

November 19, 2018

Alex Azar, Secretary of U.S. Department of Health and Human Services  
Roger Severino, Director, Office for Civil Rights  
U.S. Dept. of Health & Human Services  
200 Independence Ave SW  
Washington, DC 20201

Dear Secretary Azar and Director Severino,

On behalf of the 36 undersigned organizations representing educators, administrators, mental health professionals, and families, we write to urge you to halt and reject any attempt that seeks to define sex as “person’s status as male or female based on immutable biological traits identifiable by or before birth.” This is unnecessary, harmful, and would amount to an assault on the civil rights of transgender and intersex children, adolescents, and adults in our communities, as well as anyone who does not conform to gender stereotypes. Collectively, our associations represent millions of education-based professionals, who work to safeguard the well-being of all children and youth every day and ensure their access to a safe and quality education.

On October 21, 2018, The New York Times reported that the Department of Health and Human Services plans to adopt a uniform definition of sex that is “that is clear, grounded in science, objective and administrable.” The proposed definition is not grounded in science nor is it objective. It is administrable only to discriminate. When it comes to determining the medical needs of youth and children, we need to defer to physicians and medical experts. The medical community agrees that access to gender affirming health care is critical. The American Academy of Pediatrics, for example, maintains that transgender youth deserve the care, safety, and supports to live healthy lives as they identify their gender. Imposing a restrictive and discriminatory interpretation of sex could result in LGBTQ and intersex people not seeking needed mental or physical health care for fear of discrimination.

This reported proposed definition of sex is in direct conflict with current law. Title IX of the Education Amendments of 1972 provides that no person “shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. . . .” 20 U.S.C. § 1681(a); *see also* 34 C.F.R. § 106.31(a). Federal courts have affirmed that the Title IX sex discrimination protections apply to transgender youth and that schools have an obligation to affirm a student’s gender identity and grant them access to programs and facilities on the basis of their affirmed gender identity. By attempting to change the definition of sex, the Trump administration is essentially abdicating its core responsibility to enforce civil rights protections for *all* students.

Most importantly, affirming the gender identity of transgender and gender nonconforming individuals is an important part of creating a safe and inclusive school where young people can thrive. According to the 2017 National School Climate Survey, 87% of LGBTQ youth reported hearing negative remarks about transgender people. Among LGBTQ students, transgender students face the highest levels of victimization and discrimination at school and are the most

likely to miss school or change schools because of safety concerns. Furthermore, they are the most likely to consider dropping out of school and face highest rates of school discipline.

While the full legal ramifications of the reported proposed rule change are unclear at this time, the mere discussion of proposed changes has already put transgender youth at risk. The day after The New York Times article was published, crisis hotlines saw a dramatic increase in calls and texts to national suicide prevention programs. The threat of the loss of legal protections, increased incidents of verbal or physical attacks, and the psychological toll of being the target of baseless attacks can undermine the well-being, safety, and learning for some of our most vulnerable students. As education and mental health professionals and advocates, we work to ensure that LGBTQ students not only have safe learning environments, but know that they will be valued and supported in all aspects of life as future adult members of the community.

We encourage you to take these negative consequences into consideration and abandon any effort to create this harmful re-definition of sex.

Sincerely,

Afterschool Alliance  
Alliance for Excellent Education  
American Art Therapy Association  
American Association for Access, Equity and Diversity  
American Association of University Women (AAUW)  
American Dance Therapy Association  
American Federation of School Administrators  
American Federation of Teachers  
American Psychological Association  
American School Counselor Association  
Council of Administrators of Special Education  
Education Law Center - PA  
The Education Trust  
Girls Inc.  
GLSEN  
HBCU Collective  
National Alliance for Partnerships in Equity (NAPE)  
National Association for College Admission Counseling  
National Association of School Nurses  
National Association of School Psychologists  
National Association of Secondary School Principals  
National Center for Learning Disabilities  
National Center for Youth Law  
National Coalition for Latinx with Disabilities  
National Council of Jewish Women  
National Council of Teachers of Mathematics  
National Council on Independent Living  
National Education Association

National Organization for Women  
National PTA  
National Women's History Project  
National Women's Law Center  
School Social Work Association of America  
Southeast Asia Resource Action Center (SEARAC)  
Stop Sexual Assault in Schools (SSAIS.org)  
YWCA USA

Cc: Kenneth Marcus, Assistant Secretary for Civil Rights, U.S. Department of Education  
John Gore, Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice  
Naomi Barry-Pérez, Director of Civil Rights, U.S. Department of Labor