



September 20, 2017

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Ave., SW
Washington, D.C. 20002

RE: Docket ID: ED-2017-OS-0074

Dear Secretary DeVos,

On behalf of the 170,000 members and supporters of the American Association of University Women (AAUW), I write to comment in response to the notice posted in the Federal Register on June 22, 2017. The notice is in accordance with Executive Order 13777 “Enforcing the Regulatory Reform Agenda” and the request for input on regulations that may be appropriate for repeal, replacement, or modification.

Women and girls have made tremendous progress in education during the past 100 years. Throughout the first part of the 20th century, colleges could—and did—openly exclude or limit the number of female students. In the ensuing decades, women and girls have made progress at every level of education, from P-12 to graduate school. Today women make up a majority of undergraduates on college campuses, but inequities remain.

Sexual harassment pervades the lives of students. AAUW research found that 56 percent of girls and 40 percent of boys in grades 7–12 face sexual harassment. Of that number, 87 percent said it had a negative effect on them.¹ Girls have 1.2 million fewer chances to play sports in high school than boys. Less than two-thirds of African American and Hispanic girls play sports, while more than three-quarters of white girls do.² Just 12 percent of engineers are women, and the number of women in computing has fallen from 35 percent in 1990 to just 26 percent today.³ Pregnant and parenting students are often steered toward separate, less rigorous schools.⁴ The rate of female enrollment in certain nontraditional careers remains at low levels, with some fields well beneath 25 percent in women’s representation. In addition, women hold a disproportionate amount of the nation’s outstanding student debt.⁵

We must continue to push towards ensuring that women and girls have full access to education. Where barriers to education remain, policy has a critical role to play. Where discrimination limits girls’ opportunities, our civil rights laws provide a way forward to open classroom and laboratory doors, level playing fields, and provide economic opportunity. AAUW urges the Department of Education to maintain and protect key civil rights, K-12, and higher education regulations and guidance to fully realize this goal. It is true that fulfilling the promise of some laws, regulations, and guidance come with investments by schools to implement and by the Department of Education to support, oversee, and enforce. Removing protections and guidelines provided by regulation and guidance would be detrimental to women and girls. They would lose out on the full value of an

education, an impact that follows them through lives and impacts our economy and society as a whole.

Protect Civil Rights

AAUW urges the Department of Education to protect the regulations and guidance that provide an implementation and enforcement framework for all of our civil rights laws. Ensuring that no student faces discrimination, intentional or unintentional, during their education is critical obligation of the Department of Education and of schools across our country. AAUW has joined with coalition comments submitted separately from the Leadership Conference on Civil and Human Rights, the National Women's Law Center and Public Justice, the National Coalition for Women and Girls in Education, and others in support of specific civil rights laws, their regulations, and guidance documents.

In particular, AAUW urges the Department of Education to protect Title IX, preserve all of its current regulations and guidance, and fully enforce the law. Title IX of the Education Amendments of 1972 is the federal law that prohibits sex discrimination in education. It covers women and men, girls and boys, and staff and students in any educational institution or program that receives federal funds. This includes local school districts, colleges and universities, for-profit schools, career and technical education agencies, libraries, and museums.

Title IX requires recipients of federal education funding to evaluate their current policies and practices, adopt and publish a policy against sex discrimination, and implement grievance procedures providing for prompt and equitable resolution of student and employee discrimination complaints.

Title IX applies to all areas of education, including

- recruitment, admissions, and housing;
- career and technical education;
- pregnant, parenting, or married students;
- science, technology, engineering, and math (STEM);
- sexual harassment and assault;
- comparable facilities and access to course offerings;
- financial assistance;
- student health services and insurance benefits;
- harassment based on gender identity; and
- athletics.

Title IX's longstanding regulations, issued in 1975, and supporting guidance documents, issued by many administrations over Title IX's existence, support schools in following the law.⁶ The Department of Education must protect Title IX, preserve all of its current regulations and guidance, and fully enforce the law. This includes, but is not limited to; the 2016 Dear Colleague Letter on Gender Equity in Career and Technical Education, the 2015 Dear Colleague Letter on the Obligation of Schools to Designate a Title IX Coordinator, the 2014 Questions and Answers on Title IX and Sexual Violence, the 2013 Dear Colleague Letter on Supporting the Academic Success of Pregnant and Parenting Students, the 2011 Dear Colleague Letter on Title IX Requirements and How They Relate to Sexual Harassment and Sexual Violence, and the 2010 Dear Colleague Letter on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex, Race, Color and National Origin, and Disability, the 2010 Dear Colleague Letter about Part Three of the "three-part test" regarding Title IX's requirement to accommodate students' athletic interests and

abilities. The Department is also well positioned to focus on providing technical assistance to educational institutions to help them comply with the law. When schools fail to follow Title IX's requirements, including its regulations and guidance, everyone loses. The response to this challenge is to protect and enforce Title IX not to undermine it.

In addition to enforcing civil rights laws, the Department of Education must continue the robust collection of civil rights data from K-12 schools via the Civil Rights Data Collection (CRDC). Since 1968, the CRDC has provided the tools necessary to hold states, districts, and schools that receive Department of Education funding accountable for enforcement of all civil rights for our nation's students. In the past several years, the CRDC has been improved to shed additional light on the pervasiveness of sex discrimination in our schools. AAUW specifically appreciates that the data includes several important, school-specific gender equity points that are helpful to advocates, parents, students, educators, and Title IX coordinators at schools nationwide.

The information provided in the CRDC regarding sexual harassment and bullying is vital to promoting Title IX compliance in local communities and investigating schools that don't appear to be following the law.⁷ The transparency the CRDC provides allows for proactive solutions in schools and communities that address any gaps in opportunities before enforcement action is necessary. AAUW urges the Department of Education to maintain the Civil Rights Data Collection.

Clery Act Regulations Should be Maintained

The regulations and guidance for the the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), recently updated by the Violence Against Women Reauthorization Act of 2013, must be preserved. These regulations ensure that institutions of higher education provide transparent information regarding safety and outline requirements for schools to ensure students learn in an environment free from violence.

The statistics and policy disclosures required by the Clery Act all serve an important purpose – they are a public compilation of the efforts the school is making on all safety issues, not just sexual violence. Congress passed the Violence Against Women Reauthorization Act of 2013 with updates to the Clery Act by large bipartisan margins in both chambers. Following passage, regulations for the Clery Act provisions were developed and adopted by a diverse group of stakeholders who worked through complex issues during a negotiated rulemaking and came to consensus in support of the final rule. These provisions are only just being implemented. AAUW urges the Department of Education to maintain the Clery Act's regulations and guidance as schools work to implement recent updates to the law. The Clery Act requirements are an addition to the longstanding obligations that schools have under Title IX. These laws work together to ensure that students have the information they need regarding campus safety, as well as a clear course of action when sexual violence occurs.

Student Debt and Borrower Protections

AAUW urges the Department of Education to enforce, rather than roll back, existing regulations protecting student loan borrowers and taxpayers. AAUW opposes the Department's recent actions to delay the borrower defense rule as well as delay and gut the gainful employment rule. These actions will allow problematic practices in higher education to prevail again, making it easier for schools to hide bad and fraudulent behavior. AAUW also supports robust and active enforcement of the Higher Education Act's ban on incentive compensation and the 90/10 rule barring for-profit colleges from being funded solely by taxpayers. We urge the Department to maintain these rules. Together these protections curb waste, fraud, and abuse in higher education.

These protections are of particular importance to women students. Recent AAUW research shows that women are more likely to take on student debt (44 percent of female undergraduates take on debt in a year compared to 39 percent of male undergraduates).⁸ On average women take on more debt than men at almost every degree level and type, from associate degrees to doctoral degrees and across institution types. Upon completion of a bachelor's degree, women's average accrued student debt is about \$1,500 greater than men's, and black women take on more student debt on average than do members of any other group. Following graduation, women repay their loans more slowly than do men. In the time period between one and four years after graduation, men paid off an average of 38 percent of their outstanding debt, while women paid off 31 percent. The pace of repayment was particularly slow for black and Hispanic women, as well as for men in those groups. Difficulty repaying student loans is also reflected in default rates, which are higher for women than for men, and much higher for black and Hispanic borrowers than for white and Asian borrowers.

Regulations protecting student loan borrowers and taxpayers, such as the the borrower defense rule and the gainful employment rule, which must be reinstated, and the ban on incentive compensation and the 90/10 rule, which must be maintained protect women, in particular, who are pursuing higher education or struggling to repay student debt.

Taken together, these regulations and guidance are critical protections that ensure classroom doors are truly open to women and girls. AAUW urges the Department of Education to maintain and protect key civil rights, K-12, and higher education regulations and guidance. If you have any questions or need additional information, feel free to contact me at 202/785-7724.

Sincerely,



Anne Hedgepeth
Interim Vice President of Government Relations and Advocacy

¹ AAUW. (2011) *Crossing the Line: Sexual Harassment at School*. www.aauw.org/research/crossing-the-line

² National Federation of State High School Associations. (2016). *2015–16 High School Athletics Participation Survey*. www.nfhs.org/ParticipationStatistics/PDF/2015-16_Sports_Participation_Survey.pdf. National Women's Law Center and Poverty and Race Research Action Council. (2015). *Finishing Last: Girls of Color and School Sports Opportunities*. nwlc.org/resources/finishing-last-girls-color-and-school-sports-opportunities

³ AAUW. (2015). *Solving the Equation: The Variables for Women's Success in Engineering and Computing*. www.aauw.org/research/solving-the-equation

⁴ National Women's Law Center. (2016). *Pregnant and Parenting Students' Rights Toolkit*. nwlc.org/resources/pregnant-and-parenting-students-rights-toolkit

⁵ AAUW. (June 2017). *Deeper in Debt: Women and Student Loans*. www.aauw.org/research/deeper-in-debt/

⁶ National Coalition for Women and Girls in Education (NCWGE). (2017). *Title IX at 45: Advancing Opportunity through Equity in Education*. www.ncwge.org/TitleIX45/Title%20IX%20at%2045-Advancing%20Opportunity%20through%20Equity%20in%20Education.pdf

⁷ AAUW. (July 12, 2016). *Two-Thirds of Public Schools Reported Zero Incidents of Sexual Harassment in 2013–14*. www.aauw.org/article/schools-report-zero-sexual-harassment/

⁸ AAUW. (June 2017). *Deeper in Debt: Women and Student Loans*. www.aauw.org/research/deeper-in-debt/