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March 25, 2020

Elisabeth DeVos
Secretary
Department of Education
400 Maryland Ave SW
Washington, DC 20202

Russell T. Vought
Acting Director
Office of Management and Budget
725 17th St NW
Washington, DC 20503

Kenneth L. Marcus
Assistant Secretary
Office for Civil Rights
Department of Education
400 Maryland Ave SW
Washington, DC 20202

Paul Ray
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th St NW
Washington, DC 20503

Dear Secretary DeVos, Acting Director Vought, Assistant Secretary Marcus, and Administrator Ray:

In light of the current novel coronavirus (COVID-19) pandemic and the recently declared national emergency, the National Women's Law Center and the undersigned 209 survivor advocacy organizations, civil rights organizations, and educational institutions and membership organizations call on the Department of Education (the Department) and the Office of Management and Budget (OMB) to suspend the rulemaking process for the proposed regulations implementing Title IX of the Education Amendments of 1972 (Title IX) entitled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, RIN 1870-AA14 ("proposed rule").¹ We urge that the Department and OMB pause this rulemaking process until after the national emergency declared on March 13, 2020 has ended² and both institutions of higher education and K-12 schools have resumed their regular operations.

Due to the rapid spread of COVID-19, students and schools across the United States are confronting an increasingly dire public health crisis that has not yet reached its worst. As of this writing, there have been more than 44,000 cases and more than 500 deaths reported in all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.³ More than 90 percent of the country's public and private K-12 schools have closed or are scheduled to close, including due to statewide closures in 46 states.⁴ Hundreds of colleges and universities have moved to online-only instruction, and many institutions have required students to vacate their dorms. Simultaneously, as a result of widespread business closures and disruptions, students and their families are struggling to provide for basic needs such as food, housing, utilities, health care, childcare, and (critically for telework and distance learning) internet access, while seeking to maintain income and keep up with obligations such as rent and loan repayment. As schools scramble to create online resources and systems and otherwise reinvent themselves to meet this moment, they are also simultaneously channeling their resources to help meet these student needs in an unprecedented time of crisis.

¹ 83 Fed. Reg. 61462 (Nov. 29, 2018).

² White House, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (Mar. 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak>.

³ Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19): Cases in the U.S.* (last updated Mar. 24, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

⁴ Education Week, *Map: Coronavirus and School Closures* (last visited Mar. 24, 2020), <https://www.edweek.org/ew/section/multimedia/map-coronavirus-and-school-closures.html>.

Given the lack of available institutional resources for schools to review and implement new requirements and the ongoing stresses on students, it is necessary to suspend this Title IX rulemaking—and indeed, all non-emergency rulemaking. The unprecedented challenges arising from this pandemic will continue to require significant school resources and will continue to create tremendous upheaval of students’ and school employees’ lives. Moving forward now with a new Title IX rule would only exacerbate these challenges by diverting schools’ already sharply limited resources toward creating complex new policies and training employees on implementation, at a time when schools are already working to radically shift their programs and meet student needs, even while staff operate remotely. Finalizing the proposed rule would also unnecessarily exacerbate confusion and uncertainty for students who are currently in pending Title IX investigations and hearings, which have already been delayed and disrupted by the pandemic.

Moreover, in this time of crisis, the Department should be utilizing its limited time and resources to provide much-needed relief for students and schools—not to codify a proposed rule that would make it extremely difficult, confusing, and in some cases impossible for institutions to ensure that students feel safe in school and have their Title IX complaints handled in an adequate, reliable, and impartial manner. Now is hardly the right time to push forward with this fundamentally flawed rule, particularly when so many schools, students, and families urgently require the Department’s assistance in order to meet basic needs. Indeed, last week Acting Director Vought issued a White House memo instructing all federal agencies to “prioritize all resources to slow the transmission of COVID-19.”⁵ Undoubtedly, finalizing the Title IX rule during this national emergency would be inconsistent with that directive.

Accordingly, we urge in the strongest terms that the Department and OMB suspend the rulemaking process for the proposed Title IX sexual harassment rule until after the national emergency for COVID-19 has come to an end and schools have resumed their regular operations. For questions, please contact Shiwali Patel (spatel@nwlc.org) and Elizabeth Tang (etang@nwlc.org) at the National Women’s Law Center.

Sincerely,

National Women’s Law Center, joined by:

AASA, The School Superintendents Association
ACCESS
Advocates to End Domestic Violence
Albany County Crime Victim and Sexual Violence Center
Alexandra House, Inc.
Alianza Nacional de Campesinas
ALIVE Inc. Sexual Assault Services
Allies Reaching for Equality
American Association for Access, Equity and Diversity
American Association of Colleges for Teacher Education
American Association of University Women (AAUW)
American Atheists
American Federation of Teachers
American Psychological Association
American-Arab Anti-Discrimination Committee (ADC)
Appleseed Community Mental Health Center
Association of Title IX Administrators (ATIXA)

⁵ Memorandum for the Heads of Departments and Agencies from Russell T. Vought, Acting Director, Office of Management and Budget, *Federal Agency Operational Alignment to Slow the Spread of Coronavirus COVID-19* (Mar. 17, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-16.pdf>.

Athlete Ally
Atlanta Women for Equality
Beau Biden Foundation for the Protection of Children
BHS Stop Harassing
Boston Area Rape Crisis Center (BARCC)
California Women's Law Center
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for Disability Rights
CenterLink: The Community of LGBT Centers
Central MN Sexual Assault Center
Champion Women
Chicago Alliance Against Sexual Exploitation
Clearinghouse on Women's Issues
Clery Center
Coalition of Labor Union Women
Colorado Coalition Against Sexual Assault
Council of Parent Attorneys and Advocates
Crime Victim Center of Erie County
Crisis Center of Central New Hampshire
Day One
Day One of Crime Victim Services
Disability Rights Education & Defense Fund
D'Youville College
Education Law Center - PA
End Rape on Campus
Equal Rights Advocates
Equality California
Equality League
ETR's K12T9 Initiative
Faculty Against Rape
Family Equality
Family Violence Law Center
Feminist Majority Foundation
Florida Council Against Sexual Violence
FORGE, Inc.
Friends Against Abuse
Futures Without Violence
Gender Justice
Georgetown Law - Center on Poverty and Inequality
Girls Inc PNW
Girls Inc.
Girls Inc. of Alameda County
Girls Inc. of Greater Lowell
Girls Inc. of Long Island
Girls Inc. of Metropolitan Dallas
Girls Inc. of Santa Fe
Girls Inc. of Shelbyville & Shelby County
Girls Inc. of Sioux City
Girls Inc. of Tarrant County
Girls Inc. of the Valley

Girls Inc. of TN Valley
Girls Inc. of Wayne County
Girls Inc. of Westchester County
Girls Inc. of Worcester
GLSEN
Harvard Law School Gender Violence Program
HAVEN of Tioga County
Healing Hearts and Families
Hmong American Partnership
Holman Prevention
Human Rights Campaign
Human Rights Clinic, University of Miami School of Law
Human Services Network
Idaho Coalition Against Sexual & Domestic Violence
Illinois Coalition Against Sexual Assault
Iowa Coalition Against Sexual Assault (IowaCASA)
It's On Us
Jane Doe Inc.
Jewish Women International
Joyful Heart Foundation
Kentucky Association of Sexual Assault Programs
King County Sexual Assault Resource Center
Kingsbridge Heights Community Center
Know Your IX
KWH Law Center for Social Justice and Change
Lambda Legal
Legal Momentum, the Women's Legal Defense and Education Fund
Legal Voice
LIM College
Louisiana Foundation Against Sexual Assault
Maine Coalition to End Domestic Violence
MALDEF
Maryland Coalition Against Sexual Assault
Marymount University
Medaille College
Mental Health Association in Orange County, Inc.
Metropolitan Organization to Counter Sexual Assault (MOCSA)
MN Coalition Against Sexual Assault
Mosaic Georgia, Inc.
MS Coalition Against Sexual Assault
Multicultural Dimensions
NASPA - Student Affairs Administrators in Higher Education
National Alliance for Partnerships in Equity (NAPE)
National Alliance to End Sexual Violence
National Association of Councils on Developmental Disabilities
National Association for Multicultural Education (NAME)
National Association of Secondary School Principals
National Center for Law and Economic Justice
National Center for Lesbian Rights
National Center for Transgender Equality

National Center for Youth Law
National Coalition for LGBT Health
National Education Association
National Equality Action Team
National LGBTQ Task Force
National Organization for Women
National Partnership for Women & Families
National Women's Political Caucus
NC Coalition Against Sexual Assault
Nebraska Coalition to End Sexual and Domestic Violence
Network of Victim Assistance NOVA
Nevada Coalition to End Domestic and Sexual Violence
New Hampshire Coalition Against Domestic and Sexual Violence
New Jersey Coalition Against Sexual Assault
New Mexico Coalition of Sexual Assault Programs, Inc.
New York City Alliance Against Sexual Assault
New York State Coalition Against Sexual Assault
Not Without Black Women
NYC Anti-Violence Project
Ohio Alliance to End Sexual Violence
Parkland College
Pathways for Change, Inc. - Central Mass IRCC
Pennsylvania Coalition Against Rape
PFLAG National
Pittsburgh Action Against Rape
Planned Parenthood
Portland Public Schools
PPCWNY/RESTORE Sexual Assault Services
Project Woman of Ohio
Public Citizen
Public Justice
RALIANCE
Resilience, formerly Rape Victim Advocates
RI Cross Campus Learning Collaborative for Sexual Violence Prevention
Rocky Mountain Victim Law Center
Sable House
Safe Berks
Safe Harbors of the Finger Lakes
Safe Horizon
Sanctuary for Families
SARCC
SetTheExpectation Nonprofit
Sexual Assault Interagency Council
Silver State Equality-Nevada
Simpson College
Society of Women Engineers
Sojourner House
Someplace Safe
Southeast Asia Resource Action Center (SEARAC)
Stop Sexual Assault in Schools

Sullivan County Victim Services
Support Within Reach
Survivors Know
Tennessee Coalition to End Domestic and Sexual Violence
Texas Association Against Sexual Assault
The 432 Justice Street Collective
The Abuse Network, Inc.
The Bridge
The Cocoon
True Colors United
Turning Points Network
Ujima, Inc. The National Center on Violence Against Women in the Black Community
Unidos WI
Union for Reform Judaism
University of California
University of California Santa Cruz, Campus Advocacy, Resources & Education (CARE)
University of Miami School of Law, Human Rights Clinic
University of New Hampshire Sexual Harassment & Rape Prevention Program (SHARPP)
Vera House, Inc.
Vermont Network Against Domestic and Sexual Violence
Victim Outreach Intervention Center
Victim Rights Law Center
Victims Assistance Center of Jefferson County
Victims Resource Center
Violence Prevention Center
Virginia Sexual & Domestic Violence Action Alliance
Voices of Hope
WeLead
West Virginia Foundation for Rape Information and Services
West Virginia University at Parkersburg
Williams College
Wisconsin Coalition Against Sexual Assault
WISE (Women's Information Service, Inc.)
Womankind
Women's Center of Beaver County
Women's Fightback Network
Women's Law Project
Women's Media Center
Women's Resource Center
YWCA Lancaster
YWCA NH
YWCA USA