

# Title IX in 2025: Where Are We Now?

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# What We Will Cover

- History and overview of Title IX
- Chart of Changes from Trump to Biden Administrations, and Back
- Future Challenges

# What is Title IX?

Title IX of the Education Amendments Act of 1972 is Federal legislation passed by Congress

- to ensure equal opportunity in education for all students, from kindergarten through postgraduate school, as well as all employees,
- of educational institutions receiving federal money,
- regardless of sex.



# What Does it Say?

*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.*

30 U.S.C. Sect.1681

# What Does it Do?

Title IX and related regulations provide guidelines, procedures, and tools for preventing and addressing inequities that can hinder students' and employees' ability to succeed in school and beyond.



# Why Do We Need It?

- By prohibiting hostile, threatening, and discriminatory behavior, Title IX protects the rights of all students to learn in a healthy environment.
- These advantages extend beyond individual students to the nation itself, which stands to gain a well-prepared workforce in which the brightest minds are allowed to advance.

# Who Benefits from Title IX?

Girls and Women...

... Boys and Men



Title IX offers no special benefits or advantages for girls and women



Rather it is gender-neutral, designed to ensure equality in education for *all* students by eliminating sex discrimination

# Why Do We Care?

## Equal Access to Quality Public Education for All Students

- Vigorous enforcement of Title IX protective provisions

## Social and Racial Justice for All Members of Society

- Freedom from violence in all its forms
- Guarantee of civil and constitutional rights for all, including all forms of gender identity and expression, and all family structures

# Trump→Biden→Trump

## 2017 & 2025

- Donald Trump is elected as President
- 2017 President Trump appoints Betsy DeVos as Education Secretary
- Secretary DeVos significantly scales back Title IX protections
  - Sexual assault investigations
  - Including “gender identity” within meaning of “gender” protections

## 2024

- President Joe Biden seeks to reinstate previous protections
- Hearings elicit over 240,000 comments from the public
- New guidelines released April 19, 2024, became effective August 1
  - Sex-based Harassment
  - Anti-LGBTQ+ Discrimination
  - Discrimination against Pregnant and Parenting Students

# Biden Rules Out

## *Tennessee v Cordona (2025)*

The court held that Biden rules were “fatally tainted by legal shortcomings”, and that the Education Department overstepped its authority by expanding the scope of Title IX.

“There’s nothing in the 1972 law suggesting that it should cover any more than it has since Congress created it,” the Judge wrote. He called it an “attempt to bypass the legislative process and completely transform Title IX.”

The judge also found that it violated free speech rights by requiring teachers to use pronouns aligning with a student’s gender identity.

# Sex-Based Harassment (or other Sex Discrimination)

Duty to Address	Trump Rule 2020/2025	Biden Rule 2024
Definition	Must address if so severe <b>and</b> pervasive that it <b>effectively denies</b> a person equal access to activity	...so severe <b>or</b> pervasive that it <b>denies or limits</b> a person's ability to participate
Standard of Care	Must respond in a way that is not <b>deliberately indifferent</b>	Must respond with <b>prompt and effective action</b>

Investigation	Trump Rule 2020/2025	Biden Rule 2024
Hearing Procedures	IHEs: must allow the parties' advisors to conduct <b>cross-examination</b> at a live hearing	IHEs: school must: <b>1) Interview each party and witness in individual meetings;</b> <b>2) Have a decision-maker I/V all parties and witnesses at a live hearing</b> <b>3) School also has option of allowing cross-examination</b>
Appeal Rights	Parties can appeal only upon limited bases	Parties must have the same appeal rights as in all "comparable" discrimination hearings



Prevention	Trump Rule 2020/2025	Biden Rule 2024
Training	No rule	Must train <b>all employees</b> on recognition and reporting, with additional training for Title IX officials
Monitoring of barriers to reporting	No rule	Must act to prevent discrimination, and monitor and address barriers to reporting

# Anti-LGBTQ+ Discrimination

	Trump Rule 2020/2025	Biden Rule 2024
Definition	Not addressed	Sex discrimination includes discrimination based on <b>sexual orientation, gender identity, sex characteristics</b> (including intersex traits), and <b>sex stereotypes</b> .  Schools must address
Transgender inclusion	Not addressed	Schools must allow individuals to participate in <b>classes and activities, use bathrooms and locker rooms, and dress and groom themselves consistent with their gender identity</b>

# Discrimination Against Pregnant and Parenting Students

	Trump Rule 2020/2025	Biden Rule 2024
Definition	Schools cannot discriminate against students based on pregnancy or related conditions, including childbirth, termination of pregnancy, and recovery from any of these conditions	...based on <b>past, current, or potential</b> ...  Adds <b>lactation</b> and <b>medical conditions</b> to list of “included conditions.”
Notice of Rights	Not addressed	Any employee who knows of a student’s pregnancy or related conditions must give them contact info for Title IX Coordinator, who must inform them of their rights



# Current Challenges:

## Legislative, Executive, Judiciary

- Executive – Oversees Dept of Education; directs and approves proposed regulatory changes to programs
- Legislative – Passes, Amends and Repeals Laws, grants regulatory authority to respective departments
- Judiciary – Ensures Compliance with U.S. Constitution

# Executive

January 20, 2025, President Trump issued an Executive Order: “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.”

- States policy of the federal government to recognize two sexes, male and female
- Sets forth definitions of sex, “gender ideology,” and “gender identity” that the executive branch will use.
- States that “Each agency and all Federal employees shall enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes.”

# Executive (con't)

February 2025

President Trump issues “Dear Colleague” letter to all public schools that threatened to withhold federal funding to schools that didn’t eliminate race-based programming, as well as a subsequent letter requiring school districts to certify that they do not incorporate DEI in their schools.

# Legislative

- Could repeal Title IX in its entirety OR
- Amend to add a definition of “sex” to deliberately preclude “sexual orientation and gender identity”
- Could pass laws to curtail authority of Department of Education
- Could adopt recommendations proposed by Project 2025
  - Dismantle the U.S. Dept. of Education
    - Bill introduced Jan 17, 2025: “The Department of Education shall terminate on December 31, 2026.” SB 1148, HR 899
  - Enact legislation requiring schools to refer to students by their names on their birth certificates and pronouns with their sex assigned at birth (HR 5 passed in House but died in Senate)

# Counter Legislation

## H.R. 15 (April 2025)

This Act makes explicit that existing Federal statutes prohibiting sex discrimination in employment (including in access to benefits), healthcare, housing, education, credit, and jury service also prohibit sexual orientation and gender identity discrimination

# Judiciary

➤ Mahmoud v. Taylor (June 27, 2025)

The government cannot condition the benefit of free public education on parents' acceptance of instruction that poses a very real threat of undermining the religious beliefs and practices that the parents wish to instill in their children.

➤ Three Different Federal Courts find that "Dear Colleague" letter violates the Constitution

- Maryland – order "violated decision-making procedures under the Administrative Procedure Act"
- Washington D.C. – anti-DEI policy outlined in a Feb. 14 Dear Colleague letter is "unconstitutionally vague."
- New Hampshire – issued injunction stating "the actions raise the specter of a public 'witch hunt' that will sow fear and doubt among teachers."

➤ Aug 2025 – SCOTUS rules that Administration can go forward with withholding grant research money from higher education institutions on claim that DEI = discrimination

# California State Protections

- On July 15, 2024, Governor Newsom signed into law Assembly Bill 1955, known as the “Support Academic Futures and Equality for Today’s Youth (SAFETY) Act.” AB 1955 became effective on January 1, 2025.
  - Basically prohibits forces “outing” and retaliation for refusing to “out”
- EC 220: No person shall be subjected to discrimination on the basis of . . . gender identity, gender expression . . . sexual orientation . . . in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance . . .
- EC 210.7: Gender means sex, and includes a person’s gender identity and gender expression. Gender expression means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.
- EC 212.6: Sexual orientation means heterosexuality, homosexuality, or bisexuality.
- EC 221.5(f): A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed in the pupil’s records.

# Federal v State

- Title IX is floor, not a ceiling
- Unless specifically prohibited in Title IX regulations, state may provide *more* protections, just not less
- BUT - California's protective of LGBTQ+ students could be lost if:
  - Legislature amends Title IX to preclude special protections as "discriminatory"
  - Executive branch devises new regulations to do the same
    - Def of "sex discrimination" to include "gender identity" rescinded from Federal Registry
  - Supreme Court (ultimately) finds that California protections discriminate by singling out certain classes not specifically protected by 14<sup>th</sup> Amendment

# References

- National Women's Law Center (Comparison of new and previous regulations), [NWLC.ORG](https://www.nwlc.org)
- [Boston Lawyer Blog](#), [Naomi Shatz](#) and [Niamh Gibbons](#) (2/4/25)