



11 DUPONT CIRCLE NW  
SUITE 800  
WASHINGTON, DC 20036  
202-588-5180  
NWLC.ORG

June 15, 2022

The Honorable Joseph Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Biden:

As civil rights advocates and advocates for student survivors of sex-based harassment,<sup>1</sup> we applaud the Biden administration's work towards ensuring safe, fair, and equal opportunities for all students under Title IX of the Education Amendments of 1972 ("Title IX").<sup>2</sup> This includes taking steps towards undoing the Trump administration's weakening of civil rights protections for student survivors and ensuring the protection of LGBTQI+ students in the face of mounting violent threats, hateful rhetoric, and cruel attacks from state officials.<sup>3</sup> In keeping with this commitment and the broad promise of Title IX to prevent all forms of sex-based discrimination, we urge the swift release of a robust proposed rule by the Department of Education ("Department") by the 50th Anniversary of Title IX on June 23, 2022.

In light of this anniversary and the increasingly urgent need for this rule, we are deeply concerned about the delay in its publication. Even though the Department previously indicated the proposed Title IX rule would be issued in April 2022,<sup>4</sup> no such proposed rule has been published. Students are protesting across

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<sup>1</sup> In accordance with current OCR and EEOC guidance, we use the term "sex-based harassment" in this letter to include sexual harassment—which encompasses a variety of sexual misconduct such as stalking, domestic violence, and sexual assault—as well as discrimination because of sex, which includes discrimination on the basis of sexual orientation, actual or perceived gender identity, sex characteristics, or pregnancy or parenting status. *See, e.g.,* U.S. DEP'T OF EDUC., Office for Civil Rights, *Sex-based Harassment* (2022),

<https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue01.html>; EQUAL EMPL.

OPPORTUNITY COMM'N, *Sex-Based Discrimination* (2022), <https://www.eeoc.gov/sex-based-discrimination>.

<sup>2</sup> Exec. Order No. 14021, *Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity*, 86 Fed. Reg. 13803 (Mar. 8, 2021), <http://www.federalregister.gov/d/2021-05200>.

<sup>3</sup> Exec. Order No. 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, 86 Fed. Reg. 7023 (Jan. 21, 2021), <http://www.federalregister.gov/d/2021-01761>; Exec. Order No. 14021, *Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity*, 86 Fed. Reg. 13803 (Mar. 8, 2021), <http://www.federalregister.gov/d/2021-05200>; *See Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021). *See also A Proclamation on Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Pride Month*, The White House (May 31, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/31/a-proclamation-on-lesbian-gay-bisexual-transgender-queer-and-intersex-pride-month-2022/>.

<sup>4</sup> Off. of Mgmt. & Budget, Office of Info. & Reg. Aff., 34 CFR 106, *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance* (2021), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202104&RIN=1870-AA16>.

the country, demanding that their schools meaningfully address sex-based harassment;<sup>5</sup> they are in desperate need of Title IX’s full protections. The proposed rule is critical to begin the regulatory process for undoing the harmful changes made to the Title IX rule in 2020 (“the 2020 Rule”), and to address mounting threats to LGBTQI+ students and school communities. While sex-based harassment in schools remains pervasive, the 2020 Rule pushes schools to ignore many instances of sex-based harassment, leaving scores of survivors without recourse, and imposes overly prescriptive and unfair grievance procedures that are harmful to student survivors, that deter reporting, and that are not required for any other type of school disciplinary proceeding.<sup>6</sup> These harms especially fall on women and girls of color, disabled survivors, LGBTQI+ survivors, and pregnant and parenting survivors, all of whom face stereotypes casting them as less credible when they report sexual misconduct.

It is also increasingly urgent to clarify Title IX’s protections for LGBTQI+ students in the face of escalating threats to their well-being, safety, and educational opportunities. It has been well-documented that LGBTQI+ students experience widespread discrimination in schools,<sup>7</sup> including high rates of harassment, violence, and discriminatory discipline.<sup>8</sup> In recent months, state lawmakers and officials across the country have enacted unprecedented laws and policies—grossly inconsistent with Title IX—banning students from school restrooms and sports, censoring discussion of their very existence, and punishing adults who seek to help protect their health and safety.<sup>9</sup> Already we have seen teachers fired, students ejected from teams, yearbooks and library books pulled from circulation.<sup>10</sup> Most concerning, we are now seeing escalating violent rhetoric, threats, and actions directed at LGBTQI+ youth and adults who support them—from death threats to school leaders, to calls for violence outside family-friendly

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<sup>5</sup> Brooke Migdon, *Campus Protests Around Sexual Assault Look Different This Year*, THE HILL (Feb. 9, 2022), <https://thehill.com/changing-america/respect/equality/593592-campus-protests-around-sexual-assault-look-different-this/>; Maria Carrasco, *Students Gather in Washington to Protest Sexual Assault*, INSIDE HIGHER ED (Oct. 7, 2021), <https://www.insidehighered.com/news/2021/10/07/groups-deliver-edactnow-petition-education-department>.

<sup>6</sup> Dep’t of Educ., *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 85 Fed. Reg. 30026 (May 19, 2020), <https://www.federalregister.gov/d/2020-10512>.

<sup>7</sup> See, e.g., Valerie A. Earnshaw, et al., *LGBTQ Bullying: Translating Research to Action in Pediatrics*, 1 PEDIATRICS 140 (2017); Movement Advancement Project, *Bans on Transgender Youth Participation in Sports*, 2022, [https://www.lgbtmap.org/equality-maps/sports\\_participation\\_bans](https://www.lgbtmap.org/equality-maps/sports_participation_bans).

<sup>8</sup> GLSEN, *The 2019 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools*, 28, (2020), <https://www.glsen.org/research/2019-national-school-climate-survey> (In a 2019 national survey of LGBTQ+ students, an overwhelming majority (81.0%) were verbally harassed because of their sexual orientation, gender expression, or gender identity, and more than one in three (35.1%) reported that they were verbally harassed often or frequently. Over one-third (34.2%) of LGBTQ+ students were shoved, pushed, or otherwise physically harassed because of their sexual orientation, gender expression, or gender.).

<sup>9</sup> See ACLU, *Legislation Affecting LGBTQ Rights Across the Country*, <https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country> (last visited June 9, 2022). For example, five states have recently adopted new laws censoring classroom discussions; 18 have enacted laws banning students from school sports; one has enacted a law barring students from school restrooms; and five states have enacted laws or announced policies that could threaten educators and school health staff with punishment for facilitating or failing to “report” that they have accessed gender-affirming medical care.

<sup>10</sup> See, e.g., Daniel Villarreal, *Teachers Are Already Getting Fired, Resigning, and Speaking Out Against Don’t Say Gay Movement*, LGBTQ NATION (May 20, 2022), <https://www.lgbtqnation.com/2022/05/teachers-already-getting-fired-resigning-speaking-dont-say-gay-movement/>; Dan Tracer, *A Teacher Was Fired For Helping a Bullied Queer Teen. Now His Students are Raising Hell*, QUEERTY\* (May 11, 2022), <https://www.queerty.com/teacher-fired-helping-bullied-queer-teen-now-students-raising-hell-20220511/>; Associated Press, *Florida School Yearbook on Hold After Students Protest Don’t Say Gay Bill in Photos*, CBS NEWS (May 10, 2022), <https://www.cbsnews.com/news/florida-yearbook-dont-say-gay-bill-students-protest/>; Olivia Krauth, *Over Pleas of Families, Kentucky Bill Barring Transgender Girls from Girls Teams Advances*, LOUISVILLE COURIER JOURNAL (Feb. 11, 2022), <https://www.courier-journal.com/story/news/politics/ky-general-assembly/2022/02/10/kentucky-bill-banning-transgender-girls-girls-teams-advances/6720231001/>.

Pride events, to a town virtually shut down by bomb threats expressly linked to the opening of a Title IX harassment investigation.<sup>11</sup> LGBTQI+ students desperately need a strong rule that codifies the law's protection against all forms of anti-LGBTQI+ discrimination and schools' responsibility to take action to protect them.

Finally, at a time when reproductive rights are under attack, pregnant and parenting students are at risk of experiencing even more barriers to completing their education. Pregnant and parenting students need stronger protections under Title IX to combat the levels of discrimination and harassment they face.<sup>12</sup> Stronger Title IX protections must include lactation accommodations, reasonable modifications to their education programs, and clear grievance procedures for reported pregnancy discrimination.

It has been a year since the Department held public hearings on Title IX, yet we are still waiting for the administration to move forward in ensuring protection of student survivors, LGBTQI+ students, and pregnant and parenting students by releasing a proposed Title IX rule.<sup>13</sup> Not only does delay increase the number of survivors who will suffer because the 2020 Rule remains in place until changes to it are finalized, but it also threatens the purpose and significance of Title IX as its 50<sup>th</sup> anniversary approaches.

A celebration of 50 years of Title IX's promise to end discrimination on the basis of sex in education will ring hollow if the Department has failed to act to make good on that promise by moving forward in undoing a rule premised on offensive and sexist stereotypes about sex-based harassment. The Department should restore broad protections for student survivors, commit to ending sex-based harassment and support pregnant and parenting students, solidify its commitment to supporting LGBTQI+ students, and honor 50 years of Title IX by releasing a proposed Title IX rule before June 23. Thank you for your consideration of our call for the prompt release of the Title IX rule in order to protect against sex discrimination in schools. If you have any questions about this letter, please contact Emily Martin ([emartin@nwlc.org](mailto:emartin@nwlc.org)), Shiwali Patel ([spatel@nwlc.org](mailto:spatel@nwlc.org)), or Hunter Iannucci ([hiannucci@nwlc.org](mailto:hiannucci@nwlc.org)).

Sincerely,

National Women's Law Center, *joined by*

**National Organizations**

American Association of University Women  
American Atheists  
American Federation of Teachers  
The Army of Survivors  
Asian Pacific Institute on Gender-Based Violence  
Association for Women in Science  
Athlete Ally

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<sup>11</sup> See, e.g., Kathryn Joyce & Ben Lorber, *Self-described "Christian fascist" movement is trying to sabotage LGBTQ Pride Month Last weekend's vicious episode in Dallas wasn't isolated — it was part of a coordinated far-right assault*, SALON (June 9, 2022), <https://www.salon.com/2022/06/09/exclusive-self-described-christian-fascist-movement-is-trying-to-sabotage-lgbtq-pride-month>; Judith Retana & Gilat Melamed, *'Violent threats' prompt Apex to pull Drag Queen Story Hour from Pride Festival*, WNCN (June 8, 2022), <https://www.cbs17.com/news/violent-threats-prompt-apex-to-pull-drag-queen-story-hour-from-pride-festival>; Deneen Smith, *Kiel school district cancels in-person classes after threats surface related to transgender rights controversy*, WI PUBLIC RADIO (May 27, 2022), <https://www.wpr.org/kiel-school-district-cancels-person-classes-after-threats-surface-related-transgender-right>.

<sup>12</sup> Nat'l Women's Law Ctr., *Let Her Learn: Stopping Pushout For Girls Who are Pregnant or Parenting* (2017), <https://nwlc.org/resources/stopping-school-pushout-for-girls-who-are-pregnant-or-parenting/>.

<sup>13</sup> Dep't of Educ., Office for Civil Rights, *Title IX Public Hearing* (June 7-11, 2021), <https://web.event.com/event/ba5eef74-8f35-4a4e-b0a7-1f047fe033bc/summary>.

Autistic Self Advocacy Network  
Bazelon Center for Mental Health Law  
Center for Disability Rights  
Center for LGBTQ Economic Advancement & Research (CLEAR)  
CenterLink: The Community of LGBT Centers  
Clearinghouse on Women's Issues  
COLAGE  
Diversity Center of Oklahoma Inc.  
EducateUS: SIECUS In Action  
End Rape On Campus  
Equal Rights Advocates  
Equality Federation  
The Every Voice Coalition  
Faculty Against Rape  
Family Equality  
Feminist Majority Foundation  
Fierberg National Law Group  
FORGE, Inc.  
Futures Without Violence  
Garden of Peace, Inc.  
The GenderCool Project  
Girls Inc.  
GLBTQ Legal Advocates & Defenders (GLAD)  
GLMA: Health Professionals Advancing LGBTQ Equality  
GLSEN  
Healthy Teen Network  
Human Rights Campaign  
It's On Us  
Japanese American Citizens League  
Jewish Women International (JWI)  
Keshet  
Know Your IX, Advocates for Youth  
Lambda Legal  
Leadership Conference on Civil and Human Rights  
League of United Latin American Citizens (LULAC)  
Legal Momentum, the Women's Legal Defense and Education Fund  
Many Voices  
Movement Advancement Project  
National Alliance for Partnerships in Equity  
National Alliance to End Sexual Violence  
National Association of Councils on Developmental Disabilities  
National Black Justice Coalition  
National Center for Transgender Equality  
National Council of Jewish Women  
National Education Association  
National LGBTQ Task Force  
National Network to End Domestic Violence  
National Organization for Women  
National Partnership for Women & Families

National Survivor Network  
National Women's Political Caucus  
New York Transgender Advocacy Group  
PFLAG National  
Planned Parenthood Federation of America  
Public Advocacy for Kids (PAK)  
Public Counsel  
Public Justice  
SAGE  
Society of Women Engineers  
SPLC Action  
Stop Sexual Assault in Schools  
Trans Lifeline  
TransActive Gender Project  
TransFamily Support Services  
Transgender Legal Defense & Education Fund, Inc.  
The Trevor Project  
U.S. Breastfeeding Committee  
Ujima Inc., The National Center on Violence Against Women in the Black Community  
Union for Reform Judaism  
URGE: Unite for Reproductive & Gender Equity  
ValorUS  
Victim Rights Law Center  
Voice in Sport  
Whitman-Walker Institute  
Women's Sports Foundation  
YWCA USA

**State and Local Organizations**

Ace and Aro Alliance of Central Ohio  
Adair Co. GLBT Center  
Advocate Safehouse Project  
Advocates of Ozaukee  
Affirmations  
Arianna's Center  
Arizona Coalition to End Sexual and Domestic Violence  
Arkansas Black Gay Men's Forum  
Arkansas Coalition Against Sexual Assault  
Arkansas' Little Rock Black Pride  
Black & Beyond the Binary Collective  
The Blue Bench  
Borderland Rainbow Center  
The Bridge International  
Brilliance Counseling  
Brooklyn Community Pride Center  
CAMP Rehoboth Community Center  
Casa Ruby  
Center for Domestic Peace

The Center Project  
Central Oregon Trans Health Coalition  
Chicago Alliance Against Sexual Exploitation (CAASE)  
The Children's Agenda  
Colorado Coalition Against Sexual Assault  
Colors+  
Compass LGBTQ Community Center  
Day One  
Diverse & Resilient  
DOVE  
East Bay Queer Healing Arts Center  
Eastern PA Trans Equity Project  
Education Law Center-PA  
Embrace Services, Inc.  
Equality California  
The Equality Crew  
Equality Delaware  
Equality Florida  
Equality Illinois  
Equality Ohio  
Equality South Dakota  
Equality Texas  
Equality Utah  
Equality Virginia  
Equality Maine  
The Equi Institute  
Equitas Health  
Fair Wisconsin  
Fairness Campaign  
Family Advocates  
Family Guidance Center  
First Haven  
Florida Council Against Sexual Violence  
Freedom Oklahoma  
The GA Coalition Against Domestic Violence  
Gay City: Seattle's LGBTQ Center  
Georgia Equality  
Great Lakes Bay Pride  
GSAFE  
HAVEN, Inc.  
Hetrick-Martin Institute  
Hugh Lane Wellness Foundation  
Illinois Families for Public Schools  
Iowa Coalition Against Sexual Assault  
Kansas Breastfeeding Coalition  
Lancaster LGBTQ+ Coalition  
Law Foundation of Silicon Valley  
Lexington Pride Center

The LGBT Center of Greater Reading  
LGBT Center of SE Wisconsin  
LGBTQ Allyship  
LGBTQ Center of Bay County, Inc.  
LGBTQ Center of Durham  
The LGBTQ Community Center of Southern Nevada  
LGBTQ Foundation of Kansas  
LGBTQ+ Allies Lake County  
Los Angeles LGBT Center  
Love on a Mission  
Maine Coalition Against Sexual Assault  
Maryland Coalition Against Sexual Assault  
Mazzoni Center  
Men Stopping Violence, Inc.  
Michigan Organization on Adolescent Sexual Health (MOASH)  
Michigan Teacher of the Year Network  
Missouri Coalition Against Domestic & Sexual Violence  
Montgomery Pride United/Bayard Rustin Community Center  
The Montrose Center  
Muncie OUTreach  
NC Coalition Against Sexual Assault  
The Network/La Red  
Nevada Coalition to End Domestic and Sexual Violence  
New Hampshire Coalition Against Domestic and Sexual Violence  
New Haven Pride Center  
New York State Coalition Against Sexual Assault  
North Dakota Human Rights Coalition  
North Shore Alliance of GLBTQ+ Youth (NAGLY)  
One Colorado  
OutCenter Southwest Michigan  
Outfront Minnesota  
OutNebraska  
OutReach LGBTQ+ Community Center  
Pacific Pride Foundation  
Pennsylvania Coalition Against Rape  
PFLAG Mt. Horeb  
Pittsburgh Equality Center  
Pride Center of Terre Haute Inc.  
Pride Center San Antonio  
Pride Community Center, Brazos Valley  
Project Hope of Gunnison Valley  
Project Safeguard  
Promise Place  
Pueblo Rape Crisis Services  
Rainbow Center  
Rainbow Health Minnesota  
Rainbow Rose Center  
Rape Crisis Center

Renew, Inc.  
Response: Help for Survivors of Domestic and Sexual Abuse  
Rocky Mountain Victim Law Center  
Safeguarding American Values for Everyone  
Seacoast Outright  
Sexual Assault Crisis Center  
Sexual Harassment & Rape Prevention Program (SHARPP)  
Shoals Diversity Center  
South Dakota Coalition Ending Domestic and Sexual Violence  
State Local Education Resource Equity Group  
Stepping Stones, Inc.  
Stonewall Alliance of Chico  
The Source LGBT+ Center  
Sussex Pride  
Tennessee Equality Project  
Texas Association Against Sexual Assault  
The T.R.A.N.S. Program  
Trans Maryland  
Trans Minors Rights  
Trans Queer Pueblo  
Transformation Project  
Transgender Education Network of Texas (TENT)  
Transgender Michigan  
Transgender Name and Gender Marker Change Clinic at USD School of Law  
Transgender Resource Center of New Mexico  
TransOhio  
Tranzmission, Inc.  
Unidos por la Igualdad Puerto Rico Inc.  
University of Iowa Law and Policy In Action Clinic  
Uptown Gay & Lesbian Alliance (UGLA)  
Wake Forest University Safe Office  
Waves Ahead Puerto Rico  
Wisconsin Coalition Against Sexual Assault  
Wisconsin Faith Voices for Justice  
Women Employed  
Women's Law Project  
Wyoming Coalition Against Domestic Violence and Sexual Assault  
Wyoming Equality  
Youth OUTright