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COMMENTARY **Life**

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3 min read



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Pro-abortion protesters rally at the Tucson Federal Courthouse in Tucson, Arizona on Monday, July 4, 2022.

SANDY HUFFAKER / AFP / Getty Images

**KEY TAKEAWAYS**

- 1** DOE released Title IX language that would enshrine at least some abortions in federal regulation.
- 2** This federal workaround will surely lead to legal fights between federal regulators and state governments.
- 3** Conservatives should call out the left's vile efforts to smuggle abortion into Title IX.

With its ruling in Dobbs overturning Roe v. Wade, the Supreme Court has returned abortion to the people and their elected leaders. For the first time in 49 years, states can craft pro-life laws that truly protect unborn human life. Another law, Title IX, has just marked its 50th anniversary—and it's not going anywhere. Title IX ensures that schools receiving federal funds do not bar women from school, sports or related work.

Title IX became law in 1972, a year before the court's ruling in Roe v. Wade, and is far less controversial than the abortion ruling. So it's no surprise that in the Dobbs case, a group of over 500 female athletes submitted an amicus brief that tied Roe to Title IX. They claimed that, without access to abortion, they could not have succeeded in their sports.

Recently, on Title IX's 50th birthday, the Department of Education released its proposed revisions to the regulations' meaning. DOE includes "pregnancy or related conditions" under "discrimination based on sex." What related conditions? Childbirth, lactation and ... termination of pregnancy.

So, one day before the Dobbs decision returned abortion law to the states, DOE released Title IX language that would enshrine at least some abortions in federal regulation.

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Because Title IX is neutral on abortion, it cannot "require or prohibit" abortion. Under Roe, a woman having an abortion would not be penalized by her school, sport, or job. By neither "requiring nor prohibiting" abortion access in schools, though, Title IX's language creates a

“gray zone.” If a court deems failure to provide access to abortion as discriminatory, then colleges receiving federal funding could do so for students—despite a pro-life law in that state.

In Alabama, for example, state law now protects the pre-born child from conception. But the University of Alabama—which receives federal funds—could still give students chemical abortion pills through its campus health clinic.

Title IX funding, then, could enable colleges to be “abortion sanctuaries” for students and faculty. This could take the form of campus health clinics distributing chemical abortion pills or abortion referrals.

In short, the argument goes, Title IX could ensure surgical abortion access and dispense chemical abortion pills to students. Like “condom and candy” handouts, this shift would enable colleges to pass out abortion poison pills to young students.

This federal workaround will surely lead to legal fights between federal regulators and state governments. Will the gimmick hold up in court? It’s hard to say. But the left, and President Biden, seek—by hook or by crook—to overrule state laws to provide abortion access with federal funds.

All of this is based on the myth that women need abortion to be equal with men. But men and women, though equal in value, are different. Sane laws should reflect that fact. And no sane law includes abortion on demand.

Of course, when abortion is an option for unexpected pregnancies, it becomes the “cheap and easy” method. But how many innovations have we foregone because abortion was the easy way out?

>>> [After Supreme Court's Abortion Decision Conservatives Face a New and Even Greater Challenge](#)

Pro-life laws will help us find out since they will change the incentives on many college campuses. Incentives matter. Schools, for their part, could offer more resources for pregnant students. And post-Roe, pro-life groups can help colleges provide women the help they need in pregnancy and parenting.

Like the Hyde Amendment, we need to ensure that their college funds go towards supporting students, not killing babies. Along these lines, members of Congress introduced the Protecting Life on College Campus Act (2021). The bill would block federal funds from going to colleges whose health clinics provided abortion access. That money could go, instead, to supporting mothers and families. Rather than asking pregnant women to bear the burden of extra medical bills and a higher cost of living, anti-discrimination measures could ensure that Title IX helps them.

In the meantime, conservatives should call out the left's vile efforts to smuggle abortion into Title IX. This will not be the only approach they try. Expect such tricks so long as the pro-abortion party occupies the White House and both chambers of Congress.

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