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LOUISIANA DEPARTMENT OF EDUCATION

DATE: April 22, 2024
TO: School System Leaders & Schools Boards
FROM: Dr. Cade Brumley, State Superintendent of Education *Cade Brumley*
SUBJECT: Response to New Federal Title IX Rules

On Friday, April 19, 2024, the U.S Department of Education (ED) released new Title IX rules¹, effective August 1, 2024, that expands the interpretation of discrimination on the basis of sex to include gender identity² and other categories.

For example, under the new Title IX rules, schools would be required to allow biological males who identify as females to receive access to women and girls' locker rooms and school restrooms or face sanctions for a rule violation on the basis of sex discrimination. In another example, the new rule could force educators to reference students by names and pronouns not consistent with their biological sex and also erode parent notification of such student desires. It could also force schools to establish extensive bureaucracies to police free speech on campus.

Furthermore, these new Title IX rules could be in direct contradiction with Louisiana's Fairness in Women's Sports Act, a law that affirms school-sanctioned athletic participation must be divided by biological sex unless the configuration is co-ed in nature. While ED claims these new rules do not speak to sports, the new rules explicitly mentions athletics over 30 times. Clearly, sports in Louisiana could be impacted by the new rules and, if implemented, create a conflict with Louisiana law.

These new rules have been in development for nearly two years, and I have previously submitted comments in staunch opposition as it alters the long-standing definition that has created fairness and equal access to opportunity for women and men. At this time, my opposition to these new Title IX rules remains unchanged. The Title IX rule changes recklessly endanger students and seek to dismantle equal opportunities for females.

Presently, my office is working with the Office of the Governor and our Attorney General to review the 1500-pages of new rules³ and determine their overall impact. It is inevitable that there will be a legal challenge to the new rules, contesting the unprecedented unilateral expansion of the long-standing prohibition against discrimination based on "sex" to include "sex stereotypes, sex related characteristics (including intersex traits) pregnancy or related conditions, sexual orientation and gender identity." This expanded definition is unsupported by the text of Title IX, its implementing regulations, and the law's extensive congressional history and record of debate and deliberation. This rule runs contradictory to the entire foundation of Title IX.

The Louisiana Department of Education recommends that school systems maintain communication with their legal counsel on this matter. Further, it remains my position that schools should not alter policies or procedures at this time.

CC: Governor Jeff Landry
Attorney General Liz Murrill
Members of the The Louisiana State Board of Elementary and Secondary Education (BESE)
Louisiana High School Athletic Association (LHSAA)

¹ <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>

² <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/08/executive-order-on-guaranteeing-an-educational-environment-free-from-discrimination-on-the-basis-of-sex-including-sexual-orientation-or-gender-identity/>

³ <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>