

Expecting the Expected: The Title IX Final Rule

It has been widely reported that U.S. Department of Education (USDOE) is prepared to release its final Title IX regulations after issuing proposed regulations in November 2018. The proposed regulations elicited thousands of comments highlighting concerns with some portions of the proposed regulations.

The USDOE has been urged by several sources to delay the release. On March 27, 2020, the Attorneys General of 18 states, including New York, addressed a letter to Secretary of Education DeVos and others requesting that the final rule not be released at this time in light of the COVID-19 crisis. There also is countervailing pressure on the USDOE from due process advocates to proceed to ensure implementation by the opening of the Fall 2020 semester.

In order to be prepared to respond as soon as the final rule is issued, Bond has formed a Title IX Task Force consisting of a core group of higher education attorneys ([Mallory Campbell](#), [Christa Cook](#), [Laura Harshbarger](#), [Gail Norris](#), [Jane Sovern](#) and [Philip Zaccheo](#)). This Task Force already is at work to ensure that our clients are provided with prompt advice and complete assistance, including policy development and training resources.

If the final rule contains the more controversial aspects of the proposed rule, such as live cross-examination, there may be significant changes required to your institution's policies and processes. Any changes to policy and protocol should be arrived at thoughtfully with a view to what would work best with your institution's current policies and culture.

Additionally, institutions in New York must be mindful of New York Education Law 129-B ("Enough is Enough"). We anticipate that there will be aspects of the USDOE final rule that will not fit comfortably with New York State law, and these issues will need to be carefully analyzed and addressed.

Regardless of when the final rule is published, Bond is prepared to provide tailored, institution-specific advice. We also will offer free webinars to assist clients in understanding the final rule and to provide a forum in which to discuss the more nuanced and complicated aspects of compliance.

If your institution has any Title IX related issues, or needs assistance in the meantime, please contact any [attorney](#) in the [Higher Education Practice Group](#) or the attorney in the firm with whom you are regularly in contact.



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