

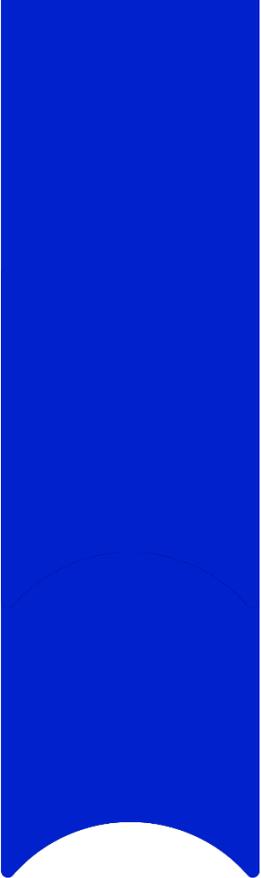


Review of Department of Education's July 2021 Q&A on the Title IX Regulations

Joshua W. B. Richards, Saul Ewing Arnstein & Lehr LLP

Agenda

- Brief recap of the Q&A and big picture impact.
- What parts of the final rule did the Department emphasize in the Q&A?
- Where did the Department expand on or alter prior guidance or regulations?
- What are the most significant compliance challenges associated with the Q&A?



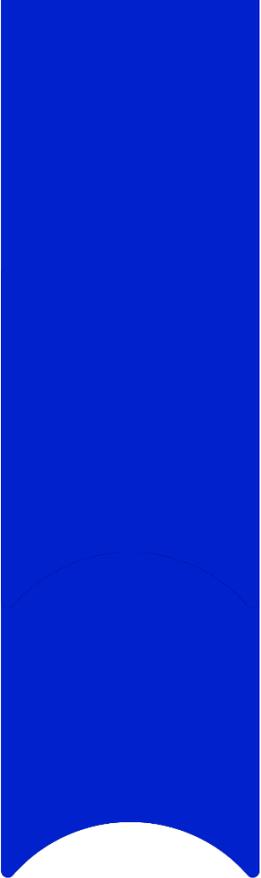
What's the big picture with respect to the Q&A?

How will the current Department enforce the prior administration's rule?

Big Picture?

No major substantive changes.

- Reiterated substance and definitions in the final rule
- Did not rescind any subregulatory guidance.



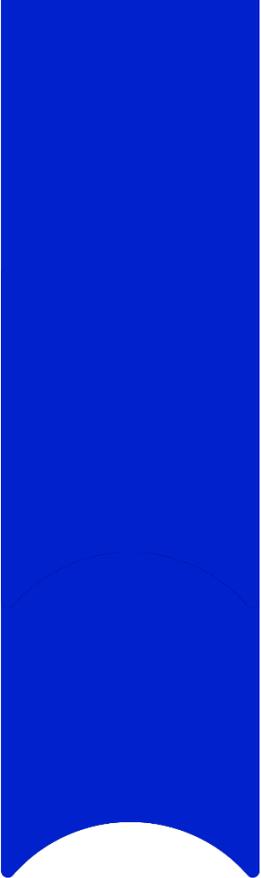
What points did the Department reiterate?

Key parts of the final rule that the new administration emphasized in the Q&A.

Here's what hasn't changed.

Major points in the final rule that the Department appears to remain committed to.

- Response to conduct that falls outside Title IX jurisdiction is permitted.
- Title IX jurisdiction remains limited.
- Reporting obligations are unchanged.
- The hearing process, including cross examination, remains unchanged.



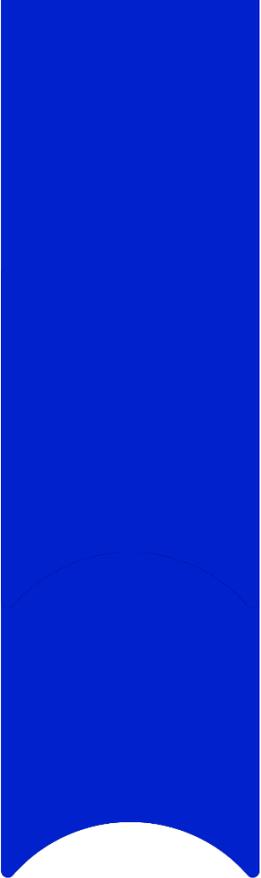
Where did the Department take a bit of latitude?

*New guidance on our response obligations
that adds to or alters the prior guidance.*

New instructions.

Some areas of revised guidance and clarification from the Department include:

- Title IX Coordinator formal complaint obligations
- Limitations on cross examination by advisors
- What about sex discrimination that's not sexual harassment?



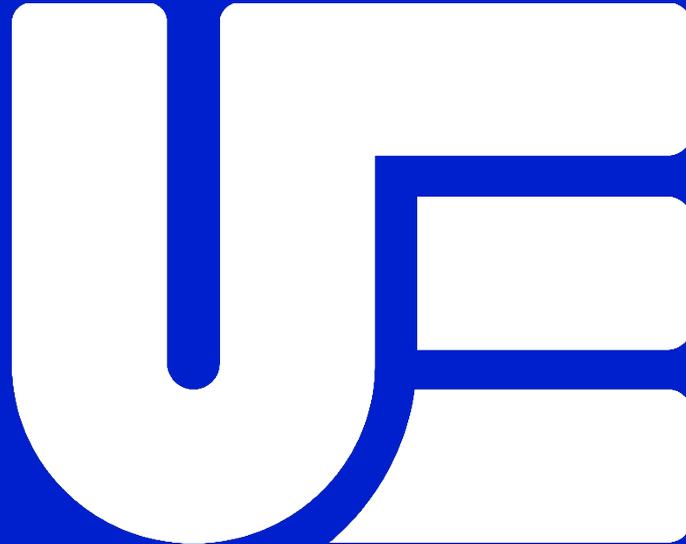
What are the most significant compliance challenges arising from the Q&A?

Complications and things we need more information on.

Challenges.

- Exclusion of untested statements – how will this shake out?
- Retroactivity and responses to pre-8/14/2020 conduct

Stay Connected



*The material appearing in this presentation is for informational purposes. It shouldn't be considered legal or coverage advice or used as such. For legal advice, contact your legal counsel. For coverage-related questions, contact your broker.
Copyright © 2021 by United Educators Insurance, a Reciprocal Risk Retention Group. All rights reserved.*