

The Bible Tells Me So?

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Department of Education and Title IX

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Letter to Honorable Mark E. Green, U.S. Department of Ed (March 9, 2020)

- ❑ Tennessee Congressman Green asks whether a school would risk losing funding or being sanctioned under Title IX if it “permitted faculty and students to use biological pronouns or no pronouns at all” to refer to transgender students.
- ❑ USDOE answers, “By itself, refusing to use transgender students’ preferred pronouns is not a violation of Title IX and would not trigger a loss of funding or other sanctions.”
- ❑ However, USDOE adds, sex-based harassment, specifically where based on sex stereotyping, will be covered by Title IX “if it is sufficiently serious to deny or limit a student’s ability to participate in or benefit from an education program or activity.”



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US Department of Ed Guidance, Supporting Transgender Youth in School (June 2021)

- ❑ Schools can support transgender students by, among other things:
 - ❑ “Adopting policies that respect all students’ gender identities—such as the use [of] the name a student goes by, which may be different from their legal name, and pronouns that reflect a student’s gender identity—and implementing policies to safeguard students’ privacy—such as maintaining the confidentiality of a student’s birth name or sex assigned at birth if the student wishes to keep this information private, unless the disclosure is legally required.”



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Proposed Revisions to Title IX Regs (June 2022)

- "...as *Bostock* demonstrates, treating individuals in a particular way on the basis of 'biological distinctions between male and female,' is action taken 'on the basis of' sex, however else the term 'sex' might also be defined...[thus] if such sex-based action results in more than de minimis harm to an individual, it constitutes prohibited sex discrimination unless permitted by the statute or the regulations."



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Case Law

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[2023 School Law eConference](#)

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