

John D. Ragan

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House of Representatives State of Tennessee

NASHVILLE

August 22, 2022

To: President Brian Noland, East Tennessee State University

Subject: Tennessee Code Annotated (T.C.A.) 4-5-230 Policy Review

Dear President Noland:

1. I have reviewed Tennessee higher education institutions' policy statements in accordance with T.C.A. 4-5-230 as well as related internet published information. Consequently, this letter informs you of possibly required modifications on the subject issue, in particular, as such relate to Title IX. Furthermore, you are requested, herewith, to advise my office of the completion of any changes not later than 2 September 2022. If none are required, so state by the same date.
2. Universities and colleges in Tennessee have reacted to a 23 June 2021 letter from the US Department of Education. In this letter, the department admonished recipients, under funding withdrawal threat, that their Title IX obligations included LGBTQI+ students, etc. As a result, many of our state's colleges and universities have rushed to change publications, policies and websites.
3. However, on 15 July 2022, a Federal court *enjoined and restrained* the US Department of Education from implementing the 23 June 2021 document in Tennessee and several other states. See *State of Tenn., et al. v. U.S. Dep't of Educ.*, No. 3:21-cv-308 (E.D. Tenn.) (July 15, 2022).
4. In short, the court has ruled that the US Department of Education cannot put into effect its previous guidance treating LGBTQI+ as a protected class under Title IX. Therefore, Tennessee educational institutions cannot be penalized for ignoring the US Department of Education letter. This situation remains the case unless and until the enjoining court or a higher court lifts the injunction.
5. As a result, college and university publications, policies and websites have no legal authorization or requirement to state or imply LGBTQI+ is a protected class under Title IX. Consequently, no modifications related to the 23 June 2021 letter from the US Department of Education are appropriate. In fact, based upon the court ruling, such could be interpreted as violating state law.

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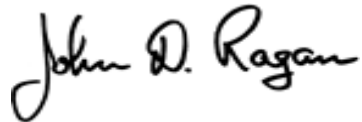
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6. In summary, you are advised to immediately revoke and/or remove any publications, policies and website entries for which your institution is responsible that state or imply that LGBTQI+ students, etc., are a protected class under Title IX. Additionally, you are requested to advise my office not later than 2 September 2022 that you have completed any required actions.

Sincerely,

A handwritten signature in black ink that reads "John D. Ragan". The signature is written in a cursive style with a large initial "J".

Co-Chair, Joint Government Operations Committee

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