



**Compliance, Audit, Risk Management and Legal Affairs (CARL) Committee**  
**August 27, 2024**  
**10:15 a.m.**

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**Information Item**

CARL-4      Information Items

**Background Information**

The attached summary of 2023-2024 Audit Activities and a memorandum regarding the new Title IX Rule are being provided to the CARL Committee as informational items.

**Attachments**

- 4.1      Summary of 2023-2024 Audit Activities vs. Work Plan
- 4.2      Memorandum regarding New Title IX Rule

CARL 4.1 Internal Audit Plan Summary – Fiscal Year 2024

No.	Specific Audits	Included in Audit Plan	Status	Report / Completion Date	Reported Observations	Status of Finding Resolution
<b>Audits/Reviews of Internal Controls</b>						
1	Weatherspoon Arts Foundation	FY2024	Completed	8/5/2024	Reported art collection inventory is accurate. No findings	N/A
2	Accounts Receivable	FY2024	Removed	N/A	N/A	N/A
<b>Compliance Audits</b>						
3	Athletics Reporting	FY2024	Removed	N/A	N/A	N/A
<b>Performance/Operational Audits</b>						
4	Financial Aid-Timeliness of Awards Processing	FY2024	Removed	N/A	N/A	N/A
5	HR – Benefits Reconciliation	FY2024	In progress	N/A	N/A	N/A
<b>Consultation &amp; Advisory</b>						
6	ITS Consulting	FY2024	Completed	6/21/2024	ITS implemented corrective action to address findings in the NC OSA Audit Report.	N/A
7	Procurement Consulting	Added to FY2024	Completed	4/17/2024	The risk of noncompliance with statewide purchasing laws and regulations is low because Procurement Services has implemented strong controls to mitigate risks of non-compliance.	N/A
<b>Follow-up Audits/Reviews</b>						
8	Follow-up HR – I-9 Compliance	FY2024	Completed	12/21/2023	The I-9 employment verification process was not timely for 18 of 353 (5.1%) of the I-9s processed.	IA will conduct a follow up review in FY2025.
9	Follow-up Travel Review	FY2024	FY2025	N/A	N/A	N/A
<b>Special Assignments</b>						
A	Key Performance Indicators	FY2024	Completed	7/21/2023	N/A	N/A
B	Update Audit Charter	FY2024	Completed	10/10/2023	N/A	N/A
C	Update Audit Manual	FY2024	In progress	N/A	N/A	N/A
D	Quality Assurance and Improvement Program	FY2024	Completed	1/15/2024	N/A	N/A
E	Risk Assessment	FY2024	Completed	8/14/2023	N/A	N/A
F	FY2024 Annual Audit Plan	FY2024	Completed	8/14/2023	N/A	N/A
G	Audit Software & Template Updates	FY2024	Completed	6/30/2024	N/A	N/A

No.	Specific Audits	Included in Audit Plan	Status	Report / Completion Date	Reported Observations	Status of Finding Resolution
H	Self-Assessment Internal Controls Fin Reporting	FY2024	Completed	6/27/2024	N/A	N/A
I	Committee Work	FY2024	Ongoing	N/A	N/A	N/A
J	SAMM Tool	FY2024	Completed	7/15/2023	N/A	N/A



**To:** Chancellor and Chancellor's Council

Franklin D. Gilliam, Jr., Chancellor  
J. Alan Boyette, Interim Provost & Executive Vice Chancellor  
Catherine A. Akens, Vice Chancellor for Student Affairs  
Myla Edmond, Interim Vice Chancellor for Strategic Communications  
Beth N. Fischer, Vice Chancellor of University Advancement  
Donna R. Heath, Vice Chancellor for Information Technology Services  
Andrea G. Hunter, Chancellor's Fellow for Campus Climate  
Brian Mackin, Director of Intercollegiate Athletics  
Jeanne Madorin, Associate Vice Chancellor and Chief Human Resources Officer  
Wade Maki, Chancellor's Fellow for Strategic Planning  
Tina McEntire, Vice Chancellor for Enrollment Management  
Sherine O. Obare, Vice Chancellor for Research and Engagement  
Robert J. Shea, Jr., Vice Chancellor for Finance and Administration  
Waiyi Tse, Chief of Staff

**FROM:** Office of Institutional Integrity and General Counsel

**DATE:** August 1, 2024

**RE:** *Overview of U.S. Department of Education's 2024 Title IX Final Rule and Recommendation for Implementation*

**I.** Purpose

The purpose of this memorandum is to provide the Chancellor and the Chancellor's Council an overview of the 2024 Title IX Final Rule and its expected impact on UNC Greensboro as well as to provide the implementation recommendations of the Office of Institutional Integrity and General Counsel (OIIGC).

**II.** Executive Summary

On April 19, 2024, the U.S. Department of Education (U.S. DoE) issued a new Title IX Rule with an effective date of August 1, 2024. The new rule requires that UNC Greensboro adopt a new Title IX policy and implementing procedures.

The new rule expands:

1. The definitions of what constitutes a violation of Title IX, specifically the revision of the definition of hostile environment harassment as severe OR pervasive, rather than as severe AND pervasive;
2. The scope of geographical coverage to conduct that is subject to the recipient's disciplinary authority (contrary to focusing, as the 2020 Rule did, on the physical location where the conduct occurred);
3. The training requirements of the University by mandating that the University train "all employees" annually.

Numerous lawsuits have been filed to prevent implementation and enforcement of the new rule. As of August 1, federal judges in twenty-six states<sup>1</sup> have issued preliminary injunctions that prevent implementation and enforcement of the 2024 Title IX Final Rule. The State of North Carolina is not under a statewide injunction. However, United States District Court for the District of Kansas enjoined "the schools attended by the members of Young America's Foundation or Female Athletes United, as well as the schools attended by the children of the members of Moms for Liberty."<sup>2</sup> UNC Greensboro was named in the court filings associated with members of the plaintiff organizations.

On August 1, 2024, the Office for Civil Rights announced that they will enforce the 2020 rule against those subject to the injunction, including UNC Greensboro. As such, the Department of Education will apply the 2020 rule to our program until the injunction is resolved. Notwithstanding that, it is our opinion that the University is best served by complying with the new rule because it better serves the interest of the University, and the direction decided by the multidisciplinary summer working group. Prior to the issuance of the new rule, UNC Greensboro was considering policy changes regarding mandatory training and increased reporting. This has already begun.

The OIGC anticipates continued litigation in this area and will continue to monitor these cases.

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<sup>1</sup> Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming

<sup>2</sup> State of Kansas v United States Department of Education, Case No. 24-4041-JWB, July 2<sup>nd</sup> 2024, 47.

### III. Discussion

#### A. Background

Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, was signed into law more than 50 years ago. In the decades since, several political administrations have implemented regulations regarding its enforcement. Notably, in November 2018, during the Trump Administration, the U.S. DoE issued a Notice of Proposed Rulemaking ("NPRM") amending regulations implementing Title IX. The Final Rule, which currently regulates how UNC Greensboro reviews, investigates, and adjudicates allegations of sexual harassment, was issued in May 2020 with an effective date of August 14, 2020.

On July 12, 2022, the U.S. DoE issued a subsequent NPRM. Following the 2022 NPRM, the U.S. DoE received and reviewed more than 240,000 comments to inform the 2024 Title IX Final Rule. On April 19, 2024, the Department released the 2024 Title IX Final Rule, with an effective date of **August 1, 2024**.

#### B. U.S. Department of Education's 2024 Title IX Final Rule and Application to UNC Greensboro Policy and Procedures

The U.S. Department of Education amended the regulations implementing Title IX to align regulatory requirements with Title IX's nondiscrimination mandate. Of the notable changes, the amendments:

- a. Clarify and expand the scope and application of Title IX;
- b. Revise the definition of hostile environment harassment as severe OR pervasive, rather than as severe AND pervasive;
- c. Expand the scope of sexual harassment to include sex stereotypes, sex characteristics; and
- d. Extend coverage to conduct that is subject to the recipient's disciplinary authority (contrary to the 2020 Rule's focus on the physical location where the conduct occurred).

The U.S. Department of Education identified several major areas in the 2024 Title IX Final Rule, outlined below, which align with current University practices.

- a. *Full Protection from Sex-Based Harassment:* Add and revise definitions in policies and procedures;
- b. *Prompt and Effective Action:* End any known sex discrimination, prevent its recurrence, and remedy its effects;
- c. *Supportive Measures:* Offer to restore or preserve a party's access to the institution;
- d. *Pregnancy or Related Conditions:* Offer reasonable modifications for students, lactation breaks for employees, and access to private lactation spaces for students and employees;
- e. *Fair Process:* Conduct reliable and impartial investigations;
- f. *LGBTQI+ Students, Employees, and Others:* Prohibit discrimination and harassment based on sexual orientation, gender identity, and sex characteristics;
- g. *Sex-separate activities:* Prohibit separate or different treatment based on sex that subjects individuals to more than de minimus harm;
- h. *Retaliation:* Prohibit intimidation, threats, coercion, or discrimination for those participating in Title IX procedures;
- i. *Parental/ Guardian Rights:* May act on behalf of minor child;
- j. *Communication:* Inform community of nondiscrimination policies and procedures;
- k. *Sharing Personal Information:* Prohibit disclosures of personally identifying information.

For UNC Greensboro, the most significant operational change in the 2024 Title IX Final Rule is the mandatory training and required reporting for all employees:

- a. *Mandatory Training:* Employees must complete required training, including obligations, scope, and information-sharing requirements, at time of hire and annually thereafter;
- b. *Required Reporting:* Employees must notify the Title IX Office and/or provide the Title IX Office's contact information.

### C. Preliminary Injunctions Impacting Implementation

Ongoing litigation across the country has changed the implementation of the 2024 Title IX Final Rule. Based on the opinions rendered by individual federal district courts, twenty-six states are currently prohibited from enforcement.

The United States District Court for Kansas exempted a narrow group from implementation of the 2024 Rule. This injunction applies to schools nationwide who have students associated with three organizations: Moms for Liberty, Young America's Foundation (YAF), and Female Athletes United. According to the court filings, UNC Greensboro is enjoined from implementing the 2024 Title IX Final Rule. While YAF was an officially recognized student group in the 2022-2023 Academic Year, they are not currently registered.

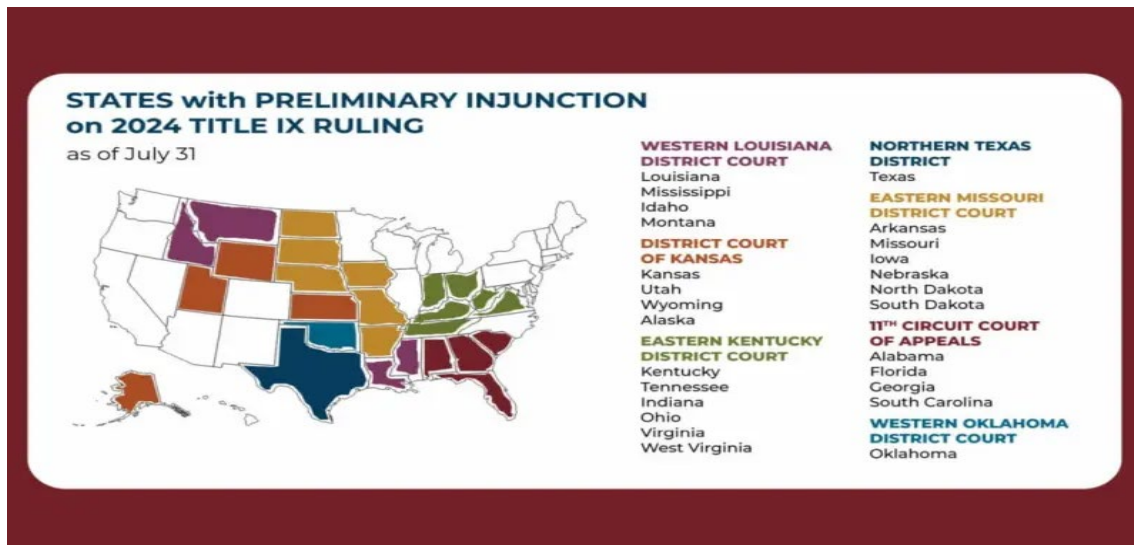


Figure 1 highlights the states currently affected by preliminary injunctions issued by five federal district courts. As litigation proceeds, more states may be enjoined from enforcing the 2024 regulations.



## D. UNC Greensboro Implementation

In preparation for the implementation of the 2024 Title IX Final Rule at UNC Greensboro, a collaborative summer work group worked to highlight similarities and differences between the 2020 and 2024 Title IX regulations, identify impacts and required resources on UNC Greensboro campus, and synthesize a plan for implementation of the 2024 Title IX Final Rule.

The collaborative work group was composed of:

- Jennifer Aguilar, Senior Associate Athletic Director;
- Eric Boyce, UNCG Chief of Police;
- Tim Burkhalter, Associate Dean of Students;
- Brett Carter, Associate Vice Chancellor for Student Affairs and Dean of Students;
- Murphie Chappell, Associate General Counsel;
- Tina Chestnut, Title IX Coordinator;
- Jennifer Cotto-Ecklund, Assistant Dean/Director Office of Student Rights and Responsibilities;
- MaLinda Gonzalez, EEO Consultant and Investigator;
- Christopher Jasso, Assistant Chief of Police;
- Patricia Lynch, Director of ER and EEO/AA;
- Saniya Pangare, OIIGC Student Intern;
- Janet Stevens, Clery Compliance Officer;
- Jordan Stone, Title IX Investigator; and
- Andrea Whitley, Associate Vice Provost for Faculty Personnel Services.

To date, the Title IX Office has facilitated 2024 Title IX Final Rule required training for Housing and Residence Life. Dates have also been secured to provide training to employees in the Dean of Students Office, UNCG Police Department, Athletics, the Division of Student Affairs, and Resident Assistants.

The Title IX Office will continue to work with all campus partners to complete the required training for employees as soon as practicable. OIIGC is working with the Chancellor's Office to pursue options for the efficient implementation of the new training requirement.

#### **E. UNC System Proposed Implementation**

The UNC System Office has not provided substantive guidance related to the adoption of the new Rule but has indicated that they will make technical changes to UNC System Policy and constituent institutions should draft policies consistent with the new regulations.

#### **F. Timeline**

The Final Rule was released on April 19, 2024, and became effective on August 1, 2024. Any incidents occurring on or after August 1, 2024, will be subject to new Final Rule regulations.

#### **IV. Conclusion**

The University is obligated to comply with the U.S. Department of Education's 2024 Title IX Final Rule and has already taken steps to ensure that we meet the August 1 compliance deadline. Thanks to the integral collaboration with campus partners from the Provost's Office, Human Resources, the Police Department, and the Division of Student Affairs during the summer, UNC Greensboro made changes necessary to comply. OIGC will continue to stay abreast of ongoing litigation and its impact on UNC Greensboro.