

Transgender Athletes and Title IX: Agency Investigations and Litigation

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Title IX of the Education Amendments of 1972 [prohibits](#) sex discrimination in federally funded education programs. Long-standing regulations implementing the statute [permit](#) separating the sexes in sports programs, as long as schools offer equal athletic opportunities overall. One [developing area](#) of legal contention concerns how Title IX should apply when transgender students (students whose gender identity does not align with their sex assigned at birth) seek to participate in athletic activities consistent with their gender identity.

Some states allow transgender students to compete on athletic teams that align with their gender identity, while others require students to compete on teams aligned with their sex assigned at birth. For instance, some states prohibit transgender women and girls from participating on teams designated for women and girls, defined according to “biological sex.” Transgender student-athletes have challenged such laws as discriminating against them based on sex in violation of Title IX. By contrast, some cisgender students (students who identify with the sex they were assigned at birth) have brought Title IX challenges against policies that permit transgender students to play sports consistent with their gender identity, arguing that such policies operate to deprive them of equal athletic opportunities.

On February 5, 2025, President Trump signed [Executive Order \(E.O.\) 14201](#), “Keeping Men Out of Women’s Sports,” which, in part, orders the Secretary of Education to enforce Title IX against educational institutions that allow transgender girls and women to participate in girls’ and women’s sports. Since then, the Trump Administration has initiated [numerous](#) Title IX investigations into educational entities with athletic policies that allow transgender student-athletes to compete in sports consistent with their gender identity. The Administration has also moved to [freeze](#) certain state funding for violating Title IX on this basis, and the Department of Justice (DOJ) recently brought a [lawsuit](#) against a state board of education to enforce Title IX on the same grounds.

This Sidebar begins with background on how Title IX is enforced and its specific application to school athletics programs. It continues by briefly noting the range of approaches states have taken on the participation of transgender student-athletes and some of the court cases challenging these state laws and policies. The Sidebar then turns to how recent presidential Administrations have treated the question, including the Trump Administration’s actions to enforce its view of what Title IX requires. The Sidebar concludes with some considerations for Congress.

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Background on Title IX Enforcement and Athletics

Title IX [prohibits](#) sex discrimination in federally funded education programs, including athletics. All K-12 public school districts, and almost all colleges and universities, [receive](#) federal funding and must comply with its requirements.

Federal agencies that distribute funds to recipients operating education programs are [responsible](#) for promulgating regulations to implement Title IX. Title IX does not mention athletics, but the Department of Education's (ED's) long-standing [regulations](#) implementing Title IX provide that recipient schools may not discriminate based on sex in athletics programs or activities.

This prohibition does not mean all sex-based distinctions are banned. According to ED's [regulations](#), schools may offer separate athletics teams for each sex where selection is based on competitive skill or the activity is a contact sport. Schools do not need to offer the same sports for each sex, but they must provide [equal athletic opportunity](#) for members of both sexes overall. Even so, if a school [only](#) offers a sport for one sex, and opportunities for the other sex have been previously limited, a student from the excluded sex must be [allowed](#) to try out for the team unless it is a contact sport ([including](#) boxing, wrestling, rugby, ice hockey, football, and basketball).

Title IX is generally [enforced](#) in two ways: (1) through private lawsuits brought directly against funding recipients in federal court, and (2) by the federal agencies that distribute funding to recipients. Federal agencies that distribute funds to recipients may terminate or suspend funding in cases of noncompliance.

Because ED has distributed substantial funding for education programs, ED's Office for Civil Rights (OCR) has played a lead role in enforcing Title IX against recipient schools. Other federal agencies also distribute funding to recipients that operate education programs and [often](#) have a [similar](#) civil rights office that handles enforcement. For instance, both the Department of Health and Human Services (HHS) and the Department of Agriculture (USDA) distribute funding to recipients that operate education programs, and both agencies [have promulgated](#) Title IX regulations.

Individuals subjected to sex discrimination in federally funded education programs may bring [complaints](#) to the relevant funding agency, which can investigate a recipient for noncompliance. Agencies also sometimes [conduct](#) investigations [when](#) reports emerge of discrimination that violates the law. In the administrative enforcement context, the ultimate [sanction](#) for a recipient's refusal to come into compliance with Title IX is termination or suspension of federal funding. According to ED, however, this [measure](#) is rare, as the statutory enforcement scheme establishes termination as a "last resort." Instead, compliance issues are often resolved through adoption of [resolution agreements](#), wherein a recipient agrees to certain measures in order to come into compliance with Title IX. The statute provides that before an agency begins proceedings to terminate funding, it must first provide the recipient with [notice](#) that it is violating Title IX and determine that compliance cannot be reached voluntarily. Agency regulations [indicate](#) that matters should be resolved informally when possible.

Title IX provides that an agency has two enforcement [options](#) once it has given notice and determined that compliance cannot be achieved voluntarily. First, as discussed above, it can [terminate](#) funding following "an express finding on the record, after opportunity for hearing," of noncompliance. Agency regulations [indicate](#) that these [proceedings](#) are to take place before an administrative law judge and must comply with the formal adjudication procedures of the Administrative Procedure Act. In addition, the head of the relevant agency must file a written [report](#) to the congressional committees with jurisdiction over the agency specifying the grounds for termination. Termination [may not occur](#) until thirty days after the report is filed.

Second, Title IX provides that when an agency determines compliance cannot be reached voluntarily, compliance can be effected "by any other means authorized by law." [Courts](#) and [agency](#) regulations have

[interpreted](#) this language to allow referral of the case to the DOJ to bring a [lawsuit](#) in federal court to enforce the rights of the United States.

Legal Challenges to State Laws and Policies on Transgender Athletes

States and localities have taken a range of approaches to regulating the participation of transgender student-athletes in sports competitions. Some states and local school boards take a “permissive” approach, [allowing](#) transgender students to compete in athletics consistent with their gender identities with no requirements or restrictions. Others impose certain [conditions on participation](#). At least twenty-five states have taken a “restrictive” approach and passed laws requiring student-athletes to participate on teams according to their sex assigned at birth. For instance, some states [classify](#) school athletics teams according to biological sex and restrict transgender girls from participating in athletics consistent with their gender identity in sports sponsored by public high schools and postsecondary institutions.

Courts have addressed challenges to both restrictive and permissive approaches. Transgender student-athletes and their parents have contested restrictive laws and policies in various lawsuits across the country. These challenges typically claim that restrictive laws and policies violate Title IX because they discriminate based on sex. Federal courts in different jurisdictions have reached different conclusions about the viability of these claims, often based on jurisdiction-specific precedent and the facts of the case. At the federal appellate level, at least one federal court has [ruled](#) that application of a restrictive state law to a particular transgender athlete violated Title IX. By contrast, some cisgender athletes have challenged permissive policies, arguing that they violate Title IX by depriving them of equal athletic opportunities, though these cases are still in the [preliminary](#) stages. One federal appellate court has [ruled](#) that plaintiffs had standing to bring a Title IX lawsuit challenging a permissive policy.

Legal challenges have also often focused on the Equal Protection Clause, which is beyond the scope of this Sidebar; for more on developing litigation concerning Title IX, equal protection, and transgender athletes, see [this CRS Report](#).

Department of Education Regulations

Federal agencies have also addressed how Title IX applies in the context of athletics participation for transgender students. ED’s position on the application of the law to gender identity and transgender athletes has shifted across presidential Administrations. In 2024, ED updated its Title IX regulations to [define](#) sex discrimination as including sexual orientation and gender identity discrimination. The regulations also contained a [provision](#) specifying that, absent an exception, school policies that prevent individuals from participating in education programs consistent with their gender identity violate the law even where differential treatment or separation based on sex is otherwise permitted by Title IX. After numerous legal challenges resulted in various [preliminary injunctions](#) against the 2024 regulations, a federal district [court vacated](#) them nationwide in January 2025.

In addition, in 2023 ED issued a separate Notice of Proposed Rulemaking (NPRM) that would have [amended](#) the agency’s Title IX regulations with specific provisions regarding the participation of transgender students in athletics programs. The NPRM [proposed](#) to amend ED’s Title IX regulations to prohibit categorical bans on transgender students participating in sports consistent with their gender identity but to allow restrictions that—for each grade level, sport, and level of competition—were substantially related to an important educational objective and aimed to minimize harm to transgender students. The NPRM was never finalized, and ED eventually [withdrew](#) it before the start of the second Trump Administration.

Recent Investigations and DOJ Lawsuit

On February 5, 2025, the Trump Administration issued [E.O. 14201](#), directing the Secretary of Education to prioritize enforcement of Title IX against educational institutions that allow transgender girls and women to participate in girls' and women's sports. The order also adopts the [definitions](#) from another E.O., "Defending Women from Gender Ideology Extremism and Restoring Truth to the Federal Government," which defines "sex" to mean "an individual's immutable biological classification as either male or female." That E.O. [directs](#) the Attorney General to issue guidance to agencies to address the prior Administration's "misapplication" of Supreme Court precedent "to sex-based distinctions in agency activities."

The Trump Administration has also taken [actions](#) to downsize federal agencies, including those that enforce Title IX. ED recently [initiated](#) a reduction in force that cut staff (including at OCR) by nearly half; that action is the [focus](#) of pending [litigation](#).

Administrative Enforcement and Fund Termination

The Trump Administration has initiated Title IX investigations into various educational entities with athletics policies that allow transgender student-athletes to compete in sports consistent with their gender identity. For instance, ED's OCR has opened [numerous](#) Title IX investigations into institutions such as colleges and state boards of education. Other federal agencies that distribute federal financial assistance to education programs have [conducted](#) Title IX compliance [reviews](#) on the same basis.

On April 2, 2025, USDA issued a [letter](#) to the governor of Maine announcing a freeze on certain funding on the grounds that the state's permissive policy for transgender girls participating in athletics was not in compliance with Title IX. It appears that USDA [froze](#) certain funds relating to school meals and child nutrition programs that the agency provides to Maine.

Maine [sued](#) USDA, arguing that the agency failed to follow the required procedures under Title IX before terminating funding. A federal district court issued a temporary restraining order (TRO) against the agency, [ruling](#) that USDA's actions violated Title IX's enforcement requirements. It observed that USDA did not [provide](#) the notice and hearing before termination of funds that the statute requires. In addition, the court reasoned, the Title IX [provision](#) concerning administrative proceedings limits termination for noncompliance to the "particular program" where noncompliance is found; but here, USDA [terminated](#) school nutrition funding, rather than "funding from student athletics." The court also [ruled](#) that USDA did not comply with its regulations implementing Title IX. The court thus [granted](#) a TRO against USDA, ordering it to unfreeze and release any funding to Maine that was stopped for alleged failure to comply with the law.

The court was [clear](#), however, that it was not deciding the underlying question in the case—namely, whether the participation of transgender girls on girls' athletics teams violates Title IX. Following the TRO, the parties [settled](#); under the [settlement](#) terms, USDA agreed to refrain from freezing the state's access to funding based on an alleged Title IX violation unless it first follows the procedures required under the statute and applicable regulations.

DOJ Lawsuit Against Maine's Department of Education

In addition, both HHS and ED notified Maine's Department of Education (MDOE) of the [initiation](#) of Title IX compliance review investigations based on reports that the state's permissive athletics policy for transgender girls was violating Title IX. Both agencies subsequently issued the state a [notice](#) that MDOE [was](#) out of [compliance](#) with the law's requirements, and [proposed](#) resolution [agreements](#) that would bring Maine into compliance with the agencies' view of the law. After [determining](#) that compliance with Title IX could not be [obtained](#) through this informal process, both agencies referred the matter to DOJ. ED also

indicated that it would [simultaneously](#) initiate administrative proceedings to terminate funding it provides to the state.

DOJ sued MDOE in federal district court, [arguing](#) that the state’s athletics policy “den[ies] girls the opportunity to compete in student sports on a level playing field in which they have the same opportunities as boys” in violation of Title IX. According to DOJ, the state’s policy “forces girls to compete against boys—despite the real physiological differences between the sexes,” which [denies](#) equal athletic opportunities to girls. The case is currently pending.

Considerations for Congress

The legal landscape concerning the participation of transgender athletes in school sports is in flux. Challenges to state laws and school board policies have generated conflicting judicial decisions as to what Title IX requires. Recent presidential Administrations have also taken divergent positions on the question. Further, some judicial decisions do not align with the current positions taken by federal agencies, such as ED.

Congress has several options if it wishes to address the issue, subject to constitutional requirements such as the Equal Protection Clause. One option would be to restrict participation in school sports according to biological sex. In January 2025, the House passed a bill, [H.R. 28](#), that would ban transgender girls from participating in sports according to their gender identity. Alternatively, if Congress wished to supersede state legislation or executive branch interpretations of Title IX that restrict participation on sports teams based on an athlete’s biological sex, it could amend Title IX to explicitly require funding recipients to allow students to participate on teams that match their gender identities. Congress could also pass legislation taking an approach similar to ED’s now-withdrawn NPRM, allowing some limitations on the participation of certain student-athletes without creating or allowing categorical bans. More broadly, these options may ultimately be shaped by judicial rulings on issues concerning gender identity.

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