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“The constitutional freedom of religion [is] the most inalienable and sacred of all human rights.”
Thomas Jefferson

Biden Administration Erases Protections for Women Through Title IX Final Rule

This week, the Department of Education released a sweeping [Title IX final rule](#) that imposes a [radical view](#) of sexuality on all federally funded education programs. Title IX of the Education Amendments of 1972 is the federal law that governs all schools and colleges accepting federal funds, such as through grants and federal student loans. Title IX [states](#) that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Originally passed to ensure that women had equal educational opportunities to men, Title IX is now being used to erase distinctions between men and women.

The new Title IX final rule declares that the prohibition on sex discrimination also includes “sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.” The Department of Education’s departure from decades of education law is based on the Supreme Court’s erroneous decision in *Bostock v. Clayton County* (2020), which held that sexual orientation and gender identity (SOGI) are protected characteristics of sex under Title VII, the federal civil rights law governing employment. By expanding the regulations to prohibit SOGI discrimination, the Department opens the doors for violations of student privacy and safety in sex-segregated spaces and infringements of First Amendment rights. While the Title IX final rule undermines natural distinctions between men and women and advances a radical gender ideology, it does not alter Title IX’s robust religious exemption for institutions. The [religious exemption](#) states that Title IX “does not apply to an educational institution which is controlled by a religious organization” if that aspect of Title IX “would not be consistent with the religious tenets of such organization.” However, Title IX does not include an exemption for religious students or employees. In addressing concerns from some of the 240,000 public comments submitted on the rule that this omission would leave religious students and employees vulnerable to violations of their fundamental rights, especially at institutions that are not able to claim the religious exemption, the Department made no changes to the rule. Instead, the Department asserted that it would respect the First Amendment and consider individual claims of religious violations under the Religious Freedom Restoration Act.

In a separate rulemaking exercise that is expected to be released later this year, the Department proposed changes to parts of Title IX that would force institutions to allow transgender-identifying athletes to compete on the team of their choice. In addition to its new SOGI protections, the Title IX final rule also prohibits discrimination based on pregnancy-related conditions, including abortion. The Biden administration is likely to face lawsuits over its Title IX final rule, which will have far-reaching effects on public and private education in America. As the AACCS argued in its public comments on the Title IX rule draft released in 2022, “This new expansion of the word *sex* is so broad that it completely swallows the original intent of Title IX and creates an entirely new and foreign standard by which Title IX’s true purpose is destroyed.”

Federal Appeals Court Decides Against a WV Law Protecting Minors and Female Sports

A [federal appeals court](#) has ruled that a West Virginia law protecting minors and female sports cannot be enforced against B.P.J., a 13-year-old boy who identifies as a girl. In 2021, West Virginia passed the [Save Women's Sports Act](#), a law that protects minors and female athletes by preventing males from competing in female sports. However, B.P.J. and his family sued because the law would force him off his middle school's girls' track and cross-country team. They claimed the law infringed on his Title IX rights and the Constitution's equal-protection clause. West Virginia submitted an emergency request to the Supreme Court after the 4th Circuit issued an injunction against the law. However, the Supreme Court chose not to hear the case. This month, the 4th Circuit ruled for B.P.J. and against the state in a 2-1 vote. The court [said](#) that B.P.J.'s choice between playing on a boys' team or not at all "is no real choice." The court also ruled that the law violated his Title IX rights. However, the court stated that Title IX does not require all schools to allow boys on girls' teams but rather that specifically B.P.J.'s Title IX rights were violated. West Virginia Attorney General Patrick Morrisey has said he will continue to defend the law and Title IX in the lawsuit. "We must keep working to protect women's sports so that women's safety is secured and girls have a truly fair playing field," [said](#) Morrisey. "We know the law is correct and will use every available tool to defend it."

Iowa Governor Signs Religious Freedom Restoration Act

Iowa Governor Kim Reynolds has signed the Religious Freedom Restoration Act (RFRA). This law will protect a person's religious rights by ensuring the state can burden his religious exercise only if it has a compelling interest. Even if the government has a compelling interest to burden religious exercise, it must do so in the least restrictive means possible. As a result, the state will face stricter legal measures to prove any restriction of religious exercise is necessary. Iowa is now the [28th state](#) to enact a RFRA similar to the federal RFRA that passed Congress 30 years ago. The law passed on party lines, with all Republicans voting for it and all Democrats voting against. "RFRA is wrong for Iowa," [said](#) state Sen. Janice Weiner, claiming the state will suffer economically because of the law's passage. Yet conservatives have praised the law as a crucial defense in the ongoing erosion of religious rights. "The law doesn't determine who will win every disagreement," [said](#) Greg Chafuen, legal counsel with Alliance Defending Freedom, "but it does ensure that every Iowan—regardless of their religious creed or political power—receives a fair hearing when government action forces a person to violate his or her religious beliefs."

In Case You Missed It:

[Weekly Market Update](#) provided by Jeff Beach of the [AACS Investment Team at Merrill Lynch](#)

[Practical Legal Help for Christian Schools: ADF Ministry Alliance](#)

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[NEW! AACS Today Podcast: Nationals Recap](#)

[Religious Liberty and the Human Good](#)

[Poll: Supermajority of Americans Oppose Abortions Past 12 Weeks](#)

[Largest Christian University in America Gets Fined \\$37 million: Coincidence or Targeted Attack?](#)

[How States Are Punching Back on Biden Federal Election Takeover](#)

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