

SCHOOL LAW

INFORMATION MEMO

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2024 Title IX Regulations Deemed “Unlawful”

On Jan. 9, 2025, the Eastern District of Kentucky held in *State of Tennessee, et al. v. Miguel Cardona, et al.* that the U.S. Department of Education’s 2024 Final Rule implementing Title IX is “unlawful.” This court decision applies nationwide, including in New York State.

The Court determined in *State of Tennessee* that the Final Rule suffered from several legally fatal defects, including but not limited to the fact that the Final Rule:

1. went further than permitted by Title IX in its definition of “sex” to include gender identity;
2. inappropriately expanded the definition of “sex-based harassment” to include speech or conduct that **limits** a person’s ability to participate in or benefit from an educational program or activity (the prior standard required that an individual be **denied** the ability to participate in or benefit from an educational program or activity) ; and
3. was so vague and overbroad that it would be difficult to predict what conduct would violate the law.

According to the Eastern District of Kentucky, the Final Rule violated the First Amendment and the Spending Clause and is “arbitrary and capricious” because it failed to provide a reasoned explanation for departing from its longstanding interpretation of Title IX.

This is not the first time the 2024 Final Rule has been successfully challenged. Even before this ruling, several courts issued injunctions, resulting in the 2024 Title IX regulations having no effect in 26 states.

New York school districts that have been operating pursuant to the 2024 Final Rule should revert to a practice that is compliant with the 2020 regulations. School districts that have adopted policies and training programs consistent with the 2024 regulations should work with legal counsel to revise these policies and training programs to be consistent with the 2020 regulations.

Although the Title IX regulations were struck down because of the inclusion of gender identity in the definition of “sex,” New York school districts must continue to abide by the New York State Human Rights Law, the Dignity for All Students Act (DASA), the New York State Constitution and school board policies, which all include “gender identity” as a protected class. As a result, while school districts may not be required to conduct a Title IX investigation related to gender identity issues, New York schools still have an obligation to investigate and take action to prevent any claims of bullying, discrimination and/or harassment on the basis of gender identity (or any of the other protected classes) pursuant to DASA, the New York State Human Rights Law, the New York State Constitution and/or board policies.

It is possible that the Department may appeal this decision and/or issue interim guidance. Bond’s school law practice will continue to monitor developments and assess the implications of this significant decision. If you have any questions, please contact [Hilary Moreira](#), [Howard Miller](#), any attorney in the firm’s [school law practice](#) or the Bond attorney with whom you have regular contact.

