



December 17, 2020

To President-Elect Biden and Vice President-Elect Harris's Transition Team:

As a diverse group of advocates and experts for gender equity in education who are members of the National Coalition of Women and Girls in Education (NCWGE), we are grateful for President-Elect Biden's and Vice President-Elect Harris's demonstrated record of promoting gender justice. We look forward to working with the Biden-Harris administration to promote gender equity in education, and the undersigned members of NCWGE write to offer our immediate and longer-term recommendations regarding how the new administration can accomplish this.

**1. Establish an Office for Gender Equity in the Department of Education and appoint diverse gender equity experts to key administration positions.**

First and foremost, the Biden-Harris administration should quickly establish an Office for Gender Equity within the Department of Education, reporting to the Secretary, in order to ensure full implementation and enforcement of Title IX, with a focus on protecting the rights of women and girls of color, expectant and parenting students, LGBTQ students, students with disabilities, and English language learners. This office would provide leadership in undoing many of the harms caused to students' civil rights protections over the last few years and will also assist with implementation of many of the gender equity priorities detailed below in this letter.

The Office for Gender Equity in the U.S. Department of Education is not a new idea. The Office and its Director, the Special Assistant for Gender Equity, have been a key part of the current and previous versions of the Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act (GEEA, H.R. 3513, S.1964) since 2016. The administration has also been authorized to appoint a Special Assistant for Gender Equity since the 1994 amendments to the Department of Education Organization Act.<sup>1</sup>

The Biden-Harris administration should immediately establish the Office for Gender Equity and appoint a Special Assistant for Gender Equity as its Director, even before GEEA is passed in the next Congress. A centralized Office for Gender Equity would allow the Biden-Harris administration to coordinate activities within the Department of Education and among other federal agencies to combat all forms of sex discrimination, including those which disproportionately affect women and girls because of their race, color, national origin, sexual orientation, gender identity, disability, or pregnancy and parenting status. The Office for Gender Equity is needed right away to provide leadership in undoing the harms of the previous administration, which weakened protections against sex discrimination, and to establish an effective system to fully implement Title IX, including the many priorities discussed in the rest of this letter.

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<sup>1</sup> 20 U.S.C. § 3412(b)(3) (authorizing the Secretary of Education to appoint a Special Assistant for Gender Equity); *see also* Improving America's Schools Act of 1994, H.R. 6, 103rd Cong. § 271 (1994) *see also* Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act of 2019-20, H.R. 3513, S.1964, 116th Cong. (designating the Director of the Office for Gender Equity as the Special Assistant for Gender Equity).

The administration should also ensure that the Special Assistant for Gender Equity and other key personnel—such as members of the White House Council on Gender Equity, Domestic Policy Council, and Council of Economic Advisors—are a diverse set of highly qualified experts on gender equity.

## **2. Counteract the effects of COVID-19 on gender equity in education.**

Although the COVID-19 pandemic has dramatically changed students' educational experiences in many ways, it has not changed the fact that students continue to be harmed by sex discrimination, from early childhood through college and beyond. For example, students continue to face sexual harassment, sexual violence, dating violence, and stalking from other students or school employees, both on campus and in online classrooms.<sup>2</sup> Girls of color, in particular Black girls, continue to face disproportionate discipline for minor and/or subjective offenses, which have resulted in virtual suspensions, police contact, and even juvenile detention.<sup>3</sup> LGBTQ youth and other marginalized groups are at a higher risk for cyberbullying as well as isolation within an unsupportive family.<sup>4</sup> Pregnant and parenting students do not receive adequate accommodations or support to help them balance caregiving responsibilities with schoolwork and, in many cases, a part-time or full-time job during the pandemic.<sup>5</sup>

To counteract these and other forms of sex discrimination, the Biden-Harris administration should issue guidance to Title IX Coordinators and schools addressing students' civil rights protections during remote instruction and ensuring that the educational careers of student parents are not irreparably harmed by the COVID-19 pandemic. The administration should also urge Congress to provide a massive infusion of resources to stabilize state education budgets and support students. This funding is particularly important to ensure that marginalized groups, particularly women and girls of color, women and girls with disabilities, and LGBTQ youth, do not bear the brunt of learning loss and discrimination. The impact of COVID-19 on these students is two-fold: the harm of weathering current threats while the majority of students are out of the classroom and the risk of long-term negative effects as a result. The Biden-Harris administration should act quickly so that the mounting strains on education funding, including depleted resources for staffing, do not make it increasingly harder for schools to adequately combat discrimination and provide the services that all students need to succeed.

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<sup>2</sup> E.g., Rich Barlow, *Pandemic Has Led to a Dramatic Increase in Students Seeking Help Says BU's New Sexual Assault Response & Prevention Center Director*, BU TODAY (Sept. 8, 2020), <http://www.bu.edu/articles/2020/pandemic-has-led-to-a-dramatic-increase-in-students-seeking-help-says-bus-new-sexual-assault-response-prevention-center-director>.

<sup>3</sup> E.g., Jaclyn Peiser, *A Black seventh-grader played with a toy gun during a virtual class. His school called the police.*, WASHINGTON POST (Sept. 8, 2020), <https://www.washingtonpost.com/nation/2020/09/08/black-student-suspended-police-toy-gun/>; Jodi S. Cohen, *A Teenager Didn't Do Her Online Schoolwork. So a Judge Sent Her to Juvenile Detention.*, PROPUBLICA (July 14, 2020), <https://www.propublica.org/article/a-teenager-didnt-do-her-online-schoolwork-so-a-judge-sent-her-to-juvenile-detention>.

<sup>4</sup> Amy Green & Myeshia Price-Feeney, Harvard Medical School, Center for Primary Care, *LGBTQ Youth Face Unique Challenges Amidst COVID-19* (Aug. 18, 2020), <http://info.primarycare.hms.harvard.edu/blog/lgbtq-youth-challenges-covid-19/>; The Trevor Project, *How COVID-19 Is Impacting LGBTQ Youth* (Aug. 2020), [https://www.thetrevorproject.org/wp-content/uploads/2020/10/Trevor-Poll\\_COVID19.pdf](https://www.thetrevorproject.org/wp-content/uploads/2020/10/Trevor-Poll_COVID19.pdf).

<sup>5</sup> National Women's Law Center, *Higher Education, Recession, and COVID-19: What Students and Student Borrowers Need from a Federal Stimulus Package* (Apr. 2020), <https://nwlc.org/resources/higher-education-recession-and-covid-19-what-students-and-student-borrowers-need-from-a-federal-stimulus-package>.

### **3. Restore and strengthen Title IX protections against sexual harassment.**

Sexual harassment is widely prevalent yet underreported in both PreK-12 and higher education. For example, one in five girls ages 14-18 have been kissed or touched without their consent,<sup>6</sup> and one in four women are sexually assaulted in college,<sup>7</sup> but only 2 percent of girls ages 14-18<sup>8</sup> and 12 percent of college women<sup>9</sup> who are sexually assaulted report the incident to their schools. Yet when students do report sexual harassment, they are often ignored, disbelieved, or even punished by their schools. Despite the need for better responses to sexual harassment in schools, the previous administration has instead taken numerous steps to weaken civil rights protections against this harassment, including by creating a new harmful Title IX rule that requires schools to ignore many incidents of sexual harassment and to adopt uniquely unfair and retraumatizing procedures in sexual harassment investigations.

On day one, the Biden-Harris administration should suspend enforcement and implementation of this new Title IX harassment and religious exemption rule and announce its plans to engage in rulemaking addressing sexual harassment to revisit and amend this rule. The new rulemaking should be informed by a nationwide listening tour with students and survivors in both PreK-12 and higher education, with a particular focus on Black students, Indigenous students, and other students of color; undocumented students; LGBTQ students; students with disabilities; and students who are English learners. Pending new rulemaking, the Department of Education should issue interim guidance clarifying Title IX's protections against sexual harassment by drawing from key portions of earlier sexual harassment guidances and including additional clarification regarding COVID-19 related issues.

In addition, the Department of Education should strengthen protections for student survivors by:

- Establishing a White House Task Force and new grant programs to address sexual harassment in schools and requesting at least \$260 million to double the budget for the Office for Civil Rights (OCR) in FY 2022;
- Supporting key federal legislation, including the Stop Sexual Harassment in K-12 Act (H.R. 8290), Supporting Survivors of Sexual Harassment in Schools Act of 2020 (H.R. 8193), reauthorization of the Higher Education Act of 1965 with robust anti-sexual harassment protections in colleges and universities, and reauthorization of the Violence Against Women Act; and
- Improving the accuracy and reliability of data on sex-based harassment in the Civil Rights Data Collection (CRDC) and of data on sexual assault, dating violence, domestic violence, and stalking in the Campus Safety and Security Survey (CSS).

### **4. Restore and strengthen Title VI and Title IX to protect Black, Latinx, and Indigenous women, girls, and LGBTQ children from discriminatory discipline.**

Women, girls, and LGBTQ children who are Black, Latina, or Indigenous are more likely to be disciplined and pushed out of school than their white peers, because of pernicious race- and sex-based stereotypes. For example, nationwide, Black girls are almost six times more likely to be suspended from school than white girls, Indigenous girls are almost three times as likely, and Latina girls are

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<sup>6</sup> 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>.

<sup>7</sup> AAU, *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct*, ix (Oct. 15, 2019) [hereinafter AAU Campus Climate Survey], <https://www.aau.edu/key-issues/campus-climate-and-safety/aau-campus-climate-survey-2019>.

<sup>8</sup> NWLC Sexual Harassment Report, *supra* note 6, at 2.

<sup>9</sup> AAU Campus Climate Survey, *supra* note 7, at A7-27.

more than 1.5 times as likely—often for minor and subjective offenses.<sup>10</sup> Girls of color, especially Black girls, and LGBTQ students of color are also more likely to be targeted and disciplined for violating dress codes based on race- and gender-based stereotypes.<sup>11</sup> Yet the previous administration rescinded critical Title VI guidance on racially discriminatory discipline that provided important protections to all students.. Additionally, the previous administration’s aggressive immigration raid and deportation policies<sup>12</sup> enforced by ICE have created a school-to-deportation pipeline that affects immigrant students, many of whom come from Latinx communities. Section 287(g) agreements, which establish local law enforcement partnerships with ICE, have led to massive displacement of Latinx students.<sup>13</sup> To restore and strengthen Title VI and Title IX protections against discriminatory discipline, the Biden-Harris administration should:

- Issue an executive order that prohibits the use of federal funds to hire or retain law enforcement in schools, limits Section 287(g) agreements to foreclose immigration raids in schools, and directs 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;
- Restore the 2014 discipline guidance, and update it to clarify that actions by school-based police may violate Title VI under a disparate impact theory and that the presence of higher concentrations of school-based police in schools with higher populations of students of color may violate Title VI;
- Release new guidance outlining Title VI and Title IX protections against intersectional race- and gender-based discrimination;
- Initiate rulemaking under Title IX and Title VI to prohibit discriminatory dress and grooming policies in schools; and
- Initiate rulemaking to update the Title VI disparate impact rule to include discriminatory discipline and distribution of educational resources.

##### **5. Strengthen protections for pregnant, expectant, and parenting students.**

More than one in five (22 percent) students in college are parents,<sup>14</sup> and in 2015, 2.2 percent of teens aged 15-19 gave birth.<sup>15</sup> Due to hostile attitudes and policies concerning young parents, including Title IX violations, this population faces unique barriers in enrolling, attending, and succeeding in school. Only 51 percent of women who have children as teenagers obtain a high school diploma by age 22, compared to 89 percent of their peers.<sup>16</sup> In higher education, nearly half (44 percent) of student parents work full-time while enrolled, and nearly one quarter (23 percent) are both single parents and working

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<sup>10</sup> National Women’s Law Center, *Let Her Learn: A Toolkit to Stop School Pushout for Girls of Color* 1 (2016), <https://nwlc.org/resources/let-her-learn-a-toolkit-to-stop-school-push-out-for-girls-of-color>.

<sup>11</sup> National Women’s Law Center, *Dress Coded: Black girls, Bodies, and Bias in DC Schools* (2018), <https://nwlc.org/resources/dresscoded>.

<sup>12</sup> See Caroline Scown, *Countering the Effects of Trump’s Immigration Policies in Schools*, CTR. FOR AM. PROGRESS (May 3, 2018), <https://www.americanprogress.org/issues/education-k-12/news/2018/05/03/450274/countering-effects-trumps-immigration-policies-schools>.

<sup>13</sup> A 2019 Stanford University study found that over 300,000 Hispanic K-12 students disenrolled after ICE partnerships were established in their schools between 2000 and 2011. The study also acknowledges the dramatic increase in these partnerships during the previous administration and suggests that the “. . . current educational, economic, and social costs may be even more severe.” Thomas S. Dee & Mark Murphy, *Vanished Classmates: The Effects of Local Immigration Enforcement on School Enrollment*, 57 AM. EDUC. RESEARCH J. 694, 715-16 (2020).

<sup>14</sup> U.S. Government Accountability Office, *Higher Education: More Information Could Help Student Parents Access Additional Federal Student Aid* 9 (Aug. 2019), <https://www.gao.gov/assets/710/701002.pdf>.

<sup>15</sup> U.S. Department of Health and Human Services, Centers for Disease Control & Prevention, National Center for Health Statistics, *NCHS Data Brief, Continued Declines in Teen Births in the United States* (2015) 1, <https://www.cdc.gov/nchs/data/databriefs/db259.pdf>.

<sup>16</sup> Kate Perper et al., *Child Trends Fact Sheet: Diploma Attainment Among Teen Mothers* (2010), [http://www.childtrends.org/Files//Child\\_Trends-2010\\_01\\_22\\_FS\\_DiplomaAttainment.pdf](http://www.childtrends.org/Files//Child_Trends-2010_01_22_FS_DiplomaAttainment.pdf).

full-time while enrolled.<sup>17</sup> Despite these responsibilities, parenting college students tend to have higher GPAs than their non-parenting peers.<sup>18</sup> And having a child can be a motivating factor for students who were previously disengaged from school.<sup>19</sup> Institutional barriers and lack of support, however, 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.<sup>20</sup> To ensure that pregnant, expectant, and parenting students are able to succeed in school, the Biden-Harris administration should:

- Issue guidance to ensure that the education of student parents is not irreparably harmed by the COVID-19 pandemic, including issuing federal guidance relaxing standards that establish Satisfactory Academic Progress for financial aid eligibility, encouraging remote options for the federal work-study program, ensuring that student parents have financial assistance and technology needed for remote learning regardless of their documented status, and encouraging schools to adopt penalty-free leave policies for students with caregiving responsibilities;
- Issue comprehensive Title IX regulations for lactation, pregnancy, and reproductive health accommodations, including specifically requiring schools to provide an appropriate non-bathroom space and breaks for students to breastfeed or express breast milk;
- Work with Congress to pass comprehensive COVID relief that includes at least \$57 billion to stabilize child care programs and to swiftly introduce and pass legislation that provides the public funding and structural changes needed to achieve high-quality, affordable child care and early learning for all, which both ensure that student parents can find and afford the child care they need;
- 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, and urge Congress to explicitly include pregnant and parenting students in the definition of “disconnected students”; and
- Ensure that religious exemptions are narrowly construed, so federal funding is not used to subsidize discrimination based on sex, including pregnancy or parenting status.

## **6. Fully enforce Title IX protections for LGBTQ students.**

LGBTQ students face especially high rates of discrimination in school, including being denied equal access to school facilities and facing unsafe and hostile school environments. Students who face anti-LGBTQ discrimination or victimization are three times more likely to miss school in a given month, have lower grade point averages, have lower self-esteem, and are half as likely to plan to pursue higher education.<sup>21</sup> Yet one of the previous administration’s first actions was to rescind the 2016 guidance addressing transgender students’ rights. However, the Supreme Court’s recent holding in *Bostock*—that sex discrimination under Title VII includes discrimination based on sexual orientation and gender identity—is based on a textual analysis that applies to protections against sex discrimination within all federal civil rights laws and thus makes clear that Title IX protects against this discrimination. Therefore, the Biden-Harris administration should:

- Direct the Department of Justice to coordinate full implementation of *Bostock* and other legal developments across all 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

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<sup>17</sup> *Id.* at 9.

<sup>18</sup> Institute for Women's Policy Research, *Parents in College: By the Numbers* 1 (Apr. 2019) <https://iwpr.org/iwpr-issues/student-parent-success-initiative/parents-in-college-by-the-numbers>.

<sup>19</sup> Wanda S. Pillow, *Unfit Subjects: Educational Policy and the Teen Mother* (New York: Rutledge Falmer, 2004), 117.

<sup>20</sup> *Id.* at 1; Perper *et al.*, *supra* note 16, at 11-13.

<sup>21</sup> GLSEN, *The 2019 National School Climate Survey* xx (2020), <https://www.glsen.org/sites/default/files/2020-11/NSCS19-111820.pdf>.

Labor Standards Act. This includes protecting the right of transgender and gender-nonconforming 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-segregated activities and facilities consistent with their gender identity and have their privacy protected in all education records;

- Clarify immediately that OCR will accept complaints alleging that schools have discriminated on the basis of sexual orientation or gender identity, and reach out to students and families who filed such complaints with OCR only to have those complaints rejected or narrowed because of erroneous interpretations of the law; and
- 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 LGBTQ individuals.

## **7. Strengthen protections for gender equity in athletics.**

While gender equity in athletics has improved greatly since Title IX's inception in 1972, much work remains. College women receive almost 60,000 fewer athletics opportunities than college men, and girls in high school receive over 1 million fewer opportunities than boys to participate.<sup>22</sup> Women's and girls' teams across the country are also given second-class treatment when it comes to facilities, equipment, travel, and other benefits and services, and they have been hit especially hard by the COVID-19 pandemic.<sup>23</sup> In addition, girls of color receive far fewer chances to play on sports teams than their white and male peers.<sup>24</sup> Furthermore, transgender athletes continue to face discrimination on the basis of gender identity, which the Supreme Court has held is sex discrimination; in 2020 alone, nearly 20 states introduced bills seeking to ban transgender athletes from sports, with over half of these bills specifically targeting transgender women and girls.<sup>25</sup> To continue the fight for gender equity in athletics, the Biden-Harris administration should:

- Work with Title IX Coordinators and other relevant officials in states and schools to ensure that they are complying with both Title IX and Title VI to provide equal athletic opportunities on the basis of race and gender;
- Urge Congress to extend the protections for college students in the Equity in Athletics Disclosure Act to high school students so that students, families, and coaches have the information they need to better advocate for gender equity in athletics;
- Protect the right of women and girls who are transgender to participate fully and equally on sex-segregated sports teams consistent with their gender identity, in accordance with the reasoning in the Supreme Court's *Bostock* decision;
- Urge Congress to increase funding, transparency, and accountability of the U.S. Center for SafeSport in order to protect all athletes—including women, girls, and LGBTQ student athletes—from emotional, physical, and sexual abuse;
- Urge the NCAA and Congress to ensure that any new rules regarding the monetization of student-athletes' Names, Images and Likenesses (NILs) elevate athletes of all genders equally and do not inadvertently undermine progress toward gender equity; and

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<sup>22</sup> Women's Sports Foundation, *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women* (2020), [https://www.womenssportsfoundation.org/articles\\_and\\_report/chasing-equity-the-triumphs-challenges-and-opportunities-in-sports-for-girls-and-women](https://www.womenssportsfoundation.org/articles_and_report/chasing-equity-the-triumphs-challenges-and-opportunities-in-sports-for-girls-and-women).

<sup>23</sup> United Nations Women, *COVID-19, Women, Girls and Sport: Build Back Better*, (2020), <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/brief-covid-19-women-girls-and-sport-en.pdf>.

<sup>24</sup> National Women's Law Center, *Finishing Last: Girls of Color and School Sports Opportunities* 1 (2015), <https://nwlc.org/resources/finishing-last-girls-color-and-school-sports-opportunities>.

<sup>25</sup> American Civil Liberties Union, *Trans Rights Under Attack in 2020* (last visited Dec. 14, 2020), <https://www.aclu.org/issues/lgbt-rights/transgender-rights/trans-rights-under-attack-2020>.

- Urge Congress to pass stronger legislation requiring equal pay for women in sports, with an emphasis on women of color in athletics.

## **8. Restore and strengthen Title VI and Title IX protections for gender- and race-conscious programs.**

Although great strides have been made with respect to gender and racial equity in education, gender- and race-conscious programs remain critical to ensuring equal educational opportunities for all women and girls, including women and girls of color. For example, Latina women still hold only 4 percent of all bachelor’s degrees, even though they are 9 percent of the U.S. population, and Black women still hold only 3 percent of all computer science degrees, even though they are more than 7 percent of the U.S. population.<sup>26</sup> Disparities like these persist in the workplace, where, 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.<sup>27</sup> Despite these glaring gaps, the previous administration rescinded important Title VI guidance on race-conscious admissions in both PK-12 and higher education and opened numerous investigations into affirmative action programs for women and girls.<sup>28</sup> To protect race- and gender-conscious programs in education, the Biden-Harris administration 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;
- Restore guidance on race-conscious admissions under Title VI, including guidance on the Supreme Court *Fisher* and *Schuetz* decisions and the 2011 guidance on the voluntary use of race to achieve diversity;
- Ensure that education programs aimed at closing the racial opportunity gap benefit students of all genders equally; and
- Dismiss frivolous OCR complaints challenging gender- and race-conscious affirmative action programs, consistent with the regulations allowing affirmative action under Title IX and Title VI.

## **9. Prohibit sex-segregated education programs and activities that are based on harmful and inaccurate sex stereotypes about women and girls or men and boys.**

Numerous studies by neuroscientists and child development experts have consistently found that cognitive abilities and learning needs differ more *within* groups of girls or boys than *between* them.<sup>29</sup> However, sex-segregated classes, activities, and schools based on harmful and inaccurate sex stereotypes about, brain development and learning have proliferated widely in recent years, in large part due to the Bush administration’s 2006 changes to the Title IX single-sex regulations.<sup>30</sup> 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

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<sup>26</sup> National Women’s Law Center, *Making the Case: Gender-Conscious Programs in Higher Education* 4 (2020) [hereinafter NWLC Gender-Conscious Programs Report], <https://nwlc.org/resources/making-the-case-gender-conscious-programs-in-higher-ed>.

<sup>27</sup> Emma Hinchliffe, *The number of female CEOs in the Fortune 500 hits an all-time record*, FORTUNE (May 18, 2020), <https://fortune.com/2020/05/18/women-ceos-fortune-500-2020>.

<sup>28</sup> E.g., Sam Ogozalek, *SU is under federal investigation for alleged sex discrimination against men*, DAILY ORANGE (Apr. 17, 2020), <http://dailyorange.com/2020/04/su-federal-investigation-alleged-sex-discrimination-men>.

<sup>29</sup> National Coalition for Women and Girls in Education, *Title IX At 45: Advancing Opportunity through Equity in Education* 64 (2017) [hereinafter NCWGE Report], <https://www.ncwge.org/TitleIX45/Title%20IX%20at%2045-Advancing%20Opportunity%20through%20Equity%20in%20Education.pdf>.

<sup>30</sup> American Civil Liberties Union, *Preliminary Findings of ACLU “Teach Kids, Not Stereotypes” Campaign* 6 (Aug. 20, 2012), [https://www.aclu.org/files/assets/doe\\_ocr\\_report2\\_0.pdf](https://www.aclu.org/files/assets/doe_ocr_report2_0.pdf).

who prefer coeducation, allocate fewer resources for girls' programs,<sup>31</sup> and are correlated with high race-based segregation.<sup>32</sup> To restrict the proliferation of harmful sex-segregated education programs, the Biden-Harris administration should:

- Rescind the 2006 Title IX single-sex regulations and initiate enforcement efforts against sex-segregated classes, activities, and schools that rest upon and perpetuate gender stereotypes;
- Ensure that religious exemptions are narrowly construed, so that federal funding is not used to subsidize discrimination based on sex, including single-sex education based on sex stereotypes; and
- Continue to collect data on sex-segregated classes and schools among PreK-12 students in the CRDC.

#### **10. Assist Title IX Coordinators in fully implementing Title IX, including by supporting passage of the Gender Equity in Education Act.**

As the primary individuals responsible for implementing Title IX at each school, school district, institution of higher education, or state, Title IX Coordinators play a critical role in ensuring that students and staff do not face any form of sex discrimination in schools. The Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act (GEEA, H.R. 3513, S.1964) would provide much-needed resources, training, and technical assistance to educational entities to support implementation of Title IX. GEEA would establish an Office for Gender Equity in the Department of Education that would, among other things, develop a long-lasting and effective network of Title IX Coordinators to support the work of Title IX Coordinators across the country by providing annual training and technical assistance and by disseminating best practices and other resources. The bill would also authorize the Office for Gender Equity to provide competitive grants to PK-12 schools, colleges and universities, local educational agencies, state educational agencies, and gender equity experts to support their gender equity work, and to assess how grant applicants can improve their academic outcomes, campus climate, employment outcomes, and other indicators of gender equity. To assist Title IX Coordinators with their work, the Biden-Harris administration should:

- Urge Congress to pass GEEA; and
- Restore and strengthen the rescinded 2015 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.

#### **11. Bolster support for women and girls in STEM and CTE education.**

Title IX is critical to ensuring that girls and women have access to high-quality instruction in science, technology, engineering, and mathematics (STEM) and career and technical education (CTE) in both PreK-12 and higher education; that aspiring female researchers and faculty are able to attain their professional goals in STEM and CTE; and that the U.S. cultivates a diverse and equitable STEM and CTE workforce. Although women and girls have gained ground in many STEM and CTE fields over the recent years, a significant gender gap still persists, in part due to the misogynistic and false stereotype that men and boys are innately better than women and girls in male-dominated fields like

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<sup>31</sup> NCWGE Report, *supra* note 29, at 68.

<sup>32</sup> *The Discredited Science Behind the Rise of Single-Sex Public Schools*, MOTHER JONES (May 2020), <https://www.motherjones.com/politics/2020/05/single-sex-public-schools-brain-science-gender>.



math, science, finance, and manufacturing.<sup>33</sup> For example, as noted earlier, only 8 percent of computer science degrees are held by white women, 3 percent by Black women, and 2 percent by Latina women, compared with 47 percent by white men.<sup>34</sup> In an increasingly tech-focused economy, women and girls cannot be left out of these fields. The Biden-Harris administration should promote gender equity in STEM and CTE by restoring and strengthening Title IX protections that keep women and girls safe and supported in their educational pathways. This includes:

- Coordinate 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 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;
- Encouraging focus on non-traditional participation within CTE programs as required in Perkins V legislation;
- Ensuring that women are fairly awarded support for STEM research from federal research agencies; and
- Encouraging more equitable access to public and private capital that nurtures innovation in STEM and CTE.

## **12. Increase funding and support for minority-serving institutions.**

Minority Serving Institutions (MSIs)—which include Historically Black Colleges and Universities (HBCUs), Hispanic-Serving Institutions (HSIs), Tribal Colleges or Universities (TCUs), Alaskan Native- or Native Hawaiian-Serving Institutions (ANNHI), and Asian American- and Native American Pacific Islander-Serving Institutions (AANAPISI)—occupy a unique and critical space in higher education, as they provide access and serve the needs of historically underserved and underrepresented students of color and students from low-income backgrounds. MSIs collectively enroll nearly 5 million students in nearly every state and account for approximately 28 percent of all undergraduates enrolled in postsecondary education in the United States.<sup>35</sup> Women of color in higher education, including at MSIs, face unique challenges. For example, due to complex dynamics involving both race and gender, women of color are less likely to report sexual assault, harassment, or relationship violence to their schools, and those at MSIs are also less likely to report campus sexual misconduct to their schools than their peers at Predominantly White Institutions (PWIs).<sup>36</sup> The Biden-Harris administration should ensure that MSIs receive dedicated funding and support, including targeted funding from the Department of Justice's Office on Violence against Women, in order to address these and other unique challenges that silence women and LGBTQ students of color and inhibit their equal access to education.

## **13. Champion the Equal Rights Amendment.**

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<sup>33</sup> NCWGE Report, *supra* note 29, at 9-10, 24.

<sup>34</sup> See NWLC Gender-Conscious Programs Report, *supra* note 26, at 4.

<sup>35</sup> American Council on Education, *Pulling Back the Curtain: Enrollment and Outcomes at Minority Serving Institutions* (2017), <https://www.acenet.edu/Documents/Pulling-Back-the-Curtain-Enrollment-and-Outcomes-at-MSIs.pdf>.

<sup>36</sup> Center for Minority Serving Institutions, *Title IX Compliance at Women's MSIs: Sharing Best Practices*, MSIS UNPLUGGED (January 19, 2016), <https://msisunplugged.com/2016/01/19/title-ix-compliance-at-womens-msis-sharing-best-practices>.

In January 2020, Virginia became the critical 38<sup>th</sup> state to ratify the Equal Rights Amendment (ERA), which would have our Constitution plainly declare that “Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.” The fight to ratify the ERA is part of the larger fight for gender justice. Although the previous administration has argued that Virginia’s ratification is meaningless because the deadline to ratify the ERA expired in 1982, gender equity simply does not have an expiration date. To help make real the promise of gender equity in the United States, the Biden-Harris administration should:

- Take all steps to ensure the ERA’s inclusion in the Constitution, given that it has now been ratified by three quarters of the states; and
- Clarify the protections the ERA provides in education.

\* \* \*

To discuss these further and to highlight immediate priorities, NCWGE members welcome the opportunity to meet with the transition team. If you are available for a meeting to discuss our recommendations or have any questions, please contact Emily Martin ([emartin@nwlc.org](mailto:emartin@nwlc.org)), Shiwali Patel ([spatel@nwlc.org](mailto:spatel@nwlc.org)), Elizabeth Tang ([etang@nwlc.org](mailto:etang@nwlc.org)), and Sue Klein ([sklein@feminist.org](mailto:sklein@feminist.org)).

Sincerely,

The undersigned members of the National Coalition for Women and Girls in Education:

American Association of University Women (AAUW)  
Feminist Majority Foundation  
Girls Inc.  
GLSEN  
Legal Momentum, the Women's Legal Defense and Education Fund  
Maryland Women's Heritage Center (MWHC)  
National Alliance for Partnerships in Equity (NAPE)  
National Center for Lesbian Rights  
National Organization for Women  
National Women’s History Alliance  
National Women’s Political Caucus  
National Women's Law Center  
Society of Women Engineers  
Stop Sexual Assault in Schools  
The Women's Sports Foundation  
Women's Law Project  
YWCA USA