

# SCOTUS TO DECIDE WHETHER EMPLOYEES CAN SUE SCHOOLS FOR SEX DISCRIMINATION UNDER TITLE IX: WHAT IT MEANS FOR YOUR INSTITUTION

Insights  
Jun 9, 2026

## SCOTUS to Decide Whether Employees Can Sue Schools for Sex Discrimination Under Title IX: What It Means for Your Institution

Can an employee sue a federally funded school for sex discrimination in the workplace under Title IX? The Supreme Court has agreed to tackle this question next term, and its answer may have huge implications for higher education and K-12 institutions alike. While many federal appeals courts have allowed Title IX employment-based discrimination claims, the 11th Circuit – covering Alabama, Georgia, and Florida – held that Title IX **does not** contain an implied private right for employees to sue. Here's what school leaders need to know about the issue, as well as key compliance steps you can take while the SCOTUS case is pending.

### What Happened?

**The Appeals Court Ruling:** The 11th Circuit sided with a university system in a pair of Title IX sex discrimination cases brought by a women's basketball coach and an art professor who alleged that the schools discriminated against them on the basis of sex, respectively, by:

- Providing the coach with inferior resources for her program compared to the men's team and by terminating her employment.

### Related People



**Rob Dickson**  
Associate

908.516.1029



**Sean McKaveney**  
Associate

858.666.3302

- Treating the art professor more severely than comparable female faculty during the Title IX investigation that led to his termination.

But without getting into the substance of the claims, the federal appeals court held that Title IX doesn't contain an implied private right to sue for employment discrimination at all.

**The Reasoning:** Since Title IX of the Education Amendments of 1972 was enacted under Congress's Spending Clause power, it operates like a contract where schools accept federal money in exchange for federal obligations. The appeals court said it doubted schools would have understood that agreement to include liability for employment claims that are already covered by Title VII of the Civil Rights Act of 1964.

The 11th Circuit noted that Title IX and related precedent provide **students** with the right to sue for sex discrimination and employees the right to sue for retaliation when complaining about discrimination against a student – but the court rejected an implied right under Title IX to sue for **employment-based** sex discrimination.

**Federal Appeals Courts Disagree:** In their petition to the Supreme Court, the employees claimed there's a lopsided split between the federal appeals courts. By their count, eight circuits have recognized (or suggested) that employees may sue under Title IX, while the 11th Circuit joined a minority suggesting that employees have no such right to sue under Title IX. This means, according to the petitioners, that an employee's right to sue under the federal law depends entirely on their location.

**Compliance Action Item: Retaliation is the Common Thread**

- Both cases – as well as the Supreme Court's Title IX retaliation precedent – involve employees who say they were punished for complaining about sex-based disparities on campus.
- This highlights the importance of ensuring complaints about gender equity – in athletics resources, pay, facilities, and beyond – are received, investigated, and resolved through a clear channel, and that employment decisions impacting a worker who



**Stephanie Reynolds**

Partner

858.597.9624



**Shiloh Theberge**

Partner, Chair Higher Education

207.477.7004

---

## Service Focus

Employment Discrimination and Harassment

Litigation and Trials

---

## Industry Focus

Education

Higher Education

K-12 Schools

Sports

complaints are documented independently of the complaint.

## Why Does This Issue Matter to Schools?

Title IX and Title VII are not interchangeable. Title VII requires employees to exhaust administrative remedies through the EEOC and file within strict deadlines before suing, and it caps compensatory and punitive damages by employer size.

A Title IX path could let employees in **higher education and K-12 institutions** bypass those administrative prerequisites and tight deadlines and seek damages without Title VII's caps. This is a main concern the 11th Circuit flagged.

Notably, the US Department of Justice urged SCOTUS to take the case but argued in favor of affirming the 11th Circuit's decision. This move signals that the federal government thinks Title VII should remain the exclusive employment-discrimination route.

### Spotlight on School Athletics

Title IX prohibits sex discrimination in educational programs that receive federal funding, though athletic budget disparities are a highly debated topic. If SCOTUS allows employment-based Title IX sex discrimination claims to proceed, this case could draw renewed attention to resource disparities between men's and women's programs as evidence in employment suits.

#### **One of the consolidated cases involves a women's basketball coach who claims:**

- The men's basketball program received more money, resources, and office space
- The women's locker room was smaller and in disrepair
- The women's team had less money for assistant coach and staff salaries and for the women's team to travel

#### **The allegations highlight where common complaints and potential disparities surface:**

- Locker rooms, practice facilities, equipment, staffing, office space, and supplemental compensation

✓ As a best practice, schools should proactively review resource allocation across men's and women's programs and address gaps before they become the backdrop for a coach's discrimination or retaliation claim – or a student-side Title IX complaint.

## What's Next?

SCOTUS granted the petition on May 18 and will hear the consolidated cases next term, which starts in October.

**A ruling in favor of the employees** would expand the avenues for employment-related sex-discrimination claims nationwide and potentially raise the costs and liability risks for schools.

**A ruling for the schools** would limit employees to Title VII workplace discrimination claims and the available remedies under that law.

### **Compliance Check: The Outcome Will Not Change Your Underlying Obligations**

- Regardless of which way SCOTUS rules, Title VII already prohibits sex discrimination and retaliation against employees, and Title IX already governs equity across educational programs and activities, as well as how sexual-misconduct investigations should be handled.
- Schools should continue to apply consistent, well-documented employment practices and equitable resource decisions on the assumption that conduct will be scrutinized under one statute or another.

## Conclusion

A SCOTUS ruling in this matter will be a significant marker for how employees can challenge sex discrimination on campus. To stay current on these developments, please reach out to your attorney, the authors of this Insight, or any member of our [Sports Industry Group](#) or [Education Practice Group](#) with questions on Title IX, Title VII, and employment compliance. We will continue to monitor the case and provide updates as warranted. Make sure you are

subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox.