

June 13, 2024

Re: Coalition of Gender Justice, LGBTQI+ Rights, Civil Rights, and Student Rights Groups Urges Members to Oppose H.J.Res.165

Dear Member of Congress,

The undersigned organizations who work to advance gender justice, LGBTQI+ rights, civil rights, and student rights urge you to **oppose H.J.Res.165, and its companion legislation in the Senate,¹ which would undo the U.S. Department of Education's recently published final rule that strengthens Title IX's protections against sex-based discrimination in federally funded schools.** Not only would H.J.Res.165 overturn the entirety of the protections set out in the rule, it would prevent any future effort to reinstate any of these protections. This effort must be rejected, as the U.S. Department of Education's recently finalized rule reinforces and restores Title IX's protections, ensuring that every student has the right to a safe and welcoming learning environment, free from sex discrimination, including LGBTQI+ students, survivors of sexual assault and other sex-based harassment, and pregnant and parenting students.

The updates clarify that Title IX protects against discrimination on the basis of sexual orientation and gender identity. With a staggering 83% of LGBTQI+ youth reporting in-school victimization—and 62% of those who have faced victimization never reporting an incident to school staff—the Title IX updates will clarify remedies for students facing all types of sex-based harassment and hold school officials accountable for fostering safer school environments.² This regulatory clarification ensures that LGBTQI+ youth will be able to equally participate in educational opportunities, from being able to attend prom with a date of their choice and wearing clothes that reflect their gender expression to using a restroom that corresponds with their gender identity.

We collectively reject the false narrative that equal educational opportunity for transgender and non-binary students undermines protections for cisgender girls and women. Transgender women are women and transgender girls are girls who deserve the full protection of federal civil rights law. Policies that seek to undermine protections for transgender women and girls—whether in accessing school restrooms or playing sports—harm all women and girls by allowing them to be subjected to unwarranted and inappropriate scrutiny. This scrutiny also falls particularly hard on women and girls of color who do not follow white standards of womanhood, and any cisgender woman or girl who fails to conform to sex-based stereotypes of femininity because of how they

¹ At the time of sending, the Senate resolution number was not yet available.

² <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf>.

look or act. Further, schools across the country have had gender identity non-discrimination policies in place for years without any issue,³ and comprehensive non-discrimination policies that explicitly enumerate gender identity are associated with safer school environments that result in lower rates of discrimination.⁴ Such policies are especially critical for sex-separated spaces such as bathrooms and locker rooms. Transgender and nonbinary students avoid sex-separated spaces at higher rates than their LGBTQ+ peers, and delayed use of bathrooms can result in adverse impacts on a youth's physical and physiological state, mental health, and academic success and attention at school. Forcing transgender and nonbinary students into sex-separated spaces that are inconsistent with their gender identity may result in increased risk of bullying and physical harassment. In fact, survivor-led organizations and anti-sexual assault and domestic violence organizations support full and equal access for transgender people to use restrooms and locker rooms that align with their gender identity.⁵

Additionally, the Title IX rule reverses the Trump administration's 2020 Title IX rule that significantly weakened protections for student survivors seeking help in the wake of their victimization and incentivize schools to further sweep sexual harassment and assault under the rug. Undoing the 2020 Title IX rule brings justice to survivors by ensuring they are not denied their right to educational opportunities in the wake of sexual assault or harassment. The updates to the Title IX rule no longer allow schools to ignore many reports of sexual assault and remove unfair hurdles uniquely faced by student survivors in their schools' investigations—hurdles that students and employees complaining about any other type of misconduct do not have to experience.

Lastly, the updates to the Title IX rule provide greater clarity on pregnant and parenting students' rights, including affirmative steps schools must take to ensure those students are aware of their rights. Schools must provide reasonable accommodations, such as the ability to take breaks and access to a sanitary and private lactation room. According to the CDC, roughly 50% of teenagers who become pregnant and give birth withdraw from school and do not receive their high school diplomas by age 22.⁶ Research indicates that discrimination plays a major role in students having to withdraw early from school, despite pregnant and parenting students earning higher GPAs than their non-

³ <https://nwlc.org/resource/nwlc-leads-eleventh-circuit-amicus-brief-challenging-discriminatory-school-bathroom-policy/>

⁴ <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf>

⁵ <https://www.4vawa.org/ntf-action-alerts-and-news/2018/4/12/national-consensus-statement-of-anti-sexual-assault-and-domestic-violence-organizations-in-support-of-full-and-equal-access-for-the-transgender-community>

⁶ https://www.cdc.gov/reproductive-health/teen-pregnancy/?CDC_AAref_Val=https://www.cdc.gov/teenpregnancy/about/index.htm

parenting peers.⁷ These Title IX rule clarifications are much-needed to ensure pregnant and parenting students have a right to equal education opportunities.

Every student deserves to have an education free from discrimination and harassment, including on the basis of sex. We urge you to oppose H.Res.165, and any efforts to undermine this milestone rule that ensures equal educational opportunity for LGBTQI+ students, survivors of sexual assault and harassment, and pregnant and parenting students.

If you have any questions, please don't hesitate to reach out to Jennifer Pike Bailey at the Human Rights Campaign (jennifer.bailey@hrc.org), Shiwali Patel at the National Women's Law Center (spatel@nwlc.org), or Brian Dittmeier at GLSEN (brian@glsen.org).

Sincerely,

A Better Balance

AFT

All* Above All

Alliance for Girls

American Association of University Women

American Atheists

American Humanist Association

American Psychological Association

Arab American Institute (AAI)

Ascend

Athlete Ally

Autistic Self Advocacy Network

CA LGBTQ Health and Human Services Network

Center for WorkLife Law

CenterLink: The Community of LGBTQ Centers

Chicago Alliance Against Sexual Exploitation (CAASE)

Clearinghouse on Women's Issues

Clery Center

Colorado Teen Parent Collaborative

Doctors for America

EdTrust

Education Law Center

Education Law Center Pennsylvania

End Rape On Campus

⁷ <https://iwpr.org/parents-in-college-by-the-numbers/>

Equal Rights Advocates
Equality California
ERA Coalition
Esperanza United
Family Equality
Feminist Majority Foundation
Generation Hope
Girls Inc.
GLAAD
GLSEN
Guttmacher Institute
Healthy Teen Network
Human Rights Campaign
Human Rights First
Immigration Equality
Institute for Women's Policy Research
interACT: Advocates for Intersex Youth
Ipas
It's On Us
Japanese American Citizens League
Jewish Women International
Just Solutions
Justice and Joy National Collaborative (formerly National Crittenton)
Know Your IX, Advocates for Youth
Legal Momentum, The Women's Legal Defense and Education Fund
Los Angeles LGBT Center
MomsRising
Monsoon Asians & Pacific Islanders in Solidarity
Movement Advancement Project
Mujeres Latinas en Accion
National Asian Pacific American Women's Forum
National Association of Councils on Developmental Disabilities
National Association of Social Workers
National Center for Lesbian Rights
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Council of Jewish Women
National Education Association
National Latina Institute for Reproductive Justice
National LGBTQI+ Cancer Network
National Organization for Women
National Women's Law Center

National Women's Political Caucus
Network for Victim Recovery of DC (NVRDC)
Nevada Coalition to End Domestic and Sexual Violence
PFLAG National
Population Institute
Public Justice
Reproductive Freedom for All (formerly NARAL Pro-Choice America)
Rocky Mountain Victim Law Center
Sexual Violence Prevention Association (SVPA)
Silver State Equality-Nevada
Stop Sexual Assault in Schools
Supermajority
Tahirih Justice Center
The Trevor Project
Trans Empowerment Project
Trans Formations Project
Transgender Law Center
Ujima, The National Center on Violence Against Women in the Black Community
UltraViolet
Victim Rights Law Center
VOICEINSPIRE Foundation
Women's March
Women's Sports Foundation
YWCA USA