

# United States Senate

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COMMERCE, SCIENCE, AND TRANSPORTATION  
FINANCE  
JUDICIARY  
VETERANS' AFFAIRS

April 26, 2024

## **VIA ELECTRONIC TRANSMISSION**

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

Dear Secretary Cardona,

I write regarding the Department of Education's (Ed) ongoing rulemaking pertaining to Title IX of the Education Amendments of 1972 (Title IX). For nearly 50 years, Title IX has been celebrated for opening spaces that were previously unavailable to women in education. Title IX is not simply a bureaucratic regulation; it is a symbol of the American commitment toward fairness and opportunity for both men and women. It recognizes the fundamental biological differences between men and women and affords each the opportunity to pursue educational programs and activities equally, including in athletics. Sadly, today, countless Americans fear for the safety and equality of their daughters in educational programs and activities because of the reinterpretation of Title IX that the Biden administration continues to pursue.

Since the Biden administration took office, your agency has been intent on erasing the contributions of women and girls across this country. Ed's reinterpretation of sex discrimination to include "gender identity" and "sex characteristics" represents a blatant misreading of Title IX and a patent disregard for the original understanding of sex held by those who authored the amendment.<sup>1</sup>

The Biden administration's rewrite of Title IX puts at risk women's access to single-sex spaces such as bathrooms, locker rooms, and dorms. These spaces have been critical in guaranteeing privacy and safety for women at institutions of higher education across the country. Lia Thomas, a trans-identifying man who was a former NCAA swimmer for the University of Pennsylvania,

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<sup>1</sup> Press Office. "U.S. Department of Education Releases Final Title IX Regulations, Providing Vital Protections Against Sex Discrimination." *U.S. Department of Education*, 19 Apr. 2024, [www.ed.gov/news/press-releases/us-department-education-releases-final-title-ix-regulations-providing-vital-protections-against-sex-discrimination](http://www.ed.gov/news/press-releases/us-department-education-releases-final-title-ix-regulations-providing-vital-protections-against-sex-discrimination).

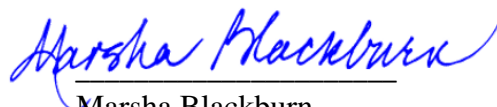
used the same locker room as his female teammates. According to Thomas' former teammate, Riley Gaines, Thomas' teammates were "exposed to male genitalia" in the women's locker room.<sup>2</sup>

Your agency's reinterpretation of Title IX also threatens women's ability to compete on athletic teams. In 2020, high school track athletes Chelsea Mitchell, Selina Soule, Ashley Nicoletti, and Alanna Smith sued the Connecticut Association of Schools and the Connecticut Interscholastic Athletic Conference after the four were robbed of the ability to fairly compete in Connecticut track competitions due to the fact they were competing against trans-identifying men.<sup>3</sup> According to Mitchell, two trans-identifying male athletes took 15 state championships away from their biological female competitors.<sup>4</sup> The Biden administration is on the opposite side of most Americans on this issue – according to Gallup, 69 percent of Americans believe transgender athletes should only be able to play on sports teams that match their birth gender.<sup>5</sup>

Moreover, your agency's decision to roll back the Trump administration's due-process protocols for students accused of sexual assault while lowering the standard for determining a student to be guilty of sexual misconduct is abhorrent and will inevitably lead to the re-establishment of Obama-era kangaroo courts on campuses nationwide. Further, Ed's expanded definition of "sex-based harassment" opens the door to students being punished simply for referring to their peers by their biological sex or refusing to use their peers' "preferred pronouns." The Biden administration is laying the groundwork for students to be unjustly penalized for expressing constitutionally protected speech that is based on sound science.

Your efforts to dismantle Title IX are not only reprehensible, but downright dangerous for women and girls. They will destroy the institutions of female athletics as we know it. I sincerely urge you to reverse course and protect the precious spaces that generations of women in America tirelessly fought to attain.

Sincerely,



Marsha Blackburn  
United States Senator

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<sup>2</sup> Halon, Yael. "Lia Thomas Exposed 'male Genitalia' in Women's Locker Room after Meet, Riley Gaines Says: Dropped 'His Pants.'" *Fox News*, 9 Feb. 2023, [www.foxnews.com/media/lia-thomas-exposed-male-genitalia-womens-locker-room-after-meet-riley-gaines-dropped-pants](https://www.foxnews.com/media/lia-thomas-exposed-male-genitalia-womens-locker-room-after-meet-riley-gaines-dropped-pants).

<sup>3</sup> Maxouris, Christina. "3 Connecticut High School Girls Are Suing over a Policy That Allows Trans Athletes to Compete in Girls' Sports." *CNN*, 15 Feb. 2020, [www.cnn.com/2020/02/14/us/transgender-athletes-connecticut-lawsuit/index.html](https://www.cnn.com/2020/02/14/us/transgender-athletes-connecticut-lawsuit/index.html).

<sup>4</sup> Schlott, Rikki. "'Fastest Girl in Connecticut' Chelsea Mitchell Suing State after Losing to Trans Athletes." *New York Post*, 1 June 2023, <https://nypost.com/2023/05/31/runner-chelsea-mitchell-who-lost-to-trans-athletes-this-is-about-fairness/>.

<sup>5</sup> Jones, Jeffrey M. "More Say Birth Gender Should Dictate Sports Participation." *Gallup*, 12 June 2023, <https://news.gallup.com/poll/507023/say-birth-gender-dictate-sports-participation.aspx>.