

**From:** Charlotte Croson  
**Sent:** Fri, 11 Jun 2021 08:53:16 -0400  
**To:** T9PublicHearing  
**Subject:** Title IX Hearing Comments

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I am a Civil Rights attorney in Michigan. My practice centers on helping my clients redress discrimination and retaliation. Many of my clients have been discriminated against on the basis of their sex. Whether they are women fired because they are pregnant, males being harassed because they do not conform to sexist stereotypes, women who are paid less because they are women, or men who are discriminated against because they have taken jobs in female dominated fields, their commonality is discrimination based on sex.

The Supreme Court decision in *Bostock v. Clayton County*, explicitly recognizes this. It recognizes and reinforces that sex-based discrimination is the harm civil rights statutes recognize and remediate. A recognition that males who identify as other than men are protected on the basis of their sex does not change or undermine those sex-based protections, rather it reinforces them. Civil rights statutes, because they recognize sex, protect men and women from sex-based discrimination—including imposition of sexist stereotypes and roles as a condition of employment.

Sex matters. And I urge this Congress and this body to resist the current popular push to conflate sex and gender identity. They are not the same. Conflation of sex and gender identity has already materially harmed women as we continue to see in prisons. Women prisoners are being raped, sexually assaulted, and denied bodily privacy by the placement of males (who purport to identify as other than men) in women's prisons. It is enraging and heartbreaking to know that women's safety and women's lives are simply not worth protecting. That women's rights and needs have been weighed against the desires of some men and found not worthy even of consideration. I urge you not to repeat this error in Title IX.

Title IX, like Title VII's BFOQ exception, clearly recognizes that sex is an important and relevant consideration in specific situations. Title IX, in allowing for sex-specific sports, changing rooms, housing, bathrooms and the like recognizes and protects and advance women's rights to equality, privacy, bodily integrity, and safety.

Title IX protects women's sports because doing so advances women's equality. As shown in the Selena Soules matter, when males are allowed to compete in women's sports, women lose. 15 girls sent to hold State track titles that are now held by 2 males. That is not fair to girls. A 43 year old male in New Zealand is poised to be that country's sole Olympic representative in women's weightlifting. That is not fair to women. An Australian male broke a woman's leg competing in a women's football league. That is not fair to women. In the U.S., a male won the DII women's 400 meter hurdles. That is not fair to women. Another male won the women's indoor mile race at the Big Sky championships. That is not fair to women. In each case, individual women and women as a whole have lost their right to equality and a fair playing field. They have lost the equality and fair playing field guaranteed them by Title IX. Title IX reform would be better directed at ensuring that men's teams provide equal and non-discriminatory opportunities to all men, regardless of their gender identity and refusal to conform to sexist stereotypes.

Conflating sex and gender identity is harmful to women. It deprives women of equality, safety, and bodily integrity. Yes, trans persons must be protected from sex discrimination, too. But that is the point. Sex matters. And protections for gender-non-conforming men must not be granted at the expense and to the detriment of women. Sex matters. Recognizing differences of sex is sometimes necessary to ensure equality and fairness. Title IX knows that. Everybody knows that. You must recognize that or you will gut Title IX's equality guarantee for women and girls.

Regards,  
Charlotte Croson