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EDUCATION

Title IX updates go into effect on Thursday: What that means for local schools



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The new Title IX created by the Biden administration, which expands on protections for LGBTQ+ students including protecting gender identity, will go into effect Thursday and impact schools in Pennsylvania and nationwide.

There are lawsuits filed in other states, the Education Law Center said, but those don't impact state laws.

The ELC is based in Philadelphia and Pittsburgh. Its mission is to "ensure access to a quality education for all children" in Pennsylvania. It recently shared its analysis of the Title IX update.

This federal law was first created in 1972 to block sex-based discrimination in educational opportunities. The recent updates change pieces of the regulations, such as not preventing students from accessing bathrooms consistent with their gender identity "because doing so causes them more than de minimis harm," according to the U.S. Department of Education Office for Civil Rights.

The new regulations do not apply to athletics.

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“Unless there is a court order directing Pennsylvania schools otherwise, all schools must comply with the federal regulations by August 1 and will be subject to the U.S. Department of Education's enforcement authority,” the law center wrote in its analysis of the Title IX update.

Challenges have been filed in other states, including *Kansas v. U.S. Department of Education*, which was recently ruled on. This lawsuit included Kansas, Wyoming, Moms For Liberty, Female Athletes United and more.

Local impact: The ELC reported that the decision, issued July 2, prevented the federal education department from enforcing the new Title IX regulations “in the schools identified with a Moms for Liberty affiliation.” About 50 Pennsylvania school districts were named in the lawsuit — including Central York School District — which prohibits the federal DOE from requiring compliance with the new regulations in those schools.

The firm also pointed out local case law takes precedence, including rulings from the Third Circuit Court of Appeals, which ruled on *Doe v. Boyertown Area School District* in 2018. The court decided that transgender and cisgender students could share the same facilities. Additionally, three other court cases have had similar rulings.

“Students in Pennsylvania are protected from discrimination on the basis of sex by the Pennsylvania Human Relations Act,” wrote the Pennsylvania Human Relations Commission in a statement.

The statement showed that Pennsylvania Attorney General Michelle Henry and the commission supported the new regulations.

It added that Henry said there are a “limited number of schools and students impacted,” but the Kansas decision will not impact Pennsylvania laws.

“We are allied with partners, like the Pennsylvania Human Relations Commission, to ensure schools remain safe havens for student learning and achievement,” Henry said in the statement.

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PHRC Executive Director Chad Dion Lassiter said in the statement that gender identity or sexual orientation should not block a student from receiving “a quality and equal education.”

It added that Henry's office along with the Office of Attorney Generals in California and New Jersey are defending the new Title IX in amicus briefs.

The American Civil Liberties Union also backs the updates.

Reminder: Louise Melling, the deputy legal director and director of the Ruth Bader Ginsburg Center for Liberty ACLU, said the new Title IX reminds districts that "schools cannot discriminate based on gender identity, transgender status or sexual orientation."

"All students have the right to an equal opportunity to learn in school without being discriminated against on the basis of sex or sex stereotypes," she wrote in a release.

There are sections the ACLU does oppose, which include not requiring "universities to provide a live hearing and an opportunity for cross-examination where serious sanctions, such as suspension or expulsion, may apply."

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Going back to school: The ELC said school policies and more need to be reviewed to confirm the policies and practices comply before the school starts for the new year.

In York County, York Academy students are the first to return to school on Aug. 12. Public school districts' students start to return on Aug. 15.

"The time to prepare for implementation is now," the ELC said, explaining there will not be a "grace period for compliance" after the court challenges end.

The firm will also offer resources.

To file a complaint, contact the PHRC by calling 717-787-4410. Resources can be found on the commission's website.

