

**From:** Erika Burden  
**Sent:** Mon, 7 Jun 2021 15:05:42 +0000  
**To:** T9PublicHearing  
**Subject:** Written Comment: Title IX Public Hearing Discrimination Based on Sexual Orientation or Gender Identity

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Acting Assistant Secretary Suzanne Goldberg  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20002

June 7, 2021

Re: Written Comment: Title IX Public Hearing (Discrimination Based on Sexual Orientation or Gender Identity)

Dear Acting Assistant Secretary Goldberg,

As a school leader and member of the National Association of Secondary School Principals (NASSP), I write to submit the following comments for the virtual public hearing on strengthening enforcement of Title IX of the Education Amendments Act of 1972.

According to the [Human Rights Campaign's analysis of the 2019 Youth Risk Behavior Surveillance from the Centers for Diseases Control and Prevention](#), 31% of LGBTQ+ youth, 43% of transgender youth, and 40% of questioning youth have been bullied at school, compared to only 16% of their non-LGBTQ+ peers. This type of negative and unsafe school environment often leads to adverse academic and social-emotional outcomes for LGBTQ+ youth, including school dropout, self-harm, and even suicide.

LGBTQ+ student safety is inherently tied to a school's culture, the area where school leaders exercise the greatest influence and can have the greatest impact. The best school culture, where students are most successful, recognizes each person in the school as an important and valued member of the community possessing inherent dignity. Sadly, school leaders often build a culture in the face of powerful opposition.

At Westwood Middle School, we have an established Pride Club that supports all students and creates a culture of inclusivity. Students feel safe to come out to their peers in this environment. Questioning youth have a place to get their questions answered.

In joint comments submitted with AASA: The School Superintendents' Association, NASSP expressed disappointment with the previous administration's decision to rescind the 2016 joint guidance from the

U.S. Departments of Education and Justice. This guidance asserted that Title IX's prohibition against sex discrimination encompasses discrimination based on a student's general identity, including discrimination based on a student's transgender status. The guidance addressed a school's responsibility to provide a safe and nondiscriminatory environment for all students and outlined a school's obligations regarding identification documents and pronouns, sex-segregated activities and facilities, and privacy and education records. In conjunction with the guidance, the Office of Elementary and Secondary Education released a helpful document providing examples of policies and emerging practices for supporting transgender students.

NASSP encourages the Department of Education to amend the Title IX regulations to define "on the basis of sex" to encompass discrimination based on sexual orientation, gender identity, or transgender status. The department should also develop guidance that strongly affirms the protections LGBTQ+ students are afforded under Title IX and ensure that schools are not discriminating against LGBTQ+ youth, their families or guardians, and school employees. School leaders would also welcome guidance and best practices on providing the appropriate support for LGBTQ+ individuals who have experienced sex discrimination and making our school procedures fair and equitable for all.

Thank you for taking the time to engage stakeholders in a discussion on these important issues. Should you have any questions, please feel free to contact me at [eburden@cheneysd.org](mailto:eburden@cheneysd.org).

Sincerely,

Erika Burden, PhD