

Major Revisions:

1. Inclusion of Sexual Orientation and Gender Identity: Prohibits discrimination based on sexual orientation, gender identity, and sex characteristics.
 - a. Clarifying that sex-based discrimination prohibited by Title IX is inclusive of discrimination on the basis of sexual orientation, gender identity, and sex characteristics. The inclusion of language about sex characteristics is particularly critical for ensuring that intersex people are protected by Title IX.
2. Sex-Based Harassment: Extends prohibition to all forms of sex-based harassment, not just sexual harassment.
 - a. Clarifying that Title IX prohibits sex-based harassment, instead of only sexual harassment. This is particularly critical for ensuring that verbal and physical harassment of LGBTQI+ students is addressed.
3. Access to Sex-Separated Programs: Ensures access to facilities consistent with a student's gender identity (bathrooms, locker rooms, overnight accommodations, and sex education).
 - a. Clarifying that sex-separated programs and activities - including bathrooms, locker rooms, overnight accommodations, and sex education classes - cannot exclude a person from a space consistent with their gender identity.
- In 2024, Title IX was updated to better protect LGBTQI+ students. The inclusion of sexual orientation and gender identity in the definition of sex-based discrimination is crucial for ensuring that LGBTQI+ students are safeguarded against discrimination. The clarification that Title IX covers all forms of sex-based harassment, not just sexual harassment, helps address broader issues of bullying and mistreatment. Additionally, the rule ensures that students have access to facilities and programs that align with their gender identity, which is vital for fostering inclusive environments.

Importance of Title IX Clarification to Protect LGBTQI+ Youth:

1. Harassment and Bullying:
 - a. In GLSEN's [2021 National School Climate Survey](#)
 - i. 83% of LGBTQI+ youth reported facing harassment, bullying, assault, or discrimination in K-12 settings.
 - ii. 62% of those students did not report the incidents due to lack of confidence in school staff or fear of being outed to their parents.
2. Disciplinary Actions:
 - a. LGBTQI+ students face disproportionate disciplinary actions compared to their peers.
 - b. 25% of LGBTQI+ students are disciplined for public displays of affection, while their straight/cisgender peers are not.
- Title IX clarification is vital for protecting LGBTQI+ youth from harassment and discrimination. The high rates of reported harassment and the significant number of students who do not report due to mistrust or fear underscore the need for effective legal protections. The disproportionate disciplinary actions against LGBTQI+ students further highlight the necessity for clear guidelines to prevent and address such inequities in schools.

Importance of Access to Gender-Consistent Spaces:

1. Discriminatory Policies:
 - a. Denial of access to sex-separated spaces that are consistent with gender identity leads to increased risks of bullying, harassment, and assault.
2. Statistics:
 - a. 68% of transgender students and 45% of nonbinary students denied having access to bathrooms consistent with their gender identity.
 - b. 71% of transgender students and 43% of nonbinary students reported being prevented from using preferred locker rooms.
 - c. Only 37% of transgender and nonbinary students reported attending a school with gender-neutral bathrooms.
 - i. Avoidance of sex-separated spaces could mean that a student goes the entire school day without being able to use the bathroom.
- Access to facilities that align with a student’s gender identity is crucial for their safety and well-being, including their physical and physiological health. Based on data from GLSEN’s 2021 National School Climate Survey, discriminatory policies that deny this access can result in increased risk of bullying, harassment, and mental health issues. Statistics show a high rate of denial for access to preferred bathrooms and locker rooms.
 - (GLSEN, 2021)

Application of Title IX Updates in School Sports and Athletic Programs:

1. Title IX Protections:
 - a. Prohibits discrimination based on gender identity and sex characteristics in sports.
2. State Legislation:
 - a. 25 states have still attempted to limit transgender, nonbinary, and intersex students' participation in sports.
3. Recent Legal Developments:
 - a. U.S. Department of Justice and federal court rulings affirm the rights of transgender students in sports.
 - b. Ongoing rulemaking by the U.S. Department of Education regarding athletics.
 - i. (GLSEN, 2021 & 2024)
- The Title IX updates ensure that discrimination in school sports based on gender identity and sex characteristics is prohibited. Despite these protections, many states have introduced laws restricting participation of transgender and nonbinary students in sports. Legal challenges and rulings, including statements from the Department of Justice and federal court decisions, reinforce the need for compliance with Title IX to ensure fair access to athletic opportunities for all students. For example, in mid-2023, the U.S. Department of Education started a separate rulemaking to consider updates to Title IX in the context of athletics. Even as the Department considers this further rulemaking, Title IX should be enforced to invalidate discriminatory policies and ensure all students - including LGBTQI+ students - have equitable access to educational opportunity throughout the entirety of the school experience.

Federal vs. State Law Conflicts:

1. Federal Preemption:
 - a. Federal law (Title IX) overrides state laws and district policies that conflict with its protections.

2. Enforcement Challenges:
 - a. States may delay updates or challenge Title IX's applicability in court.
 - b. Violations can lead to legal challenges and require schools to amend policies or compensate victims.
 - i. (GLSEN, 2024)
- When federal laws such as Title IX conflict with state laws or school district policies, Title IX takes precedence. This means that schools must comply with Title IX's requirements to protect students' civil rights. However, states may resist or challenge these regulations, leading to potential legal battles and delays. It is essential for ongoing advocacy and legal action to ensure that Title IX's protections are fully realized and enforced.