Independent Women's Forum®

— TOP TAKEAWAYS —

Gender Identity and Sex Discrimination

Harris Funeral Homes v. EEOC

CURRENT FEDERAL LAW PROHIBITS DISCRIMINATION ON THE BASIS OF "SEX," NOT "GENDER IDENTITY."

- Title VII of the Civil Rights Act of 1964 prohibits "sex" discrimination in employment. Title IX, enacted in 1972, bans "sex" discrimination in education. Neither statute mentions "gender identity."
- Both Title VII and Title IX are based on the notion that there are two biological sexes and that it is wrong to treat members of one sex less favorably than similarly-situated members of the opposite sex.
- This Term, in a case called ***R.G. & G.R. Harris Funeral Homes v. EEOC***, the Supreme Court will consider whether the word "sex" in Title VII includes not just biological sex, but also "gender identity."

DEFINING "SEX" TO INCLUDE "GENDER IDENTITY" WOULD UNDERMINE THE GOAL OF TITLE IX.

- Because male-bodied athletes are, on average, stronger and faster than female-bodied athletes, Title IX's regulations permit **single-sex teams** in order to provide equal opportunities for women and girls.
- Any decision by the Supreme Court that interprets "sex" to include "gender identity" will threaten the existence of single-sex sports by prohibiting athletic associations from making distinctions on the basis of biologial sex.
- When male-to-female transgender athletes compete as women, biological females lose valuable athletic opportunities. ***Title IX was not passed to achieve such a result.***

IT IS NOT THE JOB OF THE SUPREME COURT TO REWRITE FEDERAL STATUTES.

- It is the job of the democratically elected branches of government, not the courts, to update laws as necessary.
- When it comes to the issue of gender identity, each context—employment, housing, academics, athletics, etc.—poses its own unique set of policy challenges.
- The Supreme Court should not impose a blunt, one-size-fits-all judicial decree that will lead to negative consequences for female athletes.

Find IWF's Amicus Brief online at **IWF.org**.