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17 States Sue To End Protections For Students With Special Needs

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Peter Greene covers classroom impact of education policy and practice

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The lawsuit would remove an entire layer of protection for children. GETTY

The [Rehabilitation Act of 1973](#) was [signed into law](#) by President Richard Nixon in September of 1973. [Section 504](#) of that act codified the civil rights of persons with disabilities. “No otherwise qualified individual” can be, simply because of their disability, “denied the benefits of, or subjected to discrimination” in any program or activity that receives federal funds.

That law has turned out to be hugely important in education, offering an even broader definition of students with special needs than the [Individuals with Disabilities Education Act](#).

Now 16 states have joined Texas in [a lawsuit asking the court](#) to declare Section 504 unconstitutional.

On the surface, the lawsuit appears to be one more battle over the rights of transgender citizens. Under the Biden administration, [the Section 504 definition of disability](#) was expanded to recognize that “gender dysphoria . . . may be considered a physical or mental impairment.”

Texas Attorney General Ken Paxton sued the Biden administration in September 2024, saying that it was “abusing executive action” to sidestep the law. [The state was suing, Paxton said](#), “because HHS has no authority to unilaterally rewrite statutory definitions and classify ‘gender dysphoria’ as a disability.”

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The suit spends over 30 pages objecting to the addition of gender dysphoria to the Section 504 definition. It argues against the rule’s understanding of gender dysphoria. It argues against the characterization of [Olmstead](#), a 1999 case that found persons with mental disabilities have the right to live outside of institutions. It argues that the new definition conflicts with the [Americans with Disabilities Act](#). It asserts many negative impacts for each of the states

that have joined the suit, including, in many cases, challenges with Medicaid compliance.

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Then, on page 37, as it reached its third of four counts, the lawsuit switches gears, arguing not for an excision of the new language, but the elimination of Section 504 entirely. The suit argues that Section 504 is “coercive, untethered to the federal interest in disability, and unfairly retroactive” and therefore unconstitutional.

504 plans are common in all 50 states. Like an Individualized Education Program or IEP, a 504 plan puts in place a specialized program and supports to help students with special needs succeed and ensures that they will not be discriminated against in classes or activities. [504 plans address a wide variety of needs](#), including visual impairment, diabetes, heart disease, epilepsy, depression, and ADHD. Section 504 is meant to guarantee that these students cannot be discriminated against and that they will get the supports they need as they receive a free and appropriate public education.

Attorneys general involved in the suit have argued that 504 plans are not at risk. When confronted with protestors, the communications director for the Iowa Attorney General’s office told [Michaela Ramm of the *Des Moines Register*](#), “The Iowans who were fed lies to show up at our office today in freezing temperatures deserve the truth, and the truth is that no one’s 504 plan is being changed or removed.”

But the language of the lawsuit is clear. The fourth item under “Demand for Relief” says “*Declare Section 504, 29 U.S.C. § 794, unconstitutional.*”

It’s followed by: “*Issue permanent injunctive relief against Defendants enjoining them from enforcing Section 504.*”

For all intents and purposes, Section 504 would cease to exist and, with it, any requirement for states to meet the needs of students with special needs who currently benefit from 504 plans, or any such students in the future.

If the Trump administration goes through with plans to dissolve the Department of Education and turn IDEA funding into block grants that states can use for any purpose, students with special needs will suffer a double hit.

A decision for these 17 states will reverberate through all 50 — and for individuals of all ages.

The defendants in the case are Xavier Becerra as the Secretary of Health and Human Services, a post he no longer holds, and the department itself, which will be led under the Trump administration by Robert F. Kennedy, Jr.

A robust defense against the suit seems unlikely. Kennedy has said [that he would support the Trump administration’s push to reverse](#) the previous administration’s expansion of transgender care.

The case was filed in the [United States District Court for the Northern District of Texas](#), Lubbock Division.

The 17 states are Texas, Alaska, Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, South Carolina, South Dakota, Utah, and West Virginia. Many of those states have Parents’ Rights laws, but if the states win, parents of children with some special needs will have fewer rights protected by law.