

HIGHER EDUCATION — TITLE IX RULE “The Final Rule”

Dear Higher Education Friends:

On May 6, 2020, the Department of Education published the highly anticipated final Title IX rule, which becomes effective August 14, 2020 (the “Final Rule”). The Final Rule, including an explanatory preamble, is 2,033 pages, highly specific, and very detailed. At Rouse Frets we have worked diligently to familiarize ourselves with the Final Rule, how it applies to our clients, and how we can help our clients become compliant. The following is a list of some of the Final Rule’s details and requirements:

- Detailed and lengthy record keeping requirements.
- Training requirements.
- Publication of training, grievance policy, and Title IX Coordinator contact information.
- Preemption of conflicting state or local investigation requirements (Final Rule controls).
- Expansion of regulation to educational programs or activities, including locations owned or controlled by a student organization that is officially recognized by the institution.
- Revision of definitions of Sexual Harassment, Hostile Environment Harassment, and Actual Knowledge.
- Focus on “actual knowledge,” meaning notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school.
- Procedural requirements for Title IX Coordinators who receive actual knowledge of sexual harassment.
- Free, non-disciplinary supportive measures.
- Limited circumstances where a respondent (the accused) can be removed.
- Mandatory grievance policy elements, including certain requirements upon the filing of a complaint, during an investigation or a hearing, and upon appeal, or alternatively, during the use of a voluntary informal resolution process.
- Specific complainant requirements triggering investigation.
- Prohibitions against retaliation.

Schools should become familiar with the new requirements imposed by the Final Rule and make necessary changes to handbooks, catalogs, and policies. We would be happy to discuss your school’s particular circumstances and help you draft compliant policies, train your employees, and understand your responsibilities under the Final Rule. Do not hesitate to contact us if you have any questions about the Final Rule or other issues your school is facing.

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Very truly yours,

The Rouse Frets Higher Education Group

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About Us

Rouse Frets’ higher education law group has over 80 years of experience. We understand the industry and how to protect our clients’ interests. For more information about the firm and our attorneys, please visit our website at www.rousepc.com.

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