



Title IX: Federal Government Asks the U.S. Supreme Court to Allow Partial Enforcement of 2024 Amendments in Certain States

On Monday, July 22, 2024, U.S. Solicitor General Elizabeth Prelogar [filed applications](#) seeking to modify two federal court decisions that have temporarily halted implementation of the new 2024 amendments to Title IX in several states.

Following the U.S. Department of Education's (ED) release of the 2024 amendments in April, several states, led by their respective attorney general and/or EDs, as well as a number of special interest groups, joined together to challenge certain provisions of the 2024 amendments, including one case filed in Louisiana by four states (Louisiana, Mississippi, Montana, and Idaho) and another case filed in Kentucky by six states (Tennessee, Kentucky, Ohio, Indiana, Virginia, and West Virginia). At the outset, these cases sought to temporarily pause the implementation of the 2024 amendments in their state before the August 1, 2024, effective date.

The two cases challenge the 2024 amendment's definition of sex discrimination that now includes discrimination on the basis of "gender identity." They argue that this definition is too expansive and conflicts with how many state constitutions define "sex." Additionally, the cases argue that the 2024 amendments provide protections to transgender individuals that conflict with state law, for example, requiring recipients to allow transgender and nonbinary students to use the bathroom or locker room facility that aligns with their gender identity rather than their gender assigned at birth. The cases also argue that the 2024 amendments will open the door to inequality in school athletics by giving transgender girls access to girls' sports, effectively eviscerating what Title IX was first intended to protect.

The district courts in both the Louisiana and Kentucky cases issued an injunction that put the entirety of the 2024 Amendments on pause in those states, and the U.S. Court of Appeals for the Sixth Circuit affirmed.

The federal government, through the U.S. Solicitor General, now seeks to have the U.S. Supreme Court intervene and partially stay, or limit, the scope of the injunction in these cases to the three discrete provisions related to gender identity protection that are expressly challenged by the participating states. The government argues that all other provisions of the 2024 amendments, like the ones governing overall procedure and process and protections for pregnant, lactating, and parenting students can go into effect without offending the ongoing challenge to the gender identity provisions at issue in the lawsuits.

Spencer Fane is closely monitoring this development, as it affects implementation of the 2024 Regulations in Louisiana, Mississippi, Montana, Idaho, Tennessee, Kentucky, Ohio, Indiana, Virginia, and West Virginia. Implementation has also been paused in Alaska, Utah, and Wyoming. All other states are required to implement the 2024 amendments by the August 1, 2024, deadline.

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