September 1, 2022

Submitted via www.regulations.gov

Dr. Miguel Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Ave SW  
Washington, DC 20202

Catherine E. Lhamon  
Assistant Secretary, Office for Civil Rights  
U.S. Department of Education  
400 Maryland Ave SW  
Washington, DC 20202

Re: ED Docket No. ED-2021-OCR-0166, RIN 1870-AA16, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

Dear Secretary Cardona and Assistant Secretary Lhamon:

On behalf of the National Parent Teacher Association and our millions of members nationwide, we appreciate the opportunity to comment on the U.S. Department of Education’s proposed rule implementing Title IX of the Education Amendments of 1972. Based on our experience working in schools and for children across the country, we believe the proposed rule represents a critical step towards helping to decrease harassment in our schools and ensure that schools are safe, supportive and inclusive environments for all of our students.

PTA is the oldest and largest child advocacy association in America, comprised of millions of parents, teachers, grandparents, caregivers, foster parents and other caring adults who share a commitment to improving the education, health and safety of all children. Our association believes all children deserve the opportunity to reach their full potential in safe and welcoming environments. As such, we support federal policies that protect against sexual harassment and sex discrimination in education, including policies that specifically protect LGBTQI+ youth, and local practices that create and maintain safe, affirming, and inclusive learning environments for all students.

Response to Sexual Harassment & Sexual Violence Affecting Students

National PTA and its constituent associations have long believed that every child deserves to go to school excited to learn in a safe and nurturing environment, without the fear of bullying, violence or discrimination. To that end, we support the strengthening of Title IX and other federal, state and local laws that identify, address the effects of, and prohibit sexual harassment and sexual violence impacting students. Our PTAs collaborate with school administrations, institutions of higher learning, and community partners to ensure that every school provides support services for victims of sexual harassment and sexual violence, presents awareness and prevention programs that address sexual harassment and sexual violence affecting students, and include training on the
responsibilities of educational institutions, as well as the rights of sexual violence and sexual harassment victims under Title IX and other laws and regulations.

The rule proposed by the Department of Education would strengthen Title IX protections in schools, clarify the responsibilities of educational institutions when sexual harassment occurs, encourage schools to provide support services for victims of sexual harassment and sexual violence, and require schools establish grievance procedures that are prompt and equitable. In particular, the proposed rule requires schools to address all types of sex-based harassment including those that occur on school grounds, or during school activities off campus and abroad. It requires schools to address the hostile environment created on campus even if the harassment occurred off-campus. It requires action from the school whenever the incident is so “severe” or “pervasive” that it limits a student’s access to education, thereby violating the Title IX protection that “No person in the United States shall, on the basis of sex...be denied the benefits of...any education program or activity receiving Federal financial assistance.”

Sexual harassment has devastating effects on students by negatively impacting their emotional and physical well-being, ultimately acting as a barrier to equal and free access to public education. Moreover, women and girls of color, disabled survivors, and LGBTQI+ survivors are at a disproportionately high risk of being denied the benefits of an education due to sexual harassment, as they face stereotypes casting them as less credible when they report sexual misconduct. Research shows that, of available reporting statistics, up to forty percent (40%) of middle and high school students report being victims of sexual violence or sexual harassment, but that this number is likely much higher because it does not account for the vast underreporting of sexual harassment. Research further indicates educational institutions are the most common location of peer sexual victimization. This reporting underscores the need for a fully inclusive definition of sexual harassment that encourages students to come forward when they are being harassed rather than remaining silent and potentially making them vulnerable to continued or escalating harassment and assault.

As experts in the field of family engagement and effective family-school partnerships, we also encourage the Department to include language in the final rule that ensures that the development of grievance procedures include parents, families, community members, students and other stakeholders. School community members are entitled to a transparent grievance procedure development process with ample opportunity to offer input and feedback. National PTA will continue to urge and support family engagement in schools and as it pertains to the development of grievance procedures that keep all students safe. We hope the Department will join in this important effort.

**Recognition of LGBTQ Individuals as a Protected Class**

National PTA and its constituent associations believe that all children and youth should be able to attend school in a safe and inclusive environment free from discrimination and
violence. However, the reality is that too many LGBTQI+ students are bullied, are physically assaulted, and feel unsafe in school because of their actual or perceived sexual orientation or gender identity. We are committed to advocating for policies and protections for LGBTQI+ youth to make sure they have positive school experiences and the opportunity to reach their full potential.

We support the Department’s proposed Title IX rule requiring schools to support students who report sex discrimination, by providing them with supportive measures and investigate complaints, and clarifying that anti-LGBTQI+ discrimination is prohibited sex discrimination under Title IX, including discrimination based on sexual orientation, gender identity, and sex characteristics (like intersex traits). Enumeration is essential to protecting as many students as possible from bullying, harassment and discrimination. The strength of an enumerated law or policy is that it underscores those students who research shows are most likely to be bullied and harassed and least likely to be protected under non-enumerated anti-bullying laws and policies. Enumeration provides teachers and school personnel with the tools they need to implement anti-bullying and harassment policies, making it easier for them to prevent bullying and intervene when incidents occur. Given that so many states have sought to pass laws—with many succeeding—threatening the well-being, safety, and educational opportunities of LGBTQI+ youth, it has become increasingly urgent for the Department to make clear that Title IX protects LGBTQI+ students from discrimination, harassment, violence, and bullying. In light of this, we strongly support the proposed Title IX rule clarifying that schools must protect students’ access to sex-separated school activities and facilities, including bathrooms and locker rooms, consistent with their gender identity. This clarification will strengthen enforcement of Title IX’s protection that no student be “excluded from participation in” “any education program or activity receiving Federal financial assistance” “on the basis of sex.”

We also ask the Department to ensure that schools are required to enumerate sexual orientation, gender identity, sex characteristics, and sex stereotypes in their official nondiscrimination policies, and that these policies be made available and accessible to families in the community. We know that harassment and bullying policies that specifically mention sexual orientation, gender identity and gender expression are associated with: students feeling more safe; lower levels of bullying; decreased incidents of harassment related to sexual orientation; increased teacher/staff intervention; and a greater reporting of incidents. Indeed, the National School Climate survey shows that LGBTQ students in schools with enumerated policies were more than twice as likely to report that teachers intervened regularly compared to students in schools with generic anti-bullying policies, and more than three times as likely compared to students in schools with no policy at all. Our families, students, educators, school staff, administrators, and advocates need to understand their rights and responsibilities under Title IX, and ensuring that school policies on discrimination, harassment, and bullying are fully transparent and accessible is of critical importance to our association in their
efforts to help create safe, supportive, and inclusive schools and a positive school climate for all.

We appreciate the opportunity to provide comments on the Department’s proposed Title IX rule and encourage the Department to ensure that parents, families, students and other stakeholders are fully engaged throughout the Title IX process. Our association believes all children deserve the opportunity to reach their full potential in safe and welcoming environments, and believe the proposals outlined above represent steps towards that goal. Please contact Kate Clabaugh, National PTA Director of Government Affairs, at kclabaugh@pta.org or (703) 944-1026 to answer any questions or provide further input as needed.

Sincerely,

Anna King
President
National PTA

Nathan R. Monell, CAE
Executive Director
National PTA