



## Attorneys react to federal judge's blocking of 2024 Title IX regulations

As the Biden administration winds down, a federal judge has unraveled one of the key rules the president championed.

U.S. District Judge Danny C. Reeves tossed out the 2024 final [Title IX regulations](#) on Jan. 9, saying they were "the result of arbitrary and capricious agency action." The regulations were for the 1972 anti-discrimination law. The U.S. Department of Education sought to prevent discrimination based on gender identity and sexual orientation in the new regulations.

But the new regulations also dictated how to handle situations where complainants or respondents in Title IX investigations have IEPs or Section 504 plans. These regulations are also now scrapped.

"By vacating the entire rule, the provision in the 2024 regulations that was specific to students with disabilities will not [be in] effect," said Kate Davis, an attorney at Bricker and Eckler LLP in Columbus, Ohio.

The new regulations went into effect on Aug. 1, 2024, but many districts were in a holding pattern because of [litigation](#) around the country. This involved 26 states, including Tennessee, Alabama, and Utah. Reeves decided to vacate the regulations in *State of Tennessee v. Cardona*, [125 LRP 1369](#) (E.D. Ky. 01/09/25). He stated in his decision that the "seriousness of the error weighs heavily in favor of vacating the Final Rule, as it is unlawful on numerous fronts."

"It's a bizarre situation to be in," said Jackie Gharapour Wernz, an attorney at Education Civil Rights Solutions in Dallas, Texas. "After all of this time and all of this discussion about what we can and can't do, and if it should be nationwide or not, to have it end here like this in such a nonchalant way is both anticlimactic and a little unnerving. This whole thing is a mess. But it is what it is."

["From a practical standpoint, the \[2024\] rule is dead. If you don't use the 2020 rule, you're just going to have a target on your back."](#)

Attorney Jackie Wernz

*Reprinted with permission from: **Special Ed Connection**®. © 2025 LRP Publications, 360 Hiatt Drive, Palm Beach Gardens, FL 33418. All rights reserved. **Special Ed Connection**® is your go-to source for compliance guidance and use-today solutions for all your day-to-day special education responsibilities. For FREE access or more information, please call 1-800-341-7874 or visit [www.SpecialEdConnection.com](http://www.SpecialEdConnection.com). For more **LRP Publications** resources, visit [www.shoplrp.com](http://www.shoplrp.com).*



Districts may want to review how attorneys think the decision will affect special education and what they should do while awaiting possible changes from the new presidential administration. Read on for reactions from attorneys about the scrapping of the 2024 Title IX regulations.

### **Treat 2024 regulations as if they never existed**

Because the judge essentially rendered the 2024 regulations nonexistent, it would make sense for everyone to revert back to using the [2020 regulations](#), Wernz said. After all, when the new administration comes into office, it is likely to enforce the 2020 rule. And districts that don't use it may be caught in its crosshairs.

"From a practical standpoint, the [2024] rule is dead," she said. "If you don't use the 2020 rule, you're just going to have a target on your back."

### **Continue to collaborate**

The 2024 regulations required Title IX coordinators to consult with one or more members of the student's IEP or Section 504 team to determine how the district will comply with the IDEA or Section 504 while implementing its grievance procedures. [34 CFR 106.8](#) (e).

But nothing in the regulations before 2024 would prevent Title IX coordinators from consulting with IEP and Section 504 team members now, said Samantha Lewis, an attorney at Parker Poe Adams & Bernstein LLP in Atlanta.

"Schools should probably be doing this as a best practice anyway," she said. "If you have a student with an IEP or 504 plan, and you're wanting to put in supportive measures, you have to make sure that it's not going to conflict with their plan. Hopefully, a lot of school districts were already naturally doing that."

The 2024 regulations at [34 CFR 106.44](#) (h) also stipulated how to handle [emergency removals](#) when a respondent has an IEP or 504 plan, Lewis said. Districts should be cautious despite them not being in effect.

"There would need to be consultation with that student's team as to how you're going to deliver services during the emergency removal and where the student's placement is going to be," she said.

### **Hold off on developing new policies**

*Reprinted with permission from: **Special Ed Connection**®. © 2025 LRP Publications, 360 Hiatt Drive, Palm Beach Gardens, FL 33418. All rights reserved. **Special Ed Connection**® is your go-to source for compliance guidance and use-today solutions for all your day-to-day special education responsibilities. For FREE access or more information, please call 1-800-341-7874 or visit [www.SpecialEdConnection.com](http://www.SpecialEdConnection.com). For more **LRP Publications** resources, visit [www.shoplrp.com](http://www.shoplrp.com).*



Just keep in mind that the 2020 regulations being back in effect doesn't mean you need to overhaul your policies and procedures just yet, Wernz said.

"I would not update your handbooks," she said. "I would just put up an interim policy on your district website. If you don't have a Title IX or civil rights website, create one. Put up something that says, 'Hey, we know this is a tumultuous time; here's what we're going to be doing. If you have questions, contact the Title IX coordinator.'"

You should dust off your 2020 policies and start using them to help people remember what they're supposed to do, Wernz said. Train staff members on the differences in evidence sharing and other ways the process works.

Also recognize that, with the 2020 regulations in effect, districts will need to "silo" the roles of investigators and decision-makers again, and therefore, will need to continue to train multiple administrators to fulfill these roles, Davis said.

### **Prepare for more changes**

As you review, also prepare because the new administration may issue new guidance, Wernz said.

"I wouldn't be surprised if, when Trump comes in, [the administration] issues guidance before the next school year," she said. "This [decision] could be a bit of a blow, limiting the Trump administration in how quickly they're able to issue a new rule, but I wouldn't be shocked if they do."

If the new administration decides to propose new Title IX regulations, Lewis would like to see clear guidelines on conducting manifestation determination reviews. She would also like to see a definition of "consent" in the new regulations. How does consent work when a complainant or respondent has a disability and may not have the ability to consent?

"Obviously, there are a lot of big question marks going forward with what the new administration is going to do," she said. "We'll have to wait to see what actually happens."

**January 10, 2025**

Copyright 2025© LRP Publications

*Reprinted with permission from: **Special Ed Connection**®. © 2025 LRP Publications, 360 Hiatt Drive, Palm Beach Gardens, FL 33418. All rights reserved. **Special Ed Connection**® is your go-to source for compliance guidance and use-today solutions for all your day-to-day special education responsibilities. For FREE access or more information, please call 1-800-341-7874 or visit [www.SpecialEdConnection.com](http://www.SpecialEdConnection.com). For more **LRP Publications** resources, visit [www.shoplrp.com](http://www.shoplrp.com).*