

June 11, 2021

Official Testimony from Family Policy Alliance  
Delivered to the Department of Education Title IX Public Hearing

Good afternoon. My name is Nicole and I represent Government Affairs at Family Policy Alliance. Family Policy Alliance is a leading national organization representing hundreds of thousands of Americans who support protecting opportunities and privacy for women and girls.

As a matter of first importance, Title IX is NOT the same as Title VII. The Supreme Court explicitly excluded other laws from consideration as they stated in *Bostock*.<sup>1</sup>

Second, Title IX was clearly intended to ensure females have equal access to educational opportunities with males.

Prior to 1972, there were virtually no college scholarships available for women to play sports. Women were fortunate if they even had a sports team at their schools. They often had no locker rooms, low-quality uniforms, old training equipment, no travel stipends, absurd practice schedules, and no championship opportunities. It's no surprise that only 1 in every 27 girls played sports.

Today, over [100,000](#) women play college sports and about 3 million play high school sports. These opportunities are in large part due to Title IX.<sup>2</sup> But women and girls still face challenges in this arena. In fact, during this year's "March Madness," Americans were appalled when they found out female athletes were given inadequate workout rooms, and hardly any media attention.<sup>3</sup>

The NCAA [publicly apologized](#) for "dropping the ball" after denying women reasonable access to proper equipment and facilities.<sup>3</sup>

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<sup>1</sup> *Bostock v. Clayton County*, 590 U.S. \_\_ (2020)

<sup>2</sup> "Estimated Probability of Competing in College Athletics." NCAA.org - The Official Site of the NCAA. April 16, 2020. Accessed June 09, 2021. <https://www.ncaa.org/about/resources/research/estimated-probability-competing-college-athletics>.

<sup>3</sup> Deliso, Meredith. "NCAA Apologizes to Women's Basketball Players for Weight Room Disparity." ABC News. March 19, 2021. Accessed June 09, 2021. <https://abcnews.go.com/Sports/ncaa-apologizes-womens-basketball-players-weight-room-disparity/story?id=76563430>.



If the Department of Education redefines Title IX, they won't just "drop the ball" on equipment and opportunities for women and girls, they will kick them off of their podiums and out of the gym entirely.<sup>3</sup>

Every girl should have the chance to compete on a level playing field. In today's world, that means one that is reserved just for girls. Males naturally possess physical advantages over females. This natural advantage can result in them winning titles, scholarships, and other opportunities that should be reserved for girls.

The Department of Education has a responsibility to protect women and girls, not steal their dreams.

Third, redefining sex will run counter to the explicit text of Title IX regarding single-sex facilities.

Title IX itself explicitly allows educational institutions to maintain "separate living facilities for the different sexes," indicating binary, biological sex.<sup>4</sup> Of course this makes sense in the context of private spaces like locker rooms and showers.

No student should be forced into an intimate setting like a restroom or locker room with someone of the opposite sex. The Department of Education should not get to determine the first time a student is exposed to a member of the opposite sex while in a state of undress.

In conclusion, we urge the Department to:

- Adhere to the original legislative intent of "sex" in Title IX.
- Ensure sports and opportunities for females will not be stolen by males.
- Protect the privacy and dignity of women and girls in intimate facilities.

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<sup>4</sup>Interpretation with Respect to Living Facilities, Public Law 92-318, *Title IX* (1972), § 907, 86 Stat. 375.