

**Congress of the United States**  
**Washington, DC 20515**

May 20, 2016

The Honorable John King  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

The Honorable Loretta Lynch  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

In re: Dear Colleague Letter on Transgender Students

Dear Secretary King and Attorney General Lynch,

We are writing today to express concern with the Departments' May 13, 2016, Dear Colleague Letter on Transgender Students, which directs schools to permit students to use the bathrooms, locker rooms, shower facilities, and housing of their choosing, regardless of the sex that appears on their birth certificate. Although this guidance does not have the force of law, it implies that failure to comply will result in a federal lawsuit and loss of federal education funds.

We have three major concerns with this guidance. First, you state that your guidance is following Title IX of the Education Amendments of 1972 and its implementing regulations, which you interpret to prohibit sex discrimination in education programs or activities receiving federal funds. In your guidance, the Departments radically reinterpret the term "sex" to include "gender identity" instead of biological sex.

Redefining "sex" to include "gender identity" is a massive overstep by the federal government. Such a decision should not be unilaterally made by the Department of Education or the Department of Justice. Despite what your joint guidance asserts, Congress did not intend in 1972 or today to include "gender identity" within the definition of "sex" in prohibiting discrimination "on the basis of sex." Redefining "sex" to include "gender identity" under Title IX would require legislative action in the U.S. House of Representatives and U.S. Senate.

Second, a significant portion of federal funding supports the neediest populations of low income and students with disabilities. A loss of federal funds would force schools to lay off teachers and eliminate important services for students who need them the most. We are greatly troubled that the Department of Education would withhold funds from our communities' most vulnerable populations.

Our third concern is with the fact that the federal government has made a unilateral decision without acknowledging that states and local school districts are already taking steps to address the issue of gender identity. For example, Tulsa Public Schools updated its harassment, intimidation, and bullying Policy #4902 in November 2015, to include gender expression and gender identity. While we may have differing views on the underlying policy at hand, we do share the goal that all students should be safe at school and it is unacceptable for students to be harassed and bullied. Tulsa Public Schools took steps to implement these goals in the way they believed would be best for their schools and communities; however, several months later they were usurped by the Departments' blanket policy. The Departments' guidance acts to supersede established local policies and, in some instances across our nation, state law.

Worse, the guidance oversimplifies the needs of each individual student and community. State and local officials, school boards, teachers, and parents are best equipped to determine the best course of action for meeting the needs of all students. Allowing them to make the best decisions for how to serve and protect their students as they receive an education is something that we should all support.

We strongly urge the Departments to retract their guidance and let any action on this issue be determined at the local level.

Sincerely,



James M. Inhofe  
U.S. Senator



James Lankford  
U.S. Senator



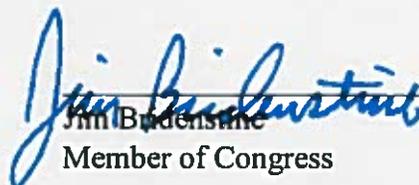
Markwayne Mullin  
Member of Congress



Tom Cole  
Member of Congress



Frank D. Lucas  
Member of Congress



Jim Bridenstine  
Member of Congress



Steve Russell  
Member of Congress