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LEGISLATIVE ACTION COMMITTEE

Biden's Anti-Woman Title IX Tsunami

Title IX was passed into law in 1972 to prevent sex discrimination in education. Specifically, it was enacted to ensure equality of educational opportunities for women and girls who were disparately impacted by school practices denying them similar benefits in academics and athletics as men. The Biden Administration has turned Title IX on its head by declaring that men identifying as women are the new women, entitled to access women's sex-separated spaces, scholarships, and sports. The Administration's regressive policies effectively erase decades of progress for women's rights.

- Biden's final Title IX Rule is weaponizing the federal government to push its gender ideology agenda through schools. Sex is no longer an objective, binary characteristic. Unlimited, subjective, self-proclaimed identities are protected as "sex."
- Students no longer are protected from sex discrimination based on their immutable status as male and female.
- Because a feeling about one's identity cannot be questioned, the burden of proof concerning harm is now on the backs of female students, not on a male student who claims self-identity as a woman.
- Educators and other public officials are now required to accommodate any self-described gender identity, regardless of scientific reality, tattle on each other for any potential violation, and force other students to give up their rights to opportunities and benefits on the basis of biological sex, and their beliefs about sex, in order to prevent "*de minimis* harm" to a queer student.

Treating students according to biological sex is now "sex-based harassment" whenever they don't "identify" that way:

Prohibit discrimination against LGBTQI+ students, employees, and others. *The rule prohibits discrimination and harassment based on sexual orientation, gender identity, and sex characteristics in federally funded education programs, applying the reasoning of the Supreme Court's ruling in Bostock v. Clayton County.*

Provide full protection from sex-based harassment. *The final regulations strengthen vital protections from all forms of sex-based harassment ... that create a hostile environment by limiting or denying a person's ability to participate in or benefit from a school's education program or activity.¹*

Biden's Title IX Rule weighs sex-based rights on the side of "identity," not biological reality – this is why protections based on actual sex (being female) are effectively erased:

Clarifies that a recipient must not separate or treat any person differently based on sex in a manner that subjects them to more than de minimis harm, except in the limited specified circumstances permitted by Title IX. Recognizes that preventing a person from participating in a recipient's education program or activity consistent with their gender identity subjects that person to more than de minimis harm.

Biden’s Title IX Rule applies to locker rooms, restrooms, health education, PE classes, intramurals, and any “non-eligibility criteria” for participation in sports.

This general nondiscrimination principle applies except in the limited circumstances specified by statute, such as in the context of sex-separate living facilities and sex-separate athletic teams.

The final regulations do not include new rules governing eligibility criteria for athletic teams.

Biden’s Title IX Rule overrides State law:

Clarifies that a recipient must comply with Title IX and the final regulations in the event of a conflict with State law or FERPA.

Biden’s Title IX Rule provides NO definitions for the unlimited scope of “gender identities” that must be accommodated to avert sex discrimination.

The Department believes it is important to clarify that Title IX’s prohibition on sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Relatedly, the Department has determined it is not necessary to define each of the bases of discrimination listed in § 106.10 or other related terms used in the preamble.²

Schools could be held hostage by activist demands to “queer” all aspects of school programs and activities.

Require schools to take prompt and effective action to end any sex discrimination in their education programs or activities—and to prevent its recurrence and remedy its effects. *The final regulations promote accountability and fulfill Title IX’s nondiscrimination mandate by requiring schools to act promptly and effectively in response to information about conduct that reasonably may constitute sex discrimination, including sexual violence and other forms of sex-based harassment. These regulations also require that schools train employees about the school’s obligation to address sex discrimination, as well as employees’ obligations to notify or provide contact information for the Title IX Coordinator.*

Title IX Coordinators assume broad powers as compliance cops with exclusive enforcement authority to investigate and adjudicate any manner of sex-based harassment.

Sets out the steps a recipient must require its Title IX Coordinator to take when the recipient has knowledge of conduct that reasonably may constitute sex discrimination, including offering and coordinating supportive measures, when to initiate a complaint, and taking prompt and effective action to end sex discrimination and prevent its recurrence.³

¹ *Italicized text (unless noted otherwise) quoted from:* [FACT SHEET: U.S. Department of Education’s 2024 Title IX Final Rule Overview.](#)

² [Title IX NFR - Unofficial version \(ed.gov\)](#), p. 1207

³ [Summary of Major Provisions of the Department of Education’s Title IX Notice of Proposed Rulemaking \(PDF\)](#)