

February 26, 2020



Chairwoman Carolyn B. Maloney
Ranking Member Jim Jordan
Chairman Jamie Raskin
Ranking Member Chip Roy
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Maloney, Ranking Member Jordan, Chairman Raskin, Ranking Member Roy, and Members of the House Committee on Oversight and Reform:

I write to you on behalf of GLSEN, the nation's leading organization on lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) issues in K-12 education, in advance of the U.S. House Oversight and Reform Committee hearing on the Trump Administration's Religious Liberty Assault on LGBT Rights that is scheduled for 9:00am, Thursday, February 27, 2020. We wholeheartedly support efforts by Members of the Committee to prevent the use of religion as a pretext for discrimination towards anyone, including LGBTQ students and educators. Thank you for your leadership on seeking to address this important set of issues that are of longstanding and urgent concern.

GLSEN is a non-profit organization that seeks to make schools safer for all students, regardless of their sexual orientation, gender identity, and/or gender expression, and whatever their race, religion, disability status, and national origin. LGBTQ students and educators who experience discrimination based not only on their sexual orientation and/or gender identify, but also on other aspects of their identities should be safe and supported at school and throughout all dimensions of life.

For many of its 30 years in existence, GLSEN has partnered with Congress, the White House, and executive branch agencies to achieve significant improvements in school climate for LGBTQ students in K-12 schools throughout the United States. Such improvements have changed and saved lives, reducing experiences of discrimination, stigma, and violence experienced by LGBTQ students, and increasing their chances of success in school and in life.

Unfortunately, the advances forged over many years of careful work are now under threat. Across the current Administration, agency after agency has undone policies and protections designed to protect vulnerable LGBTQ youth and extend greater opportunity to them. In addition, numerous steps have been taken to create new opportunities to discriminate against LGBTQ people and others on the basis of religion. Over the past three years, the Trump Administration has instead consistently expanded religious exemptions that weaken federal protections, thereby putting LGBTQ students and educators at greater risk of experiencing discrimination.

We urge Members of the Committee to help make schools safer for LGBTQ students and educators whose rights have been threatened by the actions of federal agencies under this Administration and whose experiences have been increasingly denigrated rather than affirmed in the public square. In February 2020, we registered our opposition to the U.S. Department of Education's proposal to broaden the existing religious exemption to Title IX of the Education Amendments of 1972 that make LGBTQ students and educators even more vulnerable to discrimination in religious education institutions.¹ Although students and educators experience discrimination in many different types of schools, current research points to an increased risk of vulnerability in religious education institutions where religion is used as a pretext for discrimination. A recent national study of a sample of private schools, including religious education institutions, found that 14 percent of these schools actively discriminate against LGBTQ students and staff.² At least five percent of these schools had explicit policies against hiring or retaining LGBTQ staff. In states such as Florida, research on the practices of some private religious schools have uncovered similar instances of discrimination.³ A study of a sample of schools in that state found that at least 10 percent had zero tolerance policies for LGBTQ students. More than thirty percent of schools in this study implemented curriculum that harmful to LGBTQ students.

In addition to proposals advanced by the U.S. Department of Education, GLSEN has also spoken out against a broader set of proposed rules issued by other federal agencies. We opposed the U.S. Department of Health and Human Services rule that would remove nondiscrimination protections from over \$500 billion in federally funded services in December 2019 prior to the Department's decision to also broaden religious exemptions in a proposed rule it issued alongside those promulgated by the Department of Education and seven other federal agencies in 2020.⁴ We opposed a proposed rule from the Office of Federal Contract Compliance Programs that

¹ U.S. Department of Education (2020). Notice of Proposed Rulemaking, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Direct Grant Programs, State-Administered Formula Grant Programs, Developing Hispanic-Serving Institutions Program, and Strengthening Institutions Program (January 17, 2020), Docket ID ED-2019-OPE-0080.

² Huffington Post (December 16, 2017). These Schools Get Millions of Tax Dollars to Discriminate Against LGBTQ students. Available at https://www.huffpost.com/entry/discrimination-lgbt-private-religious-schools_n_5a32a45de4b00dbbcb5ba0be?fz7=

³ Huffington Post (August 9, 2018). Exclusive: Florida Wants To Help Bullied Kids — Unless They're Gay. Available at https://www.huffpost.com/entry/florida-anti-bullying-gay-students_n_5b69d2b2e4b0de86f4a5edcf

⁴ U.S. Department of Health and Human Services (2019). Health and Human Services Grants Regulation Proposed Rule, RIN 0991-AC16.

would expand the religious exemption for workplace protections in federal contracting services that impacts educators in September of 2019.⁵ Indeed, we have been obligated to be increasingly vocal in opposing numerous harmful rules that have been promulgated since the beginning of 2017 that, in the name of “religious liberty,” make LGBTQ students and educators less safe.

These changes have a direct impact on the lives of LGBTQ students. We thank Committee staff for the opportunity for Darid Prom, who is a member of GLSEN’s National Student Council (NSC), to speak with them directly about their concerns about the Administration’s attempts to weaken Title IX protections by expanding religious exemptions. Prom shared their experiences of discrimination from educators, bullying from other students, and how the tone that has been set at the federal level encourages rather than alleviates more of the same harmful behaviors. During that conversation, they also lifted up the need for additional student voices from GLSEN’s student network to be heard in these important conversations. The following are examples of some of the experiences from members of GLSEN’s student networks:

- A student from Wisconsin shared that he was not allowed to use the bathroom that aligned with his gender and experienced such severe violence that he had to be treated in the nurse’s office.
- In Massachusetts, school staff would not acknowledge a student’s gender identity and that made him feel un-safe. This behavior set an example that encouraged students to also mis-gender and exclude him.
- After being bullied and harassed by peers, a student in North Carolina reported the incidences to adult school staff, some of whom not only failed to make sure she was safe, but also refused to refer to her by her name that accurately reflected her gender identity.

In 2019 and 2020, we have seen several instances where teachers who do not affirm transgender students have filed lawsuits that claim they were unfairly disciplined for refusing to use accurate names and pronouns for students.⁶ A teacher in Virginia, citing his religious beliefs, filed a lawsuit after he was fired for refusing to address a male student who is transgender with male pronouns. In response to the implementation of affirming policies that allow transgender students to use names and pronouns that align with their gender identity, a teacher in Indiana filed a lawsuit that asserts his belief that it is “sinful to promote transgender behavior.”

Every other year since 1999, GLSEN has surveyed LGBTQ students across the country about their experience of anti-LGBTQ discrimination, bias, and violence at school, and to learn what makes a difference in their lives. From 2007-2015, our survey documented significant improvements. That progress slowed dramatically in 2017, When GLSEN’s National School Climate Survey

⁵ OFCCP (2019). Proposed Rule to clarify the scope and application of the religious exemption contained in section 204(c) of Executive Order 11246, as amended., RIN 1250-AA09.

⁶ See Time (November 15, 2019). ‘This Isn’t Just About a Pronoun.’ Teachers and Trans Students Are Clashing Over Whose Rights Come First. Available at <https://time.com/5721482/transgender-students-pronouns-teacher-lawsuits/>

recorded an increase in youth reporting negative remarks about transgender people, an upward trend in the frequency of staff making negative remarks about gender expression. Among the many findings within the survey:

- The vast majority of LGBTQ students (87.3%) experienced harassment or assault based on personal characteristics, including sexual orientation, gender expression, gender, religion, race and ethnicity, and disability. Seven in ten LGBTQ students (70.1%) experienced verbal harassment based on sexual orientation, more than half based on gender expression (59.1%) or gender (53.2%).⁷
- More than a third of LGBTQ students (34.8 %) missed at least one day of school in the last month because of feeling unsafe at school, and at least two in five students avoided bathrooms (42.7%) and locker rooms (40.6%) because they felt unsafe or uncomfortable.⁸
- The frequency of verbal harassment based on gender expression increased from 2015 to 2017, after years of decline, and there were no improvements in reports of physical harassment and assault based on gender expression from 2015 to 2017.⁹
- In 2017, hostile school climates negatively affected LGBTQ students' mental health and educational outcomes. LGBTQ students who experienced high levels of anti-LGBTQ victimization were nearly twice as likely to report they do not plan to pursue post-secondary education. Also, LGBTQ students who experienced high levels of anti-LGBTQ victimization and discrimination had lower GPAs, lower self-esteem, and higher levels of depression.¹⁰

LGBTQ students do best at those schools that provide several key supports: policies that protect LGBTQ students from harassment and discrimination; educators and other school professionals who support and affirm LGBTQ students; the presence of student clubs, commonly known as GSAs, which students organize to improve school climate for LGBTQ youth; and curricular content which does not denigrate them, but rather presents LGBTQ people, history, and issues in accurate, appropriate, and positive ways. We urge Members of the Committee and all Members of Congress to act within their authority and jurisdiction to help make K-12 schools safer and affirming for LGBTQ students and educators who are at even greater risk of experiencing discrimination due to the Administration's unwarranted and harmful attempts to expand religious exemptions. GLSEN's recommendations include the following:

- Reinstate the U.S. Department of Education's guidance on protections for transgender students.¹¹

⁷ Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018). *The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*: New York: GLSEN.

⁸ Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018). *The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*: New York: GLSEN.

⁹ Ibid.

¹⁰ Ibid.

¹¹ See Congresswoman Suzanne Bonamici (OR-1) (May 13, 2019). Bonamici Leads Effort to Call on DeVos to Reinstate Protections for Transgender Students; Joined by 44 Colleagues. Available at <https://bonamici.house.gov/media/press-releases/bonamici-leads-effort-call-devos-reinstate-protections-transgender-students>

- Require the U.S. Department of Education Office of Civil Rights to enforce protections for LGBTQ students.¹²
- Strengthen elements of the U.S. Department of Education’s Civil Rights Data Collection to better monitor incidences of discrimination against LGBTQ students.¹³
- Pass H.R. 2653 Safe Schools Improvement Act that will establish federal standards for bullying and harassment prevention that are inclusive of LGBTQ students.¹⁴

We thank the Committee for its leadership on addressing the Administration’s ongoing and harmful assaults on basic protections that are particularly important for LGBTQ students and educators who already experience high rates of discrimination. When students do not feel safe at school they cannot learn and when educators do not feel safe at school they cannot teach. In the spirit of our mission to make schools safer for all, I welcome any future opportunities to support your efforts to halt the use of religion as a pretext for discrimination and can be reached at 646-388-6554 and Eliza.Byard@glsen.org.

Sincerely,



Eliza Byard
Executive Director

¹² See Congresswoman Suzanne Bonamici (OR-1) (October 22, 2019). Bonamici Leads 58 Lawmakers in Demanding DeVos Protect Civil Rights of LGBTQ Students. Available at <https://bonamici.house.gov/media/press-releases/bonamici-leads-58-lawmakers-demanding-devos-protect-civil-rights-lgbtq-students>

¹³ Add sexual orientation, gender identity, and gender expression to the enumerated categories in the Civil Rights Category (Student Counts) table (OCR (2019). A-3. *CRDC Data Categories.09 13 19*: 8-9. Available at <https://www.regulations.gov/document?D=ED-2019-ICCD-0119-0003>); Include gender identity and gender expression in the enumerated categories for the Civil Rights Category (Allegations) table (OCR (2019). A-3. *CRDC Data Categories.09 13 19*: 10-11. Available at <https://www.regulations.gov/document?D=ED-2019-ICCD-0119-0003>); Also add sexual orientation, gender identity, and gender expression to the enumerated categories in the Harassment or bullying—students disciplined table (OCR (2019). A-2 *CRDC Data Groups.09 13 19*: 44-45. Available at <https://www.regulations.gov/document?D=ED-2019-ICCD-0119-0003>).

¹⁴ Sponsored by Congresswoman Linda Sanchez (CA-38), H.R. 2653 Safe Schools Improvement Act. Available at <https://www.congress.gov/bill/116th-congress/house-bill/2653?q=%7B%22search%22%3A%5B%22%5C%22safe+schools+improvement+act%5C%22%22%5D%7D&s=1&r=1>