

Biden Administration 2024 Title IX Rule

The Biden Education Department finalized its new Title IX regulation that takes effect on August 1, 2024 (the “2024 Rule”). The new rule not only rolls back protections created by the previous administration’s 2020 Title IX rule but also radically alters this important civil rights law in ways that harm students.

Here’s how:



Ends Protections for Women’s and Girls’ Sports

- Biden’s Title IX overhaul dramatically expands the scope of “discrimination on the basis of sex” to include sex stereotypes, sex characteristics, sexual orientation, and gender identity, and pregnancy or related conditions.
- Under the 2024 Rule, any policies that prevent students from taking part in a school’s programs or activities “consistent with their gender identity” that causes more than negligible harm are prohibited. That means it’s a violation of federal law for a school to prevent a boy who identifies as a girl from playing on girls’ sports teams and accessing their bathrooms and locker rooms.



Tramples Parental Rights

- Biden’s new rule allows schools to hide information about a child’s health struggles, such as gender dysphoria, from parents.
- The 2024 Rule requires K-12 schools to accept and affirm a child’s gender identity without parental approval or notification.



Threatens Free Speech and Academic Freedom

- Biden’s new rule contains such a broad definition of sexual harassment that teachers and university officials, including professors, will be forced to police speech. For example, “misgendering” someone (referring to a boy who identifies as female as “he/him” instead of “she/her”) would constitute a Title IX violation.
- The 2024 rule requires school employees to become “informants” who, by law, must report anything that “reasonably may constitute” sex discrimination (words or actions). If a person chooses not to report it to someone who has the authority to investigate and remedy the issue, ED may still hold the school responsible.



Erodes Due Process Protections

- Biden’s new rule brings back the “single investigator” model, where a single person—usually the Title IX coordinator—investigates, adjudicates, and decides penalties in Title IX proceedings.
- Under the 2024 Rule, colleges and universities will no longer be required to conduct live hearings with the opportunity for cross-examination, as was required by the 2020 Rule.
- Biden’s Title IX overhaul does not require schools to allow students to review the evidence gathered during a Title IX investigation. Schools need only provide a summary of the evidence.
- The new rule permits schools to apply a standard of proof to faculty and staff that is different from the standard of proof applied to students, inexplicably providing greater due process protections for accused employees than for accused students.