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“Always stand on principle . . . even if you stand alone.”
John Adams

AACS and State Associations Join in Opposition to Proposed Title IX Regulations

The AACCS and 20 state associations joined together recently to oppose the Biden administration’s new [Title IX proposed regulations](#) that would expand the definition of *sex* in the Department of Education to also include sexual orientation and gender identity. The associations joined a list of [119 organizations](#) that oppose the proposed regulations because they would violate the religious liberty of Christian schools and colleges that accept federal funding. While the original purpose of [Title IX](#) was to ensure that women were not excluded from educational opportunities, the proposed regulations promote a gender ideology that effectively erases the difference between men and women. The proposed regulations were recently published on the federal register, beginning the 60-day public comment period. The AACCS plans to submit public comments urging the Department of Education to reject the redefinition of *sex* in Title IX. We encourage you to [submit comments](#) on behalf of your schools before the deadline of September 12, 2022.

In the Title IX proposed regulations, the Department of Education (ED) lays out three reasons for rewriting the rules: first, to undo the Trump administration rules that tried to provide more due process rights to students accused of sexual harassment; second, to expand the prohibition on sex discrimination to include sexual orientation and gender identity; and third, to expand protections for students who seek abortions. ED states that the proposed regulations were necessary after President Biden issued his [January](#) and [March](#) 2021 executive orders on banning discrimination on the basis of sexual orientation and gender identity. For legal support, ED cites the 2020 Supreme Court decision in *Bostock v. Clayton County*, in which the Court expanded the meaning of *sex* in Title VII, another area of federal civil rights law that governs employment nondiscrimination. Even though the Court expressly stated that its decision in *Bostock* did not apply to other contexts such as education, the Biden administration has taken that decision as a full endorsement of unilaterally redefining *sex* across all federal agencies. Unfortunately for religious institutions, the proposed regulations do not offer any clarification on the [religious exemption](#) that exists in the law and how it might interact with an expanded definition of what constitutes sexual harassment. Among the changes in the proposed regulations, ED would [expand](#) the definition of *sex* and redefine pregnancy status to include abortions. It would also expand the category of individuals who can take legal action on behalf of students from only parents and guardians to “a wide array of stakeholders, including students, parents, educators, school officials, and advocacy organizations,” opening the door for frivolous lawsuits against religious institutions. Lastly, the regulations propose to preempt any state or local laws that conflict with ED’s new definitions of sex discrimination, targeting recently enacted [state laws](#) that protect women’s only spaces such as bathrooms, locker rooms, and sports teams. ED has also promised to publish a separate rule to specifically address the highly controversial issue of men competing on women’s sports teams. Education Secretary Miguel Cardona has spoken [in support](#) of transgender athletes competing on the teams that align with their gender identity rather than their sex. At its core, the Title IX proposed regulations advance a gender ideology that is destructive to families, disregards biology, and undermines the liberty of religious institutions to participate freely in society.

Court Rules that Private School that Took PPP Loan Is Subject to Title IX

Many non-profit organizations, including some Christian schools, accepted Paycheck Protection Program (PPP) funds to survive the initial shutdowns of the COVID-19 pandemic. Despite assurances from legislators and regulators that the religious liberty of the institutions would be protected, a judge recently ruled that a private school in North Carolina must adhere to Title IX regulations because the school accepted PPP funds. Cape Fear Academy, an independent institution, is at the center of the lawsuit in *Karanik v. Cape Fear Academy, Inc.* after three former academy students claimed sexual harassment under Title IX regulations. Normally, Cape Fear Academy would not be subject to Title IX rules since its funding comes from donations and tuition. However, the school applied for and [accepted \\$1 million](#) in PPP loans at the beginning of the pandemic. The students claimed the loan was federal assistance, and thus, Cape Fear Academy would be under Title IX regulations through the loan's duration. The school moved to dismiss the case, claiming the loan was [not federal assistance](#) because a private bank issued the money. However, U.S. District Court Judge James Dever disagreed, siding with the students. In a decision for North Carolina's Eastern District, Judge Dever ruled the school was subject to Title IX regulations for the life of the loan and that the lawsuit could proceed. This ruling has major implications for independent schools that received Paycheck Protection Program or Economic Injury Disaster loans from the federal government. [Legal experts](#) are calling on private and independent schools that received these federal funds to review their policies to determine where federal guidelines might affect them. *By AACS Summer Intern Olivia Summers*

House Passes Respect for Marriage Act to Legalize Gay Marriage

Last week, the U.S. House of Representatives passed [H.R. 8404](#), the Respect for Marriage Act, by a vote of 267-157, with all Democrats and [47 Republicans](#) supporting the bill. The title of the bill is a misnomer with serious ramifications as it would officially repeal the 1996 Defense of Marriage Act, which recognized marriage as "only a legal union between one man and one woman as husband and wife," and would codify into law the Supreme Court's 2015 *Obergefell* decision which legalized same-sex marriage nationwide. If H.R. 8404 is enacted, the federal government would accept any state's definition of marriage. In other words, if a state recognizes gay marriage or polygamy as legally valid, the bill would require the federal government to [do the same](#). Furthermore, the bill [ignores federalism](#) by [denying states the right](#) to define marriage as a union between one man and woman. The most concerning part of H.R. 8404 for conservatives and Christians is that the bill stands in [opposition to objective truth](#) by rejecting the principle of [natural marriage](#) as the basis for a strong and free society, and by rejecting the biblical principle of marriage as instituted and ordained by God to be between one man and one woman (Gen. 2:24). Despite these principles, the bill passed with 22% of House Republican support, with [liberal supporters](#) calling this a significant political and symbolic victory for Democrats before the midterm elections. More importantly, the bill is a wakeup call to conservatives. "If we abandon truth," said [Virgil Walker](#) of G3 Ministries in response to the bill, "there will be no hope for us." *By AACS Summer Intern Olivia Summers*

In Case You Missed It:

[Weekly Market Update](#) provided by Jeff Beach of the [AACS Investment Team at Merrill Lynch](#)

[Practical Legal Help for Christian Schools: ADF Ministry Alliance](#)

[Promise to America's Children](#)

[The Truth of Scripture vs. Modern Ideals](#)