



## ALGBTIC, AMCD, CSJ, and ASERVIC Joint Statement in Response to the Proposed Erasure of Transgender Identity by the Health and Human Services (HHS) Department

On October 21, 2018, the New York Times reported that the United States Department of Health and Human Services is considering the creation of a legal definition of gender, which would define one's gender as "male or female based on immutable biological traits identifiable by or before birth" (Green, Benner, & Pear, 2018). Furthermore, according to the NYT article, the HHS argued in a leaked memo that other government agencies should also adopt this "explicit and uniform definition of gender." This definition of gender as a binary, immutable, and biological sex would erase the experiences and identities of transgender, gender non-binary, and other trans-identified/gender variant individuals, who have gender identities different from what they were assigned at birth based on biological sex characteristics. Currently, Title IX of the Education Amendments of 1972 protects people from discrimination in education and federal aid on the basis of sex, though there is not currently a specific and definitive interpretation of the word "sex" in this statute. As a result, the Obama administration greatly expanded the rights of sexual/affectional minority and transgender individuals through Title IX protections. The proposed change would greatly reduce or eliminate protections for transgender individuals by narrowing the scope of how we define gender identity.

The change proposed by HHS could prevent federal agencies, such as the Departments of Labor, Justice, and Education, from considering acts against transgender persons as acts of discrimination. As noted in the NYT article, the proposed change would prevent the federal government from recognizing an estimated 1.4 million transgender American citizens (Flores, Herman, Gates, & Brown, 2016). Erasure of an entire demographic group can prevent them from accessing resources, which may present barriers to their physical, psychological, mental, and emotional wellbeing. If federal agencies accept the new definition, there may also be ramifications for the economic security and physical safety of transgender people in this country. Furthermore, by erasing transgender identities in the public sphere, we further stigmatize transgender and gender variant people and pathologize their identities.

Meyer's (2003) minority stress theory argues that social stressors, such as those presented by discrimination and lack of access on the basis of identity, are associated with poor physical and mental health outcomes. Transgender people are already at significantly greater risk for suicidal ideation and attempts. In a survey conducted by the National Center for Transgender Equality, 41% of transgender and non-binary people reported suicide attempts in their lifetime, with rates rising for those who lost a job due to bias (55%), were harassed/bullied in school (51%), had low household income, or were the victim of physical assault (61%) or sexual assault (64%). HHS's proposed change could allow for greater employment discrimination and contribute to a culture of transphobia, both of which may increase psychological distress and the risk of suicide attempts and ideation as noted above.

ALGBTIC, AMCD, CSJ, and ASERVIC resolutely oppose and refute the proposed change to the definition of sex in regard to Title IX and subsequent proposed adoption by federal agencies. Because of the potential barriers presented to human growth and development that would be exacerbated by these changes, all counselors should stand against efforts to stigmatize people who are already forced to exist in the margins.

Because of the risks associated with the proposed change, our organizations call upon professional counselors to act. First, review the ALGBTIC counseling competencies for Transgender Individuals (2010) and other LGBQQIA Individuals (2013). In our counseling work, we should ensure that we are affirming of our clients' gender identities and expressions. However, we must also move outside of the counseling environments. We must contact our state and federal legislators and ask that they introduce and support legislation that protects transgender people from discrimination. The *ACA Code of Ethics* (2014) dictates that we must advocate when we see barriers to client growth and development (Standard A.7.a, Section C Introduction), such as the barriers proposed by the HHS memo. Organizations that support transgender and non-binary people, such as the Trans Lifeline (<https://www.translifeline.org/>), the National Center for Transgender Equality (<https://transequality.org/>), Lambda Legal (<https://www.lambdalegal.org/>), the World Professional Association for Transgender Health (<https://www.wpath.org/>) and the Transgender Law Center (<https://transgenderlawcenter.org>) are important resources from which we can all receive information, support, and evidence-based practices. Giving financially and volunteering time to these organizations are excellent ways to support the communities under attack by this memo, and any subsequent legislation that is proposed.

Our organizations view this memo as a violent attack on the transgender, non-binary, other trans-identified, and intersex communities. We wholeheartedly agree with Kris Hayashi of the Transgender Law Center when he states that this administration cannot undermine the civil liberties of these communities, nor can it remove the court victories these communities have seen in recent years. We need your help for this to be true. As individuals and as a profession, we must oppose anti-transgender legislation and ballot measures wherever they appear. We must advocate on behalf of transgender, non-binary, and intersex communities within the counseling room and beyond. We offer our full support to both counselors and clients who are transgender, non-binary, or intersex. We vow to fight with you and for you against the hateful attacks by an administration determined to erase your existence and undermine your freedom.