

# Unpacking the DRAFT Title IX Regulation Amendments: A Practical Discussion Regarding Likely Impact and Timing and What to do in the Meantime

Josh Whitlock

July 28, 2022

# Roadmap

Where we've been + the latest

Likely timing of actual final (i.e., not draft) amendments

- Four Lists:
- Five significant changes to anticipate
  - Five upcoming decision points
  - Five things to do in the meantime
  - Five ways we intend to support You

# Where We've Been + the Latest

## Title IX Timeline

- 1972 – Title IX enacted
- 1997 – Sexual Harassment Guidance
- 2001 – Revised Sexual Harassment Guidance
- 2006 – Dear Colleague Letter (Bush)
- 2011 – Dear Colleague Letter (Obama)
- 2014 – Q&A on Sexual Violence
- 2017 – Withdrawal/interim guidance
- 2018 – Draft regulations + notice and comment period
- 2020 – Final regulations published May, take effect August
- 2022 – Draft amendments published July + notice and comment period
- 2023 – Final amendments *likely* published + take effect



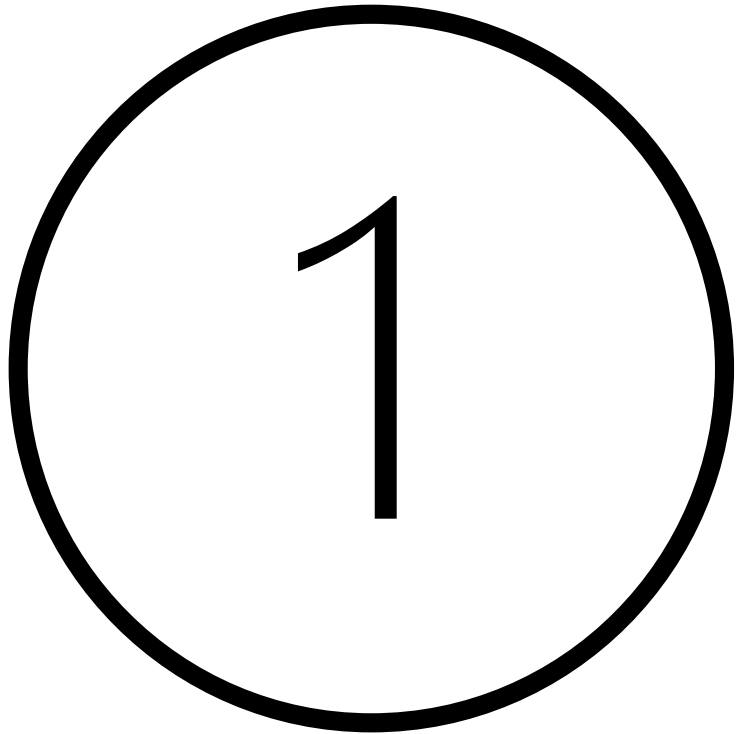
# WARNING



- Super important to note that the draft amendments are NOT currently in effect or binding and will not be until after the notice and comment period runs its full course (likely well into 2023). The May 2020 regulations are in effect and binding until then.



# Re-Expansion Of Types Of Behaviors Covered By / Protections Afforded By Title IX



Changes to terminology and definitions:

Title IX Sexual Harassment

Sex Discrimination

Sex Based Harassment

Geographic scope / off-campus activity

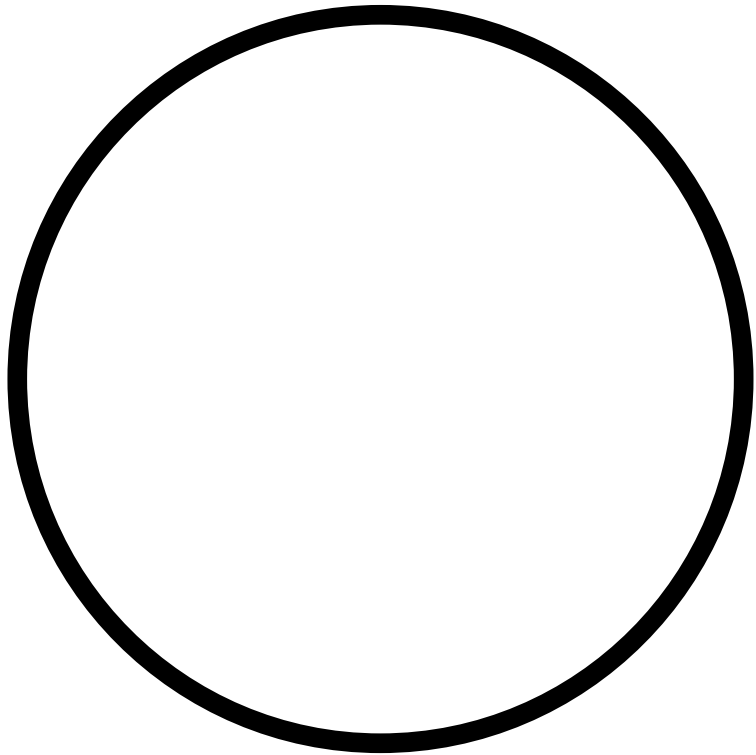
Explicit reinforcement and further definition





# Additional Grievance Procedure Flexibility (Including Removal Of Live Hearing Requirement)

# Important Shifts Around Informal Resolution, Supportive Measures, and Dismissal



# Significant Expansion Of Title IX Coordinator Obligations/Expectations and of Training Requirements



Host of new responsibilities, e.g. ...

Proactive monitoring and addressing of barriers to reporting discrimination/harassment

Interaction with athletics around mandatory disclosures

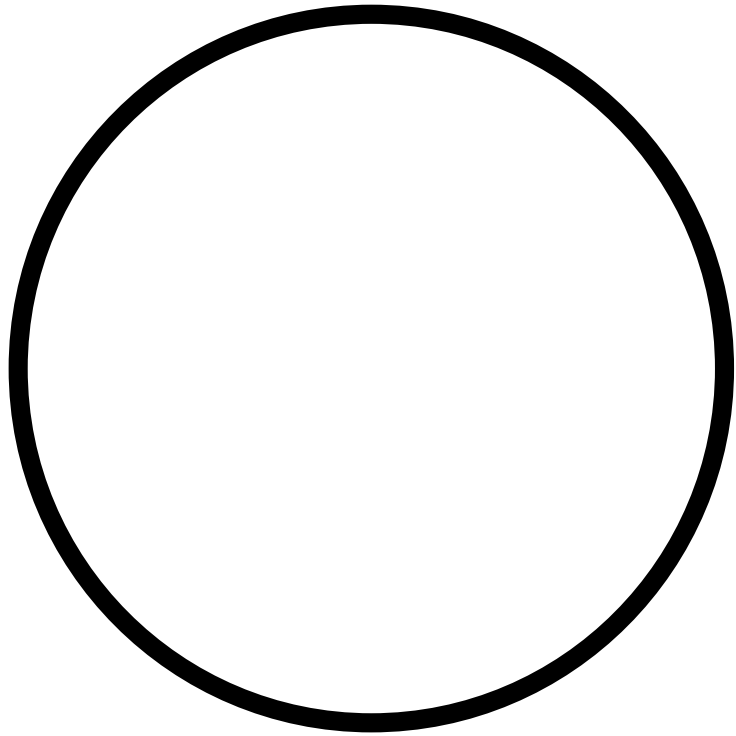
New steps related to prohibiting and addressing retaliation

Upon receiving notice that a student is pregnant, a Title IX Coordinator must:

Inform student of institution's obligations re: pregnancy and related conditions;

Provide student with option of reasonable modification to policies/practices/procedures; and

Ensure availability of lactation space





# Five Things You Can / Should Do In The Meantime

Internal education and preparation

Marshall/reconfigure resources

Select and prepare the team

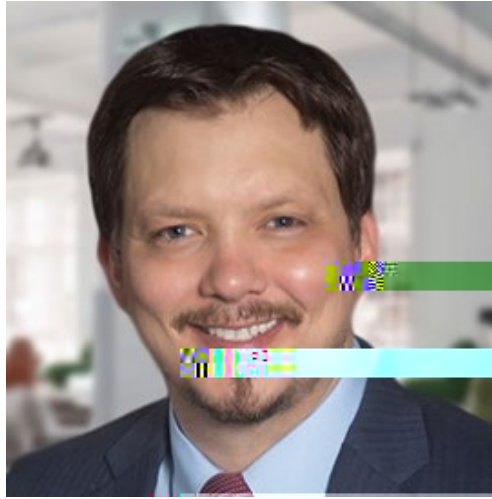


# Q&A





THANK YOU!



Joshua D. Whitlock  
Jackson Lewis P.C.

980-465-

JacksonLewis