



September 12, 2022

**Electronically Submitted**

U.S. Department of Education  
Office of Civil Rights  
400 Maryland Avenue, SW  
4th Floor  
Washington, D.C. 20202

Re: Request for Public Comment Concerning Proposed Change to Title IX of the Education Amendments of 1972 in Regards to Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance; Docket ID ED-2021-OCR-0166. RIN 1870-AA16. Docket Number: 2022-13734

Dear Sir or Madam:

The Ethics & Religious Liberty Commission (ERLC) of the Southern Baptist Convention (SBC) respectfully submits the following comments in opposition of the proposed revision to Title IX of the Education Amendments of 1972. The ERLC is the public policy and ethics entity for the SBC, which has nearly 14 million members in over 50,000 churches and congregations in the United States.

Fifty years ago, President Nixon signed into law [Title IX Education Amendments of 1972](#), a landmark policy for women and girls. Title IX states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” This important policy was intended to provide equal opportunities for men and women seeking to participate in activities and educational institutions receiving funding from the U.S. government.



On July 7, 2022, the U.S. Department of Education published its proposal to amend the current regulations implementing Title IX “to provide greater clarity regarding the scope of sex discrimination, including recipients’ obligations not to discriminate based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.”

When the Bible reveals that God created two distinct and complementary sexes, male and female, Christians believe that these were an intentional act of God’s creative will and not an arbitrary assignment that man can change (Gen. 1:26–27). The fall of man into sin has introduced brokenness into God’s good and perfect creation. We yearn for the good of all our neighbors, and we lament the nature of the conflict that some experience between their biological sex and gender identity. Even so, we trust that God’s intentional design is what will ultimately bring about their flourishing. The proposed rule fundamentally hinders the good and flourishing of our neighbors in expanding beyond the biblical truth of binary sexes and biological realities, such as primary and secondary sex characteristics, and conflates “sex” with “gender.” The Department of Education’s proposed rule ultimately discounts the human dignity of our fellow citizens.

The Department’s proposed change would have sweeping effects that would significantly undermine the original intent and purpose of Title IX. The new language that expands the definition of “sex” to include “sexual orientation” and “gender identity” (SOGI) would penalize institutions that did not expand the definition of sex to include SOGI. Organizations and schools under the jurisdiction of Title IX would no longer be able to define sex as a person’s biological sex from birth, but instead would be forced to adopt gender identity as the student’s sex for purposes of Title IX and its implementing regulations. In other words, if a biological male or biological female student “identifies” as the opposite sex, then for almost all purposes, public schools and colleges must treat them as such. There are alternative means to providing safety for students with gender dysphoria that also protect women’s rights and safety.

In athletics, a refusal to account for biological, sex-dependent differences will legally enshrine inequality in sports by changing the very law that sought to



achieve the equality in the first place. In addition to being unfair, it is insulting and demeaning to females for our nation's policies to proceed as if biological males are the standard by which they ought to evaluate themselves. If the proposed change is accepted, the law created to protect them from discrimination and provide them equality would discriminate against them and make them more unequal than ever before.

Not only would this proposal completely blur the distinctions between men and women and the corresponding team sports they participate in and facilities they utilize, it will have the effect of rolling back all the good that has been done to ensure men and women have the same opportunity to participate in educational institutions and activities.

The 50th anniversary of Title IX is worth celebrating for all that it has meant for women and girls and their ability to fully and fairly participate in sports and education at every level. We should protect Title IX, not undermine it. We should ensure equality for women, not erase it. For these reasons, we strongly and respectfully write against these proposed changes.

Thank you for the opportunity to comment.

Respectfully submitted,

Brent Leatherwood  
Acting President  
Ethics & Religious Liberty Commission  
of the Southern Baptist Convention