

Attorneys General, Lawmakers, Higher Education Groups Urge Delaying Proposed Title IX Regulations

By Susan D. Friedfel, Monica H. Khetarpal, Amanda B. Brody &

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Meet the Authors



Susan D. Friedfel

Principal

914-872-8027

Susan.Friedfel@jacksonlewis.com

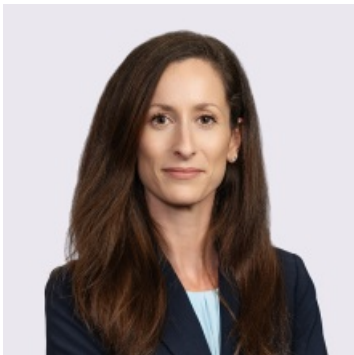


Monica H. Khetarpal

Principal

(312) 803-2529

Monica.Khetarpal@jacksonlewis.com



Amanda B. Brody

Associate

Amanda.Brody@jacksonlewis.com

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State attorneys general, lawmakers, and higher education industry groups have been urging the Department of Education to delay issuing the final regulations on how colleges and universities must handle allegations of sexual misconduct under Title IX of the Education Amendments Act of 1972 (Title IX) in light of the coronavirus (COVID-19) pandemic.

On March 24, 2020, American Council on Education wrote to the U.S. Department of Education, on behalf of 33 organizations representing the nation's two- and four-year public and private colleges and universities, imploring Secretary Betsy DeVos to delay any further action on the proposed rulemaking on Title IX until the emergency caused by COVID-19 has passed and campuses have resumed normal operations. (For details of the proposed regulations, see our article, [Department of Education Unveils Proposed Title IX Regulations.](#))

The request acknowledges that implementation of the Title IX regulations is expected to be enormously complex and burdensome for campuses and to require a coordinated effort across multiple campus departments. The associations stated that “colleges and universities should not be asked to divert precious resources away from more critical efforts in order to implement regulations unrelated to this extraordinary crisis” at this time, when institutional resources already are stretched thin.

Separately, in a March 27, 2020, letter, state attorneys general from 17 states and the District of Columbia urged the U.S. Department of Education and the Office of Management and Budget (OMB) to suspend the rulemaking process while educational institutions respond to the national emergency caused by COVID-19. The letter cites widespread stay-at-home orders, business closures, and, importantly, temporary and indefinite closures at many educational institutions across the nation to explain the significant strain on school resources. It pointed out the institutions' continuing need to conserve their resources in responding to the public health emergency.

Finally, on March 31, 2020, U.S. Senators Kirsten Gillibrand, Patty Murray, and Elizabeth Warren wrote to Secretary DeVos expressing their “strong opposition” to plans by the Education Department to issue a final rule on the proposed regulations implementing Title IX. The Senators called it “wholly unacceptable” for the Department to issue the final rule while schools grapple with how to maintain basic services and supports for their students in the midst of the growing outbreak of COVID-19.

The Department of Education has yet to respond publicly to these requests. With the impending release of the new regulations and the challenges institutions are facing with COVID-19, institutions should consider which stakeholders will be involved in developing and adapting policies and procedures to comply with the new regulatory landscape and be prepared to get started when the regulations are published.

Please contact a Jackson Lewis attorney if you have any questions about this or other developments.

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