The Work Week

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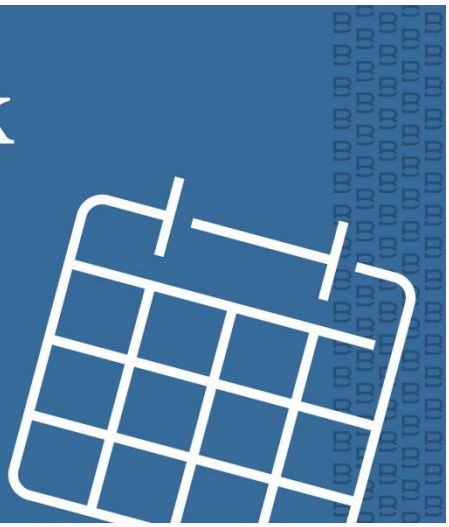

July 6, 2026

The U.S. Supreme Court Redefines Institutions, From Title IX Athletics to Federal Agencies: What Employers Need to Know

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As has become the norm in recent years, the final days of the United States Supreme Court's June 2026 term featured a rapid succession of blockbuster opinions. Most notably, this term the Court rewrote the boundaries of federal civil rights enforcement in athletics and fundamentally altered the mechanics of the President's hiring and firing power over the administrative state.

While these decisions may seem removed from employment and corporate-compliance issues, they demand attention because their ripple effects could be heading for workplaces in Minnesota and across the country. These decisions also reshape how protected traits are legally defined, how far states can go in regulating and protecting identity, and how much stability employers can expect from our federal regulatory agencies.

States May Create Sex-Based Eligibility Requirements for Athletics Under Title IX and the Equal Protection Clause (West Virginia, et al. v. B.P.J.)

West Virginia, et al. v. B.P.J. is a monumental ruling that marks a turning point in the national debate over transgender rights and the legal definition of sex. In 2021, West Virginia enacted the Save Women's Sports Act, which prohibits male students from playing on female teams, specifying that sex is determined by biology. The case centered on a transgender middle school girl who had transitioned socially and medically from male to female, and who challenged the state law after being barred from competing on her school's girls' track-and-field and cross-country teams. Another plaintiff challenged a similar Idaho law that also made sex-based classifications in limiting female teams to biological females.

Reversing a contrary decision by the Fourth Circuit Court of Appeals, in a decision authored by Justice Brett Kavanaugh, the U.S. Supreme Court held on a 6-3 vote that states may pass laws

requiring that public educational institutions may maintain separate athletic teams defined strictly by biological sex determined at birth. With relative ease, the Court concluded that Title IX is not violated by these sorts of sex-based classifications because, it reasoned, the term "sex" as used in the statute, the 1974 Javits Amendment (which directed the then-Department of Health, Education, and Welfare to promptly issue "regulations implementing the provisions of" Title IX with respect to "the prohibition of sex discrimination"), and the implementing regulations were references to *biological* sex. The Court found no basis to conclude that Title IX (including its regulations) requires schools to allow biological males to participate in women's and girls' sports.

The Court was more fractured on the question of whether these types of state laws violate the Equal Protection Clause, generating strong opinions dissenting in part by Justices Sotomayor and Jackson. But ultimately, the majority found that these laws are substantially related to an important government interest: ensuring fair competition in women's sports.

Ever since the landmark *Bostock* ruling in 2020, which held that Title VII's workplace protections extend to gender identity, federal sex-discrimination laws have largely been interpreted to protect transgender individuals. With *B.P.J.*, the Supreme Court re-emphasizes that statutory references to "sex" across different federal statutes do not necessarily mean the same thing. This distinction creates immediate compliance hurdles for educational institutions and any employers operating in the education sector, who must now realign their athletic policies with a biological standard while keeping their workplace policies firmly aligned with both Title IX *and* Title VII. Just as importantly, the *B.P.J.* decision sends another signal to all private employers that federal protections for gender identity may face challenges beyond just Title VII. Employers should continue to monitor cases and regulatory guidance on the federal and state level (especially employers with employees in states that continue to protect transgender rights, such as Minnesota).

Executive Agencies Generally Face At-Will Presidential Oversight—But Not the Federal Reserve (Trump v. Slaughter and Trump v. Cook)

Handed down on the same day as each other, *Trump v. Slaughter* and *Trump v. Cook* both addressed when a president may remove leaders of independent federal agencies that were purportedly "independent." In *Trump v. Slaughter*, a 6–3 majority dismantled previously understood "for-cause removal" protections for commissioners of the Federal Trade Commission ("FTC"). *Slaughter* arose after President Trump fired Democratic FTC Commissioner Rebecca Kelly Slaughter in early 2025, stating her service was inconsistent with his administration's priorities. Chief Justice Roberts, writing for the majority, concluded that because the modern FTC exercises vast executive authority—such as bringing enforcement actions and issuing regulatory rules—its commissioners are removable by the President, at will, under Article II.

But in a striking counterweight delivered almost simultaneously, the Court recognized protections around the nation's independent financial agency, the Federal Reserve Board of Governors ("FRB"). In *Trump v. Cook*, a 5–4 majority denied the administration's stay application and upheld a preliminary injunction preventing the President from removing Federal Reserve Governor Lisa Cook. The administration had attempted to fire Cook—the first Fed Governor

targeted for removal in the FRB's long history—alleging "cause" based on unproven assertions regarding past personal financial applications. Cook sued, arguing the move was a pretextual political firing executed without any due process. Chief Justice Roberts again authored the majority opinion, but this time joined forces with the Court's liberal bloc to rule that the statutory "for-cause" protections for the FRB are constitutional. Pointing to a centuries-old history of central banking independence, the Court held that monetary policy requires insulation from short-term political panic, and therefore a Fed Governor is constitutionally entitled to robust notice and an opportunity to respond before any removal is effective.

What Employers Should Monitor Going Forward

These Supreme Court decisions highlight the increasingly volatile, fractured, and politicized federal regulatory environment. To mitigate legal and compliance risk, employers should immediately focus on three practical strategies:

- **Audit Education-Adjacent Policies:** If your organization operates in, partners with, or provides services to the educational sector, immediately review your athletic and facility policies. Ensure you are meeting state-level biological definitions for athletics under *B.P.J.*, while also strictly maintaining necessary protections for your staff under Title VII.

- **Anticipate EEOC and NLRB Volatility:** With the FTC ruling expanding the President's firing power, expect similar "independent" workplace agencies like the NLRB and EEOC to see rapid shifts in leadership and policy whenever the White House changes hands. Design your internal employment policies to be flexible enough to withstand abrupt changes in federal enforcement priorities.

- **Track State vs. Federal Divergence:** Because federal civil rights definitions are facing new statutory re-definitions, state laws will carry more weight. Multi-state employers must carefully track state-level statutory mandates—especially in states like Minnesota that continue to enforce robust protections for gender identity through state human rights acts, regardless of federal pullbacks.

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