

California Charter Schools Not Enjoined in Out-of-State Title IX Challenges

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We recently learned about misinformation that may be spreading among California schools concerning Title IX regulations and the impact of out-of-state litigation. Rest assured, no California charter school has been enjoined or ordered to do anything in those cases. In fact, no schools or states are subject to an injunction or at risk of violating a current court order. Rather, the U.S. Department of Education (“USDOE”) is the subject of the court order, and has been enjoined against enforcing its new Title IX regulation against numerous schools around the country, including some in California. That is very different than an injunction against a school. If anything, this gives those schools some flexibility with regard to how they implement the new rules. States and schools listed in the order are exempt from USDOE enforcement of the new Title IX regulations until further notice, which means they cannot be audited or penalized for failing to implement the new federal regulations.

As background on this, the new Title IX regulations, which went into effect on August 1, 2024, are the subject of litigation to prevent implementation and enforcement by USDOE. Plaintiff organizations disagree with the expanded definition of sex to include protections against discrimination on the basis of sexual orientation and gender identity. These plaintiffs secured a preliminary injunction in a federal case filed in the US District Court for the District of Kansas last month. Because of the injunction, the USDOE is temporarily prohibited from enforcing the new Title IX regulations against the plaintiffs and the schools their member families reportedly attend. Therefore, the plaintiffs were asked to provide a list of such schools.

Aside from Title IX, California schools should know that state law separately provides protections against discrimination, and the new Title IX regulations are aligned in that regard. So in practical terms, most schools are implementing the substance of the new regulations anyway.

Again, nothing in the injunction prevents California schools from proceeding with updating their Title IX policies to align with the new regulations. As these cases unfold, YMC will continue to provide you regular updates.

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Please do not hesitate to contact us with any questions regarding the new Title IX regulations, training, and policy updates. Rikeshia Lane, Esq. (rlane@ymclegal.com) or Casey Fee, Esq (cfee@ymclegal.com), or by calling 916.646.1400.

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