



# California Joins the Fray: Another Court Rules that Nonprofit Schools are Subject to Title IX

Insights

7.28.22

Just days after [a Baltimore court dropped a bombshell on the nation's private and independent school community](#) by ruling that a school's nonprofit status automatically led it to be subject to Title IX, a California federal court joined the fray and echoed the same principle. A July 25 ruling out of the Central District of California concluded that a school should be considered to have received federal financial assistance just by being classified as a nonprofit entity. This is a troubling development and one that should cause all nonprofit private and independent schools to take notice. You can learn more about this development by joining our complimentary webinar scheduled for Tuesday, August 2 ([register here](#)) and reading this Insight.

## One-Two Punch

While the fact pattern is different, this week's Los Angeles decision repeats the same legal conclusion as last week's Baltimore decision.

A California high school football player competed in a game against Valley Christian Academy in March 2021 without incident – until removing her helmet at the end of the game revealing herself as female. Valley Christian followed several days later by directing a letter to her school indicating that she was not welcome to play football on their field again because of the “guiding principles of the Bible regarding the care of a woman.”

The student filed a lawsuit against Valley Christian alleging a number of claims, including an alleged Title IX violation. Valley Christian filed a Motion to Dismiss since it said it did not receive federal financial assistance and thus was not subject to Title IX.

In a July 25 decision that threatens to upend decades of well-settled law, District Court Judge Maame Ewusi-Mensah Frimpong denied the Motion and concluded that the student could proceed with her Title IX claim against the private school.

- Judge Frimpong acknowledged that the Ninth Circuit Court of Appeals, which issues opinions controlling over California, had not yet addressed whether tax-exempt status in and of itself confers federal financial assistance status.
- But she pointed out that the purpose of Title IX is to eliminate discrimination in activities benefitting from federal financial assistance, and the distinction as to how such federal funds are

benefiting from federal financial assistance, and the distinction as to how such federal funds are distributed is irrelevant.

- The judge also said that Valley Christian was on the hook for Title IX compliance because it accepted a COVID-related PPP loan, but this conclusion is far less controversial and one that we have been preparing schools for since the start of the pandemic. An important detail unclear from the court's opinion is whether the claim arose during the PPP loan or after it was forgiven. Private schools have generally operated with the understanding that they would be subject to Title IX compliance during the pendency of the PPP loan but once the loan was fully forgiven or paid off and closed out, the federal regulation would cease.

## What Should Schools Do?

We suggest you read our Insight published yesterday covering the Baltimore case to determine how you should proceed. Obviously a second federal court coming to this same conclusion should lead California-based private schools to take a fresh look at the situation – and raises the stakes for all other private and independent schools across the country.

We also recommend you attend our upcoming complimentary webinar, led by the leaders of our Education team, for an interactive session where you'll have all of your questions answered. You can register for the August 2 event here.

## Conclusion

We will monitor these developments and provide updates as warranted, so make sure that you are subscribed to Fisher Phillips' Insights to get the most up-to-date information direct to your inbox. If you have further questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Education Practice Group.

## Related People



**Suzanne K. Bogdan**  
Partner

954.847.4705  
Email



**Kristin L. Smith**  
Partner  
713.292.5621  
Email

## ***Industry Focus***

Education

Higher Education