

TITLE IX

“NO PERSON IN THE UNITED STATES SHALL,
ON THE BASIS OF SEX, BE EXCLUDED FROM
PARTICIPATION IN, BE DENIED THE BENEFITS OF,
OR BE SUBJECTED TO DISCRIMINATION UNDER ANY
EDUCATION PROGRAM OR ACTIVITY RECEIVING
FEDERAL FINANCIAL ASSISTANCE.”

History of Title IX

Title IX In Focus

April 23, 2026



Presenter – Jessica Galanos

- Higher Education Attorney & Consultant
- Former in-house Deputy Title IX Coordinator, Interim Title IX Coordinator, and litigator
- Currently serve in interim roles when needed, and provide investigative and decision-maker services for civil rights matters

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Presenter – Kristin Scaduto

- Higher Education Attorney & Consultant
- Former Title IX Coordinator/Equity Officer
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- Currently provide interim services, conduct investigations, and serve on hearing panels for civil rights and student affairs matters

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Disclaimers

We can't help ourselves. We're Lawyers.

- We are not giving you legal advice.
- Consult with legal counsel regarding specific situations.
- You will receive slides for today's presentation after we've concluded.

And another one...

Specific to the Title IX In Focus Webinar Series

- The 2020 Title IX regulations require training on several specific subjects
- While the Title IX In Focus webinar series will discuss some of the required subject matter, none of these one-hour webinars will cover all of the material required for Title IX training compliance
- Work with your TIXC to make sure that you are trained in accordance with Title IX, Clery, and any applicable state law

Can We Post These Materials?

YES – Post away!

Institutions are required by §106.45(b)(10)(i)(D) to post materials used to train Title IX personnel on its website.



Agenda

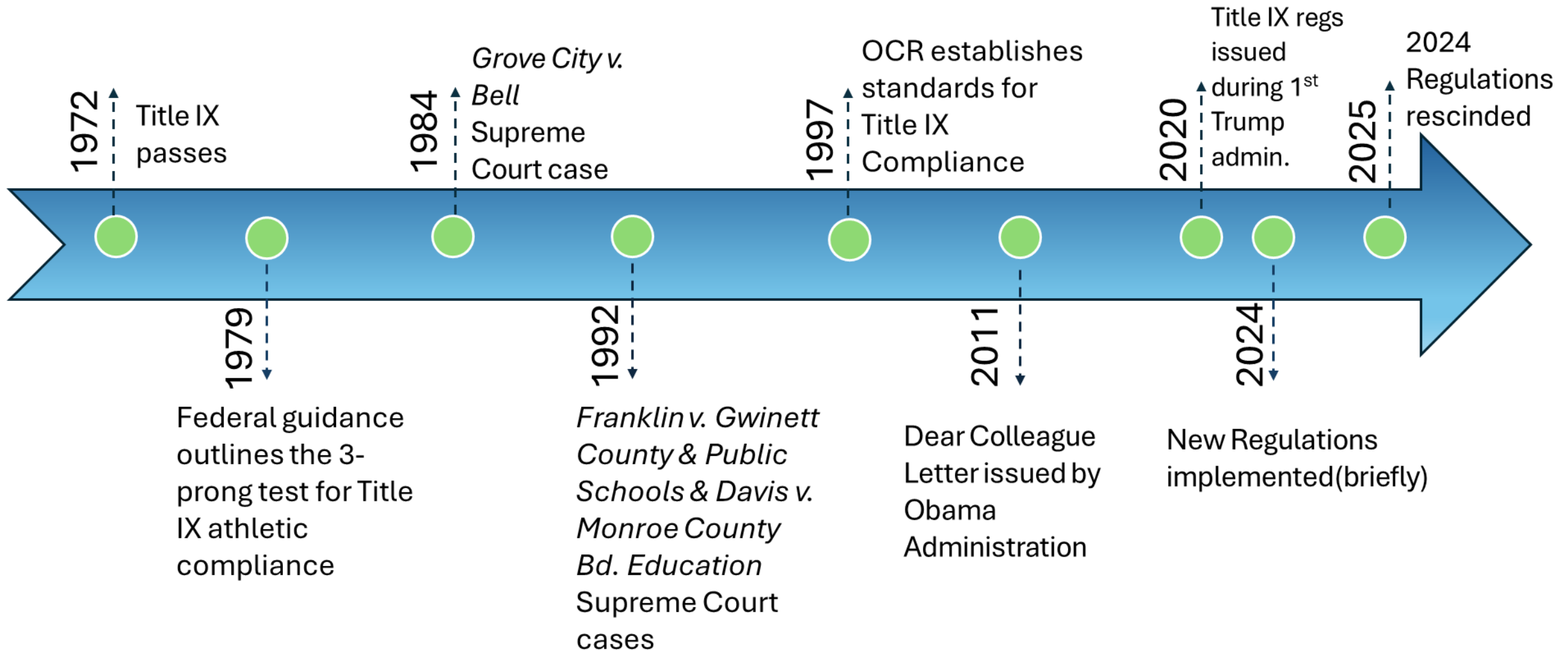
- History of Title IX (really, that simple!)



Poll:

- When did you start working in Title IX?

Timeline: Key Dates



Passage of Title IX -1972

- 20 U.S.C. 1681 prohibits discrimination *on the basis of sex* in educational institutions and programs receiving federal funding.
- Representative Patsy Mink is recognized as the major author and sponsor of the legislation.
- Post passage of Title IX, multiple amendments were proposed and rejected that would effectively limit its authority
 - In 1974, an amendment failed which exempted revenue producing sports from Title IX Compliance (Tower Amendment)
 - In 1975, a bill was proposed that sports revenues be used first to offset the cost of that sport before it would then support other athletic sports
 - This bill died before reaching the house floor
- Javits Amendment stating that Title IX regulations must include “reasonable provisions considering the nature of particular sports” is included in Final Legislation

1975- 1980

- 1975 - Title IX Regulations passed by Congress. The regulations require that high schools and colleges sign a document indicating their compliance within 3 years.
- 1976 – NCAA files suit challenging the legality of Title IX alleging that no athletic programs receive federal funding. The suit was dismissed.
- 1977 – *Alexander v. Yale* (631 F.2d 178)
 - First case to argue that sexual harassment was discrimination on the basis of sex
 - 5 students and 1 faculty member sued Yale for its failure to institute mechanisms and procedures to address sexual harassments complaints
 - Plaintiffs sought injunctive relief in the form of a court order requiring Yale to institute a grievance procedure
 - Court dismissed all but 1 claim on a motion to dismiss. The sole remaining Plaintiff lost at trial on the facts and jurisdictional issues (mootness), but a key issue was determined by the District Court, that academic advancement conditioned upon submission to sexual demands constitutes sex discrimination in education.

1975- 1980 continued

- 1979 –United States Department of Health, Education and Welfare introduces the 3-prong test for Title IX compliance
 - [Title IX and Intercollegiate Athletics](#)
 - Also outlines how compliance will be assessed regarding recruitment, general athletic program components, and athletic scholarships
- 1980 – Office for Civil Rights given oversight of Title IX

1980 -1988

- 1980 – *Grove City v. Bell* (465 U.S. 555)
 - The Executive Branch Dept. (predecessor to ED) required Grove City College to file an assurance of compliance stating it was following Title IX regulations due to the funding approximately 2,200 students received through the Federal Government Basic Education Opportunity Grant program.
 - Grove City College refused on the grounds that it did not receive federal funding.
 - The federal government initiated formal proceedings to terminate the students' grants. Grove City College and student Plaintiffs filed suit in the US District Court for the WD Pennsylvania asking the court to overturn the termination of the student grants and order the Dept. to not require a federal assurance of compliance

1980 -1988 continued

- When Grove City lost at the US Court of Appeals, they petitioned the US Supreme Court.
 - A 6-3 majority of the Court held that when students receive federally funded grants, Title IX requirements only apply to the specific program or activity that was benefitted by the grants. In such instances, Title IX requirements do not apply across the entire institution.
 - In Grove City, Title IX compliance could only be applied to student federal aid program because the grants benefitted that program.
- 1988 – Civil Rights Restoration Act passed
 - The act makes it mandatory that any school receiving federal funding is subject to Title IX in its entire operation, not just in the program or activity receiving the funding
 - Overturns the *Grove City* ruling
 - President Reagan vetoed the bill but was overridden by Congress.

1989-1994

- 1992 –

- Franklin v. Gwinnett County Public Schools (503 U.S. 60)
- United States Supreme Court held that monetary damages are available under Title IX because there is an assumption that any appropriate relief is available to remedy the violation of a federal right

- 1993

- Tyler v. Howard University
 - Female basketball coach filed a discrimination suit against Howard University because the University failed to treat men's and women's teams equally, including inadequate facilities compared to men's basketball teams and her own salary was half that of the Men's coach.
- First monetary award by a jury in a Title IX case
- Other causes of action include violations of the Equal Pay Act and the DC Human Rights act

1989-1994 continued

■ 1994

- Equity in Athletics Disclosure Act passed requiring schools with federal financial aid programs to provide information on gender equity, including roster sizes and budgets
- Kelley v. Board of Trustees of University of Illinois
 - First lawsuit by a male Plaintiff alleging violations of Title IX alleging gender discrimination
 - The University, on the other hand, argued that it cut the male programs to ensure that its programs remained substantially proportionate to the male student population, as required by Title IX
 - District Court granted summary judgment and the Court of Appeals affirmed, holding that the University did not violate Title IX or the Equal Protection Clause.
 - The Court ruled that the University's actions were consistent with policy interpretation, as the men teams generally had more athletic opportunities and that those opportunities were substantially proportionate to enrollment
 - In dismissing the EP claim, the court ruled that limited consideration of gender was permissible as it was substantially related to the objective of eliminating discrimination

1995-2000

- 1996
 - Cohen v. Brown University – University was found to have violated Title IX by failing each of the 3 prongs of Title IX for athletic compliance

- 1997
 - OCR issued “Sexual Harassment Guidance”
 - Clarified that schools have an obligation to redress any harassment - application to 3rd parties
 - Defined two categories of harassment – Quid Pro Quo and Hostile Environment (severe or pervasive)
 - Required schools take immediate, effective steps to investigate, stop the harassment and prevent its recurrence

1995-2000 (cont.)

- 1998 - Gebser v. Lago Vista Independent School District (524 U.S.274)
 - Held that damages may not be recovered for teacher on student harassment unless a school district official who had the authority to institute corrective action had actual of, and was deliberately indifferent to, harassment
 - Rejected Plaintiff's arguments of *respondeat superior* and constructive notice
- 1999 - Davis v. Monroe Board of Education –(526 U.S. 629)
 - In a 5-4 Decision, the United States Supreme Court held that a private right of action exists against a school for acting with deliberate difference to known acts of sexual harassment
 - Limited to circumstances where the recipient of federal funding exercises substantial control over both the harasser and the context in which the known harassment occurs.
 - The United States Supreme Court held that liability may exist for schools that act with *deliberate indifference* to harassment that is so severe , pervasive and objectively offensive that it deprives access to the educational opportunities or benefits provided by the school.

2000-2010

- 2000
 - OCR issued updated guidance on [Sexual Harassment](#) regarding an institution's responsibility to take action to prevent, eliminate, and remedy sexual harassment occurring in its programs.
 - Codifies the standards outlined in *Gebser* and *Davis*
- 2005 –
 - Jackson v. Birmingham Board of Education (544 U.S. 167)
 - United States Supreme Court held that Title IX's private right of action encompasses claims of retaliation against an individual because they complained about sex discrimination
 - Does not require that that victim of retaliation also be the victim of the Discrimination
- 2009
 - Fitzgerald v. Barnstable School Committee (555 U.S.246)
 - United States Supreme Court held that Title IX does not preclude claims under §1983
 - Reversed the Court of Appeal decision which held that "Congress saw Title IX as the sole means of vindicating the constitutional right to be free from gender discrimination perpetrated by educational institutions"

- 2011
 - OCR issued Dear Colleague Letter on Sexual Assault
 - outlined educational institutions obligation to protect students from sexual harassment and sexual violence under Title IX.
 - Guidance states that even one instance of sexual misconduct could constitute a hostile educational environment and trigger Title IX obligations
 - Required training for employees about how to identify and report sexual harassment and sexual violence
 - Clarified that schools may have an obligation to respond to student on sexual harassment happening off school grounds outside of an educational program or activity if a student experienced continued effects of the harassment in the educational program

2011-2016 (Cont.)

- OCR issued continued guidance on obligations of recipients of federal funding
 - 2013 – specific to retaliation
 - 2013 – specific to pregnant/parenting students
 - 2014 – clarifies that Charter Schools are subject to the same obligations that apply to other schools
 - 2015 – clarifies that school districts, colleges and universities must assign at least one employee as a designated Title IX Coordinator
- 2016 –
 - ED/DOJ issued joint guidance on protecting transgender students under Title IX
 - Clarified that prohibition of discrimination based on sex also applies to a student's gender identity

2016-2020

- 2017 –
 - Recission of significant amounts of prior OCR guidance
- 2020
 - August 14, 2020 – Implementation of Title IX regulations
 - Eliminated the single investigator model
 - Required cross-examination by advisors
 - Limited “Title IX Jurisdiction”
 - Required a Signed Formal Complaint

2021- Present

- 2022 – then President Biden announces new Title IX regulations
- 2024 - Title IX Final Rule, implementation date of August 1, 2024
 - Litigation ensues, particularly around the expansion of the definition of sex
- 2025 –
 - Federal District Court vacated the 2024 Final Rule
 - Return to 2020 Regulations
 - Executive Order announcing the current administration policy recognizes “two sexes, male and female”
 - Continued focus on Title IX as it relates to transgender students’ participation in sport
 - In 2025, OCR resolved zero k-12 sexual harassment or assault complaints

Upcoming Title IX In Focus Webinars

- All of these are free and held at 12:00 p.m. CT/1:00 p.m. ET
- Sign up at www.brickergraydon.com/events
 - May 28th – Title IX Litigation Update

Next Year's Title IX In Focus Webinars

- All of these are free and held at 12:00 p.m. CT/1:00 p.m. ET
 - Sign up at www.brickergraydon.com/events
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| • Aug. 27, 2026 – What HR Needs to Know About Title IX | • Feb. 25, 2027 – Understanding Neurodivergence in Title IX Investigations |
| • Sept. 24, 2026 – Pregnancy and Parenting | • March 25, 2027 – FERPA and Public Records Considerations in Title IX Cases |
| • Oct. 29, 2026 – Peer-on-Peer Retaliation | • April 29, 2027 – Sexualized Hazing and Title IX |
| • Nov. 19, 2026 – Title IX Litigation Update | • May 27, 2027 – Title IX Litigation Update |

Upcoming Higher Ed Trainings

- Level 2 Title IX Decision Maker Training
 - April 23 & April 24, 2:00-5:00 PM EST
- Level 2 Title IX Informal Resolution Training
 - May 1, 2:00-5:00 PM EST
- Level 2 Title IX Coordinator Training
 - May 5 & May 6, 2:00-5:00 PM EST

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