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AG SKRMETTI LEADS STATE AG RESPONSE TO U.S. DEPARTMENT OF EDUCATION'S PROPOSED REGULATIONS; REDEFINITION OF "SEX"

Nashville- Attorney General Jonathan Skrmetti today objected to the U.S. Department of Education's (the Department) proposed Title IX regulations in a formal comment letter joined by nineteen other state attorneys general.

Title IX of the Education Amendment protects people from discrimination based on sex and applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the Department.

In his comments to Education Secretary Miguel Cardona, General Skrmetti contends the Department's proposed redefinition of "sex" in Title IX to include "gender identity" would promote sex-based discrimination and threaten constitutional rights.

"For fifty years, Title IX has protected girls and women and enhanced their educational opportunities," said General Skrmetti. "The proposed regulations will hurt women, violate the Constitution, and create confusion as to what the law is and what the law requires."

The comment letter points to several predictable violations of constitutional rights that may ensue if the proposal becomes law:

- State-run public college would have to compel speech in violation of the First Amendment arising from the forced use of certain pronouns and other referential terms.
- School administrators may feel forced – or empowered – to insert themselves into constitutionally protected family affairs.
- Title IX would, as implemented, reach beyond Congress's lawmaking authority.

The Department's proposed regulations follow an [Executive Order](#) issued by President Joe Biden March 8, 2021 "guaranteeing an educational environment free from discrimination on the basis of sex, including sexual orientation or gender identity."

The Department followed suit with new Title IX guidance, which pressured schools to allow boys to compete on girls' teams, prohibit single-sex locker rooms and bathrooms, and force students and teachers to use subjective and arbitrary pronouns.

The U.S. District Court for the Eastern District of Tennessee stopped the Department from enforcing the guidance July 17th 2022, following a [lawsuit](#) filed by Tennessee, joined by 19 other states, against The Department and the Equal Employment Opportunity Commission.

Subsequently, The Department issued proposed Title IX regulations and invited public comment for 60 days. You can read the entirety of Tennessee's comments here:

<https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2022/pr22-34-letter.pdf>

Tennessee is joined on the letter by the attorneys general of the following states: Alabama, Alaska, Arizona, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and West Virginia.

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