



Sex-Based Discrimination Training for Staff

(The New 2024 Title IX Regulations)



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Big Picture

Title IX requires schools to **respond** appropriately to **notice** of **sex discrimination** in their programs and activities.

The scope and definition of each of these terms has changed repeatedly with new administrations.



General Overview

- **The new Rules became effective August 1, 2024.** Rules will not be enforced retroactively, so they only apply to complaints made on or after August 1. Complaints about conduct occurring before August 1 are handled under the school's prior Title IX policy.
- Several lawsuits filed, and some courts have stayed the implementation of the new rules, but only in certain states or other specific instances – Arizona is not currently one of the states in which the new rules are stayed, but plenty of M4L schools. Your school is not currently on the list of enjoined schools.



General Overview

- New rules reflect the views of the current administration about the scope of Title IX.
- In addition, they also require that **all employees must be trained annually about what the Title IX rules cover, the school's obligations under the rules, and every employee's reporting obligations.**
- Every school must have a Title IX policy that explains what Title IX is and explains how the grievance procedures work.
- These rules do *not* address athletics – separate rules to be adopted.



Broader Scope of Title IX

Rules expand definition of “sex discrimination.”

The new rules cover sex discrimination, which *includes*:

- sex-based harassment, and
- pregnancy accommodations.

“Sex” now includes sexual orientation, sex characteristics, sex stereotypes, gender identity, and pregnancy or related conditions.

“Sexual harassment” is now called “sex-based harassment.”



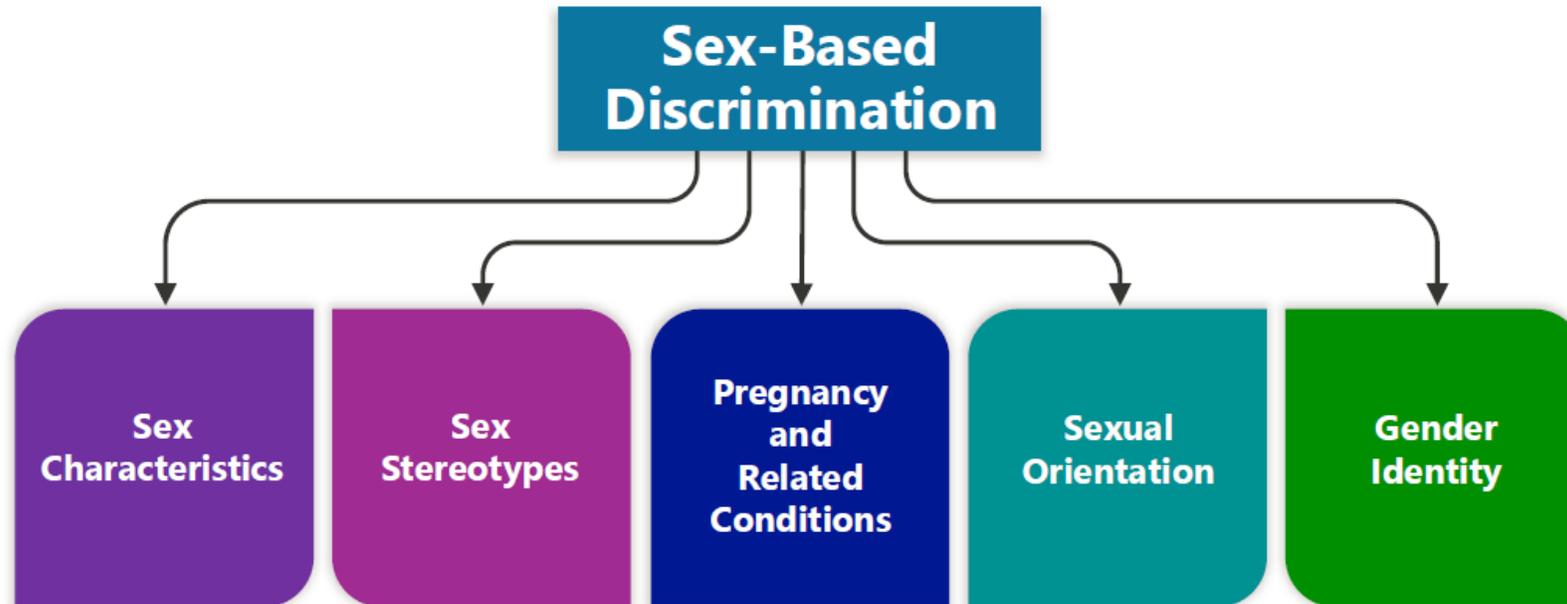


What Definitions Have Changed? “Sex Discrimination”



Broader Scope of Title IX

2024 Title IX Rules



Broader Scope of Title IX

Rules change definition of “sex-based harassment.”

“Sex-based harassment” includes sexual assault, dating violence, stalking, quid pro quo harassment and “hostile environment” harassment.

Hostile environment harassment is unwelcome sex-based conduct, that is:

- ✓ “subjectively and objectively offensive and
- ✓ is so severe **or** pervasive
- ✓ that it **limits** or denies a person’s ability to participate in” the school.



Gender Identity and Sex Separation

Rules address specific issues related to gender identity.

The new rules state that differential treatment or separation of a student based on gender identity harms the student and violates Title IX.

In other words, the rules indicate that not allowing students to access bathrooms, locker rooms, and shower facilities consistent with their gender identity would violate Title IX. The same is true for intentionally refusing to use a person's preferred pronouns.



Broader Scope of Title IX

Rules specifically prohibit peer-to-peer retaliation.

In addition to prohibiting sex discrimination, the rules prohibit retaliation against anyone for a reason related to Title IX, including making a complaint or participating in a Title IX investigation or response. Retaliation specifically includes peer retaliation.

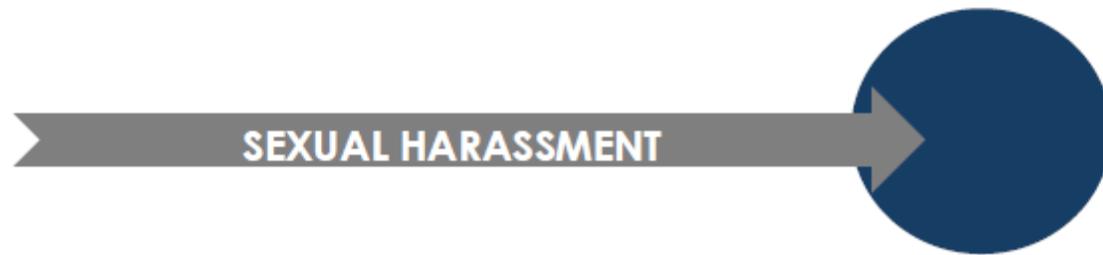
Retaliation actions include intimidation, threats, coercion, or discrimination.



Broader Scope of Title IX

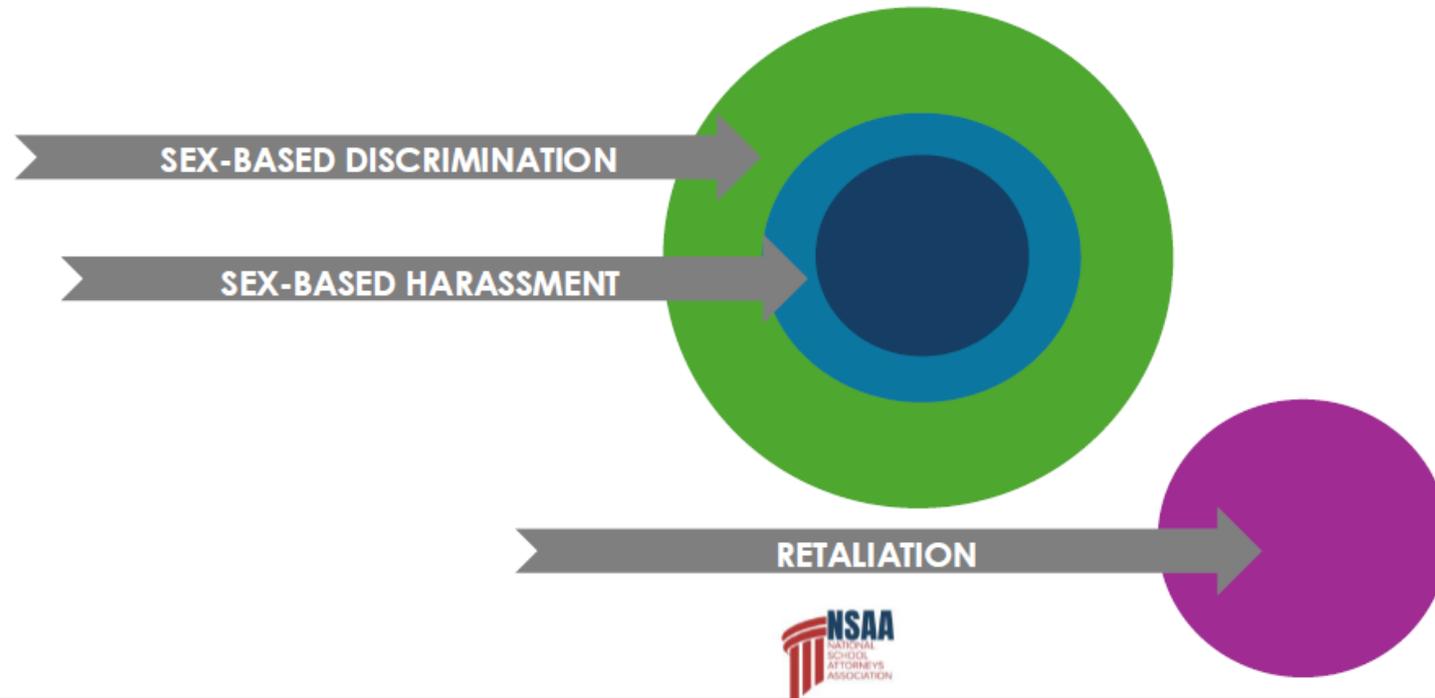
2020 Rules

Prescribe Grievance Process for:

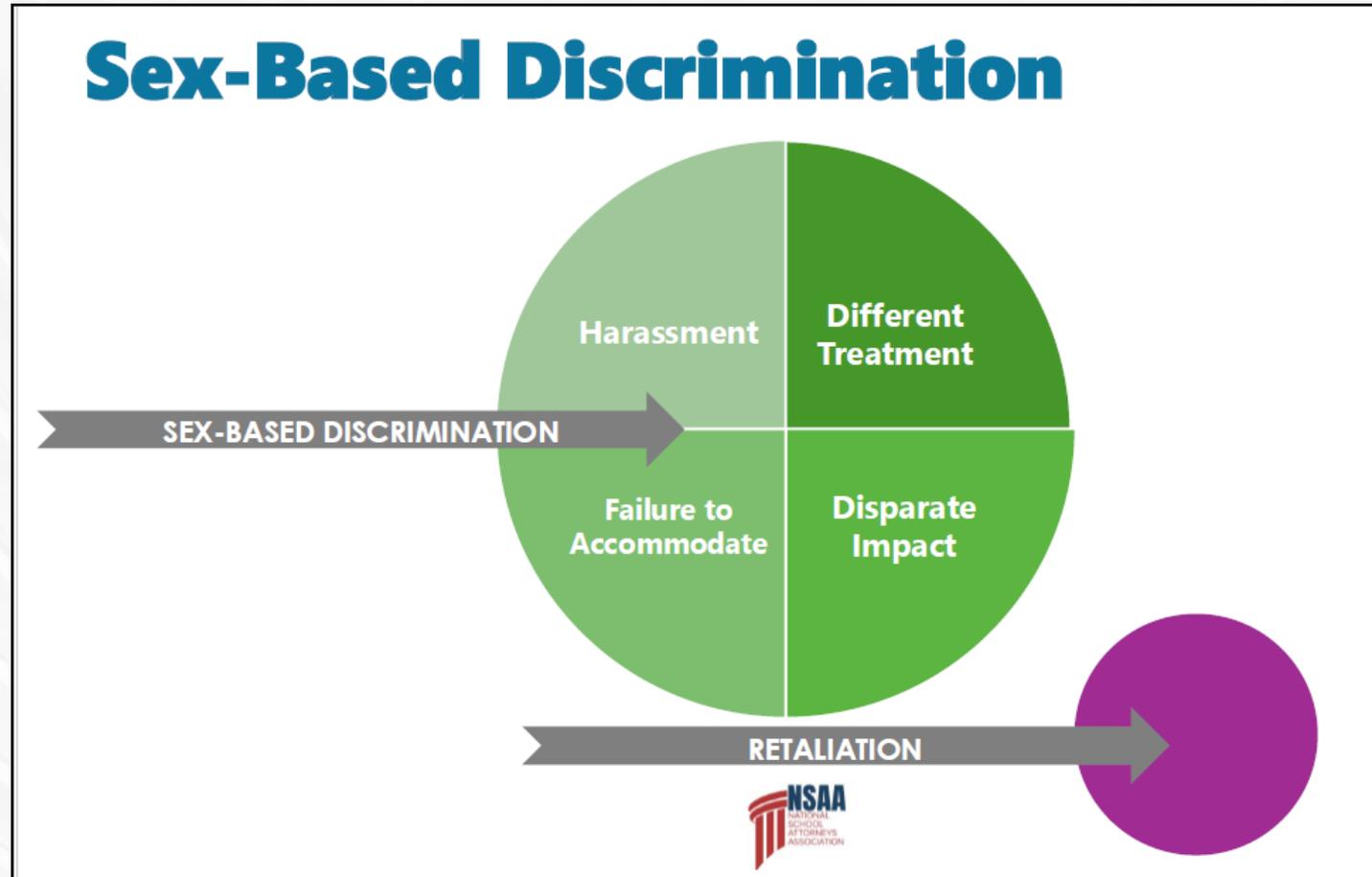


Broader Scope of Title IX

2024 Rules Prescribe Grievance Process for:



Broader Scope of Title IX



Fewer Complaint Formalities

Rules remove the need for a “formal complaint.”

Complaints may be made verbally or in writing.

“Complaint” is defined broadly: any statement that could be reasonably understood to be a request to investigate and take action regarding sex discrimination.

A student, an employee, a parent, or a “legal representative” of an employee or student can make a complaint.



Broader Staff Reporting Requirements

Rules require staff to report potential sex discrimination.

Knowledge by a school employee of conduct that *may* be sex discrimination triggers a school's obligations to respond to the information.

All employees **must** notify the school's Title IX Coordinator of **any conduct they think might be sex discrimination**. This is not limited to reporting potential sex-based harassment.



Broader Staff Reporting Requirements

Your Title IX Coordinator:

Jackie Trujillo, Superintendent

La Paloma Academy/ Heritage Elementary School/ Liberty

Traditional Charter School

District: (520) 545-0575



Potential Sex-Based Harassment

Examples of behavior that may violate Title IX and should be reported:

- Trevor is a tenth grader, and other students repeatedly call him “girly” over a period of several weeks.
- Eden, a transgender high school student, alleges that his history teacher has made negative comments about transgender persons during class and graded Eden harshly because Eden is transgender.



Potential Sex-Based Harassment

Examples of behavior that may violate Title IX and should be reported:

- Reyna graduated from high school two years ago. She calls the school Principal to report that while she was a student, her history teacher propositioned her for sex. She wants the school to investigate and fire the teacher.
- Julia shares photos of her classmate Andie with other students in the school. In one of the photos, all of which were taken when Julia and Andie were on a school trip to Africa, Andie is topless.



Sex Discrimination

It can be difficult to determine whether young children's actions are sex discrimination. Sex discrimination under Title IX is not limited to what we typically think of as "discrimination."

The definition of sex discrimination is multi-faceted and considers factors like the students' ages and maturity and their previous interactions.

Do not try to figure out whether the conduct falls within the new rules and do not try to resolve the situation on your own – report the conduct and your concerns.



Sex Discrimination

Noah, a first grader, follows Colin into the boy's restroom during a recess break and displays his genitals to Colin for several seconds.

Makenna, a kindergartner, is crawling under a table and puts her hand on Laylani's upper thigh. Makenna pauses under the table and leaves her hand there for about 30 seconds before she gets to her seat and comes out from under the table.



School Response to Complaints

Once a school is notified of conduct that “may reasonably” constitute sex discrimination, it must respond “promptly” and “effectively” to end sex discrimination, prevent its recurrence, and remedy its effects.

- School’s response may include a spectrum of actions, including informal resolution, supportive measures, formal investigation.
- Title IX Coordinator will decide how to proceed, and you should fully cooperate with all instructions.



School Response to Complaints

Title IX Grievance Process Stages



School Response to Complaints

Initial Response

2020 Rules

- Intake Meeting
- Hold a “supportive measures meeting” with the Complainant and offer right to file a **Formal Complaint**
- Consider if emergency removal/administrative leave warranted
- Consider whether to sign Formal Complaint

2024 Rules

- Intake Meeting
- Hold a “supportive measures meeting” with the Complainant and offer right to initiate **oral or written complaint**
- Consider if emergency removal/administrative leave warranted
- **Consider informal resolution**
- Consider whether to initiate complaint



School Response to Complaints

Evaluation

2020 Rules

- Notice of Allegations
- Consider if dismissal is **required** or warranted
- Consider consolidation
- **Consider informal resolution**

2024 Rules

- Notice of Allegations
- Consider if dismissal is warranted
- Consider consolidation



School Response to Complaints

Investigation

2020 Rules

- Gather facts & evidence
- Share **directly related evidence** with parties
- **Prepare report** fairly summarizing evidence + **10 Days**
- **Share report** with parties + **10 Days**

2024 Rules

- Gather facts & evidence
- Share **relevant evidence** or **description of evidence** with parties + adequate time to review
- No separate report required



School Response to Complaints

Decisionmaking

2020 Rules

- **Written Q&A Process**
- Written determination with:

2024 Rules

- Assess credibility
 - **No questioning by parties or advisors**
- Written determination with:



School Response to Complaints

Appeal

2020 Rules

- Notify parties of appeal and right to respond
- Consider written responses
- Written determination:

2024 Rules

- Follow appeal process that use for



School Response to Complaints

Title IX Team: 2020 Rules



Coordinator
& Investigator



Decisionmaker



Appeal Officer

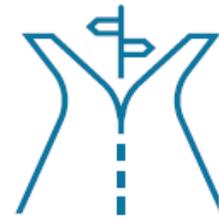
OR



Coordinator



Investigator



Decisionmaker



Appeal Officer



School Response to Complaints

Title IX Team: 2024 Rules



Coordinator,
Investigator, &
Decisionmaker

Appeal Officer

OR



Coordinator

Investigator &
Decisionmaker

Appeal Officer



Pregnancy Notification Obligation

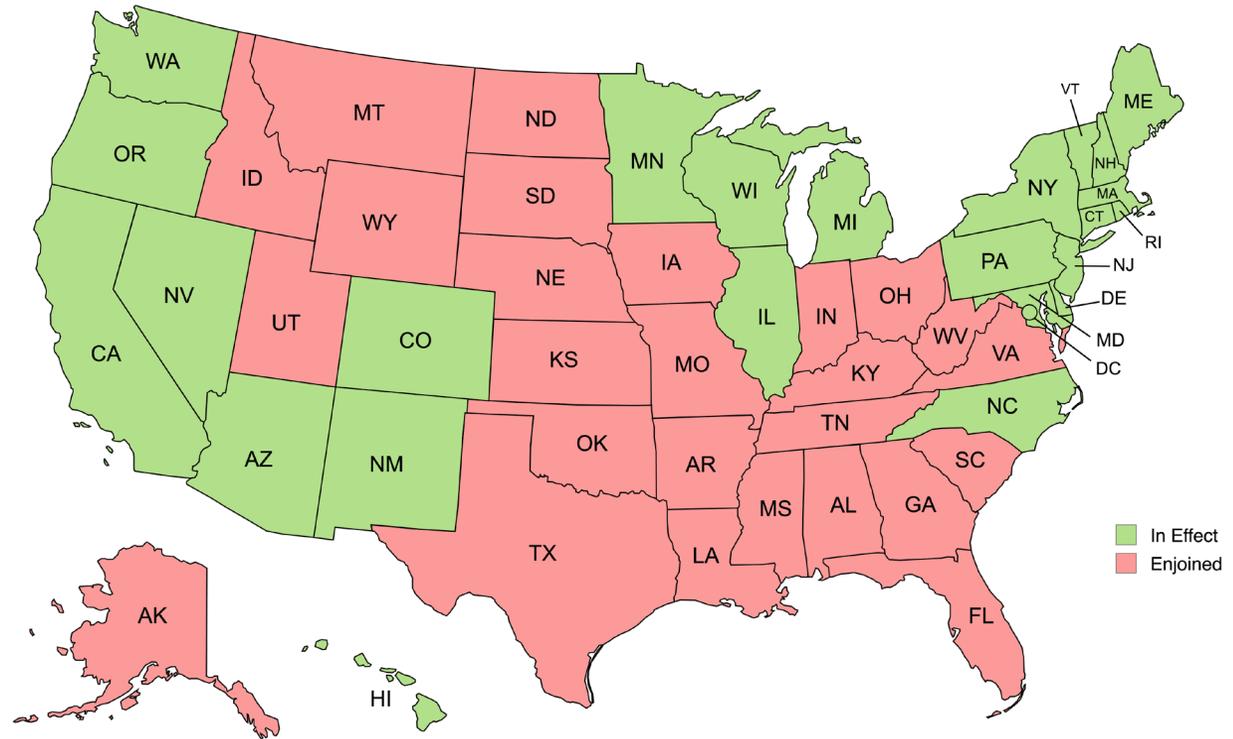
When a student, a parent of a student, or a student's legal representative informs you about a student's pregnancy or related conditions, you must:

- provide that person with the Title IX Coordinator's contact information, and
- inform them the Title IX Coordinator can work with the student to ensure the student can participate in school or take a leave.

Related conditions include childbirth, termination of pregnancy, lactation, related medical conditions, or recovery.



Final Thoughts: Stay Tuned.....



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But for now. . .

- OCR is enforcing the 2020 rules in schools and states that are enjoined from implementing the new rules.
- OCR is enforcing the 2024 rules in schools and states that are not enjoined from implementing the new rules.
 - Policies that do not comply with the 2024 Rules – “That is a straightforward investigation for us.”
 - Not informing staff about the changes to the Title IX rules.





Questions?

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