



September 20, 2017

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Ave., SW
Washington, D.C. 20002

RE: Docket ID: ED-2017-OS-0074

Dear Secretary DeVos:

We write to you today on behalf of the National Coalition for Women and Girls in Education (NCWGE), a coalition of more than 30 organizations dedicated to improving educational opportunities for women and girls. Founded in 1975, the coalition remains a major force in the development and enforcement of national education policies, including Title IX of the Education Amendments of 1972.¹ Together, we join to offer our views in response to the notice posted in the Federal Register on June 22, 2017. The notice is in accordance with Executive Order 13777 “Enforcing the Regulatory Reform Agenda” and the request for input on regulations that may be appropriate for repeal, replacement, or modification. Our comments represent the perspectives of a diverse group of organizations supported by experts in their particular fields charged with the mission of developing and enforcing national education policies that benefit all students and advance strategies that will ensure educational equity.

NCWGE opposes any effort by this administration to repeal, replace, or modify any of Title IX’s regulations or guidance documents pursuant to this Executive Order. For students, the costs associated with violations of their civil rights far outweigh the burden of compliance with the regulations and guidance. We also urge the U.S. Department of Education to maintain rigorous enforcement of these particular provisions.

The Office for Civil Rights at the U.S. Department of Education is tasked with enforcing Title IX, the federal law that prohibits sex discrimination in education, as well as its regulations and guidance. This vital law affects all areas of education, including: recruitment, admissions and housing; pregnant, and parenting students; science, technology, engineering, and math (STEM) education; sexual harassment and assault; career and technical education programs; and athletics. It requires recipients of federal education funding to evaluate their current policies and practices, adopt and publish a policy against sex discrimination, and implement grievance procedures providing for prompt and equitable resolution of student and employee discrimination complaints. NCWGE rejects any effort to repeal, replace, modify, or undermine the protections

guaranteed by Title IX pursuant to this Executive Order, with particular attention to the following guidance documents and issue areas:

Sexual Harassment and Assault:

Sexual harassment and assault negatively affect students' well-being and their ability to succeed academically. Title IX, its regulations, and its guidance ensure schools have the information and tools necessary to protect students from this form of sex discrimination and they must be maintained.

Supreme Court rulings have established that sexual harassment and assault of students constitutes discrimination on the basis of sex and violates Title IX. Despite the protection of the law and greater attention to this problem in recent years, sexual and gender-based harassment remain pervasive in K–12 schools and on college campuses. While sexual harassment and assault disproportionately affect girls and women, boys and men also face this issue, and lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) students are particularly vulnerable. Moreover, when one student or group of students faces harassment or violence, it can create a hostile environment that undermines learning for all students.

Bullying and other forms of sexual harassment are prevalent in K–12 schools. Recent surveys have found that although girls face harassment more frequently than boys, both male and female students are affected in large numbers. LGBTQ students face some of the highest rates of harassment. Harassment can have serious emotional consequences for these students; it can also cause educational problems such as difficulty concentrating on schoolwork, absenteeism, and poor academic performance.² Recognizing and addressing sexual harassment in schools is essential for providing a safe and respectful learning environment in which all students can thrive. In addition, when students understand that sexual harassment is unacceptable we would expect to see a reduction in the number of post-secondary incidents.

Sexual harassment is also prevalent on college campuses and can prevent students from receiving the full social and academic benefits of higher education. Creating a campus environment that is free from bias and harassment is important both for ensuring success in education and for shaping the attitudes and behaviors that will govern the nation's future workforce and broader society. A research report from AAUW, *Drawing the Line: Sexual Harassment on Campus*, found that sexual harassment on campus is widespread, yet often goes unreported. Both women and men say that harassment affects their education, including by making them avoid places on campus, finding it hard to study or pay attention in class, halting participation in a sport or activity, or skipping or dropping classes.³ In addition, research shows that incidents of sexual harassment and its most extreme form, sexual assault, are shockingly widespread on college campuses nationwide.⁴

Title IX's regulations and guidance are critical to informing schools of their role in addressing and preventing sexual harassment and assault. OCR's guidance document in 2010 specified that Title IX prohibits sex-based bullying and harassment that interferes with a student's education. A 2011 guidance document from OCR notes the seriousness of sexual harassment, including sexual violence, and spells out Title IX's procedural requirements for schools in responding to reported incidents. In addition, OCR's 2014 Q&A document addresses numerous procedural

issues, including concerns such as balancing the rights of those involved and avoiding undue administrative burdens. The 2015 Title IX Resource Guide details how these school officials, including Title IX coordinators, should handle the school's obligation to end sexual harassment and violence. NCWGE urges the U.S. Department of Education to preserve and fully enforce all of Title IX's regulations and guidance that ensure students can pursue their educations free from sexual harassment and violence.

Preserve Women and Girls' Access to Career and Technical Education:

Title IX, its regulations, and guidance are critical to increasing the number of women in career and technical education (CTE) fields nontraditional to their gender. For women and girls, continuing to miss out on educational opportunities in CTE fields has a real cost. The regulations and guidance provided by the U.S. Department of Education on CTE has been well accepted by the field and has clarified legislative meaning and implementation. It has also helped set standards for states that create an environment of comparability. In particular, this is critically important for guidance that impacts equity and accountability in CTE. NCWGE urges the U.S. Department of Education to preserve and enforce Title IX guidance regarding CTE.

CTE programs prepare both youth and adults for a wide range of careers. These careers may require varying levels of education, including industry-recognized credentials, postsecondary certificates, and two- and four-year degrees. Today, male students continue to predominate in courses that lead to many high-skill, high-wage jobs, while female students make up the majority in the low-wage, low-skill programs. While women made up only one quarter of participants in science, technology, engineering, and math programs nationally, their participation in manufacturing programs are much lower. Women in manufacturing currently represent 14 percent of participants at the secondary level and 11 percent at the postsecondary level. Only 15 percent of women at the secondary level and 10 percent at the postsecondary level were enrolled in architecture and construction programs, and 9 percent and 8 percent of women were represented in transportation, distribution, and logistics programs, respectively.⁵

Removing barriers to female enrollment in CTE is a key step towards increasing access to high-skill, high-wage jobs and closing the pay gap. Given worldwide demand for workers with the technical skillset, increasing female participation in CTE, particularly in fields nontraditional to their gender, is unlikely to come at the expense of their male counterparts. Rather, increasing the total pool of skilled workers will help keep the United States competitive and benefit the economy as a whole. Encouraging gender equity in CTE will also reduce barriers for men seeking entry into fields traditionally occupied by women workers, including high-growth areas such as nursing and other medical professions. Ensuring equitable participation in CTE by eliminating discriminatory practices and increasing the engagement of women and girls has important implications for all students.

Title IX has and continues to play a critical role in countering gender bias and sex stereotyping in CTE and expanding opportunities for women. Title IX, its regulations, and the guidance related to CTE must be retained in full to ensure that states and locals continue to implement strategies to close employment gender gaps. They must also be retained to ensure the collection of comparable data as required in the Carl D. Perkins Career and Technical Education Act. The

U.S. Department of Education must preserve, enforce, and maintain Title IX's regulations and guidance regarding CTE.

Preserve Women and Girls' Access to Science, Technology, Engineering, and Math (STEM):

Title IX, its regulations, and its guidance are critical to increasing women and girls' access to science, technology, engineering, and math (STEM). For students who miss out on the opportunity to pursue STEM fields the costs associated with sex discrimination are real. Since the passage of Title IX, women have made significant gains in STEM at both the secondary and postsecondary levels. Yet despite these achievements, progress has not been uniform across disciplines. Government

education statistics show that in fields like biology, psychology, and chemistry, women now make up close to, or more than, half of those receiving bachelor's or postgraduate degrees. At the same time, participation rates of women and girls in secondary and postsecondary technical fields, particularly engineering and computer science, are still very low.⁶ While women and girls' successes in STEM can be attributed to Title IX, studies indicate that there are still many issues within STEM education that are preventing us from reaching gender equity, including:

- **Gender bias and stereotypes:** Ensuring equal access to STEM education can increase the overall participation in STEM fields and combat the cultural factors, such as the stereotype that boys are better at math than girls, that are affecting girls' and women's decisions to enter and stay in STEM. As learning environments have become more open since Title IX went into effect, we have seen the gender gap in mathematical achievement closing.⁷
- **Gaps in women's pursuit of technical education in college:** Across all levels of higher education, women earn more degrees in life sciences, but far fewer in engineering and computer science. Women's share of degrees in engineering has remained relatively flat since 2000, while their share of computer science degrees has been declining.⁸
- **Low numbers of women in STEM faculty ranks:** Though the share of women in all faculty ranks in STEM has increased since the passage of Title IX, women are still less likely than men to be promoted to full professorship, receive tenure status, or enter academic leadership roles such as deans and department chairs. Research has found that women who have children are 29 percent less likely to enter a tenure-track position than women who do not, while men with children see little effect on their ability to attain promotions or tenure.⁹
- **Gaps in the STEM workforce:** Women currently make up 47 percent of the total U.S. workforce, but only 25.5 percent of STEM workers.¹⁰ In engineering, women made up only 15 percent of engineers in 2015, while in computer science, less than 25 percent are women.¹¹

If women and underrepresented groups joined the STEM workforce in proportion to their representation in the overall labor force, the STEM worker shortage would disappear.¹² Closing the gender gap in STEM can be done through continued compliance, monitoring, and enforcement of Title IX regulations, including:

- Increasing awareness of schools' responsibilities under Title IX by disseminating and publicizing the guidelines for Title IX coordinators. This will help Title IX coordinators and other school personnel to oversee compliance more effectively and ensure equitable access to STEM education.
- Ensuring that all federal science agencies are conducting Title IX and STEM reviews, including tracking grant awards, to ensure that grantee institutions are providing equal opportunities for women and girls in STEM. By enforcing Title IX, these agencies can confirm that educational institutions are providing equal access in STEM to all students, and that higher education institutions are supporting equitable advancement opportunities to STEM faculty, particularly in areas of research and grants.

Title IX begins to address biases and stereotypes that exist at all levels of STEM education and has had a positive impact in increasing gender equity in certain STEM fields. NCWGE urges the U.S. Department of Education to preserve and enforce Title IX and its regulations and guidance related to STEM. Continued efforts to ensure compliance of Title IX regulations will help attract and retain more girls and women in STEM while meeting the growing need for more qualified STEM workers, increase the diversity of thought as well as its leadership, and make the United States more economically competitive in the global marketplace.

Level the Playing Field by Maintaining Title IX Guidance on Athletics:

Title IX, its rules, regulations, and guidance are critical to the success of student athletes. The passage of Title IX prompted exponential growth in girls' and women's access to school sports opportunities. In 1971-72, girls received less than 300,000 high school sports opportunities and 30,000 collegiate sports opportunities. Since the passage of Title IX, that number has since skyrocketed to more than 3.3 million participants in high school and nearly 215,000 participants in college.¹³

While there is pride to take in the progress made, we must not forget that inequities still persist. Although high school girls have made great strides, high school female athletes in 2015-16 have yet to reach the level of boys' pre-Title IX participation numbers. Female athletes lag behind their male counterparts in current participation rates by more than 1.2 million fewer opportunities.¹⁴ However, this is not for lack of interest. Girls across the country have proven time and time again that they are interested in sports. In fact, girls' high school participation rates have increased every year since the 1988-89 school year.¹⁵ Not only do participation inequities exist when looking at the country as a whole, girls of color are especially disadvantaged by both their gender and race. An analysis by the National Women's Law Center illustrates the disparity faced by girls of color, finding that heavily minority schools have fewer sports offerings than heavily white schools and 40 percent of heavily minority schools versus 16 percent of heavily white schools, have large gaps between girls' representation in student body versus their proportional representation in the athletic body.¹⁶

Title IX, its rules, regulations, and guidance, including the three-part test that evaluates schools' compliance with the requirement to provide equal participation opportunities, ensure that our schools have concrete and tangible ways to comply with the law. They are essential to ensuring equitable access to athletics and unleash the full potential of all of our children. Title IX has done great things for our society but inequities persist for our girls. NCWGE urges the U.S.

Department of Education to preserve and enforce Title IX as well as the current rules, regulations, and guidance that break down barriers towards equitable access to athletics to ensure our country is able to fulfill its promise of equal educational experience for all.

Maintain Enforcement of Title IX Regulations for Pregnant and Parenting Students:

Title IX, its rules, regulations, and guidance are critical to the protection and success of pregnant and parenting students. Title IX's implementing regulations prohibit discrimination on the basis of a student's "actual or potential" parental, family, or marital status or "pregnancy, childbirth, termination of pregnancy, or recovery therefrom." Title IX's protections help individual students and also advance broader economic objectives. When pregnant and parenting students are able to stay in school with full educational opportunity, they are more likely to pursue and attain career opportunities, stay out of poverty, and provide for their families.

Despite these legal protections, pregnant and parenting students often face discrimination in school. Recently, the U.S. Department of Education Office for Civil Rights (OCR) and legal groups have received and acted upon complaints from pregnant and parenting students, including some students who were denied the opportunity to make-up work or complete school-sponsored internships, penalized for absences resulted from medically necessary bed rest, or retaliated against for challenging discriminatory policies.

Barriers to education lead many pregnant and parenting students to leave school, derailing their career prospects and making it more difficult for them to provide for their families. This is true for young fathers as well as young mothers. Studies show that only 51 percent of women who had been teen mothers earn their high school diplomas by age 22; and according to a nationwide survey, parenthood was a factor in leaving school for one-third of male students who dropped out.¹⁷

In 2013, OCR issued guidance that reinforces Title IX's statutory protection of pregnant and parenting students. The guidance shows how educational institutions can best comply with Title IX, offering straightforward examples of how the law governs activities both in and outside of the classroom including: class attendance; excused absences; make-up work; tutoring or other accommodations; breast milk expression; school activities; and scholarships.

Because discrimination against pregnant and parenting students is still widespread—and education institutions benefit from the clear, explanatory guidance issued by OCR in 2013—NCWGE urges the U.S. Department of Education to preserve and enforce the provisions of the implementing regulations aimed at preventing discrimination against pregnant and parenting students and to maintain the 2013 guidance that helps educational institutions do so.

Maintain Guidance for Title IX Coordinators to Ensure Equity in Education

Title IX Coordinators play a critical role in overseeing Title IX compliance and ensuring gender equity in education.

By law, every recipient of federal funds for education programs or activities must designate at least one employee as a Title IX coordinator. These individuals are accountable for ensuring that schools address the full scope of Title IX and therefore play a vital role in protecting all students,

both male and female, from unlawful sex discrimination in school. In practice, many education entities fail to meet the most basic requirement of having a Title IX coordinator in place. Lack of proper training, authority, and systemic support are persistent issues for Title IX coordinators. Many Title IX coordinators are also unaware of the full scope of their work and focus exclusively on gender equity in athletics, the most well-known aspect of Title IX. In an investigation of alleged Title IX violations at more than 100 schools, the U.S. Department of Education's Office for Civil Rights (OCR) found that many had not designated a Title IX coordinator.¹⁸ OCR noted that some of the most "egregious and harmful" Title IX violations occur when schools fail to have a Title IX coordinator in place, or when a Title IX coordinator does not have the training or authority to oversee compliance.¹⁹

The 2015 Title IX Resource Guide and corresponding Dear Colleague letter on Title IX Coordinators outlined both the obligations and recommendations for schools to maximize compliance. They also emphasize the importance of making Title IX coordinators accessible to the school community. As the issues surrounding equity in education continue to evolve in ways that affect both male and female students, the need for designated staff to oversee Title IX compliance is higher than ever. By continuing to address sex discrimination, Title IX coordinators can help safeguard education opportunities for all students at a time when education is becoming increasingly important for achieving economic and social stability. The Title IX Coordinators guidance has provided strong reinforcement of mandated responsibilities. The lack of strong federal guidance in other areas of education leaves students vulnerable and schools uncertain about how best to comply with Title IX. The 2015 Title IX Coordinator guidance and Dear Colleague letter has helped education institutions, their communities, and Title IX Coordinators understand their roles and responsibilities as it relates to Title IX enforcement. NCWGE urges the U.S. Department of Education to maintain and enforce the provisions of the guidance documents aimed at ensuring equity in education.

Single-Sex Education:

Title IX, its rules, regulations, and guidance are critical to ending educational practices that supported sex-segregated learning environments on the basis of gender stereotypes about interests and capabilities. In 2006, the U.S. Department of Education revised its Title IX regulations to narrowly allow some single-sex classes and more single-sex schools. Since then, many single-sex programs that have been implemented have been rooted in purported hard-wired differences in male and female brains as well as overly broad generalizations about the talents, capacities and preferences of boys and girls. These include stereotypes such as: boys need active, loud environments focused on abstract thinking skills and girls need quiet activities that emphasize concrete thinking or boys should read adventure novels while girls should read romances. These are the very stereotypes that Title IX was intended to root out. Organizing a curriculum around these assumptions makes it less likely that the classroom will meet the varying learning needs of all students and keeps both girls and boys from learning the full range of skills necessary for future success in school, work and life. This discriminatory treatment runs afoul of both the clear language of Title IX and the current regulations.²⁰

The 2006 regulations are brief and need to be read together with the preamble to the Federal Register Notice in which they were announced to be properly understood. Indeed, the U.S. Department of Education expressly adopted the preamble and regulations as a guidance

document. “Elementary and Secondary Education Act; Implementation; Single-Sex Classes and Schools; Guidelines.”²¹ However, it was apparent that some school districts did not understand the regulations, or received advice about the meaning of the 2006 regulations that was erroneous. Schools were “led astray” by pseudoscience regarding purported differences between male and female brains, and by individuals selling their services as experts in single-gender education.²²

The Dear Colleague letter issued by the OCR on December 1, 2014, responded to frequently asked questions about the 2006 regulations, reiterating the requirements of those regulations and their preamble in plainer language without changing their import. The Guidance has contributed significantly to proper enforcement of both the 2006 regulation and of Title IX itself. NCWGE urges the U.S. Department of Education to retain the 2014 Guidance, which is essential for educators who seek to understand the Department’s regulations in this area. NCWGE also urges the U.S. Department of Education to maintain the 2015 guidance on Voluntary Youth Service Organizations, which helps clarify schools’ Title IX obligations when working with these exempt organizations.

Students deserve, and the law requires, a U.S. Department of Education that is working to protect all students from discrimination and to provide for equal educational opportunity. Title IX’s regulations and guidance documents, and continued enforcement of the law, are critical to making students’ rights real. If you have any questions, please contact me at 202/785-7724 or Pam Yuen at 202/785-7712.

Sincerely,



Chair
National Coalition for Women and Girls in Education

¹ National Coalition for Women and Girls in Education affiliate organization are listed at: <http://www.ncwge.org/affiliates/html>. Many affiliate organizations have submitted comments regarding the Department of Education’s request for information. Each individual organization may take a different position regarding the specifics of items discussed in these comments.

² D. J. Chesire, Test of an Integrated Model for High School Sexual Harassment (doctoral dissertation), 2004. Available from Proquest Dissertations and Theses database (UMI No. 3196663).

³ AAUW. (2006). Drawing the Line: Sexual Harassment on Campus. <http://history.aauw.org/aauw-research/2006-drawing-the-line>.

⁴ Kingkade, Tyler. (2014). “Sexual Assault Statistics Can Be Confusing, but They’re Not the Point.” http://www.huffingtonpost.com/2014/12/15/sexual-assault-statistics_n_6316802.html.

⁵ National Coalition for Women and Girls in Education. (2017). *Career and Technical Education: A Path to Economic Growth*. <http://www.ncwge.org/TitleIX45/Career%20and%20Technical%20Education.pdf>.

⁶ National Coalition for Women and Girls in Education. (2017). *Title IX: Advancing Opportunity Through Equity in Education*. <http://www.ncwge.org/TitleIX45/Women%20and%20STEM.pdf>

⁷ American Mathematical Society. (2012). *Debunking Myths About Gender and Mathematics Performance*. <http://www.ams.org/notices/201201/rtx120100010p.pdf>.

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- ⁸ National Science Foundation. (2014). *Undergraduate Education, Enrollment, and Degrees in the United States*. <https://www.nsf.gov/statistics/seind14/index.cfm/chapter-2/c2s2.htm>.
- ⁹ National Coalition for Women and Girls in Education. (2017). *Title IX at 45: Advancing Opportunity Through Equity In Education*. <http://www.ncwge.org/TitleIX45/Women%20and%20STEM.pdf>.
- ¹⁰ Ibid.
- ¹¹ Ibid.
- ¹² Congressional Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development. (2000). *Land of Plenty: Diversity as America's Competitive Edge in Science, Engineering, and Technology*. www.nsf.gov/pubs/2000/cawmset0409/cawmset_0409.pdf.
- ¹³ National Federation of State High School Associations. (2016). *2015-16 Athletics Participation Summary*. http://www.nfhs.org/ParticipationStatistics/PDF/2016-17_Participation_Survey_Results.pdf.
- ¹⁴ Ibid.
- ¹⁵ National Collegiate Athletic Association. (2016). *NCAA Sports Sponsorship and Participation Rates Report 1981-82 – 2015-16*. <http://www.ncaapublications.com/productdownloads/PR1516.pdf>.
- ¹⁶ National Women's Law Center. (2015). *Finishing Last: Girls of Color and School Sports Opportunities*. https://nwlc.org/wp-content/uploads/2015/08/final_nwlc_girlsfinishinglast_report.pdf.
- ¹⁷ U.S. Bureau of Labor statistics, (1997). *National Longitudinal Survey of Youth*. <https://www.bls.gov/nls/nlsy97.htm/>.
- ¹⁸ Inside Higher Ed. (2015). *Title IX Coordinators Required*. <https://www.insidehighered.com/news/2015/04/27/education-department-reminds-colleges-hire-title-ix-coordinators>.
- ¹⁹ U.S. Department of Education Office for Civil Rights. (2015). *Dear Colleague Letter on Title IX Coordinators*. <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.
- ²⁰ See National Coalition for Women and Girls in Education. (2017). *Title IX at 45: Advancing Opportunity Through Equity In Education*. <http://www.ncwge.org/TitleIX45/Single%20Sex%20Education.pdf>.
- ²¹ 72 Fed. Reg. 32083 (June 11, 2007).
- ²² See *Doe v. Wood County Bd. of Educ.*, 888 F.Supp.2d 771, 779 (S.D.W.Va. 2012); Galen Sherwin and Christina Brandt-Young, American Civil Liberties Union (2012). *Preliminary Findings of ACLU Teach Kids, Not Stereotypes*. https://www.aclu.org/files/assets/doe_ocr_report2_0.pdf.