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Title IX Regulations

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Practice Area: School Law

STATE OF KANSAS, et al., Plaintiffs, v. UNITED STATES DEPARTMENT OF EDUCATION, et al., Defendants (Case No. 24-4041-JWB)

In April 2024, the Department of Education (DoE) issued final Title IX rules that apply to complaints of sex discrimination occurring on or after August 1, 2024. Shortly thereafter, a number of states and organizations challenged the implementation of the final rules.

In *State of Kansas, et al, v. United States Department of Education*, the plaintiffs filed action against the DoE on May 14, 2024 to enjoin enforcement of the final rules requiring new policies be implemented by August 1. Plaintiffs include the States of Kansas, Alaska, Utah, and Wyoming. Plaintiffs also include K.R., a minor, and three organizations: Moms for Liberty, Young America's Foundation, and Female Athletes United ("Plaintiff Organizations").

On July 2, 2024, the Court issued an order granting Plaintiffs' motion. In granting injunctive relief, the Court enjoined the DoE from enforcing the Final Rule against the Plaintiff States, K.R.'s school, and the schools attended by the members of the Plaintiff Organizations or their minor children.

As a result, a list of schools that were enjoined from implementation of the Final Rules was published on July 16, 2024. In response to Moms for Liberty's request, Judge John W. Broomes, wrote that "to provide relief to all Plaintiffs, the court enjoined the Final Rule from being implemented against any school attended by the members of the Plaintiff Organizations or a minor child of a member of Moms for Liberty. **This court's ruling did not state that it was limited to individuals who were members of a Plaintiff Organization on a *certain* date."** (emphasis added).

He further wrote that "the court concludes that all of the Plaintiff Organizations' members, current and prospective, are entitled to the relief ordered in this action. The court's order regarding identification of affected schools was the first step in ensuring that Defendants have notice on that point. **Supplements to the original notice may be appropriate as the case progresses."** (emphasis added).

Judge Broomes clarified that the "Defendants are enjoined from enforcing the Final Rule against Kansas, Alaska, Utah, Wyoming, K.R.'s school, the schools attended by the current and prospective members of Young America's Foundation or Female Athletes United, as well as the schools attended by the children of the current and prospective members of Moms for Liberty. As a result of the ruling herein, Moms for Liberty is granted until July 26, 2024, to file a notice of schools attended by its members' children."

Currently, there are 26 states that are suing the DoE, and 15 states are currently under an injunction preventing implementation of the Final Rules. This does not include Wisconsin. However, a list of schools that were impacted in the State of Kansas decision have been identified. That list can be found here.

It is likely that another list of Wisconsin schools affected by the litigation will be published shortly after July 26, 2024. Further, it is also very likely that a number of parents and students, or other affected individuals, will join the plaintiff organizations with the goal of having the injunction applied to their Wisconsin school or school district. This is a fluid situation and we will continue to keep school districts updated on these developments.

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