



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 7, 2021

Lauren R. Adams
Women's Liberation Front
455 Massachusetts Ave. NW #190
Washington, DC 20001-2621
Email: legal@womensliberationfront.org

Dear Lauren Adams:

Thank you for your February 8, 2021, petition to the Department of Education's (Department) Office for Civil Rights (OCR). The petition asked OCR to make certain amendments to its regulations implementing Title IX of the Education Amendments of 1972 (Title IX), specifically, 34 C.F.R. Part 106, to define sex as biological sex, maintain single-sex spaces such as sports teams, and reaffirm that the First Amendment protects open discussion of these issues. OCR appreciates hearing directly from the public concerning civil rights laws that OCR enforces, and I am pleased to respond on behalf of the Department. OCR respectfully denies your request for the reasons detailed below. *See* 5 U.S.C. § 555(e).

On March 8, 2021, President Biden issued Executive Order 14021 - *Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity*, which requires the Department to review and reconsider all existing regulations orders, guidance documents, policies, and any other similar agency actions to ensure they are consistent with the President's policy that all students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination based on sexual orientation and gender identity, under Title IX.¹

In addition, as mentioned in your petition, on January 20, 2021, President Biden signed Executive Order 13998 - *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*.² This Executive Order stated that it is the administration's policy "to prevent and combat discrimination on the basis of gender identity or sexual orientation, and to fully enforce Title VII and other laws that prohibit discrimination on the basis of gender identity or sexual orientation," including

¹ Exec. Order No. 14021, 86 Fed. Reg. 13,803 (Mar. 11, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-03-11/pdf/2021-05200.pdf>.

² *See* Exec. Order 13988, 86 Fed. Reg. 7,023 (Jan. 25, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01761.pdf>.

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Title IX. It explained that “[u]nder *Bostock*’s reasoning, laws that prohibit sex discrimination—including Title IX ...—prohibit discrimination on the basis of gender identity or sexual orientation, so long as the laws do not contain sufficient indications to the contrary.” The Executive Order requires the heads of all federal agencies to “review all existing orders, regulations, guidance documents, policies, programs, or other agency actions,” as well as to “consider whether to revise, suspend or rescind such agency actions, or promulgate new agency actions, as necessary to fully implement statutes that prohibit sex discrimination.” As part of this process, the United States Department of Justice issued a memo on March 26, 2021, concluding that the reasoning of *Bostock* applies to Title IX.³

The Department is now engaging in the required review of its Title IX regulations to ensure that they are consistent with the Biden Administration’s executive orders. To that end, on April 6, 2021, OCR issued a letter informing students, educators, and other stakeholders that OCR will hold a public hearing in which students, educators, and others with interest and expertise in Title IX will be able to participate by offering oral comments and written submissions.⁴ OCR seeks to hear from as many interested parties as possible and expects to announce the dates and times for this hearing in the coming weeks through a Federal Register notice. After this hearing and completion of its comprehensive review, OCR anticipates publishing a notice of proposed rulemaking. Accordingly, OCR is not in a position, at this time, to proceed with the amendments to the Title IX regulations that you requested in your petition.

Thank you again for your petition, and we look forward to your contributions to the review process just announced.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne B. Goldberg", is centered on the page. The signature is written in a cursive, flowing style.

Suzanne B. Goldberg
Acting Assistant Secretary for Civil Rights
Deputy Assistant Secretary for Strategic Operations and
Outreach

³ Memorandum from Principal Deputy Assistant Attorney General for Civil Rights Pamela S. Karlan to Federal Agency Civil Rights Directors and General Counsels re Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972 (Mar. 26, 2021), <https://www.justice.gov/crt/page/file/1383026/download>.

⁴ OCR, Letter to Students, Educators, and other Stakeholders re Executive Order 14201 (Apr. 6, 2021), <https://www2.ed.gov/about/offices/list/ocr/correspondence/stakeholders/20210406-titleix-eo-14021.pdf>.