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2024 Title IX Rule Vacated Nationwide: Next Steps for Title IX and the Clery Act

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Yesterday, a federal district court in Kentucky [issued a ruling](#) in *Tennessee vs. Cardona*, one of the several lawsuits against the 2024 Title IX Regulations (“2024 rule”). This lawsuit was filed in the 6th Circuit by five plaintiff states. If you recall, a preliminary injunction was issued, which halted schools in these states from adopting the 2024 rule. NACCOP expected that a court would hear the matter and either make the temporary injunction permanent (or not), but instead, the court ordered the new 2024 rule vacated.

What does this mean with regard to Title IX?

Right now, it appears that schools should exclusively use their 2020 Title IX policies and procedures for any new reports they receive, regardless of when the conduct reportedly occurred. In other words, institutions should use the policies and procedures developed to comply with the 2020 Title IX Regulations (“2020 rule”). However, we have a pending inquiry with the U.S. Department of Education’s (ED) Office for Civil Rights (OCR) regarding:

- whether these changes should be implemented immediately,
- what institutions should do with complaints institutions are actively investigating and resolving under the policies and procedures developed to comply with the 2024 rule, and
- what will happen (if anything) with the complaints already resolved under the policies and procedures developed to comply with the 2024 rule.

We will share OCR’s response when, and if, we obtain one.

Of course, when reverting back to exclusive use of the Title IX policies and procedures developed to comply with the 2020 rule, your institution should be attuned to any state laws that may establish additional obligations beyond those contained in the 2020 rule. Some jurisdictions passed state laws following enactment of the 2020 rule that created additional substantive and procedural requirements that exceeded requirements established in the 2020 rule.

In the interim, we advise NACCOP members to speak to your General Counsel’s Office to ask what they would like you to do with any pending complaints (i.e., whether you should continue to resolve those complaints using the procedures that were in place prior to yesterday’s ruling, or, if you should reissue notice to the parties and proceed in accordance with the 2020 rule.)

Additionally, now is the time to ensure the policies and procedures you developed to comply with the 2020 rule *fully comply* with that rule. Many of you already have taken steps to ensure the policies and procedures required under the 2020 rule are compliant at your institution, as these policies and procedures were either the only Title IX policies and procedures your institution utilized (if your institution was subject to an injunction prohibiting your institution from implementing the 2024 rule), or these procedures *were still applicable* to institutions that were subject to the 2024 rule because the 2024 rule required institutions to utilize the policies and procedures developed to comply with the 2020 rule to resolve complaints that occurred prior to August 1, 2024.

As your institution looks to update its policies and procedures to align with the 2020 rule (and remove any provisions that pertained to the 2024 rule), don’t forget to modify other institutional policies, procedures, and Codes, where necessary, since there were many incidents of “non-Title IX” harassment that may have reported to your institution that did not fall under the jurisdiction of the 2020 rule.



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Furthermore, remember that the procedures for institutional disciplinary action that your institution follows in cases of alleged dating violence, domestic violence, sexual assault, or stalking (“VAWA offenses”) must adhere to the requirements of the Clery Act set forth by [34 CFR 668.46\(k\)](#) *regardless of whether Title IX applies*.

What does this mean with regard to the Clery Act?

Nothing about the judge’s ruling affects your institution’s responsibilities under the Clery Act. Furthermore, if your institution had not previously incorporated policies and procedures relating to the 2024 rule into your Annual Security Report (ASR), yesterday’s ruling should have no immediate effect on your current ASR.

However, those institutions whose ASRs reflected policies and procedures developed to comply with the 2024 rule will need to make changes to the VAWA-related policy statements. Specifically, the institution will need to revise the current ASR to remove any content that is now obsolete (i.e., content that relates to institutional disciplinary proceedings applicable to reports of VAWA offenses that were governed by the 2024 rule).

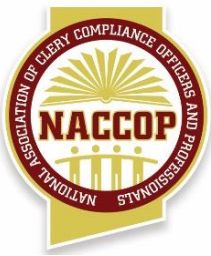
Here again, your institution should have already published in the 2024 ASR relevant policies and procedures that may be utilized for cases that occurred prior to August 1 (for which the policies and procedures developed to comply with the 2020 rule applied). Your institution also should have included any policies and procedures that pertain to institutional disciplinary proceedings applicable to reports of VAWA offenses that were governed by neither the 2020 or 2024 rules. Therefore, the steps most institutions who previously complied with the 2024 rule by including applicable policies and procedures into their 2024 ASRs will need to take is to simply remove content relating to the 2024 rule. This will mean your institution’s revised Annual Security Report will only contain content relating to the 2020 rule and non-Title IX policies and procedures that will be used to resolve allegations of dating violence, domestic violence, sexual assault, or stalking when the 2020 rule doesn’t apply.

While it is unknown at this time whether ED will issue an Electronic Announcement or Dear Colleague Letter to clarify timing of next steps related to revising ASRs, we urge institutions to revise, republish, and redistribute their ASRs as soon as practicable following the institution’s decision to cease reliance on any policies and procedure that were developed to comply with the 2024 rule.

As a reminder, when an institution makes changes to its safety and security policies after publishing its ASR, ED expects institutions will update and republish their report to ensure the information contained therein accurately reflects the institution’s current policies and procedures. Once revised, institutions must redistribute the Annual Security Report to apprise the campus community of the updated information. Clery Compliance Officers will need to actively communicate and collaborate with their institution’s Title IX Coordinator to determine when changes will be implemented and therefore when revisions to the Annual Security Report can be published. Importantly, institutions should be aware that ED’s Clery Group expects institutions to adhere to the policies and procedures disclosed in the current Annual Security Report when resolving allegations of dating violence, domestic violence, sexual assault, or stalking. Therefore, it is critical for institutions to quickly update applicable policy statements in the Annual Security Report once the institution determines that changes in institutional policy or practice are necessary.

Next Steps for NACCOP

NACCOP (and D. Stafford & Associates) will be adjusting all 2025 Title IX classes and webinars to focus on the 2020 rule rather than the 2024 rule. All classes will be updated as needed to capture up-to-date information as we receive it from OCR and the Clery Group.



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Don't forget—[NACCOP's 4th Annual Mid-Year Virtual Conference](#) (on January 22-23) has many sessions that will look at Title IX and the Clery Act as they relate to the VAWA offenses. We are working feverishly now to rewrite sessions that are impacted by this change and will continue updating information up until the day of the event to bring you the most current information we have available. If you have not registered for this training opportunity, we strongly encourage you to do so [here](#).

ED officials are participating in the Mid-Year Conference, so we will have an opportunity to hear the latest information from them and to ask questions.

We look forward to continuing to serve you and will keep you posted as developments occur.

About NACCOP

The National Association of Clery Compliance Officers and Professionals (NACCOP) provides a professional association for Clery Compliance Officers and Professionals to collaborate with each other, share resources and best practices. Members are also offered opportunities to participate in professional development engagements which support colleges and universities in their efforts to comply with the Clery Act. NACCOP delivers members with resources to enhance their knowledge of the Clery Act by offering education and training opportunities for the employees who are acting as Clery Compliance Officers on college and university campuses as well as information about Clery related news and legislative updates. For more information, or to join NACCOP, visit www.naccop.org.

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