

Key Takeaways—Education and School Board Law webinar Vol. 3 (Title IX Regulation, Parents’ Rights to Information, and First Amendment Rights)

The following are key takeaways from CALN’s Education and School Board Law webinar on Jan. 10, 2025. The webinar covered recent developments on Title IX regulations, parents’ rights to information, and legal compliance regarding student pronouns and names.

Please note: These summaries can provide you with helpful information, but they do not and are not intended to constitute legal advice or create an attorney-client relationship. Instead, they are for general informational purposes only. You are encouraged to contact your board attorney, or to hire a personal attorney, to obtain advice with respect to legal matters.

Important updates regarding Title IX

Background

Announced in April 2024, the Biden Administration’s Title IX regulation expanded the scope of “sex discrimination” to include “discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.”

Previously, there was no regulation on the scope of sex discrimination.

Recent court decision

On January 9, 2025, a federal district court in Kentucky struck down President Biden’s expansion of Title IX, declaring the new regulation unlawful in its entirety and thus preventing its enforcement **in any state**. Therefore, the U.S. Department of Education’s Office for Civil Rights is **permanently enjoined** from enforcing the regulation unless and until an appellate court declares otherwise.

In its decision, the Court wrote:

- “As this Court and others have explained, expanding the meaning of ‘on the basis of sex’ to include ‘gender identity’ turns Title IX on its head.”
- “[T]he entire point of Title IX is to prevent discrimination based on sex—throwing gender identity into the mix eviscerates the statute and renders it largely meaningless.” • “[T]he entire Final Rule and corresponding regulations are invalid and must be set aside.”

Parents’ right to information

North Carolina

Under the [Parents’ Bill of Rights](#) (S.B. 49) enacted on August 16, 2023, the governing body of a

public school unit shall adopt procedures to notify a parent “prior to any changes in the name or pronoun used for a student in school records or by school personnel, notice to the parent of the change.”

South Carolina

Under [Act No. 203](#) enacted on May 21, 2024, a nurse, counselor, teacher, principal, or other official or staff at a public school shall not knowingly:

1. encourage or coerce a minor to withhold from the minor's parent or legal guardian the fact that the minor's perception of his or her gender is inconsistent with his or her sex, as defined in Section 44-42-310; or
2. withhold from a minor's parent or legal guardian information related to the minor's perception that his or her gender is inconsistent with his or her sex, as defined in Section 44-42-310.

Furthermore, it states that the principal, vice principal, or counselor at a public school shall immediately notify in writing a minor's parent or legal guardian if the minor:

1. asserts to any school employee that the minor's gender is inconsistent with his or her sex, as defined in Section 44-42-310; or
2. requests a school employee to address a minor using a pronoun or title that does not align with the minor's sex.

Remember these helpful considerations:

- The protection of children in the schools is one of your most important responsibilities as a school board member
- Make parental rights and First Amendment compliance among your most important priorities
- Resist the calls by fellow board members, staff, and the media to ignore these issues on the basis that they are “cultural issues” or part of the “culture war”
- Parents and children rely upon you to hold the superintendent and staff accountable • Ask questions, make policy, direct that actions be taken, and hold the superintendent accountable

Please note: The transmission and receipt of information contained in this summary does not form or constitute an attorney-client relationship. Anyone receiving any part of this information should not act upon the information without seeking professional legal counsel.