

5. Exhibit D is *Christian College President Compares LGBT Students to Members of ISIS* (March 19, 2018); *LGBT BYU students fighting suicide while facing unique mental health challenges* (Nov. 11, 2016); *Students: BYU Honor Code leaves LGBT victims of sexual assault vulnerable and alone* (July 29, 2017).

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed this 17th day of August, 2021.

By: s/Paul Carlos Southwick

Paul Carlos Southwick

Fw: Title IX religious exemption comment

Paul Southwick <paul@paulsouthwick.com>

Sun 8/15/2021 1:07 PM

To: Josiah Robinson <josiahr@paulsouthwick.com>

Paul

Director, REAP

Paul Southwick Law, LLC

paul@paulsouthwick.com

503-806-9517

From: Seth Galanter <seth.galanter@gmail.com>

Sent: Thursday, July 1, 2021 1:34 PM

To: Paul Southwick <paul@paulsouthwick.com>

Subject: Re: Title IX religious exemption comment

Paul-

I mentioned that OCR had, during the Obama years, adopted a subtle difference in letters when it was deciding not to decide the control issue.

In a case where control is clear, as in [Clear Creek Baptist Bible College](#) (which I just picked randomly), the last two sentences of the penultimate paragraph say (emphasis added):

Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated *to contact the controlling organization* to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

By contrast, in a case where control is less clear, as in [Biola University](#), the last two sentences of the penultimate paragraph say (emphasis added):

Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets identified in your request, OCR is obligated *to identify a controlling organization to contact* to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

(You can find most (if not all) of the letters that use this language by searching on google: "identify a controlling organization to contact" site:www2.ed.gov.) It appears that the Trump Administration completely revised this last paragraph to take out this language. See, e.g., <https://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/bethany-global-university-response-12152017.pdf> .

On Thu, Jul 1, 2021 at 4:04 PM Paul Southwick <paul@paulsouthwick.com> wrote:

Thank you, Seth. This is super useful.

Paul

Director, REAP
Paul Southwick Law, LLC
paul@paulsouthwick.com
503-806-9517

From: Seth Galanter <seth.galanter@gmail.com>

Sent: Thursday, July 1, 2021 12:47 PM

To: Paul Southwick <paul@paulsouthwick.com>

Subject: Title IX religious exemption comment

February 18, 2020

Re: Proposed 34 C.F.R. § 106.12(c)
RIN 1840-AD45, Docket ID ED-2019-OPE-0080

Dear Assistant Secretary Marcus:

As an American taxpayer, I object to the Department's proposal that would expand the circumstances in which an educational institution that receives federal taxpayer funds can discriminate on the basis of sex. Congress struck a reasonable balance when it made only educational institutions controlled by religious organizations eligible for exemptions, and this proposal would skew the scales too far away from that balance.

1. The Proposed Regulations Are Inconsistent with the Text and History of the Statutory Exemption

The Department's proposed interpretation of "controlled by a religious organization" is completely atextual. The statute clearly requires there be a "religious organization" that has "religious tenets" and that "control[s]" an "educational institution." Only then is an educational institution eligible for an exemption -- Title IX would not apply to the extent its application "would not be consistent with the religious tenets of such [religious] organization."

Religious Organization: Sub-provisions 106.12(c)(1), (4), (5), and (6) all negate the critical statutory element that there must be a "religious organization." The plain text of the statute requires two entities: the religious organization (which holds tenets) and the educational institution (which is controlled by the organization).

If Congress had wanted to allow exemptions for educational institutions without regard to the existence of a religious organization, it had an obvious model in Title VII of the Civil Rights Act of 1964. Title VII does not provide a religious exemption for its prohibition on sex discrimination, but it does exempt some private schools from the prohibition on religious discrimination in employment. It does so in two circumstances: (1) when the school "is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society;" and (2) when "the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion." 42 U.S.C. § 2000e-2(e). Congress could have borrowed this language in enacting Title IX. But it did not. Instead, Congress in 1972 pared the exemption down to schools "controlled by" a "religious organization," and totally jettisoned the second set of circumstances that did not require showing a religious organization.

The Department suggests that one component of an educational institution can be the religious organization. That has no basis in the text. And it would make redundant the language Congress specifically chose in other statutes. For example, in authorizing federal funds to go to private schools in the wake of the disruption of the public school system after Hurricane Katrina, Congress exempted "a non-public school that is controlled by a religious organization *or* organized and operated on the basis of religious tenets." Department of Defense, Emergency

Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, PL 109-148, Title IV, Subtitle A, § 107(m)(2)(A), 119 Stat 2680 (Dec. 30, 2005) (emphasis added). If the Department were correct that an internal component could be a controlling religious organization, there would be no reason for Congress to have added “organized and operated on the basis of religious tenets.” The Department has no authority to rewrite the Title IX exemption to include language that Congress included elsewhere, but not here.

Tenets of the Religious Organization: The beginning of proposed 106.12(c) says that an educational institution is eligible to assert an exemption when application of Title IX “would not be consistent with its tenets or practices.” First, the statutory exemption extends only to applications inconsistent with “tenets.” It grants no exemption for applications inconsistent with religious “practices.” The Department has no authority to rewrite the statute.

Second, the statute’s exemption addresses the religious tenets *of the religious organization* not, as the proposed regulation would have it, the tenets of the educational institution. When Congress wanted a school to be able to be exempt based on *its own* religious tenets (as opposed to those of a religious organization), it knows how to do that. Indeed, the religious exemption provision for the federal voucher program for DC exempts a participating private school “to the extent that the application of” the prohibition against sex discrimination “is inconsistent with the religious tenets or beliefs *of the school.*” Department of Defense and Full-Year Continuing Appropriations Act, 2011, PL 112-10, § 3008, 125 Stat 38 (April 15, 2011) (emphasis added); Consolidated Appropriations Act, 2004, PL 108-199, § 308, 118 Stat 3 (January 23, 2004) (same). The Department has no authority to rewrite the Title IX exemption to include language that Congress included elsewhere, but not here.

Sub-provision 106.12(c)(5) strays even farther afield by tying eligibility for an exemption to the institution’s “specific moral beliefs or practices,” while Sub-provision 106.12(c)(6) extends to religious “beliefs or teachings.” Moral beliefs are not the equivalent of religious tenets. Beliefs and teachings are not the equivalent of religious tenets. Only tenets are tenets. The Department has no authority to rewrite the statute by adding these terms.

Controlled by the Religious Organization: The proposed regulation denudes the term “controlled by” of any force. While there may be varied methods of establishing control, it cannot be enough that an educational institution has elected to subscribe to or adopt particular doctrinal statement or practices. The term “control” suggests a far more coercive, two-party relationship.

For example, Congress has defined a “tribally controlled college or university” to mean “an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes.” 25 U.S.C. § 1801(a)(4).

Similarly, under ERISA, a pension plan qualifies for the “church plan” exemption if the organization maintaining it is either “controlled by *or* associated with a church.” 29 U.S.C. § 1002(33)(C)(i) (emphasis added). Courts use a multi-factor test for determining whether an organization is “associated with” a church. But “[b]oth the IRS regulations and the courts have used the common sense definition of organizational control: the ability of church officials to

appoint the majority of the trustees or directors of an organization.” *Overall v. Ascension*, 23 F. Supp. 3d 816, 829 (E.D. Mich. 2014) (citing 26 C.F.R. § 1.414(c)-5; *Lown v. Cont'l Cas. Co.*, 238 F.3d 543 (4th Cir. 2001); *Catholic Charities of Maine v. City of Portland*, 304 F.Supp.2d 77 (D. Maine 2004)). There is no ground to deviate from such a common sense definition in interpreting the same language in Title IX.

When Congress wanted to permit an exemption from non-discrimination laws for educational institutions that had relationships with religious organizations not based solely on control, it knew how to do so, but it’s done so only rarely. *See* 20 U.S.C. § 1066c(d) (“an institution which is controlled by or which is closely identified with the tenets of a particular religious organization”); Department of Defense and Full-Year Continuing Appropriations Act, 2011, PL 112-10, § 3008, 125 Stat 38 (April 15, 2011) (“school that is operated by, supervised by, controlled by, or connected to a religious organization”); Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, PL 109-148, Title IV, Subtitle A, § 107(m)(2)(A), 119 Stat 2680 (Dec. 30, 2005) (“a non-public school that is controlled by a religious organization or organized and operated on the basis of religious tenets”); District of Columbia Appropriations Act, 1990, PL 101-168, § 141(b), 103 Stat 1267 (November 21, 1989) (“any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization”); *see also* 42 U.S.C. § 3607(a) (Fair Housing Act exemption for dwellings operated by “any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society”); 42 U.S.C. § 2000e-2(e) (portion of Title VII definition discussed above, which exempts schools “owned, supported, controlled, or managed by a particular religion”).

Indeed, Congress considered changes to the religious exemption to expand it beyond “control” in 1988, when it expanded the coverage of Title IX in the Civil Rights Restoration Act. Proponents of an expanded religious exemption urged that the language be changed to include educational institutions “closely identified with the tenets of a religious organization.” S. Rep. 100-64, at 27 (1987). The Department, in support, noted at the time that Title VII “currently contains a religious tenets provision that establishes a broader test than the control test in Title IX” and warned Congress that “many of these [religious educational] institutions are today controlled by law boards, or are otherwise organized *so that they fall outside the exemption*, even though they retain their religious mission and their affiliation with religious entities.” 134 Cong. Rec. H555 (March 2, 1988) (reprinting letter from William Bennett, Secretary of Education) (emphasis added).

Members of Congress (both supporters and opponents of changing the religious exemption) made the same point, explaining that “many institutions, which may have previously qualified, are now outside the scope of the existing religious tenets exemption” because “the governing bodies of many church-related educational and health institutions are made up of lay persons.” 134 Cong. Rec. H555 (March 2, 1988) (Rep. Moorhead); *see also id.* at S2390 (March 17, 1988) (Sen. Hatch) (“the vast majority of church-related educational institutions could be denied a religious tenets exemption because they are not literally controlled by the tenets of a religious organization”); *id.* at E1049 (April 13, 1988) (Rep. Slatery) (“Religiously affiliated educational institutions governed by lay boards of directors are not covered by the title IX exemption.”).

Recognizing the critical role the “control” language served, Congress rejected the proposed changes to go beyond it and, instead, relied on the current “controlled by” language when it enacted 20 U.S.C. § 1687. See 134 Cong. Rec. H565 (March 2, 1988) (Rep. Fish) (“The key in the religious tenet exemption is the control test. A Government inquiring into the nature of a religious tenet asserted by an institution is fraught with difficulties. Therefore, the assurance that an institution is actually controlled by the religious organization whose tenets it relies upon is essential to keep this exemption from becoming an escape hatch from title IX.”); *id.* at E499 (March 3, 1988) (Rep. Bonker) (“The bill would maintain stringent criteria to insure that this religious exemption is not used as a loophole for institutions to circumvent our antidiscrimination statutes.”); *id.* at S205 (Jan. 28, 1988) (Sen. Kennedy) (“the control test is, and should be, a difficult one”); *id.* (Sen Danforth) (Senate’s rejection of amendment to broaden exemption demonstrates the “very narrow scope of the religious exemption”). President Reagan’s veto message of the Civil Rights Restoration Act pointed to the “failure to protect, under Title IX of the Education Amendments of 1972, the religious freedom of private schools that are closely identified with the religious tenets of, but not controlled by, a religious organization” as one ground for his veto. 134 Cong. Rec. H1037 (March 22, 1988). His veto, in turn, was overturned by supermajorities in both houses of Congress.

The Department has no authority to rewrite the statute to treat “controlled by” as if it encompassed any other types of relationships. Congress considered this very issue and reached a very different conclusion than that embodied in the proposed regulations.

2. The Constitution Does Not Require Expanding the Statute Beyond Its Textual Limits, Contrary to Congress’s Intent

The Department insists that it is “constitutionally obligated” to adopt its proposed reading “to avoid religious discrimination among” educational institutions. 85 Fed. Reg. 3190, 3207/1 (Jan. 17, 2020). But the cannon of constitutional avoidance does not permit an agency to re-write a statute. *Jennings v. Rodriguez*, 138 S. Ct. 830, 836 (2018).

If, as a matter of law, a statutory exemption that is limited to educational institutions “controlled by a religious organization” *unconstitutionally* discriminates against religious organizations with different types of structures – as the NPRM appears to claim – then the Department’s only choice is not to apply this unconstitutional exemption at all to anyone.

As the Supreme Court explained in *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1698-1699 (2017), “[w]hen the ‘right invoked is that to equal treatment,’ the appropriate remedy is a mandate of equal treatment, a result that can be accomplished by withdrawal of benefits from the favored class as well as by extension of benefits to the excluded class. ... The choice between these outcomes is governed by the legislature’s intent, as revealed by the statute at hand.” For the reasons set forth below, it is clear that the intent of Congress in 1972 (and again in 1988 when it repeated the exemption in 20 U.S.C. § 1687) would have been to enact Title IX without a religious exemption if a court were to hold that the limited religious exemption provision it enacted was unconstitutional.

This is reflected first in a textual analysis. Here, there is no statutory language that can be excised from the religious exemption itself if the “controlled by a religious organization” is unconstitutionally limiting. Without this language, the exemption would make no sense. This weighs in favor of excising the exemption in its entirety, if it is unconstitutional as written as the NPRM appears to claim. Even when a statutory provision is determined to be unconstitutional, “mindful that our constitutional mandate and institutional competence are limited, we restrain ourselves from ‘rewrit[ing] state law to conform it to constitutional requirements’ even as we strive to salvage it.” *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320, 329 (2006). This is particularly true when “making distinctions in a murky constitutional context, or where line-drawing is inherently complex” because in those circumstances, working to essentially craft a new test as to who should be eligible for religious exemption beyond the text of the statute “may call for a ‘far more serious invasion of the legislative domain’ than we ought to undertake.” *Id.* at 330.

Second, as shown below, the longstanding course of conduct by Congress demonstrates that if the religious exemption as written is unconstitutional, Congress would still have wanted the remainder of Title IX to nonetheless remain in effect.

a. First, Title IX was modelled on Title VI of the Civil Rights Act, which did not have a religious exemption. Nor did Section 504 of the Rehabilitation Act of 1973 or the Age Discrimination Act of 1975, both enacted shortly after Title IX.

Thus, in general, Congress did not think a religious exemption was necessary in order to place non-discrimination conditions on recipients of federal assistance, even when the type of discrimination was not subject to heightened constitutional scrutiny. *Compare* 135 Cong. Rec. S2399 (March 17, 1988) (Sen. Helms) (urging both “a strong religious exemption added to the Rehabilitation Act and an updating of the sex discrimination exemption,” so that private schools could discriminate against people with “communicable diseases, including AIDS and infection with the AIDS virus” on religious and moral grounds).

b. Second, as noted above, Congress confronted the question in 1988 about whether to expand the religious exemption to extend to institutions “closely identified with the tenets of a religious organization.” It not only repeatedly rejected that amendment prior to passage of the Civil Rights Restoration Act (including 20 U.S.C. § 1687), but rejected it again by supermajorities when it overrode the President’s veto, which had relied on the absence of the amendment as one of the grounds for vetoing the bill.

c. Third, the overwhelming majority of statutes enacted by Congress on the topic of sex discrimination by recipients of financial assistance have consistently prohibited sex discrimination without any religious exemption.

As reflected in Tables I, II, and III below, in the past 50 years, Congress has enacted at least 59 Public Laws containing 73 statutory provisions (in addition to Title IX) that prohibit sex discrimination by recipients of various federal assistance.

Only **3** other statutes expressly exempt certain educational institutions from the prohibition on sex discrimination based on religious tenets. *See* Table I (page 11).

There have been **5** statutes that could arguably be read to incorporate Title IX's religious exemption. 4 of them prohibit sex discrimination "except as otherwise permitted under title IX" or "to the extent provided in title IX." *See* Table II (page 12). In addition, this Administration (contrary to the last Administration) has interpreted language in the Patient Protection and Affordable Care Act, PL 111-148, § 1557, 124 Stat 119, 260 (March 23, 2010) (codified at 42 U.S.C. § 18116) that prohibits discrimination "on the ground prohibited under ... title IX" to incorporate Title IX's religious exemption. *See* 84 Fed. Reg. 27846, 27864 (June 14, 2019) (HHS NPRM).

But **65** other statutes - the overwhelming majority of the sex discrimination statutes enacted by Congress governing recipients of different types of federal assistance - do not have any type of exemption and do not cross-reference Title IX. They simply prohibit sex discrimination by recipients without exception. *See* Table III (pages 13-21). While it may be that a few of these statutes were limited to assistance provided only to government entities, the vast preponderance of these non-discrimination statutes govern assistance that a non-profit entity, including one controlled by a religious organization, could receive if otherwise eligible.

The absence of religious exemptions is particularly pronounced when looking at the statutes enacted around the same time as Title IX. The 92d Congress, which enacted Title IX, also enacted 6 other statutes that prohibited sex discrimination by recipients of federal assistance. *See* Table III (page 21). None had religious exemptions. And 2 of those statutes were enacted solely to govern educational institutions receiving certain federal funds. Those 2 statutes remain on the books today, still without exemptions. *See* 42 U.S.C. § 295m (Comprehensive Health Manpower Training Act); 42 U.S.C. § 296g (Nurse Training Act).

Between 1973 and 1988, when Congress enacted 20 U.S.C. § 1687 (which repeated the language of the Title IX religious exemption while expanding Title IX's coverage), Congress enacted 29 other statutes that prohibit sex discrimination by recipients of federal assistance without providing religious exemption. *See* Table III (pages 16-20). It enacted only 1 statute that arguably incorporated Title IX's religious exemption. *See* Table II.

There is no basis to believe that the 1972 Congress (or the 1988 Congress) would have wanted to expand the existing religious exemption if required to make the choice between the expansive view proposed by the Department and no exemption at all. "Put to the choice, Congress, we believe, would have abrogated [Title IX's] exception, preferring preservation of the general rule" of non-discrimination by recipients of federal assistance. *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1700 (2017).

This is particularly true in light of the Supreme Court's holding in *Grove City College v. Bell*, 465 U.S. 555 (1984). In that case, which was the impetus for the Civil Rights Restoration Act in the first place, the Court rejected a claim by Grove City College that Title IX's application to it would violate the First Amendment rights of both the college and its students. It definitively held that Title IX's prohibition on sex discrimination is a reasonable condition on disbursing

federal funds, and “infringes no First Amendment rights of the College or its students.” *Id.* at 576. Although Congress overruled the holding of *Grove City* that limited Title IX, it made no effort to amend Title IX to reduce any perceived First Amendment burdens on recipients.

This hardly leaves educational institutions without any potential federal statutory protection for religiously-motivated actions that violate Title IX. An educational institution can invoke the Religious Freedom Restoration Act if it can show that compliance with Title IX “substantially burden[s]” its “exercise of religion.” 42 U.S.C. § 2000bb-1(a). If the institution makes that showing, a court would have to then determine whether prohibiting that school from discriminating is the least restrictive means of furthering the government’s compelling interests in eliminating sex discrimination in education and in not subsidizing sex discrimination with federal assistance. *Id.* § 2000bb-1(b); *see Roberts v. United States Jaycees*, 468 U.S. 609, 623 (1984) (government has “compelling interest in eradicating discrimination against its female citizens”); *City of Richmond v. J. A. Croson Co.*, 488 U.S. 469 (1989) (federal government “has a compelling interest in assuring that public dollars, drawn from the tax contributions of all citizens, do not serve to finance” institutions that discriminate).

Congress struck a reasonable balance when it made only educational institutions controlled by religious organizations eligible for exemptions. The Department should not try and alter that balance. If it believes itself constitutionally obligated to do so, it should treat the exemption as a nullity and follow Congress’ intent to protect all Americans from sex discrimination in education.

3. The Department Did Not Obtain Approval of the NPRM from the Attorney General, in Violation of Executive Order 12250¹

Executive Order 12250 requires any NPRM that addresses sex discrimination under Title IX to be reviewed and approved by the Attorney General prior to its publication in the Federal Register. §§ 1-202, 1-402; *see also* Memorandum from John Gore, Acting Assistant Attorney General, to Federal Agency Civil Rights Directors re: *Clearance Requirements for Title VI, Title IX, Section 504, and Related Nondiscrimination Regulations and Policy Guidance Documents* (Apr. 24, 2018). That authority (although not the authority to approve final regulations) has been delegated to the Assistant Attorney General for Civil Rights. 28 C.F.R. § 0.51(a).

There is no indication in the NPRM that this requirement was met. Indeed, there is no mention of this Executive Order in the NPRM at all. The probable failure to comply with the letter and spirit of Executive Order 12250 may be one reason why, as we note below, there has been no thought given to how these proposed changes will interact with the Title IX regulations of 25 other federal agencies.

¹ Portions of Parts 3 and 4 are drawn substantially from comments filed by another person in response to a different NPRM, available at <https://www.regulations.gov/document?D=ED-2018-OCR-0064-18375>.

4. Any Changes to the Title IX Regulations Should be Done in Coordination with the More Than 20 Other Federal Agencies That Have Title IX Regulations

Apart from its substantive flaws, the NPRM just focuses on the Department, even though there are 25 other federal agencies with Title IX regulations² and most of those agencies provide financial assistance to the same private schools, colleges, and universities that the Department funds.

More than 20 of those other agencies adopted their identical final Title IX regulations in 2000 based on a common NPRM.³ Those twenty-plus final regulations were themselves closely modeled on this Department's regulation, save for modifications necessary to be consistent with statutory changes that were not yet reflected in the Department of Education's regulations. 65 Fed. Reg. at 52,859/1-2. In promulgating those regulations, those federal agencies, led by the Department of Justice, explained that "[u]sing ED's regulations as the basis for this common rule promotes consistency and efficiency not only for agencies but for the recipient community," *id.* at 52,859/1, and thus endeavored "to minimize the extent to which these Title IX regulations differ from the Department of Education's Title IX rule," *id.* at 52,860/2.

And the number of agencies that adopted the common Title IX rule increased by one during this Administration, when the U.S. Department of Agriculture (USDA) adopted it without change. It explained that "[b]y harmonizing the provisions of [its Title IX regulations] with the common rule, USDA brings its regulations up-to-date, complies with Executive Order 13777, 'Enforcing the Regulatory Reform Agenda,' dated February 24, 2017, follows current guidance from DOJ, and makes it easier for recipients of USDA financial assistance to understand and comply with Title IX requirements."⁴ This NPRM will do the precise opposite.

The Department cannot act like a lone ranger; it must work with all the other federal agencies to adopt a common set of standards on this common question of what entities are eligible for exemptions to Title IX. Even if the Department were not inclined to consider the other agencies' regulations as a matter of common sense, federal law and Executive Orders require it to do so. The Regulatory Flexibility Act requires the Department to identify and address "all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule." 5 U.S.C. § 603(b)(5). Executive Order 12866 requires the Department to "avoid regulations that are

² See Agency for International Development, 22 C.F.R. pt. 229; Corporation for National and Community Service, 45 C.F.R. pt. 2555; Department of Agriculture, 7 C.F.R. pt. 15a; Department of Commerce, 15 C.F.R. pt. 8a; Department of Defense, 32 C.F.R. pt. 196; Department of Energy, 10 C.F.R. pt. 1042; Department of Health and Human Services, 45 C.F.R. pt. 86; Department of Homeland Security, 6 C.F.R. pt. 17; Department of Housing and Urban Development, 24 C.F.R. pt. 3; Department of Interior, 43 C.F.R. pt. 41; Department of Justice, 28 C.F.R. pt. 54; Department of Labor, 29 C.F.R. 36; Department of State, 22 C.F.R. pt. 146; Department of Transportation, 49 C.F.R. pt. 25; Department of Treasury, 31 C.F.R. pt. 28; Department of Veterans Affairs, 38 C.F.R. pt. 23; Environmental Protection Agency, 40 C.F.R. pt. 5; Federal Emergency Management Agency, 44 C.F.R. pt. 19; General Services Administration, 41 C.F.R. pt. 101-4; National Aeronautics and Space Administration, 14 C.F.R. pt. 1253; National Archives and Records Administration, 36 C.F.R. pt. 1211; National Science Foundation, 45 C.F.R. pt. 618; Nuclear Regulatory Commission, 10 C.F.R. 5; Small Business Administration, 13 C.F.R. pt. 113; Tennessee Valley Authority, 18 C.F.R. pt. 1317.

³ See 65 Fed. Reg. 52,857 (2000) (final Title IX rules for 21 agencies); 64 Fed. Reg. 58,567 (1999) (NPRM).

⁴ 82 Fed. Reg. 46,655 (Oct. 6, 2017).

inconsistent, incompatible, or duplicative with ... those of other Federal agencies.” § 1(b)(10). And Executive Order 13563 encourages “[g]reater coordination across agencies” to reduce “redundant, inconsistent, or overlapping” regulatory requirements by mandating that a federal agency proposing a rule “attempt to promote such coordination, simplification, and harmonization.” § 3.

It is not a sufficient response to these substantial concerns of inconsistency by merely predicting (or even promising) that other agencies will amend their Title IX regulations someday to comport with these proposed regulations. That is what the government said in the common rule when it addressed how it would align the agencies’ regulations with the Department’s then-expected amended regulation regarding single-sex schools and classes. Specifically, the government stated in promulgating the common rule that “conforming changes will be made in the regulations covered by this notice” after the Department adopted a new regulation. 65 Fed. Reg. at 52,861/3. That never happened.

The new regulation was promulgated by the Department in 2006. In 2008, in response to litigation, the Department assured a district court that the Department of Justice “has initiated the process of discussing a common rule that would reflect the Department of Education’s amendment of its Title IX regulations to give schools flexibility to offer single-sex classes that comply with the specified regulatory requirements.”⁵ And yet, twelve years after the Department of Justice made that assurance, there has been no public effort to conform other agencies’ regulations with the Department’s. We submit the lesson that should be learned from this is: when addressing a topic that is not necessarily limited to a particular type of recipient or stream of funding, such regulatory changes must be done by all agencies at the same time, or many agencies will permanently lag behind.

Dissimilarity in Title IX regulations leads to confusion about how different agency Title IX regulations interact. That has been true regarding single-sex schools and classes.⁶ The same has been true for the Department’s other significant deviation from the Title IX regulations of other agencies, regarding dress codes. In 1982, the Department removed a provision from its regulations that specifically governed codes of appearance.⁷ But at least one other federal agency still has that specific provision on its books,⁸ and many other agencies that never had that provision have regulations with broad language that could encompass codes of appearance. Courts and recipients have struggled to determine how these different Title IX regulations all interact.⁹

⁵ Brief for the United States Dept. of Education, *A.N.A v. U.S. Dept. of Educ.*, No. 3:08-CV-00004-CRS-JDM, 2008 WL 11412046 at n.2 (W.D. Ky.) (filed Aug. 1, 2008).

⁶ See, e.g., Brief for the United States as *Amicus Curiae*, *Doe v. Vermilion Parish Sch. Bd.*, No. 10-30378, at 10 & n.3 (5th Cir.) (filed June 4, 2010); Brief for Wood County Bd. of Education, *Doe v. Wood County Bd. of Educ.*, 2012 WL 13035184 (S.D. W. Va.) (filed Aug. 27, 2012).

⁷ 47 Fed. Reg. 32,526 (1982).

⁸ 45 C.F.R. § 86.31(b)(5) (Department of Health and Human Services).

⁹ *Peltier v. Charter Day Sch., Inc.*, No. 7:16-CV-30-H, 2017 WL 1194460, at *3-4 (E.D.N.C. Mar. 30, 2017).

The Department itself might struggle with the inconsistencies first hand because it has entered into delegation agreements with other federal agencies to handle complaints of discrimination under Title IX.¹⁰ If a complaint was filed with such an agency, it would be referred to the Department under the delegation agreement. If the other agency did not adopt a similar amendment to its regulations, the Department might have to investigate on behalf of another agency a private school that the Department believes is exempt from Title IX.

For all the foregoing reasons, I urge the Department to withdraw the proposed 34 C.F.R. § 106.12(c) in its entirety.

Seth Galanter

¹⁰ 52 Fed. Reg. 43,385 (1987) (NASA).

TABLE I: Express exemptions from prohibitions on sex discrimination by recipients				
Date enacted	Topic	Title of Enacting Statute	Statute	Exemption language
April 15, 2011	DC voucher program	DEPARTMENT OF DEFENSE AND FULL-YEAR CONTINUING APPROPRIATIONS ACT, 2011	PL 112-10, § 3008, 125 Stat 38	Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) shall not apply to a participating school that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the application of subsection (a) is inconsistent with the religious tenets or beliefs of the school.
December 30, 2005	Elementary and Secondary Education Hurricane Relief	DEPARTMENT OF DEFENSE, EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO, AND PANDEMIC INFLUENZA ACT, 2006	PL 109-148, § 107, 119 Stat 2680	the prohibition of sex discrimination in paragraph (1)(A) shall not apply to a non-public school that is controlled by a religious organization or organized and operated on the basis of religious tenets if the application of paragraph (1)(A) would not be consistent with the religious tenets of such organization.
January 23, 2004	DC voucher program	CONSOLIDATED APPROPRIATIONS ACT, 2004	PL 108-199, § 308, 118 Stat 3	Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) shall not apply to a participating school that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the application of subsection (a) is inconsistent with the religious tenets or beliefs of the school.

TABLE II: Cross-referenced Title IX's prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
July 22, 2014	29 USC 3248	WORKFORCE INNOVATION AND OPPORTUNITY ACT	PL 113-128, § 188, 128 Stat 1425, 1596	No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.
August 7, 1998	29 USC 2938	WORKFORCE INVESTMENT ACT OF 1998	PL 105-220, § 188, 112 Stat 936	No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.
July 23, 1992	20 USC 1132c-3	HIGHER EDUCATION AMENDMENTS OF 1992	PL 102-325, § 724, 106 Stat. 448	No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.
October 17, 1986	20 USC 1132f-1	HIGHER EDUCATION AMENDMENTS OF 1986	PL 99-498, § 752, 100 Stat 1268	(1) The Corporation may not carry out any activities with respect to any educational facilities purpose of a participating institution if the institution discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition. (2) The prohibition with respect to religion shall not apply to an educational institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
March 7, 2013	42 USC 13925	VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013	PL 113-4, § 3, 127 Stat 54	No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Violence Against Women Act of 1994 (title IV of Public Law 103-322; 108 Stat. 1902), the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (title IX of Public Law 109-162; 119 Stat. 3080), the Violence Against Women Reauthorization Act of 2013, and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.
December 20, 2010	42 USC 10406	CAPTA REAUTHORIZATION ACT OF 2010	PL 111-320, § 306, 124 Stat 3459	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under this title.
March 23, 2010	42 USC 18116	PATIENT PROTECTION AND AFFORDABLE CARE ACT	PL 111-148, § 1557, 124 Stat 119	Except as otherwise provided for in this title (or an amendment made by this title), an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 794 of title 29, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments).
April 21, 2009	22 USC 8303	SERVE AMERICA ACT	PL 111-13, § 5103, 123 Stat 1460	The ViP Office may not provide a stipend to an individual under paragraph (1) unless the nonprofit organization to which the individual is assigned has certified to the ViP Office that it does not discriminate with respect to any project or activity receiving Federal financial assistance, including a stipend under this title, because of race, religion, color, national origin, sex, political affiliation, or beliefs.
June 18, 2008	7 USC 2020	FOOD, CONSERVATION, AND ENERGY ACT OF 2008	PL 110-246, § 4117, 122 Stat 1651	In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
May 22, 2008	7 USC 2020	FOOD, CONSERVATION, AND ENERGY ACT OF 2008	PL 110-234, § 4117, 122 Stat 923	In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.
August 21, 2002	40 USC 122	REVISION OF TITLE 40, UNITED STATES CODE, "PUBLIC BUILDINGS, PROPERTY, AND WORKS"	PL 107-217, § 122, 116 Stat 1062	With respect to a program or activity carried on or receiving federal assistance under this subtitle, an individual may not be excluded from participation, denied benefits, or otherwise discriminated against based on sex.
August 21, 2002	40 USC 14702	REVISION OF TITLE 40, UNITED STATES CODE, "PUBLIC BUILDINGS, PROPERTY, AND WORKS"	PL 107-217, § 14702, 116 Stat 1062	An individual in the United States shall not, because of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, a program or activity receiving federal financial assistance under this subtitle.
December 27, 2000	25 USC 4223	OMNIBUS INDIAN ADVANCEMENT ACT	PL 106-568, § 803, 114 Stat 2868	Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.
December 27, 2000	25 USC 4223	AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000	PL 106-569, § 803, 114 Stat 2944	Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.
October 27, 1998	42 USC 9918	COMMUNITY OPPORTUNITIES, ACCOUNTABILITY, AND TRAINING AND EDUCATIONAL SERVICES ACT OF 1998	PL 105-285, § 678F, 112 Stat 2702	No person shall, on the basis of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle.
October 7, 1998	20 USC 1087tt	HIGHER EDUCATION AMENDMENTS OF 1998	PL 105-244, § 478, 112 Stat 1581	No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status."
September 13, 1994	42 USC 13791	VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994	PL 103-322, § 30401, 108 Stat 1796	In selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.
July 5, 1994	49 USC 5332	REVISION OF TITLE 49, UNITED STATES CODE ANNOTATED, "TRANSPORTATION"	PL 103-272, § 5332, 108 Stat 745	A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.
September 21, 1993	42 USC 12635	NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993	PL 103-82, § 115, 107 Stat 785	An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
September 21, 1993	42 USC 5057	NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993	PL 103-82, § 367, 107 Stat 785	An individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate against a participant in, or member of the staff of, such program on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.
October 28, 1992	42 USC 1437w	HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992,	PL 102-550, § 121, 106 Stat 3672	No person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.
October 13, 1992	42 USC 295m	HEALTH PROFESSIONS EDUCATION EXTENSION AMENDMENTS OF 1992	PL 102-408, § 794, 106 Stat 1992	The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, or public health or any training center for allied health personnel, or graduate program in clinical psychology, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any such school or training center unless the school, training center, or graduate program furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs.
July 10, 1992	42 USC 300x-57	ADAMHA REORGANIZATION ACT	PL 102-321, § 1947, 106 Stat 323	No person shall on the ground of sex (including, in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 1911 or 1921.
December 12, 1991		NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT	PL 102-235, § 11, 105 Stat 1806	No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
November 29, 1990,	42 USC 290cc-33	STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990	PL 101-645, § 533, 104 Stat 4673	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 521.
November 28, 1990	42 USC 12832	CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT,	PL 101-625, § 282, 104 Stat 4079	No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
November 16, 1990	42 USC 12635	NATIONAL AND COMMUNITY SERVICE ACT OF 1990	PL 101-610, § 175, 104 Stat 3127	An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant or member of the staff of such project on the basis of race, color, national origin, sex, age, disability, or political affiliation of such member.
July 22, 1987	42 USC 290cc-3	STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT	PL 100-77, § 534, 101 Stat 482	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.
November 6, 1986		IMMIGRATION REFORM AND CONTROL ACT OF 1986	PL 99-603, § 204(h), 100 Stat 3359	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section.
October 12, 1984	42 USC 10504	CONTINUING APPROPRIATIONS ACT, 1985	PL 98-473, § 609P, 98 Stat 1837	No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this subdivision.
October 12, 1984	42 USC 10604(e)	CONTINUING APPROPRIATIONS ACT, 1985	PL 98-473, § 1407(e), 98 Stat 1837	No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.
October 9, 1984	42 USC 10406	CHILD ABUSE AMENDMENTS OF 1984	PL 98-457, § 307, 98 Stat 1749	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
January 12, 1983	49 USC 306	CONTINUING APPROPRIATIONS ACT, 1983	PL 97-449, § 306, 96 Stat 2413	A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 U.S.C. 1653(i), 1654).
October 13, 1982	29 USC 1577	JOB TRAINING PARTNERSHIP ACT	PL 97-300, § 167, 96 Stat 1322	No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.
August 13, 1981	42 USC 9821	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 632, 95 Stat 357	No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter.
August 13, 1981	42 USC 9849	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 654, 95 Stat 357	No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter.
August 13, 1981	42 USC 9906	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 677, 95 Stat 357	No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle.
August 13, 1981	42 USC 300w-7	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 1908, 95 Stat 357	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.
August 13, 1981	42 USC 300x-7	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 1918, 95 Stat 357	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.
August 13, 1981	42 USC 300y-9	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 1930, 95 Stat 357	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
August 13, 1981	42 USC 708	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 508, 95 Stat 357	No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title
August 13, 1981	42 USC 8625	OMNIBUS BUDGET RECONCILIATION ACT OF 1981	PL 97-35, § 2606, 95 Stat 357	No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.
December 27, 1979	42 USC 3789d	JUSTICE SYSTEM IMPROVEMENT ACT OF 1979	PL 96-157, § 815, 93 Stat 1167	No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this title.
November 6, 1978	49 USC 1615	SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978	PL 95-599, § 19, 92 Stat 2689	No person in the United States shall on the grounds of race, color, creed, national origin, sex, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under this Act..
October 27, 1978	15 USC 3151	FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978	PL 95-523, § 401, 92 Stat 1887	No person in the United States shall on the ground of sex, age race, color, religion, national origin or handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded pursuant to the implementation of this Act, including membership in any structure created by this Act.
October 27, 1978	29 USC 823	COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978	PL 95-524, § 121, 92 Stat 1909	No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.
October 27, 1978	29 USC 834	COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978	PL 95-524, § 132, 92 Stat 1909	No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Act..
August 20, 1978	43 USC 1747	APPROPRIATIONS FOR ACTIVITIES AND PROGRAMS CARRIED OUT BY THE SECRETARY OF THE INTERIOR THROUGH THE BUREAU OF LAND MANAGEMENT	PL 95-352, § 1(f), 92 Stat 515	No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this subsection.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
February 25, 1978	42 USC 5919	DEPARTMENT OF ENERGY ACT OF 1978-CIVILIAN APPLICATIONS	PL 95-238, § 19, 92 Stat 47	No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section.
September 29, 1977	7 USC 2020	FOOD AND AGRICULTURE ACT OF 1977	PL 95-113, § 11, 91 Stat 913	In the certification of applicant households for the food stamp program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political beliefs.
August 5, 1977	29 USC 993g	YOUTH EMPLOYMENT AND DEMONSTRATION PROJECTS ACT OF 1977	PL 95-93, § 808, 91 Stat 627	No persons with responsibilities in the operations of such programs shall discriminate with respect to participation in such programs because of race, creed, color, national origin, sex, political affiliation, or beliefs.
October 17, 1976	40 USC 476	AN ACT TO AMEND THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 TO PERMIT THE DONATION OF FEDERAL SURPLUS PERSONAL PROPERTY TO THE STATES AND LOCAL ORGANIZATIONS FOR PUBLIC PURPOSES, AND FOR OTHER PURPOSES.	PL 94-519, § 606, 90 Stat 2451	No individual shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act.
October 15, 1976	42 USC 3766	CRIME CONTROL ACT OF 1976	PL 94-503, § 122, 90 Stat 2407	No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.
August 14, 1976	42 USC 6870	ENERGY CONSERVATION AND PRODUCTION ACT	PL 94-385, § 420, 90 Stat 1125	No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.
February 5, 1976	45 USC 803	RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976	PL 94-210, § 905, 90 Stat 31	No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under, any project, program, or activity funded in whole or in part through financial assistance under this Act.
January 4, 1975	42 USC 2930C	HEADSTART, ECONOMIC OPPORTUNITY, AND COMMUNITY PARTNERSHIP ACT OF 1974	PL 93-644, § 574, 88 Stat 2291	No person in the united states shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this title.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
January 4, 1975	42 USC 2985G	HEADSTART, ECONOMIC OPPORTUNITY, AND COMMUNITY PARTNERSHIP ACT OF 1974	PL 93-644, § 748, 88 Stat 2291	No person in the united states shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this title.
October 11, 1974	42 USC 5891	ENERGY REORGANIZATION ACT OF 1974	PL 93-438, § 401, 88 Stat 1233	No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving federal assistance under any title of this Act.
September 7, 1974	42 USC 5672	JUVENILE AND DELINQUENCY PREVENTION ACT OF 1974	PL 93-415, § 262, 88 Stat 1109	No person in the United States shall on the ground of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this Act.
May 7, 1974	15 USC 775	FEDERAL ENERGY ADMINISTRATION ACT OF 1974	PL 93-275, § 16, 88 Stat 96	No individual shall on the grounds of sex by excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving federal assistance under this Act.
December 28, 1973		COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973	PL 93-203, § 612, 87 Stat 839	No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.
October 1, 1973		DOMESTIC VOLUNTEER SERVICE ACT OF 1973	PL 93-113, § 417, 87 Stat 394	No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this Act.
August 13, 1973	23 USC 324	FEDERAL-AID HIGHWAY ACT OF 1973	PL 93-87, § 162, 87 Stat 250	No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.
August 13, 1973	49 USC 1608	FEDERAL-AID HIGHWAY ACT OF 1973	PL 93-87, § 301, 87 Stat 250	No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

TABLE III: No exemptions to prohibitions on sex discrimination by recipients				
Date enacted	Codified	Title of Enacting Statute	Statute	Non-discrimination language
October 18, 1972		FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972	PL 92-500 § 23, 86 Stat. 816	No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act. the Federal Water Pollution Control Act, or the Environmental Financing Act.
September 19, 1972		ECONOMIC OPPORTUNITY AMENDMENTS OF 1972	PL 92-424, § 23, 86 Stat. 688	No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act.
June, 23 1972	20 USC 1681	EDUCATION AMENDMENTS OF 1972	PL 92-318, title IX, 86 Stat. 373	
November 18, 1971	42 USC 298	NURSE TRAINING ACT OF 1971	PL 92-158, § 11, 85 Stat. 465	The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of nursing unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school will not discriminate on the basis of sex in the admission of individuals to its training programs.
November 18, 1971	42 USC 295h-9	COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971	PL 92-157, § 110, 85 Stat. 431	The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health or any training center for allied health personnel unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs.
August 5, 1971		PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1971	PL 92-65, § 112, 85 Stat. 166	No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Public Works and Economic Development Act of 1965.
August 5, 1971		PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1971	PL 92-65, § 214, 85 Stat. 166	No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Appalachian Regional Development Act of 1965.

Franklin Graham @Franklin_Graham · Jul 5

Jesus said, "In the same way, let your light shine before others, so that they may see your good works and give glory to your Father who is in heaven." (Matthew 5:16)

173 779 6.4K

Frank Amari @FrankAmari2 · Jul 6

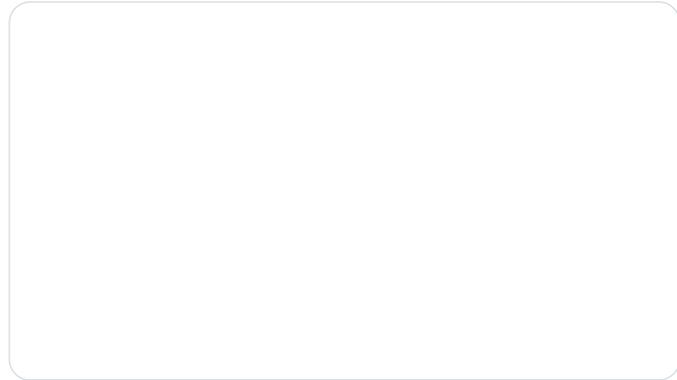
"It's like setting a month aside to celebrate lying, ADULTERY, or murder (which includes abortion), or anything else that God says is sin," Graham wrote. "The Bible also tells us that God hates pride. Shame on the nation that celebrates and glorifies sin."



How many times has Trump cheated on his wives? Here's what we know
 Trump's first marriage imploded on the covers of all of New York's tabloids after he brazenly took his mistress, Marla Maples, on a family
newsweek.com

1 1 4

Lynne Eldridge MD @AboutLungCancer · Jul 6



← Tweet

Di @DiMotherOf3

Replying to @AboutLungCancer @FrankAmari2 and @Franklin_Graham



That happened to my young niece! She had to quit Azusa Pacific College because they were preaching against gay people every single day!
 Her mother(a devout Christian) took her to the ER several times for attempted suicide!

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Di @DiMotherOf3
 Loving mother, wife, daug animal lover. BLM, Women LGBTQ rights, pro-immigr: Lewis Voting Rights Act! E filibuster!

Lynne Eldridge MD

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Several times for attempted suicide!

3:57 PM · Jul 6, 2021 · Twitter Web App

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Lynne Eldridge MD @AboutLungCancer · Jul 6

Replying to @DiMotherOf3 @FrankAmari2 and @Franklin_Graham

I'm so, so sorry. It breaks my heart as Jesus would be the first to reach out and love them. Instead, they are ignoring clear logs in their eyes (arrogance, judgment, being unloving) to point out a potential speck (potential as Jesus never mentioned gays).



Mama Bear MSW @votewhilecaring · Jul 6

Replying to @DiMotherOf3 @AboutLungCancer and 2 others

That breaks my heart.



Paul Southwick @PaulSouthwick

Messages

@AboutLungCancer
Writer | physician | author.
cancer advocate. BC surv
mommy first. #lcsm #pub
#resist #M4A #WritingCc

Frank Amari
@FrankAmari2
I have never let my school
with my education. -- Mar
. . . As long as one lives, o
learn. -- Ruth Bader Ginst

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Donald Scherschligt @DonnySureLegit · Aug 9, 2019

THREAD:
 This article's great but would like to fact-check 1 thing, as tbh I'm kinda an expert on how Christian schools deal with Title IX: Welch College does receive federal aid (welch.edu/admissions/tui...) and may still be Titlr IX exempt. Here's why that matters

This Tweet was deleted by the Tweet author. [Learn more](#)

1 11 23

Donald Scherschligt @DonnySureLegit · Aug 9, 2019

Religious colleges receive a WIDE berth to claim their exemption status from Title IX. This doesn't just affect trans kids, it affects women who get pregnant, women who get abortions, kids in same-sex relationships, women who want to be pastors...

1 1 14

Donald Scherschligt @DonnySureLegit · Aug 9, 2019

There is NO CONSISTENT LEGAL STANDARD for what qualifies a school as exempt. It is decided purely by each presidential administration and their Dept of Education based off their own politics.

1 1 11

Donald Scherschligt @DonnySureLegit · Aug 9, 2019

And let's also be clear: it is not the government "granting" exemptions. A school DECIDES for itself whether it is exempt, and then the government decides whether or not it recognizes that exemption. But that recognition status can change over time because ~no legal standard~

1 2 11

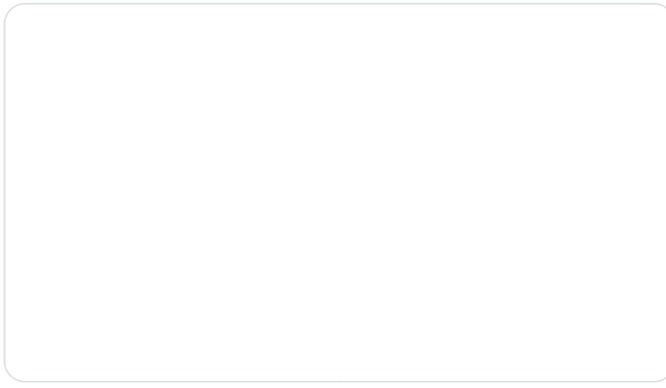
Donald Scherschligt @DonnySureLegit · Aug 9, 2019

Under Obama for many years, the DoE recognized exemptions for schools formally aligned with a denomination. The reasoning was that the school didn't decide their policies related to gender then; even if they wanted to change, they couldn't, bcuz of their denomination's rules.

1 1 9

Donald Scherschligt @DonnySureLegit · Aug 9, 2019

THEN FOR NO APPARENT REASON, the Obama DoE reneged on this standard, beginning to recognize exemptions at schools with no denominational affiliation. @biolau was the first school this happened to. This was likely due to A LOT of behind-scenes lobbying from groups like ADF & CCCU.



1 4 9

Donald Scherschligt @DonnySureLegit · Aug 9, 2019 ...
This is very bad!! This allows a religious college's board of trustees to make any discriminatory, sexist, anti-LGBT policy; claim (essentially) that their faith compels them (but not a higher governing body); and the govt will be ok with that!

Donald Scherschligt @DonnySureLegit · Aug 9, 2019 ...
Colleges also do not have to disclose their exemption status in admissions materials! They lobbied against this on a federal level. The Obama admin at least published DoE correspondence with colleges claiming exemption. The Trump admin continues to do this, tho less frequently.

Donald Scherschligt @DonnySureLegit · Aug 9, 2019 ...
And let's be clear: these letters written to the DoE are not done in good faith. They are form letters written by the CCCU's lawyers that colleges fill in the blanks on. They're mad libs. You can review several of them at campuspride.org/shamelist to see the identical verbiage.

Donald Scherschligt @DonnySureLegit · Aug 9, 2019 ...
But even then, sometimes, the Obama admin would refuse to recognize a school's claimed exemption. The standards were inconsistent, but it happened. BUT SINCE TRUMP TOOK OFFICE, the DoE has recognized the exempt status of every single school that has claimed an exemption.

Donald Scherschligt @DonnySureLegit · Aug 9, 2019 ...

← **Thread**
Christian schools are the most dangerous place to be LGBT in America today. You DO NOT have rights there as a student.

Donald Scherschligt @DonnySureLegit · Aug 9, 2019 ...
So does Welch College claim a Title IX exemption? According to the latest DoE correspondence released, they haven't claimed one yet. But they'll likely claim one, and almost certainly the government will recognize that exemption.

Donald Scherschligt @DonnySureLegit ...

Replying to @DonnySureLegit

So lastly my plea to reporters is this: when reporting on yet another lgbt student receiving discrimination from their Christian college, look at the bigger picture. Consider that this might not be an isolated incident.

12:37 PM · Aug 9, 2019 · Twitter for iPhone

7 Retweets 22 Likes

Reply icons: comment, retweet, like, share

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Donald Scherschligt @Donny... Follows you
father, son and house of (in Social Transformation (@queerlybelovedtees cc

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 **Donald Scherschligt** @DonnySureLegit · Aug 9, 2019

Replying to @DonnySureLegit

Rather, these acts are *always* part of a system of Christian higher ed that treats women and LGBT students as second class. It is *always* intentionally harmful.

  6  23 

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 **Paul Southwick** @PaulSouthwick

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← Tweet

saw a Biblical Counselor who told me my suffering was nothing compared to that of Jesus. That sort of inappropriate Christianese is damaging to say to anyone, esp someone struggling with severe PTSD.

75 183 2.3K

elle rose @scretladyspider

Replying to @ryankuja

Was told by my Christian college to not tell anyone about my suicide attempt and threatened with expulsion, and then also not given any help/counseling. When I finally tried again, it took weeks to get in and the counselor said she'd call campus police if I didn't show.

6:09 AM · Jun 18, 2021 · Twitter for iPhone

4 Likes



Tweet your reply Reply

elle rose @scretladyspider · Jun 18
Replying to @scretladyspider and @ryankuja
I stopped going. No campus police were called. Oh, and they made me meet with my hall director for a while each week who told me repeatedly I should get professional help while telling me that I shouldn't tell people who 'didn't need to know'. So. Yeah.

1 4

elle rose @scretladyspider · Jun 18
That was more about my ovarian cysts but like... wtf. Anyway all this to say I completely agree.

2

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elle rose @scretladyspider
scretladyspider/secretlad everywhere else too. @isf pod. Demisexual/graysex writer/artist. she/they secretladyspider@gmail.com

Ryan Kuja @ryankuja
Trauma-Informed Ther Spiritual Director Auth THE INSIDE OUT Somatics/Soul/(Neuro)Sc @seattle_school Theo Psychology

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Lolly 🍷 (Shelley McElyea) @ShelleyMcElyea1

One of the saddest times in my life was when my gay niece told me how she thought about suicide while she attended a very Christian university college. If you're Christian, truly, aren't you suppose to love everyone?

12:41 AM · May 14, 2021 · Twitter for iPhone

1 Retweet 12 Likes



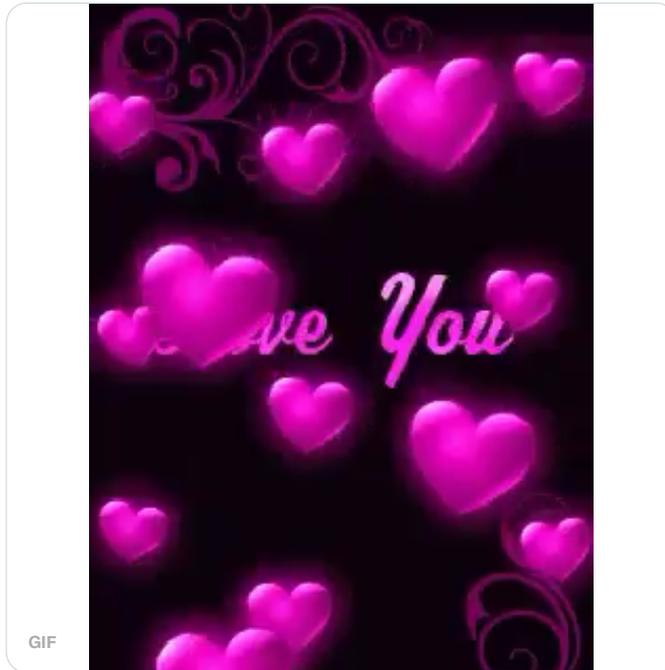
Tweet your reply

Reply



Independent Blue Resist @rayofliteindark · May 14
Replying to @ShelleyMcElyea1

Yes! Yes! Yes! Let God do the separating. Not your job. He is the final judge, not you. While you worried about who gay & who not, you be the 1st one busting hell wide open. 😊 Focus on yourself & your own righteousness! ❤️



2



Paul Southwick @PaulSouthwick

...

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Lolly 🍷 (Shelley McElyea) @ShelleyMcElyea1

I'm a smart ass sarcastic | no apologies. My opinions own. I don't need verificat anyone. No lists please.

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Taryn Abbassian @tarynlea4 · May 3
 A gay former student has already taken her own life and @messiah_univ @MessiahSports don't seem to care to do anything to support its students. Its not a difference of opinion it is life and death. They didn't even acknowledge how she died because that would show their complicity

Rebekah Glick @GlebekahRick · Apr 18
 Today @PennLive ran an Op Ed I wrote about the LGBTQ discrimination lawsuit that named Messiah, my alma mater. This issue impacts a lot of my friends and I hope that this can push Messiah to make some positive change pennlive.com/opinion/2021/0...

1 Like 3 Retweets

Rebekah Glick @GlebekahRick
 Replying to @tarynlea4 @messiah_univ and @MessiahSports

I am so sorry, this is heartbreaking 📢 Let me know if there's anything I can do to help share her story. Sending you a PM

1:28 PM · May 3, 2021 · Twitter for Android

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Paul Southwick @PaulSouthwick ...

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Ce qui sera sera
- Taryn Abbassian** @tarynlea4
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- Messiah University** @messiah_univ
Messiah University is a ne ranked, private Christian u the liberal and applied art sciences.

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Submissive Faggot @FaggotToTrain

No really he didn't I thought I could pray the gay away. I prayed everyday for 4 years attending a Christian college just to find one girl sexy enough to get me off. Just one. Even supermodels. Nothing. After 2 suicide attempts because I thought God hated me I started researching

1:24 PM · May 5, 2020 · Twitter for iPhone

3 Retweets 39 Likes



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Submissive Faggot @FaggotToTrain · May 5, 2020

Replying to @FaggotToTrain and @LuisArielOlivo
I looked up all the verses they use against being gay and studied them in the native language. I learned how we have taken these verses so far out of the original context. Just like Christians did to blacks then interracial marriage then gays and now the trans community.

1 2 39

Submissive Faggot @FaggotToTrain · May 5, 2020

Please research it for yourself in the original language. Don't listen to pastors or preachers who have a bias. Because I'll tell you when my so-called Christian friends from college found out I was gay all but 3 turned their backs on me. God loves you. He made you a gay man

1 3 29

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Submissive Faggot @FaggotToTrain
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XSET Matthew
@Gokwol

TW // Suicide

It wasn't long ago I was in a Christian college, coming out as gay, losing it all. I know at that point, no one would have run after me, begged me to stay. I have a few to thank, but I'm glad I won the fight. Many don't, you can win too.



Citizen Soldier - Would Anyone Care (Official Lyric Video)
We all have thoughts we're afraid of, you're not alone. Please SHARE this with someone that needs to hear it. SHOP for merch: <http://store.citizensoldieroffic...>
youtube.com

11:41 AM · Jan 18, 2021 · Twitter Web App

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@Gokwol
IT Lead @XSET · 22 · Gay
matt@xset.com

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Christian College President Compares LGBT Students to Members of ISIS

John Fea | March 19, 2018



Oklahoma Wesleyan University left the CCCU a few years ago. Read all about it [here](#).

In a **recent op-ed** at *The Washington Times*, Oklahoma Wesleyan president Everett Piper is up to his old tricks. Here is a taste:

As a college president, I'd argue there are some things that should be confronted, some that should be confessed and some about which we can have a conversation. As a teacher, it is my goal to produce students who are able to distinguish between these three categories.

Let's consider the anecdote of abortion as an example. Simply put, why would anyone be open to a "conversation" about murdering young children? Surely, we don't believe we can "converse" about genocide rather than confront it, do we?

*And, if I am wrong, are we ready to have a "conversation" about the relative merits of **Pol Pot's** killing fields? How about the pros and cons of Robespierre's guillotine? Maybe we should start a "conversation" about Mao's cultural revolution and its 70 million dead?*

All moral people draw moral distinctions between behaviors that are worthy of "conversation" and those that are not. There are some things we simply condemn, and rightfully so.

Now, if we can agree that there is definitely a category of immorality (i.e. sin) which should be repudiated rather than debated, then why have we decided that sexual immorality is somehow in a different class, a class that should be measured by "conversation" rather than conviction?

Ours has become a culture of expression and choice. We now believe ourselves to be an amoral people where right and wrong are not determined by consistency and objective resolve, but rather by "fluidity," "conversation" and subjective social constructs. In other words, when it comes to sex, everything is a moving target.

*Here's the question: If we have decided the self-evident truths that condemn genocide and the killing fields of **Pol Pot** do not likewise exist in matters of human sexuality, shouldn't we be asking what's next?*

For example, if there is no moral compass other than “conversation” to give us direction concerning the morality of same-sex intercourse then why not have a “conversation” about consensual pederasty? Why not discuss the merits of adultery? Why not have dialogue about how those who identify as incestuous need “safe spaces” where they can be affirmed, and loved for who they are?

Any rational people understanding the basic principles of cause and effect must at least be willing to ask where this logic will end.

If you’re still not feeling a bit unstable on this slippery slope, I recommend this simple exercise: Go to any article in any magazine or website that argues for “conversations” about sexual morality and simply replace the acronym of the day with another set of letters.

For example, every time you see LGBTQ in an article, simply replace those letters with ISIS. Change nothing else. Do this throughout the entire column in question.

In doing this, something will quickly become quite obvious. Sentences will emerge such as these: “Love is love and ISIS has the right to love who they want to love.” “The ISIS community simply wants to be accepted and affirmed.” “What right does anyone have to refuse to bake a cake for an ISIS wedding?”

Read the rest [here](#). I would hate to be an LGBT student at Oklahoma Wesleyan. Christian colleges are perfectly within their rights (I hope) to affirm traditional views on morality, but there is a difference between affirming such views and treating those who disagree as members of ISIS.

And yes, I do want to have a “conversation” about Pol Pot, Robespierre, and Mao in my classes. I want my students to understand why they did what they did.

And yes, I do want to have a “conversation” about abortion. Even if everyone in the room thinks abortion is a moral problem, there should still be a robust debate about how to curb the practice.

Piper does not seem to grasp the difference between a college and a church. He is afraid of

certain questions. Fear should never be the spirit that defines a college or university, even a Christian one.

What does the **Wesleyan Church** have to say about this?

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Filed Under: **Way of Improvement**

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Comments



johnfea says

March 19, 2018 at 10:57 pm

Marty (I hope this isn't my cousin or uncle): Who are you addressing here? Me? Piper? Jim in St. Louis?



Marty says

March 19, 2018 at 8:48 pm

Boy, are you full of yourself. But mostly you're full of shite !! You religionists are really

insane.



johnfea says

March 19, 2018 at 2:16 pm

Yes—now this is a conversation. 😊



Jim in STL says

March 19, 2018 at 2:15 pm

The guillotine:

PRO – Very effective and efficient and hailed at the time as much more merciful and ethical than the older methods of execution used by the Ancien Regime such as hanging, drawing and quartering, and burning to death (a church favorite for centuries).

CON – Too effective and efficient.

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How this student rated the school

Survey is Blank

MaleBright

Describes the student body as:

Afraid, Broken Spirit

Describes the faculty as:

Unhelpful

Lowest Rating

Educational Quality

F

Highest Rating

Educational Quality

F

He cares more about Campus Aesthetics/ Beauty than the average student.

Date: Jun 28 2008

Major: **Criminal** ([This Major's Salary over time](#))

Ahhh, COFO...what a hypocritical joke. First, there'e the pretending to be "christ like" while the administration judges and condemns people. Take for instance the kid who committed suicide in the vice presidents garage because he was persecuted as a suspected homosexual. Then there's the Administrator Larry Cockrum who bought his PhD from a diploma mill and was kept on at full salary after being exposed. The professor who exposed him was unfairly terminated. Lets not forget the Dean of Students who spent all his time on witch hunts looking for gays and intoxicating substances while his own wife was whoring it up as a drunken slut all over town. That lead to a nice little divorce for the upstanding "christ like" washed up basketball player. Dont waste your time or money on this place. It will soon be exposed for what it truly is. There is a current audit and investigative report being prepared for airing on a well known news show.

Responses

R
Response

I was a good friend of Dan who killed himself in the dean's garage. he was not persecuted as a suspected homosexual. he WAS gay, and deeply depressed because the guy he liked didn't want him. He went to counseling at the pastor's office and was told that he was NOT gay because he was a virgin and the gay community wouldn't accept him until he'd slept with a number of guys.

He had attempted suicide a number of times since he was a teen. After hearing noone loved him and he didn't belong anywhere, he finally found a way to do it right. The faculty were not told what happened. I sent an email to every single person on campus telling them exactly how it happened. He was determined to die, but I was pissed that the counselor he looked to told a suicidal boy noone loved him even the gays.

 I am very interested in learning what you know about C of O's discrimination against students. My daughter was just expelled. I would also like to know more about the investigation. Could you email me so we can discuss this?

 Would you be willing to share your insight a length. I am working on investigating my alma mater.

 Afraid, Broken Spirit is a title with some different points. This title can be more ideal after creating some [australian writings](#) ideas to the readers. I just want to share different points with the readers.

https://www.heraldextra.com/news/local/education/college/byu/lgbt-byu-students-fighting-suicide-while-facing-unique-mental-health-challenges/article_169af402-666b-5ae3-9d7b-cfab82b6d830.html

FEATURED

LGBT BYU students fighting suicide while facing unique mental health challenges

Braley Dodson Daily Herald
Nov 11, 2016



Brenna McGrath shares a hymnbook with Sam McGettigan as they sing with others during an Understanding Same Gender Attraction meeting Thursday, Nov. 10, 2016, at the Provo City Library. ISAAC HALE, Daily Herald
Isaac Hale, Daily Herald

The following is the third part in a weekly series detailing the community of LGBT students who attend Brigham Young University and the unique challenges they face.

Attending a funeral for a member of the LGBT community who died by suicide has become almost routine for Aubree Lyman. In her six years as a student at Brigham Young University, she's been to about a dozen of them. There's even more memorials, counting vigils, for multiple people who have killed themselves that are held every few months.

And she believes it's far from over.

"We know there's going to be another one," Lyman said.

Lesbian, gay, bisexual and transgender youth are more likely to have suicide attempts, have higher rates of depression and are three times more likely to report they have seriously considered suicide than their straight peers, according to the American Association of Suicidology.

It was when Aidan Cano, a sophomore at BYU, told someone he was going to a memorial for 50 LGBT people who had died that he realized the numbers had become a statistic to him.

"I was surprised at my own emotional detachment, and then horrified," Cano said.

Factors

LGBT students at The Church of Jesus Christ of Latter-day Saints-owned BYU have their own set of mental health challenges. The university's honor code, which students commit to obey in order to attend, doesn't ban homosexual feelings, but does prohibit homosexual behavior.

The students overhear homophobic jokes from people who don't know they are LGBT, and Lyman said it's easy to feel like they're under a microscope from people who are waiting for them to break the honor code. The students say they can feel like they are broken and dirty. When they do hear about the LGBT community, it's often negatively.

With a campus culture that focuses heavily on dating, it can be easy to feel alone.

"From the time I was born, I was taught that my purpose in life, my plan in life, God's plan for me was to be a wife and a mother," Lyman said. "That was my job, and I wanted that. I wanted that just as much as I'm sure many straight women at BYU want that. And then as I started to really come to terms that dating boys just wasn't working, it felt like God never came up with a plan for me. That his plan for me was to sit on a shelf and wait until I'm dead so he can fix me and give me, after I spent my whole life alone, give me what straight people got without having to try for it. And I really felt like my life was pointless. I was just waiting around to die anyway, so what's the point in sticking around?"

Brenna McGrath, a senior who recently came out, has heard similar words — that after she dies, she'll be straight. For those struggling with depression, it's not always comforting.

"There is this thing members like to say, that it will all go away after death, like you will be made perfect after death, you will be fixed after death," McGrath said. "I hate to think there is anything wrong with who I am, but there is this whole idea that everything is better after, so what am I waiting around for?"

Lyman said her relationships with others has become superficial. If she's friends with a woman, she's afraid someone will look for something that could be a violation of the honor code. If it's a man, then there's still the idea of keeping her distance and not making anyone uncomfortable.

"I have done it for six years, and it is exhausting," Lyman said.

In addition, it's rough having to constantly answer questions and clarify things from straight students who have little knowledge of the LGBT experience at BYU. At panels, Lyman said she's often anonymously asked if gay people are gay just for fun. But it's not

all parades and rainbows.

"It's super, super fun until the first time that your roommates tell you you need to leave the apartment," Lyman said. "It's super, super fun until your bishop starts comparing you to a drug dealer or a child molester. It's super, super fun until your mom calls you sobbing asking why you are breaking apart your family. It's super, super fun until the first day you get harassed and you know instinctively that this is how dozens of other gay people have died. This is how their murders started and you just have to hope it's not you. It's super, super fun until it's not anymore. And it's really not."

J.D. Goates, a senior and vice president of Understanding Same-Gender Attraction, a student-run organization that's not sanctioned by BYU that aims to create a safe space for LGBT BYU students and students who identify with experiencing same-gender attraction, was depressed and thinking about suicide when he was outed in high school. Logically, Goates said he knew life would get better, but he wasn't sure if "better" would end up being worth it.

"What I needed to know was that it gets better and it's worth it," Goates said. "I needed people to just hear me, listen to me, not just tell me things. I needed to not feel isolated. Isolation is where suicide ideation and depression thrive and feast."

Harry

LGBT student suicide came to the forefront for many when 28-year-old Harry Fisher went missing this February, one month after he publicly came out on Facebook. He was found later that month in Saratoga Springs after shooting himself in the head.

He'd come out to his sister, Heather, earlier while they were eating pizza, but she had thought he was joking.

"It was a serious conversation we had," Heather said. "It was one minor statement that was immediately shrugged off."

Heather never suspected that her brother, who yearned to be a homicide detective, was gay. Harry was quiet, Heather said, intelligent and analyzed everything, researching every side of an issue. But he was also a silent type.

Harry had made it clear to Heather, who isn't Mormon, that he wasn't going to leave the church, but would lead a life of celibacy. He never mentioned any internal struggles or depression to her, but had previously posted on Facebook about overhearing conversations where others said gays were an abomination.

The most emotionally open conversation they had was at an airport the day before he died, over pizza again, when he said he was unsure about his future. He had been on his way home from Washington, D.C., after failing a test to be an officer by a few seconds and Heather was going on vacation to Colorado. When he went missing, she didn't think it was suicide.

"I thought maybe he had gotten the job and was going deep undercover immediately and couldn't tell his family," Heather said. "Or had just wanted to be let alone and not talk to people for awhile."

More than 100,000 people joined a Facebook page for the search. It was only after his death that Heather learned about resources and groups, like the Momma Dragons.

"I know that Harry didn't want to hurt anybody," Heather said. "He loved us and he wouldn't want to inflict pain in our lives."

Resources and hope

Turning to resources for help isn't always simple. Going to a LGBT resource in the general community means having to take valuable time to explain the culture and rules of BYU. At BYU, students spend time explaining the experience and unique struggles of being gay there.

There's a counseling center, but the only LGBT-specific mental health resource is a recently-formed support group that can hold less than 10 students. There's no specific LGBT student center or official club, and Lyman said that some students won't speak to a school counselor because they don't know the session is confidential.

As one of the leaders of Understanding Same-Gender Attraction, Goates, who has undergone training for suicide prevention, is working to save lives.

In the association, the majority of students have experienced suicidal thoughts or have had attempted suicide. As far as they know, no active members of the group have committed suicide so far. But with students attempting suicide or dying by suicide without ever coming out, it's hard to know how many deaths are occurring in the Provo LGBT community.

"We don't even know how many people go home from BYU over the summer and just never come back," McGrath said.

Having a support system is vital in fighting depression and suicide. When someone tells the USGA leadership they are thinking about taking their life, the group privately jumps into action, getting the student on the phone with a crisis counselor and setting them up with a mental health professional. They arrange for people to stay with the student and bring them meals so they know they are eating.

That process happens more than two or three times a month, frequently weekly.

The group is constantly on the lookout for the red flags of an impending suicide attempt, including someone mentioning that life is hopeless or watching to see if a student is withdrawing.

"Depression is a nasty monster that thrives and feeds off isolation," Goates said.

For McGrath, the hope is that BYU will add LGBT-specific resources, including mental health resources and safe spaces where students can freely be themselves.

"There is a uniqueness to being LGBT at BYU compared to other schools," she said. "If other schools need the resources, we almost need it more."

She also challenges people to think about what they're going to say before saying anything potentially hurtful.

"Negative words stick with you," McGrath said. "I still remember phrases that were said in my home ward. I remember them with startling clarity and that was before I even knew I was part of the LGBT community."

If something hurtful is said, Goates encourages others to say something.

“Unless you speak up, that silence is going to affirm to the commentator that everyone agrees with what they just said,” he said.

Lyman said it’s time for the straight community to listen to the LGBT community about their experiences and struggles, and to advocate for attributes, like kindness, the LDS Church already advocates for. All everyone else has to do is listen, she said.

Heather Fisher’s advice is more drastic — that LGBT students should leave both the church and Utah.

She also wants others in the community to let it be known they are friends to the LGBT community so those who are both out and not know they have allies, are loved and supported.



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Photos: BYU LGBT group meets off-campus
Updated Nov 11, 2016

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Students: BYU Honor Code leaves LGBT victims of sexual assault vulnerable and alone

Mormon school under scrutiny by federal officials and critics of its possible membership in the Big 12 athletic conference.

By Erin Alberty | Sep. 1, 2016, 11:50 a.m. | Updated: July 29, 2017, 6:23 p.m.

Editor's note: This story includes students discussing suicide attempts and suicidal thoughts; each also described a process of recovery. If you or people you know are at risk of self-harm, the Suicide Prevention Lifeline provides 24-hour support at [800-273-8255](tel:800-273-8255). Find the Utah Pride Center's crisis services at utahpridecenter.org, and help from the Utah Suicide Prevention Coalition at utahsuicideprevention.org.

Andy wanted a blessing.

He had awoken in a haze after a suicide attempt with painkillers and began to panic. He didn't want to die. But he didn't know if he could live. Andy's first, secret boyfriend had raped him and dumped him, he said. Simultaneously traumatized by and lonesome for the one person who accepted him as a gay man, Andy floundered for months in shame and dread until he finally turned to the bishop of his Mormon student congregation at Brigham Young University.

He expected some reproof for acting on his "same-gender attraction," as LDS leaders have termed being gay. But Andy also hoped for some comfort and counsel.

Instead, he said, his bishop offered an ultimatum: Andy could turn himself in to BYU's Honor Code Office to be disciplined by the school, or the bishop himself would report Andy for the violation of "homosexual behavior."

While multiple current and former students have told The Salt Lake Tribune that rape victims at BYU may be investigated for potential discipline, a half-dozen LGBT students described unique challenges they faced when they were assaulted while attending the flagship school of The Church of Jesus Christ of Latter-day Saints.

BYU's Honor Code forbids homosexual behavior, which the school defines as "not only sexual relations between members of the same sex, but all forms of physical intimacy that give expression to homosexual feelings." Holding hands and kissing, while allowed between men and women, are widely understood to be subject to discipline; BYU spokeswoman Carri Jenkins said the language of the Honor Code "speaks for itself and relies on students to use good judgment."

But advocates for LGBT students say coming out brings such scrutiny that even people who have no intention of dating tend to seek support in secret, often online.

That has created an underground social scene in which predators can take advantage of silent and largely inexperienced victims, according to several LGBT students who have told The Tribune they were raped while enrolled at BYU. LGBT students who are assaulted by a member of the opposite sex say they fear their orientation remains a

liability should they try to report the crime.

These student accounts come as BYU faces new scrutiny on two fronts: **Federal officials this month** added BYU to a list of more than 200 schools under investigation nationwide for how they respond to student reports of sexual assault. Meanwhile, more than 20 LGBT advocacy groups **have asked leaders** of the Big 12 athletic conference to eliminate BYU from consideration for membership, alleging the school "actively and openly discriminates against its LGBT students and staff."

An advisory council created by BYU in May is studying the school's handling of sexual-assault reports.

"Both the church and BYU care deeply about the safety and well-being of these young people," LDS Church spokesman Eric Hawkins said in a written statement. "There's absolutely no excuse for anyone who would prey upon a student in this way, and sexual predators are neither enabled nor excused by the policies [described]."

Lesbian, gay, bisexual and transgender students say confidential support can be hard to come by in the aftermath of an assault. There is no official school group or office for LGBT resources; the student-led support group, Understanding Same Gender Attraction, is not sanctioned by the school and is not allowed to reserve meeting space on campus, Carri Jenkins confirmed.

Although she said the school's counseling center offers services to LGBT students and Hawkins directed students to LDS Family Services counselors or bishops, some students said the risks of disclosure are too high.

"You can't talk to anybody about it," said J.P., a former student who recounted being raped in 2011. "I felt hand-tied. I wasn't able to seek help from anybody. As a gay person [at BYU], that wasn't even an option, because the moment you tell the situation you're in, you're busted. There's no protection."

The Tribune typically does not publish the names of victims in sex crimes; the sources in this story agreed to be identified by their initials or first names.

‘What happened was going to cost me’

Andy was a 17-year-old BYU freshman when he got involved in a relationship that he describes as coercive. It also was unlawful under Utah law, based on his age: The man, whom Andy met online, was 25.

They had met a few times in winter 2012, and while the physical relationship was moving faster than Andy wanted, he said he wasn't sure what to do about it. Then, in the basement of his boyfriend's South Jordan home, Andy discovered the extent of the man's disregard for boundaries.

"I can remember being on his bed with my clothes off," Andy said. "I can remember not necessarily screaming, but forcefully saying to stop. But he wouldn't."

Andy said he did not realize that he had been raped, believing at the time that "guys don't get raped."

He said had come out to his parents, who told him they would not tolerate homosexuality in the family.

"I felt trapped," Andy said. "I felt like the only way I could continue living was to stay with [the rapist] because he was the only one who was supportive."

After they broke up, Andy said, he saw only terrible options: He could suppress his sexuality and be condemned to loneliness and deception — or he could be gay and suffer rape and abuse.

A third option — not to live — rose to the top of his list.

After Andy awoke from his suicide attempt, he checked himself into a hospital for a brief stay. Over the summer, he grew more depressed, Andy said, until a friend suggested he seek help from their student ward bishop, "to get counsel, get advice, get a blessing."

When the bishop instead ordered him to "repent" to the Honor Code Office, Andy said, his depression gave way to panic. "It was real that what had happened was going to cost me my education and my job," Andy said.

The Honor Code investigator, or counselor, asked extensive questions, Andy said. "He wanted to know exactly what kind of sex had occurred, the dates of when it had occurred, where it had occurred. ... He was taking notes furiously as I was telling my story."

BYU initially said it could not locate records of a case like Andy's. After The Tribune confirmed it had obtained disciplinary records and provided more details, Carri Jenkins said she could not provide more information without a written release from the student. If a similar report was made by a minor student today, she said, the case would be referred to police and the Title IX office, which investigates sex crimes, and any Honor Code investigation would be suspended.

Although Andy cannot remember whether he described the physical coercion, he said did talk about the age difference and provided dates that showed he was a minor at the time of the assault. Andy said the counselor didn't refer him to police, but he did thank Andy for reporting to the Honor Code Office.

A month later, the counselor called Andy back to the office.

"The first time he had been compassionate, and that whole facade was completely gone," Andy said. "Now it was him looking at me like the bastard at the family reunion."

Andy was put on "withheld suspension," he said. He could attend classes, but he couldn't participate in activities and lost his campus job and his housing. He received a folder of religious writings about the dangers of homosexuality and met weekly with the Honor Code counselor.

Andy said he immersed himself in his repentance.

"I got really into it, and really into church, and was convinced I was going to cure

myself of my gayness — which seemed to be what the Honor Code Office wanted me to do, based on the readings they were giving me," Andy recalled. "... I wanted it to go away forever, especially after trying [a relationship] once and seeing where it got me."

The LDS Church has stated on its website mormonsandgays.org that "individuals do not choose to have [same-sex] attractions." The site states: "The attraction itself is not a sin, but acting on it is."

Andy's standing at BYU was restored after a semester — his suspension shortened from a year — and he found new peace when he served a Mormon mission. He was too busy to think about sex, and the rigorous schedule prevented much contact with other gay men.

"I felt like I had a testimony, like God had finally forgiven me for being gay, for allowing the assault to happen," Andy recalled. "I thought, 'I'll be able to marry a woman and be a member of the church.' "

When he moved back to Utah, he got a job and began dating a woman. "I felt awesome," Andy recalled. "I finally found someone. Everything was going to be OK."

But he said his girlfriend led him to the one price he could not pay: her happiness.

"I realized I didn't have a connection with her in the way that I should have a connection with her," Andy said. "I haven't dated a girl since."

Andy said he hopes to "grin and bear it" long enough to finish his degree at BYU.

‘I was really scared of him’

Many LGBT students at BYU find that trying to date in secret means giving up protections that heterosexual singles take for granted, said Addison Jenkins, president of Understanding Same Gender Attraction.

Students make online connections with a higher degree of anonymity so the people behind the profiles don't risk exposure, he said. Longing for connection but facing the risk of expulsion, they meet dates in person, possibly without exchanging even basic personal details, such as ages and last names. With students encouraged to help enforce the Honor Code, LGBT students may not be able to tell friends or roommates where they're going or who they'll be with, he said.

Predators know all of this, Addison Jenkins said.

"It's easy to think, 'Oh, there aren't monsters out there, lurking, waiting to attack gay students,' because that seems so malicious and so predatory," he said. "But I think experience shows that, for sure, gay students at BYU are at a lot of risk."

Former BYU student A.D. doesn't know the last name of the older man who he said slipped a drug into his orange juice during a date in December.

He doesn't know where the man is now — "He said he was from out of state," A.D.

recalled — and he can't remember the address of the home he crawled away from the following morning.

A.D. said he felt uncomfortable almost as soon as he stepped into the Lehi house where the man had directed him.

When the man thrust a cup in front of him, "I said, 'I don't drink alcohol.' 'Oh, it's not alcohol.' He's coming up with answers to my objections," A.D. said.

He said he sank into a fog of what he now suspects was a date-rape drug. The man grew angry when A.D. became nauseated, and then "would flip back really quickly, tell me I was beautiful and try to kiss me," A.D. said. The man had assured A.D. there was no pressure to have sex; a few hours later, when A.D. no longer could move his limbs, the man was groping him.

A.D. said he awoke the next morning unable to walk. He said he sent his GPS coordinates to his friend's phone and crawled into a window well outside the man's house while he waited to be picked up.

After the attack, A.D. said, every option looked humiliating. Disclosing the crime would mean inviting blame and scrutiny for being gay. Suffering alone felt like conceding that he deserved it.

"I felt really hopeless, really depressed. My first instinct was, 'Well, I could overdose and not have to suffer the indignity of having to put my life back together.' "

Within weeks, A.D. broke down and told a trusted teacher about the assault. She was

required to report to the school's Title IX office, which, A.D. was told, would collaborate with the Honor Code Office.

After one meeting with a Title IX investigator, A.D. dropped out of BYU.

"I know that [the investigation] is open," A.D. said. "To go back to BYU, I might have to finish talking about it. ... I'd also have to talk to the Honor Code Office, and I wasn't going to survive that."

Addison Jenkins said he has heard similar accounts from LGBT students who turned to the internet for friendship and support as they struggled with their sexuality.

"They just wanted someone to talk to," he said, "and they end up at this person's house or this person's car, and they get taken advantage of."

‘Who I was was going to make my story suspect’

Aubree, a current BYU student, said she also feared an Honor Code investigation into her 2012 sexual assault by a man, worried that Honor Code enforcers would view it in a suspicious light because she is bisexual.

Aubree said she had confided in her visiting teachers — companions assigned to check on the spiritual and physical welfare of women within Mormon congregations — that she was attracted to women.

"I'm crying and begging them not to tell anybody. The next thing I know, they've told the bishop, who told his counselors, and they told their people, and everybody

knows," Aubree said. "Having been outed at 19 years old, I went from being the person who never kissed anyone, never wore a tank top, never had a Coke, to being called into the bishop's office and being compared to a drug addict, a kleptomaniac and a person with anger issues."

The LDS Church's official position, Hawkins said, is "that it is not attraction or sexual preference, but behavior, that is morally destructive. This same principle applies to anyone — gay, straight, bisexual or otherwise."

Aubree said that, in practice, gay and straight attractions are not treated the same at BYU. On the day she was attacked, her roommates decided they were going to have "an anti-homosexuality scripture study night, where they basically went through the Bible and pulled up any anti-gay sentence they could find."

Aubree said she went outside, waiting for the Bible study to end. A man she knew from her ward, or congregation, found her in tears.

"I told him why I was upset ... and that I had just come out as bisexual," Aubree said. "He was the first person I'd ever talked to who didn't care. He didn't tell me I was sinful. He didn't ask me when I was going to get that fixed. ... So when he said, 'Hey, do you want to come to my place instead of going home?' I agreed."

The man invited her to watch a movie in his bedroom, which is forbidden under the Honor Code.

"That made me a little uncomfortable, but I didn't see anywhere else that a TV was,

and I was like, 'It's fine, we're just going to watch a movie.' "

As soon as they sat down, Aubree said, the man started kissing her. When she told him to stop, he initially was apologetic. But she said he kept making advances. He pushed her on the bed, grabbing her and molesting her as she repeatedly told him no, she said.

"At one point, he said, 'What, you don't like this? Wow, I guess you really must be gay then,' " Aubree said. "And then he kept going. It was almost this idea ... that I was somehow defective. It didn't matter whether or not I was consenting."

Aubree eventually stopped fighting because "he kept getting more and more frustrated and more and more rough," she said. "I decided the best thing would be to let him do whatever he was going to do. Hopefully, he would take me home and I could just forget about it."

Aubree said she confided in two people about the assault; both dismissed it as typical male behavior. Meanwhile, she said, she didn't think she could report to police or the school because any investigator would soon discover she was bisexual — and then she would have a hard time convincing them the sexual contact was not consensual.

"There's a stereotype that bisexual people just want sex with everyone," Aubree said. "... My concern was that who I was was going to make my story suspect."

‘I want to be free’

Instead of reporting, Aubree said, she struggled alone.

"I had a really hard time focusing on anything because I would be in the library doing my homework, and all of a sudden I would smell him," she said. "I kept having to look around and make sure he wasn't right behind me. I couldn't sleep for a long time because every time I lay down to sleep at night, I could feel him on top of me."

She said she felt shame, fearing she was "not pure anymore." More than a year later, when she began having fantasies of killing herself, Aubree said a doctor first used the word "assault" to describe what happened to her.

"Part of me thinks if I'd said it differently, people would have believed it actually happened," Aubree said. "I [wasn't] using the word 'rape.' I think it would be a lot more helpful if people had the vocabulary to say, 'OK, I was sexually assaulted.' "

Aubree remains a BYU student. She said she hopes the school will offer Honor Code amnesty for sexual-assault victims — the demand made by more than 100,000 people who signed an online petition this spring.

For A.D., leaving BYU led him to support systems he said he couldn't have imagined in Provo. He transferred to a new school and got a job at an LGBT-friendly employer in Salt Lake City. When he told his co-workers he was gay, "a group of like 30 people were clapping for me, and happy for me, which obviously made me cry."

A.D. said he eventually opened up to his new boss about his assault and found validation; she also had been sexually assaulted.

Andy, also still attending BYU, said networking with other student rape victims was a

turning point in his recovery. He joined a support group and has tried to become more involved in rape awareness on campus and among gay victims. He said he can see in their eyes a familiar fear — that "you're baggage that no one is ever going to want" — but he believes that is not the end of the story.

"I want to be happy," Andy said. "To be in power. To be free."



ealberty@sltrib.com



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