

LEGAL MEMO

From: Karen Jo Bennett, ACC Legal Counsel

To: Alpena Community College

Date: January 16, 2025

RE: STATUS OF 2024 TITLE IX REGULATIONS :

On January 9, 2025, the U.S. District Court for the Eastern District of Kentucky issued a [ruling](#) in which it vacated the 2024 Title IX regulations that went into effect in many states on August 1, 2024.

In response to the 2024 Regulations, Alpena Community College (ACC) along with other institutions across the country, enacted new policies and procedures as they were required by law to do. At ACC, these Policies and Procedures were contained within Board Policy 7009A.

The U.S. District Court held that the 2024 regulations exceeded statutory authority under Title IX when those regulations added protections on the basis of gender identity.

The Court further held that the regulations violate the First Amendment, the Spending Clause of the Constitution, and is vague and overbroad. Finally, the Court held that the regulations are arbitrary and capricious due to its departure from the U.S. Department of Education's longstanding interpretation of Title IX.

The Court focused on the gender identity portions of the regulations, however, made it clear that it was **vacating the entire rule, stating that the challenged provisions "fatally taint the entire rule."**

While the vacatur is widely presumed to be nationwide, we will watch for the U.S. Department of Education's statements on this case as they may be issued (both before and after January 20th, anticipating a change in approach with the new administration) so that institutions can be clear on the Department's enforcement intentions. It does not seem likely that the decision will be appealed, but we will continue to observe further developments and notify the ACC community if there is any change.

In the meantime, current policies should comply with the 2020 Title IX Regulations—NOT 2024. (NOTE: This includes the 2020 requirement that all training material be posted on the college website)

For ACC to revert back to 2020 Policies requires that Board Policy 7009A not be utilized and that it be rescinded. The Board of Trustees is notified that it should formally rescind Policy 7009A, as it follows the vacated 2024 Title IX Regulations. Until that occurs, this Memo shall serve as Notice to the Title IX Coordinator and all members of the ACC Community that Policy 7009 should be followed without reference to Policy 7009A, which should be treated as legally null.