

Title IX Special Investigations Team: The Department of Education and the Department of Justice Join Forces to Investigate Gender Identity Policies in Schools

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AUTHORS

Timothy J. Heaphy | Soumya Dayananda | Lindsay Hemminger

On April 4, 2025, the U.S. Department of Education and the U.S. Department of Justice (“DOJ”) announced their formation of the “Title IX Special Investigations Team” (the “Title IX SIT”) to address “a staggering volume” of complaints regarding violations of Title IX of the Education Amendments Act of 1972 (“Title IX”).¹ The stated goal of the Title IX SIT is “to ensure timely, consistent resolutions to protect students, and especially female athletes, from the pernicious efforts of gender ideology in school programs and activities,” and allow the departments to “work together to conduct investigations that are fully prepared for ultimate DOJ enforcement.”² This announcement demonstrates both DOJ’s increasing involvement in matters that have been traditionally handled by the Office for

¹ *U.S. Department of Education and U.S. Department of Justice Announce Title IX Special Investigations Team*, U.S. DEPT. EDUC. (Apr. 4, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-and-us-department-of-justice-announce-title-ix-special-investigations-team>.

² *Id.*

Civil Rights (“OCR”) at the Department of Education and the administration’s commitment to investigate educational institutions who have issued policies regarding gender identity.

DOJ Involvement in Title IX Investigations

According to Secretary McMahon, the Title IX SIT was created to address what she described as a high volume of complaints “about men competing in women’s sports and invading women-only intimate spaces” received by the Department of Education.³ The partnership between the departments reflects aggressive pursuit of these claims and a desire to move these investigations forward more quickly. The team will include investigators and attorneys from OCR, the DOJ Civil Rights Division, and the Department of Education’s Office of General Counsel, as well as a case worker from the Student Privacy and Protection Office at the Education Department and an FSA enforcement investigator.

Historically, OCR has been responsible for fielding Title IX complaints and leading Title IX investigations without involvement from the DOJ or other agencies. After determining that an incoming complaint is timely and within OCR’s jurisdiction, the office conducts an investigation which may involve interviews and requests for documents. OCR may attempt to resolve the complaint through a voluntary resolution or decide to initiate an enforcement action. An enforcement action may involve initiating administrative procedures to terminate federal funding or referring the case to the DOJ. With the creation of the Title IX SIT, DOJ attorneys may begin conducting or participating in investigations historically led by OCR. In the announcement, Attorney General Pam Bondi noted that “[p]rotecting women and women’s sports is a key priority for this Department of Justice,” and that the Title IX SIT will enable prosecutors to “use the full power of the law to remedy any violation of women’s civil rights.”⁴ This may include the use of grand jury subpoenas, search warrants, or other criminal investigation tools. Additionally, the Department of Education has terminated approximately half of OCR’s employees, creating more of a need for inter-agency support for these investigations.

The Title IX SIT is the second inter-agency endeavor in which the Departments of Education and Justice will join forces in particular investigations. The DOJ has formed a multi-agency Task Force to Combat Anti-Semitism to “root out anti-Semitic harassment in schools and on college campuses.”⁵ The Task Force includes representatives from the Department of Education and Health and Human Services and will be coordinated by the DOJ’s Civil Rights Division. DOJ civil rights lawyers have been invited to join the educational opportunities section on a four-month

³ Katherine Knott, *Education and Justice Departments Form Title IX Investigations Team*, INSIDE HIGHER ED (Apr. 7, 2025), https://www.insidehighered.com/news/quick-takes/2025/04/07/education-and-justice-depts-form-title-ix-investigative-team?utm_source=Inside+Higher+Ed&utm_campaign=355ff93d4c-DNU_2021_COPY_05&utm_medium=email&utm_term=0_1fcbc04421-355ff93d4c-237993354&mc_cid=355ff93d4c&mc_eid=f1e4d9f11c.

⁴ See *supra* note 1.

⁵ *Justice Department Announces Formation of Task Force to Combat Anti-Semitism*, DEPT. OF JUSTICE (Feb. 3, 2025), <https://www.justice.gov/opa/pr/justice-department-announces-formation-task-force-combat-anti-semitism>.

detail to assist the Task Force.⁶ Recently, the Justice Department initiated an investigation into the University of California system regarding allegations that it has an anti-Semitic hostile work environment on its campuses, and the Department of Education sent warning letters to dozens of schools about protecting its Jewish students.⁷ These inter-agency efforts are manifestations of the new administration's commitment to focus investigative resources on priority areas like gender identity policies and anti-Semitism in educational institutions.

Enforcement Priorities of the Trump Administration

The enforcement priorities of the Title IX SIT align with President Trump's recent executive orders regarding gender identity. As cited in the announcement, Executive Order "Keeping Men Out of Women's Sports," issued on February 5, 2025, directs the Secretary of Education to "protect all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX" and "prioritize Title IX enforcement actions against educational institutions [] that deny female students an equal opportunity to participate in sports and athletic events by requiring them, in the women's category, to compete with or against or to appear unclothed before males."⁸ The announcement also references the January 20, 2025 Executive Order "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," which states that it is the "policy of the U.S. to recognize two sexes, male and female."⁹ The order demonstrates the administration's opposition to policies that allow transgender students to access single-sex facilities or participate on sports teams that align with their gender identity and threatens to rescind federal funding for schools who enact such policies. The Title IX SIT intends to further the objectives of these executive orders by prioritizing investigations into "entities that continue to allow men to compete in women's sports and use women's intimate facilities."¹⁰

As of March, the Education Department has initiated 21 investigations into educational institutions' transgender student policies.¹¹ America First Legal ("AFL"), a conservative public interest organization, has prompted some of these complaints by furnishing specific information to OCR.¹² The complaints target schools that AFL believes are in violation of Title IX and President Trump's executive orders by allowing transgender students access to facilities that align with their gender identity. The creation of the Title IX SIT is indicative of the administration's intent to

⁶ Suzanne Monyak, *DOJ Aims to Staff Up 'Priority Work' on Antisemitism, Title IX*, BLOOMBERG LAW (Apr. 7, 2025), <https://www.bloomberglaw.com/product/blaw/bloomberglawnews/bloomberg-law-news/BNA%2000000196-110c-db85-adf7-d37f02cb0001>.

⁷ *Id.*

⁸ *Keeping Men Out of Women's Sports*, WHITE HOUSE (Feb. 5, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/>.

⁹ *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, WHITE HOUSE (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.

¹⁰ See *supra* note 1.

¹¹ Brooke Schultz, *See Which Schools Trump's Education Department Is Investigating and Why*, EDUCATION WEEK (Mar. 27, 2025), <https://www.edweek.org/policy-politics/see-which-schools-trumps-education-department-is-investigating-and-why/2025/03>

¹² *America First Legal Requests Federal Investigation of Illegal "Gender Identity" Policies in Five Northern Virginia K-12 Public School Systems*, AMERICA FIRST LEGAL (Feb. 3, 2025), <https://aflegal.org/america-first-legal-requests-federal-investigation-of-illegal-gender-identity-policies-in-five-northern-virginia-k-12-public-school-systems/>.

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continue to prioritize these investigations and will likely lead to DOJ enforcement actions against some of the schools and districts that are currently under investigation.

The Title IX SIT focus on transgender access presents conflicts for universities and school districts in states which have enacted laws prohibiting discrimination on the basis of sexual orientation and sexual identity. Federal and state law in some jurisdictions requires that transgender students be provided access to facilities that align with their gender identity. Schools within the Fourth and Seventh Circuits are bound to authority requiring them to provide transgender students access to same-sex facilities of their choice. The Courts of Appeals in these cases have ruled that gender identity is a protected category under Title IX, following the Supreme Court's holding in *Bostock v. Clayton County*¹³ that an employer's termination of an employee based on their gender identity violates Title VII.¹⁴ These cases conflict with the Executive Order, which relies upon a different interpretation of Title IX. Other federal circuits have also reached a different conclusion,¹⁵ so this issue seems clearly headed for Supreme Court review.

Willkie is here to assist educational institutions to analyze their policies related to gender identity, athletics, and access to school facilities to ensure compliance with local, state, and federal laws. Willkie can assist school personnel by ensuring that current reporting protocols allow schools to efficiently address any claims of sex discrimination and help schools create policies and procedures that protect students and abide by the law. Finally, our team routinely conducts investigations of reported violations of federal laws like Title IX. We can assist in responding to any requests from OCR or the new Title IX SIT.

¹³ 590 U.S. 644 (2020).

¹⁴ See e.g., *Gavin Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020); *A.C. v. Metropolitan School District of Martinsville et al.*, 75 F.4th 760 (7th Cir. 2023).

¹⁵ See e.g., *Adams v. School Board of St. Johns County*, 57 F.4th 791 (11th Cir. 2022).

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If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

Timothy J. Heaphy

202 303 1068

theaphy@willkie.com

Soumya Dayananda

202 303 1312

sdayananda@willkie.com

Lindsay Hemminger

202 303 1035

lhemminger@willkie.com

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BRUSSELS CHICAGO DALLAS FRANKFURT HOUSTON LONDON LOS ANGELES MILAN
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