



July 18, 2017

[Name and Address of State Dep't  
of Educ. Title IX Coordinator]

Dear [Name] \_\_\_\_\_:

Because we have a strong interest in ensuring that our country's schools provide a safe and nondiscriminatory environment for all students, Public Justice, the National Women's Law Center, Lambda Legal, and the 47 undersigned organizations and individuals write to ask that you take all necessary and appropriate steps to ensure that schools in [State] are acting in accordance with federal law and the U.S. Constitution to provide all students—including transgender students—with equal educational opportunities.

Title IX of the Education Amendments of 1972 ("Title IX") prohibits sex discrimination in schools. It provides that "[n]o 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." Under Title IX, schools may not legally exclude, separate, or deny educational benefits to transgender students, nor treat transgender students differently than any other student.

Courts have repeatedly ruled that transgender students are protected from discrimination under Title IX and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Specifically, courts have established that schools must treat students consistent with their gender identity and cannot deny transgender students access to bathrooms and other single-sex facilities that correspond with their gender identity.

In May of 2016, the U.S. Departments of Justice and Education issued [guidance](#) to assist schools in protecting transgender students from discrimination and complying with their obligations under Title IX. The guidance responded to requests by schools across the country for assistance on how to provide equal educational opportunities to transgender students consistent with schools' obligations under Title IX. The guidance did not make new law.

On February 22, 2017, the Trump administration withdrew this guidance, taking away an important resource and creating confusion for schools across the country. We are concerned that the withdrawal of the Title IX guidance might lead some schools to believe that transgender students are not entitled to access bathrooms or other single-sex facilities consistent with their gender identity, or that the law or their obligations under Title IX to protect transgender students have somehow changed. That is simply not the case.

Schools that discriminate against transgender students, such as by denying them access to bathrooms and other single-sex facilities that correspond with their gender identity or failing to protect transgender students from harassment, are violating Title IX and the Constitution's Equal Protection Clause. Schools are obligated to protect transgender students in compliance with the law, regardless of whether they face legal recourse from the federal government. And when

schools fail to comply with the law, they will continue to be subjected to lawsuits filed by and on behalf of aggrieved students.

As the Title IX Coordinator for [State's] Department of Education, you are responsible for ensuring that Title IX is enforced in [State's] schools to protect all students, including transgender students. Of course, schools have more than a legal obligation to treat transgender students equitably; they also have an ethical obligation. All students, regardless of their identities, deserve to learn and thrive.

As many schools throughout the country have already done successfully and without incident, [State's] schools must protect transgender students from discrimination, bullying, and harassment to ensure that transgender students have equal access to education, as required by Title IX, the Equal Protection Clause, and nondiscrimination laws in 14 states and the District of Columbia.

We stand ready to assist and support you. At a time when transgender students are less likely to graduate and more likely to suffer violence and severe physical and emotional injuries, and when too many students are taking their own lives, we share your goal of ensuring that all students receive an education in a safe, supportive, and nondiscriminatory environment where they can learn and thrive.

Sincerely,

Public Justice  
National Women's Law Center  
Lambda Legal

Joined by:

American Association of University Women  
Anurima Bhargava, former Chief of the Educational Opportunities Section of the U.S.  
Department of Justice's Civil Rights Division, and Leadership in Government Fellow at the  
Open Society Foundations  
Atlanta Women for Equality  
Brian Pappas, Assistant Professor of Public Policy and Administration, Boise State University  
California Women's Law Center  
Catharine A. MacKinnon, Elizabeth A. Long Professor of Law, University of Michigan Law  
School, The James Barr Ames Visiting Professor of Law (since 2009), Harvard Law School  
(schools for identification only)  
Champion Women  
David S. Cohen, Professor of Law, Drexel University, Thomas R. Kline School of Law  
Diane Klein, Professor of Law, University of La Verne College of Law  
Diane Rosenfeld, Lecturer on Law and Director of Gender Violence Program, Harvard Law  
School  
Equality NC  
Equal Rights Advocates  
GLSEN  
Human Rights Campaign

Jamie R. Abrams, Associate Professor, University of Louisville Brandeis School of Law  
Jennifer A. Brobst, Assistant Professor, Southern Illinois University School of Law  
Jill C. Engle, Professor of Clinical Law, Penn State Law  
John E. Bonine, B.B. Kliks Professor of Law, University of Oregon School of Law  
Judith E. Koons, Professor of Law, Dwayne O. Andreas School of Law, Barry University  
Kathryn M. Stanchi, Jack E. Feinberg Professor of Litigation, Temple University, Beasley  
School of Law  
Know Your IX  
Legal Aid at Work  
Legal Voice  
Linda Berger, Family Foundation Professor of Law, UNLV Boyd School of Law  
Lynne Henderson, Professor Emerita, UNLV Boyd School of Law (institution listed for  
identification purposes only)  
Marcia L. McCormick, Professor of Law and of Women's and Gender Studies, Saint Louis  
University  
Marie A. Failinger, Professor of Law, Mitchell Hamline School of Law  
M. Isabel Medina, Ferris Family Distinguished Professor of Law, Loyola University New  
Orleans College of Law  
Margaret M. deGuzman, Professor, Temple University Beasley School of Law  
Michele Landis Dauber, Frederick I. Richman Professor of Law, Stanford Law School  
Michelle A. Travis, Professor of Law, University of San Francisco School of Law  
Nadia B. Ahmad  
Nancy Chi Cantalupo, Lead Consultant, Project on Improving Campus Student Conduct  
Processes for Domestic, Dating, Sexual and Stalking Violence, American Bar Association  
Commission on Domestic & Sexual Violence  
Nancy E. Dowd, Professor and David Levin Chair in Family Law, University of Florida Levin  
College of Law  
National Center for Transgender Equality  
National LGBT Bar Association  
Professor Leigh Goodmark, Director of Gender Violence Clinic, University of Maryland Carey  
School of Law  
Professor Margaret Drew, Human Rights at Home Clinic, UMass Law School  
Rosemary Salomone, Kenneth Wang Professor of Law, St. John's University  
Susan Bryant, Professor of Law, CUNY School of Law  
SurvJustice  
Taylor Flynn, Professor of Law, Western New England School of Law  
The Trevor Project  
True Colors Fund  
Unity Coalition/Coalición Unida  
Victim Rights Law Center  
Women's Law Project