

2020 Final Rule

Title IX Regulations Explained

The U.S. Department of Education released its long-awaited Final Regulations under Title IX of the Education Amendments of 1972 on Wednesday, May 6, 2020. The new requirements have more than 50 substantive changes alone between the 2018 draft and the 2020 final rule. UNM faces heavy lifting to make these extraordinary changes possible.

The Department of Education is giving institutions 100 days to become compliant with its new Title IX regulations. The New Rule goes into effect **August 14, 2020**, and has the force of a federal regulation.

The new requirements will necessitate changes in institutional Title IX policy and practice. It will not change UNM's policies that govern other forms of protected-status harassment.

The regulation's mandatory requirements for investigation **apply to cases involving students and employees.**

UNM's Responsible Employee policy is not changed under the new regulations. Institutions are required to provide supportive measures upon receipt of every report, regardless of a formal complaint being filed.

Schools may, on an interim basis, remove someone if certain criteria are met, such as posing an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. The individual must also be given the opportunity to challenge this decision immediately after the removal.

Changes in Title IX Jurisdiction

- Education program or activity in the United States
- Does not apply to off-campus, private settings, that are not an education program or activity
- Applies to Greek or other student organization housing
- At the time of making a complaint, the Complainant must be participating or attempting to participate in the institution's education program or activity
- Sexual Harassment definition narrowed; aligns more closely with Clery Act and VAWA

UNM can still address misconduct that does not fall within Title IX's new sexual harassment jurisdiction.

Changes to the Investigation Process

- Single investigator model gone. Investigator will no longer make a decision of responsibility.
- Formal complaint is a report filed by a Complainant, or signed by the Title IX Coordinator. UNM must investigate formal complaints.
- Informal resolution is an alternative to an investigation. Both parties must agree and is only offered after a formal complaint is made. Informal resolutions are not offered where an employee has

been accused of sexually harassing a student.

- **Live hearings** are required for all investigations, but can be done virtually. Must be recorded.
- Parties' advisors will cross-examine witnesses and parties
- **Institutions must provide advisors to parties who do not have one**
- "Preponderance of the Evidence" standard remains

What Does UNM Need to Do?

- Create a hearing process
- Create methods of addressing non-Title IX sexual harassment
- Identify and train hearing officers/panels, advisors, hearing coordinator
- Update policies and processes
- Update training material
- Update new student orientation materials
- Train campus on the new rule
- Train all Title IX personnel on new requirements
- Redefine prevention efforts and assessment

For additional information, please contact the Office of Equal Opportunity at oeounm@unm.edu or by phone at (505) 277-5251.