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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 17<sup>th</sup> 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 17<sup>th</sup> 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").<sup>1</sup> We urge that the Department and OMB pause this rulemaking process until after the national emergency declared on March 13, 2020 has ended<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.

<sup>1</sup> 83 Fed. Reg. 61462 (Nov. 29, 2018).

<sup>2</sup> 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>.

<sup>3</sup> 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>.

<sup>4</sup> 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.”<sup>5</sup> 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](mailto:spatel@nwlc.org)) and Elizabeth Tang ([etang@nwlc.org](mailto: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)

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<sup>5</sup> 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