



A Letter to Members November 14, 2019

Dear ATIXA Membership,

We have confirmed that the final Title IX regulations draft is with the Office of Management and Budget (OMB), which is the final step before publication. OMB has an upward limit of 90-days to review, with an additional 30-day extension to review available. We anticipate publication of the final regs in the federal register within 2-6 weeks, but we believe they're aiming to release before the end of the year, if possible. The last Title IX regulations were issued in 1975. What is about to occur is unprecedented in all our careers.

Once released, there will be an implementation grace period of some kind to enable funding recipients to make appropriate modifications to your policies and grievance procedures, after which enforcement will commence, with a window of perhaps 90 days from publication. A longer grace period of 6-12 months is not unheard of, though unlikely given the impending elections. There is also the strong possibility of litigation that will affect implementation timelines – at least for portions of the regulations. Once the regs drop, they will be published [here](#).

You will receive notification from ATIXA (and everyone else on the planet) once they are published. Trust us, there is no way you'll miss the publication. We are writing primarily to convey four ideas:

1. You've got this. ATIXA is here to support you, and together, we will help to assure that you move toward compliant policies and procedures expeditiously and accurately. There is no reason to panic. 80% of the proposed regs are neutral or beneficial. We will assist you in working through the 20% that are troubling or inconsistent with your current policies and procedures. Some of the more controversial changes will likely be addressed by a future Congress or through litigation. Many of the proposed changes may not make it into the final regs at all (or may not be as dramatic as proposed). Many of the changes revolve around due process -- which protects all of us regardless of our role or status -- and is something we should generally welcome and embrace. Providing all parties balanced rights under our process is equitable and the hallmark of a commitment to the equal dignity of all members of our communities.
2. The proposed changes are significant, and while it took the higher education field 3-4 years to fully implement the DCL after 2011, we won't have that option with these new regulations. Students are ready to sue the minute you are not in compliance, and the new Regs will have the force of law behind them, rather than simply being a guidance document. Form your committees, task forces, and Title IX teams now, so that you can study the Regs when they are published and change what needs to be changed. Faculty grievance processes will be an issue that you have to tackle now, if you didn't back in 2011. OCR is forcing the issue, and you're likely going to be between a rock and a hard place with faculty who advocate for additional protections and exemptions, such as clear and convincing evidence as a standard of proof, while students strongly advocate for preponderance of the evidence. Gird yourselves to face and resolve this challenge.
3. The Regs mostly set a floor for compliance, and you're already aiming for the ceiling of best practices. We will provide extensive guidance on how to evolve exemplary programs within the framework OCR is establishing (and outside of it, where we can).
4. The Regs have the potential to create significant public backlash, especially if you are seen as institutionally de-prioritizing Title IX compliance. Potential victims need to see you strengthening your program, not backing down. They are likely to perceive barriers to coming forward in the new rules, and you need to do everything you can to

reassure them that your office is still here for them, and that you'll do everything not prohibited by the Regs to open access, make reporting easier, offer services and resources, make the process user-friendly, and avoid re-victimization. Regardless, they may turn some of their frustration with OCR on you, and we encourage you to be sympathetic, to encourage their voices and activism, and to be thoughtful about the ways that remedies-only and informal resolutions can be used to ameliorate or exacerbate the effects of the changes that OCR is making.

A SPECIAL NOTE FOR OUR PRE-K-12 FRIENDS AND MEMBERS

These new Regs are pretty much going to rock your worlds. PreK-12 will need to get as serious about implementation of Title IX as Higher Ed did after 2011. We've been through it with colleges, and we're more than ready to help guide and advise you as you build compliance structures where (for many schools) there has been no previous foundation. ATIXA has the consultants, trainings, and guidance documents ready to address your specific needs.

This will be a double-whammy for PreK-12 because OCR is imposing new Title IX rules on you while at the same time extending most of VAWA Section 304 compliance to you (which was not previously applicable to PreK-12 but contains rigorous compliance elements). You need to begin thinking about resources, staffing, and budgets to prioritize Title IX in the hierarchy of your compliance challenges.

Luckily, ATIXA has many PreK-12 members who have built programs, been through OCR investigations, and have learned lessons as outliers that the rest of PreK-12 will soon need to embrace. They are willing to share, they've been staffing a PreK-12 steering committee for ATIXA, and they have contributed great expertise and materials for other members and new members to share as you look to build your own Title IX compliance programs.

A PREVIEW OF WHAT IS TO COME

ATIXA has a comprehensive plan to support your compliance needs. Here's a simple overview of what is coming in 2019-2020 (which isn't simple at all!), so that you can plan ahead, know what resources will be available, and how you can rely on ATIXA going forward, once the Regs drop:

- **PUBLICATION:** ATIXA Quick Tips and Summary of the New Title IX Regulations (overview document)
- **PUBLICATION:** ATIXA Top Ten Myths and Facts of the New Title IX Regulations (a quick 2-3 page guide)
- **PUBLICATION:** The ATIXA Comprehensive Title IX Regulations Implementation Guide
- **WEBINAR:** ATIXA Free Regs Overview Webinar for Colleges and Universities
- **WEBINAR:** Pre K-12 Free Regs Overview Webinar
- **WEBINAR:** ATIXA Hearing Panels and Decision-Maker Webinar – Briefing on the New Regs
- **WEBINAR:** ATIXA Webinar on the New Title IX Regulations for Boards of Trustees and Cabinet-Level Administrators
- **PUBLICATION:** ATIXA Guide for Hearing Advisors
- **PUBLICATION:** ATIXA Hearing Officer and Decision-Maker Training Manual
- **PUBLICATION:** ATIXA Guide to Chairing a Sexual Misconduct Hearing
- **PUBLICATION:** ATIXA's 1P1P Model Revised to Comply with New Regulations
- **PUBLICATION:** ATIXA INAB 2.0 Version Updated for New Regulations
- **PUBLICATION:** ATIXA Guide to Controlling Evidence and Cross Examination in Hearings
- **EVENT:** ATIXA's Orlando January 2020 Certification Training Event will feature tracks on the new regulations and hearing panel/officer certification
- **EVENT:** ATIXA's West Coast Conference was a success and is moving to the Spring, so San Diego in April of 2020 is the next event. It will feature certification tracks on the new regulations and hearing panel/officer certification
- **EVENT:** ATIXA's Denver June 2020 Certification Training Event will feature tracks on the new regulations and hearing panel/officer certification, and all existing tracks will be updated to account for changes to the new Regs
- And, ATIXA is also expanding the number of regional trainings that will be on offer in 2020 and beyond.

In Solidarity, your ATIXA team,
Brett, Scott, Saunie, Daniel, Brian, Kim, Tanyka, Anna, Joe, Makenzie, Meg, Ryan, and Michelle

This publication is a member-only publication and may not be disseminated to non-members or posted publicly without authorization from ATIXA.

©ATIXA 2019. All rights reserved.