

HIGHER EDUCATION INFORMATION MEMO

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Title IX 2024 Final Rule Struck Down

On Jan. 9, 2025, the Eastern District of Kentucky held in *State of Tennessee, et al. v. Miguel Cardona, et al.* that the U.S. Department of Education's 2024 Final Rule implementing Title IX is "unlawful." This court decision applies nationwide.

This is not the first time the 2024 Final Rule has been successfully challenged. Even before yesterday's ruling, several courts had issued injunctions, resulting in the 2024 regulations having no effect in 26 states and at a multitude of additional individual colleges and universities across the country.

The court determined in *State of Tennessee* that the Final Rule suffered from several legally fatal defects, including that the Final Rule went farther than permitted by Title IX in its definition of sex to include gender identity, its definition of sex-based harassment, and the scope of the Rule's jurisdictional application. According to the Eastern District of Kentucky, the Final Rule impeded individuals' First Amendment rights, violated the Spending Clause, and is "arbitrary and capricious."

The fact that the 2024 Final Rule has been struck down is not necessarily a surprise. The 2024 Final Rule was part of the Biden administration's Title IX agenda which the incoming Trump administration was expected to revisit and reverse. The timing of the change – coming prior to the administration taking office and without the notice associated with the rule making process – adds a layer of confusion and complexity for impacted institutions.

As of today, those colleges and universities that had been operating pursuant to the 2024 Final Rule will need to revert to a practice that is compliant with the 2020 regulations. This does not necessarily mean that all aspects of an institution's 2024 Title IX policy and procedures must be discarded. For example, some institutions opted to retain a live hearing model with cross-examination under the 2024 Title IX regulations, and this is the required adjudication process pursuant to the 2020 regulations. Similarly, the 2024 Title IX regulations provided for increased protections and accommodations for pregnant students and, while those aspects of the regulations are no longer subject to enforcement, they do not necessarily contravene the 2020 regulations.

There are intricacies that will need to be considered well beyond these examples, and it is possible that the Department will appeal this decision and/or issue interim guidance. In a particular case – particularly a pending case – the question of how an institution should react to the *State of Tennessee* decision is a nuanced topic to be discussed with the institution's legal counsel.

Bond's Higher Education Practice Group will continue to monitor developments and assess the implications of this significant decision. If you have any questions, please contact [E. Katherine Hajjar](#), [Laura H. Harsharger](#), any attorney in the firm's [higher education practice](#) or the Bond attorney with whom you have regular contact.

