



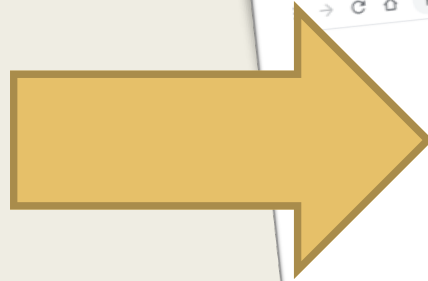
# TITLE IX

Policy 1102:

Equal Opportunity, Harassment, and Nondiscrimination



# Why Now?



insidehighered.com/news/2020/05/07/education-department-releases-final-title-ix-regulations

## U.S. Publishes New Regulations on Campus Sexual Assault

Colleges and universities that receive federal funding must be in compliance with new rules by Aug. 14. The regulations rebalance "scales of justice," Education Department says.

By Greta Anderson // May 7, 2020

184 COMMENTS

U.S. Secretary of Education Betsy DeVos

The U.S. Department of Education on Wednesday released its long-awaited final regulations governing campus sexual assault under Title IX, the law prohibiting sex discrimination at federally funded institutions.

It took nearly a year and a half for the department's Office for Civil Rights, or OCR, to review more than 124,000 public comments on the issue and finalize the proposed regulations, which were published in November 2018. The regulations will be the first Title IX guidance published by OCR to go through a formal notice-and-comment process since 1997, and unlike guidance issued by the Obama administration in 2011 and 2014, they will have the force of law behind them. Colleges and universities

with the regulations by Aug. 14

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WHAT IS TITLE IX?



# A Brief History: pre-1972

- **Title VI** of the [Civil Rights Act of 1964](#) – “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”
- **Title VII** of the [Civil Rights Act of 1964](#) (42 U.S.C. §2000e-3(a)) – Prohibits discrimination in the terms, conditions or privileges of employment on the basis of an employee’s race, sex, color, religion, and national origin.
- 1965 - Executive Order 11246 – Prohibited federal contractors from discriminating on the basis of race, color, religion, national origin. “Sex” was added in 1968; renamed Exec. Order 11375.

# TITLE IX

20 U.S.C. § 1681 & 34 C.F.R. PART 106 (1972)

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

# Title IX

- Title IX of the [Education Amendments of 1972](#) is a federal law intended to end sex discrimination in all areas of education
  - *Applies to non-discrimination based on sex/gender to all recipients of federal funds, both public and private institutions*
  - *Applies to issues of program equity, such as in athletics/club/activities, and also to sexual harassment and sexual assault.*
- In addition to the implementing regulations, compliance guidelines are issued by the U.S. Department of Education, Office for Civil Rights from time to time: – [www2.ed.gov/about/offices/list/ocr/docs/shguide.html](http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html)

# A Brief History: 1972 to present

- 1972: Passed and signed into law by President Nixon.
- 1975: Department of Health, Education, and Welfare (HEW) codified Title IX regulations.
  - *“Title IX and Intercollegiate Athletics” (1979).*
  - *HEW was the precursor to the current U.S. Dept. of Ed.*
- 1979: Supreme Court created a private right of action under Title IX.
  - *Cannon v. U. of Chicago, 441 U.S. 677 (1979).*

# A Brief History: 1972 to present

- 1979: HEW promulgates three-part test for athletics to evaluate equity in athletic participation and access to resources and equitable opportunities.
- 1980: U.S. Department of Education was created.
  - *Title IX oversight transferred to Dept. of Ed.'s Office for Civil Rights (OCR).*
- 1982: Supreme Court holds “Employment discrimination comes within Title IX’s prohibition,” *North Haven Bd. of Education v. Bell*, 452 U.S. 512.



# A Brief History: 1972 to present

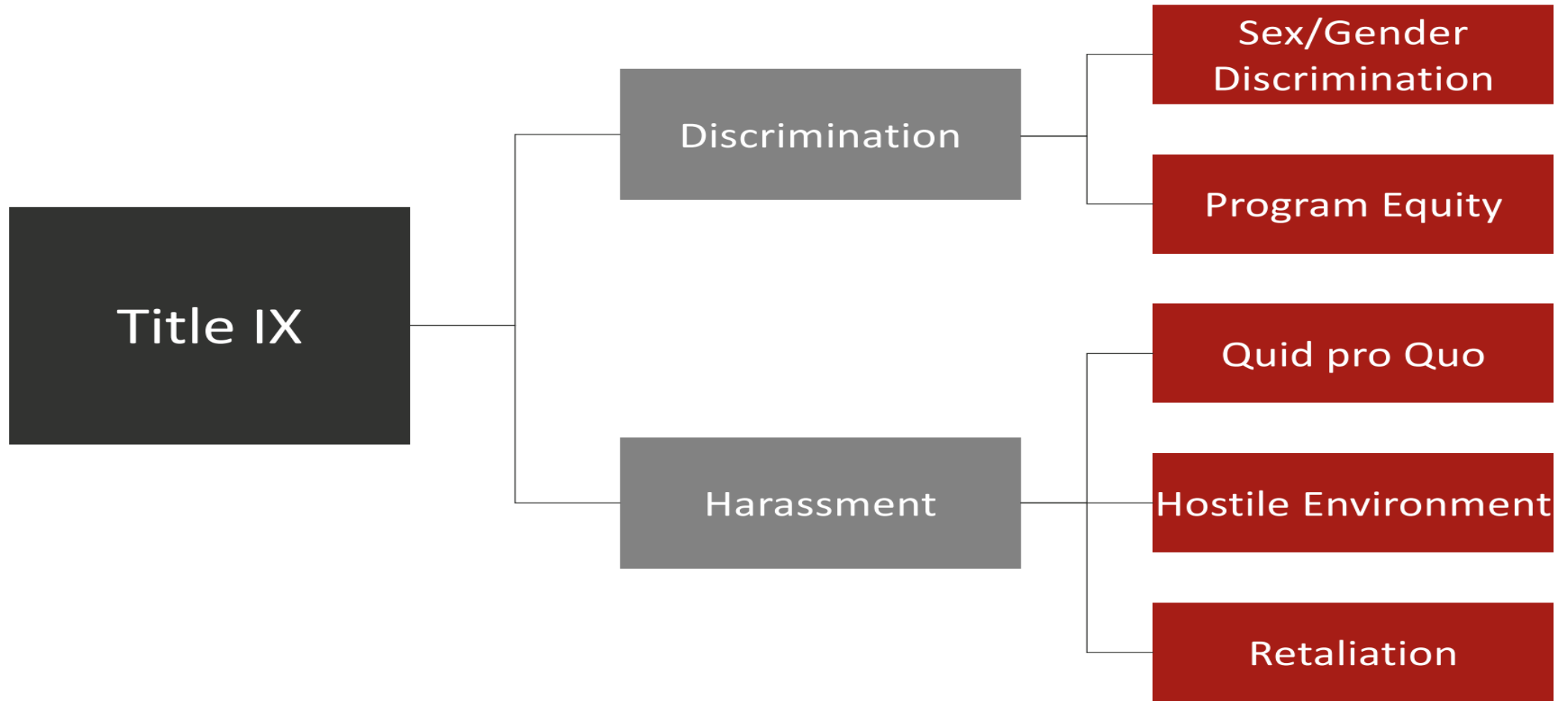
- OCR Guidance (\* = rescinded in September 2017)
  - *1997 Guidance a 2001 Revised Sexual Harassment Guidance.*
  - *2011 Dear Colleague Letter (The “DCL”).\**
  - *Questions and Answers on Title IX and Sexual Violence (April 2014).\**
  - *2015 Dear Colleague Letter, Dear Coordinator Letter & Resource Guide.*
  - *2016 Guidance on Transgender Students.\**
  - *2017 Interim Guide: Q&A on Campus Sexual Violence.*
- “Not Alone” – White House Task Force to Protect Students From Sexual Assault (April 2014).
- Also: [The Clery Act](#), [VAWA 2013: Section 304](#).

# NEW REGULATIONS

May 6, 2020

Compliance Expected by August 14, 2020

# TITLE IX



# TITLE IX ESSENTIAL COMPLIANCE ELEMENTS

- Once a “responsible employee” has either actual or constructive notice of sexual harassment/ sexual misconduct, the school must:
  - *Take immediate and appropriate steps to investigate what occurred.*
    - The obligation to investigate is absolute, even if just a preliminary inquiry (see Davis).
  - *Take prompt and effective action to:*
    - Stop the harassment;
    - Prevent the recurrence; and
    - Remedy the effects

# POLICY 1102

Equal Opportunity, Harassment, and Nondiscrimination

ATIXA: 1P;1P

# Before Yesterday

- The college and its personnel will comply with all applicable federal and state laws prohibiting discrimination in employment and services including, but not limited to, applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act, and the Arizona Civil Rights Act and Title IX (20 USC D-1681). The president, or designee, is authorized to establish procedures to ensure compliance with this policy.

(Reviewed only 2/19/19)

# Revised Policy ...

- One Policy; One Procedure
  - Unifying policies and procedures
    - OCR expects consistency across all issues related to equal opportunity, harassment, and discrimination
  - Permits all discrimination complaints (age, race, sex, gender, nationality, etc.) to be resolved using one institution wide policy and one grievance process
    - Faculty, staff, students
  - Unification of training
  - Increased collaboration between HR and Learning and Student Services
  - Improved tracking processes (cross-referencing)
  - Title IX Compliance

# Rationale for Policy

- Northland Pioneer College is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure *compliance with federal and state civil rights laws and regulations*, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational enterprise, Northland Pioneer College has developed internal policies and procedures that will provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status. Northland Pioneer College values and upholds the equal dignity of all members of its community, and strives to balance the rights of the parties in what is often a difficult time for all those involved.



# Moving forward ... results ...

- 1 Procedure to support 1 Policy (1102)
- Reviewing/Revising Existing Policies & Procedures
- Title IX Team
  - Deputy Coordinators
    - Josh Rogers – Students
    - Lynda Anderson-Casey – Employees
  - Pool of Investigators, Hearing Panelists, Advisors
- Training
- Website
- Technology
- ATIXA Consortium (CSAOs in AZ)

ANY QUESTIONS?

