

U.S. Department of Education's Title IX Regulations

In May 2020, the U.S. Department of Education's Office for Civil Rights (OCR) announced new federal regulations governing how educational institutions handle reports of sexual harassment and violence. They require that Virginia Tech adopt new policies and procedures for handling reports concerning both students and employees. These new regulations solely address the handling of reports of sexual harassment and violence. Other parts of Title IX related work, including general discrimination and campus prevention education are not impacted.

Historically, Virginia Tech has incorporated Title IX's protections against discrimination based on sex into its institutional policy on Non-Discrimination, Policy 1025. We have built internal procedures for handling reports of harassment and misconduct based on previous, now rescinded, guidance from the Department of Education. Some aspects of our current policies and procedures are compliant with the newly issued regulations and will not require change. Other aspects of our process will need significant change. The implementation date of the new regulations is August 14, 2020.

Briefly, the most significant changes in the regulations include:

- The definition of conduct that constitutes sexual harassment under Title IX has been changed.
- The geographic jurisdiction covered by Title IX has been limited to conduct that occurs within the United States and on-campus, with limited jurisdiction over off-campus conduct that occurs where the university or a recognized student organization has substantial control.
- The regulations change the notice requirement from constructive to actual notice. In the past, the university was required to act whenever it was directly aware, *or reasonably should have been aware* of an incident of harassment or violence. Under the new regulations, the university's obligation to respond begins when an administrator with authority to take corrective measures directly receives a report.
- The regulations include more specific requirements for supportive measures and remedies. Supportive measures must be made available to reporting parties whether or not the underlying conduct meets the definition or jurisdictional scope defined in the regulations, and regardless of a reporting party's decision to make a formal complaint.
- The regulations map out a specific, prescribed grievance procedure for resolving complaints against both employees and students.
- Live hearings must be held before any determination of responsibility can be made in both student and employee cases. Both parties must be afforded the opportunity to appeal the outcome based on grounds set out in the regulations.
- Live hearings must include the opportunity for the parties' advisors to perform direct cross-examination of the other party and witnesses. The university is obligated to provide advisors to perform cross-examination for parties who do not have one.

The Department of Education's regulations create a baseline for addressing sexual harassment on campus. It is important to note that they do not set a best practice for caring for members of our community. In keeping with Virginia Tech's Principles of Community, the university should rise above that baseline in service to our students, employees, and community.