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Florida Attorney General's Office News Release

Attorney General Moody Fights to Protect Women and Girls, Challenges Biden's Unlawful Title IX Regulations



TALLAHASSEE, Fla.—Attorney General Ashley Moody today led a coalition challenging the Biden administration’s newly announced Title IX rule. Biden’s Department of Education recently unveiled new changes to Title IX seeking in part to redefine “sex” to include “gender identity” and “sexual orientation” despite decades of legal precedent stating otherwise.

Attorney General Ashley Moody said, “Biden’s new Title IX rules shred protections for women—that so many fought for over decades. The idea that young girls can now legally be forced to undress in the same room with males in what is supposed to be a safe space like a locker room, that a young woman could be randomly assigned a roommate that is a biological male with little to no say over the matter, or that biological men would be eligible for women’s scholarships is ludicrous. To ensure safety and fairness, Florida will aggressively fight Biden who refuses to think through the real-world consequences before overhauling regulations.”

Enacted in 1972, Title IX states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” As Attorney General Moody and the coalition reference in the complaint, “At the time of enactment, no one doubted

that the law's use of 'sex' referred to biological sex. And all relevant indicators confirmed what everyone understood: 'sex,' as used in Title IX, means biological sex and does not include gender identity or sexual orientation."

The new [rule](#) references "limited circumstances" where sex discrimination is allowed. Noticeably absent from the list of "limited circumstances" is the regulation on separate bathrooms and locker rooms stated in [34 C.F.R. §106.33](#). The rules could also force female college students to share dorm rooms with biological males.

The coalition, in reference to this absence, states, "Though the rule doesn't expressly rescind §106.33, the Department says that its regulation is null and void. That regulation is not backed by a 'statutory exception,' the Department claims, and the Department 'declines to adopt the Eleventh Circuit's reasoning in Adams that the statutory carve out for living facilities' justifies it... In other words, the rule declares §106.33 invalid without formally rescinding it and proclaims that excluding transgender or nonbinary students from using the bathroom or locker room of the opposite sex is illegal..."

The coalition concludes in part by stating, "The challenged rule's redefinition of 'sex' under 20 U.S.C. §1681 to include 'gender identity' and 'sexual orientation' is illegal. Courts must interpret a statute's 'words consistent with their ordinary meaning at the time Congress enacted the statute.' [Wis. Cent. Ltd. v. United States, 585 U.S. 274, 277 \(2018\)](#). There is no evidence from the time of Title IX's enactment—and the Department offers none—to indicate that 'sex' referred to anything other than biological differences between males and females." This would make sense in consideration of safety and fairness.

The coalition is asking for the following relief: A declaration that the rule violates the Administrative Procedure Act; vacatur; a stay of the rule's effective date; a preliminary and permanent injunction barring enforcement of the rule in the plaintiff states; and any other relief that the court deems just and proper.

Joining Attorney General Moody in the lawsuit are the attorneys general from Alabama, Georgia and South Carolina. The attorneys general are also joined by the Independent Women's Law Center, the Independent Women's Network, Parents Defending Education and Speech First Inc.

Read the full lawsuit [here](#).

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