷ Resource Guide at 2.

¹⁸ Dear Colleague Letter at 4; *see also id.* at 2.

¹⁹ Dear Colleague Letter at 4; Resource Guide at 24.

²⁰ Dear Colleague Letter at 4.

acknowledges that institutions vary in size and educational level and that therefore a variety of approaches may be used to achieve community-wide visibility and comprehensive knowledge and training.

- Under ED’s Title IX regulations, an institution must provide students and employees the contact information for the Title IX coordinator(s).²¹ In the Dear Colleague Letter, OCR observes for the first time in formal guidance that an institution may identify its coordinator by position title, without an individual’s name, in printed materials (e.g., TitleIXCoordinator@school.edu), because it may be “unduly burdensome” to republish printed materials whenever turnover occurs. However, the institution’s website “must reflect complete and current information about the Title IX coordinator.”²²
- OCR also recommends that institutions make the Title IX coordinator’s contact information available on social media “to the extent that they are supported or used” by the institution.²³
- For the first time in formal guidance, OCR encourages institutions to create a dedicated webpage to include the name and contact information of their Title IX coordinator(s), relevant Title IX policies and grievance procedures, and other relevant resources. A link to the dedicated page “should be prominently displayed” on the institution’s homepage.²⁴
- **Information collection:** OCR reminds institutions that in 2015 ED’s Office of Postsecondary Education will begin to collect information about Title IX coordinators in annual reports required under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Higher Education Opportunity Act. Specifically, institutions will be asked to report “general information” about their Title IX coordinator(s) when they submit the web-based Campus Safety and Security Survey, which is used for those required reports.²⁵

²¹ 34 C.F.R. § 106.8(a).

²² Dear Colleague Letter at 5.

²³ Resource Guide at 6.

²⁴ Dear Colleague Letter at 6.

²⁵ U.S. Department of Education, Supporting Statement for Paperwork Reduction Act Submission (ED-2014-ICCD-1053-0057), available at <http://www.regulations.gov/contentStreamer?documentId=ED-2014-ICCD-0153-0057&attachmentNumber=1&disposition=attachment&contentType=pdf>.