



Summary of the **RESPECT** Title IX Act



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The RESPECT Title IX Act Summary

Efforts by the prior administration to inject gender ideology, speech codes, and campus-based kangaroo courts into Title IX have made clear the need for legislation to prevent a future administration from using Title IX, a law intended to prohibit discrimination on the basis of sex in education, to undermine the law's purpose, as well as due process and free speech on campus.

To that end, the Defense of Freedom Institute for Policy Studies has drafted the Respect Equality in Sports, Privacy, and Education and Campus Transparency Title IX Act (the "RESPECT Title IX Act"). If enacted, this model law would prevent federal agencies from prohibiting discrimination on the basis of "gender identity"; ensure equal athletic opportunities for women and girls in schools, colleges, and universities; protect student privacy in bathrooms, locker rooms, dorms, and other intimate facilities; and mandate free inquiry, free speech, and due process in connection with campus Title IX enforcement, investigations, and disciplinary proceedings. DFI's RESPECT Title IX Act includes the following provisions:

- Defining sex and related terms such as mother and father according to their original, biologically based meaning under Title IX, consistent with the definitions of these terms set out in President Trump's executive order defending women from the harms of gender ideology (§ 1661);
- Declaring that discrimination on the basis of sex that is prohibited by Title IX does not include discrimination on the basis of "gender identity" and disapproving any application of the Supreme Court's holding in *Bostock v. Clayton County* to Title IX (§ 1662(d));
- Recognizing that sex-separated intimate facilities are appropriate, requiring recipients to restrict access to sex-separated facilities based on biological sex, and prohibiting schools, colleges, and universities from requiring anyone to use a bathroom or share a bedroom with a member of the opposite biological sex (§ 1663);
- Allowing educational institutions to operate sex-separated programs in contact and other sports and prohibiting them from permitting biological males to compete in athletic programs and activities designated for women or girls (§ 1669);
- Requiring schools, colleges, and universities to address sexual harassment and sexual misconduct (including sexual assault) in their programs and activities, while limiting the definition of harassment to exclude free speech protected by the First Amendment (§§ 1661, 1676);
- Establishing the baseline due process protections of the first Trump Administration's 2020 Title IX rule for students and employees before an educational institution disciplines them for sex discrimination, sexual harassment, or sexual misconduct—

including by banning the single-investigator model; requiring access to evidence; allowing appeals; and, for colleges and universities, mandating a live hearing to evaluate the allegations (§ 1677);

- Specifying that nothing in Title IX requires an educational institution to restrict any individual's constitutional rights, including the right of parents to direct the upbringing and education of their children (§ 1681);
- Extending Title IX's prohibition of discrimination to all education programs and activities of schools, colleges, and universities—including those located outside the United States (§ 1662(a));
- Prohibiting discrimination on the basis of sex for the purpose of remedying societal discrimination (*i.e.*, “affirmative action”) (§ 1662(b));
- Recognizing that Title IX does not require or prohibit the use or availability of particular books or other materials in school libraries or prevent their removal (§ 1671);
- Requiring schools, colleges, and universities to provide reasonable modifications to and a leave of absence from their programs and activities for pregnant students while recognizing that nothing in Title IX requires any institution to pay for or otherwise facilitate anyone's access to an abortion (§§ 1672, 1674);
- Empowering faith-based institutions by specifying in more detail the process through which the Department must grant them an assurance of exemption from complying with Title IX when it contradicts their religious tenets (§ 1682);
- Creating a new federal commission that would investigate the scourge of sexual misconduct in K–12 schools and issue recommendations regarding what local, State, and Federal leaders need to do to prevent and address such abuse (§ 1683); and
- Eliminating the authority of any department or agency to issue rules, regulations, or orders of general applicability “implementing” Title IX and requiring such agencies to enforce Title IX on the basis of the clear meaning of the statutory text as approved by Congress (§ 1679(g)).