

Prevention Advisor

New OCR Guidance on Title IX and Sexual Violence Puts Districts, Colleges on Notice of Expectations

New federal guidance emphasizes the Obama administration's sharp focus on ensuring that higher education institutions and school districts adhere to Title IX of the Education Amendments of 1972 when responding to allegations of sexual violence.

The "Dear Colleague" letter, released on April 4 by the U.S. Department of Education's Office for Civil Rights (OCR), is the first guidance to specifically advise schools, colleges and universities that their Title IX responsibilities include protecting students from sexual violence, administration officials said. The document, which has the force and enforceability of a regulation, outlines various enforcement strategies that can be deployed to stop, prevent and remedy the effects of sexual violence.

Indicative of the letter's importance, an array of high-level White House and other administration officials — including Vice President Joe Biden, U.S. Education Secretary Arne Duncan and Assistant Secretary for Civil Rights Russlynn Ali — participated in press conferences and other media events to give the letter national

prominence. The guidance was posted on both the White House and OCR websites.

Officials said the 19-page letter supplements OCR's 2001 *Revised Sexual Harassment Guidance* by providing additional detail and practical suggestions for staying Title IX-compliant in circumstances involving sexual violence on school or campus grounds.

In a statement praising OCR for publishing the letter, the National Center for Higher Education Risk Management (NCHERM) said although the office has not expanded Title IX, the guidance "reflects the substance of its enforcement" and clarifies the actions schools must take to comply with Title IX.

"To date," NCHERM said, OCR's "enforcement has been accomplished campus-by-campus, without public dissemination of the findings and compliance requirements. We've had to read tea leaves to discern OCR's expectations. Now, we have greater clarity on a number of key issues."

Knowing how to comply is particularly important at a time when OCR's authority is being aggressively asserted by the Obama administration. One example of this new energy is the office's recent move to undertake voluntary compliance audits, which are, in effect, non-complaint-driven spot checks to assess whether educational institutions are meeting their obligations under the law.

The Dear Colleague letter outlines expectations mostly in the postsecondary context, but OCR noted that "sexual harassment and violence also are concerns for school districts" serving younger students and that "the Title IX obligations discussed in this letter apply equally to school districts unless otherwise noted."

During a conference call, Duncan said "we're trying to be very clear, very transparent" to help institutions deal with these often "tough" issues.

Recommendations Should Guide Institutions

Title IX prohibits discrimination based on sex in any institution receiving federal funds and also covers sexual harassment, sexual violence and any retaliation related to a previously identified hostile environment. Steps schools and universities must take to be compliant under the law include:

Educator's Guide to Controlling Sexual Harassment

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See *Prevention Advisor*, p. 4