



**NATIONAL
WOMEN'S
LAW CENTER**

Justice for Her. Justice for All.

JUNE 2024 | FACT SHEET

Summary of Changes to the Title IX Rules

In April 2024, the Biden administration [issued](#) a final Title IX rule strengthening protections against sex-based harassment and clarifying protections for LGBTQI+ and pregnant and parenting students.

The Biden administration's changes to the Title IX rule are significant because they:

- Undo many of the harmful 2020 rules put in place by the Trump administration—rules that were created with the help of [“men’s rights groups”](#) and are rooted in deeply offensive stereotypes that label reports of sexual harassment as uniquely less credible than reports of other misconduct. The Trump rules encouraged and sometimes required schools to be complicit in harassment and violence by ignoring more sexual harassment and [conducting fewer investigations](#). They also required schools to use uniquely unfair, burdensome procedures for investigating sexual harassment that were not required for any other type of student or staff misconduct in schools.
- Clarify that Title IX has always protected LGBTQI+ students in its broad promise of gender equality. The rules make clear that state policies and laws that target students based on gender identity, sexual orientation, or sex characteristics (including intersex traits)—which have led to a [significant increase in hate crimes](#) in K-12 schools—violate federal nondiscrimination law.
- Provide much-needed updates regarding the rights of pregnant and parenting students. This is especially important now given the Supreme Court’s evisceration of the federal constitutional right to an abortion in *Dobbs v. Jackson Women’s Health Organization*, which has led to [increased birth rates](#) in states that have banned or restricted abortion.

Sex-Based Harassment

The Title IX rule changes require schools to respond to more incidents of sex-based harassment and respond with greater care. They also require fairer investigations than were required under the Trump 2020 rule. For example:

- **DEFINITION OF HARASSMENT:** Schools must address sex-based harassment when it impacts a person's ability to learn and feel safe in school, applying the same standard that is already used for race and disability harassment. This means survivors will no longer be forced to endure repeated and escalating levels of abuse before they can ask their schools for help.
- **OFF-CAMPUS HARASSMENT:** Schools must address incidents of sex-based harassment (and other sex discrimination) that occur in a school activity inside the U.S., even if it occurs off campus or online. In addition, schools must address any *hostile environment* that arises in a school activity, even if the underlying incident occurs outside of a school activity or outside the U.S. This means students who are harassed or assaulted while studying abroad, in off-campus housing, online, or at a fraternity that isn't officially recognized by their school can still receive help when they are required to attend classes with their rapist or abuser (or even taught by their rapist or abuser).
- **NOTICE OF HARASSMENT:** In higher education, all employees who are not designated as confidential employees must either report possible sex discrimination to the Title IX coordinator or tell the victim how to contact the Title IX coordinator. This means colleges and universities can no longer ignore sexual harassment just because it is reported to a lower-ranked employee, who might include a coach, athletic director, or professor.
- **TIMING OF COMPLAINT:** If an individual who is no longer in school makes a complaint about sex-based harassment (or other sex discrimination), their school must still respond as long as the incident happened while the victim was a student or applicant. This is important because it isn't unusual for students to drop out of school when they experience harassment or sexual assault—but that doesn't mean schools should be able to ignore their complaints.
- **SCHOOL RESPONSE:** Schools must respond to sex-based harassment (and other sex discrimination) by taking "prompt and effective action." This means schools must do much more than was required under the Trump rule and can no longer mistreat and even punish survivors without consequence.
- **SUPPORTIVE MEASURES:** Schools must offer supportive measures (such as counseling, academic accommodations, changes to housing, no-contact orders, and more) to all students who report sex-based harassment (or other sex discrimination), even if they do not want an investigation and even if their complaint is dismissed. This is important because many survivors do not want to go through a long and invasive investigation but still need supportive measures to help them learn and feel safe. Similarly, if the school dismisses a complaint after the reported harasser has graduated, retired, or transferred to another school, the survivor still has a right to supportive measures.
- **QUESTIONING PARTIES AND WITNESSES:** Institutions of higher education can either (1) interview all parties and witnesses in individual meetings; or (2) have a decision-maker question all parties and witnesses at a live hearing, where the school has the option of also allowing the parties' advisors to conduct cross-examination. The vast majority of federal appeals courts have said that adversarial cross-examination is not required to protect due process or fundamental fairness. This rule gives schools the flexibility to question students in a way that respects students' constitutional equality and due process rights and ensures fairness for all students.
- **STANDARD OF PROOF:** Schools must use a "preponderance of the evidence" standard ("more likely than not") in Title IX investigations or hearings unless they use a "clear and convincing evidence" standard ("*highly and substantially* more likely than not") for *all* other comparable proceedings, including race and disability discrimination and physical assault. The preponderance standard is the only standard that treats both sides equally and is the same standard that is used in all civil rights cases and nearly all civil litigation. The Trump rule allowed schools to single out sex-based harassment for a more burdensome standard even if other comparable proceedings used the preponderance standard. The new rule prohibits schools from singling out survivors for unfair treatment.

Anti-LGBTQI+ Discrimination

The Title IX rule changes explicitly affirm—consistent with decades of case law and agency guidance—that anti-LGBTQI+ discrimination is prohibited under Title IX. For example:

- **DEFINITION OF DISCRIMINATION:** For the first time, the Title IX rules explicitly define sex discrimination to include discrimination based on sexual orientation, gender identity, sex characteristics (including intersex traits), and sex stereotypes. Schools must address anti-LGBTQI+ harassment as detailed above in “Sex-Based Harassment.” This affirms what the courts have already said for decades: that sex discrimination includes anti-LGBTQI+ discrimination.
- **TRANSGENDER INCLUSION:** Schools must allow individuals to participate in classes and activities, use bathrooms and locker rooms, and dress and groom themselves consistent with their gender identity.
- **ATHLETICS:** Categorical bans on transgender, nonbinary, and intersex students in school sports would be prohibited. Non-categorical sports bans (bans limited to a specific sport, grade, or level of competition) would be sharply restricted and would not be justifiable based on overbroad generalizations or false assumptions. **(Note: The proposed athletics rule is not yet final, and so this summary of athletics protections is only based on the proposed rule.)**

Discrimination Against Pregnant and Parenting Students

The Title IX rule changes provide greater clarity about discrimination based on pregnancy or related conditions. For example:

- **DEFINITION OF DISCRIMINATION:** Schools cannot discriminate against students based on past, current, or potential pregnancy or related condition, which includes lactation, childbirth, termination of pregnancy, or recovery from these conditions. Schools must also address harassment based on pregnancy or related conditions as detailed above in “Sex-Based Harassment.”

- **NOTICE OF TITLE IX RIGHTS:** An employee who knows of a student’s pregnancy or related condition must provide the student with the Title IX coordinator’s contact information. The Title IX coordinator must then inform the student of their rights. This is important because most pregnant and parenting students do not know about their rights under Title IX. In particular, as more states pass laws banning or restricting abortion and even criminalizing miscarriages, it is all the more important for Title IX to clearly state that schools cannot discriminate against students who have an abortion or miscarriage.
- **PARTICIPATION IN SCHOOL:** Schools cannot require a student who is pregnant or has a related condition to get approval from a healthcare provider or any other person to participate in school unless such approval is required of all students. This means schools cannot exclude pregnant and parenting students from activities like a science lab or physical fitness activity using regressive sex stereotypes that are not based in medical science.
- **LEAVES OF ABSENCE:** Schools must allow students who are pregnant or have a related condition to take a voluntary leave of absence for at least as long as is medically necessary and to reinstate them to their prior academic and, if possible, extracurricular status when they return. This ensures that they do not have to choose between their health (or the health of their pregnancy or child) and their education.
- **ACCOMMODATIONS:** For the first time, students who are pregnant or have a related condition have an affirmative right to “reasonable modifications.” This is a significant change because the previous Title IX rules only required schools to accommodate pregnant students to the extent that the school accommodated students with temporary disabilities. The new requirement is similar to what schools must already provide employees under the Pregnant Workers Fairness Act, which Congress passed in 2022.
- **LACTATION ROOMS:** Schools must provide a private, clean, non-bathroom space for students to lactate or breastfeed. This new requirement is similar to what schools must already provide employees under the PUMP Act, which Congress passed in 2022.

To learn more, visit our website at www.nwlc.org.



Chart of Changes to the Title IX Rules

This chart compares [Biden's 2024 rule](#) with the previous Title IX rules (including [Trump's 2020 rule](#)). The new rule strengthens protections against sex-based harassment and clarifies protections for LGBTQI+ and pregnant and parenting students. **Major rule differences are bolded.**

Part I. Sex-Based Harassment

Duty to Address Sex-Based Harassment		
	Trump Rule (2020)	Biden Rule (2024)
Definition of harassment	Schools must address sexual harassment if it is so "severe" and "pervasive" that it "effectively denies" a person equal access to a school program or activity. § 106.30(a).	Schools must address sex-based harassment if it is so "severe or pervasive" that it "denies or limits" a person's ability to participate in a school program or activity. § 106.2.
Off-campus harassment	Schools must address sexual harassment that occurs off-campus and inside the U.S. if it occurs: <ul style="list-style-type: none"> • In a school program or digital platform; • In an official student group's building; <u>or</u> • Under the school's "substantial control." §§ 106.44, 106.45(b)(3)(i). 	Schools must address an <u>incident</u> of sex-based harassment (or other sex discrimination) that occurs off-campus and inside the U.S. if it occurs: <ul style="list-style-type: none"> • In a school program or digital platform; • In an official student group's building; <u>or</u> • Under the school's "disciplinary authority." <p>Regardless of where an underlying incident occurs (e.g., off campus, outside the U.S.), schools must address any resulting hostile environment that arises:</p> <ul style="list-style-type: none"> • In a school program or digital platform; • In an official student group's building; <u>or</u> • Under the school's "disciplinary authority." § 106.11.
Complainant status	Schools must address a complaint of sexual harassment only if the complainant was participating or trying to participate in school at the time of filing the complaint. § 106.30(a).	Schools must address a complaint of sex-based harassment (or other sex discrimination) if the complainant was participating or trying to participate in school at the time of the incident. § 106.2.
Respondent status	Schools can dismiss a complaint of sexual harassment at any time if the respondent is no longer a student or employee at the school. § 106.45(b)(3)(ii).	Schools can still dismiss a complaint of sex-based harassment (or other sex discrimination) at any time if the respondent is no longer a student or employee at the school, but they must also offer supportive measures. §§ 106.45(d)(1)(ii), 106.45(d)(4).
Notice of harassment	K12 schools must respond to alleged sexual harassment if any employee has actual knowledge of it. Institutions of higher education (IHEs) must respond to alleged sexual harassment if a Title IX coordinator or an official with "authority to institute corrective measures" has actual knowledge of it. § 106.30(a).	All non-confidential K12 employees must report possible sex-based harassment (or other sex discrimination) to the Title IX coordinator. All non-confidential IHE employees must report possible sex-based harassment (or other sex discrimination) to the Title IX coordinator <u>or</u> tell the victim how to contact the Title IX coordinator. §§ 106.44(c)(1)-(2).

Responding to Sex-Based Harassment

	Trump Rule (2020)	Biden Rule (2024)
Standard of care	Schools must respond to sexual harassment in a way that is not “deliberately indifferent.” § 106.44(a).	Schools must respond to sex-based harassment (or other sex discrimination) with “prompt and effective action.” § 106.44(a).
Supportive measures	<p>Schools must offer supportive measures to all people who report sexual harassment, even if there is no investigation.</p> <p>Supportive measures must be non-punitive and not unreasonably burdensome on the respondent. The school can reasonably burden the respondent. § 106.30(a).</p>	<p>Schools must offer supportive measures to all people who report sex-based harassment (or other sex discrimination), even if there is no investigation and even if the complaint is dismissed.</p> <p>Supportive measures must be non-punitive and not unreasonably burdensome on the respondent. The school can reasonably burden the respondent. §§ 106.2, 106.44(g)(2).</p>
Informal resolutions	Schools can use an informal resolution process, such as mediation or a restorative process, to resolve a complaint of student-on-student sexual harassment. § 106.45(b)(9).	Schools can use an informal resolution process, such as mediation or a restorative process, to resolve a complaint of any sex discrimination, except employee-on-student sex-based harassment in a K-12 school. § 106.44(k).
Retaliation	<p>Schools cannot retaliate against anyone to (i) interfere with their Title IX rights or (ii) punish them for their participation or lack thereof in a sex discrimination proceeding, including by:</p> <ul style="list-style-type: none"> • Charging someone for misconduct that arises out of the same facts as the reported sex discrimination. • Charging someone for a “false statement” based solely on the school’s decision in an investigation. § 106.71. 	<p>Schools cannot retaliate against anyone to (i) interfere with their Title IX rights or (ii) punish them for their participation or lack thereof in a sex discrimination proceeding, including by:</p> <ul style="list-style-type: none"> • Disciplining someone for any misconduct for the purpose of retaliation. • Disciplining someone for making a “false statement” or engaging in consensual sexual conduct based solely on the school’s decision in an investigation. §§ 106.2, 106.45(h)(5), 106.71.

Investigating Sex-Based Harassment

	Trump Rule (2020)	Biden Rule (2024)
Time frame	<p>Schools must resolve complaints of sex discrimination in a “prompt” manner.</p> <p>In investigations of sexual harassment, schools can impose “temporary” delays for “good cause,” including because there is a concurrent criminal investigation. §§ 106.8(c), 106.45(b)(1)(v).</p>	<p>Schools must resolve complaints of sex discrimination in a “prompt” manner.</p> <p>In investigations of sex-based harassment (or other sex discrimination), schools can impose “reasonable” delays for “good cause.” §§ 106.8(b)(2), 106.45(a)(1), 106.45(b)(4), 106.46(a), 106.46(e)(5).</p>
Presumption of non-responsibility	Schools must presume the respondent is not responsible until the end of an investigation of sexual harassment. §§ 106.45(b)(1)(iv), (b)(2)(i)(B).	Schools must presume the respondent is not responsible until the end of an investigation of sex-based harassment (or other sex discrimination). §§ 106.45(b)(3), 106.46(c)(2)(i).

<p>Questioning parties and witnesses</p>	<p>In institutions of higher education's (IHEs) following an investigation of sexual harassment, the school must allow the parties' advisors to conduct cross-examination at a live hearing.</p> <p>In K12 schools' investigations of sexual harassment, the school must allow the parties to submit written questions for the school to ask of the other party and witnesses. §§ 106.45(b)(6)(i)-(ii).</p>	<p>In IHEs, for complaints of sex-based harassment involving 1+ students, the school must (1): interview each party or witness in individual meeting(s); or (2) have a decision-maker question all parties and witnesses at a live hearing, where the school has the option of also allowing the parties' advisors to conduct cross-examination.</p> <p>In all other investigations of sex discrimination (besides the above), the school must use a process to assess the credibility of parties and witnesses. §§ 106.45(g), 106.46(f)(1), 106.46(g).</p>
<p>Standard of proof</p>	<p>Schools must use either a "preponderance of the evidence" standard or "clear and convincing evidence" standard in sexual harassment investigations, as long as the school uses the same standard for students and employees. § 106.45(b)(1)(vii).</p>	<p>Schools must use a "preponderance of the evidence" standard in all investigations of sex-based harassment (or other sex discrimination) unless the school uses a "clear and convincing evidence" standard in all "comparable" proceedings (such as for race and disability discrimination or physical assault). § 106.45(h)(1).</p>
<p>Appeals</p>	<p>In a sexual harassment investigation, the parties can appeal if there was a procedural irregularity, new evidence, or bias or conflict of interest that affected the outcome. § 106.45(b)(8)(i).</p>	<p>In all investigations of sex discrimination: (i) the complainant can appeal a dismissal of their complaint, and (ii) the parties must have the same appeal rights as in all "comparable" proceedings (such as for race and disability discrimination or physical assault).</p> <p>In an institution of higher education's investigation of sex-based harassment involving 1+ students, the parties can also appeal if there was a procedural irregularity, new evidence, or bias or conflict of interest that would change the outcome. §§ 106.45(i), 106.46(i)(1).</p>

<p>Preventing Sex-Based Harassment</p>		
	<p>Trump Rule (2020)</p>	<p>Biden Rule (2024)</p>
<p>Training</p>	<p>N/A.</p>	<p>Schools must train all employees on how to recognize and report sex discrimination. Additional training is required for all Title IX officials: coordinators, investigators, decision-makers, informal resolution facilitators, and those who can modify or terminate supportive measures. § 106.8(d).</p>
<p>Prevention & monitoring barriers to reporting</p>	<p>N/A.</p>	<p>Schools must prevent sex discrimination from recurring (including when a complaint is dismissed) and monitor and address barriers to reporting. §§ 106.44(b), 106.44(f)(1), 106.45(d)(4)(iii).</p>

Part II. Anti-LGBTQI+ Discrimination

	Previous Title IX Rules	Biden Rule (2024)
Definition of discrimination	<p>While the previous rules did not explicitly address it, courts have held for years that Title IX prohibits discrimination based on sexual orientation and gender identity. In 2020, the Supreme Court confirmed this is the case under Title VII in <i>Bostock v. Clayton County</i>.</p> <p>The Department has stated that intentional misgendering is sex-based harassment.</p>	<p>Sex discrimination includes discrimination based on sexual orientation, gender identity, sex characteristics (including intersex traits), and sex stereotypes under Title IX.</p> <p>Schools must address anti-LGBTQI+ harassment (see Part I). §§ 106.2, 106.10.</p>
Transgender inclusion	<p>While the previous rules did not explicitly address transgender inclusion, federal courts have repeatedly held that Title IX prohibits exclusion of transgender students from school facilities.</p>	<p>Schools must allow individuals to participate in classes and activities, use bathrooms and locker rooms, and dress and groom themselves consistent with their gender identity. § 106.31(a)(2).</p>
Athletics	<p>While the previous rules did not explicitly address this, a number of federal courts have held that Title IX prohibits excluding transgender students from sports consistent with their gender identity.</p>	<p><u>Note: This proposed rule is not yet final.</u></p> <p>Categorical anti-trans sports bans in schools would be prohibited. Anti-trans sports bans would also be prohibited in nearly all cases in K-8 and in most cases in high school.</p> <p>Any policy that limits or denies a transgender student's participation in sports would have to:</p> <ul style="list-style-type: none"> • Be specific to a sport, grade level, or level of competition; • Be "substantially related" to an important educational objective; <u>and</u> • Minimize harm to transgender students. <p>Schools could not justify an anti-trans sports ban based on overbroad generalizations or false assumptions. § 106.41(b)(2).</p>

Part III. Discrimination against Pregnant and Parenting Students

	Previous Title IX Rules	Biden Rule (2024)
Definition of discrimination	<p>Schools cannot discriminate against students based on pregnancy or related conditions. Related conditions include childbirth, termination of pregnancy, and recovery from any of these conditions. § 106.40(b)(1).</p>	<p>Schools cannot discriminate against students based on past, current, or potential pregnancy or related conditions. Related conditions include childbirth, termination of pregnancy, lactation, and medical conditions or recovery related to any of these conditions.</p> <p>Schools must address pregnancy or related harassment (see Part I). §§ 106.2, 106.10.</p>
Notice of rights	N/A.	<p>An employee who knows of a student's pregnancy or related condition must inform them of the Title IX coordinator's role and contact information. The Title IX coordinator must then inform the student of their rights. §§ 106.40(b)(2), 106.40(b)(3)(i).</p>

<p>Participation and exclusion</p>	<p>A pregnant student can participate in an alternate program if it is voluntary, and the program is comparable to those offered to their peers.</p> <p>A school cannot require a student who is pregnant or has a related condition to get a doctor's approval to participate in a school program or activity unless it is required of students with other physical or emotional conditions. §§ 106.40(b)(1), 106.40(b)(3).</p>	<p>A student who is pregnant or has a related condition may participate in an alternate program if it is voluntary, and the program is comparable to those offered to their peers.</p> <p>A school cannot require a student who is pregnant or has a related condition to get approval from a healthcare provider or anyone else to participate in a school program or activity unless it is required of all students. §§ 106.40(b)(3)(iii), 106.40(b)(5).</p>
<p>Leaves of absence</p>	<p>Schools must allow a leave of absence for pregnancy or related conditions for as long as a student's doctor deems medically necessary.</p> <p>Upon return, the student must be reinstated to their prior status. § 106.40(b)(5).</p>	<p>Schools must allow a voluntary leave of absence for pregnancy or related conditions for at least as long as a student's healthcare provider deems medically necessary.</p> <p>Upon return, the student must be reinstated to their prior academic status and, where practicable, prior extracurricular status. § 106.40(b)(3)(iv).</p>
<p>Accommodations</p>	<p>Schools must offer services and benefits to students who are pregnant or have a related condition if they are offered to temporarily disabled students. § 106.40(b)(4).</p> <p>While the previous rules did not explicitly address it, a 2013 guidance stated that reasonable modifications include elevator access, a larger desk, or more frequent trips to the bathroom.</p>	<p>Schools must consult with a student who is pregnant or has a related condition to offer individualized and voluntary "reasonable modifications" unless this would "fundamentally alter" the school's program or activity.</p> <p>Reasonable modifications include elevator access, a larger desk, a footrest, breaks from class, absences, online courses, schedule changes, extensions, rescheduled exams, and counseling. § 106.40(b)(3)(ii).</p>
<p>Lactation</p>	<p>While the previous rules did not explicitly address it, a 2013 guidance stated schools should provide a lactation room for students.</p>	<p>Schools must provide a private, clean, non-bathroom lactation space for students. § 106.40(b)(3)(v).</p>
<p>Limitation on documentation</p>	<p>N/A.</p>	<p>Students who are pregnant or have a related condition need not submit documentation to get a modification, leave of absence, alternate program, or lactation space if: their need is obvious or is water, a bigger desk, sitting or standing, breaks, or lactation; prior documentation was sufficient; or documentation is not required of other students. § 106.40(b)(3)(vi).</p>
<p>Parental, family, or marital status</p>	<p>Schools cannot apply a rule about a student's actual or potential parental, family, or marital status that treats them differently based on gender. § 106.40(a).</p>	<p>Schools cannot apply a policy, practice, or procedure about a student or applicant's past, current, or potential parental, family, or marital status that treats them differently based on gender. §§ 106.21(c)(2)(i), 106.40(a).</p>