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NEWS RELEASE

AG Schimel Joins Lawsuit Challenging Obama Administration's Unlawful New Title IX Policy

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MADISON – Wisconsin Attorney General Brad Schimel joined attorneys general and school districts from across the United States today in challenging the Obama Administration's new Title IX policy. In the latest example of the Obama Administration's unlawful executive overreach, which re-interprets the word "sex" to include "gender identity," Wisconsin's sovereignty and independence have once again been undermined by the federal government.

"President Obama's attempts to re-write the laws of our country without congressional consent and approval are not going to be tolerated by the State of Wisconsin," said Attorney General Schimel. "After discussing with Governor Walker, I have decided to join my colleagues from across the country in challenging the Obama Administration's latest power grab, which will have a significant impact on Wisconsin, particularly at the University of Wisconsin and Department of Public Instruction."

Earlier this month, the United States Department of Justice (USDOJ) issued a "significant guidance letter," which forces all recipients of Title IX funding to treat an individual according to their "internal sense of gender." According to the guidance, "gender identity [is] the [individual's] sex for purposes of Title IX and its implementing regulations." USDOJ argues that Title IX requires those government agencies receiving federal funds under Title IX to treat an individual according to their "internal sense of gender." While this policy most notably applies to bathrooms and locker rooms at educational institutions, it would also apply to athletics, single-sex classes, and single-sex housing (i.e. dorms).

On the merits, this new policy conflicts with the plain language of Title IX, and is therefore an unlawful interpretation. Title IX does not prohibit "gender identity" discrimination, but sex discrimination.

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Furthermore, the new guidance conflicts with Wisconsin state law, which prohibits discrimination based on “sex” in the educational setting. In Wisconsin Administrative Code, sections PI 9.02 and 9.03, the State has made the policy choice of only prohibiting discrimination based on “sex, race, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or [disability].” Wisconsin has not chosen to prohibit discrimination based on gender identity in our schools. Imposing a new federal standard on top of our State’s own discrimination policy would undermine our State’s sovereign choice in how to prohibit discrimination in schools.

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