



TITLE IX AT 50

**A REPORT BY THE NATIONAL COALITION
FOR WOMEN AND GIRLS IN EDUCATION**

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About NCWGE

The National Coalition for Women and Girls in Education (NCWGE) is a nonprofit organization established to educate the public about issues concerning equal rights for women and girls in education, monitor the enforcement and administration of current legislation, and conduct and publish research and analysis of issues concerning equity in education.

NCWGE was formed in 1975 by representatives of national organizations concerned about the government's failure to issue regulations implementing Title IX of the Education Amendments of 1972 (Title IX). NCWGE was successful in mobilizing strong support, resulting in the publication of the 1975 Title IX regulations by the Department of Health, Education, and Welfare (now the Department of Education).

NCWGE continues to be a major force in developing national education policies that benefit all students; providing a valuable forum to share information and strategies to advance educational equity; advocating for women and girls regarding educational issues, including the interpretation and implementation of Title IX; and monitoring the work of Congress and federal agencies on education policies and programs.

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Executive Summary

IN JUNE 1972, Congress passed Title IX of the Education Amendments of 1972 (Title IX) to prohibit sex discrimination in schools that receive federal funding. In commemoration of the 50th anniversary of Title IX, the National Coalition for Women and Girls in Education presents **Title IX At 50**, a report that celebrates the significant progress made toward ending sex discrimination in schools while recognizing that much work remains to be done.

This report includes 9 issue briefs, each of which contains (i) *background* on how that particular aspect of sex discrimination affects students in schools; (ii) *developments*, including progress and setbacks, over the last 50 years regarding the issue; and (iii) a wide range of specific, concrete *policy recommendations* for education policymakers, including members of Congress, the Department of Education, state lawmakers, and school administrators. The 9 issue briefs cover the following topics:

- **Sexual Harassment:** Sexual harassment, sexual assault, dating violence, domestic violence, and stalking are widely prevalent in schools, but few students report it to their schools, and many who ask their schools for help are ignored or punished instead. In 2020, the Trump administration significantly weakened Title IX protections against sexual harassment, and as of this writing, the Biden administration has yet to undo those harmful policies. NCWGE offers recommendations to federal, state, and school policymakers that would create comprehensive protections against

sexual harassment in schools by strengthening prevention measures, supporting student victims rather than punishing them, and ensuring meaningful accountability of sexual harassers and of schools that fail to protect students' rights.

- **Discriminatory Discipline Based on Sex and Race:** Black girls, other girls of color, and LGBTQI+ children are more likely than their peers to be disciplined, pushed out of school, and pushed into the school-to-prison pipeline due to race- and sex-based stereotypes. For example, they are targeted for subjective discipline, discriminatory grooming and dress codes, and abuse by school police. The Obama administration took a number of steps to address discriminatory discipline, but most of these actions were reversed under the Trump administration and remain unaddressed by the Biden administration. NCWGE urges policymakers to end discriminatory discipline by restoring and strengthening the Obama-era protections, issuing Title IX and Title VI regulations against discriminatory discipline, removing police from schools, and much more.
- **LGBTQI+ Students:** LGBTQI+ students continue to face harassment, assault, and other discrimination based on their sexual orientation, gender identity, gender expression, transgender or nonbinary status, or intersex status. Although the Supreme Court's 2020 decision in *Bostock v. Clayton County* affirmed that discrimination based on sex includes discrimination against LGBTQI+ people, there

has been an unprecedented wave of attacks in the last two years against LGBTQI+ students, particularly transgender students. NCWGE calls on the federal government to protect LGBTQI+ students' rights, including by fully implementing *Bostock* across all agencies that enforce sex nondiscrimination laws and regulations and opposing state and local governments' attacks on LGBTQI+ students' rights.

- **Pregnant and Parenting Students:** Many students in K-12 schools and higher education are parents, but they face numerous institutional barriers, including punitive attendance policies, lack of child care and transportation for their young children, and even outright punishment for being pregnant. While Congress, the courts, and other federal agencies have expanded pregnancy related protections for other contexts like employment and healthcare, the Department of Education has not substantively changed Title IX regulations on pregnant and parenting students since 1975. NCWGE offers a number of recommendations to policymakers for protecting pregnant and parenting students, including by ensuring lactation accommodations, more equitable attendance policies, and transportation and on-site child care.
- **Athletics:** Despite the progress made since 1972, girls and women still receive more than one million fewer opportunities than boys and men to play sports in high school and college. And when they do have a chance to play sports, women and girls often receive worse facilities, uniforms, and equipment; inexperienced coaches; and less support and publicity from their schools—all of which send the message that they are “less than” their male peers. Furthermore, many LGBTQI+ students are discouraged or even actively prevented from playing school sports. NCWGE urges the federal government to promote gender equity in athletics by reviewing and refreshing its Title IX athletics guidances, increasing compliance reviews at schools, expanding data collection on athletics, protecting the rights of LGBTQI+ student athletes, and much more.
- **Gender- and Race-Conscious Programs:** Title IX and Title VI allow schools to provide gender- and race-conscious affirmative action programs to promote equal educational opportunities for women and girls, including women and girls of color. However, the Supreme Court has made several rulings limiting race-conscious admissions over the last few decades and is poised to do so again in summer 2022. The Trump administration also took a number of steps to restrict and even attack gender-conscious and race-conscious programs. NCWGE calls on the federal government to issue Title IX guidance clarifying that gender-conscious programs are permissible, reissue Title VI guidance on race-conscious programs after the

upcoming Supreme Court decision, dismiss frivolous complaints attacking affirmative action programs, and much more.

- **Sex-Segregated Education:** Sex-segregated education has not been demonstrated to provide benefits over coeducational schooling and often relies on debunked sex-based stereotypes regarding innate neurological and developmental differences between girls and boys. Unfortunately, such classes proliferated after the 2006 issuance of Title IX single-sex regulations, which remain in place today. In addition, recent single-sex programs to address educational inequity faced by Black boys ignore the same inequity faced by Black girls. NWLC offers a number of recommendations, including that the Department of Education rescind the 2006 single-sex regulations and increase enforcement against impermissible sex-segregated classes and activities, and that schools ensure that any programs addressing the racial opportunity gap benefit girls of color and boys of color equally.
- **STEM & CTE:** Since Title IX's passage in 1972, many measures have been taken to address gender inequity in both science, technology, engineering, and mathematics (STEM) and career and technical education (CTE). However, sex discrimination—including regarding promotion, compensation, and access to research resources, and in the form of gender bias and sexual harassment—continues to hinder girls' and women's participation in STEM and CTE. NCWGE urges federal and school policymakers to support women and girls in STEM and CTE, including by addressing their complaints of sexual harassment and other sex discrimination, collecting data on their participation in STEM and CTE, investing in the recruitment and retention of women in apprenticeship and pre-apprenticeship programs, and much more.
- **Title IX Coordinators:** All school districts and institutions of higher education are required to employ at least one Title IX Coordinator to coordinate the school's compliance with Title IX. However, many students go to schools that do not have a Title IX Coordinator; have a Title IX Coordinator who is very difficult to find or contact; or have a Title IX Coordinator who lacks training, funding, and other support. NCWGE calls on the federal government to support Title IX Coordinators, including by restoring and strengthening Title IX guidance on Title IX Coordinators; maintaining an updated database of Title IX Coordinators for all school districts and postsecondary institutions; and establishing an Office for Gender Equity in the Department of Education to provide training, technical assistance, and other support for Title IX Coordinators.

Title IX At 50 is a valuable tool for education policymakers, as well as students, families, and advocates. We hope you will use this report to help make Title IX's promise of ending sex discrimination in schools a reality for all students.



Introduction

FIFTY YEARS AGO, Congress passed Title IX of the Education Amendments of 1972 (Title IX), proclaiming that, with a few specific exceptions: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Title IX’s origins began in 1969 when Dr. Bernice Sandler was rejected from a full-time faculty position at the University of Maryland. The reason? She “c[a]me on too strong for

a woman.” Through her research into laws against sex discrimination, she discovered that President Lyndon Johnson had recently amended Executive Order 11246—which prohibited federal contractors from discriminating based on race, color, national origin, and religion—to include sex as well. Over the next two years, as a leader at Women’s Equity Action League (WEAL), Dr. Sandler filed complaints of sex discrimination under Executive Order 11246 with the Department of Education against approximately 250 educational institutions, relying on detailed data painstakingly compiled by women working

in academia across the United States about sex discrimination at their colleges and universities. She also sent hundreds of copies of her complaints to members of Congress, prompting them to send more than 300 letters to the Secretary of Labor demanding change. Her work inspired other individuals and organizations, including the National Organization for Women (NOW), to file another approximately 100 sex discrimination complaints under Executive Order 11246.

In 1970, these efforts began to produce tangible policy results. The Department of Labor and the Department of Health, Education, and Welfare (the predecessor to today's Department of Education) issued guidelines and memoranda on prohibited forms of sex discrimination by federal contractors. Rep. Edith Green (Ore.), another member of WEAL's national advisory board, held seven days of congressional hearings on sex discrimination in education and employment. Rep. Patsy Mink (Hawai'i), the first woman of color and first Asian American woman in Congress, drafted Title IX with assistance from Rep. Green and Sen. Birch Bayh (Ind.), who was himself another member of WEAL's national advisory board, as well as a sponsor of the Equal Rights Amendment and the lead sponsor of Title IX in the Senate. Finally, on June 23, 1972, Title IX was passed by Congress and signed into law by President Richard Nixon.

This year, on the 50th anniversary of Title IX's passage, we honor the countless individuals who made Title IX possible. We are especially grateful to:

- Rep. Patsy Mink, the primary author of Title IX, which was renamed in 2002 when she died as the "Patsy T. Mink Equal Opportunity in Education Act."
- Rep. Edith Green, Title IX's sponsor in the House of Representatives, who was praised by a colleague as "the most powerful woman ever to serve in the Congress."
- Sen. Birch Bayh, Title IX's sponsor in the Senate, the "father of Title IX," and the principal architect of the Equal Rights Amendment, which has since been ratified by 38 states.
- Dr. Bernice Sandler, known as the "godmother of Title IX," whose work launched 50 years of unprecedented progress for gender equity in education, much of which she was able to witness before passing at the age of 90 in 2019.

There is much work to be done yet to advance gender equity in education. The National Coalition for Women and Girls in Education invites you to read the accompanying issue briefs for more information on a range of Title IX issue areas, the progress (and setbacks) that have occurred since 1972, and our recommendations for the work that remains to be done:

- 1. Sexual Harassment**
- 2. Discriminatory Discipline Based on Sex and Race**
- 3. LGBTQI+ Students**
- 4. Pregnant and Parenting Students**
- 5. Athletics**
- 6. Gender- and Race-Conscious Programs**
- 7. Sex-Segregated Education**
- 8. Science, Technology, Engineering, and Mathematics (STEM) & Career and Technical Education (CTE)**
- 9. Title IX Coordinators**



Sexual Harassment¹

BACKGROUND ON SEXUAL HARASSMENT

For more than 25 years, the Supreme Court and the Department of Education have recognized that Title IX requires schools to address sexual harassment. Over the years, student survivors and advocates have pushed schools and policymakers to improve school responses to sexual harassment. However, sexual harassment in schools continues to be a serious barrier to equal educational access, and much work remains to be done to strengthen

Title IX enforcement and prevent sexual harassment from occurring in the first place.

Sexual harassment of students is widely prevalent. In grades 7–12, 56 percent of girls and 40 percent of boys are sexually harassed in a given school year,² and one in five girls ages 14–18 have been kissed or touched without their consent.³ About 10 percent of PK–12 students will experience sexual misconduct by a school employee by the time they graduate from high school.⁴ Furthermore, in a given year, one in 11 high school girls and one in 14 high school boys experience

physical dating violence,⁵ and more than a quarter of a million people ages 16–19 are victims of stalking.⁶ In college, more than 60 percent of women and men experience sexual harassment.⁷ One in four women, one in five transgender and gender-nonconforming students, and one in 15 men are sexually assaulted during their time in college.⁸ In addition, during their time in college, one in seven women and one in 10 men experience dating violence, and one in 10 women and one in 33 men are victims of stalking.⁹ Unfortunately, these statistics are often higher for marginalized students, including Black and brown girls and women, LGBTQI+ students, pregnant and parenting students, and disabled students.¹⁰

Despite how common these incidents are, few students report to their schools, and those who do ask for help are often ignored or punished instead of receiving the help they need to learn and feel safe in school. For example, only 2 percent of girls ages 14–18¹¹ and 12 percent of college women who are sexual assaulted contact their schools for help.¹² Too often, victims who do come forward are suspended or expelled because school officials believe the victim engaged in consensual sexual activity in violation of school rules, or believe the incident was consensual and that the victim made a false accusation.¹³ Student survivors are also often disciplined because at

the time they were assaulted, they were using drugs or alcohol, or for physically defending themselves against their harassers, for expressing age-appropriate trauma symptoms after the incident, for missing school in order to avoid their harasser, or for merely telling other students about the incident.¹⁴ Sometimes schools force or pressure survivors into enrolling in inferior “alternative” education programs that isolate them from their friends, offer little to no instruction, and deprive them of access to extracurriculars.¹⁵ Unfortunately, schools are more likely to disbelieve and punish girls and women of color (especially Black girls and women), LGBTQI+ students, pregnant and parenting students, and disabled students due to stereotypes that label these students as more “promiscuous,” more “aggressive,” less credible, and/or less deserving of protection.¹⁶

When schools fail to address sexual harassment, students suffer. Many survivors miss class, receive lower grades, withdraw from extracurricular activities, or leave school altogether because they do not feel safe. Some are even expelled in the wake of their trauma. In college, 34 percent of student survivors of sexual assault end up dropping out.¹⁷

Developments Since 1972

Beginning in 1997, the Department of Education issued multiple guidance documents that clarified schools’ Title IX obligations to address sexual harassment, providing robust civil rights protections against sexual harassment in education. This guidance provided that whenever a school employee knew about or “should have known” about “severe or pervasive” sexual harassment, the school was required to take “prompt and effective” action to

address it.¹⁸ This included requirements for schools to address a hostile school environment stemming from off-campus incidents of sexual harassment or assault, to provide supportive measures for complainants, and to use fair investigation procedures.¹⁹ The guidance also encouraged schools to finish sexual harassment investigations within 60 days and discouraged schools from allowing students to directly cross-examine one another as

DEVELOPMENTS SINCE 1972 *continued*

part of these investigations or from using mediation to resolve complaints of sexual assault.²⁰

However, the Trump administration rescinded all of these guidance documents, replacing them in 2020 with Title IX regulations that require schools to ignore many reports of sexual harassment and to apply unfair, burdensome procedures for sexual harassment investigations that do not apply to any other type of school investigation of student or staff misconduct.²¹ Schools must now dismiss Title IX complaints of sexual harassment if the harassment described in the complaint is not severe *and* pervasive, if the harassment occurred outside of a school program or outside the United States, or if the harassment complaint is made by a person who is no longer a student at the school.²² Schools are now allowed to take an undefined amount of time to finish an investigation, to apply a standard of evidence that tilts in favor of reported harassers (“respondents”), to use mediation to resolve complaints of student-on-student sexual harassment, and to respond unreasonably to reported sexual harassment, as long as their response is not “deliberately indifferent.”²³ And schools can no longer provide supportive measures to complainants that are considered disciplinary or unreasonably burdensome on respondents, which might include removing a respondent from an extracurricular activity shared with the complainant.²⁴ Colleges and universities are also now required to hold live hearings when they investigate sexual harassment and to allow the parties’ advisors to cross-examine parties and witnesses.²⁵ At the time of writing this issue brief, the Biden administration has made commitments to revise these regulations.²⁶

The Supreme Court has long recognized that schools must address sexual harassment. In 1992, it recognized that students could sue their schools

for money under Title IX in cases of teacher-on-student sexual abuse.²⁷ In 1998 and 1999, it issued a pair of landmark decisions, known as *Gebser* and *Davis*, that established the legal standards for Title IX lawsuits regarding teacher-on-student and student-on-student sexual harassment, respectively.²⁸ Since then, federal courts have issued a number of decisions both affirming and narrowing Title IX’s protections for student survivors. Some courts have recognized that schools must address off-campus or online sexual harassment if they have control over the incident²⁹ and must address dating violence against a student by a non-student guest.³⁰ Courts have also held that schools must do more than the bare minimum, must help victims further if previous measures are ineffective,³¹ and must protect student survivors from the “continuing presence” of their harasser on campus.³² And some courts have recognized that a student who is sexually harassed can sue their school if it has consistently ignored other students’ previous reports of sexual harassment.³³ However, student plaintiffs continue to face far more stringent standards under Title IX than employee plaintiffs do under Title VII (the federal law that protects against workplace sexual harassment).³⁴ In fact, some lower courts have even held that schools cannot be held liable for their deliberately indifferent responses to a student’s report of sexual harassment or assault unless the student is sexually harassed or assaulted *again* after their report to their school, effectively creating a “one free rape rule” in some jurisdictions.³⁵ Meanwhile, a growing number of appellate courts have allowed students disciplined for sexual harassment (primarily men and boys) to sue their schools for alleged “reverse” sex discrimination under a far more lenient standard than that available to students who have suffered sexual harassment.³⁶

Recommendations

Policymakers should create comprehensive protections against sexual harassment in schools by strengthening prevention measures, supporting student victims rather than punishing them, and ensuring meaningful accountability of sexual harassers and of schools that fail to protect students' rights. Effective policies must protect all students, including women and girls of color, LGBTQI+ students, pregnant and parenting students, and disabled students, who are often more likely to be sexually harassed *and* more likely to be disbelieved, punished, or criminalized when they come forward.

Strengthen transparency and prevention measures against sexual harassment:

- Require PK–12 schools to provide developmentally appropriate sex education to all students on a wide range of topics, including consent, healthy relationships, reproductive health, and **LGBTQI+** identity.
- Require schools to train all school staff on how to recognize and respond to sexual harassment, notify the school's Title IX coordinator, and provide effective supportive measures for students who have reported sexual harassment.
- Remove police from schools to protect all students—especially Black and Indigenous students—from **sexual harassment**, discriminatory discipline, and violence at the hands of school police; and invest in school guidance counselors, social workers,

psychologists, nurses, and other **non-police staff** to build positive school climates and support sexual harassment victims.

- **Eliminate school dress code requirements**, as they can promote rape culture, often rely on sex and race stereotypes, and are often discriminatorily enforced; or, at a minimum, require schools to implement a universal, nondiscriminatory dress code (see **Discriminatory Discipline Based on Sex and Race** for more information).
- Ensure transgender and nonbinary students' access to restrooms, locker rooms, sports teams, and other sex-separated programs and facilities consistent with their gender identity.
- Require schools to conduct regular climate surveys on student experiences with sexual harassment and make the survey data publicly available.

Support student victims instead of punishing them:

- Require schools to provide a wide range of **supportive measures** to students who report sexual harassment, including excused absences, counseling, tutoring, homework/exam adjustments, changes in academic/busing/dining/housing/work schedules, one-way no-contact orders; continued scholarship/honors eligibility, and the option to retake a class without financial penalty.

RECOMMENDATIONS *continued*


- Prohibit schools from disciplining students who report sexual harassment for misconduct that occurred before or during the reported incident (e.g., drug or alcohol use, consensual sexual activity, self-defense) or that occur after the reported incident because of it (e.g., class absences, age-appropriate expressions of trauma, public discussion of the sexual harassment).

Ensure meaningful accountability of sexual harassers and schools:

- Require schools to have a fair harassment complaint procedure, including by setting reasonable timeframes, applying a preponderance of the evidence standard, prohibiting direct cross-examination by a party or their advisor, and prohibiting the use of mediation to address sexual assault, dating violence, domestic violence, and stalking.
- Provide funding to schools that allow students to voluntarily choose a **restorative process** to address sexual harassment by well-trained facilitators. Unlike a traditional disciplinary process or other informal processes like mediation, a restorative process requires the wrongdoer to admit they caused sexual harm, centers the victim's needs, and allows the wrongdoer to make amends to the victim and change their future behavior.
- Require schools to take prompt and effective action when a school employee knows (or should reasonably know) about sexual harassment that alters a person's ability to participate in or benefit from a school program or activity, regardless of where the incident occurs, and regardless of whether the person is sexually harassed again after the school knows of the first incident. This would be required by the Title IX Take Responsibility Act of 2021 (H.R. 5396).
- Ensure that student survivors do not face more stringent litigation standards than students disciplined for sexual harassment when suing their schools under Title IX.
- Strengthen students' ability to file complaints against their schools with the U.S. Department of Education or a state agency (e.g., state Department of Education, Office of Attorney General), and increase civil penalties against schools for violations of Title IX, the Clery Act, or state anti-sexual harassment laws.

- 1 The American Civil Liberties Union's (ACLU) position on how schools can best ensure fair, prompt, and equitable resolution of reports of sexual harassment and assault is set forth in its written comments on Title IX dated June 11, 2021, available at <https://www.aclu.org/aclu-written-comment-2021-title-ix-public-hearing>. For that reason, the ACLU does not join in the Sexual Harassment section of the NCWGE report.
- 2 American Association of University Women, *Crossing the Line: Sexual Harassment at School 2* (2011), <https://www.aauw.org/resources/research/crossing-the-line-sexual-harassment-at-school>.
- 3 National Women's Law Center, *Let Her Learn: Stopping School Pushout for Girls Who Have Suffered Harassment and Sexual Violence 3* (2017) [hereinafter NWLC Sexual Harassment Report], <https://nwlc.org/resources/stopping-school-pushout-for-girls-who-have-suffered-harassment-and-sexual-violence>.
- 4 Billie-Jo Grant et al., *A Case Study of K-12 School Employee Sexual Misconduct: Lessons Learned from Title IX Policy Implementation* (Sep. 15, 2017), <https://www.ojp.gov/pdffiles1/nij/grants/252484.pdf>.
- 5 Centers for Disease Control & Prevention, *Preventing Teen Dating Violence* (last updated Mar. 5, 2021), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/teendatingviolence/fastfact.html>.
- 6 Jennifer L. Truman & Rachel E. Morgan, Dep't of Justice, Office of Justice Programs, *Stalking Victimization*, 2016 (Apr. 2021), <https://bjs.ojp.gov/content/pub/pdf/sv16.pdf>.
- 7 American Association of University Women, *Drawing the Line: Sexual Harassment on Campus 17, 19* (2005), <https://www.aauw.org/app/uploads/2020/02/AAUW-Drawing-the-line.pdf>.
- 8 Association of American Universities, *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct ix* (Oct. 15, 2019) [hereinafter AAU Report], <https://www.aau.edu/key-issues/campus-climate-and-safety/aau-campus-climate-survey-2019>.
- 9 AAU Report, *supra* note 8, at 52 (dating violence), 55 (stalking).
- 10 See, e.g., AAU Report, *supra* note 8, at 13-14 (transgender and gender-nonconforming college students); GLSEN, *The 2019 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools 30* (2020), <https://www.glsen.org/research/2019-national-school-climate-survey> (LGBTQ youth ages 13-21); NWLC Sexual Harassment Report, *supra* note 3, at 3 (Native, Black, and Latina girls ages 14-18); National Women's Law Center, *Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant or Parenting 12* (2017), <https://nwlc.org/resources/stopping-school-pushout-for-girls-who-are-pregnant-or-parenting> (pregnant and parenting girls ages 14-18); National Women's Law Center, *Let Her Learn: Stopping School Pushout for: Girls With Disabilities 7* (2017), <https://nwlc.org/resources/stopping-school-pushout-for-girls-with-disabilities> (disabled girls ages 14-18).
- 11 NWLC Sexual Harassment Report, *supra* note 3, at 2.
- 12 AAU Report, *supra* note 8, at A7-27.
- 13 See, e.g., Sarah Nesbitt & Sage Carson, *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout 15-16* (Mar. 2021) [hereinafter KYIX Report], <https://www.knowyourix.org/thecostofreporting>; Tyler Kingkade, *Schools Keep Punishing Girls – Especially Girls of Color – Who Report Sexual Assaults, and the Trump Administration's Title IX Reforms Won't Stop It*, *The 74* (Aug. 6, 2019), <https://www.the74million.org/article/schools-keep-punishing-girls-especially-students-of-color-who-report-sexual-assaults-and-the-trump-administrations-title-ix-reforms-wont-stop-it>; Sarah Brown, *BYU Is Under Fire, Again, for Punishing Sex-Assault Victims*, *Chronicle of Higher Education* (Aug. 6, 2018), <https://www.chronicle.com/article/BYU-Is-Under-Fire-Again-for/244164>; Aviva Stahl, *'This Is an Epidemic': How NYC Public Schools Punish Girls for Being Raped*, *Vice* (June 8, 2016), https://broadly.vice.com/en_us/article/59mz3x/this-is-an-epidemic-how-nyc-public-schools-punish-girls-for-being-raped; Kate Taylor, *Schools Punished Teenagers for Being Victims of Sexual Assault, Complaints Say*, *N.Y. Times* (June 7, 2016), <https://www.nytimes.com/2016/06/08/nyregion/schools-punished-teenagers-for-being-victims-of-sexual-assault-complaints-say.html>.
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- 15 E.g., Tyler Kingkade, *A High Schooler Says Her School Called Her A "Drama Queen" When She Reported Harassment, Buzzfeed* (Oct. 13, 2017), <https://www.buzzfeednews.com/article/tylerkingkade/forced-out-of-high-school-for-reporting-harassment-lawsuits>; Mark Keierleber, *The Younger Victims of Sexual Violence in School*, *Atlantic* (Aug. 10, 2017), <https://www.theatlantic.com/education/archive/2017/08/the-younger-victims-of-sexual-violence-in-school/536418>.
- 16 Rebecca Epstein et al., *Girlhood Interrupted: The Erasure of Black Girls' Childhood*, 1-6 (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3000695; Laura Dorwart, *The Hidden #MeToo Epidemic: Sexual Assault Against Bisexual Women*, *Medium* (Dec. 3, 2017), <https://medium.com/@lauramdorwart/the-hidden-metoo-epidemic-sexual-assault-against-bisexual-women-95fe76c3330a>; Jennie M. Kuckertz & Kristen M. McCabe, *Factors Affecting Teens' Attitudes Toward Their Pregnant Peers*, 16 *Y Psi Chi, Int'l Honor Soc'y. Psychol.* 33 (2011), https://www.psichi.org/resource/resmgr/journal_2011/spring11jnkuckertz.pdf; *The Arc, People with*

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Discriminatory Discipline Based on Sex and Race

BACKGROUND ON DISCRIMINATORY DISCIPLINE

Black girls, other girls of color, and LGBTQI+ children are more likely to be disciplined, pushed out of school, and pushed into the school-to-prison pipeline than their white, cisgender, or heterosexual peers, because of pernicious race- and sex-based stereotypes. For example, Black girls are about four times more likely to be suspended, expelled, or arrested than white girls; Indigenous girls are about twice as likely to be suspended or expelled and three times

more likely to be arrested; and Latina girls are more likely to be suspended or expelled and 1.5 times more likely to be arrested—often for subjective conduct, like “being disrespectful” or “talking back,”¹ that is not criminalized in white girls. In particular, school officials often “adultify” Black girls, perceiving them as “defiant,” “promiscuous,” less innocent, and less in need of care than their white counterparts, which leads them to punish Black girls more often and more harshly for normal, childlike behaviors—even though they are not more likely than other students to misbehave.² This begins at an early age; Black girls make up

only 20% of all preschool girls in the U.S. but comprise 53% of out-of-school suspensions for preschool girls.³

Girls of color, especially Black girls, and LGBTQI+ children are also more likely to be targeted and disciplined for violating dress and grooming codes. These codes frequently reinforce traditional notions of white femininity and the idea that girls' bodies are "shameful" or "vulgar."⁴ They also can promote rape culture by reflecting archaic generalizations about boys' inability to control their sexual impulses and putting the onus on girls to dress a certain way to avoid sexual harassment.⁵ And they can force transgender, nonbinary, and gender-nonconforming students to conform narrowly to traditional gender norms.⁶ In addition, dress and grooming codes are often rooted in Eurocentric standards and treat common Black protective hairstyles—such as braids, locs, hair wraps, Bantu knots,⁷ or bandanas⁸—as unprofessional and disrespectful. These codes also often include hair length requirements that disproportionately harm Indigenous students and other students for whom wearing long hair may be an important part of their identity.⁹ Enforcement of sex discriminatory dress codes against girls and gender-nonconforming students through exclusionary discipline forces them to miss important class time; sends the message that they do not belong; subjects them to significant public humiliation, stress, and anxiety; and damages their confidence, psychological well-being, and sense of belonging in school.¹⁰

Black girls have frequently been targets of body slams, tasing, sexual assault, and other physical and sexual abuse at the hands of school police, who are often called school resource officers (SROs).¹¹ Indeed, law enforcement officers have confronted or arrested Black girls for normal, childlike behavior, like pointing *fingers* in the shape of a gun at age 13,¹² getting a failing grade in a virtual ceramics class at age 15,¹³ taking too much milk in the cafeteria at age 11,¹⁴ and throwing a tantrum at age 6.¹⁵ Despite increased investment in school policing

programs, millions of students—mostly Black and brown students—attend schools that lack resources for mental health and other student supports. Research shows that schools where students of color are more than 50 percent of the population are two to 18 times more likely to use a mix of school police, security guards, metal detectors, locked gates, and random sweeps than schools where students of color are less than 20 percent of the population.¹⁶

In addition, LGBTQI+ youth, particularly those who are Black, Indigenous, and people of color (BIPOC), are disproportionately subjected to school disciplinary action.¹⁷ For example, schools often punish transgender girls for using the girls' bathroom¹⁸ or punish only queer couples for public displays of affection.¹⁹ A 2019 survey found that transgender secondary school students report higher rates of both in- and out-of-school discipline, such as suspensions, than their cisgender LGBTQ+ peers, with transgender girls reporting the highest rates of both (40 percent were disciplined in school and 9 percent were removed from school in a single academic year).²⁰ Another study found that same-sex attraction in girls is associated with a 95 percent increased likelihood of experiencing school discipline.²¹ These discipline disparities for transgender, lesbian, bisexual, and queer girls contribute to a school-to-prison pipeline.²²

Exclusionary discipline, such as suspension and expulsion, deprives students of critical instruction and decreases their chances of future educational success, with disproportionate harm to students of color. In 2018, Black students were five times more likely to lose valuable school time than their white peers due to out-of-school suspensions.²³ Just a single suspension decreases the likelihood that a student graduates from high school²⁴ or enrolls in college,²⁵ and just attending a school with high suspension rates increases the likelihood of having future interactions with the criminal legal system.²⁶ Similarly, after a school-based arrest, students are twice as likely to drop out of school,²⁷ find it harder to

apply to college and obtain federal financial assistance,²⁸ and are more likely to be involved in the juvenile legal system.²⁹ Exclusionary discipline also fractures student-teacher relationships, negatively impacts academic performance, and communicates to students of color that they are unwelcome and unsafe at school.³⁰ For example, girls and Black students who are reminded of their sex or race before an exam—for example, because of discriminatory discipline policies—often perform worse on academic exams because they are afraid of

conforming to negative stereotypes suggesting they won't perform well—a well-documented phenomenon known as “stereotype threat.”³¹ Research repeatedly shows that schools that eliminate “school disturbance” codes do not experience more violent behavior,³² that training school police on implicit bias and de-escalation does not correct racial disparities in arrests,³³ and that more effective methods exist for teaching appropriate behavior that do not deprive students of class time.³⁴

Developments Since 1972

Congress modeled Title IX, passed in 1972, after Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits schools and other entities receiving federal funding from discriminating based on race, color, or national origin. Since then, students' rights to be free from discriminatory and exclusionary school discipline have progressed in many ways. For example, the Supreme Court has long recognized that public schools cannot suspend students without “some kind of” notice and hearing³⁵ and that states cannot prevent undocumented children from attending public schools.³⁶ In 2014, under the Obama administration, the Department of Education issued Title VI guidance on eliminating discriminatory discipline practices³⁷ and a suite of “Rethinking Discipline” documents, appendices, and FAQs.³⁸ The Department under the Obama administration also investigated school districts whose data showed racial disproportionality in discipline, resulting in at least fifty of the largest school districts making changes and half of all states revising their laws to limit discriminatory disciplinary policies.³⁹ In recent years, 15 states have passed the Create a Respectful and Open Workplace for Natural Hair (CROWN) Act, which expressly prohibits racial discrimination based

on natural Black hair texture and Black protective hairstyles, or legislation inspired by the CROWN Act.⁴⁰ And in the aftermath of the 2020 racial justice uprisings, more than 60 school districts across the country have decided to remove police from their schools.⁴¹

Nonetheless, Congress's Gun-Free Schools Act of 1994 and the Violent Crime Control and Law Enforcement Act of 1994 continue to cast a long shadow on discriminatory school discipline, inspiring decades of harsh, “zero-tolerance” state laws and prolific school policing programs.⁴² In 1982, under the Regan administration, the Department rescinded a Title IX regulation that had prohibited schools from enforcing sex-based rules of appearance,⁴³ leading many schools to believe that they could now discriminate based on sex in their dress and grooming codes and resulting in costly litigation.⁴⁴ In 2001, the Supreme Court also held that Title VI does not provide a private right of action for disparate impact claims; that is, people who are disproportionately harmed by a policy that does not explicitly discriminate based on race, color, or national origin, and that cannot

DEVELOPMENTS SINCE 1972 *continued*

be shown to have been motivated by a desire to discriminate, but that disproportionately affects people of color or immigrants, cannot sue to enforce their rights under Title VI.⁴⁵ This means Black and brown students who are disproportionately targeted by “neutral” school discipline policies will frequently not have any redress in the courts. Under the Trump administration, the Department of Education rescinded the Obama 2014 Title VI guidance and the entire “Rethinking Discipline” package, leaving schools without resources from the federal government on identifying and eliminating discriminatory discipline.⁴⁶ The Trump administration also pursued aggressive immigration raid and deportation policies that intensified the school-to-deportation pipeline for migrant students, exacerbating the already tremendous displacement of Latinx students by federal immigration law, which since 1996, has allowed state and local police officers to act as federal immigration agents.⁴⁷ The Biden

administration has discouraged immigration raids in certain protected areas, including schools,⁴⁸ and has expressed a commitment to address discriminatory school discipline, including by requesting information from students, families, educators, school leaders, community and civil rights organizations, and other stakeholders on how schools can best administer discipline in a nondiscriminatory manner.⁴⁹ At the same time, in 2021, under the Biden administration, the Department of Justice spent \$139 million on the Community Oriented Policing Services (COPS) Hiring Program, which may be used for hiring school police officers,⁵⁰ and another \$125 million on the COPS School Violence Prevention Program (SVPP) and Student, Teachers, and Officers Preventing (STOP) School Violence Programs, both of which allow schools to hire police officers and increase measures that surveil and criminalize students.⁵¹

Recommendations

The Department of Education should:

- Restore and strengthen the Obama administration’s 2014 guidance and explore Title VI rulemaking to codify the guidance. In addition, update this guidance to clarify that actions by school-based police may violate Title VI and that the presence of higher concentrations of school-based police in schools with higher populations of students of color may violate Title VI.
- Initiate rulemaking under Title IX and Title VI to prohibit discriminatory dress and grooming policies in schools based on sex (including sexual orientation and gender identity), including by restoring and updating the Title IX dress code regulations that were rescinded in 1982.⁵²

RECOMMENDATIONS *continued*

- Issue guidance with an intersectional lens to clarify when discriminatory and exclusionary discipline violates two or more civil rights laws (Title VI, Title IX, Section 504 of the Rehabilitation Act of 1973, and/or Title II of the Americans with Disabilities Act).
- Encourage schools to: replace exclusionary discipline with restorative and trauma-informed practices; eliminate police from schools and invest in counselors, psychologists, and other non-police school staff who are equipped to address students' emotional and mental health needs; and eliminate dress code requirements and afford students and families the freedom to choose appropriate school attire.
- Clarify that disciplining students for reporting sexual harassment is retaliation in violation of Title IX.
- Expand collection and public reporting of data on school discipline, including the harms of school-based police, with the goal of working with the Department of Justice to eliminate federal funding for practices that criminalize children.
- Provide technical assistance on effective educator training on bias and culturally sustaining practices.

President Biden should issue executive orders to:

- Prohibit the use of federal funds to hire or retain law enforcement in schools.
- End all Section 287(g) agreements, which allow state and local police officers to act as federal immigration agents and conduct immigration raids in many areas, including schools.
- Direct relevant agencies, including the Departments of Education and Justice, to

collect and release data on the prevalence of school-based law enforcement and school-level complaints against school-based police.

Congress should pass:

- The Counseling Not Criminalization in Schools Act (S. 2125/H.R. 4011), which would prohibit the use of federal funds to support police officers in PK-12 schools and establish a \$5 billion grant program for police-free schools to provide adequately trained personnel and trauma-informed services instead.
- The Keeping All Students Safe Act (S. 1858/H.R. 3474), which would prohibit schools receiving federal funding from secluding a child; using a mechanical or chemical restraint; or using a prone, supine, or physical restraint that restricts breathing, stops blood flow to the brain, or is life-threatening.
- The Protecting Our Students in Schools Act (S. 2029/H.R. 3836), which would prohibit schools receiving federal funding from using corporal punishment (which is still legal in 19 states) and would create a federal grant program to assist states and school districts in improving school climate.
- The Ending Punitive, Unfair, School-Based Harm that is Overt and Unresponsive to Trauma (PUSHOUT) Act (H.R. 2248), which would prevent criminalization and pushout of students from school, especially Black and brown girls; establish a grant program for school districts and nonprofits to reduce exclusionary discipline practices; require the Department of Education to collect discipline data annually under the Civil Rights Data Collection; and establish a Federal Interagency Taskforce to End School Pushout.

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LGBTQI+ Students

BACKGROUND ON LGBTQI+ STUDENTS

Title IX protects LGBTQI+ students' right to access educational opportunities and activities without being subjected to bullying, harassment, or other discrimination on the basis of their sexual orientation or gender identity.

Despite protections under the law, LGBTQI+ students face significant barriers to equality at school because of their sexual orientation, gender identity, gender expression,

transgender or nonbinary status, or intersex status. A majority of LGBTQI+ students (59.1 percent) experience discriminatory policies and practices, such as being forced by dress and grooming codes to conform to sex stereotypes for their assigned gender at birth, being barred from forming a Gender-Sexuality Alliance (GSA) or similar peer support group, and being misgendered.¹ In 2019, more than eight in 10 LGBTQI+ students were verbally harassed and over one-third were physically harassed because of their sexual orientation, gender identity, or gender expression.² Schools often fail to respond effectively to anti-LGBTQI+

harassment or bullying: more than one in five LGBTQI+ students who reported being harassed or bullied to school staff were told to change their behavior by, for example, changing the way they dressed, and over 7 percent were disciplined after reporting their victimization to school staff³ (see **Discriminatory Discipline Based on Sex and Race** for more information).

Transgender and nonbinary youth experience more hostile school climates than their cisgender LGBTQ peers, with transgender girls reporting some of the highest levels of harassment and discriminatory school discipline.⁴ Among transgender adults who were out or perceived as transgender while in PK–12 schools, 13 percent were sexually assaulted as children, and transgender women were twice as likely to have been sexually assaulted while in PK–12 schools as transgender men and nonbinary people.⁵ In higher education, 23 percent of transgender and nonbinary students are sexually assaulted during their time in college.⁶ Relatedly, transgender students who have been banned from

using locker rooms and restrooms that matched their gender identity are significantly more likely to have been sexually assaulted during the previous 12 months.⁷

Anti-LGBTQI+ discrimination has devastating effects on LGBTQI+ students' ability to learn and feel safe in school. LGBTQI+ youth are more than four times more likely to attempt suicide than their non-LGBTQI+ peers.⁸ Although participation in extracurricular activities such as sports increases LGBTQI+ students' feeling of connection to their school and overall well-being, more than 40 percent of LGBTQI+ students avoid gym classes because they feel unsafe or uncomfortable, and one in 10 of them report that school officials had either prevented or discouraged them from playing sports because of their identity.⁹ Among transgender adults who were out or perceived as transgender in PK–12 school, 17 percent of them left or were pushed out of at least one school because of the anti-transgender mistreatment they faced.¹⁰

Developments Since 1972

There has been significant but uneven progress in preventing and effectively responding to discriminatory school policies and practices, and harassment and bullying of LGBTQI+ youth.¹¹ For years, courts have affirmed that discrimination on the basis of sexual orientation, gender identity, and transgender status are forms of sex discrimination.¹² In 2016, the Departments of Education and Justice under the Obama administration issued guidance addressing transgender students' Title IX civil rights protections,¹³ although this guidance was quickly rescinded by the Trump administration in 2017.¹⁴ However, in 2020, the Supreme Court

affirmed that sex discrimination in the workplace includes discrimination based on sexual orientation or gender identity.¹⁵ Since then, federal courts have increasingly held that under the same analysis, Title IX provides such protections, specifically including protections of transgender students' access to sex-separated restrooms and sports teams consistent with their gender identity.¹⁶ Similarly, the Department of Education under the Biden administration has cited *Bostock* in affirming that "Title IX's prohibition on discrimination 'on the basis of sex'... encompass[es] discrimination on the basis of sexual orientation and gender identity"¹⁷ and has issued new resources

DEVELOPMENTS SINCE 1972 *continued*

explaining that schools must address bullying and harassment on the basis of sexual orientation, gender identity, and intersex status.¹⁸ The Department's new resources also provide examples of discriminatory school practices that its Office for Civil Rights (OCR) can investigate, including school staff barring a transgender student from using the bathroom that aligns with their gender identity or preventing a high school girl from bringing her girlfriend to prom.¹⁹

However, the rights of LGBTQI+ students to participate equally in school are under attack across the country. Since March 2020, 12 states have banned transgender students—and in many cases, specifically transgender girls and women—

from playing on teams consistent with their gender identity,²⁰ even though research suggests that excluding transgender athletes is correlated with a decrease in sports participation among all girls and women (see **Gender Equity in Athletics**).²¹ In just the first three months of 2022, at least 18 states have introduced over 30 bills that prohibit or create barriers to LGBTQI+ inclusive teaching practices, books, or curriculum.²² For example, Florida's "Don't Say Gay or Trans" bill, signed into law in March 2022, prohibits teaching students about LGBTQI+ identities.²³ A number of states have also revived anti-transgender restroom bans, despite no evidence of any link between inclusive restroom policies and sexual assaults in restrooms.²⁴

Recommendations

The Department of Education should:

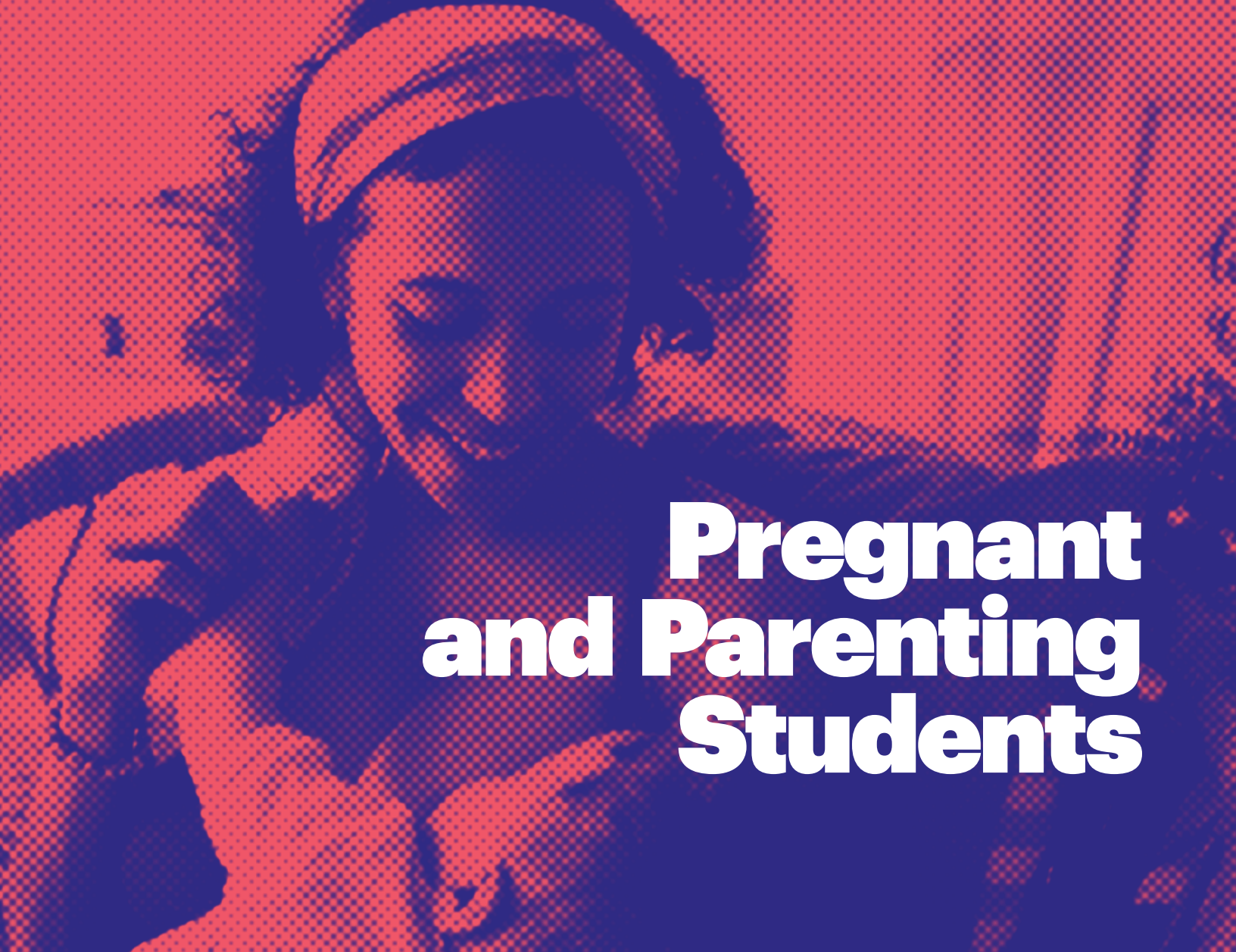
- Prioritize enforcement of Title IX protections for LGBTQI+ students and educators by coordinating full implementation of *Bostock* and other legal developments with the Department of Justice and all other agencies that enforce sex nondiscrimination laws and regulations, such as Title IX, Title X, the Fair Housing Act, the Equal Credit Opportunity Act, or the Fair Labor Standards Act. This includes protecting
- the right of LGBTQI+ students to learn in a safe, nondiscriminatory environment; to use names, pronouns, and identification documents consistent with their gender identity; to have access to sex-separated activities and facilities consistent with their gender identity; and to have their privacy protected in all education records.
- Condemn state and local governments' attacks on LGBTQI+ students' rights, and coordinate with the Department of Justice to submit amicus briefs in litigation challenging these harmful laws as contrary to Title IX's protections against anti-

RECOMMENDATIONS *continued*

LGBTQI+ discrimination. This includes reiterating that transgender athletes pose no threat to girls' and women's sports and that anti-transgender bans detract from the real and documented issues facing girls' and women's sports, like inadequate funding, high rates of sexual abuse, and fewer participation opportunities to play, especially for girls of color.

- Reiterate that OCR now accepts Title IX complaints alleging anti-LGBTQI+ discrimination, and reach out to students and families who previously filed such complaints with OCR only to have those complaints rejected or narrowed because of erroneous interpretations of the law.
 - Utilize OCR's Civil Rights Data Collection to collect data that will provide a greater understanding of the experience of transgender and nonbinary youth in extracurricular settings such as clubs and athletics (see recommendations in **Gender Equity in Athletics**).
 - Publicize key case resolutions for Title IX complaints involving anti-LGBTQI+ discrimination.
 - Update Title IX guidance and best practices resources on topics such as policy review and development, school climate assessments, and federal funding that can support LGBTQI+ students' rights.
 - Remind all stakeholders that preventing and remedying discrimination is a compelling government interest, and so any exceptions, including religious exemptions, must be narrowly construed so that federal funding is not used to subsidize discrimination, including against LGBTQI+ individuals.
- Congress should:**
- Pass the Safe Schools Improvement Act, which will ensure states adopt a proven strategy to prevent and address bias-based bullying in PK-12 schools by enumerating of race, color, national origin, sex (specifically including sexual orientation and gender identity), disability, and religion in locally tailored anti-bullying policies.
 - Pass the Tyler Clementi Higher Education Anti-Harassment Act to require federally funded colleges and universities to adopt anti-harassment policies that prohibit and address harassment based on race, color, national origin, sex (specifically including sexual orientation and gender identity), disability, or religion.
 - Pass the Equality Act to strengthen civil rights protections for LGBTQI+ youth and educators across multiple dimensions of their lives and experiences.
 - Pass the Do No Harm Act to clarify that protections for religious freedom codified in the Religious Freedom Restoration Act do not create a safe haven for discrimination.
 - Pass the LGBTQ Data Inclusion Act so that the experiences of all individuals, including LGBTQI+ students and educators, are accurately represented in federal data collection efforts and research can continue to inform best practices and effective, efficient uses of federal funding.
 - Pass the STOP Bullying Act to establish a grant program that will support efforts, at the state level to establish anti-bullying task forces to study, address, and reduce bullying in elementary and secondary schools, and for other purposes.

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- 4 See *id.* at 94–103.
- 5 National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* 11, 134 (2017) [hereinafter NCTE Report], available at <http://www.ustranssurvey.org/reports>.
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Pregnant and Parenting Students

BACKGROUND ON PREGNANT AND PARENTING STUDENTS

Many students become pregnant or a parent while in school. Among teens ages 15–19, 2.2 percent give birth to a child.¹ But nearly one-third of girls who do not complete high school report that becoming pregnant was a primary factor in their decision to leave school.² Only half of teenage mothers earn a high school diploma by age 22 compared with 89 percent of girls who do not have a child during their teenage years.³ One-third of young mothers never obtain

a diploma or GED,⁴ and less than 2 percent of teenage mothers graduate from college by age 30.⁵

In higher education, 22 percent of college students are parents, 44 percent of student parents work full time while enrolled, and 23 percent of student parents are single parents and working full time while enrolled.⁶ Despite their additional responsibilities, parenting college students tend to have higher GPAs than their non-parenting peers.⁷ However, institutional barriers and lack of support lead to student parents having lower levels of college enrollment

and completion, higher levels of unmet financial need, and higher levels of debt upon graduation.⁸

Becoming pregnant or a parent should not derail a student's education, but unfortunately, pregnant and parenting students often suffer from lack of support or outright discrimination from their schools. For example, punitive attendance policies can push pregnant or parenting students out of school if they are not accommodated when they must miss class for medical appointments, childbirth and recovery from childbirth, when their children are ill or if their child

care arrangements fall through, or when they need to pump breast milk.⁹ Additionally, parenting students lack access to quality and accessible child care and transportation services for their young children.¹⁰ Too often, pregnant and parenting students are steered or forced into inferior alternative education programs that do not keep them on track to graduate or prepare them for postsecondary opportunities.¹¹ In some cases, pregnant students are pushed out of school by officials seeking to punish them for their pregnancy.¹²

Developments Since 1972

In 1975, what was then the Department of Health, Education, and Welfare issued Title IX regulations prohibiting schools from discriminating against students based on their actual or potential parental or family status, or because of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from pregnancy.¹³ In 2007 and 2013, the Department of Education also issued guidance instructing schools on how not to discriminate against pregnant students in athletic scholarships and how to support the academic success of pregnant and parenting students.¹⁴

However, the Department of Education's Title IX regulations regarding pregnant and parenting students have not changed substantively since 1975, even though Congress, the courts, and other federal agencies have expanded or clarified pregnancy-related civil rights protections. For instance, in 1978, Congress passed the Pregnancy Discrimination Act (PDA), which amended Title VII of the Civil Rights Act of 1964 (Title VII) to prohibit employers from discriminating against employees on the

basis of pregnancy, childbirth, or related medical conditions.¹⁵ Following that, the Department of Labor issued regulations regarding federal contractors in 2016 clarifying that Executive Order 11246, which is interpreted consistently with Title VII, as amended by the PDA, prohibits discrimination based on current, past, potential, or intended pregnancy and related medical conditions, including lactation—which is not mentioned explicitly by the Title IX regulations.¹⁶ And the Equal Employment Opportunity Commission (EEOC) and the Department of Labor have issued guidance and regulations clarifying situations in which employers must provide accommodations to pregnant workers or workers with pregnancy-related conditions (including lactation) in order to avoid discriminating on the basis of pregnancy.¹⁷ Similarly, in 2010, Congress passed the Affordable Care Act (ACA), which amended the Fair Labor Standards Act to require employers to provide reasonable break times and a private place, other than a bathroom, for covered employees who are breastfeeding to express milk for one year after the child's birth.¹⁸

Recommendations

The Department of Education should:

- Issue comprehensive Title IX regulations addressing schools' responsibility to accommodate lactation, pregnancy, and reproductive health needs, including specifically requiring schools to provide an appropriate non-bathroom space and breaks for students to breastfeed or express breast milk.
- Issue Title IX guidance encouraging schools to adopt attendance policies explicitly excusing absences for caregiving responsibilities, provide transportation and on-site child care for children of student parents, and prohibit school officials from steering pregnant and parenting students into inferior alternative education programs, including those designed for students with disciplinary records.
- Ensure that Title IX's partial exemption for schools controlled by religious organizations is narrowly construed, so federal funding is not used to subsidize discrimination based on sex, including pregnancy or parenting status.
- Encourage schools to recruit pregnant and parenting students to participate in the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) grant program, which helps prepare low-income and disconnected students to enter and succeed in postsecondary education.
- Expand data collection on pregnant and parenting students in the Civil Rights Data Collection, including regarding incidents of

pregnancy-based harassment, discipline of pregnant and parenting students, and their enrollment in educational programs such as alternative schools, Advanced Placement classes, and preparation for the SAT and ACT.

Congress should:

- Build on the historic relief of \$50 billion for child care and early learning provided by the American Rescue Plan Act to push for a long-term investment, so that all parents, including student parents, have access to high-quality, affordable child care, and every child care provider has living wages.
- Revise the GEAR UP grant program to include pregnant and parenting students in the definition of "disconnected students."
- Increase Child Care Access Means Parents in School Program (CCAMPIS) funding to \$500 million to ensure roughly 100,000 more parenting college students receive the child care assistance they need to continue their education.

States should:

- Require schools to excuse absences related to pregnancy, related medical conditions, and recovery therefrom and absences related to the health of the student's child for as long as medically necessary. Schools should permit a leave of absence following delivery both for birthing parents and for non-birthing parents providing care, without academic penalty.

RECOMMENDATIONS *continued*

- Require schools to provide lactating students with lactation accommodations, including (i) permission to leave the classroom to express breast milk, (ii) access to a sanitary space, other than a bathroom, equipped with a flat surface, electrical outlet, and a place to store breast milk, and (iii) an opportunity to make up for work missed while expressing breast milk.
- Make reasonable efforts to keep pregnant and parenting students' personal information and health records confidential. Information about a student's pregnancy or parental status should not be used when considering them for educational or job opportunities, awards, or scholarships.
- Create family-friendly school environments by providing child-friendly gathering spaces and student-parent support groups.

Schools should:

- Adequately train staff and students on the rights of pregnant and parenting students under Title IX.
- Upon notice of a student's pregnant or parenting status, connect the student to a staff member who can assist them in finding resources, such as affordable child care, housing, and transportation services.

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Athletics

BACKGROUND ON GENDER EQUITY IN ATHLETICS

Today, nearly 3.5 million girls play high school sports,¹ but they are afforded over 1 million fewer opportunities than boys to do so.² In fact, although girls comprise nearly 50 percent of high school students, schools provide them with only 43 percent of the athletic opportunities³—even though girls want to play in far greater numbers.⁴ Retaliation or fear of retaliation is prevalent among PK–12 school communities where girls and their families attempt to assert Title IX equity rights, chilling efforts to level the playing field.⁵

The state of play is even worse for girls of color, who receive fewer opportunities than both white girls and boys of color.⁶ At high schools attended predominantly by white students, girls have 82 percent of the opportunities that boys have to play sports, but at high schools attended predominantly by students of color, girls have only 67 percent of boys' athletics opportunities.⁷

College women face similar challenges. More than 200,000 women play sports in college,⁸ yet they receive almost 60,000 fewer athletics opportunities than college men.⁹

Analysis shows that most intercollegiate athletic departments are not meeting any of the standards Title IX sets for schools to demonstrate equity in sports opportunities.¹⁰ NCAA institutions would need to provide women an additional 148,030 sports opportunities to match the same ratio of opportunities that are offered to men.¹¹ Even when women are given the opportunity to play, schools fail to provide equitable economic support—women miss out on more than \$240 million in athletics scholarships annually.¹²

When girls and women do have a chance to play sports, they are frequently provided worse facilities, uniforms, and equipment; are supported by inexperienced coaches; receive less support and publicity from their schools; and experience a whole host of other inequities that send a corrosive message to girls and women that they are “less than” their male peers.¹³

LGBTQI+ youth are less likely than their non-LGBTQI+ peers to participate in sport. According to a 2017 study, 68 percent of all youth played a sport, but only 24 percent of all LGBTQI+ youth played a sport.¹⁴ Transgender and nonbinary youth report even lower rates of sports participation than their cisgender LGBTQ peers, with just 12 percent of transgender girls reporting that they play sports.¹⁵ Many transgender and nonbinary youth report that school staff or coaches have discouraged them from playing sports because of their LGBTQI+ identity, and most report being prevented from using the locker rooms that align with their gender.¹⁶ Transgender girls are most likely to report these barriers, with 21 percent reporting that they have been discouraged from participating and 58 percent reporting that they were

prevented from using the locker room that aligns with their gender.¹⁷ Although participation in extracurricular activities like sports increases LGBTQI+ students’ feeling of connection to their school and overall well-being, 10 percent of them report that school officials had either prevented or discouraged them from playing sports because of their identity (see **LGBTQI+ Students**).¹⁸

Girls and women reap numerous benefits from playing sports. Students who play sports are more likely to graduate from high school, score higher on standardized tests, and have higher grades.¹⁹ Black and Latina women who play Division I college sports are 14 percent and 6 percent more likely, respectively, than their non-athlete peers to graduate from college.²⁰ Student athletes are also more likely to have higher levels of confidence, more positive body image, greater psychological well-being, and lower levels of depression.²¹ LGBTQI+ athletes in particular report nearly 20 percent lower rates of depressive symptoms compared to non-athletes.²² Women and girls who have the highest physical activity during adolescence and young adulthood are less likely to get breast cancer later in life,²³ and long-term physical activity also reduces the risk of other cancers, including endometrial cancer.²⁴ Sports participation also provides career benefits: girls who play sports in high school go on to earn 7 percent higher annual wages than their non-athlete peers,²⁵ and more than 90 percent of women executives report having played sports growing up.²⁶

Developments Since 1972

What was then the Department of Health, Education, and Welfare first issued Title IX regulations and guidance on gender equity in athletics in 1975, followed by a policy interpretation on intercollegiate athletics in 1979.²⁷ In 1980, under the Carter administration, the Department of Education also issued Title IX regulations on athletics, which explain the standards schools should abide by when developing and assessing whether their athletics programs are equal for girls and women.²⁸ In successive administrations, the Department went on to issue multiple additional guidances clarifying the regulations.²⁹ These guidances explained the Three-Part Test, which requires schools to show at least one of the following to demonstrate that they comply with Title IX: (1) girls' or women's athletics participation is "substantially proportionate" to their enrollment, (2) the school has a "history and continuing practice" of expanding athletics opportunities for girls and women, or (3) the school is "fully and effectively accommodating" girls' or women's athletics interests and abilities.³⁰ The guidances also explained that schools must provide equal benefits and services to girls' and boys' (or women's and men's) sports teams, and that the percentage of total athletic scholarship dollars awarded to men and women in college sports must be within 1 percent of their athletic participation rates or one scholarship, whichever is greater.³¹

Meanwhile, in 1984, in *Grove City College v. Bell*, the Supreme Court held that Title IX only applied to school programs directly receiving federal funding—a ruling that threatened to end many of Title IX's protections for gender equity in athletics.³² In response, Congress passed the Civil

Rights Restoration Act of 1988, ensuring that an educational institution as a whole (including its athletic programs) is bound by Title IX if any part of it receives any federal funding.³³

In the decades since, courts have increasingly recognized the importance of gender equity in athletics. For example, in 1996, the First Circuit Court of Appeals found that Brown University violated Title IX when it eliminated women's teams in the face of gender inequity in the University's athletics program.³⁴ In 2004, the D.C. Circuit upheld a district court decision rejecting an association of wrestling coaches' assertion that Title IX was responsible for schools' decisions to cut men's teams.³⁵ In 2014, the Ninth Circuit affirmed rulings on behalf of a class of high school girls who brought a Title IX case based on inequities in their athletics program and retaliation for complaining about discrimination.³⁶ The Supreme Court's decision in *Jackson v. Birmingham* was also a major victory, as it held that a girls' basketball coach who complained about athletics inequality was protected from retaliation by the school district under Title IX.³⁷

More recently, federal courts have extended the Supreme Court's ruling in *Bostock v. Clayton County* to Title IX, affirming that sex discrimination includes discrimination based on sexual orientation and gender identity and that Title IX protects transgender students' equal access to restrooms and sports teams consistent with their gender identity (see **LGBTQI+ Students**).³⁸

Although these regulations, guidances, and cases demonstrate the impact Title IX has had on women's and girls' access to sports, serious inequities remain.

Recommendations

The Department of Education should:

- Review and refresh its guidances (including Dear Colleague Letters and the Investigator’s Manual³⁹) to make Title IX gender equity athletics standards easier to understand and apply in schools.
- Strengthen its efforts to enforce Title IX by initiating proactive compliance reviews at more educational institutions and providing technical assistance and guidance on emerging Title IX questions, including transgender students’ right to participate in athletics.
- Provide training to Title IX coordinators so that school staff may truly understand the law, regulations, and guidance to effectively implement gender equity across federally funded public institutions with regard to athletics (and all else).
- Utilize the Civil Rights Data Collection to collect and analyze data to help target their enforcement of Title IX’s athletic requirements, including data that will provide a greater understanding of the experience of transgender and nonbinary youth in athletics. In particular, the Department should collect data on the number of transgender and nonbinary youth who participate in sports, the incidence of bullying and harassment in sports-related space such as locker rooms, and on the prevalence of mixed-gender interscholastic teams.

- Condemn state and local governments’ attacks on LGBTQI+ students’ rights, and coordinate with the Department of Justice to submit amicus briefs in litigation challenging these harmful laws as discriminatory and affirming that Title IX prohibits anti-LGBTQI+ discrimination. This includes reiterating that transgender athletes pose no threat to girls’ and women’s sports and that anti-transgender bans detract from the real and documented issues facing girls’ and women’s sports like inadequate funding, high rates of sexual abuse, and fewer participation opportunities to play, especially for girls of color.

Congress should:

- Pass athletics transparency bills, requiring that high schools report basic data on the numbers of girls and boys who are students and athletes, as well as additional data on athletic treatment and benefits afforded to girls’ and boys’ teams.
- Instruct the Government Accountability Office to conduct a more thorough review of Title IX compliance with Congressional hearings to bring light to these critical issues.⁴⁰
- Amend the Ted Stevens Olympic and Amateur Sports Act to require the United States Olympic and Paralympic Committee reports to include demographic information regarding sexual orientation and gender identity in national governing bodies’ athletic, governance, and management activities—as well as descriptions of the programs and initiatives meant to encourage the participation of people of all sexual orientations and gender identities.

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Gender- and Race-Conscious Programs

BACKGROUND ON GENDER- AND RACE-CONSCIOUS PROGRAMS

Given the long history of discrimination against women and girls in education, under Title IX, schools can provide gender-conscious programs that are compensatory and help address barriers to equal educational opportunity by increasing women's and girls' participation in traditionally male-dominated education programs.

Women and girls, including women and girls of color, have made many strides in attending college and getting degrees, but they are a long way from truly equal representation. For example, although Latina women are 9 percent of the U.S. population, they hold only 4 percent of all bachelor's degrees, 2 percent of all computer science degrees, 3 percent of all master's degrees, and 2 percent of all doctoral degrees.¹ Similarly, although Black women are more than 7 percent of the U.S. population, they hold 3 percent of all computer science degrees, 5 percent of all master's degrees, and 3 percent of all doctoral degrees.²

In contrast, white men hold 47 percent of computer science degrees.³

Gender and racial disparities continue after graduation and in the workplace. Not only do women hold two-thirds of U.S. student debt⁴ but they—especially women of color—also have less disposable income to repay their student loans due to the gender and racial wealth gap,⁵ the wage gap,⁶ and their overrepresentation in low-paid jobs.⁷ In the legal profession, women make up 45 percent of associates but only 23 percent of partners.⁸ In medicine, women represent 40 percent of all physicians and surgeons but only 16 percent of permanent medical school deans.⁹ In higher education, women represent approximately half of administrators but less than 30 percent of top executive positions.¹⁰

Despite reaching an all-time high in 2020, women still comprise only 7 percent of Fortune 500 CEOs, and women of color only 0.6 percent.¹¹

In a world still dominated by male leaders, women and girls deserve the opportunity to gain leadership experiences through programs that empower women, help them build strong professional networks, and teach them how to navigate sexism or racism while building skills like public speaking, team building, and negotiation. Women and girls also deserve the opportunity to achieve financial equity and security through scholarships that help reduce the wealth gap and reduce inequitable student debt burdens. This is all needed to fulfill Title IX’s equity mandate.

Developments Since 1972

The Supreme Court has made several rulings affirming and limiting the use of race-conscious admissions in colleges and universities. In 1978, the Court held that race can be one of several factors in college admissions, but in 2003, it struck down as unconstitutional the University of Michigan’s point-based racially conscious affirmative action policy.¹² In 2013 and 2016, the Court issued a pair of decisions holding that race-conscious admissions policies must be narrowly tailored and use the least restrictive means possible to achieve a “compelling state interest,” and that the University of Texas’s policy of admitting the top 10 percent of each Texas high school’s graduating class, regardless of their race, satisfied these requirements.¹³ In January 2022, the Court announced it would review whether race-conscious admissions policies at Harvard University and the University of North Carolina at

Chapel Hill are legal.¹⁴ Meanwhile, there has been a relative lack of legal precedent regarding the use of gender-conscious programs in education, apart from a 2014 Supreme Court decision holding that the U.S. Constitution does not prevent states from banning gender- and race-conscious admissions in public universities.¹⁵

The Department of Education has issued both regulations and guidances on affirmative action in education. In 1975, what was then the Department of Health, Education, and Welfare issued Title IX regulations allowing schools to offer gender-conscious affirmative action programs to help overcome the effects of discrimination and other conditions that have limited the participation of women and girls in education.¹⁶ The regulations also allow schools to offer sex-specific scholarships and

DEVELOPMENTS SINCE 1972 *continued*

fellowships if they were established by a will, trust, bequest, or similar legal instrument and the financial assistance meets certain requirements.¹⁷ During the Obama administration, the Department of Education issued Title IX guidance on how postsecondary schools can offer gender-conscious programs in career and technical education (CTE) to increase participation of students in underrepresented genders in fields like nursing, advanced manufacturing, information technology, computer science, and cybersecurity.¹⁸ The Departments of Education and Justice also issued a series of joint guidances on the voluntary use of race to achieve diversity in PK–12 schools and on race-conscious admissions in postsecondary schools.¹⁹ These helped inform and build on Title VI guidance issued under the G.W. Bush administration, which had required schools to consider race-neutral alternatives to advancing diversity before considering race when assigning students to PK–12 schools and when admitting students to postsecondary schools.²⁰ The Obama administration’s Title IX and VI regulations and guidances were consistent with the Supreme Court’s repeated recognition that there is a

compelling educational interest in fostering student diversity²¹ and that public universities can use gender- and race-conscious programs to promote equal opportunity and the full development of the talents and capacities of women and girls and of students of color.²²

Under the Trump administration, the Department took a number of steps to restrict gender-conscious and race-conscious programs. For example, the Department rescinded all of the above-mentioned Obama-era Title IX²³ and Title VI guidance²⁴ and opened hundreds of investigations into school districts and postsecondary schools that offer gender-conscious programs for women and girls, ranging from “Girls Who Code” camps to women-only college scholarships.²⁵ In the final days of the Trump administration, the Department also issued a guidance on how schools can offer gender-conscious and single-sex programs that comply with Title IX, but it was archived for not complying with the agency’s internal procedures.²⁶

Recommendations

The Department of Education should:

- Issue Title IX guidance clarifying that gender-conscious affirmative action programs are permissible to address patterns of historical exclusion and discrimination and to promote educational diversity and clarifying how Title IX's affirmative action regulations interact with the regulations specific to sex-specific scholarships.
- Reissue Title VI guidance on the voluntary use of race to achieve diversity in PK-12 schools and on race-conscious admissions in postsecondary schools, to the extent possible after the Supreme Court weighs in on this issue.
- Ensure that education programs aimed at closing the racial opportunity gap address the needs of students of all genders.

- Dismiss frivolous complaints filed with the Department's Office for Civil Rights challenging gender- and race-conscious affirmative action programs, consistent with the regulations allowing affirmative action under Title IX and Title VI.

Schools should:

- Offer programs, scholarships, and other services to women and girls that seek to expand their participation in fields where they are underrepresented, while providing a gender-neutral or co-educational option if men and boys want to participate in similar activities.
- Make clear that programs limited to women and girls are open to transgender and nonbinary students on an equal basis.

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Sex-Segregated Education

BACKGROUND ON SEX-SEGREGATED EDUCATION

Sex-segregated classes, activities, and schools often rely on debunked misinformation suggesting there are neurological differences between girls and boys requiring different learning environments. In reality, this rationale for sex-segregated education is rooted in sex-based stereotypes. Nevertheless, as of 2018, nearly 800 coeducational public schools today have at least some sex-segregated programming at the PK-12 level, including

academic classes.¹ In addition, the United States has more than 130 all-girl or all-boy public schools, including public charter and magnet schools.²

School districts often rely on the works of two authors who assert benefits to sex-segregated education: Leonard Sax, a physician and psychologist who founded the National Association for Single Sex Public Education, and Michael Gurian, founder of the Gurian Institute. Both still conduct teacher trainings nationally. Sax asserts that girls' and boys' brains are hardwired differently and develop so differently

that they should be taught using different methods, such as teaching girls mathematics with concrete examples while engaging boys in abstract math.³ Gurian makes similar claims based on regressive sex stereotypes, including that: boys are better than girls in math because their bodies receive daily surges of testosterone, while girls have equivalent mathematics skills only during the few days in their menstrual cycle when they have an estrogen surge; boys are by nature abstract thinkers and so are naturally good at things like philosophy and engineering, while girls are by nature concrete thinkers; and full participation by girls in athletics is not “neurologically or hormonally realistic.”⁴

However, numerous studies by reputable neuroscientists and child development experts have debunked these claims and have consistently found that cognitive abilities and learning needs differ more *within* groups of girls and boys than *between* them.⁵ For example, the Association for Psychological Science selected six independent cognitive experts to examine sex differences in learning math and science. These experts concluded: “None of the data regarding brain structure or function suggests that girls and boys learn differently or that either sex would benefit from single-sex schools.”⁶ Research abounds supporting this conclusion and debunking claims that single-sex schooling leads to improved outcomes.⁷ In 2014, the American Psychological Association published a National Science Foundation-funded meta-analysis of 184 studies, representing testing of more than 1.6 million PK–12 students, examining the impact of sex-segregated versus coeducational schooling across a range of outcomes. The authors conclude that when proper

controls are used, studies show that sex-segregated education provides no benefits over coeducational schooling.⁸

Unfortunately, sex-segregated education programs have nevertheless proliferated in recent years. For example, in 2018, a New Jersey school district taught its teachers in a mandatory training that face-to-face seating is appropriate for girls but will promote conflict in boys; that bright lights and strong teacher voices facilitate learning for boys but elicit a stress response in girls; and that boys learn best through competitive, dynamic games, but girls flourish in a more collaborative setting.⁹ Similarly, a 2012 study found that a Virginia school district stated “[b]oys prefer reading material that is non-fiction, or if fiction, adventure oriented” whereas “girls prefer reading fiction material that does not necessarily contain much action.”¹⁰ Similarly, a Wisconsin school district collected materials that trained teachers to ask boys about literature, “What would you DO if...?” while asking girls, “How might/would you FEEL if...?” and that boys like “[b]eing ‘On Top’ ... Being a Winner!!” while girls like “[b]eing ‘Accepted’, liked, loved!!!”¹¹

Not only do these sex-segregated programs reinforce harmful gender stereotypes, but they also often fail to offer comparable subjects or teaching methods for boys and girls, provide no comparable option for students who prefer coeducation, allocate fewer (or no) resources for girls’ programs,¹² and are correlated with high race-based segregation.¹³

Developments Since 1972

Both the U.S. Constitution and Title IX include safeguards to ensure that educational programs do not classify students on the basis of sex in a discriminatory manner. One of the primary purposes of Title IX was to put an end to educational practices that separated boys and girls on the basis of societal expectations about their interests and capabilities (for example, steering girls into home economics and boys into woodshop, calculus, and physics). Title IX on its face does not permit the separation of girls and boys within coeducational schools, although its regulations have always allowed for separation for contact sports, for sex education, for chorus, and for affirmative and remedial action.¹⁴ The Constitution requires that in public schools, any gender-based classification (whether in a coeducational school or a sex-segregated school) have an “exceedingly persuasive justification” and be “substantially related” to an important governmental objective.¹⁵ The Supreme Court has limited when gender classifications by governmental actors are justified under the Constitution, noting that such classifications must be “determined through reasoned analysis rather than through the mechanical application of traditional, often inaccurate, assumptions about the proper roles of men and women.”¹⁶ The Court has further clarified that “overbroad generalizations” about the typical talents, capacities, and preferences of men and women are an impermissible basis for separation of the sexes.¹⁷ This prohibition on basing single-sex educational programs on sex stereotypes is echoed in current Department of Education guidance regarding sex separation.

The original Title IX regulations issued in 1975 essentially prohibited separation of boys and girls in any academic and vocational classes in coeducational schools, with the exception of classes intended to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex.¹⁸ (See also **Gender- and Race-Conscious Programs** and **Athletics**.¹⁹) In 2002, President G.W. Bush signed into law the No Child Left Behind Act, which contained a provision allowing the Department of Education to fund innovative sex-segregated schools and classrooms “consistent with existing law.”²⁰ In 2006, the G.W. Bush administration’s Department of Education issued Title IX regulations that allowed for some single-sex classes in coeducational schools, as well as expressly allowing for the creation of new single-sex PK–12 schools.²¹ Under the 2006 regulations, schools can exclude girls or boys from a class or extracurricular activity if that exclusion is justified by: 1) the offering of diverse educational opportunities (e.g., offering a girls-only AP Calculus class in addition to a coeducational AP Calculus class to increase girls’ enrollment in AP Calculus), or 2) a needs objective (e.g., offering a boys-only third-grade reading class to address the pattern of low reading performance among third-grade boys).²² Critically, these objectives serve as a justification only if they “do not rely on overly broad generalizations about the different talents, capacities, or preferences of either sex” and if “the single-sex nature of the class or extracurricular activity is ‘substantially related’ to achieving that objective.”²³

DEVELOPMENTS SINCE 1972 *continued*

Unfortunately, sex-segregated classes—not justified under either objective—proliferated in the immediate wake of the 2006 regulations because they were misinterpreted by non-lawyers, including educators, as allowing *all* single-sex classes. Many of these classes were based on the debunked theories of innate neurological and developmental differences between boys and girls.²⁴ Accordingly, in 2014, the Obama administration’s Department of Education issued a Title IX guidance instructing schools to offer single-sex classes and extracurricular activities sparingly and only when all of the 2006 regulatory requirements are met.²⁵ The guidance further clarified that any such classes could not incorporate the use of different teaching strategies or methods based on gender stereotypes.²⁶ While the 2014 guidance substantially clarified the rule and set forth

many barriers to establishing single-sex programs, even now most single-sex programs do not observe the proscriptions in the guidance. Recent single-sex programs for Black boys with the stated goal of remediating unmet needs and discriminatory history ignore the same history and unmet need of Black girls.²⁷

In addition to harming both girls and boys, these practices have opened schools and school districts to legal action by the Department of Education, the Department of Justice, state education and civil rights agencies, and private citizens.²⁸ The bright line of the pre-2006 regulations should be restored so that schools can focus on educating to the diversity of all students rather than creating curricula based on sex stereotypes.

Recommendations

The Department of Education should:

- Rescind the 2006 Title IX single-sex regulations and initiate enforcement efforts against sex-segregated classes and activities that rest upon and perpetuate gender stereotypes, and update relevant Title IX guidance documents to reflect this change.
- Ensure that the partial Title IX exemption for schools controlled by religious organizations is narrowly construed, so that federal funding is not used to subsidize discrimination based on sex, including sex-segregated education based on sex stereotypes.
- Continue to collect data on sex-segregated classes and schools among PK–12 students in the Civil Rights Data Collection.

RECOMMENDATIONS *continued*

Schools should:

- Look to evidence-based practices to meet the needs of all students without relying on sex stereotypes that limit learning.
- Refrain from instituting sex separation based on sex stereotypes, or for any other reason without an exceedingly persuasive justification. Furthermore, sex separation must be based on valid evidence that it will be effective in achieving a stated educational purpose, and should be instituted only as a last resort, after other methods have been attempted.
- Increase transparency by fully informing parents and families of the rationale and curricula for these programs and by making such information publicly available on the school's website.
- In addressing the racial opportunity gap, ensure that any programs benefit girls of color and boys of color equally.
- Ensure that, where Title IX compliant single-sex classes and activities are in place, transgender students are permitted to participate in classes and activities consistent with their gender identity.

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- 15 *United States v. Virginia*, 518 U.S. 515 (1996).
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- 17 *Id.* at 730.
- 18 45 C.F.R. §§ 86.3(b), 86.34 (issued in 1975 by Department of Health, Education, and Welfare). See also 34 C.F.R. §§ 106.3(b), 106.34(a).
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- 20 Pub. L. 107-110 § 5131(a)(23). This source of funding is no longer available.
- 21 34 C.F.R. § 106.34(b)-(c).
- 22 34 C.F.R. § 106.34(b)(1)(i)(A)-(B). See *infra* note 22 (2014 guidance).
- 23 *Id.*
- 24 See ACLU "Teach Kids, Not Stereotypes" Report, *supra* note 10, at 4.
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STEM and CTE

BACKGROUND ON GENDER EQUITY IN STEM AND CTE

Gender biases and sex stereotypes persist at all levels of education, and particularly hinder efforts to achieve gender equity in science, technology, engineering, and math (STEM) and career and technical education (CTE) fields. Ensuring that girls and women have equal access to STEM and CTE is critical to remaining globally competitive in a world where technological advancement is the cornerstone of innovation and to building a workforce that can meet the challenges of the future.

CTE prepares both youth and adults for a wide range of careers. These careers may require varying levels of education, including apprenticeships, industry-recognized credentials, postsecondary certificates, and two- and four-year degrees. CTE begins early and carries through higher education. It is offered in middle schools, high schools, career and technical centers, community and technical colleges, and other postsecondary institutions. Organized around 16 career clusters, those considered nontraditional¹ for women and girls at the postsecondary level include Architecture & Construction (14 percent); Information

Technology (25 percent); Manufacturing (16 percent); STEM (27 percent); and Transportation, Distribution & Logistics (14 percent).²

The gender gap that exists in the STEM workforce cannot be blamed on differences in academic preparation. Girls and boys perform similarly on national assessments in math and science exams given in middle and high school.³ However, disparities in STEM interests appear when students enroll in math and science courses in high school, with more girls taking AP exams in biology and chemistry versus physics and computer science.⁴ These disparities are also seen in the lower levels of interest girls express in pursuing college degrees in certain STEM fields, including engineering and computer science,⁵ where only 21 percent of bachelor's degrees are earned by women.⁶ A recent longitudinal study found that girls were more likely than boys to report a decrease in intentions to pursue a STEM career over the course of their high school career.⁷ Factors such as gender stereotypes held by parents and teachers and lower levels of STEM confidence and doubts about STEM competence among girls, despite their academic

achievements in math and science, continue to prevent women from pursuing STEM majors in college.⁸

Biases and stereotypes continue to plague women in college and the workplace, creating what many researchers have found to be an unwelcoming and uncomfortable environment. The climate and culture in STEM spaces, including in disciplines such as biology and chemistry, where women are not underrepresented, is often a challenge for women, who report being underestimated, underappreciated, and having their contributions ignored.⁹ Women in academic STEM workplaces are significantly underrepresented in faculty ranks, particularly in leadership roles.¹⁰ For example, in 2020, only 19 percent of tenured and tenure-track engineering faculty were women, and only 36 percent of tenured and tenure-track women faculty were classified as full professors compared to 51 percent of men.¹¹ Sexual harassment has also negatively impacted women's advancement in academic sciences, engineering, and medicine, resulting in a significant loss of talent in these fields.¹²

Developments Since 1972

Title IX has been instrumental in providing increased access to STEM and CTE courses and activities for girls and women at all levels of education.

STEM: Since Title IX's passage, federal agencies have taken measures to ensure that educational institutions are providing equal opportunities to STEM education, regardless of gender, as well as addressing inequities that exist in promotion, compensation, and access to research resources for academic faculty. One of the strongest responses to addressing inequities in STEM has been an increased focus by the National Academies

of Sciences, Engineering, and Medicine on sexual harassment and discrimination in STEM, promoting the position that ethical conduct and investigation policies among associations and federal agencies that award research grants and professional recognitions to STEM researchers and practitioners be considered as equally important as efforts to address research misconduct.¹³ Of note are the National Science Foundation and the National Institute of Health's policies that require reporting sexual harassment findings within their funded research programs on campuses, in national laboratories, and similar workplaces.¹⁴

DEVELOPMENTS SINCE 1972 *continued*

However, there are still inconsistencies across federal agencies regarding how they monitor Title IX compliance in STEM programs. The Government Accountability Office recently found that some agencies lack procedures for sexual harassment complaints and are likely mishandling complaints they do receive.¹⁵ In addition, despite the efforts of federal agencies and professional organizations to promote safe and inclusive educational spaces, many students and STEM educators still lack knowledge of their rights under Title IX. Increasing awareness of the applicability of Title IX can help to close the gender gap in STEM. Restoring and strengthening Title IX protections that keep women and girls safe and supported in their STEM educational pathways, and ensuring that they understand how to report their harassment and discrimination complaints, will help close the STEM gender gap.

CTE: CTE has a long history of sex segregation, starting in 1917 when the first Vocational Education Act was passed. Girls were only allowed to take home economics, and boys took agriculture and trade or industrial arts. Progress toward gender equity in CTE has been slow with the passage of Title IX in 1972 and all the federal vocational education acts that followed containing provisions focused on gender equity since 1978. Since 1979, the Methods of Administration Guidelines (MOA Guidelines) have required state education agencies responsible for CTE to monitor local education agencies' adherence to civil rights obligations.¹⁶ In 2020, under the Trump administration, the Department of Education's Office for Civil Rights (OCR) and Office for Career Technical and Adult Education (OCTAE) released a memo updating the MOA Guidelines to include OCTAE as a partner and to "harmonize their civil rights compliance activities under the MOA Guidelines with their equity and civil rights activities under the 2018 Perkins Act reauthorization."¹⁷ In 2016, under the Obama administration, the Department of Education issued a guidance document on how schools can comply with their legal obligations to

remedy sex discrimination in CTE programs, including regarding recruitment and promotional activities, admissions, counseling, pregnancy and parental status, and sex-based harassment.¹⁸ However, the Trump administration rescinded this guidance in 2020, creating confusion among schools about the supports and strategies they could be implementing to support the inclusion of women and girls in CTE.¹⁹

The current federal law that funds CTE is the Strengthening Career and Technical Education for the 21st Century Act of 2018 (Perkins V). Perkins V includes many provisions that support gender equity in CTE, including, most importantly, an accountability measure that requires states and localities to increase the percentage of "concentrators"—high school and postsecondary students of the underrepresented gender who have taken a minimum number of courses in a nontraditional CTE program.²⁰ Progress over the past 10 years has been steady in some fields and stagnant in others, pointing to gender equity as a continuing problem in CTE and STEM.

CTE programs that lead to nontraditional careers for women hold tremendous potential for shrinking the wage gap. Women continue to be clustered in the lowest-paying occupations, making economic self-sufficiency impossible to achieve, especially for single parents.²¹ COVID-19 has only exacerbated this problem with women, particularly women of color, facing higher rates of job loss than men in 2020.²² The promise of Title IX was to expand opportunity in CTE by ending discrimination and expanding career choices for all students regardless of sex. Unfortunately, the social stereotypes and stigmas that our culture continues to reinforce has not fulfilled this promise (see [Sex-Segregated Education](#)). Systemic barriers and implicit bias based on gender, race, disability, class continue to play out in schools and colleges. The hurdles that women face keep them from achieving their full earning potential, with implications for the nation's economy as a whole.

Recommendations

The federal agencies, including the Department of Education, should:

- Coordinate with all federal agencies that enforce Title IX (e.g., Department of Education, Department of Labor, Department of Energy, National Science Foundation, Health and Human Services) to ensure women and girls do not face harassment or discrimination as students, researchers, or instructors in STEM and CTE and that their discrimination complaints are adequately addressed.
- Restore the 2016 CTE guidance clarifying that under Title IX, schools can provide targeted programming to women in fields where they're underrepresented, including STEM, even if those disparities cannot be traced to specific instances of unlawful discrimination.
- Include data in the Department of Education's Civil Rights Data Collection and other federal data collections on the participation of women and girls in STEM and CTE programs, disaggregated by race, disability, and other demographic categories.
- Ensure that the OCTAE is adequately supporting states to: 1) collect and make publicly available accurate enrollment, concentrator, and accountability data that is disaggregated and cross-tabulated by gender, race, and each of the special populations as required in Perkins V; 2) set rigorous accountability targets for increasing women's and girls' participation in nontraditional CTE programs; 3) report on any equity gaps in participation and performance on the State-determined levels of performance; and 4) develop comprehensive improvement plans to address any identified gaps.
- Conduct research on the implementation of the MOA Guidance under the new partnership that OCR has made with OCTAE to determine if this is leading to more rigorous adherence to civil rights laws and remedying of sex discrimination in CTE.
- Ensure that women are fairly awarded support for STEM research from federal research agencies.

Schools should:

- Strive to attract and retain women in apprenticeship and pre-apprenticeship programs in construction, skilled trades, and other fields with high projected skill shortages by targeting recruitment efforts, training, and support systems to their needs.
- Invest and support implementation of programs that engage students in exploring nontraditional careers that lead to their participation in CTE.
- Conduct professional development with educators at all levels to create equitable learning environments and school culture that supports underrepresented student access and success in STEM and CTE.

Congress should:

- Increase federal investments in research on effective strategies for increasing girls' and women's participation and achievement in STEM and nontraditional CTE programs.
- Encourage more equitable access to public and private capital that nurtures innovation in STEM and CTE.
- Increase federal funding for research into sexual harassment and gender harassment in the STEM workforce, including the skilled trades, as well as interventions to reduce occurrences and address the negative consequences of harassment.

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- 4 College Board, *Program Summary Report (2020)*, <https://secure-media.collegeboard.org/digitalServices/pdf/research/2020/Program-Summary-Report-2020.pdf>.
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- 13 *Id.* at 83.
- 14 E.g., National Science Foundation, *Stop Harassment*, <https://www.nsf.gov/od/oecr/harassment.jsp>; National Institutes of Health, *For NIH Awardee Organizations and Those Who Work There* (last updated Sept. 17, 2018), <https://www.nih.gov/anti-sexual-harassment/nih-awardee-organizations-those-who-work-there>.
- 15 Government Accountability Office, *Sexual Harassment in STEM Research: Agencies Have Taken Actions, but Need Complaint Procedures, Overall Plans, and Better Collaboration* (Mar. 19, 2020), <https://www.gao.gov/products/gao-20-187>.
- 16 Department of Education, *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs* (Mar. 21, 1979), 34 C.F.R. § 100, App’x B.
- 17 Department of Education, *Updated Procedures for Preparing the Methods of Administration (MOA) Described in the Vocational/Career and Technical Education Guidelines* (Feb. 6, 2020), <https://www2.ed.gov/about/offices/list/ocr/letters/memo-20200206-moa.pdf>.
- 18 Department of Education, *Dear Colleague Letter on Gender Equity in Career and Technical Education* (issued June 15, 2016; rescinded Aug. 26, 2020), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201606-title-ix-gender-equity-cte.pdf>.
- 19 *Id.*
- 20 20 U.S. Code § 2302(12).
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Title IX Coordinators

BACKGROUND ON TITLE IX COORDINATORS

Under Title IX, organizations that receive federal financial assistance and that offer education programs and activities (“recipients”) are required to designate and employ at least one Title IX Coordinator to identify, resolve, prevent, and eliminate sex discrimination. Title IX Coordinators, commonly called Title IX Compliance Officers or Gender Equity Coordinators, are responsible for coordinating the recipient’s compliance with Title IX in academics, athlet-

ics, facilities, employment, testing, career guidance, rules of conduct, benefits, and all other aspects of education programs and activities. Title IX Coordinators are required in all school districts and their individual PK-12 schools, all state education agencies (SEAs), all public postsecondary institutions, and most private postsecondary institutions, as well as a wide range of other institutions, such as libraries, museums, scientific labs, health facilities, and prisons. They often work with other civil rights coordinators with responsibilities for ending discrimination on the basis of race, color, national origin, disability, age, or religion. They

should be the lynchpins and catalysts in educating all education stakeholders in addressing and preventing sex discrimination.

Unfortunately, students in many of the 98,000 PK–12 public schools in the United States do not have a Title IX Coordinator. In 2016, the Department of Education collected and published contact information for over 23,000 Title IX Coordinators in school districts and postsecondary institutions.¹ However, based on the number of public schools, school districts, postsecondary institutions, etc. in the United States, there should be over 100,000 Title IX Coordinators in U.S. schools. The contact information for Title IX Coordinators is

also notoriously difficult to find, even on the recipient organizations' websites.² The Department of Education's Civil Rights Data Collection (CRDC) is one way that the Department now reminds school districts to employ district level Title IX Coordinators and to make their contact information publicly available (<https://ocrdata.ed.gov>). The Department's Office of Postsecondary Education used to provide contact information on Title IX Coordinators in each postsecondary school in connection with its Campus Safety and Security Survey (CSS), but this information no longer seems to be available on that website (<https://ope.ed.gov/campussafety>).

Developments Since 1972

Title IX Coordinators were first required in the original 1975 Title IX regulations.³ During the first 20 years in which Title IX was in force, Title IX Coordinators worked successfully to end many policies and practices that overtly discriminated on the basis of sex in schools. Their work was often supported by funding that created networks of Coordinators, who became gender equity leaders in their states, school districts, and postsecondary institutions. They trained teachers and administrators and developed proactive strategies to advance gender equity. For example, a former state Title IX Coordinator in Connecticut ensured that all Connecticut school districts designated both a district-wide Title IX Coordinator and school-level Title IX Coordinator at each school. He also listed these Title IX Coordinators on the state's education agency website so the public could easily find help. Connecticut continues to provide workshops to train Title IX Coordinators and finds that when these practices are implemented, complaints fall dramatically.⁴

However, much of that infrastructure support has since disappeared, even as inequities persist, and the complexities of ending sex discrimination increase. Many educational institutions neglect to designate or allocate funding for qualified Title IX Coordinators. Few states provide active leadership or training to their Title IX Coordinators. A 2018 study of 118 school districts in California and Colorado found that many school districts did not include any information about their Title IX Coordinator on their websites and that district office personnel could not readily provide this information when they were called.⁵ Of the eight Title IX Coordinators interviewed, the majority reported that Title IX-related tasks accounted for very little of their time (less than 1 percent in many cases), that few had received Title IX training, and that they did not train school-level Title IX Coordinators in their school districts.⁶ Several Coordinators noted that initially they did not even know Title IX work was a part of their job and that this responsibility was not clear in their job descriptions.⁷

DEVELOPMENTS SINCE 1972 *continued*

Meanwhile, Title IX Coordinators and their allies face new challenges, as addressing sex discrimination in education programs and activities has become more complicated over the last 50 years due to:

- Different interpretations of the role of governments and schools, including new (and sometimes inconsistent) federal, state, and local laws and policies.
- More nuanced understandings of sex discrimination, including discrimination on the basis of sexual orientation and gender identity.
- Recognition of intersectional discrimination, *i.e.*, discrimination on the basis of sex combined with race, color, national origin, English language ability, disability, age, religion, and/or socioeconomic status, etc.
- Discrimination being less likely to be in the form of facially discriminatory policies and thus more difficult to assess.
- Major changes in patterns of sex differences in higher education enrollment, with women now making up the significant majority of undergraduates and the majority of students in some traditionally male graduate programs, such as law schools; this shift has led some to wrongly conclude that women no longer face meaningful sex discrimination in education.
- Additional state and federal laws that broaden understandings and/or coverage of protections against sex discrimination, such as the Violence Against Women Acts and State Equal Rights Amendments.

Over the last few decades, the Department has issued Title IX guidance instructing schools about their duties with respect to Title IX Coordinators. In 2004, the Department under the G.W. Bush administration reminded school districts, postsecondary institutions, and state education agencies (SEAs) to appoint Title IX Coordinators and publish grievance procedures for resolving complaints of sex discrimination.⁸ The Department also detailed the responsibilities of Title

IX Coordinators in specific Title IX guidances on other topics, such as athletics, vocational education, and sexual harassment. In 2013, the Obama administration's Department began requiring school districts to report the contact information of their Title IX Coordinators and other Civil Rights Coordinators in the 2013–14 CRDC.⁹ In 2015, the Department under the Obama administration issued a resource guide instructing schools to give Title IX Coordinators appropriate authority, independence, and support to: develop, revise, and implement policies and procedures related to Title IX compliance; assist in surveys on school climate; monitor sex discrimination in education programs and activities; and provide training and technical assistance to the school community regarding sex discrimination to ensure that students and staff are aware of their Title IX rights and responsibilities.¹⁰ However, the Trump administration rescinded this guidance in 2020.¹¹ The Trump administration also issued helpful instructions to Title IX Coordinators, such as recordkeeping requirements for Title IX Coordinators in the otherwise flawed 2020 Title IX regulations, which the Biden administration plans to replace.¹²

Congress has taken a number of steps to support Title IX Coordinators. In 1974, Congress funded the Women's Educational Equity Act (WEEA). It also funded state Sex Equity Coordinators to manage vocational education sex equity programs under the Perkins Vocational Education Acts.¹³ Currently, Senator Mazie Hirono and Representative Doris Matsui have introduced the Gender Equity in Education Act (GEEA), which would establish an Office for Gender Equity in the Department of Education and launch a comprehensive national strategy grounded in support for Title IX Coordinators.¹⁴ Other key GEEA provisions include providing technical assistance and annual training to Title IX Coordinators, developing a handbook for Title IX Coordinators to conduct self-evaluations of Title IX compliance, identifying and disseminating information and evidence-based best practices for reducing and preventing sex discrimination, and maintaining an Office for Gender Equity Resource Center website.

Recommendations

The Department of Education should:

- Restore and strengthen the rescinded 2015 Title IX guidance on the appointment and responsibilities of Title IX Coordinators at all levels, including encouraging school districts to have a Title IX Coordinator at each school (rather than only at the school district level), requiring school district Title IX Coordinators to train and assist any local school-based Title IX Coordinators, and providing instructions to Title IX Coordinators on how they can work more collaboratively with other equity coordinators, gender equity experts, and stakeholders using advisory groups or other structures.
- Ensure the Title IX Coordinators database is updated for school districts (<https://ocrcas.ed.gov/civ-rtis-coordinators>) and ensure a similar database is publicly available for postsecondary institutions. Revise the CRDC and CSS to collect and report information on Title IX Coordinators not only in all school districts and postsecondary institutions but also in individual PK-12 schools and at SEAs. As soon as possible create a public and free national Title IX Coordinator database to identify, recognize, and communicate with all 100,000+ Title IX Coordinators.
- Provide additional guidance, training, research, resources, tools, technical assistance, protection against retaliation, and other support to Title IX Coordinators, and encourage them to adopt more proactive, preventative strategies, including working with other gender equity experts and advocates, instead of relying on reactive compliance-driven strategies. This includes identifying and training over 100,000 Title IX Coordinators, with special attention to Title IX Coordinators in public PK-12 schools.

- Establish an Office for Gender Equity in the Department of Education (even before Congress passes GEEA) to oversee vigorous implementation of Title IX; provide resources to Title IX Coordinators and their allies, including through a federal gender equity website; and expand the Department's policy, research, and evaluation functions to address sex discrimination in all aspects of education.
- Provide guidance on how Title IX Coordinators in states and local governmental entities should work together and with their allies to implement Title IX, related federal nondiscrimination laws, and complementary state and local laws and policies. This includes inviting Title IX Coordinators to be active participants in the Biden administration's new National Gender Equity Infrastructure¹⁵ and to share information via (1) vertical networks between SEAs, school districts, and individual schools; and (2) horizontal networks between schools and with community members and other gender equity experts.

Congress should:

- Pass the Gender Equity in Education Act (S.2186 and H.R. 4097), which would establish a gender equity infrastructure led and supported by a new Office for Gender Equity in the Department of Education and would authorize \$800 million over the next five years to support Title IX Coordinators.¹⁶
- Pass other legislation which would help Title IX Coordinators fully implement Title IX and related gender equity goals, including the Stop Sexual Harassment in K-12 Act¹⁷ and Supporting Survivors of Sexual Harassment in Schools Act,¹⁸ both which would require school districts to hire an adequate number of Title IX Coordinators.

- 1 Feminist Majority Foundation, *Reinvigorating the Role of the Title IX Coordinator: A Requirement and Resource* (2016), <https://feminist.org/wp-content/uploads/2020/06/Title-IX-Coordinators-Summary-9-19-16-1.pdf>.
- 2 Feminist Majority Foundation, *State & Large School District Title IX Gender Equity Coordinators, Methods of Administration Coordinators & Other State & District Level Gender Equity Experts 2* (last updated Oct. 2019), <https://feminist.org/education/pdfs/State-TitleIX-Coordinators.pdf>.
- 3 45 C.F.R. § 86.6 (issued by Department of Health, Education, and Welfare in 1975); see also 34 C.F.R. § 106.8 (issued by Department of Education in 1980). This same provision is included in the Title IX 2000 Common Rule, which applies to other Federal agencies. 65 Fed. Reg. 52857 (Aug. 30, 2000).
- 4 See Connecticut State Department of Education, *Title IX Coordinators*, <https://portal.ct.gov/SDE/Title-IX/Title-IX-Coordinators>.
- 5 Elizabeth J. Meyer et al., Title IX coordinators as street-level bureaucrats in U.S. schools: Challenges addressing sex discrimination in the #MeToo era, 26 *Educ. Pol'y. Analysis Archives* 68, at 20 (2018), <https://epaa.asu.edu/ojs/index.php/epaa/article/view/3690>.
- 6 *Id.* at 2, 8.
- 7 *Id.* at 8, 14.
- 8 Department of Education, *Title IX Grievance Procedures, Postsecondary Education* (Aug. 4, 2004), https://www2.ed.gov/about/offices/list/ocr/responsibilities_ix_ps.html; Department of Education, *Title IX Grievance Procedures, Elementary and Secondary Education* (Apr. 26, 2004), https://www2.ed.gov/about/offices/list/ocr/responsibilities_ix.html.
- 9 Feminist Majority Foundation, *Reinvigorating the Role of the Title IX Coordinator: A Requirement and Resource* 5-6 (2016), <https://feminist.org/wp-content/uploads/2020/06/Title-IX-Coordinators-Summary-9-19-16-1.pdf>.
- 10 Department of Education, *Dear Colleague Letter on Title IX Coordinators* (issued Apr. 24, 2015; rescinded Aug. 26, 2020), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>; Department of Education, *Title IX Resource Guide* (issued Apr. 24, 2015; rescinded Aug. 26, 2020), <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>.
- 11 *Id.*
- 12 34 C.F.R. § 106.45(b)(10). See also Mid-Atlantic Equity Consortium, Inc., *Title IX Coordinator Roles and Responsibilities* (last visited Apr. 15, 2022), <https://maec.org/resource/title-ix-coordinators-roles-and-responsibilities>.
- 13 See Margaret A. Nash, Susan S. Klein & Barbara Bitters, *Handbook for Achieving Gender Equity through Education*, Ch. 5: The Role of Government in Advancing Gender Equity in Education (2007), <https://feminist.org/wp-content/uploads/2020/06/5-Role-of-Government.pdf>.
- 14 Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act of 2021, S.2186 and H.R. 4097, 117th Cong. (2021).
- 15 White House, *Fact Sheet: National Strategy on Gender Equity and Equality* (Oct. 22, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/22/fact-sheet-national-strategy-on-gender-equity-and-equality>.
- 16 Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act of 2021, S.2186 and H.R.4097, 117th Cong. (2022). See also Letter from Feminist Majority Foundation and 117 Gender Justice Organizations to Linda Darling-Hammond, Director of the Biden-Harris Education Transition Team (Jan. 8, 2021), <https://feminist.org/wp-content/uploads/2021/01/Office-for-Gender-Equity-ltr-1-8-21.pdf>; Letter from National Coalition for Women and Girls in Education to Biden-Harris Education Transition Team (Dec. 17, 2020), <https://nwlc.org/wp-content/uploads/2020/12/NCWGE-member-letter-to-Biden-12.17.20-signed.pdf>.
- 17 H.R. 8290, 116th Cong., (2020).
- 18 H.R. 8193, 116th Cong. (2020).





TITLE IX AT 50

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