

To President-Elect Biden and Vice President-Elect Harris’s Transition Team:

As civil rights advocates and advocates for student survivors of sexual assault and other forms of sexual harassment, we are grateful for President-Elect Biden’s long track record of and continued commitment to supporting student survivors and for Vice President-Elect Harris’s work to end sexual harassment and advance gender equity. Over the past four years, the Department of Education (“the Department”) has taken many steps under the Trump administration to weaken civil rights protections for student survivors, including by promulgating and implementing a new harmful Title IX rule that forces schools to ignore sexual harassment and adopt uniquely unfair procedures to address it. Under the Biden-Harris administration, we look forward to the Department returning to its role of protecting rather than eroding students’ civil rights. Below are our recommendations to the Biden-Harris administration to address sexual harassment in schools, including strengthening Title IX enforcement, increasing support and resources for key initiatives, supporting federal legislation, improving data collection, appointing personnel, and listening directly to student survivors.

1. The Biden-Harris administration should strengthen Title IX enforcement.

The Biden-Harris administration should take several key steps to strengthen Title IX enforcement and reverse the damage caused by the Trump administration. First, as soon as President-Elect Biden takes office, the Department should stop enforcement of the recent changes to the Title IX rule and announce that it is taking steps to initiate new rulemaking, including by conducting a listening tour with students and survivors—with a focus on underserved communities—to understand how sexual harassment and the recent changes to the Title IX rule has affected students’ access to in-person and online education. The Department should also restore investigations of systemic discrimination at institutions, including of how schools respond to sexual harassment.

Pending new rulemaking, we ask that the Department promptly release interim guidance, drawn from key portions of earlier guidance addressing Title IX protections against sexual harassment in schools, and also addressing related issues that have emerged during the COVID-19 pandemic.

During the first 100 days, the Department should propose rescinding the Trump administration Title IX rules and replacing them with new Title IX sexual harassment regulations that would restore standards from earlier guidance; reaffirm that Title IX covers dating violence, domestic violence, and sex-based stalking; specify a wide range of supportive measures and remedies that schools must provide survivors; provide robust protections against retaliation; and ensure complainants and respondents have equal procedural rights in school investigations and disciplinary proceedings addressing harassment. As a part of this rulemaking, the Department should also issue new Title IX regulations addressing protections for LGBTQ students consistent with *Bostock* and other case law; addressing protections for pregnant, parenting, and breastfeeding students; prohibiting dress codes that rely on and reinforce gender stereotypes; and ensuring that religious exemptions do not inappropriately limit protections against sex discrimination.

2. The Biden-Harris administration should increase support and resources for key anti-sexual harassment initiatives.

In its first month, the Biden-Harris administration should establish a new White House Task Force on sexual harassment in schools, with an explicit focus on race, color, national origin, gender,

LGBTQ status, disability, and the intersections between these identities. The Task Force should develop and uplift model policies and other resources for schools, including policies and resources addressing supportive measures and remedies, sex education, training for school staff, data collection, and various kinds of equitable discipline models.

The Biden-Harris administration should also support and fund key anti-sexual harassment initiatives, including by establishing new grant programs and providing additional funding to the Department of Justice’s Office on Violence Against Women and the Department of Health and Human Services, with a focus on schools with the greatest need. These grant programs can fund regular school climate surveys about sexual harassment, restorative justice and transformative justice pilot programs conducted by trained outside facilitators, comprehensive sexual health and consent education for all PK-12 students, and regular training to all school staff on how to recognize and respond to sexual harassment.

Finally, the FY 2022 budget request should include at least \$260 million for the Office for Civil Rights (OCR)—a two-fold increase from the FY 2020 appropriation—to ensure that OCR has the resources to investigate complaints promptly, provide technical assistance to schools, and otherwise effectively enforce civil rights laws.

3. The Biden-Harris administration should support federal legislation that protects survivors and aims to prevent harassment in schools.

There are a number of opportunities for the Biden-Harris administration to support federal anti-sexual harassment legislation. To ensure that PK-12 students are not left out of the Title IX narrative, the administration should support the Stop Sexual Harassment in K-12 Act (H.R. 8290) and the Supporting Survivors of Sexual Harassment in Schools Act (H.R. 8193). In higher education, the administration should support reauthorization of the Higher Education Act of 1965 with additional protections, including those found in the Hold Accountable and Lend Transparency on Campus Sexual Violence Act (“HALT Act” H.R. 3381), the Tyler Clementi Higher Education Anti-Harassment Act (H.R. 2747), and Safe Equitable Campus Resources and Education Act (“SeCURE Act” H.R. 2026); and the reauthorization of the Violence Against Women Act. Furthermore, federal legislation like the Gender Equity in Education Act (H.R. 3513) can fund the training and capacity building of Title IX coordinators in both PK-12 and higher education.

4. The Biden-Harris administration should improve agency data collection of sex-based harassment.

The Biden-Harris administration should take steps to improve the accuracy, reliability, and utility of the Civil Rights Data Collection (CRDC) and the Campus Safety and Security Survey (CSS). First, the Department should address the ongoing and alarming problem that 70-90% of school districts and campuses report each year to the CRDC and CSS, respectively, that they received zero allegations of sex-based harassment or rape in the previous academic year, as these statistics are simply not credible.¹ The Department should also restore and update the Clery Handbook, which the Trump administration rescinded, to ensure that campus administrators have the necessary guidance to submit timely and accurate data to the CSS about crimes on and near campus. And in

¹ AAUW, *Schools Are Still Underreporting Sexual Harassment and Assault* (Nov. 2, 2018), <https://ww3.aauw.org/article/schools-still-underreporting-sexual-harassment-and-assault>.

K-12, the Department should expand the CRDC to include additional questions about student-on-student, staff/volunteer-on-student, and staff-on-staff sexual misconduct, both on and off campus, and should update the CRDC’s definitions of “rape” and “sexual assault” to align with the Clery Act definitions used in the CSS.

5. The Biden-Harris administration should appoint diverse and highly qualified individuals who are committed to gender justice and ending sexual violence.

The Biden-Harris administration will not be able to achieve the policy goals of preventing and remedying sexual harassment in schools without hiring diverse and highly qualified individuals who are committed to gender justice and all forms of justice to serve in key administration and agency positions. A Special Assistant for Gender Equity, a role that has remained unfilled in the last few administrations, should be appointed in the Department of Education to oversee gender equity programs. The administration should robustly resource the White House Council on Gender Equity (“the Council”) with issue area experts, including in education, to build on the past successes of the Obama administration’s White House Council on Women and Girls. The administration should also create a dedicated Senior Advisor on gender equity, appoint staff who are committed to gender justice to the Domestic Policy Council and Council of Economic Advisors, and designate staff in each agency at the Deputy Secretary level with reporting authority on gender justice issues to the Council.

6. The Biden-Harris administration should listen directly to survivors and students about their experiences and needs.

It is critical for students and survivors to have a direct say in the policies that impact their educational and personal experiences. To that end, the Biden-Harris administration should conduct a listening tour, as described above, and should take intentional steps to seek out perspectives from diverse communities, movements, and organizations that are leading the fight against sexual harassment in schools. In particular, the administration should seek out the perspectives of Black, Indigenous, and other survivors of color; LGBTQ survivors; survivors with disabilities; survivors in PK-12 schools, community colleges, vocational schools, universities, and graduate schools; survivors at HBCUs, MSIs, and tribally controlled schools; and survivors in rural, suburban, and urban areas.

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Thank you for your consideration of our requests for the Biden-Harris Administration to effectively address sexual harassment in schools. If you have any questions about this letter, please contact Shiwali Patel (spatel@nwlc.org), Elizabeth Tang (etang@nwlc.org), and Lara Kaufmann (lkaufmann@girlsinc.org).

Sincerely,

American Association of University Women (AAUW)
American Atheists
American Federation of Teachers
American Psychological Association
AnitaB.org
Arkansas Coalition Against Sexual Assault
Assault Care Center Extending Shelter and Support

Atlanta Women for Equality
Augustus F. Hawkins Foundation
Autistic Self Advocacy Network
BHS Stop Harassing
California Coalition Against Sexual Assault
California Women's Law Center
Champion Women
Chicago Alliance Against Sexual Exploitation (CAASE)
Clearinghouse on Women's Issues
Clery Center
Colorado Coalition Against Sexual Assault (CCASA)
Connecticut Alliance to End Sexual Violence
Coordinadora Paz para la Mujer, Puerto Rico Coalition Against Domestic Violence and Sexual Assault
Crisis Intervention Service
Day One
Disability Rights Education & Defense Fund (DREDF)
Domestic Violence Intervention Program
Education Law Center-PA
End Rape On Campus
Enough is Enough Voter Project
Equal Rights Advocates
Every Voice Coalition
Faculty Against Rape
Family Crisis Centers
Family Equality
Family Resources
Feminist Majority Foundation
Florida Council Against Sexual Violence
Georgia Coalition Against Domestic Violence
Girls Inc.
GLSEN
Harvard Law School Gender Violence Program
Hindu American Foundation
Human Rights Campaign
Idaho Coalition Against Sexual & Domestic Violence
Illinois Coalition Against Sexual Assault
Iowa Coalition Against Sexual Assault (IowaCASA)
It's On Us
Jane Doe Inc.
Japanese American Citizens League
Kansas Coalition Against Sexual and Domestic Violence
Kentucky Association of Sexual Assault Programs
Know Your IX
LaFASA
Latinas Unidas por un Nuevo Amanecer (L.U.N.A.)
Legal Momentum, the Women's Legal Defense and Education Fund
Linda Shevitz Gender Equity in Education

Maine Coalition Against Sexual Assault
Maryland Coalition Against Sexual Assault
Michigan Coalition to End Domestic & Sexual Violence
Minnesota Coalition Against Sexual Assault
Missouri Coalition Against Domestic and Sexual Violence (MCADSV)
Monsoon Asians & Pacific Islanders in Solidarity
NASPA - Student Affairs Administrators in Higher Education
National Alliance for Partnerships in Equity (NAPE)
National Alliance to End Sexual Violence
National Association of Councils on Developmental Disabilities
National Center for Youth Law
National Education Association
National Organization for Women
National Organization of API Ending Sexual Violence
National Women's Law Center
National Women's Political Caucus
NC Coalition Against Sexual Assault
Nebraska Coalition to End Sexual and Domestic Violence
Network for Victim Recovery of DC (NVRDC)
Nevada Coalition to End Domestic and Sexual Violence
New York State Coalition Against Sexual Assault
North American MenEngage Network
One Student
Pennsylvania Coalition Against Rape
PFLAG National
Public Justice
RESTORE Sexual Assault Services
S.E.S.A.M.E., Inc. (Stop Educator Sexual Abuse, Misconduct and Exploitation)
SafeBAE
SafePlace
Secular Student Alliance
Shift Cultures
Society of Women Engineers
Southeast Asia Resource Action Center (SEARAC)
Standpoint
Stop Sexual Assault in Schools (SSAIS.org)
Texas Association Against Sexual Assault
The Maryland Multicultural Coalaition
UIS
Union for Reform Judaism
Vermont Network Against Domestic and Sexual Violence
Victim Rights Law Center
Wellesley Centers for Women, Wellesley College
Wisconsin Coalition Against Sexual Assault
Women of Reform Judaism
Women's Law Project
Young Invincibles
YWCA Evanston/North Shore