

Implementation of 2024 Title IX Regulations Temporarily Blocked in Four States

June 14, 2024

On June 13, 2024, a United States District Court Judge for the Western District of Louisiana granted a preliminary injunction to bar enforcement of the 2024 Title IX regulations during the pendency of a lawsuit brought by the attorneys general of Louisiana, Mississippi, Montana, and Idaho (the “plaintiff states”).^[i] In the lawsuit, originally filed on April 29, 2024, the plaintiff states argued that the 2024 Title IX regulations, which take effect on August 1, 2024, unlawfully expand the definition of sex discrimination to include discrimination based on gender identity, sexual orientation, sex stereotypes, and sex characteristics.^[ii] The plaintiff states argued that this was an overexpansive reading of Title IX and an abuse of power by the Department of Education (the “Department”).^[iii]

The Western District of Louisiana ruled in favor of the plaintiff states, writing, “The text of Title IX confirms that Title IX was intended to prevent biological women from being discriminated against in education in favor of biological men. Title IX lists several exemptions which use the language ‘one sex’ or ‘both sexes’ showing that the statute was referring to biological men and biological women, not gender identity, sexual orientation, sex stereotypes, or sex characteristics.”^[iv] The court also noted that *Bostock v. Clayton County*^[v], the 2020 Supreme Court decision that expanded the definition of prohibited sex discrimination in the workplace to include gender identity and sexual orientation, could not be legally extended to Title IX.^[vi]

Specifically, the plaintiff states took aim at the part of the newly enacted 2024 Title IX regulations which prohibits educational institutions receiving federal funding from “[a]dopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person’s gender identity...”^[vii] The plaintiff states argued that this regulation, which will require that students be permitted to use bathrooms and locker rooms associated with their gender identity, as opposed to biological sex, will create scenarios where a young girl would have to “change clothes in front of a boy or man.”^[viii] The plaintiff states argued that this regulation betrays the original goal of Title IX to protect women in educational settings. Additionally, the plaintiff states argued that the same regulation, which would also require that students be referred to by their preferred pronouns, violates the free speech rights of students and teachers.^[ix]

The court held that the plaintiff states’ arguments were likely to be successful on the merits, that the plaintiff states were likely to suffer irreparable harm if the injunction was not granted, and that the injunction was in the public interest. As a result of the ruling, the 2024 Title IX regulations will be barred from taking effect in Louisiana, Mississippi, Montana, and Idaho until the full case can be heard.

LGBTQI+ groups argued that the ruling will strip away protections for transgender students in the affected states and sets a dangerous precedent of “weaving discrimination into law.”^[x] At least 17 other states have filed similar lawsuits against the Department of Education. As such, this ruling is the first, but may not be the last, to enjoin implementation of the 2024 Title IX regulations in certain parts of the country before the August 1 implementation date.

An update to this alert, titled: ‘UPDATE: Implementation of 2024 Title IX Regulations Temporarily Blocked in Six Additional States’ was issued on June 20, 2024.

Should you have any questions about this legal alert, please feel free to contact Cullen and Dykman's Title IX Team: Jennifer McLaughlin (jmclaughlin@cullenllp.com), Dina Vespia (dvespia@cullenllp.com), Nicole Donatich (ndonatich@cullenllp.com), or Sarah Franzetti (sfranzetti@cullenllp.com).

This advisory provides a brief overview of the most significant changes in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.

Footnotes

[i] [gov.uscourts.lawd.205659.53.0.pdf](https://www.courtlistener.com/doc/2024/06/11/gov.uscourts.lawd.205659.53.0.pdf) (courtlistener.com)

[ii] [Microsoft Word - For Filing - Title IX Complaint \(Final\)](#) (state.la.us)

[iii] *Id.*

[iv] [gov.uscourts.lawd.205659.53.0.pdf](https://www.courtlistener.com/doc/2024/06/11/gov.uscourts.lawd.205659.53.0.pdf) (courtlistener.com)

[v] *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1734 (2020).

[vi] 34 C.F.R. § 106.31(a)(2) (Effective Aug. 1, 2024).

[vii] [Microsoft Word - For Filing - Title IX Complaint \(Final\)](#) (state.la.us)

[viii] *Id.*

[ix] *Id.*

[x] [Federal judge delivers first blow to Biden’s protections for transgender students - POLITICO](#)

Practices

- Higher Education

Attorneys

- Jennifer A. McLaughlin
- Dina L. Vespia
- Nicole A. Donatich

- Sarah Franzetti