



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 6, 2021

Dear Students, Educators, and other Stakeholders,

Ensuring equal access to education for all students—from pre-K through elementary and secondary schools and postsecondary institutions<sup>1</sup>—is at the heart of our mission in the Department of Education’s (Department) Office for Civil Rights (OCR).

Yet sex discrimination, including sexual harassment, which encompasses sexual violence, continues to threaten equal access for students of all ages. Experiencing sex discrimination in any form can derail a student’s opportunity to learn, participate, and thrive in and outside of the classroom, including in extracurricular activities and other educational settings. For this reason, schools have a critical responsibility to combat discrimination based on sex under Title IX of the Education Amendments of 1972 (Title IX).<sup>2</sup>

This letter provides important information about steps the Department is taking to carry out President Joseph R. Biden’s recent *Executive Order on Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity*.<sup>3</sup> This Executive Order builds on a commitment made by Congress to our nation’s students nearly fifty years ago, when it enacted Title IX to prohibit sex discrimination in Federally funded education programs and activities.

The Executive Order provides:

[A]ll students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, which encompasses sexual violence, and including discrimination on the basis of sexual orientation or gender identity.

It also recognizes that students sometimes experience multiple forms of discrimination at once, including based on race, disability, and national origin, and that LGBTQ+ students are subject to

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<sup>1</sup> The term “schools” in this letter refers to all recipients of Federal financial assistance that operate education programs and activities, including school districts, colleges, and universities.

<sup>2</sup> 20 U.S.C. § 1681 *et seq.* (1972).

<sup>3</sup> Exec. Order 14021, 86 Fed. Reg. 13,803 (March 11, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-03-11/pdf/2021-05200.pdf>.

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*The Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

sexual harassment, including sexual violence, at significant rates.<sup>4</sup>

### *Immediate Action: OCR's Comprehensive Review and Guiding Principles*

OCR is responsible for and fully committed to enforcing Title IX's protections and is taking immediate action in light of this Executive Order. Specifically, as the Executive Order requires, OCR is undertaking a comprehensive review of the Department's existing regulations, orders, guidance, policies, and any other similar agency actions, including the amendments to the Department's Title IX regulations that took effect on August 14, 2020, titled "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance" (the 2020 amendments).<sup>5</sup>

This comprehensive review includes gathering feedback, as described in more detail below. This feedback will enable OCR to determine whether changes or additions to the Department's Title IX regulations and any related agency actions may be necessary to fulfill the Executive Order and the Department's commitment to ensuring equal and nondiscriminatory access to education for students at all educational levels. This feedback will also supplement the more than 124,000 written comments OCR received in connection with the rulemaking process for the 2020 amendments.<sup>6</sup>

Throughout this review process, OCR will be guided by our responsibility to ensure that schools are providing students with a nondiscriminatory educational environment, including appropriate supports for students who have experienced sexual harassment, including sexual violence, and other forms of sex discrimination. This responsibility includes ensuring that schools have grievance procedures that provide for the fair, prompt, and equitable resolution of reports of sexual harassment and other sex discrimination, cognizant of the sensitive issues that are often involved. Our focus in implementing the Executive Order is also on ensuring, through the steps set out below, that students who have experienced discrimination based on sexual orientation or gender identity have their legal rights fully met.

### *Upcoming Public Hearing*

OCR seeks to hear from as many interested parties as possible. We recognize that many students, parents, teachers, faculty members, school staff, administrators, and other members of the public have important insights to share on the issue of sexual harassment in school environments, including sexual violence, and discrimination based on sexual orientation and gender identity. To facilitate this sharing of views, the Department plans to hold a public

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<sup>4</sup> Addressing discrimination against LGBTQ+ students is also a top priority of this Administration. As one of his first actions in office, President Biden issued the *Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*. Exec. Order 13988, 86 Fed. Reg. 7,023 (Jan. 25, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01761.pdf>. This Executive Order makes clear that "[c]hildren should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports."

<sup>5</sup> 85 Fed. Reg. 30,026 (May 19, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-05-19/pdf/2020-10512.pdf>.

<sup>6</sup> The Department also received comments on Title IX during the rulemaking for the Final Rule on Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities, 85 Fed. Reg. 59,916 (Sept. 23, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-23/pdf/2020-20152.pdf>.

hearing in which students, educators, and others with interest and expertise in Title IX will be able to participate by offering oral comments and written submissions. OCR expects to announce the dates and times for this hearing in the coming weeks. More information regarding this public hearing, including dates, times, and how to register to participate and speak, will be published on the News Room section of OCR's website (<https://www.ed.gov/ocr/newsroom.html>) and in a forthcoming Federal Register notice.

*Forthcoming Q&A*

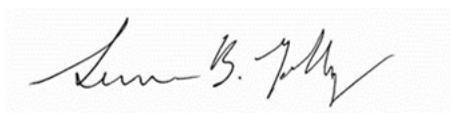
At this time, the Department's Title IX regulations, as amended in 2020, remain in effect.<sup>7</sup> To assist schools, students, and others, OCR plans to issue a question-and-answer document in the coming months. The purpose of this Q&A document will be to provide additional clarity about how OCR interprets schools' existing obligations under the 2020 amendments, including the areas in which schools have discretion in their procedures for responding to reports of sexual harassment.

*Notice of Proposed Rulemaking (Anticipated)*

After hearing from the public and completing its review of the Department's current Title IX regulations and other agency actions, OCR anticipates publishing in the Federal Register a notice of proposed rulemaking to amend the Department's Title IX regulations. This notice will provide individuals, organizations, schools, and other members of the public with an additional opportunity to share insights and views through a formal notice-and-comment period.

OCR looks forward to hearing from you throughout this process. Thank you for your efforts to ensure equal educational opportunities for all of our nation's students.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne B. Goldberg", is centered on a light gray background.

Suzanne B. Goldberg  
Acting Assistant Secretary for Civil Rights

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<sup>7</sup> The Department's Title IX regulations were first issued in 1975, reissued in 1980, and then amended after that, including in 2006 and 2020. For the current regulations, please see 34 C.F.R. Part 106, which is available at [https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title34/34cfr106\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title34/34cfr106_main_02.tpl).