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# Federal District Court Vacates 2024 Title IX Regs

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On January 9, 2025, the U.S. District Court for the Eastern District of Kentucky vacated the Biden administration's 2024 Title IX regulations. The vacatur applies nationwide, meaning the 2020 Title IX final rule and Title IX regulations are effective. This decision potentially marks the conclusion of extensive national litigation over the 2024 Title IX regulations, which previously had resulted in injunctions preventing their implementation across many states.

Although the litigation in the Eastern District of Kentucky did not challenge every provision of the 2024 regulations, the court found that the challenged provisions so permeated the regulations that even unchallenged provisions must be vacated. This included the 2024 regulation's provisions on parental, family or marital status, pregnancy, or related conditions. The court listed three reasons for vacating the 2024 Title IX regulations.

1. **The Department exceeded its authority.** The court found that the Department of Education exceeded its authority when it stated that discrimination on the basis of sex included discrimination on the basis of gender identity. The court held, "When Title IX is viewed in its entirety, it is abundantly clear that discrimination on the basis of sex means discrimination on the basis of being a 'male or female'" and "expanding the meaning of 'on the basis of sex' to include 'gender identity' turns Title IX on its head." The Department of Education had argued that Title IX's prohibition on sex discrimination included a prohibition on discrimination based on gender identity because of the Supreme Court decision in Bostock, which found that Title VII's prohibition on sex discrimination included a prohibition on discrimination against LGBTQ+ employees. The Eastern District of Kentucky court disagreed with the Department's argument, stating, the Department of Education "reads Bostock far too broadly by importing its holding into the

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context of Title IX."

2. **The 2024 Regulations violate the Constitution.** The court determined that the 2024 Title IX Regulations' "definitions of sex discrimination and sex-based harassment, combined with the de minimis harm standard, require Title IX recipients, including teachers, to use names and pronouns associated with a student's asserted gender identity." The court wrote, "The First Amendment does not permit the government to chill speech or compel affirmance of a belief with which the speaker disagrees in this manner."

3. **The 2024 Regulations are arbitrary and capricious.** Finally, the court determined that the 2024 Title IX Regulations were "arbitrary and capricious." The court reiterated that the Supreme Court's holding in *Bostock*, a Title VII case, was an improper basis for changes to the Title IX regulations. The court elaborated on its perspective that the 2024 Regulations were arbitrary and capricious, noting that "every court presented with a challenge to the Final Rule has indicated that it is unlawful. Further, vacatur of the [2024 regulations] would simply cause a return to the status quo that existed for more than 50 years prior to its effective date."

**Impact on institutions**

As discussed above, the 2024 Title IX regulations were already enjoined from being enforced in many states and with respect to hundreds of institutions. Institutions that were affected by an injunction will likely not require significant changes to their Title IX policies, so long as these policies were compliant with the 2020 Title IX regulations. Institutions which have been operating under the 2024 Title IX Regulations since August 1, 2024, will likely need to update their policies. This decision does not explicitly state what next steps these institutions should take. For many institutions, it may simply be a matter of reverting to previous policies which complied with the 2020 Title IX regulations. We anticipate that the Department of Education's Office of Civil Rights will issue clearer guidance on this matter after the upcoming change in presidential administration.

Note: On February 18-19, 2025, Husch Blackwell's Higher Ed team will conduct a virtual workshop dedicated to Title IX compliance for persons significantly involved in the Title IX process, including coordinators, investigators, and other team members. To register for the training session, please sign up via our website.

**What this means to you**

In addition to staying up to date on OCR guidance, institutions should review applicable state laws. Many states and cities have passed laws in recent years regulating the subject of gender identity

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discrimination and harassment, and these laws may create additional requirements even though the 2024 Title IX regulations are no long in effect. It may be helpful to consult your Husch Blackwell attorney to ensure compliance with both federal and state law.

**Contact us**

If you have questions regarding this decision or legal issues related to Title IX, please contact Hayley Hanson, Derek Teeter, Christine Taylor, Katherine Tierney, or your Husch Blackwell attorney.

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