



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

ASSISTANT SECRETARY

March 9, 2020

The Honorable Mark E. Green
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Green:

Thank you for your letter to Secretary of Education Betsy DeVos dated October 1, 2019, regarding Title IX of the Education Amendments of 1972 (Title IX). Your letter has been forwarded to the U.S. Department of Education's (Department's) Office for Civil Rights (OCR), and I am pleased to respond on behalf of the Secretary.

As you know, OCR is responsible for enforcing Title IX, and the Department remains committed to the full, fair, and effective enforcement of that statute. In your letter, you ask that the Department clarify how it intends to enforce Title IX and its implementing regulations. Specifically, your letter asks whether a school would be in jeopardy of losing funding or being sanctioned under Title IX if the school permitted faculty and students to use biological pronouns or no pronouns at all. Your letter also asks whether a Department document titled "Instructions to the Field re Complaints Involving Transgender Students" from June 6, 2017, supports such an interpretation.

By itself, refusing to use transgender students' preferred pronouns is not a violation of Title IX and would not trigger a loss of funding or other sanctions. To the extent any prior OCR sub-regulatory guidance, field instructions, or communications are inconsistent with this approach, they are inoperative.

However, sex-based harassment, including that predicated on sex stereotyping, is covered by Title IX if it is sufficiently serious to deny or limit a student's ability to participate in or benefit from an education program or activity. Thus, harassing a student—including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility—based on the student's failure to conform to stereotypical notions of masculinity and femininity can constitute discrimination on the basis of sex under Title IX in certain circumstances. Schools have a responsibility to protect students against such harassment.

OCR will continue to address all complaints of sex discrimination against individuals whether or not the individual is transgender, consistent with OCR's jurisdiction under the federal civil rights laws it enforces. Every school and every school leader has a responsibility to protect all students and ensure every child is respected and can learn in an accepting environment.

Thank you for your interest in ensuring a safe learning environment for all students that is free from discrimination. If you have further questions or concerns, please contact Jordan Harding,

Principal Deputy Assistant Secretary, delegated the duties of Assistant Secretary for Legislation and Congressional Affairs, at (202) 401-0020.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kenneth L. Marcus', with a long horizontal flourish extending to the right.

Kenneth L. Marcus
Assistant Secretary for Civil Rights