

FEDERAL OFFICIALS LAUNCH TITLE IX SPECIAL INVESTIGATIONS TEAM – THE 5 THINGS HIGHER EDUCATION INSTITUTIONS NEED TO DO

Insights
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The federal government just took a dramatic step to reshape Title IX enforcement – one that should prompt immediate action from all colleges and universities. On April 4, the U.S. Department of Education and Department of Justice jointly announced the launch of a new Title IX Special Investigations Team (SIT), signaling an aggressive new enforcement posture. With a stated goal of cracking down on what the administration calls “gender ideology” in education, the SIT will focus on schools’ handling of transgender student rights, particularly when it comes to athletics and access to sex-separated facilities. Backed by recent executive orders and staffed by cross-agency personnel, the SIT will increase the likelihood of targeted investigations, compliance reviews, and potential funding consequences for institutions that don’t align with the administration’s interpretation of Title IX. Here’s what higher education institutions need to know – and the five steps you should take right now to prepare.

Quick Review of President Trump’s Executive Orders Impacting Title IX

Since the beginning of his second term, President Trump has issued hundreds of executive orders intended to fulfill various campaign promises and jumpstart his legislative agenda. Two in particular implicate higher education.

- One of his first, a January 20 Executive Order entitled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”

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states the “policy of the U.S. to recognize two sexes, male and female.”

- Building on this pronouncement, a February 5 Executive Order entitled “Keeping Men Out of Women’s Sports” states the administration would rescind funds from educational programs that deprive women and girls of fair athletic opportunities and oppose male competitive participation in women’s sports.

According to the administration, this policy announcement was motivated by the many educational institutions and athletic associations that have allowed men to compete in women’s sports. These Executive Orders provided the foundation for the administration to create policies and enforcement activities against schools that limit transgender student participation on sports teams and impacts as well as access to single-sex facilities.

It is well-known that compliance with Title IX of the Education Amendments of 1972 is required for educational institutions to receive federal financial assistance, and many educational institutions rely upon this federal funding to exist and operate. Educational institutions face the rescission of federal funding if they enact policies that conflict with the administration’s views regarding gender identity.

What Will SIT Do?

On April 4, the DOE and DOJ announced the creation of the Title IX Special Investigations Team (SIT), which is tasked with investigating and resolving a “staggering volume” of Title IX complaints. The DOE and DOJ’s stated purpose for creating the SIT is to “streamline Title IX investigations by creating a specialized team of investigators” from across the offices of the DOE and DOJ. Federal officials said that the Title IX SIT will be responsible for ensuring timely and consistent investigations and resolutions of Title IX complaints with the stated goal of protecting student welfare – especially female athletes – from efforts of gender ideology in school programs and activities.

The Title IX SIT includes DOE Office for Civil Rights investigators and attorneys, DOJ Civil Rights Division attorneys, DOE Office of General Counsel attorneys, DOE Student Privacy and Protection Office case workers, and an FSA Enforcement investigator.



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The 5 Steps Higher Education Institutions Should Consider

The creation of the Title IX SIT demonstrates both the DOJ's increased involvement in matters that have routinely been handled by the DOE's Office of Civil Rights and the administration's continued commitment to investigate higher education institutions that have policies regarding gender identity. The administration's intent to prioritize Title IX investigations will likely lead to DOJ enforcement actions against some higher education institutions that are currently under investigation. Here are the five steps you should consider in light of this recent announcement.

- First, it is imperative that you **review your existing Title IX policies and procedures** and determine if you should make any changes. Given the changes in the legal landscape following the court challenges related to the Biden-era Title IX changes, you should ensure you are operating under the correct regulatory framework.
- Second, you should **review your policies and trainings** to ensure consistency with the applicable guidance and directives for Title IX.
- Third, **ensure your Title IX procedures** accurately reflect changes in enforcement.
- Fourth, **stay up to date with federal and state laws** in your jurisdiction that relate to transgender students and their ability to be provided access to facilities that align with their gender identity. In certain cases, there may be a conflict with the Executive Orders and the law relating to a different interpretation of Title IX, which is likely to work its way up to the U.S. Supreme Court for review.
- Finally, you should **expect more enforcement actions** that will place greater scrutiny on your policies and practices, and could lead to a greater number of Title IX investigations. If you haven't spent time with your education lawyer lately to make sure you are best positioned, now would be a good time to schedule a consult.

Conclusion

Please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Higher Education Team](#) or [Sports Team](#) to obtain practical advice and guidance related

to these latest enforcement initiatives. Visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources, and make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.