



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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LEGAL UPDATE

October 22, 2020

To: Superintendents, Member School Districts (K-12)
From: Monica D. Batanero, Sr. Associate General Counsel ^{MDB}
Subject: Posting of Title IX Training Materials
Memo No. 64-2020

One of the many new requirements of the Title IX regulations that went into effect on August 14, 2020, is that each recipient must publish on its website the training materials used to train its Title IX Coordinator, Investigator, Decision-Maker, and Informal Resolution Facilitators.

In a previous legal update,¹ our office recommended that if the training materials were proprietary, and thus copyrighted, you list the materials by its title, but not make them available on your website. Additionally, we recommended that you further state on your website that the materials may be available for inspection with the Title IX Coordinator.

The Office for Civil Rights (“OCR”), which enforces Title IX, has clarified that the Title IX regulations do not permit a school to choose whether to post the training materials or offer a public inspection option. OCR has taken the following position:²

A school must post on its website: “*All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.*” Posting anything less than “all materials” on the website is insufficient. Accordingly, merely listing topics covered by the school’s training of Title IX personnel, or merely summarizing such training materials is not the same as posting “all materials.”

If a school’s current training materials are copyrighted or otherwise protected as proprietary business information (for

¹ Memo No. 32-2020, *New Title IX Regulations Effective August 14, 2020*

² <https://www2.ed.gov/about/offices/list/ocr/blog/20200518.html>

example, by an outside consultant), the school still must comply with the Title IX Rule. This may mean that the school has to secure permission from the copyright holder to publish the training materials on the school's website.

Nothing in the Title IX Rule abrogates intellectual property rights. If a school is unable to secure permission from a third party to post copyrighted training materials, then the school must create or obtain training materials that can lawfully be posted on the school's website.

Our office has therefore made available on our website our Title IX materials and instructions on how to post our Title IX training materials to your website.³ The website makes clear that the materials are proprietary and copyrighted and that members of the public may only inspect and review the training materials.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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³ <https://sclscal.org/title-ix/>