

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

Rapides Parish School Board,

Plaintiff,

v.

**United States Department of
Health and Human Services, et al.,**

Defendants.

Case No. 1:25-cv-00070-DDD-JPM

Judge Dee D. Drell

**Magistrate Judge Joseph H.L.
Perez-Montes**

**PLAINTIFF RAPIDES PARISH SCHOOL BOARD'S NOTICE OF
SUPPLEMENTAL AUTHORITY AND RESPONSE TO DEFENDANTS'
NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff Rapides Parish School Board respectfully provides supplemental authority, *West Virginia v. B.P.J.*, No. 24-43, 2026 WL 1868739 (June 30, 2026), and responds to Defendants' Notice of Supplemental Authority (Doc. 52).

1. *West Virginia v. B.P.J.* The Supreme Court's new decision in *B.P.J.* is relevant in two ways.

First, in *B.P.J.*, the U.S. Supreme Court held that Title IX of the Education Amendments of 1972 makes sex a protected class—*not* gender identity, *not* gender expression, and *not* sex stereotypes. *Id.* at *7–*8.

The same holds true for Section 1557 of the Affordable Care Act, which incorporates Title IX by reference, and for Head Start's provisions, which mirror Title IX's text. *See* Pl.'s Mem. Supp. Mot. Partial Summ. J. (Doc. 22) at 17–25; Pl.'s Reply Supp. Mot. Partial Summ. J. (Doc. 38) at 5–7. Neither statute elevates gender identity to a protected class.

Plus, the Supreme Court reiterated that *Bostock* did not address “bathrooms, locker rooms, or anything else of the kind” under Title VII for employment. *Id.* at *9 (citing *Bostock v. Clayton County*, 590 U.S. 644, 681 (2020)).

Second, in *B.P.J.*, the Supreme Court rejected a party’s argument that the case was made moot by the party’s changed position after filing the case. 2026 WL 1868739, at *9 n.3. In that case, Hecox was still a student at Boise State (so that he could still compete in women’s sports even if he no longer intended to do so). *Id.* His “change in position” thus cut against his mootness argument, because it suggested his positional “shift may not be permanent.” *Id.*

So too here. *See* Doc. 22 at 9–17; Pl.’s Resp. Opp’n Def.s’ Mot. Dismiss (Doc. 35) at 6–18; Doc. 38 at 3–5; Pl.’s Resp. Def.s’ Notice Suppl. Authority (Doc. 49) at 1. Defendants finalized four mandates prohibiting gender-identity discrimination, including under sex-stereotypes language. *See* Doc. 22 at 2–6; Doc. 35 at 2–4. Later, Defendants softened their intent to enforce some provisions. But the HHS Grants Rule, the EEOC websites, the HHS Section 1557 sex-stereotypes rule, and the HHS Section 504 Gender Dysphoria Rule *are each still on the books*, just as Hecox was still enrolled in school and eligible to compete. Defendants’ mere softening of intent—without eliminating the rules—does not meet their “formidable” burden to show a “permanent” shift. Their changes in position instead undercut mootness. *See* 2026 WL 1868739, at *9 n.3.

2. Proposal to Reconsider HHS Grants Rule. Defendant HHS’s proposed modification of the HHS Grants Rule, Regulation of Federal Financial Assistance, 91 Fed. Reg. 32,198 (May 29, 2026), is just that—a proposal. HHS has yet to finalize this proposal or even commit to a date when it will do so. Experience shows that these proposals can take years to finalize. Moreover, even if HHS eventually finalizes the proposal, intervening litigation may very well seek to prevent any final version from going into effect. That’s just what happened with HHS’s Section 1557 sex-stereotypes rule. *Franciscan All., Inc. v. Becerra*, 47 F.4th 368, 375 (5th Cir. 2022). This proposal thus is not a “permanent” shift in position. *See* 2026 WL 1868739, at *9 n.3.

Respectfully submitted this 23rd day of July, 2026.

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