



ANTHONY G. BROWN, MARYLAND ATTORNEY GENERAL

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Media Contacts:
press@oag.state.md.us
410-576-7009

Attorney General Brown Defends Title IX's Protections against Discrimination and Harassment in Schools

BALTIMORE, MD (August 31, 2023) – Attorney General Brown today joined a coalition of 19 Attorneys General in filing an [amicus brief](#) with the U.S. Ninth Circuit Court of Appeals in a class-action case, *Hunter v US Department of Education*, supporting arguments that a 2020 rule adopted towards the end of the previous federal administration is invalid. Title IX, which prohibits sex discrimination in federally funded schools, requires that schools act to prevent discrimination and harassment on campus.

The lawsuit was brought on behalf of students opposing the U.S. Department of Education's (DOE) implementation of a new regulation governing Title IX's religious exemption from anti-discrimination laws. The new regulation significantly weakened protections from discrimination on religious grounds.

When Congress enacted Title IX, it included a narrow exemption for schools controlled by religious institutions that have tenets incompatible with Title IX. However, during the previous administration, the DOE used administrative rulemaking to vastly expand this narrow religious exemption.

One such rule, adopted in August 2020, makes it more difficult for prospective students to determine which schools are claiming a religious exception. The DOE eliminated the requirement that educational institutions advise the Office for Civil Rights in writing if they intended to invoke a religious exemption. As a result, schools could invoke the exemption, without notice, in response to a student's complaint.

"The existing Title IX rule allows schools to hide from students that they won't be protected from sex-based discrimination and harassment," **said Attorney General Brown**. "Allowing schools to claim religious exemptions to Title IX at any time, and also not requiring them to disclose that information to students, is unfair. Until the rule is overturned, the rights of women, members of the LGBTQ+ community, and other classes of students to receive equal treatment in education are at risk."

As the coalition's brief states, students "...should not have to wait until after they become a victim of discrimination to learn that their school considers itself exempt from Title IX's anti-discrimination, anti-harassment, and anti-retaliation rules. Nor should schools be allowed to wait to assert their exemption from Title IX until after a complainant comes forward with an allegation."

In submitting the brief, Attorney General Brown joins the Attorneys General of California, Colorado, Connecticut, the District of Columbia, Delaware, Hawaii, Illinois, Maine, Massachusetts, Michigan, Minnesota, New Jersey, Nevada, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

<https://www.marylandattorneygeneral.gov/press/2023/083123.pdf>