

A New Title IX Era Brings Confusion and Frustration

Thursday, August 1, 2024

Leslie Gomez and Gina Maisto Smith were quoted in an Inside Higher Ed article discussing the Biden administration's new Title IX regulations, which have sparked significant legal challenges across the country. Aimed at enhancing protections for LGBTQ+ students and revising how colleges handle sexual harassment cases, the new rules officially took effect on August 1. However, six federal judges have issued injunctions temporarily blocking enforcement in 26 states. Many institutions are delaying changes or selectively applying uncontested parts of the regulations, creating frustration and confusion about whether to enforce the new Title IX revisions or adhere to the 2020 rules.

Leslie suggested that guidance from the Department of Education for institutions under an injunction would be “extraordinarily helpful,” noting that the department's “pointers for implementation” were only directed at colleges fully implementing the new rule. Gina described the regulations as “extraordinarily disruptive, given the cacophony of issues that higher education is navigating,” sharing that the injunctions have only added to the issues, “causing regulatory whiplash of seismic proportions.”

Leslie advised colleges to “focus on intake, outreach, care, and support” to address the needs and complaints of their campus community. “Details of policy are less critical than the fact that we’re hearing a report or concern or complaint,” she said. She emphasized taking action to eliminate harmful behavior, prevent its recurrence, and address its impacts.

Despite the absence of definitive answers, colleges are pressed to balance compliance with the need to protect student rights while navigating potential litigation or federal investigations. Some are cautiously implementing elements of their planned policy changes within the bounds of the injunctions, while others argue that compliance should be seen as the minimum standard, advocating for campuses to exceed requirements to ensure student safety.

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