

U.S. Department of Education



Biden Administration issues updated Title IX regulations

The federal Title IX Act, which became law in 1972, **ensures that no person experiences sex discrimination, including sex-based harassment or sexual violence, in federally funded education.**

The U.S. Department of Education, Miguel Cardona Secretary of Education, released on April 19, 2024 **the Final Rule under Title IX, which goes into effective on August 1, 2024, and applies to complaints of sex discrimination** regarding alleged conduct that occurs on or after that date. [HERE.](#)

The Title IX rule “...prohibits discrimination on the basis of sex in education programs or activities receiving federal financial assistance. **The final regulations promote educational equity and opportunity for students across the country as well as** accountability and fairness, while empowering and supporting students and families.”

However, **these rules still do not address the thorny issue of Title IX regulations related to athletics.** According to the press release, “The Department proposed amendments to its athletics regulations in April 2023, and received over 150,000 public comments, which by law must be carefully considered.”

The final regulations do the following:

Protect against all sex-based harassment and discrimination. The final rule protects all students and employees from all sex discrimination prohibited under Title IX, by restoring and strengthening full protection from sexual violence and other sex-based harassment.

- Clarifies the steps a school must take to protect students, employees, and applicants from discrimination based on pregnancy or related conditions.
- Protects against discrimination based on sex stereotypes, sexual orientation, gender identity, and sex characteristics, including LGBTQ individuals.

Promote accountability and fairness. The final rule promotes accountability by requiring schools to take prompt and effective action to end any sex discrimination in their education programs or activities, prevent its recurrence, and remedy its effects.

- Requires schools to respond promptly to all complaints of sex discrimination with a fair, transparent, and reliable process that includes trained, unbiased decisionmakers to evaluate all relevant and not otherwise impermissible evidence.
- Offers appropriate discretion and flexibility to account for variations in school size, student populations, and administrative structures.

Empower and support students and families. The final rule protects against retaliation for students, employees, and others who exercise their Title IX rights.

- Requires schools to communicate their nondiscrimination policies and procedures to all students, employees, and other participants in their education programs so that students and families understand their rights.
- Supports the right of parents and guardians to act on behalf of their elementary school and secondary school children.
- Protects student privacy by prohibiting schools from making disclosures of personally identifiable information with limited exceptions.

According to the press release, the U.S. Department of Education is committed to supporting schools in implementing the final regulations and will provide technical assistance and additional resources to schools to support implementation and compliance.

The U.S. Department has released the following resources about the rule:

- **Unofficial version of the rule** [HERE](#).
- **Fact Sheet** [HERE](#).
- **Summary of the major provisions** of the regulation [HERE](#).
- **Resources for drafting Title IX** nondiscrimination policies, notices of nondiscrimination, and grievance procedures [HERE](#).

Because Title IX expands protections for LGBTQ students, it could have a direct impact on Ohio schools and institutions of higher education, because it seems to conflict with House Bill 68, Saving Ohio Adolescents from Experimentation (SAFE) Act and the Save Women’s Sports Act, which became law in January 2024, and House Bill 183, which is pending in the Ohio House.

House Bill 68, sponsored by Representative Gary Click, **bans health care professionals from providing medical care for minors for “gender related conditions” including gender-affirming surgeries and hormone therapies; requires that** mental health professions, including school nurses, social workers, school counselors, and school psychologists, obtain parental consent before treating a minor who presents a gender-related condition; and requires health care professionals to screen for other comorbidities when treating someone with a gender-related condition.

House Bill 68 also prohibits transgender girls or women from competing on a girls' or women's athletic team at the K-12 and collegiate levels. Draft Title IX regulations about athletics were released in June 2023, but have not been finalized.

Enactment of House Bill 68 has been temporarily delayed by the Franklin County Court of Common Pleas in response to a lawsuit filed by the ACLU and the global law firm Goodwin. The updated Title IX regulations protecting LGBTQ individuals against discrimination based on gender could support the plaintiffs' case in this lawsuit.

House Bill 183, Single Sex Bathrooms Access in Schools, Universities, sponsored by Representatives Beth Lear and Adam Bird, which is pending in the Ohio House, **could also conflict with the updated Title IX federal regulations regarding gender discrimination.**

There are other Ohio bills pending in the General Assembly regarding schools, parental rights, freedom of expression, etc. **that could be impacted by the latest Title IX update.**

Source: Jacqueline Walsh Brickman, **“The “Save Women’s Sports Act”; The Starting Line for School Litigation,”** Peeple & Waggoner Attorneys at Law, News and Insights, February 7, 2024 [HERE](#).

Source: Press Office, U.S. Department of Education **“U.S. Department of Education Releases Final Title IX Regulations, Providing Vital Protections Against Sex Discrimination,”** April 19, 2024 [HERE](#).

Source: Kasey Havekost and Izaak S. Orlansky, **“After House Bill 68 Override, Implications for Education in Ohio,”** Bricker and Graydon Publications, January 26, 2024 [HERE](#).