

# Government Operations chair tells universities to drop LGBTQ policies

By: [Sam Stockard](#) - August 30, 2022

The House chairman of the Legislature's Joint Government Operations Committee is unilaterally ordering state universities to suspend any policies making LGBTQ students a protected class amid federal litigation.

In a letter to East Tennessee State University President Brian Noland, state Rep. John Ragan notified the university that because a federal court enjoined the U.S. Department of Education from putting the guidance by the Biden Administration in place, colleges and universities in Tennessee could be violating state law if they follow the guidelines.

The Oak Ridge Republican advised East Tennessee State's president "to immediately revoke and/or remove any publications, policies and website entries for which your institution is responsible that state or imply that LGBTQI+ students are a protected class under Title IX."

Noland is requested to advise Ragan's office by Sept. 2 about completing any "required actions."

ETSU spokeswoman Jess Vodden said Monday the university's legal team is reviewing the letter and has not responded yet.

State law requires universities to submit policy changes to the Joint Government Operations Committee by July 1 each year. Ragan's letter asks universities to submit policy changes but also goes further in demanding policies regarding the federal guidance be rescinded.

Chris Sanders, executive director of the Tennessee Equality Project, an LGBTQ advocacy group, acknowledged Monday the Biden rule was put on hold temporarily but pointed out Ragan doesn't have the authority to "micromanage" a university.

"For Rep. Ragan to instruct one of our public universities what to do, that's not his job. His job is to make state laws," Sanders said. "It's not surprise he holds that view. He makes that clear in his lawmaking. We know he's biased against the LGBT community."

Tennessee Attorney General Herbert Slatery also is leading a group of state attorneys general nationally to turn back the federal guidance, filing suit in East Tennessee federal court.

U.S. District Court Judge Charles Atchley in East Tennessee reportedly issued an order in late July saying the federal guidance "directly interferes with and threatens Plaintiff States' ability to continue enforcing their state laws" restricting transgender athletic competition and use of restrooms matching students' gender identity.

Sanders speculated that, in getting involved, Slatery could be trying to gain favor among lawmakers and fend off legislation designed to make the attorney general's position a legislative appointment rather than one for the Tennessee Supreme Court. Slatery is set to step down and will be replaced Thursday by Jonathan Skrmetti.

In his letter, Ragan notes that the federal government "admonished" universities, telling them that LGBTQ students were to receive protection under Title IX of federal law or funding could be withdrawn. The guidance forced universities to rush to adopt new policies, Ragan claims.

Yet because the federal court ruled that the U.S. Department of Education can't put its guidance into

effect, Tennessee's universities can't be penalized for ignoring the letter, a situation that remains in place unless a higher court lifts the injunction, Ragan's letter says.

"As a result, college and university publications, policies and websites have no legal authorization or requirement to state or imply LGBTQI+ is a protected class under Title IX. Consequently, no modifications related to the 23 June 2021 letter from the U.S. Department of Education are appropriate. In fact, based upon the court ruling, such could be interpreted as violating state law," Ragan's letter says.

State Rep. Vincent Dixie, chairman of the House Democratic Caucus, lambasted Ragan's letter.

"I think it's ridiculous that, for some reason, Rep. Ragan has a personal vendetta against the LGBTQ community," Dixie said. "... If the federal government says this is what they deserve and this is what the law of the land is, then we have to abide by it. Tennessee is not its own country. We're a state within the United States."

Dixie pointed out that even though the federal court put the rule on hold, the case isn't settled, and issuing a letter to universities is premature.

The Tennessee Attorney General's Office declined comment on the matter Monday. But in leading the 20-state federal challenge, its lawsuit claims the Department of Education and Equal Employment Opportunity Commission, "each flouting procedural requirements in their rush to overreach, issued 'interpretations' of federal antidiscrimination law far beyond what the statutory text, regulatory requirements, judicial precedent, and the Constitution permit."

The state contends a U.S. Supreme Court ruling in *Bostock v. Clayton County*, the case cited by the Biden Administration to make its order, was a "narrow decision" in that the court determined that firing an employee "simply for being homosexual or transgender" constitutes discrimination "because of sex" under Title VII of the Civil Rights Act of 1964. It claims the federal government misinterpreted the prohibition against discrimination "on the basis of sex" in Title IX to include sexual orientation or gender identity, even though the law "expressly permits sex separation on the basis of biological sex. ..."

The filing claims the Department of Education "compounded that erroneous interpretation by issuing further guidance in a 'Fact Sheet' that similarly disregards Title IX's plain text. Among other things, the guidance warns that the Department can launch an investigation if a school prevents a student from joining an athletic team or using the restroom that corresponds to the student's gender identity, or if a student's peers decline to use the student's preferred pronouns."