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Title IX



Synopsis

THIS CASEBOOK contains a selection of U. S. Court of Appeals decisions that analyze, discuss and apply provisions of Title IX. The selection of decisions spans from 2012 to the date of publication. Title IX of the Education Amendments of 1972 provides that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." See 20 U.S.C. § 1681(a). An implied right of action for such claims lies only "against the educational institution itself." *Frazier v. Fairhaven Sch. Comm.*, 276 F.3d 52, 65 (1st Cir.2002). *Morgan v. Town of Lexington, MA*, 823 F. 3d 737 (1st Cir. 2016). Congress enacted Title IX under its Spending Clause powers, making it in the nature of a contract: In accepting federal funds, States agree to comply with its mandate. *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 181-82 (2005). Given its origins, Title IX's only (express) enforcement mechanism is through agencies' regulation of federal funding. Congress directs agencies to effectuate § 1681(a) by, among other means, the "termination of or refusal to grant or to continue" funding to education programs. 20 U.S.C. § 1682; see *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 255 (2009). Today this directive applies afar: Twenty-one federal agencies currently enforce Title IX. See *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 65 Fed. Reg. 52,858 (Aug. 30, 2000) [hereinafter Title IX Common Rule] (codified in various sections of the Code of Federal Regulations). And no other federal statute empowers agencies to restrict funding from education programs engaging in sex discrimination. *Doe v. Mercy Catholic Medical Center*, (3rd Cir. 2017).

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