

March 15, 2024

The Honorable Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20003

Dear President Biden:

On behalf of the undersigned organizations working to advance educational equity and civil rights, we urge you to swiftly finalize Title IX regulations that strongly protect the rights of LGBTQI+ students, student survivors, and pregnant and parenting students. We also implore you to ensure comprehensive protections for LGBTQI+ youth – especially transgender, nonbinary, intersex, and gender expansive youth – are included by finalizing regulatory updates related to student participation in school sports and affirming transgender students' right to play. The administration must commit to bold action to safeguard the lives and futures of LGBTQI+ students amid an aggressive and unprecedented effort to silence the LGBTQI+ community and force youth back into the closet.

Our communities are collectively alarmed by the recent death of Nex Benedict, a 16-year-old nonbinary student in Owasso, Oklahoma. Nex's death on February 8, one day after being brutally assaulted by other students in a school bathroom,¹ is the unfortunately predictable result of a dangerous mix of hateful rhetoric and discriminatory policies that has targeted LGBTQI+ youth in recent years. In 2022, Oklahoma became one of ten states with laws that require youth who are transgender, nonbinary, and gender expansive to use bathrooms that are *inconsistent* with their gender identity.² These state policies stand contrary to the Department's proposed rules on sex-separated programs and activities and only serve to stigmatize LGBTQI+ students and undermine the safety of LGBTQI+ youth. Consistent with the Department's proposed rule, we firmly believe that these exclusionary policies violate federal nondiscrimination law.

In the midst of a youth mental health crisis, with suicide being the second leading cause of death among *all* 10-14 year olds,³ the administration should use every tool at its disposal to build safer and more inclusive environments for students. LGBTQI+ youth face disproportionately higher rates of mental health challenges, in part due to unsupportive and outright discriminatory

¹ Young M, Derksen C, and Hayes J. "What we know about death of Oklahoma teen Nex Benedict after beating in school bathroom. USA Today (last updated Feb. 22, 2024). <https://www.usatoday.com/story/news/nation/2024/02/21/nex-benedict-oklahoma-what-we-know-death-of-nonbinary-teen/72688841007/>.

² Movement Advancement Project. Bans on Transgender People Using Bathrooms or Facilities According To Their Gender Identity (last updated Jan. 2024), https://www.lgbtmap.org/equality-maps/nondiscrimination/bathroom_bans.

³ Centers for Disease Control and Prevention. WISQARS Leading Causes of Visualization Tool. Explore Leading Causes of Death. 10 Leading Causes of Death, United States, 2021 (last accessed Feb. 23, 2024). <https://wisqars.cdc.gov/lcd/?o=LCD&y1=2021&y2=2021&ct=10&cc=ALL&g=00&s=0&r=0&ry=0&e=0&ar=lcd1age&at=groups&ag=lcd1age&a1=0&a2=199>.

environments they must navigate at school.⁴ Even though 83% of LGBTQI+ students are harassed at school, 62% of those who are victimized never report an incident to school staff.⁵ Clarifying that discriminatory policies that target students like Nex Benedict violate the protection of federal nondiscrimination law will go a long way toward building trust that schools will respond to complaints of harassment, bullying, assault, or discrimination.

The tragedy faced in Oklahoma reverberates with families across the country that fear for the well-being of their LGBTQI+ children, but the impacts of this wave of hate are not limited to LGBTQI+ youth. In the past few weeks, Utah – one of twenty-five states with policies that regulate transgender and nonbinary students' access to interscholastic sports – has seen two cases of extreme harassment of cisgender athletes fueled by anti-trans rhetoric. On February 6, a member of the Utah State Board of Education publicly questioned the gender of a 16-year-old girl participating on a high school basketball team. As a result, the student was subjected to harassment, bullying, and threats of violence.⁶ This came on the heels of another Utah incident where an angry father confronted school officials at a junior varsity basketball game in Canyons School District, claiming that an athlete on the opposing team was transgender.⁷

Though these incidents are shocking, they are the inevitable result of a long campaign against athletes motivated by anti-transgender hate. That is why updates to Title IX regulations must also be paired with affirmation of transgender students' rights when participating in school sports. We have long cautioned that discriminatory policies could undermine sports participation by cisgender girls because of the inevitable policing of gender perpetuated by these policies that especially harm girls who do not conform to sex-based stereotypes and Black and brown women and girls for not conforming to white standards of femininity. However, inclusive sports policies have shown to benefit women and girls: the National Federation of State High School Associations reported that states with *inclusive* sports policies reported a 48% greater increase in women's sports participation than states with trans-exclusionary policies in the 2022-2023 school year.⁸

In addition, we remain alarmed that the Title IX regulations currently in force still include weakened protections against sexual harassment due to changes made by the Trump administration in 2020 that incentivize schools to further sweep sexual violence under the rug. Because of those changes, student survivors are being forced to weather the emotionally and

⁴ Centers for Disease Control and Prevention. Disparities in Suicide (last updated May 9, 2023). <https://www.cdc.gov/suicide/facts/disparities-in-suicide.html>.

⁵ GLSEN. The 2021 National School Climate Survey, at 19, 25 (2022). <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf>.

⁶ Jenny Gross. "Utah School Board Member Is Censored After Questioning Student's Gender." *New York Times* (Feb. 16, 2024). <https://www.nytimes.com/2024/02/16/us/utah-natalie-cline-censored.html>.

⁷ Evan Urquhart, "UT Teen Harassed, Accused of Being Trans at JV HS Basketball Game." *Assigned Media* (January 27, 2024). <https://www.assignedmedia.org/breaking-news/ut-teenager-accused-of-being-trans-basketball>.

⁸ See National Association of State High School Associations. High School Participation Survey Archive, 2021-2022 and 2022-2023 Data (last accessed Feb. 23, 2024). <https://www.nfhs.org/sports-resource-content/high-school-participation-survey-archive>.

academically devastating consequences of having their complaints dismissed because their victimization isn't deemed "serious enough" or merely because of where they were assaulted; of having to submit to burdensome, unfair, and deeply traumatizing grievance procedures, including direct, live cross-examination; and of being denied critical supportive measures that they need to continue their education in the wake of their victimization. These impacts are particularly felt by survivors of color and LGBTQI+ and disabled survivors, who are more vulnerable to experiencing sexual harassment, but are also less likely to receive critical support from their schools. And finally, pregnant and parenting students⁹ are still without the support they need to combat the immense pressure they face to drop classes or withdraw from school entirely from unsupportive educators.¹⁰ These problems are only exacerbated by repressive state laws and policies, particularly in the wake of the Supreme Court's destructive *Dobbs* decision.

We thus urge you to swiftly finalize a robust Title IX rule so that LGTBQI+ students, student survivors, and pregnant and parenting students can be assured of their rights and schools can be on clear notice of their civil rights obligations by the federal government. The next generation must not wait for another tragedy. Especially in the midst of this aggressive attack on transgender and gender expansive youth, the administration cannot employ a piecemeal approach when protecting LGBTQI+ students. We urge the administration to move forward with comprehensive protections that ensure LGBTQI+ youth can equally access all educational programs, facilities, and activities – including school sports – free from discrimination. Lives are on the line, and we look to you for leadership that can lead the next generation of youth to a safer and more equitable future.

Sincerely,

A Better Balance	Athlete Ally	Children's Defense Fund
American Association of University Women (AAUW)	Autistic Self Advocacy Network	Clearinghouse on Women's Issues
American Atheists	California Women's Law Center	Council for Global Equality
American Humanist Association	Center for Freethought Equality	Disability Rights Education & Defense Fund
American Psychological Association	Center for WorkLife Law	Education Law Center Pennsylvania
Association for Women in Science	CenterLink: The Community of LGBTQ Centers	End Rape On Campus

⁹ There is a growing body of research suggesting that when compared to straight teens, bisexual girls are more likely to become pregnant. Studies also show that transgender youth are just as likely to become pregnant as cisgender youth. Nat'l Women's Law Ctr., *A Call to Action to Support LGBTQI Pregnant, Expectant, and Parenting Students* (Mar. 2022), <https://nwlc.org/wp-content/uploads/2022/03/LGBTI-Pregnancy-Students-4.4-1.pdf>.

¹⁰ Nat'l Women's Law Ctr., *Let Her Learn: Stopping School Pushout for Girls Who are Pregnant or Parenting*, 4-6 (2017), https://nwlc.org/wp-content/uploads/2017/04/Final_nwlc_Gates_PregParenting.pdf.

Equal Rights Advocates	National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)	Rocky Mountain Victim Law Center
Equality California		SafeBAE
Family Equality		
Family Voices NJ	National Center for Transgender Equality	Service Employees International Union (SEIU)
Feminist Majority Foundation	National Disability Rights Network (NDRN)	Silver State Equality
FORGE, Inc.		SPAN Parent Advocacy Network
Gender Violence Program Harvard Law School	National Education Association	Stop Sexual Assault in Schools
Girls Inc.	National Family Association for DeafBlind (NFADB)	The Army of Survivors
GLMA: Health Professionals Advancing LGBTQ+ Equality	National LGBT Cancer Network	The Education Trust
GLSEN	National LGBTQ Task Force	The Every Voice Coalition
Healthy Teen Network	National LGBTQ Task Force Action Fund	The Inclusion Playbook
Honesty for Ohio Education		The National Domestic Violence Hotline
Human Rights Campaign	National LGBTQ+ Bar Association	The Trevor Project
Institute for Women's Policy Research	National Organization for Women Foundation	Transgender Law Center
interACT: Advocates for Intersex Youth	National Women's Law Center	Transgender Legal Defense and Education Fund (TLDEF)
Interfaith Alliance	National Women's Political Caucus	UltraViolet Action
It's On Us		URGE: Unite for Reproductive & Gender Equity
Japanese American Citizens League (JACL)	Network for Victim Recovery of DC	VOICEINSPORT Foundation
Just Solutions	PEAK Parent Center	
	PFLAG National	Whitman-Walker Institute
Know Your IX, a project of Advocates for Youth	Planned Parenthood Generation Action	Women of Reform Judaism
Legal Momentum, The Women's Legal Defense and Education Fund	Public Counsel	Women's Sports Foundation
Los Angeles LGBT Center	Public Justice	YWCA USA
National Black Justice Coalition	Reproductive Freedom for All (formerly NARAL Pro-Choice America)	