

NEWS & INSIGHTS

District court ruling vacates Title IX regulations nationwide: What are your institution's next steps?

BY: [JEFFREY D. LITTS](#), [BENJAMIN L. PRATT](#), [SAMUEL D. HARRISON](#), [LANCE D. GREENE](#), [ISABELLE S. YOUNG](#), [AUBREY C. EMRICH](#) | [INSIGHTS](#) | [ARTICLE](#)

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In another large-scale change to the Title IX regulations, a federal court on January 9, 2025 vacated the entirety of the Department of Education's 2024 Final Rule. The result of the ruling is a nationwide ban on the implementation of the 2024 Final Rule, which comes on the heels of tremendous efforts by school districts and higher education institutions to implement the 2024 Final Rule over the past few months.

While the Title IX landscape will undoubtedly continue to change in the coming months as the Presidential administration changes, three key takeaways from the January 9th Ruling should guide your next steps:

0. While arising out of a United States District Court in Kentucky, the Ruling nevertheless invalidates the 2024 Final Rule in its totality nationwide. Furthermore, because of the timing and political environment, it is unlikely that an appeal overturning the District Court's ruling will be forthcoming any time soon.
0. Institutions previously subject to an injunction prohibiting the implementation of the 2024 Final Rule should continue to operate under the 2020 Regulations until they receive further guidance from the DOE. Institutions that had implemented the 2024 Final Rule should likewise consider reverting to their previous policies adopted pursuant to the 2020 Regulations until they receive further guidance.
0. All institutions should be mindful of the fact that they are still subject to state rules and regulations concerning discrimination, which may impose different or additional requirements than the 2020 Regulations.

The January 9th ruling

The court's ruling in *Tennessee v. Cardona*, Civ. A. No. 2:24-0272 (E.D. Ky.) hues closely to the court's preliminary ruling in June on the same issues, taking issue with fundamental premises of the 2024 Final Rule. The court set the tone in its first sentence: "this case concerns the [DOE's] attempt to bypass the legislative process and completely transform Title IX of the Education Amendments of 1972 through sweeping new regulations."¹ The ruling identified three fundamental flaws in the DOE's 2024 Final Rule that warranted vacating it:

0. The court determined that the 2024 Final Rule exceeded the DOE's authority under Title IX because the DOE instructed that discrimination "on the basis of sex" included discrimination based on gender identity.² The court explained that "expanding the meaning of 'on the basis of sex' to include 'gender identity' turns Title IX on its head. While Title IX sought to level the playing field between men and women, it is rife with exceptions that allow males and females to be separated based on the enduring physical differences between the sexes."³
0. The court also found that the 2024 Final Rule violated constitutional protections.⁴ The court held that it violated the First Amendment by requiring schools and teachers to use "names and pronouns associated with a student's asserted gender identity."⁵ It also held that the definition of sexual harassment was too "vague and overbroad" for constitutional purposes because "several of the terms used in [the 2024 Final Rule] are so vague that recipients of Title IX funds have no way of predicting what conduct will violate the law."⁶ Finally, the court ruled that the 2024 Final Rule violated the Spending Clause of the Constitution because it did not provide clear notice of the conditions for the receipt of federal funding and "[h]ere, the Department expands

Title IX to encompass entirely new subject matter that is not contemplated by the text of the statute.”⁷

0. The court finally ruled that the 2024 Final Rule was arbitrary and capricious because among other reasons, the DOE “fail[ed] to account for the glaring inconsistencies that the [2024] Final Rule creates within Title IX.”⁸ The court refused to accept the DOE’s position that the Supreme Court support such regulations through its *Bostock v. Clayton County* holding, because that decision arose in the differing Title VII context.⁹

The court had several options for how it could have remedied the infirmities it found within the regulation, including severing out the impermissible provisions and leaving the remainder intact.¹⁰ Instead, the court opted to vacate the entire 2024 Final Rule. “While not directly challenged in this proceeding, the Final Rule brings new requirements for handling grievances, training, recordkeeping, and processing complaints. But these regulations refer to and incorporate provisions the Court deems invalid, which necessitates jettisoning these regulations as well.”¹¹ The court explained that “[t]he seriousness of the [administrative] error weighs heavily in favor of vacating the Final Rule, as it is unlawful on numerous fronts.”¹²

Next steps and implications

As the dust settles from this significant ruling, institutions subject to Title IX should consider the following as they regroup:

- Because the 2024 Final Rule replaced the 2020 Regulations, educational institutions should revert to their 2020 policies, which arguably remain in effect after the invalidation of the 2024 Final Rule.
- Because the 2020 Regulations, unlike the 2024 Final Rule, do not have a training requirement, there is no requirement to complete another round of training. Institutions should strongly consider training nonetheless to ensure all employees are operating consistently in this evolving landscape.
- Institutions that have begun an investigation pursuant to the 2024 Final Rule should consult with legal counsel to chart the best path forward for the investigations as they change policies.
- Institutions should be mindful of applicable state requirements that differ from Title IX. For instance, the Pennsylvania Human Relations Commission regulatory definition of “sex” still includes gender identity or expression.
- Institutions may retain many changes that were adopted pursuant to the 2024 Final Rule. For instance, the designation of lactation rooms is not required to be undone by the court’s ruling.

This back-and-forth regulatory process has no doubt left many institutions dizzy and asking numerous questions going forward. Adding another layer of complexity, the Title IX landscape will continue to shift as political administrations change and the DOE’s new administrative agenda is set forth. Institutions should be mindful of

these changes and follow relevant guidance from the DOE. Even then, Title IX and the DOE’s associated regulations will continue to ask as many questions of institutions as they answer, and outside counsel remains a valuable tool in evaluating difficult issues when they arise. If you have any questions on the ruling, contact [Samuel D. Harrison](#), or any of the attorneys in the [Title IX](#) or [Education groups](#).

1. Op. 1. [↩](#)
2. *Id.* at 4-8. [↩](#)
3. *Id.* at 7. [↩](#)
4. *Id.* at 8-10. [↩](#)
5. *Id.* at 9 (“The plaintiffs reasonably fear that teachers’ (and others’) speech concerning gender issues or their failure to use gender-identity-based pronouns would constitute harassment under the Final Rule.”). [↩](#)
6. *Id.* at 9. [↩](#)
7. *Id.* at 10. [↩](#)
8. *Id.* at 11. [↩](#)
9. *Id.* (“[T]he Supreme Court was clear that [*Bostock*] was limited to the context of Title VII and did not purport to address ‘bathrooms, locker rooms, or anything else of the kind.’”). [↩](#)
10. *Id.* at 12. [↩](#)
11. *Id.* [↩](#)
12. *Id.* at 13. [↩](#)

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