



Title IX 2020 Regulations v. 2024 Regulations Summary of Key Provisions and Comparison Chart

The Department's 2024 amendments to its Title IX Rule mark a shift in policy and approach from the final rule issued in 2020, in several key ways.

1. The regulations broaden the definition of discrimination based on sex to include not only discrimination based on sex stereotypes, sex characteristics, and pregnancy or related conditions, but also (for the first time) ***sexual orientation*** and ***gender identity***.
2. The term "**sex-based harassment**" also has been defined more broadly to include harassment based on sexual orientation and gender identity. Sex-based harassment creates a "hostile environment" in more situations, as well. A hostile environment exists when "unwelcome sex-based conduct ... is subjectively and objectively offensive and is so severe **or** pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity."
3. Although more possible conduct may constitute sex-based discrimination or harassment, the final regulations permit more **flexibility and informality** in the procedures schools must use to address it "to account for variations in school size, student populations, and administrative structures." NSBA's public comments had asked the Department to provide some flexibility for school districts, including allowing an informal resolution processes option for some Title IX complaints, so that building personal could address harassment situations consistent with the age of the student and the nature of the allegation.

Under the new rules:

- The Department dramatically simplified the components of the grievance process each recipient must establish to address complaints of sex discrimination.
 - Schools may use a single-investigator model, and schools may choose to use this model in some, but not all, cases as long as it is clear in their grievance procedures when it will use this model; and
 - Schools may offer an informal resolution process for sex discrimination complaints unless the complaint includes allegations that an employee engaged in sex-based harassment of a student, or unless such a process would conflict with Federal, State, or local law.
4. The Department did not specifically address use of **restrooms and locker rooms** but did create a "**de minimis**" harm standard for sex separation that is allowed by existing regulations.
 - Current regulations allow recipients to provide separate toilet, locker room, and shower facilities on the basis of sex, so long as the facilities are comparable. 34 CFR 106.33. The new regulations clarify that such "otherwise permissible sex separation is consistent with Title IX as long as it is carried out in a manner that does not impose more than de minimis harm on affected students." The new regulations clarify that preventing someone from participating in school (including in sex-separate activities) consistent with their gender identity causes that person more than de minimis harm.

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- The Department explicitly notes that it does not adopt the Federal Court of Appeals for the Eleventh Circuit's reasoning when it determined that the statutory provision allowing schools to designate same-sex living facilities applied to bathrooms and locker rooms. The Department, instead, sided with other courts finding that the provision addresses only living facilities, and the statute's general anti-discrimination requirements apply to bathrooms and locker rooms.
 - The new regulations do not address the eligibility criteria for athletic teams. In a stakeholder call, OCR Chief Catherine Lhamon indicated the athletic eligibility criteria would be coming later.
5. The new regulations expand **privacy protections** for students and others involved in sex discrimination claims and investigations.
- Recipients may not disclose personally identifiable information obtained in the course of complying with Title IX, with limited exceptions, such as when the recipient has prior written consent or when the information is disclosed to the parent of a minor. (The 2020 amendments included a narrower provision that prohibited a recipient from disclosing only the identity of certain individuals participating in a Title IX grievance procedure, with limited exceptions.)
 - A recipient's grievance procedures must require reasonable steps to protect the privacy of the parties and witnesses while the grievance procedures are implemented, provided that the steps do not restrict the ability of the parties to obtain evidence and participate in the grievance procedures.
6. The new regulations provide more explicit and broader requirements for recipients to support students and employees based on **pregnancy or related conditions**.
- Recipients must provide reasonable modifications for students based on pregnancy or related conditions, allow for reasonable break time for lactation for employees, and access to a clean, private lactation space for students and employees.
 - When a student (or parents of a minor student) informs an employee of a student's pregnancy or related condition, the employee must provide the individual with information about the school's obligations to prevent discrimination.
 - Schools cannot disclose personally identifiable information about reasonable modifications for pregnancy or related conditions, with limited exceptions.
7. Recipients must consult with one or more members of a student's IEP or Section 504 team when a **student with a disability** is a complainant or respondent.
- If the complainant or respondent is a student with a disability, the recipient must require the Title IX Coordinator to consult with one or more members of the student's IEP or Section 504 team, to determine how to comply with the requirements of the IDEA and Section 504 throughout the grievance procedures.
8. The Department has expanded the duties of the **Title IX Coordinator**.
- Title IX Coordinators and others responsible for implementing the school's grievance procedure must receive training related to their responsibilities promptly upon hiring or change of position, and annually thereafter.

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- Recipients must maintain for seven years each notification received by Title IX Coordinator of conduct that reasonably may constitute sex discrimination under Title IX or the regulations, documentations of the actions the recipient took to meet its obligations to respond promptly and effectively to complaints.
 - The Title IX Coordinator may also be the decisionmaker (under the single-investigator model).
 - Non-confidential employees are required to notify the Title IX Coordinator of conduct that might constitute sex discrimination under Title IX.
 - When the complainant or respondent is a student with a disability, the recipient must require the Title IX Coordinator to consult with a member of the student's IEP team.
9. The final regulations allow recipients to use a (low) “preponderance of the evidence” **standard of proof** to determine whether sex discrimination occurred unless the recipient uses “clear and convincing” in other comparable proceedings.
10. The scope of covered conduct may extend beyond a school's borders.
- Conduct that may constitute sex discrimination is covered if it occurs under a recipient's education program or activity in the U.S., including conduct that is subject to the recipient's disciplinary authority.
 - A recipient has an obligation to address sex-based hostile environment under its educational program or activity, even when some conduct alleged to be contributing to the hostile

environment occurred outside the education program or activity or outside the U.S.

11. For the first time, the Department provides a resource including language schools can use for policies, notices, and grievance procedures, to assist with compliance before the new school year begins.

34 C.F.R. PART 106—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (released April 19, 2024, effective August 1, 2024)

Authority: 20 U.S.C. 1681 et seq., unless otherwise noted.

Unofficial version:

<https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>

Fact Sheet:

<https://www2.ed.gov/about/offices/list/ocr/docs/t9-final-rule-factsheet.pdf>

Summary chart:

<https://www2.ed.gov/about/offices/list/ocr/docs/t9-final-rule-summary.pdf>

Policy/Procedure resource:

<https://www2.ed.gov/about/offices/list/ocr/docs/resource-nondiscrimination-policies.pdf>

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Issue	2020 Final 34 CFR Part 106	2024 Final 34 CFR Part 106 (effective Aug. 1, 2024)
Recipient responsibility triggered	When a school has actual knowledge of sexual harassment in an education program or activity and against a person in the U.S. , it must respond per the regulations and if a formal complaint is filed it must use a particular grievance procedure . 106.44, 106.45	A recipient with knowledge of conduct that reasonably may constitute sex discrimination in its program or activity must respond promptly and effectively and must also comply with this section to address it (TIX Coordinator monitors and addresses barriers to reporting, non-confidential employees notify TIX Coordinator when they have information of conduct that may constitute sex discrimination, notify participants of how to contact confidential employees, confidential employee requirements, TIX Coordinator requirements, offer and coordinate supportive measures, follow requirements for emergency removals, follow privacy requirements, follow requirements for informal resolution if used) 106.44(a)
Actual knowledge	Actual knowledge of certain sexual harassment by TIX Coordinator or official with authority. Exception: official with actual knowledge is the respondent. 106.30(a), 106.44(a)	Elementary/secondary recipients must require all employees who are not confidential employees to notify the TIX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination . 106.44(c)(1) Knowledge standard expanded so that a recipient is deemed to have knowledge of sex-based discrimination in its education program or activity and an obligation to respond pursuant to 106.44 when any non-confidential employee has information about conduct that reasonably may constitute sex discrimination. The nature of the response required by 106.44 depends on the person's role, but a recipient must ensure that all of its employees fulfill the duty to respond. Preamble, pages 317-318.
Off-campus conduct	Covered if school-sponsored, but a recipient is not required to address sex-based hostile environment in its educational program or activity in the U.S. if it results from sex-based harassment that happened outside of	Regulations cover sex discrimination occurring under a recipient's education program or activity in the U.S., including conduct that is subject to the recipient's disciplinary authority. Recipient has an obligation to address sex-based hostile environment under its educational program or activity, even when some conduct alleged to be

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	the recipient's education program/activity, or outside the U.S. 106.44(a)	contributing to the hostile environment occurred outside the education program or activity or outside the U.S. 106.11
Sexual harassment	"Sexual harassment" includes sexual assault, dating violence, domestic violence, stalking, and "unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity." 106.30	"Sex-based harassment" includes sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, gender identity and sexual orientation and other sex-based conduct. 106.2, 106.10 <i>Quid pro quo</i> ~ An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct. 106.2 Hostile environment ~ unwelcome sex-based conduct that "based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity." 106.2 Whether a hostile environment is created is a fact-specific inquiry that includes consideration of degree to which access is affected, type/frequency/duration, parties' ages/roles/previous interactions/other factors, location, and other sex-based harassment in the recipient's program or activity. 106.2 Sexual assault ~ An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the FBI. 106.2



Sex discrimination	Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. 106.31	Scope of “discrimination on the basis of sex” broadened to specifically include discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. 106.10 [NEW]
Pregnancy or related conditions	Prohibits discrimination against students, employees, or applicants based on pregnancy, false pregnancy, termination of pregnancy, childbirth, recovery. Prohibits recipients from adopting rules that treat parents differently based on sex. 106.40	Prohibits recipient from adopting or implementing policy/practice/procedure regarding, or discriminating in its education program/activity against any student based on, student’s current, potential, or past parental, family, or marital status that treats students differently on the basis of sex. 106.40(a), (b) Recipient must ensure that when student (or parents) tells employee of student’s pregnancy or related conditions, unless the employee reasonably believes the TIX Coordinator has been notified, employee promptly provides TIX Coordinator’s contact information and informs the person that the coordinator can coordinate specific actions to prevent discrimination and ensure access. Recipient must provide student with information about the recipient’s obligations, reasonable modifications, voluntary access to separate comparable portion of program/activity, and/or voluntary leaves of absence, and lactation space. 106.40(b)(2) A recipient must not require supporting documentation for the modifications unless the documentation is necessary and reasonable for the recipient to



		determine the reasonable modifications to make or whether to take additional specific actions. 106.40(b)(3) Recipient must treat pregnancy or related conditions as any other temporary medical conditions, to the extent consistent with the nondiscrimination requirement and generally may not require certification to participate unless required for the activity or not sued as a basis for discrimination. 106.40(b)(4) Recipient must not adopt or implement any policy/practice/procedure, or take any employment action, on the basis of sex concerning current, potential, past parental, family, or marital status of employee or applicant for employment, which treats person different or that is based on whether and employee/applicant is head of household or principal wage earner, or discrimination against any employee/applicant on basis of current, potential, past pregnancy or related conditions, and must treat pregnancy/related conditions as any other temporary medication condition. A recipient must provide reasonable break time for employee to express breast milk or breastfeed as needed, and ensure lactation space other than a bathroom that is clean, shielded from view, and free from intrusion from others. 106.57
Discrimination based on sexual orientation, gender identity, and sex characteristics	A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex. 106.33	Sex discrimination includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. 106.10 Recipients are prohibited from separating or treating any person differently based on sex in a manner that subjects person to more than minimal harm unless otherwise permitted by TIX. Includes preventing student from participating in a recipient's educational program or activity consistent with

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	Materials used to train TIX Coordinators and others may not rely on sex stereotypes. 106.45(b)(1)(iii) Recipient may not use sex as a bona-fide occupational qualification when that action is based on stereotyped characterizations of one or the other sex. 106.61	gender identity. Excludes practices otherwise permitted by TIX such as admissions of single-sex postsecondary or when permitted by religious exemption. 106.10, 106.31(a)(2) ED declines to adopt 11th Circuit’s reasoning that the statutory carve out for living facilities governs the interpretation of 106.33, ED’s regulations on bathrooms and locker rooms, or any other regulatory provision other than housing. Preamble, p. 1278. A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex. 106.33 NO CHANGE FROM 2020. Separate rulemaking will address athletics and eligibility to participate on a particular male or female athletic team. Preamble, p. 1347-48.
Policy and Grievance Procedures	Recipient must notify applicants, parents, employees and other listed persons that it does not discriminate on the basis of sex and that it is required by TIX and the regulations not to discriminate. The notice must state that the nondiscrimination requirement extends to admission and employment and direct inquiries to the TIX Coordinator, Assistant Secretary, or both. 106.8(b)(1)	Recipient must adopt, publish, and implement a policy stating that the recipient does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by TIX and the regulations, including in admission and employment. 106.8(b)(1) Recipient must provide notice of nondiscrimination to students, employees and other listed persons, with specific components including how to locate the recipient’s nondiscrimination policy and grievance procures and to report conduct that may constitute sex discrimination. 106.8(c)



		Recipient must adopt, publish, and implement grievance procedures consistent that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the recipient’s education program or activity, or by the TIX Coordinator, alleging any action that would be prohibited by TIX or the regulations. 106.8(b)(2), 106.45 For the first time, ED provides a Resource for Drafting Nondiscrimination Policies, Notices of Nondiscrimination, and Grievance Procedures.
Reports and Confidential Employees	The 2020 amendments do not address confidential employees.	Confidential employee is one (1) whose communications are privileged or confidential under Federal or State law (with scope limits)...; (2) whom the recipient has designated as confidential for the purpose of providing services to persons related to sex discrimination (with scope limits). ...; or (3) employee of postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study 106.2 Elementary/secondary recipient must require all employees who are not confidential employees to notify the TIX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination. 106.44(c) Recipient must require confidential employee to explain to any person informing them of conduct that reasonably may constitute sex discrimination (1) their confidential status and circumstances in which they are not required to notify the TIX Coordinator about conduct that reasonably may constitute sex discrimination; (2) how to contact the TIX Coordinator and to make a complaint; and (3) that the TIX Coordinator may be able to offer and coordinate supportive measures and initiate informal resolution process/investigation.

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		106.44(d)
Notice	Each recipient must notify persons entitled to a notification under 106.8(a) that the recipient does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by TIX and this part not to discriminate in such a manner. 106.8(b)	Recipient must notify all participants in its education program or activity of how to contact confidential employees, if any. 106.44(d)
Complainant	A complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. 106.30	Complainant is a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination or this part and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination. 106.2
Complaint	"Formal complaint" – written document or electronic submission filed by alleged victim or guardian alleging sexual harassment that must include the complainant's signature or other indication of the complainants' identity. Alleged victim must be participating/attempting to participate in a program or activity at the time they file the formal complaint. 106.30	"Complaint" means oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination. Complainant's physical or digital signature no longer required. Need not otherwise indicate that the complainant is the person filing the formal complaint. Can be made by alleged victim, guardian, TIX Coordinator, or if alleging other than sexual harassment any student or employee or third party participating or attempting to participate in the recipient's program or activity. 106.2, 106.45(a)(2)
Title IX Coordinator	Recipient must designate and authorize at least one employee to coordinate TIX compliance efforts and the person must be referred to as the TIX Coordinator.	Recipient must designate and authorize at least one employee, the TIX Coordinator, to coordinate its efforts to comply with its responsibilities under TIX and the regulations. If a recipient has more than one TIX Coordinator, it must designate one of its TIX Coordinators to retain ultimate oversight over

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	Recipient must notify all applicants, community, etc., of name and contact information. Any person may report sex discrimination using that contact info. 106.8(a)	those responsibilities and ensure the recipient's consistent compliance with its responsibilities under TIX and this part. Delegation to designees. As appropriate, a recipient may delegate, or permit a TIX Coordinator to delegate, specific duties to one or more designees. 106.8(a) Recipient must require its TIX Coordinator, when notified of conduct that reasonably may constitute sex discrimination, to take the following actions to promptly and effectively end any sex discrimination, prevent recurrence, and remedy effects: (1) treat the complainant and respondent equitably; (2) offer and coordinate supportive measures as appropriate; (3) notify complainant or reporter of grievance procedure and information resolution process and notify the respondent if a complaint is made; (4) initiate grievance procedure/information resolution process as appropriate; (5) determine whether to initiate a complaint under certain circumstances. BUT, TIX Coordinator is not required to do the above if they reasonably determine the conduct as alleged could not constitute sex discrimination. 106.44(f)(1) and (2)
Who triggers TIX response	Elementary/second recipient must respond to TIX allegations when any school employee has been notified. 106.30	Elementary school or secondary school recipient must require all employees who are not confidential employees to notify TIX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination. 106.44(c)
Who may act on behalf of student	Parent or guardian. 106.6(g)	Parents, guardians, other authorized legal representatives. 106.6(g)
Emergency removal	Recipient may remove a respondent from education program/activity on an emergency basis, provided that the recipient undertakes an individualized	Changed "immediate" to "imminent," expanded "sexual harassment" to "sex discrimination" and added reference to "complainant" to list of those whose health or safety must be threatened. 106.44(h)

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	safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. 106.44(c)	
Remedial action	Recipient must respond to possible sexual harassment when it has actual knowledge of the harassment (or alleged). Actual knowledge requirement applies to all employees at the K-12 level. A recipient with actual knowledge of sexual harassment must respond only in a manner that is not deliberately indifferent. Treat complainants and respondents equitably, offer supportive measures to complainant, follow grievance process before action, contact and explain process to complainant. 106.30, 06.44(a)	A recipient with knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity must respond promptly and effectively; and require its TIX Coordinator to take specific actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects when notified of discrimination under TIX or this part, unless the TIX Coordinator reasonably determines under paragraph (f)(2) that the conduct as alleged could not constitute sex discrimination. 106.44(a), (f)
Investigation	Only formal complaints require investigation procedures. 106.45	Recipient may use single-investigator model, in which the decisionmaker may be the same person as the TIX Coordinator or investigator.



		Recipient must provide for adequate, reliable, and impartial investigation of all sex discrimination complaints, with specific requirements regarding evidence, response, and privacy. 106.45(b)(2), (f)
Informal resolution process	No informal resolution process unless a formal complaint has been filed. At any time before reaching a determination regarding responsibility, the recipient may facilitate an informal resolution process with written notice and voluntary consent of parties. NO informal resolution process to resolve allegations that employee sexually harassed a student. 106.45(b)(9)	Recipient may offer informal resolution process at any time prior to determining whether sex-based harassment occurred, BUT not if complaint includes allegations that employee engaged in sex-based harassment of elementary or secondary school student or the process would conflict with law. Recipient has discretion to determine appropriateness. Recipient may decline to allow informal resolution when it determines alleged conduct would present future risk of harm to others. Participation is voluntary. Recipient must provide notice to parties of the allegations, right to withdraw and initiate grievance procedures, that agreements to resolution at the conclusion of informal process precludes grievance procedure for same allegations, terms that may be requested or offered, what information will be maintained and whether/how disclosed. Facilitator must not be same person as investigator or decisionmaker in grievance procedures, must not have a conflict of interest or bias, and must receive training. 106.44(k), 106.45(k)
Grievance procedure - components	Detailed requirements only for complaints of sexual harassment. 106.45	Recipient's grievance procedures "for the prompt and equitable resolution of complaints of sex discrimination" apply to all complaints of sex discrimination, with specific changes re: age, maturity, and level of independence of students, contexts of employees and 3rd parties. Grievance procedures must be writing and incorporate the 7 requirements listed in 106.45. 106.45(a)(1)
Grievance procedure – conflict of interest	Any person designated as TIX Coordinator, investigator, decision-maker, or informal resolution facilitator may not have conflict of interest or bias.	Any person designated as a TIX Coordinator, investigator, or decisionmaker, or facilitator of an informal process, may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the TIX Coordinator or investigator. 106.45(b)(2), 106.44(k)

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	TIX Coordinator, investigator, and informal resolution facilitator may be the same person, but there must be a different decisionmaker, and appellate decisionmaker. 106.45(b)(1)(iii)	
Grievance procedure – notice of allegations	Upon receipt of formal complaint, recipient must provide written notice to known parties with specific components. 106.45(b)(2)	Recipient must provide notice of allegations to parties whose identities are known upon initiation of grievance procedures. Notice must include grievance procedures, information resolutions process, sufficient information to allow parties to respond (including identities), statement that retaliation is prohibited, statement that parties are entitled equal opportunity to access relevant evidence. Additional notice required if recipient decides to investigate additional allegations. 106.45(c)
Grievance procedure – timeframe	Reasonably prompt timeframes for conclusion of grievance process. For all formal complaints, review of directly related evidence with 10 days to respond, and review of investigation report with 10 days to respond. 106.45(b)(l)(v)	Reasonably prompt timeframes for major stages of grievance procedures: evaluation, investigation, determination, appeal. 106.45(b)(4) Equal opportunity to access evidence and responsible opportunity to respond. 106.45(b)(4)
Grievance procedure –live hearings	Not required 106.45	Not required 106.45
Grievance procedure – ensuring privacy	Must keep confidential identity of individual making complaint of sex discrimination, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except	Must take “reasonable steps” to protect privacy of parties and witnesses, provided the steps do not restrict ability of parties to obtain and present evidence, including by speaking to witnesses (subject to retaliation prohibition, 106.71); consult with family members, confidential resources, or advisors; prepare for or participate in the grievance procedures; or otherwise defend their interests.

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	as permitted by FERPA or as required by law... 106.8(c) Must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by FERPA statute, or as required by law, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. 106.71	106.45(b)(5) Must not disclose the identity of a party, witness, or participant except in certain circumstances when conducting informal resolution process. 106.44 May not disclose personally identifiable obtained through complying with TIX, with limited exceptions, such as when a recipient has prior written consent or when the information is disclosed to the parent of a minor. 106.44, 106.45
Grievance procedure – standard of proof	Must state whether “preponderance of the evidence” or “clear and convincing” standard applies, and apply the same standard for formal complaints against student as for employees. 106.45(b)(1)(vii)	Must presume respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedures for complaints of sex discrimination. 106.45(b)(3) Must use “preponderance of the evidence” standard of proof to determine whether sex discrimination occurred, unless the recipient uses “clear and convincing” in other comparable proceedings. Process must allow decision-maker to adequately assess credibility of parties and witness if credibility is in dispute and relevant to evaluating one or more allegations of sex discrimination.



		Decision-maker must evaluate relevant and not otherwise impermissible evidence for persuasiveness. If the decision-maker is not persuaded under the applicable standard (whatever the quantity of evidence), they should not determine that sex discrimination occurred. 106.45(h)
Grievance procedure – evidence	Evidence about complainant’s sexual predisposition or prior sexual behavior is not relevant unless offered to prove someone other than respondent committed the conduct or relates to prior conduct with respect to the respondent and are offered to prove consent. 106.45(6)(i)	Relevant evidence means related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred. 106.2 Grievance procedure must include objective evaluation of all relevant and not otherwise impermissible evidence and provide that credibility determinations must not be based on a person’s status as a complainant, respondent, or witness; Grievance procedure must exclude the following types of evidence as impermissible: (i) Evidence protected under legal privilege or provided to a confidential employee, unless waived voluntarily; (ii) A party’s or witness’s records that made or maintained by recognized health professional or paraprofessional in connection with the provision of treatment, unless the recipient obtains that party’s or witness’s voluntary, written consent for use in the recipient’s grievance procedures; and (iii) Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless offered to prove someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. 106.45(b)(7)
Grievance procedure –	The decision-maker(s), who cannot be the same person(s) as the TIX	Recipient may dismiss complaint if unable to identify respondent after reasonable steps; respondent is not participating in education program/activity

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decision and appeal	Coordinator or the investigator(s), must issue a written determination regarding responsibility. 106.45(b)(7)	and not employed by recipient; complainant voluntarily withdraws allegations, the TIX Coordinator declines to initiate and recipient determines that without the complainant's withdrawn allegations, conduct would not constitute sex discrimination even if proven; OR recipient determines conduct alleged, even if proven, would not constitute sex discrimination, after reasonable efforts to clarify allegations. Recipient must notify complainant of dismissal and appeal rights and notify parties of any appeal, and provide specified appeal procedures. Supportive measures must be offered to the complainant, and to the respondent in certain situations. Recipient must provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome and notify the parties of the result of the appeal and the rationale for the result. 106.45(d) Notify parties in writing of determination whether sex discrimination occurred under TIX including rationale and permissible bases for appeal. 106.45(h)(2) Appeal of a dismissal. 106.45(d)(3) In addition to an appeal of a dismissal per (d)(3), recipient must offer the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints. 106.45(i)
Supportive measures	School must offer supportive measures when sexual harassment might have occurred. 106.44(g)	Definition: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening complainant or respondent, not for punitive or disciplinary reason, and without charge to restore/preserve party's access to education program/activity (including safety), or to provide support during grievance/information resolution process. 106.2

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		School must offer and coordinate supportive measures, as appropriate. Examples included. Supportive measures must not unreasonably burden either party and must be designed to protect safety of the parties or the recipient's educational environment, or to provide support during grievance procedure/information resolution process BUT not for disciplinary reasons. Recipient may modify or terminate supportive measures at conclusion of grievance/information resolution process. Recipient must provide complainant/respondent timely opportunity to seek modification or reversal of decision on supportive measures applicable to that person and not disclose information about supportive measures to others unless necessary to provide the supportive measures or to preserve a party's access to the education program/activity. If the complainant/respondent is a student with a disability, the recipient must require the TIX Coordinator to consult with one or more members of the IEP or Section 504 placement team, if any, to determine how to comply with those statutes. 106.44(g) Grievance procedures must describe range of supportive measures available to sex-based harassment complaints and respondents and list or describe range of possible disciplinary sanctions recipient may impose and remedies recipient may provide following determination that sex-based harassment occurred.
Resulting remedies, discipline	Recipient must follow grievance procedures before imposition of discipline. 106.45	If there is a determination that sex discrimination occurred, as appropriate, grievance procedure must require TIX Coordinator to (1) coordinate remedies to complainant and other persons identified having had equal access limited or denied by sex discrimination; (2) coordinate disciplinary sanctions on respondent including notification to complainant, and (3) take other appropriate prompt and effective steps to ensure sex discrimination does not continue or recur. 106.45(h)(3)

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		Recipient must follow grievance procedures before imposition of discipline. 106.45(h)(4)
Retaliation	Prohibits recipient or other person from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with TIX rights because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. 106.71	Retaliation means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity for the purpose of interfering with TIX rights, or because the person has reported information, etc. Nothing precludes recipient from requiring employee or other person to participate as a witness in, or otherwise assist with, investigation, proceeding, or hearing. 106.2 A recipient must prohibit retaliation, including peer retaliation, in its education program or activity. When a recipient has information about conduct that reasonably may constitute retaliation, recipient is obligated to respond as required by 106.44. Upon receiving a complaint alleging retaliation, a recipient must initiate its grievance procedures or, as appropriate, an informal resolution process. 106.71
Monitoring for barriers to reporting	Decision to file complaint of sexual harassment made by complainant or TIX Coordinator. Former students or employees not participating, or attempting to, in recipient's educational program or activity not permitted to file complaint. 106.30(a)	A recipient must require its TIX Coordinator to monitor the education program/activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination and take steps reasonable calculated to address such barriers. 106.44(b) Recipient must provide clear information and training on (1) when employees must notify the TIX Coordinator about possible sex discrimination and (2) how students can report sex discrimination for purpose of seeking confidential assistance only or to initiate its grievance procedures. Complainant may file sex discrimination complaint even if they have left the program.

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		Recipient must require all non-confidential employees to report information. TIX Coordinator must monitor for barriers to reporting and take steps reasonably calculated to address them. 106.45(a)(2)
Training	TIX team must be trained on sexual harassment grievance procedure. Recipient must make training materials publicly available on its website or, if no website, upon request. 106.45	All employees must be trained on recipient's obligation to address sex discrimination in its education program/activity, scope of conduct that constitutes sex discrimination and notification and information requirements. Additional training requirements for investigators, decisionmakers, others responsible for implementing grievance procedure. 106.8(d) Recipient must make training materials available upon request for inspection by members of the public. 106.8(f)(3) WEBSITE POSTING REQUIREMENT REMOVED.
Conflict with state law	The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession. 106.6(b)	The obligation to comply with TIX and this part is not obviated or alleviated by any State or local law or other requirement that conflicts with TIX or the regulations. 106.6(b)
Conflict with FERPA	The obligation to comply with this part is not obviated or alleviated by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99. 106.6(e)	The obligation to comply with Title IX and this part is not obviated or alleviated by FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99. 106.6(e) NO CHANGE FROM 2020.
Conflict with Parent Rights	Subject to FERPA requirements, nothing in TIX or the regulations may	Subject to FERPA requirements, nothing in TIX or the regulations may be read in derogation of any legal right of a parent, guardian, or other authorized legal

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	be read in derogation of any legal right of a parent or guardian to act on behalf of a complainant, respondent, party, or other individual, including but not limited to filing a formal complaint. 106.6(g)	representative to act on behalf of a complainant, respondent, or other person, including but not limited to making a complaint through the recipient's grievance procedures for complaints of sex discrimination. 106.6(g) SUBSTANTIALLY SIMILAR.
Students with Disabilities (SWD)	No consultation specifically required.	If a complainant or respondent in an elementary or secondary SWD, recipient must require TIX Coordinator to consult with one or more members , as appropriate, of the student's IEP or 504 placement team to determine how to comply with IDEA or 504 while implementing TIX grievance procedures. 106.8(e)
Recordkeeping	Recipient must maintain for 7 years records of sexual harassment investigations and determinations and any recordings/transcripts, disciplinary sanctions on the respondent, and remedies, appeals, informal resolution and result, and all materials used to train TIX Coordinators, investigators, decisionmakers, and informal resolution facilitators. Recipient must make training materials publicly available on its website or on request if it does not maintain a website. 106.45(10)	Recipient must maintain for 7 years: (1) For each complaint of sex discrimination, documentation of the informal resolution process or grievance procedures and outcome. (2) For each notification received by TIX Coordinator of conduct that reasonably may constitute sex discrimination under TIX or the regulations, documentations of the actions the recipient took to meet its obligations to respond promptly and effectively under 106.44. 106.8(f)