



Representative Virginia Foxx, Chair
Committee on Education and the Workforce
2262 Rayburn House Office Building
Washington, D.C. 20515

Representative Bobby Scott, Ranking Member
Committee on Education and the Workforce
1201 Longworth House Office Building
Washington, DC 20515

May 17, 2018

Dear Chairman Foxx and Ranking Member Scott:

The National Center for Transgender Equality (NCTE) submits this letter to express our grave concerns about the Department of Education's ongoing efforts to dismantle the enforcement of critical civil rights protections, and we call upon the Committee on Education and the Workforce to ensure robust and comprehensive oversight of the Department's harmful activities. NCTE is one of the nation's leading social justice organizations working on behalf of the nearly two million of transgender people in the United States, including tens of thousands of transgender students. Together with our partners and allies across the civil rights movement, we are deeply troubled by the Department of Education's refusal to faithfully enforce federal laws that protect equal access to education for all students, including transgender students, and by its attempts to dismantle critical civil rights protections for some of the most vulnerable students in this country. Particularly today, on the 64th anniversary of the Supreme Court's landmark ruling in *Brown v. Board of Education*, it is imperative that the Committee takes action to demand that the Department fulfill its vital mission of ensuring that all students have an opportunity to learn without discrimination and mistreatment.

The Department of Education bears the vital responsibility of ensuring equal access to education. It is responsible for enforcing numerous federal civil rights laws, including Title IX of the Educational Amendments of 1972, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Individuals with Disabilities Education Act of 1990. In past administrations, the Department of Education has played an indispensable role in working to ensure that every child—no matter who they are—has a chance to learn and grow in a safe and supportive environment.

It is deeply troubling that the Department of Education under the current administration has abdicated this essential role. The Department's refusal to faithfully enforce the federal laws it is charged with implementing, its rescission of a series of critical guidance documents, and its deliberate efforts to undermine and create confusion about the rights of students is not only harmful: it is the very antithesis of its statutory mission and a shameful betrayal of millions of students and families.

The Department's long list of attacks on civil rights includes the rescission of key guidance documents clarifying the rights of students under Title IX, including guidance documents clarifying protections for

transgender students and for victims of sexual assault and harassment. These guidance documents, which were based on years of careful research, proven best practices, and a body of case law spanning decades, provided schools with practical answers on issues they routinely face and helped them understand and comply with the law. Most importantly, these documents were instrumental in ensuring that school officials had the tools they needed to protect the health, safety, and educational opportunities of students across the country. The Department's reckless decisions to roll back these guidance documents put ideology and politics over the wellbeing of students and the requirements of the law. These decisions have created fear and turmoil for students and families who have relied on federal protections. They have fostered confusion among school officials by sending the misleading signal that the principles formalized in these documents do not reflect Title IX's legal requirements. And they have undermined the Department's own ability to effectively enforce federal law, as it is statutorily required to do. The Department has not stopped at creating confusion by revoking guidance: for example, in recent months, it adopted an interim guidance document on sexual assault and harassment that compromises the safety and wellbeing of many survivors, and it has announced that it will summarily reject students' complaints of discrimination based on transgender status.

The Department's attempts to undermine civil rights have extended to almost every law it is charged with enforcing. For example, it is currently seeking to delay the implementation of a long-awaited rule under the Individuals with Disabilities Education Act that addresses significant disproportionality in restrictive setting placements and discipline of students of color. It has announced that it will scale back investigations into systemic discrimination in schools. And it has overhauled its case processing manual to create significant and in some cases insurmountable barriers to filing complaints, weakening one of the most important tools for enforcing civil rights protections and putting it out of reach for many students and families.

Under Secretary DeVos and President Trump, the Department has time and again turned its back on students, putting their needs and their rights second to ideologically driven policies that are adopted with none of the care and expertise that children and their families deserve. The Department's disregard for the law, the factual evidence, and the needs of students can no longer go unchecked. There is a clear and urgent need for congressional oversight to ensure that the Department answers to American families and to prevent its continued abuse of its power. We call for a comprehensive hearing by the Committee on Education and the Workforce to carefully examine the Department's record and ongoing activities related to civil rights.

Thank you for considering our views on the matter. Please do not hesitate to contact us with any questions through Ma'ayan Anafi at manafi@transequality.org or (202) 804-6050.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mara Keisling', with a stylized flourish at the end.

Mara Keisling, Executive Director