

Southeastern Legal Foundation Files Brief Supporting Title IX Challenge

(January 31, 2023) Cincinnati, OH: [Southeastern Legal Foundation](#) (SLF) filed an [amicus brief](#) with the Sixth Circuit Court of Appeals in support of [several states](#) challenging yet another unconstitutional action by the Biden administration. On the day he took office, President Biden [unilaterally gutted Title IX](#) of the Education Amendments of 1972—turning a law intended to protect women into one that instead redefines “sex” to include gender ideology and sexual orientation, eviscerating those protections and reversing decades of progress our nation has made toward sexual equality. The administration then released [guidance documents](#) *requiring* schools and extracurricular programs to recognize students’ preferred pronouns and transgender identities, remove protections for women in sports, and open up bathrooms and locker rooms to students of opposite sexes.

Thankfully, states stepped in and [sued](#) the Biden administration for abusing its federal power and unconstitutionally thrusting its views upon every American citizen. SLF Litigation Director [Braden Boucek](#) explains, “States have had enough of the Biden administration telling them how to run their local institutions. President Biden cannot simply extend Title IX unilaterally and expect not to face the judicial system. We stand beside the states who are pushing back against this unconstitutional executive overreach.”

In its supporting brief, SLF explains that the guidance documents are plainly unconstitutional. The administration [broadly bans](#) “sex stereotyping” and making “assumptions about what it means to be a boy or a girl.” Although it doesn’t actually define what those terms mean, the administration warns that failing to use a transgender student’s preferred pronouns, refusing to let a biological male use the girls’ restroom, and telling students that there are only two genders are now forms of harassment under Title IX.

Forcing teachers and students to abandon their own views and affirm the Biden administration’s views violates the First Amendment. Through its so-called guidance documents, the administration is imposing a nationwide orthodoxy on every teacher, student, and school. Now they have a choice to make: either accept and affirm the Biden administration’s views on gender, or risk facing punishment for harassment and losing federal funding.

Director of SLF’s 1A Project [Cece O’Leary](#) says, “It is settled under the First Amendment that the government can’t broadly ban things like offensive speech or stereotyping. It begs the question: who decides? If the federal government had the power to declare some views acceptable and others unacceptable, we’d have to change our beliefs with every election.”

SLF emphasizes in its brief that this not only infringes on state power, but also on parent and student rights across our nation. SLF General Counsel [Kimberly Hermann](#) explains, “Many parents move to these very states to ensure that their children are afforded equal protection and opportunity under the law. Parents should be able to trust, at a minimum, that their children are safe in bathrooms and on sports teams. As President Biden tries to chip away at those basic protections under Title IX, we will hold his administration accountable on behalf of parents, students, and teachers in the courts of law.”