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I am writing to urge you not to conflate sex with gender identity or sexual orientation when evaluating implementation of Executive Orders 13988 and 14021. Sex is a biological and reproductive categorization which is observed and recorded at birth. It is not arbitrarily assigned, even to those infants who have differences or variations of sex development. Whether a person is biologically male or female influences his or her growth and development throughout the lifespan, and this is true regardless of personality, gender expression, feelings of identity, or sexual orientation. I work in maternal and infant health as a postpartum nurse. Every one of my adult patients belongs to the female sex category, and I find claims that sex is socially constructed or exists on a spectrum to be perplexing at best and offensive at worst. Gender identity, on the other hand, is inconsistently defined and most of those definitions rely on sex-role stereotypes. In *Bostock v. Clayton County*, the Supreme Court stated very clearly that sex, gender identity, and sexual orientation are distinct concepts. Furthermore, there is no way to explain gender identity without referring back to sex. In certain limited circumstances, sex is important, and single-sex provisions are allowed under Title IX where needed to ensure privacy, fairness, and equality. Replacing or overwriting sex with gender identity in application of Title IX would undermine some of the important protections for women and girls. E.O. 14021 states that "*all students should be guaranteed an educational environment free from discrimination on the basis of sex...including discrimination on the basis of sexual orientation or gender identity.*" I agree with this statement. At the same time, prioritizing or emphasizing gender identity over sex potentially leads to discrimination by reinforcing gender and sex-role stereotypes. It is important to ensure that sex, not gender, is recognized as being foundational to the provisions of Title IX.

Thank you,  
Jessie Stavely, RN

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