

Is the Title IX Final Rule Finally Coming?

By Adrienne Kirshner & David Hirt

On June 23, 2022, Title IX's 50th anniversary, the U.S. Department of Education announced its proposed changes to the implementing regulations concerning how schools must handle sex discrimination matters, including sexual harassment. Proposed regulations concerning Title IX's application to athletics came later. While the finalization of the proposed Title IX regulations have been anticipated, two deadlines set for the release of the rules came and went. After the October 2023 deadline, it was said that the plan was for both rules to be released in March 2024. The reason for the delay was the more than 240,000 public comments received on the proposed rule. This was nearly double what was received during the last Title IX rulemaking process in 2020.

While it is also likely that the rule will not be released in March 2024, this time is different because definitive action has been taken signifying the new rule is coming. On Friday, February 2, 2024, the first Title IX proposed rule was sent to the Office of Information and Regulatory Affairs, a division of the Office of Management and Budget (OMB) responsible for overseeing federal regulations. OMB has 90 days to review the Title IX rule, with the possibility of extending the review period to a total of 120 days. In 2020, an extension of the 90-day period was required, but the total 120 possible were not used.

Although we do not know when OMB will complete its review, it is expected to be completed in May or June of 2024. This means K-12 school districts will need to take steps this summer to implement the new rules at the start of the next school year.

We will continue to provide information concerning the finalization of the new Title IX regulations, and Roetzel attorneys will be available to provide school district personnel with training on the new rules.

Aretta Bernard

Practice Group Manager
Employment Services
330.849.6630 | abernard@ralaw.com

Susan Keating Anderson

Practice Group Manager
Education Law Group
216.232.3595 | sanderson@ralaw.com

Justin Markey

Practice Group Manager
Public Law, Regulatory and Finance
330.849.6632 | jmarkey@ralaw.com

Karen Adinolfi

330.849.6773 | kadinolfi@ralaw.com

Thomas Allen

513.653.5389 | tallen@ralaw.com

Lisa Burleson

614.645.5278 | lburleson@ralaw.com

Benjamin Chojnacki

216.377.1492 | bchojnacki@ralaw.com

Jason Dodson

330.849.6631 | jdodson@ralaw.com

Diana M. Feitl
216.615.4838 | dfeitl@ralaw.com

David Hirt
216.329.0558 | dhirt@ralaw.com

Hailee Kepchar
216.505.7851 | hkepchar@ralaw.com

Adrienne Kirshner
216.456.3850 | akirshner@ralaw.com

Stephanie Olivera Mittica
330.849.6671 | smittica@ralaw.com

Nancy Noall
216.820.4207 | nnoall@ralaw.com

Aaron Ross
614.470.4968 | aross@ralaw.com

Doug Spiker
216.696.7125 | dspiker@ralaw.com

Sherri Warner
614.723.2110 | swarner@ralaw.com

Tim Webster
216.696.7795 | twebster@ralaw.com

Nick Ziepfel
513.748.1109 | nziepfel@ralaw.com

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