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The Honorable Miguel Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, D.C. 20202  
Re: Docket ID: ED-2021-OCR-0166

Dear Secretary Cardona,

Center for Arizona Policy is a leading advocacy organization representing hundreds of thousands of Arizonans who support the life of the unborn, protecting opportunities and privacy for women and girls, and preserving parental rights.

We are writing to urge the Department of Education to withdraw the Department's proposal, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," RIN 1870-AA16.

The Department's proposal would redefine "sex" in Title IX, expanding the definition to include gender identity. This proposal would compel schools across the country to comply with a lawless reinterpretation of Title IX and put the safety and privacy of their students at risk. If they refuse, they risk losing hundreds of millions of dollars in federal funding.

There are four main reasons Center for Arizona Policy strongly urges against the department's proposal. First, redefining the word "sex" in Title IX would lead to more males competing on female sports teams. We have seen that this strips away opportunities for female athletes to compete and succeed on a level playing field. Males naturally possess physical advantages over females, which can result in them winning titles, scholarships, and other opportunities that should be reserved for girls. In addition, this physical advantage could lead to more injuries for female athletes when competing against their male counterparts.

Second, this proposed rule will hijack Title IX to create abortion sanctuaries in federally funded colleges and universities by requiring them to provide abortion or lose their federal funds. The proposed rule redefines "discrimination based on sex" to include "termination of pregnancy," thereby requiring colleges and universities to make abortion accessible for their students. This would be forced even in states where the people have expressed their will to protect unborn life through the state legislature. The proposed rule will end unborn human lives and harm women by imposing broad abortion mandates, and it will harm children and adults who struggle with gender dysphoria by coercing doctors to perform dangerous and life-altering medical procedures, even if doing so violates their conscience or religious beliefs.

Third, this proposal would violate parents' fundamental rights by encouraging schools to hide students' concerns about their gender identity from their parents. Thus, undermining both the relationship between the parent and child and the parent and the school. It would weaponize government agencies like Child Protective Services by using them to direct children solely toward transgender ideologies and "treatments," including dangerous hormone therapy and surgeries that have irreversible consequences.

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Finally, this proposed rule will violate the privacy of women and girls. By redefining “sex” the Biden Administration would force girls to share private spaces like showers, locker rooms, and bathrooms with males. Last year, parents were outraged when they discovered two girls were sexually assaulted by a male using the girls’ restroom in Loudoun County, Virginia. These incidents were a direct result of policies that allowed males to use female private spaces, much like the Department of Education is scheduled to propose. The Department’s proposal sets the stage for more Loudoun County tragedies in public schools throughout the country. What makes this even worse is that the under this rule women cannot even speak out against these policies that directly threaten their safety and future. The proposed rule would result in government coercion and silencing of dissent.

We strongly oppose “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” RIN 1870-AA16.

Cathi Herrod, Esq.  
President, Center for Arizona Policy  
President