News




The U.S. Supreme Court in Washington is seen Jan. 31. The nation's highest court is scheduled to hear Dec. 4 a challenge to a Tennessee state law banning certain types of medical or surgical gender reassignment procedures for minors who identify as transgender, the high court's first major step toward weighing in on the controversial issue. (CNS/Tyler Orsburn)

Kate Scanlon

View Author Profile

OSV News

View Author Profile

## Join the Conversation

Send your thoughts to *Letters to the Editor*. Learn more

Washington, D.C. — August 21, 2024
Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint

The Supreme Court Aug. 16 declined to allow the Biden administration to enforce portions of a new regulation expanding Title IX protections from sex discrimination to include students who identify as transgender while legal challenges to the rule proceed.

In April, the Department of Education released its finalized regulation under Title IX, the 1972 federal civil rights law requiring that women and girls have equal access and treatment in education and athletics.

Department spokespersons argued the new regulation, originally scheduled to take effect Aug. 1, will ensure that at educational institutions that receive federal funding, no person experiences discrimination on the basis of sex — which it defined as sex stereotypes, sexual orientation, gender identity and sex characteristics — including sex-based harassment or sexual violence at such institutions.

But that regulation was challenged by several states, which argued that broadening the scope of the law could dilute its intended purpose of protecting women's athletics.

In its unsigned opinion, the Supreme Court found that all of the justices agreed the disputed changes could remain blocked.

"(A)ll Members of the Court today accept that the plaintiffs were entitled to preliminary injunctive relief as to three provisions of the rule, including the central provision that newly defines sex discrimination to include discrimination on the basis of sexual orientation and gender identity," the high court said.

While four of the nine justices would have favored allowing undisputed portions of the regulation to take effect, the majority declined to do so, siding with the lower courts' view that "the allegedly unlawful provisions are not readily severable from the remaining provisions."

Jonathan Scruggs, who is Alliance Defending Freedom’s senior counsel and its vice president of litigation strategy and the Center for Conscience Initiatives, said in a statement, "The Biden-Harris administration's radical redefinition of sex turns back the clock on equal opportunity for women, undermines fairness, and threatens student safety and privacy."

"The Supreme Court rightly affirmed the 5th and 6th Circuit decisions to restrain the administration's illegal efforts to rewrite Title IX while these critical lawsuits continue," Scruggs said. "This administration is ignoring biological reality, science, and common sense. Female athletes, students, and teachers across the country are right to stand against the administration's adoption of extreme gender ideology, which would have devastating consequences for students, teachers, administrators, and families."

But administration officials argued the regulation is necessary to prevent all forms of sex-based discrimination against students.

Advertisement

"For more than 50 years, Title IX has promised an equal opportunity to learn and thrive in our nation's schools free from sex discrimination," Secretary of Education Miguel Cardona said in an April statement about the regulation. "These final regulations build on the legacy of Title IX by clarifying that all our nation's students can access schools that are safe, welcoming, and respect their rights."

Franciscan Father Dave Pivonka, president of Franciscan University of Steubenville, Ohio, previously wrote about the new regulation in a letter to students, faculty and staff, making clear the school believes "in the inherent dignity of every human person." He explained Title IX does not apply to a religious educational institution "to the extent Title IX's requirements are inconsistent with the religious tenets of the organization" — and the university would continue to uphold Catholic teaching in its policies.

"And as a passionately Catholic institution, we believe in and follow the teachings of the Catholic Church that consider 'sex' to refer to the objective reality of a human person as a man (male) or as a woman (female), grounded in and determined by a person's biology," Pivonka stated.

In guidance on health care policy and practices issued in 2023, the U.S. Conference of Catholic Bishops' Committee on Doctrine opposed interventions that "involve the use of surgical or chemical techniques that aim to exchange the sex characteristics of a patient's body for those of the opposite sex or for simulations thereof."

"Any technological intervention that does not accord with the fundamental order of the human person as a unity of body and soul, including the sexual difference inscribed in the body, ultimately does not help but, rather, harms the human person," the document states.