



**Department of
Education**
Chancellor Richard A. Carranza

**Testimony of the New York City Department of Education
Before the New York City Council Committee on Education
On Title IX – Gender Discrimination**

April 30, 2019

Good afternoon Chairs Treyger, Barron and Rosenthal and members of the Education, Higher Education, and Women and Gender Equity Committees here today. My name is Laura Brantley and I am the Executive Director of the Office of Equal Opportunity (OEO) and Diversity Management. Joining me today is Kenyatte Reid, Executive Director of the Office of Safety and Youth Development (OYSD). Thank you for the opportunity to testify today on Title IX and the City's commitment to ensure that all schools and workplaces are inclusive and supportive environments.

Ensuring a safe and supportive school and work environment that supports gender inclusivity and is free of sexual harassment and discrimination is a key priority of this Administration. DOE's mission is to foster school communities and workplaces that are diverse, inclusive, and equitable. Our goal in all that we do is to advance equity, and that extends beyond Title IX to all aspects of our work. We have made progress in important areas, including implementing our Transgender and Gender Nonconforming Student Guidelines over five years ago, increasing access to girls' sports teams, and making investments in critical areas like implicit bias training for staff and strengthening school climate.

Our partnerships have been crucial in advancing this work. Thanks to the Council's Young Women's Initiative, DOE has benefited from the appointment of our Gender Equity Coordinator, all middle and high schools are equipped with feminine hygiene products, and we have been able to provide work-based learning and internship opportunities to young women, as part of our focus on Career and Technical Education (CTE). In addition, the Council's advocacy for creating an LGBTQ Community Liaison has advanced our commitment to making our schools inclusive, welcoming, and affirming for students of all gender identities, gender expressions, and sexual orientations.

Although the federal government has proposed an unacceptable step backwards in its Title IX enforcement, we at the DOE are committed to advancing equity. We plan on maintaining the broad protections set forth in our Chancellor's Regulations, which exceed Title IX requirements, as well as innovative programs that value diversity, inclusion, and equity while promoting excellence.

Creating equitable environments that are free from gender-based discrimination and harassment is the responsibility of the entire DOE. OEO and OYSD are here to represent the agency today as the two divisions with oversight over this important work.

As Executive Director of OEO, I directly oversee the DOE's gender equity policies and procedures. We deliver support to the DOE through:



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- Coordinating mandatory sexual harassment training to every DOE employee, conforming with the Stop Sexual Harassment in NYC Act, and providing training to field-based employees to ensure compliance;
- Prevention and awareness training throughout the year for all members of the DOE community regarding the DOE's Anti-Discrimination and Anti-Harassment Policy in Chancellor's Regulation A-830, as well as other federal, state, and city anti-discrimination laws;
- Ensuring students, parents, employees, applicants for employment, and others know how to file complaints of unlawful discrimination or harassment by DOE employees;
- Investigating and resolving allegations of discrimination, harassment, and sexual misconduct for students and staff pursuant to Chancellor's Regulation A-830;
- Analyses of recruitment and promotion data to identify areas for improvement;
- Providing oversight and guidance to faculty and staff in handling workplace accommodations;
- Partnership with several divisions to promote diversity, cultural sensitivity, inclusion, and equal opportunity for students and staff as outlined in the DOE's Respect for All policy.

The DOE's Title IX Coordinator is an integral part of OEO, reporting directly to me and responsible for oversight of the DOE's compliance with Title IX. This includes investigating staff-on-staff and staff-on-student complaints of gender discrimination and harassment, liaising with various divisions and offices to ensure schools and workplaces are inclusive and free of discrimination while providing training, collecting and analyzing data, and serving as a resource for staff, students, and parents. Our Title IX Coordinator is part of the DOE's systemic approach to ensuring that the DOE's procedures for resolving complaints are implemented and administered at all levels across the Department. This work is a shared responsibility across every office and division.

The Title IX Coordinator's work is supported within OEO by a team of 16 full-time investigators, two trainers, four diversity attorneys, and a disability attorney.

Most importantly, as my colleague Kenyatte Reid will detail shortly, there is a critical school-based component of our Title IX network. Each school has a designated Sexual Harassment Liaison who is trained to be a resource for the school in this area, to respond to allegations of sexual harassment and to assist in putting crucial supports in place for students, such as academic support and counseling.

Over the past year and a half, we have conducted 243 in-person Title IX trainings for 8,364 school-based and central staff. The Title IX Coordinator and OEO staff members have organized workshops for the OYSD-led Gender, Sexuality Alliance (GSA) Summit, which focused on the rights of LGBTQ students within their school communities. The Title IX Coordinator also provided guidance on Chancellor's Regulations and policies, including building inclusive school cultures for students and staff with an emphasis on gender equity and inclusion. Further, the Title



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IX Coordinator is part of a cross-divisional team responsible for updating the Transgender and Gender Nonconforming Student Guidelines.

Title IX is an integral part of DOE's annual Diversity and Inclusion Plan, which supports and reinforces the DOE's commitment to diversity, equity, and inclusion. We update this plan, which includes hiring practices, each year. As part of the updating process, the Title IX Coordinator meets with Title IX Coordinators across the metro area to discuss best practices for strengthening this commitment.

I would now like to turn it over to my colleague Kenyatte Reid, who will further discuss our work to ensure that DOE provides a safe, inclusive, and welcoming environment.

*Testimony of Kenyatte Reid,
Executive Director of the Office of Safety and Youth Development, Division of School Climate
and Wellness*

Good afternoon, Chairs Treyger, Barron, Rosenthal, and members of the Education, Higher Education and Women and Gender Equity Committees. My name is Kenyatte Reid, and I am the Executive Director for the Office of Safety and Youth Development in the Division of School Climate and Wellness.

Nearly a year ago, the Chancellor created a new streamlined support system for our schools that included creating the Division of School Climate and Wellness, led by Deputy Chancellor LaShawn Robinson. The division brings together offices that were previously in different divisions in order to ensure that our work in schools is viewed through an equity lens, with a focus on the well-being of our students. This work is critical to the success of our school communities, and we are investing:

- \$47 million annually to support schools with critical resources to strengthen their culture and climate
- \$23 million in implicit bias and culturally responsive education training
- \$8 million annually in anti-bullying initiatives

Ensuring that our school communities are safe, nurturing learning environments that are free from gender-based discrimination and harassment continues to be at the heart of our Equity and Excellence for All agenda.

DOE policy, as set forth in Chancellor's Regulation A-831, expressly prohibits student-on-student sexual harassment on and off school property and establishes procedures for reporting, investigating, and addressing complaints. Prohibited conduct includes unwelcome and uninvited conduct of a sexual nature, including conduct that is physical, verbal, written, or electronically transmitted.

Students and staff are well aware of this expectation. At the start of each school year, the requirements must be discussed with students and staff, and all schools are required to have a



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Sexual Harassment Liaison. These designees now attend a full-day required training and are responsible for turn keying that information to the school staff. In addition to the DOE non-discrimination policy, every school is also required to prominently display a “Check & Respect” poster, which informs the school community on how to report allegations of sexual harassment, and to distribute a brochure that provides an overview of DOE policy and reporting procedures.

Through our streamlined DOE structure, we are ensuring our schools are places where all students can thrive. We have school climate managers in every borough office whose job is to monitor and support schools as they create welcoming environments for students. Additionally, thanks to the leadership of the Council in creating Gender Equity Liaisons, the DOE created the position of Gender Equity Coordinator in December 2016. Our Gender Equity Coordinator (GEC) has been vital to promoting gender equity and inclusion for all our students, with a focus on supporting girls, transgender, and gender-expansive students. Housed within OYSD, our GEC has taken the lead on initiatives to prevent and better respond to student-to-student sexual harassment.

Our GEC has also been crucial to building our relationships with community-based organizations, especially those with a focus on anti-violence work. The GEC partnerships include Day One NY, through which we have provided courses on dating violence to 519 school social workers. The GEC is currently working with STEPS to End Family Violence, another provider of dating violence services, to provide training on Working With Youth Who Cause Harm to our District 79 counselors.

Further, our GEC has put together events like the 2018 Women’s History Mini Museum and the now annual Sexuality, Women, and Gender Instructional Equity Conference, which was developed in partnership with our LGBTQ Community Liaison and is designed for staff to learn about advancing equity for people of all gender identities and sexual orientations.

To ensure our work to prevent sexual harassment and discrimination is inclusive of the LGBTQ community, OYSD offers LGBTQ-specific professional development. Thanks to the Council’s leadership, our LGBTQ Community Liaison is in his third year.

This work, as my colleague mentioned, is a shared responsibility. Gender inclusion is critical to all that we do—including through curriculum and programming. I would like to share some of the most important ways we see this commitment come to fruition across the DOE.

As part of comprehensive health education, students learn about healthy and unhealthy relationships, what constitutes bullying and harassment, consent and boundaries, how to be an “upstander,” and how to get help for themselves and others. Our K-12 Health Education Scope and Sequence, which will be available to all schools this summer, includes the topic of sexual harassment, and we are working with partners and educators to identify additional resources to support teachers in incorporating this important material into health classes.



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We have also trained approximately 3,000 staff members on various important topics, including dating violence and healthy relationships, student-to-student sexual harassment, and gender inclusivity. The DOE works in close partnership with the Human Resources Administration and the Mayor's Office to End Domestic and Gender-Based Violence to support the Teen Relationship Abuse Prevention Program (RAPP), which provides a full-time social worker, focused on relationship abuse prevention and intervention services, to nearly 100 high schools. The City has also invested to expand this programming in an age-appropriate way to over 100 middle schools throughout the city.

Athletics are also key to student health and academic success, and DOE has worked hard in the last few years to bring our female student athletes equitable access to after-school sports, including making it a priority to add over 400 new girls teams since 2012. These efforts have successfully expanded access for female students: 47 percent of all student athletes are now female with the percentage of girls' teams and boys' teams near parity (approximately 48%). Additionally, PSAL has started initiatives like National Girls & Women in Sports Day to highlight our female scholar-athletes.

We are also making athletics more inclusive for all students by incorporating nationwide best practices for our transgender athletes, changing our PSAL website to list the roster of a student in their chosen name regardless of their legal name, and conducting transgender student focus groups.

It is also the responsibility of all schools to ensure the rights of pregnant and parenting students are met. Pursuant to Chancellor's Regulation A-740, pregnant and parenting students have the right to remain in their schools and fully participate in educational programs and extracurricular activities. To support pregnant and parenting students, DOE's Living for the Young Family through Education (LYFE) program, which has over thirty locations in all five boroughs, provides free early childhood education and family supports so students can stay on-path to graduation. Last school year, over 650 children and student parents benefited from the LYFE program.

As part of the Chancellor's priority to **accelerate learning and instruction**, we are committed to providing inclusive, rigorous instruction for every child in a safe, welcoming, and affirming environment. Through STEM investments, including Computer Science for All and CTE, our focus is on expanding students' access to new college and career possibilities, especially female, black, and Latinx students who are traditionally underrepresented in technical fields.

Through Computer Science for All, there has been significant progress in closing the gender gap. The number of young women in high school taking AP Computer Science has increased six-fold in just two years – and 1,266 young women passed the exam, which represents a seven-fold increase.

Lastly, advancing gender equity by increasing the participation of young women across our 301 CTE schools and programs is a top priority. Over the last three years, we have seen an increase in the total number of female students enrolled in CTE programs, as well as an increase in their



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graduation rate. Since 2016, we are grateful to have been the recipients of City Council Young Women's Initiative Funds to support Work-Based Learning Opportunities, including internships. These funds have allowed us to encourage greater participation of underrepresented student populations for targeted occupational fields such as information technology, engineering and architecture, construction, and automotive and transportation.

Thank you again for the opportunity to testify today. We know that the Council shares our commitment to ensuring our school and work environments will enable all students and staff to thrive. We look forward to working with the City Council on this urgent and necessary work.

With that, we would be happy to answer any questions you may have.

**TESTIMONY OF JACQUELINE M. EBANKS
EXECUTIVE DIRECTOR, COMMISSION ON GENDER EQUITY**

**COMMITTEES ON EDUCATION, HIGHER EDUCATION, and WOMEN AND GENDER
EQUITY OVERSIGHT HEARING:
TITLE IX—GENDER DISCRIMINATION**

Introduction

Good afternoon, Chairs Barron, Rosenthal and Treyger, and members of the Committees on Education, Higher Education, and Women and Gender Equity.

I am Jacqueline Ebanks, Executive Director of New York City's Commission on Gender Equity (CGE). In this role I also serve as an advisor to the Mayor and First Lady on policies and issues impacting gender equity in New York City for all girls, women, transgender, and gender non-binary New Yorkers regardless of their ability, age, ethnicity/race, faith, gender expression, immigrant status, sexual orientation, and socioeconomic status.

The de Blasio Administration has been steadfast in its commitment to promote equity, excellence and fairness for all New Yorkers. From combatting workplace sexual harassment and discrimination on the basis of sexual orientation or gender identity, to enshrining rights for pregnant and parenting New Yorkers, to ensuring access to inclusive services and paid safe leave for survivors of domestic and gender-based violence, the Administration has converted its words into action to become a leader in protecting the rights of all New Yorkers regardless of gender identity, gender expression, or background.

It is within this context that CGE works to create a deep and lasting institutional commitment to tearing down equity barriers across New York City. CGE carries out its activities across three areas of focus within a human rights framework using an intersectional lens. These areas of focus are:

1. **Economic Mobility and Opportunity.** The goal is to create a City where people of all gender identities and gender expressions live economically secure lives and have access to opportunities to thrive.
2. **Health and Reproductive Justice.** The goal is to foster a City free from gender- and race-based health disparities.
3. **Safety.** The goal is to foster a New York City free from gender- and race-based violence.

Each of these areas intersects with aspects of Title IX protections that are specific to gender discrimination. As you know, Title IX:

- 1) Prohibits discrimination based on a person's gender expression or known or perceived gender identity
- 2) Requires schools to offer students equal opportunities to play sports, and provide equitable gender distribution of athletic scholarships; protect students and staff from sexual harassment; prohibit discrimination based on pregnancy or having a child; and

treat students equally in Science, Technology, Engineering, and Math (STEM), and career and technical education programs,¹ and

- 3) Protects all persons who receive or provide services at an institution receiving Title IX funding, regardless of their sex, sexual orientation, gender identity, part- or full-time status, disability, race, or national origin—in all aspects of a recipient’s educational programs and activities.²

Therefore, Title IX applies nationwide to 16,500 local school districts, 7,000 postsecondary institutions, charter schools, for-profit schools, libraries, and museums – as well as vocational rehabilitation agencies and education agencies in the 50 states; the District of Columbia, and U.S. territories and possessions.

Accordingly, Title IX is a core policy that frames the Administration’s citywide efforts to achieving gender equity and inclusion. This, of course, includes our educational system.

Administration’s Response to Proposed Title IX Changes

Recently, the de Blasio Administration submitted public comments in response to the federal Department of Education’s proposed rule changes that compromise Title IX implementation and enforcement by:

- Revoking guidance on Title IX which had asserted that the federal law requires schools to allow transgender students to use the pronouns, restrooms, and locker rooms that correspond with their gender identities³
- Seeking a change to Title IX that would define sex along the gender binary, (either male or female), unchangeable and determined by the genitalia a person has at birth. This would eliminate federal recognition of the estimated 1.4 million Americans who identify as a gender other than the one they were assigned at birth.⁴
- Proposing a narrower definition of sexual harassment that could create a higher burden of evidence to prove harassment or assault, which would create further barriers for survivors to access justice and would serve to discredit the courageous people that come forward with their experiences of sexual assault.⁵

The Administration’s full response is attached to this testimony.

CGE’s Work to Advance Title IX Protections

In spite of these proposed compromises to Title IX, the de Blasio Administration remains committed to advancing Title IX prohibitions against sex discrimination and ensuring access to educational opportunities regardless of gender identity or gender expression. CGE carries out this commitment through its recently created Gender Equity Interagency Partnership, its work with the Mayor’s Sexual Health Education Task Force, and its implementation of the global *16 Days of Activism Against Gender-Based Violence* Campaign.

¹ <https://nwlc-ciw49tixgw5l1bab.stackpathdns.com/wp-content/uploads/2015/08/NWLCItsYourEducation2010.pdf>

² <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>

³ https://blogs.edweek.org/edweek/rulesforengagement/2018/11/what_new_title_ix_guidance_on_sexual_assault_and_harassment_means_for_k-12_schools.html

⁴ <https://www.nytimes.com/2018/10/22/us/transgender-reaction-rally.html>

⁵ <http://www.gothamgazette.com/columnists/other/130-opinion/8131-building-the-school-girls-deserve-in-new-york-city>

Through the recently created Gender Equity Interagency Partnership, currently made up of 57 City agencies, including those agencies who work to advance outcomes and safety of youth and young adults across the City, CGE continues its effort to become the Administration's center of learning on gender equity and the connective core which ensures cross-agency learning to promote gender equity in a streamlined and consistent manner.

For the past year, CGE has worked with a multi-disciplinary group of students, educators, parents, a principal, a school psychologist, sexual health education experts, LGBTQ health experts, and New York City Department of Education and New York City Department of Health leadership on the Mayor's Sexual Health Education Task Force. The Task Force developed recommendations that promote a comprehensive and culturally competent sexual health education for all New York City public school students and released its report in July 2018, with recommendations that included incorporating a sexual health education curriculum with affirming and culturally competent information about personal safety, healthy relationships, sexual orientation, pregnancy, and gender identity.

As a first step towards implementing the Task Force's recommendations, DOE launched Health Ed Works to increase resources for schools to achieve many of the Task Force's recommendations, including creating school communities that prioritize health education, ensuring teachers are trained and supported to provide quality, inclusive health education, and ensuring educators have instructional resources to provide quality, inclusive health education. The Task Force will continue its work through 2022.

Through our Safety focus area, CGE will continue to partner with the Mayor's Office to End Domestic and Gender Based Violence, to expand the City's local implementation of the global *16 Days of Activism against Gender-based Violence* campaign. Through this campaign, we work with community members in various settings to ensure that we develop and promote community-based strategies to prevent, reduce, and eliminate gender-based violence. As part of this work, we are able to reach young people wherever they are: in schools, community-based nonprofits, faith-based institutions, and NYCHA housing developments. In 2018, this campaign reached over 12,000 New Yorkers in 35 community districts.

Before closing, I would like to address the Council's proposed amendment to CGE's annual reporting requirement under Local Law 67 that would have CGE include information about the Administration's Title IX compliance in its annual report. CGE welcomes additional conversations with the Council and relevant City agencies which currently track, collect, and monitor data that may inform such Title IX reporting across the City. In so doing, we will ensure that CGE avoids duplication of current Title IX data collecting and reporting efforts.

CGE remains dedicated to working in close partnership with our City agency colleagues and communities throughout New York City to promote the Administration's commitment to equity, excellence and fairness, and to protecting the safety of all New Yorkers, including its student populations.

Again, thank you for inviting me to speak today. I look forward to working with the City Council to address this issue further.

Now, my colleagues from the New York City Department of Education will tell you about the ways they will continue to advance this Administration's commitment to safe and supportive school and work environments that support gender inclusivity and are free of sexual harassment and discrimination, regardless of the unacceptable step backwards in its Title IX enforcement the Federal government has proposed.



OFFICE OF THE MAYOR
THE CITY OF NEW YORK



January 30, 2019

Submitted Via www.regulations.gov

Kenneth L. Marcus
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue SW
Washington DC, 20202

Re: **Docket ID ED-2018-OCR-0064, RIN 1870-AA14,**
*Nondiscrimination on the Basis of Sex in Education Programs or Activities
Receiving Federal Financial Assistance*

The City of New York (“the City”) and the New York City Department of Education (“NYCDOE”) submit the following comment in response to the United States Department of Education’s (“the Department’s”) proposed rule to amend the regulations implementing Title IX of the Education Amendments of 1972 (“Title IX”),¹ 34 C.F.R. pt. 106, as published in the Federal Register on November 29, 2018 (Vol. 83, No. 230).

I. Introduction

New York City is home to the largest school district in the United States, with 1.1 million students and 1,605 schools.² Given the NYCDOE’s educational mission and size, it is uniquely positioned to provide important input to the Department from the local educational agency (“LEA”) perspective. In addition, the NYC Mayor’s Office to End Domestic and Gender-Based Violence, coordinates a Citywide response to domestic and gender-based violence and, in collaboration with City agencies and community stakeholders and through the operation of the NYC Family Justice Centers, ensures access to inclusive services for survivors.

¹ 20 U.S.C. § 1681 *et seq.*

² For more information, visit <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance>.

As set forth below, due to the unacceptable limiting of the definition of sexual harassment and needed revisions to adequately address the proposed rule's applicability to a K-12 context, we request that the proposed rule be withdrawn for further review and revisions.

II. Proposed 34 C.F.R. § 106.30: Limited Definition of Sexual Harassment

The City affirms its strong, longstanding commitment to ensuring a safe and supportive school and work environment that is free of sexual harassment. The NYCDOE's specific policies and procedures implementing this commitment can be found in Chancellor's Regulations A-830, A-831, and A-832,³ which together cover conduct by both students and employees and prohibit sexual harassment and other discrimination based on actual or perceived sex, sexual orientation, and gender identity. Consistent with this commitment, and to effectively prevent and address sexual harassment, the applicable Chancellor's Regulations prohibit a broader range of conduct than the proposed rule would under the revised Title IX definition of "sexual harassment."⁴

Moreover, the proposed rule does not define what "education programs or activities"⁵ are covered under Title IX. This creates confusion as to what incidents, particularly those occurring off-campus and via social media and other electronic means, would trigger the proposed grievance procedures that are discussed in the next section. Separate from the text of proposed 34 C.F.R. § 106.44(a), the Department provides only a few examples of programs or activities—the majority of which are applicable to higher education and not elementary and secondary schools.⁶

The proposed limited definition of sexual harassment would permit lesser offenses to go unchecked, which in turn could lead to potential escalation of behavior and undermine school officials' ability to effectively prevent, and promptly address, the full range of sexual harassment that can negatively impact the learning, wellbeing, and safety of our students. We commit to maintaining our standards and ensuring that sexual harassment is not tolerated in our schools. We therefore strongly oppose the proposed sexual harassment definition and recommend the Department maintain the definition from the *2001 Revised Sexual Harassment Guidance*.⁷

³ Chancellor's Regulations A-830, *Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination*, available at <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-830>; A-831, *Student-to-Student Sexual Harassment*, available at <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-831-english>; A-832, *Student-to-Student Discrimination, Harassment, Intimidation, and/or Bullying*, available at <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-832>.

⁴ Proposed 34 C.F.R. § 106.30.

⁵ See 20 U.S.C. § 1681(a); 34 C.F.R. § 106.31; proposed 34 C.F.R. § 106.44(a).

⁶ Proposed rule at 61468.

⁷ U.S. Dep't of Educ. Office for Civil Rights ("OCR"), *2001 Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, (Jan. 2001), available at <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>; 62 Fed. Reg. 12034 (March 13, 1997) (original 1997 guidance) and 66 FR 5512 (Jan. 19, 2001) (notice of availability of revised guidance).

The remainder of our comment focuses on the proposed Title IX grievance procedures and responds to the Department's Directed Question regarding applicability of the proposed rule to elementary and secondary schools.

III. Application of Proposed 34 C.F.R. § 106.45(b) in K-12: Grievance Procedures

The Department inquired:

whether there are parts of the proposed rule that will be unworkable at the elementary and secondary school level, if there are additional parts of the proposed rule where the Department should direct recipients to take into account the age and developmental level of the parties involved and involve parents or guardians, and whether there are other unique aspects of addressing sexual harassment at the elementary and secondary school level that the Department should consider, such as systemic differences between institutions of higher education and elementary and secondary schools.⁸

In response to the above invitation for input, the NYCDOE requests clarification regarding the applicability and workability of the proposed Title IX grievance procedures for LEAs.

1) Waiver Provision:

Will the final rule include a provision for an LEA to apply to the Secretary of Education for the waiver of all or any specific requirements enumerated in 34 C.F.R. § 106.45(b)?

Many of the proposed procedural requirements conflict with other federal and New York State law requirements, including those that govern student disciplinary proceedings. Given this legal overlay, aspects of the proposed grievance procedures may not be workable in the K-12 context and hinder the ability of the schools to respond to alleged sexual harassment in a timely and effective manner.

For example, the New York school nondiscrimination and anti-bullying law,⁹ which may cover conduct also actionable under Title IX, prescribes strict reporting timelines and requires prompt investigations.

In the context of student disciplinary proceedings, including those against students with disabilities, the NYCDOE is subject to New York laws and regulations¹⁰ implementing the Individuals with Disabilities Education Act requirements.¹¹ This is a complex legal

⁸ Proposed rule at 61482.

⁹ N.Y. Educ. Law art. 2; 8 NYCRR §§ 100.2(l)(2)(ii)(b), (jj), (kk), (x).

¹⁰ E.g., N.Y. Educ. Law §§ 3214, 4404; 8 NYCRR pt. 201.

¹¹ 20 U.S.C. § 1400 *et seq.*; 34 C.F.R. pt. 300.

framework with specific procedural obligations and timelines, including those for hearings and for manifestation determination reviews (“MDRs”), that conflict with the timeline and procedural steps outlined in the proposed rule. For example:

- for student suspensions in excess of five school days, a due process hearing (with the opportunity to present evidence and question and present witnesses) must be offered within five days of the date of the imposition of the suspension;¹² and
- for students with disabilities, an MDR must be held within ten school days after the decision is made to impose a disciplinary removal that constitutes a disciplinary change in placement.¹³

Furthermore, the proposed rule does not clarify how the Title IX grievance procedures would function in tandem with concurrent school-based investigations and/or student disciplinary hearings. Students already receive substantive and procedural due process in these legally-required proceedings. The proposed rule fails to take into account these existing heightened protections in the K-12 context, where education is compulsory, schools are obligated to educate children within the state, and schools act in loco parentis during the school day. The proposed rule would impose significant new administrative requirements and redundancies that unnecessarily impede school officials’ ability to resolve matters expeditiously and with the flexibility needed to fashion remedies, supports, and interim relief as needed to maintain a safe school environment and address young students’ needs. For instance, the proposed limited definition of “supportive measures”¹⁴ would prevent school officials from implementing crucial safety measures and other supports, which are often time-sensitive.

There are also fundamental systemic incompatibilities between the proposed Title IX grievance process—which is adversarial—and student disciplinary proceedings, in which the NYCDOE and the respondent are the two parties. The proposed rule imposes a process that does not seem compatible with investigations of student misconduct in the K-12 setting when the “parties” are children. (Similarly, the grievance process does not seem workable for allegations of harassment of a student by an employee, when one party is a child and one is an adult.)

Moreover, requiring the three distinct roles of Title IX Coordinator, investigator, and decision-maker¹⁵ is inconsistent with the investigative model in K-12 where a duly trained administrator (often the principal) both conducts the investigation and determines

¹² See N.Y. Educ. Law § 3214(3)(c).

¹³ 8 NYCRR § 201.4(a)(3).

¹⁴ Proposed 34 C.F.R. § 106.30.

¹⁵ Proposed 34 C.F.R. § 106.45(b)(4).

responsibility under the applicable Chancellor's Regulation, which is separate from the hearing and sanctioning when required under the student discipline code.

Finally, it is unclear how these procedures could be implemented in a manner that protects student privacy in compliance with the Family Educational Rights and Privacy Act¹⁶ and New York law.¹⁷

Examples of the proposed requirements that may conflict with existing legal mandates, are inappropriate for the age and developmental level of the students involved, and/or are otherwise unworkable in the K-12 context include:

- a) "Provide to the party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, *with sufficient time for the party to prepare to participate.*"¹⁸
- b) Allow "each party" to submit initial written questions and follow-up questions¹⁹
- c) "Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility[.]"²⁰
- d) "Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to . . . [the] time of determination regarding responsibility, provide a copy of the report to the parties for their review and written response."²¹
- e) "[P]rovide the written determination to the parties simultaneously."²²

¹⁶ 20 U.S.C. § 1232g; 34 C.F.R. pt. 99.

¹⁷ *E.g.*, N.Y. Educ. Law § 2-d.

¹⁸ Proposed 34 C.F.R. § 106.45(b)(3)(v) (emphasis added).

¹⁹ Proposed 34 C.F.R. § 106.45(b)(3)(vi).

²⁰ Proposed 34 C.F.R. § 106.45(b)(3)(viii).

²¹ Proposed 34 C.F.R. § 106.45(b)(3)(ix).

²² Proposed 34 C.F.R. § 106.45(b)(4)(iii).

2) Carve-Out or Safe Harbor Provision:

In the alternative, will the final rule include a carve-out or safe harbor provision for LEAs to the extent they meet certain procedural requirements in a manner consistent with state and other federal laws?

IV. Closing

Thank you for the opportunity to provide comment on the proposed rule. We again affirm our strong, longstanding commitment to ensuring a safe and supportive school and work environment that is free of sexual harassment. Departure from the definition for sexual harassment in the *2001 Revised Sexual Harassment Guidance* is an unacceptable step backwards. Further, the proposed rule requires revision in order to adequately address its applicability to elementary and secondary schools. Accordingly, we request that the Department withdraw the proposed rule for further review.

The NYCDOE also welcomes the opportunity to speak with the Department at greater length to discuss this topic, including the potential impact in the K-12 context of the proposed sexual harassment definition and the procedural requirements as currently written.



STATEMENT OF SUPPORT

Michael Mulgrew, *President*
Howard Schoor, *Secretary*
Debra Penny, *Treasurer*
LeRoy Barr, *Assistant Secretary*
Tom Brown, *Assistant Treasurer*

United Federation of Teachers
52 Broadway
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Legislative and Political Action Department

T2019-4034 Oversight - Title IX - Gender Discrimination

Int. 1536-2019

Rosenthal

Committee on Women and Gender Equity

Summary of Provisions:

The purpose of this legislative introduction is to require the Commission on Gender Equity (CGE) to include information about Title IX compliance in New York City in its annual report, which is due on December 1 each year. It also requires the CGE to post the annual report online.

Statement of Support:

The New York City Commission on Gender Equity (CGE) studies the nature and extent of inequities facing women and girls in the city and their impact on the economic, civic, and social well-being on women and girls.

The commission also advises on ways to analyze the function and composition of city agencies through a gender-based lens and ways to develop equitable recruitment strategies in an effort to make recommendations to the mayor and the council for the reduction of gender-based inequality.

Every year by December 1, the CGE is tasked with submitting a report to the mayor and the city council outlining its activities during the previous twelve months, the goals for the following year, and its recommendations.

It is common sense legislation to mandate that the CGE include in its annual report the city's compliance with Title IX as it relates to sex discrimination, harassment and assault in the New York City public school system. This additional reporting mandate will better inform the recommendations put forth by the CGE to advance gender equity in our schools by looking at data on Title IX complaints and barriers to Title IX compliance.

The city council should stand with our students, teachers, and parents to make our public schools safe places that are free of sex-based discrimination, harassment, and assault.

FOR THE ABOVE MENTIONED REASONS, UNITED FEDERATION OF TEACHERS SUPPORTS THE PASSAGE OF THIS LEGISLATIVE INTRODUCTION.



STATEMENT OF SUPPORT

Michael Mulgrew, *President*
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Legislative and Political Action Department

T2019-4034 Oversight - Title IX - Gender Discrimination

Res. 0797-2019

Adams

Committee on Education

Summary of Resolution:

The purpose of this resolution is to call upon the New York City Department of Education to maintain at least seven Title IX Coordinator positions, with at least one coordinator at each borough field support center.

Statement of Support:

Title IX of the Education Amendments of 1972 prohibit educational institutions, including public school districts, that receive federal financial assistance from subjecting any person to discrimination on the basis of sex.

Each school district is required to maintain at least one Title IX coordinator that ensures the school district complies with federal law and oversees investigations of any complaint filed with to the school district alleging its noncompliance with the law.

In 2015 the United State Department of Education published guidelines for public school districts recommending that they not designate employees that may create a conflict of interest as Title IX coordinators, and that particularly large school district should designate multiple Title IX coordinators with one serving as the lead coordinator.

The New York City public school district is the largest school district in the country with over 1.1 million students and 80,000 teachers in close to 1,800 schools; however, there is currently only one individual designated as an "Acting Title IX Coordinator" for the entire school district.

Given the size of the New York City public school district, it is short-sighted to place all of the responsibilities of Title IX compliance and investigations on one individual.

Federal law does not categorically exclude particular school district employees from serving as coordinators. The New York City Department of Education should stand with our students, teachers, and parents and train more existing staff members to be Title IX coordinators.

By having existing staff members also serve as additional Title IX coordinators, we will make sure our public schools are safe places to learn and teach, and free of sexual discrimination, harassment, and assault.

FOR THE ABOVE MENTIONED REASONS, UNITED FEDERATION OF TEACHERS SUPPORTS THE PASSAGE OF THIS RESOLUTION.



STATEMENT OF SUPPORT

Michael Mulgrew, *President*
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Legislative and Political Action Department

T2019-4034 Oversight - Title IX - Gender Discrimination

Res. 0811-2019	Miller	Committee on Education
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Summary of Resolution:

The purpose of this resolution is to call upon the New York State Legislature to pass and the Governor to sign legislation to require inclusion of the Employee Protection Provisions (EPPs) in all current and future school bus contracts in New York City.

Statement of Support:

For decades the men and women in New York City that care for our students when they are transported to and from school were afforded essential employee protection provisions (EPPs) in their contracts that guaranteed they were hired based on experience and years of training on safely driving, managing and caring for children on school buses. However, all of that changed in 2012 when court litigation resulted in the Department of Education having the ability to renew contracts with private school bus companies without EPPs.

Since then, the New York City workforce comprised of school bus drivers and attendants has experienced significant instability. The workforce is plagued by an unprecedented high turnover rate, regular labor unrest including costly strike threats, and a shortage in school bus drivers. School bus contractors that guarantee seniority rights, fair wages, and benefits through collective bargaining cannot compete against those that do not include EPPs in their contracts. As a result, since 2012, four school bus companies have filed for bankruptcy.

Many experienced school bus drivers and attendants, 80 percent of which are women and men of color, have been forced to tap into government assistance programs including Medicaid, food stamps and housing assistance, which are all a direct cost to taxpayers. In fact, a report conducted by former White House economist Benjamin Harris revealed that NYC could save upwards of \$288 million over a five-year period by adopting EPPs for school bus drivers and attendance. In essence, employee protections can help reduce costs associated with turnover and

labor unrest, boost saving on unemployment insurance, and increase tax revenue based on higher wages.

It is time for the State Legislature and the Governor to take action and enact state law that guarantees employee protections in all current and future contracts for New York City school bus drivers and attendants. It is imperative that we return stability to this crucial workforce. Not only is this common sense from a safety and workers' rights perspective, but it is also the fiscally responsible thing to do.

FOR THE ABOVE MENTIONED REASONS, UNITED FEDERATION OF TEACHERS SUPPORTS THE PASSAGE OF THIS RESOLUTION.

Testimony of Rodney L. Pepe-Souvenir
University Title IX Director
Central Office of Student Affairs
New York City Council Hearing: Title IX – Gender Discrimination
April 30, 2019

Good afternoon, Chairperson Barron, Chairperson Treyger, Chairperson Rosenthal, and members of the committees. My name is Rodney L. Pepe-Souvenir, and I am the University Title IX Director. Thank you for the opportunity to share CUNY's many advances in campus Title IX awareness and its response to reports of sexual misconduct. I also look forward to learning from your comments and inquiries here today.

At its core, CUNY's goal has been to offer all that enter onto its 25 campuses a positive learning experience, while also having its graduates impact the world at large. Nowhere is that more evident than in the work CUNY has done with Title IX on its campuses. This is most reflective with CUNY's adoption of New York State's Enough is Enough legislation into its Policy on Sexual Misconduct (the Policy). The Policy was crafted to ensure safety and sexual assault awareness on all CUNY campuses. While it was not required, CUNY created the position, of the University Title IX Director. This position located within the confines of the Central Office for Student Affairs, works directly with all the campuses "first responders" (i.e. Title IX Coordinators, Chief Student Affairs Officer, and the Public Safety Officer), to ensure full compliance with City, State, Federal laws, and CUNY's Policy on Sexual Misconduct. This entails education and developing best practices for quick responses to reports of sexual misconduct both on and off campus. The University Title IX Director, also works with other campus stakeholders to ensure that they are aware of CUNY's practices and procedures when addressing reports of sexual misconduct.

The University Title IX Director works with two major groups within CUNY to ensure that the first responders render their responsibilities effectively. This is managed through monthly meetings with the CUNY Title IX Working Group. This Central Office Working Group includes the head of the major CUNY units responsible for responding to Title IX matters university-wide. They include the University Title IX Director, the Director of Public Safety, Human Resources, the Director of Student Advocacy, the Women's Center Liaison, the Director of Student Conduct, and attorneys. The Working Group works diligently to ensure that the response from all these campus units are uniform and effective in ensuring compliance. Many implementation and procedural decisions are discussed and decided by this group.

The second group the University Title IX Director works closely with is the campus Title IX Coordinators. Every CUNY campus, and the Central Office has designated a Title IX Coordinator. The Title IX Coordinator provides training to all campus groups, students and employees alike. The Title IX Coordinator ensures compliance, and provides guidance on various matters involving sexual misconduct. However, their primary responsibility is responding to reports of sexual misconduct or assault, and conducting a swift, fair investigation. While not a pre-requisite for the role, many of CUNY's Title IX Coordinators are attorneys, and come with extensive analytical

and investigative skills. The Title IX Coordinators meet monthly to discuss matters they are working on, including implementation of CUNY policy, introduction to external agencies they may want to invite to their campuses (i.e. New York City Alliance against Sexual Assault, Safe Horizon, Daytop, and Campus Advocates Projects), and discuss best practices, and effective investigation methods. CUNY recognizes the importance of the Title IX Coordinator and the role they play daily on campus. In this regard, Title IX Coordinators are encouraged to attend the many professional development programs and trainings offered throughout the city, such as those offered by the various Family Justice Centers, Columbia University, and the State University of New York (SUNY). In addition, many of the Title IX Coordinators participate in a monthly city-wide Title IX Coordinators meeting to exchange ideas with other New York City Title IX Coordinators from both public and private higher education institutions.

Each new Title IX Coordinator must undergo a two day Title IX orientation which includes conducting an effective investigation, conducted by the University Title IX Director. Title IX Coordinators play an active role on their campus, fostering an ongoing sexual misconduct awareness campaign. For example, the Title IX Coordinator in conjunction with other campus groups offer programs during March for Women's History Month, in April for Sexual Assault Awareness Month, and in October for Domestic Violence Awareness Month. This year as part of their Women's History Month celebration, York College was honored to have Tarana Burke the founder of the #MeToo movement give a talk to students and employees.

I now turn to the key areas CUNY has been committed to shoring up and keeping strong, they are **Education, Training, and Interim and Supportive Services.**

Education: As was discussed by my colleague, Ms. Barbera, all the students described under Enough is Enough are required to successfully complete the SPARC online course. However, for the students enrolled in a study abroad program we have instituted a policy of providing live trainings. This ensures students understand that even away from the CUNY campus their safety and security is of the utmost importance, and swift action will be taken if a report of sexual misconduct is made while they are away. While this live training is not mandatory CUNY recognizes that for many students this may be their first time away from home, and this live training is an excellent opportunity for students to ask questions, and better understand the CUNY Policy and procedures. The added live training focuses on drinking which is often the impetus for sexual misconduct, and the failure to obtain consent. During the live training CUNY's policies are not only reiterated, but the training provides assurances to the students that CUNY is available and ready to assist no matter what the circumstances, or where in the world students may be.

This past summer, live trainings were conducted for over 600 CUNY students and their chaperones, who were part of CUNY's Service Corp sent to Puerto Rico to assist with Puerto Rico's rebuilding efforts. Other CUNY groups travelling internationally that were given the added live training was the CUNY Black Male Initiatives (BMI) students who went on a two week trip to Ghana. Live trainings are given even to the students travelling domestically, which includes students interning in various legislative offices in New York State and Washington, D.C., and student organizations going on short weekend trips such as, the University Student Senate (USS)

who 2019 attended the NYS Black, Puerto Rican, Hispanic, and Asian Legislative Caucus, The CUNY Coalition for Students with Disabilities (CCSD), and the students participating in the Model Senate program during Somos El Futuro conference in Albany.

This year CUNY made significant strides in ensuring access to CUNY Title IX information. This past summer our resident Student Affairs IT advisor worked with CUNY's Web Services to enable students to access the CUNY Title IX webpage on their phones. In addition, in order to give students and staff added access to crucial Title IX information, CUNY CIS and Communications Departments worked to link the Title IX webpage through the university's Blackboard page and CUNYfirst, areas that are often frequented by staff and students alike.

Training: As is required by the Enough is Enough legislation, all Title IX Coordinators, and their designees must be trained annually to respond effectively to any reports of sexual misconduct. As referred to above, CUNY has designated the Title IX Coordinators, Chief Student Affairs Officers and the Public Safety Officers as first responders to reports of sexual misconduct. Students and employees alike have 24/7 access to someone if the need arises to report a sexual assault. To that end, since 2016 CUNY conducts annual trainings of the above mentioned groups.

This year's Table-Top training included a brief overview of the nationally recognized trauma-informed interviewing method known as Forensic Experiential Trauma Interview (FETI). FETI is currently used by the NYPD's Special Victims Division, the New York State Police, and various law enforcement organizations around the country. In 2018, myself, a campus Title IX Coordinator, and Public Safety Officer participated in FETI training through the NYPD's Special Victims Division. CUNY recognizes the benefit of conducting an investigation using this method, particularly where a student reports an incident, but due to trauma cannot recall important facts. The Table-Top training participants were encouraged to take the FETI training when offered to enhance their investigation methods.

As indicated CUNY not only relies on the "first responders" to be available to provide immediate assistance to students, but is also aware that students may bypass the Title IX Coordinator, and seek other employees that they engage with on a regular basis to report sexual misconduct. CUNY has designated certain employees and the offices they work in as "Responsible Employees." Some examples of CUNY's designated Responsible Employees, are all the staff members in the campus Student Affairs office, Athletic staff, and Human Resources personnel just to name a few. As indicated by President Anderson in her remarks, the Responsible Employee is crucial for their ability to be available to a student in time of need. Their ability to know to whom to report what they have learned is invaluable. The campus Responsible Employees identified in our Policy on Sexual Misconduct, and are discussed both in the SPARC online training and the employee E-SPARC training. The Responsible Employees undergo training to ensure they are aware of the important role they play in student and employee safety.

Interim and Supportive Measures: Once CUNY is aware of a report of sexual misconduct several measures are taken to provide the student with a "map of safety." That is providing assurances to the student that CUNY is prepared to assist them with services to make the student

as whole as possible. As is mandated in the Enough is Enough legislation we provide all students, whether complainant or respondent with “interim and supportive measures.” This is facilitated through the collaboration between the Title IX Coordinator and the Chief Student Affairs Office. To that end, in 2017 CUNY designated 1-2 individuals on every campus entitled the Support Services Liaison (SSL). A SSL is immediately assigned, primarily to the complainant, after a report is made to the Title IX Coordinator. The SSL provides immediate and ongoing assistance during the course of a case, and even beyond. The services the SSL provides includes, but is not limited to, No Contact Orders (equivalent to an Order of Protection (OOP), but with no legal implication outside of the campus setting), assistance with getting an OOP, referrals to external agencies for needed support, reasonable accommodations, academic adjustments, and campus escorts. These individuals, often work in the campus Women’s Center, or have some advance social work degree, which helps during this sensitive time.

As we tell the students during our training, “One report of sexual misconduct is too much.” While we cannot stop sexual misconduct, CUNY is committed and works every day to develop a robust program aimed at the prevention of sexual assault, and ensuring CUNY students are aware of our responsibility towards them. I hope I have provided you with a glimpse of the work we are doing. I am happy to answer any question you may have.

Thank you.

Testimony of President Michelle J. Anderson
Brooklyn College, The City University of New York
New York City Council Hearing: Title IX – Gender Discrimination
April 30, 2019

Good afternoon, members of the Higher Education Committee, Education Committee, and Women and Gender Equality Committee. I am Michelle Anderson, President of Brooklyn College. Chairperson Barron, Chairperson Treyger, Chairperson Rosenthal, and members of the committees, my remarks today will focus on CUNY's response to the Department of Education's recently proposed regulations to implement Title IX. Because of my scholarly area of expertise, I drafted CUNY's response, along with a team of attorneys across the University. After careful analysis, we concluded that the regulations would make colleges less safe and less equal. I'll discuss four reasons here.

1) Narrowing the Definition of Sexual Harassment

The regulations define sexual harassment as "unwelcome conduct on the basis of sex" that is "severe, pervasive and objectively offensive." An example illustrates the problem with the requirement of both severity and pervasiveness:

One day in a laboratory, a professor of chemistry whispers in a student's ear that he would like to have sex with her, and he uses profanity to describe what he would like to do. The student is alarmed and drops out of the class as a result. The behavior is "severe," and it denies the student access to equal education. But because it happened only once, it is not "pervasive." Under the regulations, the student would have no claim under Title IX.

2) Requiring that Harassment Occurs within Educational Program

The regulations would prohibit a college from responding to sexual harassment that occurs outside an "education program or activity." Because the vast majority of education programs and activities happen on campus, the regulation would essentially limit Title IX to on-campus behavior. The following example illustrate the problem:

A male student goes to the private apartment of a classmate to study together for an upcoming math exam. At the apartment, the classmate plies the student with alcohol and, when the student becomes incapacitated, the classmate sexually assaults him. As a result of the experience, the student avoids the math class and earns a failing grade. Under the regulations, because the incident was not within an educational program or activity, the student would have no claim under Title IX.

3) Requiring Actual Knowledge

The regulations would require a college to have “actual knowledge” of sexual harassment reported to a “Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures.” They would discourage colleges from training responsible employees with a duty to report, a proven strategy for discovering sexual harassment. Under current CUNY policy, responsible employees who must report evidence of sexual harassment to the Title IX Coordinator include more than 50 academic and administrative leaders, as well as their full staff. By contrast, under the regulations, the only employees who would trigger Title IX obligations are two:

- The Title IX Coordinator; and
- The College President (the only “official of the recipient who has authority to institute corrective measures” in response to sexual harassment).

An example illustrates the “actual knowledge” problem:

A student reports to her physics professor that she is being sexually harassed by her biology professor. The student explains that she works in the biology professor’s lab as an assistant and the harassment happens after hours in that lab. The physics professor reports to the dean of the school of sciences. The dean replies that no one else must know about the situation because the star biology professor is too valuable to the school. Neither the dean nor the physics professor informs the Title IX Coordinator or the college president. The student drops her biology classes as a result. Despite the fact that the dean silenced the complaint, the student would have no claim under Title IX.

4) Mandating Complex and Expensive Formal Grievance Procedures

Some aspects of the grievance procedures in the regulations are fair and essential to due process, such as notice, equal opportunity to present witnesses and evidence, and prompt timeframes.

However, the procedures go much further. There are more than 100 additional requirements imposed upon institutions of higher education in formal grievance hearings. Myriad, minute requirements dictate college behavior, overwhelmingly in ways that favor (predominately male) respondents over (predominately female) complainants.

For example, the regulations require colleges to provide both the complainant and the respondent with attorneys or advisors (who function as attorneys) for mandated live hearings. Colleges would need either to hire attorneys or hire lay advisors and then train them. Most colleges do not have the financial resources to do so.

The regulations require the decision-maker to explain the exclusion of evidence to the party's advisor or attorney. The decision-maker would have to be trained in the exclusionary rules for evidence. Most colleges do not have the resources to hire outside counsel nor to train lay persons in these rules.

The regulations require actual cross-examination of witnesses and parties in hearings. This process would intimidate witnesses, revictimize complainants, and deter both from participating in investigations, perversely undermining the very search for truth that the regulations purport to advance.

The regulations require an investigator to turn over all evidence to both parties, no matter how inflammatory or prejudicial, including evidence of prior sexual history. Worse still, colleges must deliver that evidence in digital format, which could be easily shared on social media and traumatize those affected. Digital transmission of evidence is a tool of harassment and mischief.

The complexity and cost of the formal grievance procedures would encourage colleges to try to persuade parties to agree to informal resolution instead. In contrast to the regulations' complex formal grievance procedures, there are none for informal resolution. The regulations therefore create incentives for colleges to urge students to agree to informal resolution, where they would be guaranteed neither due process nor basic fairness.

Overall, the regulations would decrease colleges' ability to protect students from sexual harassment and sex discrimination.

Chairperson Barron, Chairperson Treyger, Chairperson Rosenthal, and members of the committees, we at CUNY deeply appreciate your commitment to Title IX. I would now like to ask Bridget Barbera, Associate General Counsel, to talk about CUNY's Title IX policies, followed by Rodney Pepe-Souvenir, University Title IX Director.

Associate General Counsel Bridget Barbera
The City University of New York
New York City Council Hearing: Title IX – Gender Discrimination
April 30, 2019

Good afternoon, my name is Bridget Barbera and I am an Associate General Counsel for the City University of New York. Thank you Chairpersons Barron, Rosenthal, Treyger, and members of the Higher Education, Women and Gender Equity, and Education committees for this opportunity to discuss with you the important topic of sexual violence and harassment, collectively known as sexual misconduct, on campuses. For the past five years, I have had the privilege of being part of a working group that was formed to address sex and gender discrimination at CUNY. Members of the Office of the General Counsel, along with CUNY's Office of Student Affairs, in particular my colleague Rodney Pepe Souvenir, University Title IX Director, and leaders on the campuses such as President Anderson, have worked tirelessly to create comprehensive sex and gender discrimination policies and prevention programs.

While there has been a culture shift in the way that our society responds to sexual harassment and violence, there is still a great deal of work that must be done to change the culture on campuses to ensure that students are provided a safe environment where they can learn and grow free of sexual misconduct. CUNY has taken affirmative steps to strengthen our sexual misconduct prevention education programs and to raise awareness about the options that victims have on CUNY campuses. We appreciate that a change in culture takes time and CUNY is committed to facilitating a culture shift away from the prevailing silence surrounding sexual misconduct. In order to make this change, CUNY is constantly reassessing and reevaluating its Policy on Sexual Misconduct, which is CUNY's Policy prohibiting sexual harassment and violence, creating new methods to deliver important information to students and employees, and assessing what supportive measures we can provide our students to ensure that an act of sexual misconduct does not derail their academic progress.

Policy on Sexual misconduct

CUNY's Policy on Sexual Misconduct was revised in 2015 and again in 2018 in order to encourage complainants to report instances of sexual misconduct, increase transparency

regarding the investigatory and disciplinary processes, and enhance due process rights for the parties involved.

In order to empower and encourage complainants to come forward to report incidents of sexual misconduct, we have ensured that complainants have significant control over how their cases are handled. CUNY has endeavored to sculpt our policy in a way that does not re-victimize those who have shown the courage to come forward and report. CUNY is appreciative that there are many hurdles that a complainant may face in making the decision to report sexual misconduct and wants to ensure that once they have made the brave decision to come forward, our process is one that is transparent and supportive. For example, complainants have the right to choose whether to report to law enforcement, and CUNY will not report incidents of sexual violence unless the college has determined that there is a threat to the safety of the community. Under the policy, allegations of sexual misconduct are treated privately and information is only given to those at the campus who must know the information in order to perform their duties.

Complainants who have reported incidents to the college also have the right to remain anonymous and not have their identity shared, although we inform complainants that this choice may impede the College's ability to fully investigate and address the matter. CUNY wants to empower those affected by sexual violence to not only report, but to also fully participate in the process, which we believe can be achieved, in part, by providing complainants with more control over their participation in the process.

CUNY has also strengthened its due process rights for both complainants and respondents. As part of changing the culture of silence that once surrounded sexual violence, CUNY has increased transparency with respect to its investigatory and disciplinary process. Both parties now have the right to appeal an interim measure that the College puts in place during a sexual misconduct investigation. For example, no contact orders are commonly issued when the college receives a complaint of sexual misconduct directing both the complainant and accused to have no contact with one another. If this no contact order interrupts a student's academics, the student may appeal this restriction. Students involved in allegations of sexual misconduct are still our students, and deserve to be treated fairly and equitably.

As part of CUNY's commitment to being transparent and open with our community regarding the processes related to investigating and adjudicating sexual misconduct, the Policy

has been widely disseminated on college websites, provided to the parties when a complaint is received by the college, and it is discussed in CUNY's training program SPARC.

Education:

CUNY appreciates that educating our students and employees is of vital importance in moving forwards CUNY's goal of creating a community free from sexual violence and recognizes that our training programs must be tailored for OUR students and employees. To this end, CUNY has created CUNY specific training programs, at no additional cost to the University, for both students and employees. CUNY SPARC, or the Sexual and Interpersonal Violence Prevention and Response Course, is mandated for all incoming and transfer students, and is offered to all other students. The program focuses on educating our student population on key information such as the definition of affirmative consent under CUNY's Policy and where to go on campus if they, or someone they know, have been affected by sexual misconduct. CUNY ensures that student leaders and athletes receive annual training on sexual misconduct prevention. CUNY has also created a required employee training program, the Employee Sexual Misconduct Prevention and Response Course, or ESPARC. The program provides training on topics such what to do if a student or subordinate reports that they have been the victim of sexual misconduct, it includes examples of conduct that constitutes sexual harassment, and which outside agencies that employees may go to seek legal redress.

In addition to these general trainings, CUNY holds annual table top trainings specifically for those employees who are directly involved with either the investigatory or adjudicatory process. Members of the campuses' public safety, student affairs, human resources, and legal offices come together for an intensive hands-on training aimed at equipping these important first responders with the tools needed to effectively resolve sexual misconduct complaints. CUNY believes that employees who have direct involvement in the handling of these cases should be trained regarding trauma informed investigatory techniques, cultural sensitivity as to why some complainants may be unwilling to come forward, and how to ensure a parties' due process rights are protected during the adjudication process. These employees are making significant decisions that affect our students' lives and it is our duty to ensure they trained appropriately.

Services:

Unfortunately, CUNY has learned that our students most often experience sexual misconduct in the form of dating or domestic violence. In those cases, the perpetrator is most likely not a CUNY community member, and CUNY has no authority to take disciplinary action against that individual. CUNY appreciates that instances of domestic and dating violence can have an impact on a student's academic process, which is why CUNY provides interim and supportive measures to all CUNY community members who are the victims of sexual misconduct. Depending on the needs of the complainant, CUNY provides escorts for students and employees around campus or to the subway and encourages complainants to take advantage of the Family Justice Centers, which are located across the boroughs.

CUNY's commitment to providing such services to parties affected by sexual violence has led us to strengthen, increase and deepen our relationships with several not for profit organizations and non-governmental agencies that focus on providing services and education to both our student and employee populations. The CUNY campuses have partnered with groups such as the New York City Alliance against Sexual Violence and Sanctuary for Families which provide education and important services, such as counseling, to our students.

Closing:

CUNY believes that there is still more to do on this issue and is committed to changing the culture on each of its campuses. One sexual assault of a student on any of our campuses is one too many. We are continuing to review our efforts, to solicit feedback and to make adjustments and improvements. We thank you for your attention to this important and timely issue and we look forward to working with you and with all of the folks who are here today to address this important problem. Thank you.

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FOR THE RECORD

April 30, 2019

Re: Employee Protection Provisions

I have been asked to comment, as the attorney primarily responsible for the challenge of such solicitations from 2008 to date, on the proposition that the imposition of Employee Protection Provisions (“EPPs”) on solicitations for school transportation contracts would save the public money. That has certainly not been the view of the impartial New York courts. Moreover, the facts, including New York City’s own evidence, shows that the reinstatement and continuation of EPPs in the specifications for grades kindergarten through 12 (School Age) bus contracts would add a billion dollars to those costs every five years.

A Brief History of EPPs

EPPs were inserted in School Age transportation contracts to settle a strike brought by Local 1181-1061, Amalgamated Transit Union, AFL-CIO (“Local 1181”) in 1979. After the contracts were bid out with the EPPs, competitive bidding of contracts by the New York City Department of Education (DOE) ceased. Only thirteen small contracts were thereafter competitively solicited in the course of thirty years, none whatsoever after 1995. Virtually all the contracts in place in 1979 were extended time and time again in negotiations with the existing, or “Legacy” contractors, predominantly unionized by Local 1181.

DOE had apparently concluded that bidding out contracts with EPPs would not result in any savings worth the effort. Indeed, a 1995 KPMG analysis commissioned by DOE that examined the limited solicitations with EPPs concluded: “This type of bidding under current conditions appears to have little real advantage over existing extension processes and does not get at the core of the “locked in” high cost structure. *Its main positive feature is that it allows the [DOE] to claim that it did competitively bid contracts.*”

When in the 1990s it became necessary to provide transportation for pre-kindergarten and early intervention (Pre-K/EI) children, the City had its Department of Transportation (DOT) procure and administer the program, apparently to avoid DOE, its pupil transportation system, and Local 1181. For over 15 years, DOT solicited Pre-K/EI transportation contracts by competitive bidding, without EPPs and at substantially less cost per handicapped pupil than DOE.

In 2006, the administration of DOT Pre-K/EI contracts was transferred to DOE. Almost immediately, Michael Cordiello, then as now President of Local 1181, told DOE that any new bids for Pre-K/EI transportation service must include EPPs or else there would be a system-wide

strike by members of Local 1181. DOE capitulated to the union's demands, and inserted EPPs in the bid specifications.

This State's Highest Court Strikes Down the EPPs

Upon a challenge by 23 small bus transportation contractors, Supreme Court, the Appellate Division, and finally the Court of Appeals held that the EPPs violated the public bidding statute and struck them down. See *L&M Bus Corp. v. New York City Dep't of Educ.*, 17 N.Y.3d 149 (2011) ("*L&M Bus I*").

In so holding, the Court of Appeals compared the history of School Age transportation, shackled with EPPs, to that of pre-school transportation without them.

A brief look at the history of New York City's public busing contracts since 1979 suggests that, in practice, the EPPs have had anticompetitive and cost-inflating effects. The existence of EPPs has resulted in the School-Age transportation contracts being performed by the same companies with roughly the same employees, year after year. By contrast, Pre-K/EI transportation, which lacks EPPs, has proceeded with competitive bidding by a variety of small-scale companies, without serious reports of corruption or labor disruption, and without threats from the unions to strike or pressure to introduce EPPs. In short, the introduction of EPPs to the Pre-K/EI bid specifications might eliminate the cost-saving, pro-competition advantages Pre-K/EI busing has enjoyed and would likely introduce the same problems of favoritism and monopolization of the market by large contractors that has beset the School-Age contracts.

L&M Bus I, 17 N.Y.3d at 159.

It is the portion of the market *with* EPPs, not without EPPs, that had "labor disruption." It is the portion of the market *with* EPPs, not without EPPs, that had "serious reports of corruption," "problems of favoritism," and "monopolization of the market by large contractors." In contrast, the market with *no* EPPs had none of these problems, and instead had exactly the "cost-savings" and "pro-competition" results that the public bidding laws require.

Legislation to Overturn the Court Is Vetoed

Mere days after the *L&M Bus I* decision was issued, the legislature passed a pending bill to overturn it that had been submitted by DOE and Local 1181. However, after an investigation by the New York Times questioned DOE's attempt to make its own contracts more costly for the public, Mayor Bloomberg reconsidered DOE's efforts, reversed them, and asked the Governor to veto the bill. See Sharon Otterman, *City Asking Cuomo to Veto a Measure It Helped Write*, N.Y. Times, July 19, 2011. The Governor did veto the bill, stating: "The Court of Appeals ruled that New York City could not include EPPs in its RFPs and contracts because they increase costs and

discourage competition. To mandate that DOE include EPPs in its contracts would undermine its ability to control costs and ensure the best quality service for the City's school children and taxpayers." Thereafter, the Bloomberg administration decided to take advantage of the hundreds of millions of dollars of available savings and issued not only the Pre-K/EI solicitation without EPPs, but School Age solicitations without EPPs as well.

School Age Contracts Are Solicited without EPPs

The Bloomberg administration bid out and awarded two sets of five-year School Age contracts without EPPs, the first commencing in July 2013 (the "2013 Contracts"), the second beginning in July 2014 (the "2014 Contracts"). Each set constituted roughly 20% of DOE's School Age routes. Bloomberg did not have time before leaving office at the end of 2013 to remove EPPs from, bid out, and award the remaining 60%. These are the contracts of the Legacy contractors, which have been rolled over without bidding since 1979.

Based on the judicial decisions, bidding out these Legacy contracts with EPPs intact would violate the public bidding law. But since resoliciting without EPPs would displease Local 1181 and the high-cost Local 1181 contractors, the De Blasio administration continues to extend them.

Following Bloomberg's solicitation of the 2013 Contracts without EPPs, Local 1181 called a strike which lasted from mid-January 2013 to mid-February 2013. The strike was a failure and accomplished nothing. The City made no concessions, maintained its course, and awarded the 2013 Contracts. The strikers returned to work with a face-saving promise from the candidates seeking to replace Bloomberg to revisit the EPPs when one of them is elected Mayor.

Bloomberg went on to bid out and award the 2014 Contracts also without EPPs. An editorial in the New York Times supported Bloomberg's actions, and warned against a new mayor, or the State Legislature, attempting to reimpose the anticompetitive EPPs:

Mayor Michael Bloomberg was right not to give in to union demands for job protection for New York City's school bus drivers. The drivers went back to work this week after a monthlong strike that affected more than 100,000 students. But the dispute between the city and the union is clearly not over.

Several Democratic candidates for mayor have pledged to "revisit" the issue once Mr. Bloomberg leaves office. But it would be a mistake for the city to reverse course. A job-protection provision in the contract with private companies, which applies to about 5,500 of the city's 7,700 bus routes, drives up labor costs, stifles competition and puts the city on a collision course with the state's highest court The city spends more than \$1 billion a year transporting schoolchildren.

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See Editorial: *The Bus Strike, Phase Two*, N.Y. Times, Feb. 22, 2013. The editorial continued:

The union says it might take the fight to Albany to seek a legislative remedy that would enshrine their workers' job protection. That would be a mistake. It is time to let the market decide how this industry works.

De Blasio Reversed Public Savings on a Portion
of the 2014 Contracts by Paying One Contractor
Millions of Dollars Every Year to Mimic EPPs

Under a City Council Grant/Department of Small Business Services ("DSBS") Program, the City has been giving Reliant Transportation, Inc. ("Reliant"), a vendor unionized by Local 1181, \$30 to \$40 million a year to mimic the EPPs. Under the program, Reliant receives its proven additional cost, above its accepted bid on its non-EPP 2014 Contract, to pay its Local 1181 workers as though its contract had included EPPs. Thus, the additional amount paid to Reliant constitutes the savings that the elimination of EPPs generated.

No other contractor but Reliant has received Grant/DSBS money.

EPPs on All Routes Would Cost the Public over
a Billion Dollars Every Five Years

Reliant has been paid \$30 to \$40 million per year above its bid pursuant to the Grants/DSBS Program for the 11% of School-Age bus routes that it services. Therefore, the annual School Age costs of EPPs for all School Age routes would be at least \$270 million (\$30 million x (100% / 11%)), with the total five-year cost of EPPs, and hence the total savings by *not* having EPPs, *at least \$1.35 billion* (\$270 million/year x 5 years).

EPPs May Not Stand Without Proof that
They Will Save the Public Money

In *L&M Bus I*, the Court of Appeals held that for the EPPs to pass scrutiny, DOE must demonstrate proof that they are designed to save the public money by (a) causing contracts to be performed at smaller cost or (b) without disruption. See 17 N.Y. 3d at 158. It also found that DOE had proven no such thing.

Seven years later, DOE tried again. On December 29, 2017, DOE issued a request for bids containing EPPs for resolicitation of the expiring 2013 Contracts. Upon challenge, the EPPs were once again struck down, both by the Supreme Court and the Appellate Division. In its opinion, the Appellate Division reiterated the standard set forth in *L&M Bus I* and found that DOE had not shown that the EPPs would save the public money. See *L&M Bus Corp. v. New York City Dep't of Educ.*, 167 A.D.3d 454 (1st Dep't 2018) ("*L&M Bus II*").

The Cherrydale Strategies Fiscal Impact Analysis

I was given a copy of a February 2019 Fiscal Impact Analysis by one Cherrydale Strategies purporting to show that the legalization of EPPs would save the public over \$288 million. In light of the judicial findings in *L&M Bus I* and *L&M Bus II* that DOE has failed to show any such savings and the City's own evidence showing that EPPs, to the contrary, would cost the public a billion dollars, the Analysis is audacious to say the least. A review of the document reveals that the purported savings are frivolous, silly, or fictitious. I could take you through them one by one, but for now let us review only a couple items supposedly resulting in the highest-dollar savings, \$273 million of the alleged \$288.

The summary on the last page of the Analysis shows that \$103 million of the savings is attributed to an alleged withdrawal liability cost from which the EPPs will protect the public treasury. Under the collective bargaining agreements with Local 1181, the costs of Legacy contractors were locked into the EPPs. When Bloomberg bid out a portion of these contracts without EPPs, many could not compete with new vendors who did not bear these costs, and accordingly lost their contracts. They ceased contributing to the Local 1181 defined benefit pension fund and were assessed their share of the amount by which the fund was underfunded (withdrawal liability). The Analysis, however, claims that there is a strong probability that DOE will be held legally responsible for the millions in withdrawal liability assessed against the contractors, representing a \$103 million expected cost to the public treasury. In fact, there is no such probability. The federal District Court some time ago held that DOE was not subject to withdrawal liability and on December 10, 2018, the Second Circuit affirmed. *See Division 1181 A.T.U. – N.Y. Emps. Pension Fund v. City of New York Dep't of Educ.*, No. 17-3147-cv (2d Cir. 2018).

An even bigger savings -- \$170 million -- is attributed to the Grant/DSBS money the Administration has been giving away to Reliant for four years. The argument is based on a slight-of-hand substitution that only Houdini would admire. The Grant/DSBS Program, and the reason it proves that the insertion of EPPs in all contracts would cost the public more than one billion dollars every five years, is discussed above. The grants themselves, which pay Reliant over \$30 million per year to mimic the EPPs its contract does not contain, are a waste of public money because without them the contractor would have to provide the same services for the price it bid to perform them. The Analysis reasons that if the EPPs were legalized so that the Reliant contract were resolicited with EPPs, the City would not have to pay Reliant or successor contractor the grant money anymore to inflate the labor expenditures. The newly imposed EPPs themselves would serve that purpose. Of course, that is no savings at all, but simply the substitution of one exploitation of the public purse for another. The Analysis also ignores the hundreds of millions of dollars EPPs would and do cost for the other 89% of School Age bus routes not in the Grant/DSBS Program.

Notwithstanding my promise to address only \$273 million of Cherrydale's \$288 million in supposed savings, let's look at one more. The summary on the last page of the Analysis attributes \$7 million in savings to increased New York State and New York City income tax revenues -- that is, the additional taxes received on the projected higher incomes of the

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contractors' employees. However, if raising the amounts contractors and employees receive at the expense of the public is a "savings" because of the higher tax revenues supposedly generated, then why not really save big by increasing every New York City employee's salary and every contractor's income? Indeed, turn the public bidding statute on its head by requiring the award of contracts to the highest bidders, not the lowest.

Finally, it is worth noting that the Analysis suggests that the KPMG report somehow supports the proposition the Analysis purports to prove: that bidding school transportation contracts with EPPs would save the public money. In fact, as addressed above, KPMG found no such thing. To the contrary, it found that this form of bidding had no advantage over not bidding at all and that "[i]ts main positive feature is that it allows the [DOE] to claim that it did competitively bid contracts."

John F. Grubin
Wasserman Grubin & Rogers, LLP

TESTIMONY OF MICHAEL CORDIELLO, PRESIDENT OF LOCAL 1181-1061,
AMALGAMATED TRANSIT UNION

FOR THE RECORD

NEW YORK CITY COUNCIL
COMMITTEES ON EDUCATION, HIGHER EDUCATION, &
WOMEN AND GENDER EQUITY

April 30, 2019

Good afternoon Chairman Treyger, Chairwoman Barron, Chairwoman Rosenthal, and Members of the Committees on Education, Higher Education, and Women and Gender Equity,

My name is Michael Cordiello, and I am the President of Local 1181 of the Amalgamated Transit Union. I thank you for this opportunity to submit testimony as you consider Resolution 811 of 2019 sponsored by Council Members Miller, Treyger, Dromm, Rosenthal, Chin, Lander, Kallos, Eugene, Cornegy, and Barron calling on the New York State Legislature to pass and the Governor to sign legislation requiring inclusion of Employee Protection Provisions (EPPs) in all current and future school bus contracts in New York City.

Local 1181 represents nearly 7,000 school bus drivers, matrons, and mechanics who transport and care for our City's most vulnerable school children each day. These hard-working men and women take pride in the work they do—transporting our City's most precious cargo. I have appeared before the Education Committee in the past and have described the devastating effects that the decision of the Bloomberg Administration to eliminate Employee Protection Provisions (EPPs) from school bus contracts have wreaked upon our union, our members, and, just as importantly, the tens of thousands of school children that our members transport every day. I will not recount that history today, as you are certainly aware of it.

Instead, I submit this testimony today to ask that you approve Resolution 811 expeditiously. As you know, Local 1181 members, officers, staff, attorneys, and consultants have spent the better part of the last five years vigorously advocating for the reinstatement of EPPs into

Testimony of Michael Cordiello, President, ATU Local 1181
April 30, 2019

school bus contracts. Those advocacy efforts sought both legislative and administrative changes at the state and city levels that would require EPPs in all school bus contracts so that our school children would have an experienced, qualified, and trained workforce, and our hardworking members could be afforded the protections of job security and modest pay and benefits. Many of the Members of these Committees were allies in those efforts, and on behalf of all 13,000 members of Local 1181, I thank you for your support.

While we had been hopeful for a resolution to this saga when the Department of Education (“DOE”) released Request for Bids B3182 for Transportation Services for Students with Disabilities and Their Non-disabled Peers (“RFB”) on December 29, 2017, which included language that sought to restore the EPP, unfortunately that RFB was stymied by litigation brought by a group of school bus contractors intent on preventing the EPP from being restored in the school bus industry. So, again, we must look to Albany to resolve this issue once and for all. And the timing could not be more critical. Just recently, the largest Local 1181 employer, with which the union is engaged in contract negotiations, has indicated that it would not agree to Local 1181’s contract demands if legislation to require the inclusion of EPPs in school bus contracts was not passed. In response, Local 1181 was forced to seek strike authorization from its members in the event that an agreement cannot be reached with the company. This cycle of labor unrest and strikes has become a necessary hardship that the members of Local 1181 have had to endure ever since the EPP has been removed from school bus contracts—one that can be eliminated by the state legislature and the governor.

Throughout this post-Bloomberg struggle, the City Council has been a stalwart ally to Local 1181 and the thousands of drivers, matrons, and mechanics it represents. We thank you for your continued support.

Respectfully submitted,

Michael Cordiello

President, Local 1181

FOR THE RECORD



FOR THE RECORD

City Council Hearing – Committee on Women and Gender Equity, the Committee on Education, and the Committee on Higher Education

Testimony by Heaven, Member of The Brotherhood/Sister Sol (Bro/Sis) April 30, 2019

Till this day I am still filled with many emotions when thinking and discussing what happened during my time at Thurgood Marshall Academy (TMA).

Before TMA, I imagined my school community to be a place of learning, safety, and fun. Instead, it was the complete opposite for me. I remained forever changed by what happened during my time there. The adults who were suppose to guide, protect, and positively influence me were truly malicious, abusive, and mistrusting. As a result of the relationship I had with a basketball team captain, which I must add is the best thing I got out of being there, I was maligned, shamed, denigrated by school staff and teachers alike.

Favoritism in the athletic department dictated that school administrators verbally assaulted me and maligned my character throughout the school campus because they

thought I would be a distraction to my boyfriend and thus his athletic career. TMA staff did everything they could to literally break us up—tactics that included but were not limited to saying horrible things about me to him and him to me, giving me detention, purposely failing me, and telling lies about my relationship in front of many of my peers. The school staff and subsequently students participated in a bullying campaign that, at the time, felt like it would end me. I really did not know what to do. They isolated me and spread lies to the point that I really didn't know how to tell my mom because of how severe the situation was—I was worried that they would do worse if I told anyone. Additionally, a school therapist within whom I confided, ended up gossiping with some of the staff about what I was telling her. Often, when people think of bullying in high school, they don't include the staff. In my experience, it started with and was propelled by predominantly staff. I had no one in my school to whom I could turn. I ended up leaving the school and transferring to James Baldwin School where I would later excel and graduate at the top of my class.

If TMA had a Title IX Coordinator, if there were more than one to whom I could go regarding my abuse, it definitely would have been very helpful to me and my school community. The professional mandate and legal protections this position offers would have drastically changed my reality as there would have been a person whose solely job was to look after students assaulted and harassed in school—even when the adults are doing it.



FOR THE RECORD

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**Testimony of Shiwali Patel
Senior Counsel
National Women's Law Center
In Support of New York City Council Resolution No. 797
Committees on Women and Gender Equity, Education, and Higher Education
New York City Council**

April 30, 2019

Thank you for this opportunity to testify in support of Resolution No. 797, calling upon the New York City Department of Education ("NYC DOE") to maintain at least seven Title IX Coordinator positions, with at least one coordinator at each borough field support center.

I write in support of Resolution No. 797 on behalf of the National Women's Law Center ("the Center"), a nonprofit organization that has worked since 1972 to combat sex discrimination and expand opportunities for women and girls in every facet of their lives, including in education. Founded the same year as Title IX of the Education Amendments of 1972 ("Title IX") was enacted, the Center has participated in all major Title IX cases before the Supreme Court as counsel¹ or amicus. The Center is committed to eradicating all forms of sex discrimination in school, specifically including discrimination against pregnant and parenting students, LGBTQ students, and students who are vulnerable to multiple forms of discrimination, such as girls of color and girls with disabilities. This work also includes a deep commitment to eradicating sexual harassment, including sexual violence, as a barrier to educational success.

Too many schools fail to make efforts to support survivors' opportunities to learn in the wake of sexual harassment and assault. Students are still urged to leave or transfer to other schools until their assailants graduated, discouraged from filing formal disciplinary reports, and denied essential accommodations like classroom reassignments or extensions on coursework to deal with the aftermath of a traumatic experience. Survivors sometimes still face severe retaliation

when they seek help from their schools, including disciplinary action or being pushed out altogether. Some schools impose unique procedural burdens on student victims of sexual harassment seeking disciplinary remedies, such as corroboration requirements and short windows to report – approaches that are steeped in long rejected myths that women and girls frequently lie about rape.

As a result of this, we have represented those who have been harmed by sexual violence and other forms of sexual harassment and have lost crucial educational opportunity. For example, one of our current plaintiffs, Jane Doe, was fourteen years old when she was repeatedly subjected to sexual harassment, including three sexual assaults in schools bathrooms by multiple older male peers.² When Jane and her friends reported the assaults and other harassment to the school, instead of investigating the incidents, a school resource officer coerced her into revising her previous written statement to say she was a “willing participant” in her own assaults.³ The school then suspended Jane for so-called “sexual misconduct” and offered no counseling, tutoring, or other accommodations to address the impacts of the harassment and help her again feel safe at school.⁴ Terrified of returning to school, Jane, who was previously a conscientious and ambitious student, was absent for more than three months and now has a full academic quarter of failing grades on her high school transcript.⁵ She was forced to transfer to another school when it became clear that no meaningful steps would be taken to protect her. Jane’s experience is just one example of how a school’s failure to address sexual harassment can result in a very real loss of educational opportunities for survivors. Unfortunately, her experience of being retaliated against and pushed out of school after reporting sexual assault is not unique.

Sexual harassment hurts students’ equal access to education, particularly students of color.

Sexual harassment is both pervasive and underreported among K-12 students

K-12 students experience high rates of sexual harassment. More than one in five girls ages 14 to 18 are kissed or touched without their consent.⁶ In grades 7-12, 56 percent of girls and 40

percent of boys are sexually harassed in any given school year.⁷ (Contrary to a popular yet inaccurate rape myth, boys are far more likely to be victims of sexual assault than to be falsely accused.⁸) Historically marginalized and underrepresented groups are also more likely to experience sexual harassment than their peers. Native, Black, and Latina girls are more likely than white girls to be forced to have sex when they do not want to do so.⁹ Fifty-six percent of girls ages 14-18 who are pregnant or parenting are kissed or touched without their consent.¹⁰ More than half of LGBTQ students ages 13 to 21 are sexually harassed at school.¹¹ Students with disabilities are 2.9 times more likely than their peers to be sexually assaulted.¹²

Unfortunately, sexual harassment is consistently and vastly underreported. For example, only two percent of girls ages 14 to 18¹³ report sexual assault or harassment. Students often choose not to report sexual harassment for fear of reprisal, because they believe their abuse was not important enough,¹⁴ because they are “embarrassed, ashamed or that it would be too emotionally difficult,”¹⁵ because they think no one would do anything to help,¹⁶ and/or because they fear that reporting would make the situation even worse.¹⁷ Common rape myths that a victim could have prevented their assault if they had only acted differently, wore something else, or did not consume alcohol, only exacerbate underreporting.¹⁸

Schools’ failure to address sexual harassment results in educational harm, including school pushout, particularly among students of color.

Sexual harassment hurts students and their ability to stay in school. The detrimental impact of sexual harassment on students’ health include both short-term effects, such as bodily injuries, sexually transmitted infections, unwanted pregnancy, anxiety, depression, post-traumatic stress disorder (PTSD), and self-harm; and long-term effects, such as chronic pain, diabetes, eating disorders, and a higher risk of alcohol/drug abuse, smoking, relationship abuse, and unprotected sex.¹⁹ In addition, girls who experience sexual violence are 1.5 times more likely to have trouble studying and twice as likely to get in fights at school or receive suspension or expulsion for behaviors stemming from trauma.²⁰ They are also more likely to produce lower-quality school work, receive lower grades, skip or drop classes, and suffer tardiness, truancy,

and absenteeism.²¹ Lost hours of instruction can add up—a student who misses just three or more days of school in a month can fall a year behind their peers.²²

Unfortunately, students often face hostility from their schools when they try to report. Reliance on common rape myths that blame individuals for the assault and other harassment they experience²³ can lead schools to minimize and discount sexual harassment reports. An inaccurate perception that false accusations of sexual assault are common²⁴—despite the fact that men and boys are far more likely to be victims of sexual assault than to be falsely accused of it²⁵—can also lead schools to dismiss reports of assault and assume that complainants are being less than truthful. Indeed, many students who report sexual assault and other forms of sexual harassment to their school face discipline as the result of speaking up, for engaging in so-called “consensual” sexual activity²⁶ (including in New York City public schools²⁷), or for defending themselves against their harassers.²⁸

Students of color already face discriminatory discipline due to race stereotypes, and girls of color especially so due to both race and sex stereotypes.²⁹ Schools are also more likely to ignore, blame, and punish Black and Brown women and girls who report sexual harassment due to harmful race and sex stereotypes that label them as “promiscuous”³⁰ and less deserving of protection and care.³¹ Studies also show that adults view Black girls as more adult-like and less innocent than their white peers, a phenomenon referred to as “adultification,” and that Black girls are stereotyped as “hypersexualized”; as a result, schools are likely to treat their reports of sexual harassment with less seriousness, and more likely to place blame on Black girls for their victimization.³² Indeed, Black girls are especially likely to be punished by schools for their behaviors. For example, The Department’s 2013-14 Civil Rights Data Collection (CRDC) shows that Black girls are five times more likely than white girls to be suspended in elementary and secondary school, and that while Black girls represented 20 percent of all preschool enrolled students, they were 54 percent of preschool students who were suspended.³³ Schools are also more likely to punish Black girls by labeling them as the aggressor when they defend themselves against their harassers or when they respond in age-appropriate ways to traumatic

experience because of stereotypes that they are “angry” and “aggressive.”³⁴ Schools too often also rely on other stereotypes to ignore, blame, and/or punish students who report sexual harassment and are pregnant or parenting,³⁵ LGBTQ,³⁶ or who have disabilities.³⁷

NYC DOE has a civil rights obligation to ensure students are not discriminated against by addressing sexual harassment.

Title IX requires NYC DOE to address sexual harassment.

In addition to state and local laws,³⁸ Title IX imposes various requirements on the New York City Department of Education to address sexual harassment through both non-disciplinary means (e.g., designation of coordinator(s), prevention programs, accommodations) and measures that *may* result in—but do not require—a disciplinary response (i.e., investigation).

As part of its responsibilities under Title IX, a school district must designate at least one employee (“Title IX coordinator”) to coordinate its compliance with the statute.³⁹ The school district must make its Title IX coordinator(s) visible to the school community⁴⁰ and Title IX coordinators should be independent to avoid any potential conflicts of interest.⁴¹ All coordinators must be appropriately trained on Title IX and all related or overlapping statutes, regulations, guidances, policies, and procedures addressing sexual harassment, as well as other types of sex discrimination (e.g., in athletics and STEM programs; against pregnant and parenting students; against LGBTQ students; discriminatory discipline, including discriminatory dress codes; *etc.*).⁴²

Title IX also requires school districts to take steps to prevent sexual harassment. Title IX coordinators must train school employees to identify and respond appropriately to sexual harassment, including how to end it before it escalates or becomes sufficiently serious as to create a hostile environment, and how to report it to the coordinator.⁴³ Similarly, Title IX coordinators play an essential role in sexual harassment prevention by ensuring that students are trained on how to recognize and refrain from engaging in sexually harassing behaviors and how to report such behaviors to the coordinator.⁴⁴

For the better part of two decades, the Department has used one consistent standard to determine if a school violated Title IX by failing to adequately address sexual assault or other forms of sexual harassment. The Department's 2001 Guidance, which went through public notice-and-comment and has been enforced in both Democratic and Republican administrations,⁴⁵ defines sexual harassment as "unwelcome conduct of a sexual nature."⁴⁶ This definition and the obligation rightly charges schools with responding to harassment before it escalates to a point that students suffer severe harm. The 2001 Guidance requires schools to address student-on-student harassment if *any employee* "knew, or in the exercise of reasonable care should have known" about the harassment. In the context of employee-on-student harassment, the 2001 Guidance requires schools to address harassment "whether or not the [school] has 'notice' of the harassment."⁴⁷ Under the 2001 Guidance, the Department would consider schools that failed to "take immediate and effective corrective action" to be in violation of Title IX.⁴⁸ For years, these standards have appropriately guided recipients of federal financial assistance in understanding their obligations around responding to sexual harassment and assault.

If a school employee knows or should reasonably know about sexual harassment, they must report it to the Title IX coordinator(s).⁴⁹ The school district must then investigate to determine whether the harassment has created a hostile educational environment and, if such an environment exists, to eliminate it and prevent its recurrence.⁵⁰ A school district must investigate all reports of sexual harassment equitably and promptly, regardless of whether the incident occurred off campus or online,⁵¹ whether it was perpetrated by a non-student or non-employee ("third party"),⁵² and whether it was or is currently the subject of a parallel criminal investigation.⁵³

Once the school district has notice of a report of sexual harassment, it should provide any necessary accommodations to the complainant both before and after the investigation is completed⁵⁴ and even if no formal investigation is pursued.⁵⁵ Accommodations⁵⁶ should be

designed to minimize the burden on the complainant where possible⁵⁷ and should be available at no cost to the complainant.⁵⁸ If a student develops a mental disability because of the harassment (e.g., PTSD), the student also have the right to request accommodations under Section 504,⁵⁹ the Americans with Disabilities Act (ADA),⁶⁰ and the Individuals with Disabilities in Education Act (IDEA).⁶¹

If a formal investigation is requested, the school district must ensure a prompt and equitable resolution, including using the most equitable standard of proof – preponderance of the evidence.⁶² All rights and opportunities made available to one party must be available to all other parties on equal terms.⁶³ In addition, all investigators and adjudicators must be trained and prohibited from relying on stereotypes⁶⁴ based on sex, race, color, national origin, or disability, including questions or comments about a complainant’s clothing and appearance, alcohol consumption, or sexual history. Furthermore, schools should facilitate all questioning of students through a neutral school official and should apply a preponderance of the evidence standard to resolve complaints.

Upon completing an investigation, the school district should inform both sides in writing at the same time of (i) its determination as to whether the sexual harassment occurred; (ii) any school-wide remedies to eliminate the hostile environment and prevent its recurrence; and (iii) the parties’ right to appeal, if any.⁶⁵ It should also inform the complainant of (iv) any individual remedies available to the complainant and (v) any sanctions on the respondent(s) that *directly affect* complainant (e.g., a unilateral no-contact order).⁶⁶ Finally, the school district should inform the respondent(s) of (vi) all sanctions on the respondent; and (vii) none of the individual remedies offered to the complainant.

Ensuring that students and employees are trained about Title IX and the schools’ processes for responding to sexual harassment is the responsibility of Title IX coordinators.

Schools can address sexual harassment to reduce school pushout without imposing or exacerbating unfair discipline.

Taking preventive measures and accommodations to ensure that complainants can continue to learn in a safe environment is consistent with the purpose of Title IX—to ensure equal access to education for all students in a safe environment free of sex discrimination.⁶⁷ There are also many ways that schools can effectively respond to sexual harassment to preserve a complainant’s access to education such as changing classrooms, providing extensions on assignments, requiring the harasser to stay away and not contact the complainant, and requiring the harasser to participate in sexual harassment and consent education.

However, some have opposed strong Title IX protections in the name of racial justice, arguing that robust Title IX enforcement exposes boys of color to unfair discipline. These arguments effectively erase the experiences of girls of color, particularly Black girls, who are not only more likely than their peers to be sexually harassed,⁶⁸ but who are also often ignored, blamed, pressured to stay silent, suspended by their schools,⁶⁹ and/or pushed into the criminal justice system⁷⁰ (i.e., the “sexual abuse-to-prison pipeline”).⁷¹

Furthermore, there is no data to substantiate the claim that Black boys are disproportionately disciplined by schools for sexual misconduct. The Department of Education’s Civil Rights Data Collection shows that while there is a wide disparity between the proportion of Black boys (18.0 percent) and white boys (5.2 percent) who are disciplined for *any type of student misconduct*, only 0.3 percent of Black boys and 0.2 percent of white boys are disciplined for *sex-based harassment*.⁷² Meanwhile students who experience sexual harassment are still commonly treated unfairly in violation of civil rights laws and are often pushed out of schools as a result of inadequate responses to their reports.

NYC DOE needs at least seven Title IX coordinators, with at least one coordinator at each borough field support center.

The obligations imposed on school districts by Title IX are particularly substantial in the NYC DOE, the largest school district in the country,⁷³ serving more than 1.1 million schoolchildren at 1,840 public schools across five boroughs.⁷⁴ Thus, providing at least seven Title IX coordinators for NYC DOE is crucial for ensuring that school district employees understand their many obligations under Title IX, including how they must respond sexual harassment and assault and help prevent further sexual harassment and discrimination. Title IX coordinators also play a critical role in sexual harassment and assault education and prevention in K-12 schools, to ensure that students from a young age are taught about consent, healthy relationships, and the dynamics that create the conditions of harassment, and that employees receive similar education along with training on how they must respond to sexual harassment in schools. As the U.S. Department of Education's Office for Civil Rights as observed from its enforcement work, "Some of the most egregious and harmful Title IX violations occur when a recipient fails to designate a Title IX coordinator or when a Title IX coordinator has not been sufficiently trained or given the appropriate level of authority to oversee the recipient's compliance with Title IX."⁷⁵ This is consistent with what the Center has seen in the cases we litigate and the stories we hear from survivors and advocates.

Sexual harassment is pervasive in NYC DOE schools. During the 2017-2018 school year alone, NYC schools reported more than 3,500 sexual assaults, or 19.6 per school day.⁷⁶ A 2017 study of 120 NYC DOE students by Girls for Gender Equity found that one in three participants reported experiencing some form of sexual harassment in school,⁷⁷ two in three reported that sexual harassment occurred at their schools, and 10% reported that forced sexual activity occurred at their school.⁷⁸ However, evidence strongly suggests harassment continues to be vastly underreported in NYC DOE schools. Although NYC DOE comprises 44 percent of the students in New York State,⁷⁹ NYC DOE comprised only 23 percent of the total reported incidents of sex- or gender-based harassment during the 2016-17 school year in New York State.⁸⁰ In 2016, the New York Attorney General wrote a memo to all school district superintendents reporting, *inter alia*,

that 70 percent of NYC DOE schools had reported zero instances of bullying, harassment, or discrimination during the 2013-14 school year, and 98 percent had reported fewer than ten incidents within that year.⁸¹ Given that the prevalence of sexual harassment and assault in schools, including in NYC, is much higher, these low reporting rates indicate that employees are not responding to sexual harassment and schools are not notifying the school district and Title IX coordinator about sexual harassment and discrimination against their students. When the New York City Comptroller conducted a second investigation of this issue in 2018, the Comptroller found that the NYC DOE had “failed to report hundreds of incidents to the State Education Department, resulting in skewed school violence ratings.”⁸² In 2019, the New York State Comptroller found that NYC DOE had failed to identify and report any material incidents for 670 schools and 570 schools in the 2015-16 and 2016-17 school years, respectively.⁸³

NYC DOE also currently lacks an appropriate Title IX coordinator. The current Acting Title IX Coordinator serves as “a member of [NYC] DOE’s legal team,”⁸⁴ creating a potential conflict of interest because she must both investigate Title IX complaints and defend the NYC DOE against Title IX litigation. Moreover, the Acting Title IX Coordinator also serves as the Diversity Unit Chief; her dual roles mean that she has less time to devote to her Title IX coordinator responsibilities.⁸⁵ These facts are troubling, especially given that a recent study of 200 NYC DOE schools by Coalition for Gender Equity in Schools found that only 5% of those schools were readily able to identify the name of the Title IX coordinator.⁸⁶

Failure to remedy these issues may open NYC DOE to Title IX liability. In recent years, Title IX litigation against NYC DOE has resulted in settlements of \$700,000 to almost \$1 million.⁸⁷ During this period, civil rights litigation against other public school districts in New York has resulted in settlements or jury verdicts of up to \$4.5 million.⁸⁸ As of this writing, NYC DOE also faces three open Title IX investigations by the U.S. Department of Education for mishandling complaints of sexual harassment or sexual violence, and another three open Title IX investigations for retaliation and violation of procedural requirements.⁸⁹

The U.S. Department of Education has stated that it is a good practice for large school districts to designate multiple coordinators, e.g., “for each building, school, or campus.”⁹⁰ Many large public school districts—all of which serve fewer students than the NYC DOE’s 1.1 million students—have followed this recommendation. For example, the Los Angeles Unified School District, the second-largest school district in the country, has one Title Coordinator for its 694,096 students,⁹¹ as well as “at least” one Title IX Complaint Manager at each school.⁹² The Chicago Public Schools District, the third-largest school district, has two Title IX Coordinators⁹³ for its 361,314 students.⁹⁴ The District of Columbia Public Schools has hired two deputy Title IX Coordinators⁹⁵ to work with its lead Title IX Coordinator for its 49,056 students,⁹⁶ as well as one Grievance Point of Contact at each school.⁹⁷ In the higher education context, Harvard University employs “50+ Local Title IX Coordinators” for its 23,000 students and 16,000 employees.⁹⁸

* * * * *

All students deserve to feel safe and valued in school and should have access to an education free from all forms of discrimination, harassment, and assault. To ensure that NYC DOE prioritizes students safety and fulfills its obligations in ensuring that schools are not engaged in sex discrimination in violation of Title IX, NYC DOE should hire more Title IX coordinators—at least seven total so that there is one per borough field support center. NYC DOE must also ensure that these coordinators are trained to carry out the multitude of responsibilities identified above, so that they can address and prevent sexual harassment and protect students from other forms of sex discrimination.

We recognize and are grateful the support of the Women’s Caucus of the New York City Council for strong Title IX enforcement during the recent public comment period in response to the U.S. Department of Education’s proposed changes to Title IX.⁹⁹ We now urge the Council to reaffirm the principles of Title IX and to maintain at least seven Title IX coordinators as resolved in Res. No. 797 in order to ensure that all NYC DOE students can learn, feel safe, and thrive.

Thank you for this opportunity to testify. Please contact me (spatel@nwlc.org) or (202) 588-5180 if you have any questions.

Thank you,

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National Women's Law Center

¹ *E.g.*, *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167 (2005); *Davis v. Monroe Cnty Bd. of Educ.*, 526 U.S. 629 (1999).

² Compl. at ¶ 1, *Doe v. Sch. Bd. of Miami-Dade Cnty.*, No. 1:19-cv-20204 (S.D. Fla. Jan. 15, 2019).

³ *Id.* at ¶¶ 2, 49-51.

⁴ *Id.* at ¶¶ 2-3.

⁵ *Id.* at ¶ 3.

⁶ Nat'l Women's Law Ctr., *Let Her Learn: Stopping School Pushout for Girls Who Have Suffered Harassment and Sexual Violence* 1 (Apr. 2017) [hereinafter *Let Her Learn: Sexual Harassment and Violence*], available at <https://nwlc.org/resources/stopping-school-pushout-for-girls-who-have-suffered-harassment-and-sexual-violence/>.

⁷ Am. Ass'n of Univ. Women (AAUW), *Crossing the Line: Sexual Harassment at School* 2 (2011) [hereinafter *Crossing the Line*], <https://www.aauw.org/files/2013/02/Crossing-the-Line-Sexual-Harassment-at-School.pdf>.

⁸ *E.g.*, Cindy Dampier, *Your son is more likely to be sexually assaulted than to face false allegations. Explaining the fear of #HimToo*, CHICAGO TRIBUNE (Oct. 12, 2018), <https://www.chicagotribune.com/lifestyles/ct-life-false-rape-allegations-20181011-story.html>; Tyler Kingkade, *Males Are More Likely To Suffer Sexual Assault Than To Be Falsely Accused Of It*, HUFFINGTON POST (Dec. 8, 2014) [last updated Oct. 16, 2015], https://www.huffingtonpost.com/2014/12/08/false-rape-accusations_n_6290380.html.

⁹ *Let Her Learn: Sexual Harassment and Violence*, *supra* note 6, at 3.

¹⁰ Nat'l Women's Law Ctr., *Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant or Parenting* 12 (2017) [hereinafter *Let Her Learn: Pregnant or Parenting Students*], available at <https://nwlc.org/resources/stopping-school-pushout-for-girls-who-are-pregnant-or-parenting/>.

¹¹ GLSEN, *The 2017 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools* 26 (2018) [hereinafter *2017 National School Climate Survey*], available at <https://www.glsen.org/article/2017-national-school-climate-survey-1>.

¹² Nat'l Women's Law Ctr., *Let Her Learn: Stopping School Pushout for Girls With Disabilities* 7 (2017) [hereinafter *Let Her Learn: Girls with Disabilities*], available at <https://nwlc.org/resources/stopping-school-pushout-for-girls-with-disabilities>.

¹³ *Let Her Learn: Sexual Harassment and Violence*, *supra* note 6 at 2.

¹⁴ AAU, *Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct*, 36 (Sept. 2015) [hereinafter *AAU Campus Climate Survey*],

https://www.aau.edu/sites/default/files/%40%20Files/Climate%20Survey/AAU_Campus_Climate_Survey_12_14_15.pdf.

¹⁵ *Id.*

¹⁶ RAINN, *Campus Sexual Violence: Statistics*, <https://www.rainn.org/statistics/campus-sexual-violence>.

¹⁷ *2017 National School Climate Survey*, *supra* note 11, at 27.

¹⁸ Many survivors of sexual assault are also unlikely to make a report to law enforcement because, in many instances, criminal reporting often does not serve survivors' best interests. Police officers are concerned with investigating crimes and catching perpetrators; they are not in the business of providing supportive measures to

survivors and making sure that they feel safe at school. And some students—especially students of color, undocumented students, LGBTQ students, and students with disabilities—can be expected to be even less likely than their peers to report sexual assault to the police due to increased risk of being subjected to police violence and/or deportation. Survivors of color also may not want to report to the police if their assailant is non-white, in order to avoid exacerbating the overcriminalization of men and boys of color. *See, e.g., See Jennifer Medina, Too Scared to Report Sexual Abuse. The Fear: Deportation*, N.Y. TIMES (April 30, 2017), <https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html?mcubz=3>; National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey: Executive Summary* 12 (Dec. 2016) [hereinafter *2015 U.S. Transgender Survey*], <https://transequality.org/sites/default/files/docs/usts/USTS-Executive-Summary-Dec17.pdf>.

¹⁹ National Women’s Law Center, *Let Her Learn: A Toolkit to Stop School Pushout for Girls Who Have Experienced Sexual Harassment* at 2 (2018) [hereinafter *Let Her Learn Toolkit: Sexual Harassment*], <https://nwlc.org/resources/let-her-learn-toolkit-sexual-harassment>.

²⁰ *Let Her Learn: Sexual Harassment and Violence*, *supra* note 6 at 8.

²¹ James Gruber & Suan Fineran, *The Impact of Bullying and Sexual Harassment on Health Outcomes of Middle School and High School Girls*, 13 VIOLENCE AGAINST WOMEN 2, 627-43 (2007).

²² Alan Ginsburg et al., *Attendance Works, Absences Add Up: How School Attendance Influences Student Success* (2014), available at <http://www.attendanceworks.org/absences-add-up>.

²³ *See e.g.,* Bethonie Butler, *Survivors of sexual assault confront victim blaming on Twitter*, WASH. POST (Mar. 13, 2014), <https://www.washingtonpost.com/blogs/she-the-people/wp/2014/03/13/survivors-of-sexual-assault-confront-victim-blaming-on-twitter>.

²⁴ David Lisak et al., *False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases*, 16(12) VIOLENCE AGAINST WOMEN 1318–1334 (2010), available at <https://doi.org/10.1177/1077801210387747>.

²⁵ *See supra* note 8.

²⁶ *See, e.g.,* Brian Entin, *Miami Gardens 9th-grader says she was raped by 3 boys in school bathroom*, WSVN-TV (Feb. 8, 2018), <https://wsvn.com/news/local/miami-gardens-9th-grader-says-she-was-raped-by-3-boys-in-school-bathroom>; Nora Caplan-Bricker, *“My School Punished Me”*, SLATE (Sept. 19, 2016), <https://slate.com/human-interest/2016/09/title-ix-sexual-assault-allegations-in-k-12-schools.html>.

²⁷ Aviva Stahl, *‘This Is an Epidemic’: How NYC Public Schools Punish Girls for Being Raped*, VICE (June 8, 2016), https://broadly.vice.com/en_us/article/59mz3x/this-is-an-epidemic-how-nyc-public-schools-punish-girls-for-being-raped.

²⁸ NAACP Legal Defense and Educ. Fund, Inc. & Nat’l Women’s Law Ctr., *Unlocking Opportunity for African American Girls: A Call to Action for Educational Equity* 25 (2014) [hereinafter *Unlocking Opportunity*], https://nwlc.org/wp-content/uploads/2015/08/unlocking_opportunity_for_african_american_girls_report.pdf.

²⁹ Nat’l Women’s Law Ctr., *Let Her Learn: A Toolkit To Stop School Pushout for Girls of Color* 1 (2016) [hereinafter *Let Her Learn Toolkit: Girls of Color*], available at <https://nwlc.org/resources/let-her-learn-a-toolkit-to-stop-school-push-out-for-girls-of-color>.

³⁰ *E.g.,* Nancy Chi Cantalupo, *And Even More of Us Are Brave: Intersectionality & Sexual Harassment of Women Students of Color*, 42 HARVARD J.L. & GENDER 16, 24-29 (forthcoming), available at <https://ssrn.com/abstract=3168909>.

³¹ Georgetown Law Center on Poverty and Inequality, *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*, 1 (2018) [hereinafter *Girlhood Interrupted*], <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf>.

³² *Id.* at 2-6.

³³ U.S. Dep’t of Education, Office for Civil Rights, *A First Look: Key Data Highlights on Equity and Opportunity Gaps in Our Nation’s Public Schools*, at 3 (June 7, 2016; last updated Oct. 28, 2016), <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.

³⁴ *Unlocking Opportunity*, *supra* note 30, at 5, 18, 20, 25. *See also* Sonja C. Tonnesen, *Commentary: “Hit It and Quit It”: Responses to Black Girls’ Victimization in School*, 28 BERKELEY J. GENDER, L. & JUST. 1 (2013), <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1312&context=bglj>.

³⁵ Students who are pregnant or parenting are more likely to be blamed for sexual harassment than their peers, due in part to the stereotype that they are more “promiscuous” because they have engaged in sexual intercourse in the past.

³⁶ LGBTQ students are less likely to be believed and more likely to be blamed due to stereotypes that they are more “promiscuous,” “hypersexual,” “deviant,” or bring the “attention” upon themselves. *See, e.g.*, Gillian R. Chadwick, *Reorienting the Rules of Evidence*, 39 CARDOZO L. REV. 2115, 2118 (2018), <http://cardozolawreview.com/heterosexism-rules-evidence>; Laura Dorwart, *The Hidden #MeToo Epidemic: Sexual Assault Against Bisexual Women*, MEDIUM (Dec. 3, 2017), <https://medium.com/@lauramdorwart/the-hidden-metoo-epidemic-sexual-assault-against-bisexual-women-95fe76c3330a>.

³⁷ Students with disabilities are less likely to be believed because of stereotypes about people with disabilities being less credible, and because students with cognitive or developmental disabilities may have greater difficulty describing or communicating about the harassment they experienced. *See, e.g.*, The Arc, *People with Intellectual Disabilities and Sexual Violence* 2 (Mar. 2011), available at <https://www.thearc.org/document.doc?id=3657>; Nat’l Inst. of Justice, *Examining Criminal Justice Responses to and Help-Seeking Patterns of Sexual Violence Survivors with Disabilities* 11, 14-15 (2016), available at <https://www.nij.gov/topics/crime/rape-sexual-violence/Pages/challenges-facing-sexual-assault-survivors-with-disabilities.aspx>.

³⁸ *E.g.*, New York City Human Rights Law, N.Y.C. Admin. Law §§ 8-101 *et seq.*; Dignity for All Students Act, N.Y. Educ. L. Art. 2.

³⁹ 34 C.F.R. §§ 106.8(a)-(b), 106.9.

⁴⁰ 34 C.F.R. § 106.8(a); U.S. Dep’t of Education, Office for Civil Rights, *Dear Colleague Letter: Title IX Coordinators* at 5-6 (Apr. 24, 2015) [hereinafter 2015 Guidance], <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf> (school districts should notify all students and employees of the Title IX Coordinator’s name(s), address(es), phone number(s), and email address(es), and display this information prominently on the school district’s website homepage and in other publications).

⁴¹ 2015 Guidance, *supra* note 46, at 3-4 (To avoid potential conflicts of interest, Title IX coordinators should not be a disciplinary board member, general counsel, dean of students, superintendent, principal, or athletics director of the school district).

⁴² *Id.* at 6-7.

⁴³ *See, e.g.*, U.S. Dep’t of Education, Office for Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* at 13, 19 (Jan. 19, 2001) [hereinafter 2001 Guidance], <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>.

⁴⁴ *See, e.g., Id.* at 16, 19.

⁴⁵ These standards have been reaffirmed time and time again, in 2006 by the Bush Administration, in 2010, 2011, and 2014 in guidance documents issued by the Obama Administration, and even in the 2017 guidance document issued by the current Administration. U.S. Dep’t of Educ. Office for Civil Rights, *Dear Colleague Letter: Sexual Harassment* (Jan. 25, 2006) [hereinafter 2006 Guidance], <https://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html>; U.S. Dep’t of Educ. Office for Civil Rights, *Dear Colleague Letter: Harassment and Bullying* (Oct. 26, 2010) [hereinafter 2010 Guidance], <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; U.S. Dep’t of Educ. Office for Civil Rights, *Dear Colleague Letter: Sexual Violence* at 4, 6, 9, &16 (Apr. 4, 2011) [hereinafter 2011 Guidance], <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; U.S. Dep’t of Educ. Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence* 1-2 (Apr. 29, 2014) [hereinafter 2014 Guidance], <https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>; U.S. Dep’t of Educ. Office for Civil Rights, *Questions and Answers on Campus Sexual Misconduct* (Sept. 2017) [hereinafter 2017 Guidance], <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>.

⁴⁶ 2001 Guidance, *supra* note 49.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 18.

⁵⁰ *Id.* at 15.

⁵¹ 2017 Guidance, *supra* note 51.

⁵² 2001 Guidance, *supra* note 49, at 3, 12-14.

⁵³ *Id.* at 21.

⁵⁴ 2001 Guidance, *supra* note 49, at 16; 2017 Guidance, *supra* note 51, at 2.

⁵⁵ 2001 Guidance, *supra* note 49, at 17-18.

⁵⁶ Safety accommodations may include access to counseling, changes to the student(s)' class, extracurricular, bussing, and lunch assignments; a unilateral no-contact order for the respondent(s) to stay away from the complainant; protection from retaliation; campus escort services; and increased security and monitoring. Academic accommodations may include any necessary academic support services, extensions on assignments, the opportunity to resubmit homework or retake a test, excused absences if the harassment has affected attendance, and preserved eligibility for any activities, honors, or scholarships conditioned upon grades or attendance that have been negatively affected by the harassment. See 2001 Guidance, *supra* note 49, at 2,16 (directing "the harasser to have no further contact with the harassed student" but not vice-versa); 2017 Guidance, *supra* note 51, at 2; Joan Zorza, *What Is Wrong with Mutual Orders of Protection?* 4(5) Domestic Violence Rep. 67 (1999), available at <https://www.civresearchinstitute.com/online/article.php?pid=18&iid=1005>.

⁵⁷ See *id.* at 16 (instructing schools to minimize the burden of final remedies on the complainant).

⁵⁸ Know Your IX, Letter to Sec'y Arne Duncan & Asst. Sec'y Catherine Lhamon 3-4 (Nov. 6, 2014), available at <https://www.knowyourix.org/wp-content/uploads/2017/01/2014-11-6-Know-Your-IX-USSA-Letter-to-OCR-Redacted.pdf>.

⁵⁹ 29 U.S.C. § 794; 34 C.F.R. pt. 104.

⁶⁰ 42 U.S.C. §§ 12131-12134; 28 C.F.R. pt. 35.

⁶¹ 20 U.S.C. §§ 1400-1419; 34 C.F.R. pt. 300. See also U.S. Dep't of Educ., Office for Civil Rights, *Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools* (2014) [hereinafter Disability Guidance], <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faqs-effective-communication-201411.pdf>.

⁶² 34 C.F.R. 106.8(b).

⁶³ *Id.*; see also 2017 Guidance, *supra* note 51.

⁶⁴ 2017 Guidance, *supra* note 51, at 4.

⁶⁵ See *id.* at 6.

⁶⁶ 20 U.S.C. § 1221(d) (specifying that "[n]othing in this chapter," including the Family Educational Rights and Privacy Act (FERPA), "shall be construed to affect the applicability of ... [T]itle IX"). See also 2001 Guidance, *supra* note 49, at vii n.3.

⁶⁷ *E.g.*, *Davis*, 526 U.S. at 631.

⁶⁸ *Unlocking Opportunity*, *supra* note 30, at 24-25.

⁶⁹ See *supra* notes 26-28 and accompanying text.

⁷⁰ Nia Evans, *Too Many Black Survivors Get Jail Time, Not Justice*, NAT'L WOMEN'S LAW CTR. (Dec. 14, 2018), <https://nwlrc.org/blog/too-many-black-survivors-get-jail-time-not-justice>.

⁷¹ Human Rights Project for Girls, Georgetown Law Ctr. on Poverty and Inequality, and Ms. Found. for Women, *The Sexual Abuse to Prison Pipeline: The Girls' Story* (2015), https://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf.

⁷² U.S. Gov't Accountability Office, *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities* at 89 (Mar. 2018), <https://www.gao.gov/assets/700/690828.pdf>.

⁷³ Nat'l Center for Educ. Statistics, *Enrollment, poverty, and federal funds for the 120 largest school districts, by enrollment size in 2015: Selected years, 2014-15 through 2017* (2017), https://nces.ed.gov/programs/digest/d17/tables/dt17_215.30.asp?current=yes.

⁷⁴ New York City Dep't of Educ., *DOE Data at a Glance*, <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance>.

⁷⁵ U.S. Department of Education, Office for Civil Rights, *Dear Colleague Letter on Title IX Coordinators* (April 24, 2015), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

⁷⁶ New York State Dep't of Educ., *School Safety and the Educational Climate (SSEC) Incidents – New York City 2017-18 SY* (last updated Mar. 21, 2019), http://www.p12.nysed.gov/irs/school_safety/2018_SSEC_NYC.xlsx.

⁷⁷ Girls for Gender Equity, *The Schools Girls Deserve 23* (2017), https://www.ggenyc.org/wp-content/uploads/2017/11/GGE_school_girls_deserveDRAFT6FINALWEB.pdf.

⁷⁸ Girls for Gender Equity, *Participatory Action Research (PAR)* (last visited Apr. 25, 2019), <https://www.ggenyc.org/programs/community-organizing/participatory-action-research>.

⁷⁹ New York City Dep't of Education, *DOE Data at a Glance*, <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance> (1,135,334 students in NYC DOE); New York State Dep't of Education, *Public School Enrollment* <http://www.p12.nysed.gov/irs/statistics/enroll-n-staff/home.html> (2,578,009 students in New York State).

⁸⁰ New York City Dep't of Educ., *Material Incidents of Discrimination and/or Harassment - New York City 2016-17*, http://www.p12.nysed.gov/irs/school_safety/2017_New_York_City_DASA.xlsx (590 incidents in NYC DOE); New York State Dep't of Educ., *Material Incidents of Discrimination and/or Harassment - Rest of State 2016-17*, http://www.p12.nysed.gov/irs/school_safety/2017_Rest_of_State_DASA.xlsx (1,739 incidents in the rest of New York State).

⁸¹ New York State Educ. Dep't and New York Office of the Att'y General, Letter to District Superintendents on Dignity for All Students Act: Results of Statewide School District Survey and Guidance on Implementation at 3 (Aug. 31, 2016), https://ag.ny.gov/sites/default/files/dasa_-_dear_colleague_letter_oag-sed_guidance_document.pdf.

⁸² New York City Comptroller, *Safe and Supportive Schools: A Plan to Improve School Climate and Safety in NYC 14* (June 2018), <https://comptroller.nyc.gov/wp-content/uploads/documents/School-Climate.pdf>.

⁸³ New York State Office of the State Comptroller, *Implementation of the Dignity for All Students Act: New York City Department of Education* at 8 (Mar. 13, 2019), <https://www.osc.state.ny.us/audits/allaudits/093019/sga-2019-17n6.pdf>.

⁸⁴ New York City Res. No. 797 (Mar. 12, 2019).

⁸⁵ See New York City Dep't of Educ., *Diversity Unit* (last visited Apr. 25, 2019),

<http://165.155.103.32/Offices/GeneralCounsel/Investigative/OEO/Diversity+Unit.htm>.

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<https://www.ggenyc.org/programs/community-organizing/participatory-action-research>.

⁸⁷ Public Justice, *Jury Verdicts and Settlements in Bullying Cases 39-45* (Nov. 2018),

<https://www.publicjustice.net/wp-content/uploads/2018/12/2018.12.03-Fall-2018-Edition-Bullying-Verdicts-and-Settlements-Final.pdf>.

⁸⁸ *Id.* at 40.

⁸⁹ U.S. Dep't of Educ., Office for Civil Rights, *Pending Cases Currently Under Investigation at Elementary-Secondary and Post-Secondary Schools as of March 29, 2019 7:30am Search*,

<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/open-investigations/tix.html?queries%5Bstate%5D=NY&page=3&offset=40>.

⁹⁰ 2015 Guidance, *supra* note 46, at 3.

⁹¹ Dennis Romero, *L.A. teachers join U.S. movement against underfunded schools* (Jan. 13, 2019),

<https://www.nbcnews.com/news/us-news/l-teachers-join-u-s-movement-against-under-funded-schools-n957031>.

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<https://achieve.lausd.net/Page/3654>.

⁹³ Feminist Majority Foundation, *State & Large School District Title IX Gender Equity Coordinators, Methods of Administration Coordinators & Other State & District Level Gender Equity Experts* at 13 (Feb. 6, 2019),

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⁹⁴ Chicago Pub. Schs., *CPS Stats and Facts* (last updated Oct. 2018), https://cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx.

⁹⁵ Tyler Kingkade, *Exclusive: New Document Show the Trump Administration Has Confronted Dozens of School Districts Across the Country for Mishandling Sexual Assault Cases*, THE 74 (Apr. 24, 2019), available at

<https://www.the74million.org/article/exclusive-new-documents-show-the-trump-administration-has-confronted-dozens-of-school-districts-across-the-country-for-mishandling-sexual-assault-cases>.

⁹⁶ Dist. of Columbia Pub. Schs., *Bowser Administration Announces that Enrollment in DC's Public Schools Has Grown for a Straight Decade* (Mar. 8, 2019), <https://dcps.dc.gov/release/bowser-administration-announces-enrollment-dc%E2%80%99s-public-schools-has-grown-straight-decade>.

⁹⁷ Dist. of Columbia Pub. Schs., *Understanding the role of the Title IX Coordinator in DCPS* (last visited Apr. 25, 2019), <https://dcps.dc.gov/page/understanding-role-title-ix-coordinator-dcps>.

⁹⁸ Harvard University, Office for Dispute Resolution, Title IX Office, *FY18 Annual Report* (2018),

https://titleix.harvard.edu/files/titleix/files/title_ix_odr_2018_annual_report_final_121218_for_web.pdf.

⁹⁹ Women's Caucus NYC, Council, *Women's Caucus Response to Title IX Rollbacks* (Jan. 30, 2019),

<https://medium.com/@womenscaucusnyc/womens-caucus-response-to-title-ix-rollbacks-7d00c3015380>.

TESTIMONY OF MICHAEL CORDIELLO, PRESIDENT OF LOCAL 1181-1061,
AMALGAMATED TRANSIT UNION

FOR THE RECORD

NEW YORK CITY COUNCIL
COMMITTEES ON EDUCATION, HIGHER EDUCATION, &
WOMEN AND GENDER EQUITY

April 30, 2019

Good afternoon Chairman Treyger, Chairwoman Barron, Chairwoman Rosenthal, and Members of the Committees on Education, Higher Education, and Women and Gender Equity,

My name is Michael Cordiello, and I am the President of Local 1181 of the Amalgamated Transit Union. I thank you for this opportunity to submit testimony as you consider Resolution 811 of 2019 sponsored by Council Members Miller, Treyger, Dromm, Rosenthal, Chin, Lander, Kallos, Eugene, Cornegy, and Barron calling on the New York State Legislature to pass and the Governor to sign legislation requiring inclusion of Employee Protection Provisions (EPPs) in all current and future school bus contracts in New York City.

Local 1181 represents nearly 7,000 school bus drivers, matrons, and mechanics who transport and care for our City's most vulnerable school children each day. These hard-working men and women take pride in the work they do—transporting our City's most precious cargo. I have appeared before the Education Committee in the past and have described the devastating effects that the decision of the Bloomberg Administration to eliminate Employee Protection Provisions (EPPs) from school bus contracts have wreaked upon our union, our members, and, just as importantly, the tens of thousands of school children that our members transport every day. I will not recount that history today, as you are certainly aware of it.

Instead, I submit this testimony today to ask that you approve Resolution 811 expeditiously. As you know, Local 1181 members, officers, staff, attorneys, and consultants have spent the better part of the last five years vigorously advocating for the reinstatement of EPPs into

Testimony of Michael Cordiello, President, ATU Local 1181
April 30, 2019

school bus contracts. Those advocacy efforts sought both legislative and administrative changes at the state and city levels that would require EPPs in all school bus contracts so that our school children would have an experienced, qualified, and trained workforce, and our hardworking members could be afforded the protections of job security and modest pay and benefits. Many of the Members of these Committees were allies in those efforts, and on behalf of all 13,000 members of Local 1181, I thank you for your support.

While we had been hopeful for a resolution to this saga when the Department of Education (“DOE”) released Request for Bids B3182 for Transportation Services for Students with Disabilities and Their Non-disabled Peers (“RFB”) on December 29, 2017, which included language that sought to restore the EPP, unfortunately that RFB was stymied by litigation brought by a group of school bus contractors intent on preventing the EPP from being restored in the school bus industry. So, again, we must look to Albany to resolve this issue once and for all. And the timing could not be more critical. Just recently, the largest Local 1181 employer, with which the union is engaged in contract negotiations, has indicated that it would not agree to Local 1181’s contract demands if legislation to require the inclusion of EPPs in school bus contracts was not passed. In response, Local 1181 was forced to seek strike authorization from its members in the event that an agreement cannot be reached with the company. This cycle of labor unrest and strikes has become a necessary hardship that the members of Local 1181 have had to endure ever since the EPP has been removed from school bus contracts—one that can be eliminated by the state legislature and the governor.

Throughout this post-Bloomberg struggle, the City Council has been a stalwart ally to Local 1181 and the thousands of drivers, matrons, and mechanics it represents. We thank you for your continued support.

Respectfully submitted,

Michael Cordiello

President, Local 1181



**Testimony for the New York City Council
Title IX and Gender Discrimination Oversight Hearing
Committee on Education, Committee on Women and Gender Equity and
Committee on Higher Education**

Delivered by: Andrea Gonzales, Youth Organizer/Young Women's Advisory Council
Girls for Gender Equity
April 30th, 2019

Good afternoon, Chair Treyger, Chair Rosenthal, Chair Barron and Council Members and staff of the Committee on Education, Committee on Women and Gender Equity and the Committee on Higher Education. My name is Andrea Alejandra Gonzales. I am a 17 year old Indigenous-Latina activist. I am also a member of The Young Women's Advisory Council at Girls for Gender Equity and a freshman at Baruch College studying Political Science. Girls for Gender Equity is an organization that supports young people through political and social justice education and helps us to become leaders and change agents in our communities. They also support our growth emotionally, mentally, and physically. First, I want to say thank you for having myself and my organization here today. We appreciate the time you have taken to learn about our cause and listen to our stories. I am speaking today because I share experiences with almost every young woman of color and gender non-conforming youth of color that attend schools here in New York City.

Girls of color are hypersexualized and we are often forgotten when addressing sexual harassment. When I was in high school, I was always the first to get dress coded and I was heavily surveilled

for what I wore. I knew this was only because I was a Latina and because my school administrators saw my body as a distraction in comparison to my white counterparts who were able to wear and dress in whatever ways felt comfortable for them. Being judged everyday by what I wore led me to feel unsafe and uncomfortable in school, especially in warmer weather. I should not have to change the way I look just because teachers or other students might get distracted. The teachers should change, not me. In my high school, the emphasis on what I chose to wear or not wear was measured by what would cause teachers to sexualize my body.

And now I attend a CUNY, this is my first year within this school system. We are only a few months in, but there has been various reports of professors sexually harassing students and I am afraid. These reports paired with my experiences from high school, shows me that this continues across most educational spaces and it is unacceptable.

- **Why isn't action being taken against these teachers?**
- **Why is there one Title 9 coordinator in New York City for 1.1 million students?**
- **And why are students bodies more important than their education in schools?**

I hope to bring awareness to the narratives of young cis and trans girls of color and gender non conforming youth of color and make sure these stories of harassment and unfair dress codes aren't erased. The lack of Title IX coordinators for New York City schools is appalling and concerning. How can you know this information and not be concerned? Girls of color and gender non-conforming youth of color deserve better and they deserve to be and feel respected in their educational spaces. Hiring 7 full time and trained Title IX coordinators can help to ensure that young people are being respected and treated with the dignity we deserve.

Thank you!



**Testimony for the New York City Council
Title IX and Gender Discrimination Oversight Hearing
Committee on Education, Committee on Women and Gender Equity and
Committee on Higher Education**

Delivered by: Berenice Gervacio, Youth Organizer/Sisters In Strength
Girls for Gender Equity
April 30th, 2019

Good afternoon, Chair Treyger, Chair Rosenthal, Chair Barron and Council Members and staff of the Committee on Education, Committee on Women and Gender Equity and the Committee on Higher Education. My name is Berenice Gervacio and I am 15 years old. I am currently a sophomore in high school attending High School for Environmental Studies. I identify as a cis girl and I'm a first generation Mexican American. I'm in a program called Sisters In Strength which is run by Gender Girls Equity who I am also here representing today. I'm a soccer player and I'm on my schools all girls soccer team. Title IX is crucial to ensuring that I get to play sports at school and also that I get to show up at school the way I want to and be safe in my body.

I want to tell you a couple of stories about what I experience at school. When I first joined the girls soccer team freshman year, students and teachers treated us as a joke. We were held to lower standards just because they thought the boys were so much better -- simply for being boys. They were taken seriously. We were made fun of often just for being girls playing the sport. This year, we had major accomplishments as a team. We made it to playoffs and semi-finals for the first time in 8 years. Meanwhile, the boys only went to the playoffs, but lost after the second round. They still received praise and accolades, which they deserve, but it took

us advancing to the semi-finals to receive recognition from the school community. They were finally saying girls can play this game this too.

During our summer tryouts, when it was all sorts of hot, sunny and humid, my teammates couldn't handle the heat, so they took their shirts off. We had been working out so hard and just wanted to keep on going. They thought it was okay --since we saw other girls and teams practicing with only their sports bras. Our coach had an immediate reaction. He started feeling some type of way which of course meant he was judging us. He immediately lectures us about why it was wrong to take shirts off & it was wrong to wear sports bras outside. Even though, I wasn't one of the people who took off their shirts, I still had a reaction. I know he was trying to protect us, but this response was inappropriate. First, he's our coach and should be supporting us; second, he was blaming us for potential responses from others as if we were asking to be cat-called; three, there were other guys and girls who didn't have any shirts on--those teams were mostly made up of people I perceived as white-- so why was it not okay for us to wear our sports bras? He said it was to protect us, but what we are wearing should never be a reason for someone to hurt us, and we definitely weren't giving consent for random people to touch us or engage in sexual harassment.

Our coach is a caring and supportive person. We know that he has our best interest at heart and also he needs more training and support to coach an all girls team. Our school needs more training and support to be able to have equitable language and responses to girls playing sports and being athletes. I believe an increase in the number of Title IX coordinators would help to give support to staff and change school culture. They could look out for what sorts of trainings and messages are occurring in schools.

Additionally, I don't really feel comfortable wearing clothing that is tight or shows off my skin in school. And it's not because I don't own that type of clothing or it isn't my style, but when I do wear the clothes I want, I hear things such as "your showing off too much skin" or people stare at me too long, or I get discriminated against because of my body type. This is unacceptable! I shouldn't feel as what I'm wearing is wrong or feel any type of way because of the clothing I choose to wear. I have fear around expressing my true self in the school

environment. I'm scared to be slut shamed and called names because of the clothes I choose to wear. I'm scared of being sexually harassed by the students at my school. I see a lot of boundaries being crossed in school and the adults aren't doing anything--I feel like they don't know what to do. Then what if I were to dress the way I wanted and something happened? Who do I go to? Who am I supposed to turn to when I have this issue? Is my case really going to be taken seriously or is it just going to be dismissed because there isn't someone to address this in my school or school district. Did you know there is only 1 Title IX coordinator for the 1.1 million students in NYC Department of Education (DOE)?

This is the person that we are supposed to be able to go to, but there is only one. I didn't even know this was a thing until I started learning about my rights. Currently, I go to my RAPP coordinator which I am lucky to have, but not all schools have this and they don't always have the power to make change throughout the entire school.

I believe every student should feel safe everywhere they go especially at school. No student should feel threatened or any type of way because of the clothing they choose to wear, or how students choose to express themselves. I should feel more free at school and safe. This is why we need 7 full time and trained Title IX coordinators, so that me, my friends, and all students can feel safe from sexual harassment and gender discrimination in schools. Thank you.



**TESTIMONY OF EMMA ROTH AND STEFANIE COYLE
ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION AND
THE NEW YORK CIVIL LIBERTIES UNION**

Before

**THE COMMITTEE ON WOMEN AND GENDER EQUITY, THE COMMITTEE ON
EDUCATION, AND THE COMMITTEE ON HIGHER EDUCATION**

On

GENDER DISCRIMINATION AND TITLE IX

April 30, 2019

The American Civil Liberties Union (“ACLU”) and the New York Civil Liberties Union (“NYCLU”) respectfully submit the following testimony on gender discrimination and Title IX. We would like to thank the Committee on Women and Gender Equity, the Committee on Education, and the Committee on Higher Education for giving the ACLU and the NYCLU the opportunity to provide testimony today on this important topic.

I. Introduction

The ACLU is a nationwide, nonprofit, nonpartisan organization with more than 1.7 million members dedicated to the principles of liberty and equality embodied in the U.S. Constitution. Through its Women’s Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has taken a leading role advocating for the rights of survivors of gender-based violence through litigation, advocacy, and public education. The ACLU has represented individual students facing sexual harassment, sexual assault, pregnancy discrimination, and other forms of gender discrimination in both K-12 and higher education settings. The ACLU has also engaged in federal advocacy to ensure remedies are available for student survivors of sexual harassment and violence, including submitting a comment to the U.S. Department of Education in response to proposed changes to Title IX regulations. The ACLU has engaged in public education about student survivors’ rights, including producing Know Your Rights webpages and engaging with traditional and online media. Additionally, through its LGBT Project, the ACLU has advocated for the Title IX rights of trans, queer, and non-binary students all across the country.

The NYCLU, the state affiliate of the ACLU, is a not-for-profit, non-partisan organization with nine offices across New York state and more than 210,000 members and supporters. The NYCLU’s mission is to defend and promote the fundamental principles, rights, and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York. Protecting and expanding students’ rights is a core component of NYCLU’s mission, and through the Youth and Students’ Rights program the NYCLU advocates for positive school climate and equitable access to quality education for all students.

As part of the NYCLU’s longstanding commitment to protecting the right to a quality education for all children, it has spent over a decade advocating for schools to prevent and address harassment, bullying, and discrimination. Its work has included legislative campaigns in support of the statewide Dignity For All Students Act (“DASA”) and its local counterpart (“Local Law 42”), advocacy on behalf of individual targets of bias-based harassment, and ongoing participation on the State Education Department’s Dignity Act Implementation Task Force. The NYCLU serves on the New York City Mayor’s Leadership Team on School Climate and Discipline and works regularly with individual educators and young people, including more than 100 members of the Teen Activist Project.

The NYCLU has also advocated for the New York State Education Department to require sexuality education and for it to adopt comprehensive sexual education standards that are medically accurate, age-appropriate, inclusive to all, including LGBTQ students, and address issues of consent and healthy relationships. It has co-lead a statewide coalition to improve sexuality education in New York State and is part of the Sexuality Education Alliance of New York City. Most recently, the NYCLU successfully advocated for an extension of the New York Human Rights Law to students who attend public schools and public colleges. Previously, only private school students benefited from the law’s antidiscrimination protections.

II. Sexual Harassment is a Pervasive Problem in Schools, is Rarely Reported, and Has Long-Term Consequences for Students.

Sexual harassment in schools is a pervasive problem that the New York City Council must not ignore. Although sexual harassment and assault can happen to any student, female students,¹ students of color,² LGBTQ students,³ and students with disabilities⁴ experience sexual harassment and assault at disproportionate rates. In middle schools and high schools across the country, 56% of female students⁵ and nearly 60% of LGBT students⁶ are sexually harassed in any given year. In one study of New York City students, 71% of surveyed students observed sexual teasing in their school, 65% cited the harassment of LGBT youth, 31% observed “pressure for sex or sexual activity” and just under 10% noted forced sexual activity in their respective schools.⁷ According to a 2016 CDC report, 12% of New York City students report experiencing physical dating violence in the 12 months before they were surveyed, significantly

¹ See National Women’s Law Center, *Let Her Learn: Stopping School Pushout for: Girls Who Have Suffered Harassment and Sexual Violence* (Apr. 2017), available at <https://nwl.org/resources/stopping-school-pushout-for-girls-who-have-suffered-harassment-and-sexual-violence>; Catherine Hill & Holly Kearl, *Crossing the Line: Sexual Harassment at School*, AAUW (2011), available at <https://www.aauw.org/research/crossing-the-line>; Catherine Hill & Elena Silva, *Drawing the Line: Sexual Harassment on Campus*, AAUW (2005), available at <https://history.aauw.org/aauw-research/2006-drawing-the-line>.

² See Robert W. S. Coulter et al., *Prevalence of Past-Year Sexual Assault Victimization Among Undergraduate Students: Exploring Differences by and Intersections of Gender Identity, Sexual Identity, and Race/Ethnicity*, 18:6 PREVENTION SCIENCE 726-36 (Aug. 2017).

³ See GLSEN, *The 2015 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools* (2015), available at https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report_0.pdf; Sandy E. James et al., National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey*, available at <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

⁴ See National Council on Disability, *Not on the Radar: Sexual Assault of College Students With Disabilities* (Jan. 30, 2018), available at https://ncd.gov/sites/default/files/NCD_Not_on_the_Radar_Accessible_01292018.pdf; National Women’s Law Center, *Let Her Learn: Stopping School Pushout for: Girls With Disabilities* 7 (2017), available at <https://nwl.org/resources/stopping-school-pushout-for-girls-with-disabilities>.

⁵ See Catherine Hill & Holly Kearl, *supra* note 1.

⁶ See GLSEN, *supra* note 3.

⁷ See New York City Young Women’s Initiative, *Report and Recommendations* 66 (2016) (citing Girls for Gender Equity 2008 Participatory Action Research Project, exploring the experience of sexual harassment among almost 1,200 youth in 90 New York City schools and community-based organizations), <https://www.ggenyc.org/wp-content/uploads/2018/11/YWI-Report-and-Recommendations.pdf>.

higher than the national average of 9.6% of students.⁸ In addition, the NYCLU has received numerous anonymous reports of discriminatory enforcement of student dress codes against female students as well as inappropriate comments made by staff regarding female bodies in DOE schools.

Despite these high rates of sexual harassment and assault at schools, shockingly low numbers of student survivors report their experiences. In a nationwide survey, only 2% of girls ages 14-18 told a school principal or administrator about an experience of sexual harassment or assault, 2% told their parents, and 1% told the police.⁹ Similarly, only 3% of surveyed New York City students had ever reported sexual harassment to someone in their schools.¹⁰ There are many reasons why survivors decide not to report harassment or assault. Some student survivors fear retaliation, worry that they will be judged or ridiculed, or assume that their complaints would be ignored.

Experiences of sexual harassment and assault are often disruptive to students' educational lives, causing them to avoid particular people or places, disengage with academics, stop participating in activities, drop classes, transfer schools, or even drop out of school altogether.¹¹ Sexual harassment and assault can also lead student survivors and their families to confront steep financial costs due to physical and psychological healthcare expenses and lost earning potential. A White House report reviewed several studies that estimated that the costs associated with sexual assault range from \$87,000 to \$240,776 per rape.¹² Other potential effects, such as loss of sleep or appetite, fear of retribution from reporting, the onset of anxiety or depression, difficulty concentrating on academics, or loss of friend groups, is likely to alter the way students engage in their educations. These effects all have profound implications for students' long-term ability to find stable employment and participate fully in social, political, and economic life.

The impact of sexual harassment and violence on individual students, and their willingness to report, may be compounded by other factors, including their socioeconomic status, access to counselors or other supportive adults, disability status, immigration status, and race.

III. New York City Should Provide More Title IX Coordinators and Stronger Reporting Mechanisms for Student Survivors.

New York City has a responsibility to ensure that all of its students feel safe, welcome, and secure in its schools. New York City's obligation to effectuate Title IX's nondiscrimination

⁸ See Centers for Disease Control & Prevention, 1991-2015 High School Youth Risk Behavior Survey Data, available at <https://nccd.cdc.gov/Youthonline/App/Default.aspx>.

⁹ See National Women's Law Center, *Let Her Learn: Stopping School Pushout for: Girls Who Have Suffered Harassment and Sexual Violence*, *supra* note 1.

¹⁰ See New York City Young Women's Initiative, *supra* note 7.

¹¹ See Dana Bolger, *Gender Violence Costs: Schools' Financial Obligations Under Title IX*, 125 Yale L.J. 2106, 2109-10 (2016).

¹² See White House Council on Women and Girls, *Rape and Sexual Assault: A Renewed Call to Action*, at 15 (2014).

mandate is especially crucial given the prevalence of sexual harassment and assault in New York City schools, low rates of reporting, and the ways in which sexual violence interrupts victims' lives and educations.

New York City Public Schools is the largest public school district in the United States.¹³ It serves 1,840 schools and over 1.1 million students.¹⁴ Yet at present, the New York City Department of Education (“DOE”) has only a single Title IX Coordinator. Under federal law, every public school district must designate and train at least one Title IX Coordinator.¹⁵ Title IX Coordinators play an essential role in ensuring that all students are aware of their Title IX rights, and that all schools comply with their legal obligations.¹⁶ They are also responsible for coordinating grievance procedures for resolving Title IX complaints, and for identifying and addressing systemic patterns of sexual harassment or other forms of sex discrimination.¹⁷

New York City's single Title IX Coordinator cannot possibly meet with all student complainants regarding incidents of sexual harassment or assault, launch meaningful investigations into all complaints, and identify and address patterns of systemic sex discrimination and sexual harassment within New York City Public Schools. Nor can the Coordinator ensure adequate oversight of schools that are found out of compliance with Title IX. Further, the single Title IX Coordinator cannot possibly engage in proactive advocacy to inform New York City students about their Title IX rights and teach schools about their responsibilities.

Indeed, there is clear evidence that New York City is failing to create safe and equitable learning environments for student survivors. Despite the high rates of sexual violence in New York City schools,¹⁸ the district recently reported fewer than 3,000 sex-based harassment allegations, indicating that the vast majority of incidents of sexual harassment and violence go unreported.¹⁹ New York City Public Schools have even punished low-income survivors of color who disclose abuse. In one incident, a survivor of color with developmental delays reported that she was forced to perform oral sex when a group of boys at her Brooklyn school pushed her into a stairwell.²⁰ After she disclosed the incident to a guidance counselor, she was suspended for six days for engaging in sexual acts on campus.²¹

¹³ *DOE Data at a Glance*, N.Y.C. DEP'T OF EDUC. (2019), <https://www.schools.nyc.gov/about-us/reports/doe-data-at-a-glance>.

¹⁴ *Id.*

¹⁵ Department of Education, Office for Civil Rights, *Dear Colleague Letter on Title IX Coordinators*, (April 24, 2015), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *See supra* note 7 and surrounding text.

¹⁹ Civil Rights Data Collection, U.S. Dep't of Educ., (2015), <https://ocrdata.ed.gov/Page?t=d&eid=31194&syk=8&pid=2506>.

²⁰ *See* Kate Taylor, *School Punished Teenagers for Being Victims of Sexual Assault, Complaints Say*, New York Times (June 7, 2016), available at <https://www.nytimes.com/2016/06/08/nyregion/schools-punished-teenagers-for-being-victims-of-sexual-assault-complaints-say.html>.

²¹ *Id.*

Without robust reporting and oversight mechanisms, survivors of sexual harassment and assault will not be able to hold their schools accountable for past harms or compel their schools to institute meaningful reforms. The ACLU and the NYCLU support Resolution 0797, introduced by Councilmembers Adams, Treyger, Rosenthal, and Chin, that would call upon the DOE to maintain at least seven Title IX Coordinator positions across the city, with at least one coordinator in each borough field support center. Resolution 0797 recognizes that there is a need for the largest school district in the country to have more than one Title IX coordinator and that currently the single position is being covered by an “‘acting Title IX coordinator,’ who is also a member of DOE’s legal team.”²² The ACLU and the NYCLU would also support the designation of more than seven Title IX coordinators across the city. The DOE has a moral and legal obligation to ensure that it protects students from sexual harassment and discrimination and additional Title IX coordinators across the City will help it meet this mandate.

The ACLU and the NYCLU also urge the DOE to train each Title IX Coordinator on rights and responsibilities under Title IX, trauma-informed interviewing, cultural competence, and how to identify and address patterns of systemic sex discrimination and sexual harassment within New York City Public Schools. Without robust training, Title IX Coordinators will not have the necessary tools to prevent and remedy sexual harassment in New York City schools.

Finally, the ACLU and the NYCLU urge the DOE to collect and publish data on the number of sexual harassment complaints at each school; the interim measures and other remedies requested by complainants; the outcomes of Title IX hearings; and the remedies provided. Public access to this data is essential for holding schools accountable and reducing the high rates of sexual harassment.

IV. New York City Should Ensure Students Know They Can Turn to Their In-School Respect For All Liaison To Report Sexual Harassment and Assault.

Even though there is currently only one Title IX coordinator for the entirety of the DOE, under state law each school is required to have at least one designated staff member to assist students with issues of bullying, harassment, and discrimination. The Dignity For All Students Act (“DASA”), also known as the Dignity Act, is a statewide framework for improving school climate. This statewide law, which took effect in 2012, was designed to help schools combat bullying, harassment, and discrimination against students by investing in supports, prevention, and training. DASA mandates that each school designate at least one employee as a Dignity Act coordinator, who serves as the point of contact at the school for students who have suffered an incident of bullying, harassment, or discrimination. Each Dignity Act coordinator is required to undergo in-service training to prepare him or her for the position.

²² City Council Resolution 0797-2019, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3903496&GUID=B0B97C65-8DEC-47DD-9232-7C37A17E94D2&Options=&Search=>.

New York City's version of DASA, Respect For All ("RFA"),²³ requires that posters displaying the name and contact information for RFA liaisons be posted conspicuously in the school building, that parents be provided with a RFA brochure annually, and that students receive training on RFA by October 31st each year.²⁴

Despite the protections that DASA and RFA are supposed to afford New York City students, many schools have fallen down on their responsibilities to faithfully implement the laws.²⁵ Many students are unable to accurately identify the RFA liaison at their schools. In a 2019 survey of nearly 600 high school students across over 30 different schools conducted by the NYCLU's Teen Activist Project, only 17% of students could correctly identify the RFA liaison for their schools.²⁶

These numbers are clear evidence that students do not know whom to contact when they encounter acts of bullying, harassment, and discrimination for support and guidance. New York City's Department of Education should ensure that all students are aware of the identity and responsibilities of their Respect For All Liaison and provide ongoing, up-to-date training to these individuals to ensure they can appropriately address any complaints made. Further, all students should understand that they can report sexual harassment and assault to the in-school Liaison *in addition to* reporting to the New York City Title IX Coordinator. The ACLU and the NYCLU therefore urge the DOE to initiate a public education campaign so that New York City Public School students are aware of their rights under Title IX and of all available reporting mechanisms.

V. New York City Should Expand Comprehensive Sex Education.

In addition to providing additional Title IX coordinators and better-trained RFA liaisons, New York City must also require comprehensive sex education in grades K-12. While the DOE has required comprehensive sex education in middle and high schools since 2011, this critical instruction must be extended to elementary schools and the DOE must ensure that schools comply with this mandate. During the 2016-2017 school year, only 60.2% of 8th graders were scheduled for at least one semester of health education in middle school.²⁷ Further, only 9.7% of

²³ Chancellor's Regulation A-832.

²⁴ *Id.*

²⁵ A March 2019 audit by the New York City Comptroller also revealed that many schools underreported or failed to report any incidents, many reported late, and that there were inconsistencies in key definitions that may have caused confusion in reporting. Implementation of the Dignity for All Students Act, NYC Office of the Comptroller, Report 2017-N-6, March 2019, <https://osc.state.ny.us/audits/allaudits/093019/sga-2019-17n6.pdf>.

²⁶ See LGBTQ Sex Ed & Safety: A Survey of New York City High School Students, available at https://www.nyclu.org/sites/default/files/field_documents/20170320-nyclu-lgbt-ed-safety-survey.pdf.

²⁷ See Sexual Health Education Task Force, *Sexual Health Education in New York City: Findings and Recommendations* (July 17, 2018), <https://www1.nyc.gov/assets/genderequity/downloads/pdf/Sex-Ed-Task-Force-Report-2018.pdf>.

all health education instructors received training on sexual health education by the DOE during the 2016-2017 and 2017-2018 school years.²⁸

We are failing our communities and perpetuating a climate of sexual harassment and violence by not teaching students about healthy relationships and consent, their bodies, gender identity and sexuality, and safeguarding against STIs and unintended pregnancy. The need for comprehensive sexuality education in New York is clear. Currently, the teen pregnancy rate in the Bronx is the highest in the state.²⁹ According to a 2015 survey, only 62.6% of sexually active high school students had used a condom during their last sexual intercourse.³⁰ Every young person in our public school system deserves to learn the skills and knowledge they need for a healthy future and healthy relationships.

In 2012, the NYCLU published a report entitled “Birds, Bees and Bias” that examined the provision of sexuality education and the materials used by school districts across the state. The NYCLU found that lessons on reproductive anatomy and basic functions were often inaccurate and incomplete. Moral overtones and shame-based messages regarding sexuality, abstinence, pregnancy and teen parenting strongly pervaded instructional materials in all the districts. These materials, unlike medically-accurate, opinion-neutral information, risk alienating students from otherwise valuable prevention lessons. Many students did not learn the full range of methods for preventing pregnancy or sexually transmitted infections and lesbian, gay, bisexual, transgender and questioning (LGBTQ) students were largely stigmatized or ignored entirely in health education classrooms.³¹

Now more than ever it is important that sexuality instruction include topics such as consent, bodily autonomy, healthy relationships, and access to health services, and it must be inclusive of all students including LGBTQ students and those with disabilities. In the era of #metoo, it is critical for all students to be fully informed and knowledgeable about healthy relationships and sexual health. New York City should mandate comprehensive sex education for all students in grades kindergarten through 12. This instruction should be age-appropriate, medically accurate, inclusive of LGBTQ youth, and include the topics of consent and healthy relationships. All students in New York City deserve access to high-quality sexuality education.

²⁸ Local Law 15 (2016) reporting on Health Instructor Data 2017-2018, <https://infohub.nyced.org/reports-and-policies/government/intergovernmental-affairs/health-data>.

²⁹ See New York City Comptroller, *Healthy Relationships: A Plan For Improving Health and Sexual Education in New York City Schools* (Sept. 14, 2017), available at <https://comptroller.nyc.gov/reports/healthy-relationships-a-plan-for-improving-health-and-sexual-education-in-new-york-city-schools/>.

³⁰ See Sexual Health Education Task Force, *Sexual Health Education in New York City: Findings and Recommendations* (July 17, 2018), <https://www1.nyc.gov/assets/genderequity/downloads/pdf/Sex-Ed-Task-Force-Report-2018.pdf>.

³¹ *Birds, Bees and Bias: How Absent Sex Ed Standards Fail New York's Students*, NYCLU, September 2012, available at https://www.nyclu.org/sites/default/files/publications/NYCLU_SexEd_report.pdf.

VI. Recommendations

The ACLU and the NYCLU have the following recommendations for the Committee on Women and Gender Equity, the Committee on Education, and the Committee on Higher Education:

1. Maintain at least seven Title IX Coordinator positions across the city, with at least one coordinator in each borough field support center
2. Train each Title IX Coordinator on rights and responsibilities under Title IX, trauma-informed interviewing, cultural competence, and how to identify and address patterns of systemic sex discrimination and sexual harassment within New York City Public Schools.
3. Collect and publish data on the number of sexual harassment complaints at each school; the interim measures and other remedies requested by complainants; the outcomes of Title IX hearings; and the remedies provided.
4. Initiate a public education campaign so that New York City Public School students are aware of their rights under Title IX and of available reporting mechanisms, including reporting to the New York City Title IX Coordinator and/or to the in-school Respect For All Liaison.
5. Require all New York City schools to teach comprehensive sexuality education that is age-appropriate, medically accurate, inclusive of LGBTQ youth, and includes the topics of consent and healthy relationships.

VII. Conclusion

We thank the New York City Council Committee on Women and Gender Equity, the Committee on Education, and the Committee on Higher Education for considering this testimony and look forward to working together to promote safe and equitable learning environments for all New York City students.

April 30, 2019

Members of the Committee on Education
Members of the Committee on Women and Gender Equity
New York City Council

Re: **Title IX, Introduction 1536, and Resolution 797**

Dear Councilmembers:

Good afternoon and thank you for being here today to discuss this very important issue. My name is Cathren Cohen and I am a Law Fellow with Lambda Legal's Youth in Out-of-Home Care Project. Lambda Legal is the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and everyone living with HIV through impact litigation, education, and public policy work. Lambda Legal's Youth in Out-of-Home Care Project advocates for the rights and protection of lesbian, gay, bisexual, transgender and questioning ("LGBTQ") youth in child welfare, juvenile justice, and homelessness systems of care.

I am here today in support of requiring reporting on Title IX compliance and expanding the number of Title IX Coordinators, as called for in Introduction 1536 and Resolution 797. We appreciate the intent of Resolution 797 and would encourage it to go even further. There should be more than seven coordinators for the entire city of New York, rather, there should be one in every school, as recommended by Girls for Gender Equity's *The School Girls Deserve* Report,¹ and, while not required by Title IX, consistent with federal guidance from the Obama Administration's Department of Education. In a 2015 *Dear Colleague* letter, the agency noted that it is "good practice" for "some recipients, particularly larger school districts, colleges, and universities, to designate multiple Title IX coordinators[,] noting that this "provides students and staff with more familiarity with the Title IX coordinator."² As mentioned in the Resolution, there are over 1.1 million students in New York City, significantly more than at any college or university, and more than the population of some states.

Title IX is incredibly important to LGBTQ youth in schools, particularly transgender and gender-nonconforming ("TGNC") young people. LGBTQ youth are subject to high rates of harassment and abuse in schools. According to the Human Rights Campaign's *2018 LGBTQ Youth Report*, 73 percent of LGBTQ youth have experienced verbal threats based on their identity and 50

¹ GIRLS FOR GENDER EQUITY, *The School Girls Deserve*, at 38 (2017), https://www.ggenyc.org/wp-content/uploads/2017/11/GGE_school_girls_deserveDRAFT6FINALWEB.pdf [hereinafter "*The School Girls Deserve*"].

² U.S. DEP'T OF ED., *Dear Colleague Letter on Title IX Coordinators* (April, 24, 2015), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

percent of transgender girls reported that they had been physically threatened.³ LGBTQ youth are also disproportionately subjected to school pushout due in part to such bullying and harassment, but also as a result of hostile school environments and overcriminalization,⁴ which could be mitigated by increased Title IX resources and compliance.

In addition to harassment over identity, LGBTQ youth are also more likely than their heterosexual and cisgender peers to report sexual harassment and abuse. The *2018 LGBTQ Youth Report* notes that 77 percent of LGBTQ youth report receiving unwanted sexual comments, jokes, and gestures in the past year, while 20 percent report being forced to do sexual things they did not want to in the past year.⁵

School pushout and discrimination are linked with the significant overrepresentation of LGBTQ youth in juvenile justice and homelessness systems of care; while LGBTQ youth only make up about 5-7 percent of the general population, 20 percent of juvenile justice-involved youth and almost 50 percent of homeless youth identify as LGBTQ.⁶ Among these young people, LGBTQ youth of color are significantly impacted: 85 percent of LGBTQ youth in juvenile justice systems are people of color.⁷

Title IX is an essential tool in addressing the harmful disparities facing LGBTQ youth in New York City schools. Federal courts have agreed that sex discrimination prohibited by Title IX also includes sexual harassment and discrimination for failing to conform to gender stereotypes, and LGBTQ targets of discrimination and harassment have relied on Title IX's protections in several cases. In *Adams v. The School Board of St. Johns County, Florida*, Lambda Legal represented Drew Adams, a transgender student who was prohibited from using the boys' restroom. The federal district court found that the school's actions likely violated Title IX and ordered that Drew Adams be permitted to use the restroom consistent with his identity.⁸ In addition, our lawyers have seen how important Title IX is to the affirmation, acceptance, and success of LGBTQ students right here in New York State. In 2014, Lambda Legal sent a letter to Harrison Central School District after they refused to update the records of Elliot Fuerst, a transgender student, to reflect his gender and told him that he was not permitted to use the boys' bathroom or

³ HUMAN RIGHTS CAMPAIGN, *2018 LGBTQ Youth Report*, at 10 (2018), <https://bit.ly/2IfS4X8> [hereinafter "*2018 LGBTQ Youth Report*"].

⁴ GLSEN, *Dropout, Pushout, and the School-to-Prison Pipeline*, <https://www.glsen.org/article/dropout-push-out-and-school-prison-pipeline> (last visited April 29, 2019).

⁵ *2018 LGBTQ Youth Report*, at 7.

⁶ LAMBDA LEGAL, CHILDREN'S RIGHTS, & CTR. FOR THE STUDY OF SOC. POLICY, *Safe Havens: Closing the Gap Between Recommended Practice and Reality for Transgender and Gender Expansive Youth in Out-of-Home Care*, at 2 (Apr. 2017), <https://www.lambdalegal.org/publications/safe-havens>.

⁷ Angela Irvine & Aisha Canfield, *LGBQ/GNCT Youth in the U.S. Justice System*, IMPACT JUSTICE (2016).

⁸ See LAMBDA LEGAL, *Adams v. The School Board of St. Johns County, Florida*, https://www.lambdalegal.org/in-court/cases/fl_adams-v-school-board-st-johns-county (last visited April 29, 2019). Lambda Legal additionally made Title IX claims in *Evancho v. Pine-Richland School District*, where the court ultimately ruled that a school's policy singling transgender students out for unequal treatment was unlawful. See LAMBDA LEGAL, *Evancho v. Pine-Richland School District*, <https://www.lambdalegal.org/in-court/cases/evancho-v-pine-richland-school-district> (last visited April 29, 2019).

locker room. Ten days after receiving Lambda Legal's letter, the school district agreed to Elliot's requests and allowed him to use the boys' locker room, just in time for his lacrosse season.⁹

Stories like those of Drew and Elliot demonstrate the incredible importance of Title IX resources and compliance for LGBTQ young people. However, as detailed in the *The School Girls Deserve* Report, currently the promise of Title IX is falling short in New York City. In addition to revealing the harms experienced by girls of color in New York City schools, Girls for Gender Equity's report detailed the violence faced by LGB and TGNC youth, including verbal and physical harassment and assault, misgendering, being punished for dressing in accordance with gender identity, and being prevented from using appropriate restrooms.¹⁰

The Report's recommendations of stronger implementation of Title IX, ensuring in-school support for students who are survivors of violence, and collecting and making publically available data on incidents of harassment¹¹ are reflected in the acts currently under consideration.¹² In order to better serve *all* students in New York City, including girls of color and TGNC youth, the Council should enact Introduction 1536 and Resolution 797.

Respectfully submitted,

Cathren Cohen, Esq.
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Lambda Legal
ccohen@lambdalegal.org

⁹ LAMDBA LEGAL, *High School Drops Anti-Transgender Stance*, IMPACT (Summer 2014), at 9, https://www.lambdalegal.org/sites/default/files/publications/downloads/impact_201406_complete.pdf.

¹⁰ *The School Girls Deserve*, at 23, 26.

¹¹ Introduction 1536 could more strongly support LGBTQ youth in schools by disaggregating the collected data based on the sexual orientation, gender identity, and gender expression of the student, and whether the incident was motivated by the student's actual or perceived sexual orientation, gender identity, and/or gender expression.

¹² See *The School Girls Deserve*, at 38-40.

**Testimony of Planned Parenthood of New York City
Before The New York City Council Committees on Education, Higher Education, and
Women and Gender Equity Regarding Comprehensive Sexuality Education and Title IX
Coordinators in NYC Public Schools**

April 30th, 2019

Good Afternoon. My name is Maryam Mohammed and I am a Government Relations Associate at Planned Parenthood of New York City. I would like to thank Committee Chairs Council Members Mark Treyger, Helen Rosenthal, and Inez Barron for holding this important oversight hearing on Gender Discrimination and Title IX Compliance in New York City.

Planned Parenthood of New York City (PPNYC) has been a leading provider of sexual and reproductive health services in New York City for more than 100 years, reaching approximately 85,000 New Yorkers annually through our clinical and education programs. PPNYC provides a wide range of health services including access to birth control; emergency contraception; gynecological care; cervical and breast cancer screenings; colposcopies; male sexual health exams; testing, counseling, and treatment for sexually transmitted infections; the HPV vaccine; HIV testing and counseling; and pregnancy testing, options counseling and abortion. We also provide PrEP and PEP, transgender hormone therapy, vasectomies, and, recently, menopausal hormonal therapy. We are a trusted name in health care because of our commitment to comprehensive, inclusive care. We believe that high quality health care is a human right every person deserves and our doors are open to all New Yorkers regardless of income, gender, gender-identity, insurance, or immigration status.

In addition to our clinical services, PPNYC has a robust education department, reaching more than 26,000 young people, adults and professionals across New York City annually. Our programs provide tools to help our participants make informed decisions and lead healthy and safe lives. Our education programs are committed to reaching young people and caring adults in communities they live. Our Youth Health Promoters program is led by highly trained peer educators from the South Bronx, Brooklyn, and the Lower East Side of Manhattan who engage other young people and conduct interactive workshops to educate youth about teens' rights and access to sexual and reproductive health care to overcome barriers and stigma that teens may experience in accessing care. PPNYC is also a member of the Sexuality Education Alliance of New York City (SEANYC), a coalition of 50 organizations that support comprehensive sexuality education for all New York City students. SEANYC has worked to identify gaps in New York City's sexual health education programming and recommend concrete steps for improvement.

PPNYC supports measures to ensure New York City is in compliance with the Title IX federal law, especially within our public school system. Title IX was created to prohibit discrimination in education and protect individuals against gender-based discrimination including harassment and bullying of all students in federally funded education programs and activities¹. Additionally, under the law, individuals are protected against retaliation from institutions for making charges, testifying, or participating in complaint actions². Title IX is critical to ensuring all students are able to have an educational experience free from the fear of harassment and discrimination. However, the NYC Department of Education has failed to effectively address the need for Title IX coordinators, potentially impacting students' access to Title IX protections. Federal regulations and guidance requires every school to designate at least one employee who is responsible for coordinating the school's compliance with Title IX³. Currently, the DOE has one Title IX coordinator overseeing compliance of the law for 1.1 million students and 1,800 schools⁴.

PPNYC urges the council to pass Resolution 0797-2019 which calls on the DOE to hire seven additional Title IX coordinators, with at least one designated at each of the borough field support offices. Title IX coordinators are tasked with overseeing complaints of sex discrimination and identifying and addressing any patterns or systemic problems that arise during the review of these complaints⁵. Title IX coordinators are integral to ensuring students have a safe educational environment and creates a safe space for the school community to make charges of discrimination and harassment and have their complaints taken seriously. With recent announcements by U.S. Secretary of Education Betsy DeVos that the Department of Education plans to roll back Title IX protections for survivors of sexual assault⁶ enacted during the Obama administration, it is even more imperative that New York City and the DOE take measures to ensure students, especially LGBTQ students and students of color, are sufficiently protected from discrimination and harassment. The unfortunate reality is that gender-based discrimination is underreported because individuals are afraid they will not be believed, they will be retaliated against, and that their complaints will be ignored. Girls and LGBTQ-TGNC students of color are

¹ New York City Department of Education. (n.d.). Title IX. Retrieved April 24, 2019, from <https://www.schools.nyc.gov/about-us/vision-and-mission/non-discrimination-policy/title-ix>

² What is Title IX? (n.d.). Retrieved April 24, 2019, from <https://titleix.harvard.edu/what-title-ix>

³ Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School. (2018, September 26). Retrieved April 24, 2019, from <https://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>

⁴ Hudson, K., & Braithwaite, B. (n.d.). The School Girls Deserve. Retrieved April 24, 2019, from <https://www.ggenyc.org/the-schools-girls-deserve/>

⁵ Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School. (2018, September 26). Retrieved April 24, 2019, from <https://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>

⁶ Hudson, K., & Braithwaite, B. (n.d.). The School Girls Deserve. Retrieved April 24, 2019, from <https://www.ggenyc.org/the-schools-girls-deserve/>

Planned Parenthood of New York City

experiencing gender-based discrimination at high rates. According to a study conducted by Girls for Gender Equity focused on NYC students, 64% of students said that sexual harassment occurred at their schools. Yet only 3% of the study's respondents reported sexual harassment even though 66.5% reported being sexually harassed⁷. The DOE must do more to ensure that the school community are aware of the protections afforded to them under the Title IX law.

Implementation of comprehensive sexuality education is another means through which bullying and gender-based discrimination can be reduced. Comprehensive sexuality education includes the teaching of anatomy & physiology, puberty, pregnancy & reproduction, STDs & HIV prevention & treatment, as well as gender, respect of others' values, cultures and identities, positive body image, healthy relationships and consent, anti-bullying and anti-intimate partner violence measures. Positive youth development education, that focuses on the physical, mental, emotional, and social dimensions of sexuality is crucial in helping young people to make health-promoting decisions⁸ and can help shift broader cultural ideas about gender, power, and sexuality.

We strongly urge the Department of Education to adopt measures to ensure all NYC students are receiving comprehensive sexuality education. Our experience at PPNYC as a sexual health education and service provider shows us firsthand the gaps that remain in New York City's health education, which significantly impacts young people's health and well-being. Though NY state law requires students receive one semester of comprehensive health education by a certified health instructor in both middle school and high school⁹, there are no meaningful enforcement measures to ensure sexuality education is actually taught in New York City schools or that it is comprehensive, and as such, students' experiences vary widely. According to a 2017 report on sexuality education in NYC schools by the NYC comptroller Scott Stringer, only 57% of eighth grade students completed the requirement of health education taught during middle school¹⁰. Additionally, 88% of middle and high schools do not have a teacher who is licensed for health

⁷ Participatory Action Research (PAR). (n.d.). Retrieved April 25, 2019, from <https://www.ggenyc.org/programs/community-organizing/participatory-action-research/>

⁸ "Enhancing the Emotional and Social Skills of the Youth to Promote their Wellbeing and Positive Development: A Systematic Review of Universal School-based Randomized Controlled Trials." *Clin Pract Epidemiol Ment Health*. 2015; 11(Suppl 1 M2): 21–40. Published online 2015 Feb 26. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4378066/>

⁹ Comptroller Stringer Report: High Number of Middle and High School Students Aren't Taught "Sex Ed". (2017, September 14). Retrieved January 14, 2019, from <https://comptroller.nyc.gov/newsroom/comptroller-stringer-report-high-number-of-middle-and-high-school-students-arent-taught-sex-ed/>

¹⁰ Comptroller Stringer Report: High Number of Middle and High School Students Aren't Taught "Sex Ed". (2017, September 14). Retrieved January 14, 2019, from <https://comptroller.nyc.gov/newsroom/comptroller-stringer-report-high-number-of-middle-and-high-school-students-arent-taught-sex-ed/>

Planned Parenthood of New York City

education, a majority of which are middle schools¹¹. According to a poll conducted by SEANYC's Youth Advisory Council, one out of three middle and high school students surveyed said their school's health education classes did not include sexuality education¹².

PPNYC calls on the NYC Department of Education and Chancellor Richard Carranza to adopt all of the policy recommendations of the Mayor's Sexual Health Education Task Force and provide comprehensive sexual health education on a regular basis, across all grade levels. The recommendations include increasing the quantity of sexual health education across all grade levels, requiring schools to provide health education from a certified health instructor, strengthening accountability and reporting measures, expanding support and resources for rigorous curriculum review, development, and implementation, and increasing community engagement of sexual health education through public outreach and informational sessions¹³.

During a time when the federal government has increased its efforts to curb access to comprehensive, medically accurate, age appropriate sexuality education and focus on abstinence only, "risk avoidance" education and health care, it is important that NYC adopt measures that ensure students have access to sexuality education to promote positive youth development education, healthy relationships and communication, that is crucial in helping young people to make healthy life decisions. And while adoption of these task force recommendations is a critical first step, it is important the DOE ultimately align its sexuality education curriculum with the National Sexuality Education Standards that calls for comprehensive sexual health education to start in kindergarten and build consistently to 12th grade, so that schools foster safe environments for all students throughout all grades.

We applaud New York City Council's commitment to ensuring students and school communities take the necessary steps to address gender-based violence and have access to comprehensive sexuality education. We look forward to continuing to work with the Council and Administration to break down the barriers New Yorkers face in realizing safe and healthy lives. Thank you.

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¹¹ Comptroller Stringer Report: High Number of Middle and High School Students Aren't Taught "Sex Ed". (2017, September 14). Retrieved January 14, 2019, from <https://comptroller.nyc.gov/newsroom/comptroller-stringer-report-high-number-of-middle-and-high-school-students-arent-taught-sex-ed>

¹² Sexuality Education Alliance of New York City. (2016). Retrieved January 14, 2019, from <https://sexedallianceofnyc.tumblr.com/>

¹³ Sexual Health Education Task Force (2018, July 17). Sexual Health Education in New York City Findings and Recommendations. Retrieved January 1, 2019, from <https://www1.nyc.gov/assets/genderequity/downloads/pdf/Sex-Ed-Task-Force-Report-2018.pdf>

Planned Parenthood of New York City

Since 1916, Planned Parenthood of New York City (PPNYC) has been an advocate for and provider of sexual and reproductive health services and education for New Yorkers. Through a clinical services, education, and advocacy, PPNYC is bringing better health and more fulfilling lives to each new generation of New Yorkers. As a voice for sexual and reproductive health equity, PPNYC supports legislation and policies to ensure that all New Yorkers will have access to the full range of sexual and reproductive health care services and information



FOR THE RECORD

New York City Council

Joint Hearing of the Committee on Education, Committee on Women and Gender and the Committee on Higher Education

April 30th, 2019

**Testimony on Proposed Bills Related to Title IX- Gender Discrimination:
Resolution 0797-2019**

Thank you to Councilmembers Treyger, Rosenthal, and Barron for convening this hearing. I am pleased to be here to express support for Councilmember Adams' resolution 0797-2019.

My name is Rachael Peters, and I am here today representing Peer Health Exchange, where I serve as Executive Director, and as a public school parent in Brooklyn.

Peer Health Exchange is a nonprofit organization that works to empower young people with the knowledge, skills, and resources to make healthy decisions. We train college student volunteers to teach a skills-based health curriculum to 6,400 ninth grade students in 53 NYC public high schools in all 5 boroughs. We exist because students are not getting the health education they deserve.

Peer Health Exchange is a proud member of the Sexuality Education Alliance of New York City (SEANYC). Peer Health Exchange supports **Resolution 0797**, calling on the city to hire 7 full-time Title IX coordinators in field offices throughout New York City.

Peer Health Exchange believes that comprehensive sexuality education plays a vital role in preventing sexual assault and harassment. Together with SEANYC, we strongly believe that all students are entitled to the strongest support systems and reporting mechanism available to them, should instances of harassment occur. And these instances do occur.

This year a 9th grade student was crying during a Peer Health Exchange class in Brooklyn. When our educators checked in with her, they learned she had been sexually assaulted by boys from her class in the school stairwell. The PHE educators were aghast because the boys were still right there sitting in the class with them. I went to the high school to make sure the administrators were aware of the incident. This administrator, who I wholly respect, said their hands were tied because the girl's parent did not want to press charges. Heartbroken though we were, neither of us knew how to proceed. If there were a highly visible Title IX coordinator in the field office, we would have known who to reach out to and what our and the student's options and rights were. Instead, that young girl sat throughout the rest of the class – including a class about consent – and the rest of her other classes that semester with her assaulters in the same room as her.

I wish this was my first time hearing of a sexual assault taking place inside of a partner school. It is not. These incidents leave me wondering if there is a protocol -I and do all NYC DOE administrators know the protocol - for what to do when a sexual assault does occur? If we

cannot all answer this question assertively in the affirmative, I believe we must push for more title ix coordinators.

We learned from Local Law 15 passed in 2016¹ that only 17% of all health education instructors went to any training on health education in the preceding two school years. This means that the majority of our educators haven't received a training since the #metoo movement started. The world is different and our response to sexual assault and harassment must also be different.

We , must also work towards k-12 sex education, including consent, and work to improve our health education so we are doing more prevention of these assaults and less harm reduction afterwards. Title IX coordinators can dedicate time and resources to preventing sexual violence in schools by developing lesson plans, workshops, literature, etc. to help students understand consent. Title IX coordinators can train teachers and other school staff on how to protect students from gender discrimination. This is needed support for our schools.

We have an opportunity to make our schools safer places for all of our students, please do what is right for New York City students and increase the number of Title IX coordinators in our schools. Thank you so much for this opportunity, we look forward to seeing the passage of Resolution 0797-2019.

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Rachael Morgan Peters, MPH, LMSW
New York City Executive Director

Pronouns In Use: She, Her, Hers

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¹ <https://infohub.nyced.org/reports-and-policies/government/intergovernmental-affairs/health-data>



**Testimony for the New York City Council
Title IX and Gender Discrimination Oversight Hearing
Committee on Education, Committee on Women and Gender Equity,
and Committee on Higher Education**

Delivered by:

Sofia Quintero, Director of Training and Professional Development
Girls Inc. of New York City

April 30, 2019

Good afternoon, Chair Treyger, Chair Rosenthal, Chair Barron and Council Members and staff of the Committee on Education, Committee on Women and Gender Equity and the Committee on Higher Education. My name is Sofia Quintero, and I am the Director of Training and Professional Development for Girls Inc. of New York City. Thank you for holding this important hearing regarding oversight of Title IX and Gender Discrimination in New York City.

Girls Inc. is the national organization that inspires all girls to be strong, smart, and bold, through direct service and advocacy. Our 80 local affiliates in the U.S. and Canada serve girls ages 6-18 in 400 different cities, primarily through afterschool and summer programs, targeting underserved communities. The Girls Inc. Experience consists of long-lasting mentoring relationships, an affirming, pro-girl environment, and research-based programming delivered by trained professionals. At Girls Inc., girls learn to value their whole selves, discover and develop their inherent strengths, and navigate the challenges they face. We also advocate, with girls, for policies and practices that break down barriers so that all girls and young women can have the chance to grow up healthy, educated, and independent. Girls Inc. has done Title IX advocacy for decades, and is committed to promoting safe and supportive school environments so that all youth can learn and thrive in school without obstacles to their educational, physical, and emotional wellbeing.

Girls Inc. of New York City works in partnership with schools, community-based organizations, and individual girls and their families to deliver the Girls Inc. Experience. In the 2017-2018 school year, 7,500 New York City girls participated in our programs in over 50 sites around the city, ranging from Far Rockaway and East Harlem, to Astoria and the South Bronx. Forty-five percent of the girls we serve are between the ages of 12 and 18, a reflection of our focus on serving girls during the developmentally crucial years of middle and high school. Nearly 65 percent of the girls we serve live in families earning \$30,000 or less per year; 11 percent live in a household with an annual income of \$10,000 or less. Seventy percent of the girls we serve identify as girls of color. At Girls Inc. of NYC, highly trained professionals deliver research-based curricula that equip girls to achieve academically; lead healthy, physically active lives;

manage money; navigate media messages; and discover an interest in science, technology, engineering, and math.

In 2016, Girls Inc. surveyed middle and high school girls across our national network, and two-thirds of respondents identified sexual harassment and sexual violence as top issues of concern. This was not surprising to staff, because we hear from girls every day about the harassment they face in school, on the way to and from school, online, and at parties. And it starts young. Based on our survey and focus groups, Girls Inc. adopted a network-wide Policy & Advocacy Platform in 2017, and our #1 priority was combating sexual harassment and sexual violence among youth. In 2018, Girls Inc. launched a national advocacy campaign called #GirlsToo, with the tagline “Respect Starts Young,” to help raise awareness about sexual harassment and assault in the lives of youth, particularly girls, with a focus on addressing the norms and stereotypes that fuel these behaviors, so all young people can grow up safe, respected, and valued. To date, over 20,000 people have taken the #GirlsToo pledge (at girlstoo.girlsinc.org) to do their part to change the culture so that sexual harassment and assault are not so prevalent. We have been hosting “Teen Talks” around the country to lift up the voices of youth on this subject, and our #GirlsToo Teen Talk in New York City will be on May 22nd of this year.

Sexual harassment and violence among youth is pervasive in our society and in our schools. Nationally, one in four young women experiences sexual assault before the age of 18.¹ More than two in three girls (68%) and over half of boys report being sexually harassed at some point in high school.² And three in four girls ages 14 to 19 feel unsafe as a girl at least once in a while.³ Youth who are most marginalized by society experience sexual harassment and violence at disproportionate rates. Youth of color, youth with disabilities, LGBTQ+ youth, and youth from low-income communities disproportionately experience sexual harassment and/or violence.⁴

As for New York City, the 2017 report from Girls for Gender Equity entitled *The School Girls Deserve* reported that in a survey of over 100 girls and gender-non conforming youth of color in New York City public schools, one in three students said they experienced some form of sexual harassment in school.⁵ However, 90% of those students said that they did not report it to their

¹ Finklehor, D., Shattuck, A., Turner, H., & Hamby, S.L. (2014). The lifetime prevalence of child sexual abuse and sexual assault assessed in late adolescence. *Journal of Adolescent Health* 55(3). doi: 10.1016/j.jadohealth.2013.12.026.

² Espelage, D., Low, S., Anderson, C., & De La Ru, L. (2014). *Bullying, sexual, and dating violence: trajectories from early to late adolescence*. Washington, DC: National Institute of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/246830.pdf>.

³ Udem, T. and Wang, A. (2018). The state of gender equality for U.S. adolescents. Warwick, RI and Washington, DC: Plan International USA and PerryUdem. Retrieved from <https://www.planusa.org/full-report-the-state-of-gender-equality-for-us-adolescents>.

⁴ Kosciw, J. G., Greytak, E. A., Giga, N. M., Villenas, C. & Danischewski, D. J. (2016). *The 2015 national school climate survey: the experiences of lesbian, gay, transgender, and queer youth in our nation's schools*. New York, NY: GLSEN. Retrieved from <https://www.glsen.org/article/2015-national-school-climate-survey>; Popkin, S. J., Bogle, M., Zweig, J. M., Priya, S. D., Breslav, L., & Michie, M. (2015). *Let girls be girls*. Washington, DC: Urban Institute. Retrieved from <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000490-Let-Girls-Be-Girls.pdf>.

⁵ Brathwaite, B., & Hudson, K. (2017). *The School Girls Deserve: Youth-Driven Solutions for Creating Safe, Holistic, and Affirming New York City Public Schools*. New York, NY: Girls for Gender Equity. Retrieved from https://www.ggenyc.org/wp-content/uploads/2017/11/GGE_school_girls_deserveDRAFT6FINALWEB.pdf.

schools -- most sharing they did not know who to report it to or did not think that anything would be done about it.

Sexual violence and harassment have lasting effects. Beyond the immediate emotional and physical pain of being violated, girls who experience sexual harassment and assault also have a higher risk of headaches, stomach aches, sleeplessness, depression, anxiety, eating disorders, chronic pain, substance use, and post-traumatic stress disorder (PTSD).⁶ Without support, students who experience sexual harassment and sexual assault may withdraw from classes or activities and lose access to critical educational opportunities.

Because sexual harassment and violence affect student success and graduation rates, it is in schools' best interests to invest resources not only in addressing incidents when they occur, but also in preventing these behaviors. It is also required by federal civil rights law. Enacted in 1972, Title IX established that any program or activity receiving federal funds cannot discriminate against an individual on the basis of sex.⁷ In the decades since the law's passage, courts all the way up to the Supreme Court have ruled that Title IX requires schools to address sexual harassment and assault so it does not interfere with a student's civil right to an education free from sex discrimination. Over the last few decades, the U.S. Department of Education has also emphasized that remedying sexual harassment in schools is necessary in order to provide students with an optimal learning environment.⁸

An important requirement of Title IX is that every federal funding recipient designate a Title IX Coordinator to oversee the school's compliance with the law. However, **New York City currently has only one Title IX Coordinator for 1.1 million students in over 1,800 schools.** This is insufficient and suggests that preventing and addressing sexual harassment and violence are not priorities for the New York City Department of Education, which is not acceptable given the serious and pervasive nature of these problems. By contrast, Chicago Public Schools has one-third of our student population (361,314 students)⁹ and has a team of 20 full-time staff solely dedicated to Title IX training, compliance, coordination and investigations.¹⁰ Without sufficient staff responsible for overseeing schools' efforts to prevent and respond to sexual harassment and violence and other issues of gender inequality, students will continue to experience sex discrimination in violation of federal law.

⁶ National Women's Law Center. (2017). *Let her learn: stopping school pushout for girls who have suffered harassment or sexual violence*. Washington, DC: Author. Retrieved from <https://nwlcc.org/resources/stopping-school-pushout-for-girls-who-have-suffered-harassment-and-sexual-violence/>.

⁷ "Title IX and Sex Discrimination." Home. September 25, 2018. Accessed December 12, 2018. https://www2.ed.gov/about/offices/list/oei/docs/tix_dis.html.

⁸ "Harassment of Students by School Employees, Other Students, or Third Parties." Home. September 26, 2018. Accessed December 12, 2018. <https://www2.ed.gov/about/offices/list/oei/docs/shguide.html>.

⁹ https://cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx

¹⁰ https://cps.edu/News/Press_releases/Pages/PR1_06_27_2018.aspx

We believe New York City can do a better job of protecting students from sexual harassment and violence. **Therefore, we call on the New York City Department of Education and City Council to do the following:**

- Expand the number of full-time Title IX Coordinators to *at least* seven - with at least one in every borough and citywide office across the five boroughs. The Fiscal 2020 Budget should include \$856,800 for these positions.
- Clarify the role of Title IX Coordinators to ensure that they are focused on *preventing* sexual violence and gender discrimination - in addition to responding to incidents once they occur.
- Provide consistent annual training for all staff about the practices and attitudes which foster sexual harassment and violence in schools and how to create an environment in which survivors feel safe coming forward.

Respect starts young. Girls Inc. supports Girls for Gender Equity's School Girls Deserve campaign and will continue to push New York City to foster safe and supportive school environments, with the hope that one day our schools will be free of gender discrimination, sexual harassment, and sexual violence.

Thank you Chairs Treyger, Rosenthal, Barron, council members and committee staff for holding today's hearings and allowing Girls Inc. the opportunity to share our expertise. We encourage you to act on the recommendations we have made today, and look forward to continuing to discuss with you how to make our schools safe and conducive to learning for all students.

For more information, please contact:

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April 30, 2019
New York City Council Title IX Hearing
Testimony of Sarah Axelson
Senior Director of Advocacy | Women's Sports Foundation

Good afternoon, City Council Members and fellow advocates. My name is Sarah Axelson and I am the Senior Director of Advocacy at the Women's Sports Foundation, a national non-profit organization headquartered here in New York City.

For those of you who are unfamiliar with the Women's Sports Foundation, we are a powerful voice, catalyst and convener dedicated to ensuring all girls and women have equal access to sports and physical activity and the tremendous life-long benefits they provide.

Along with my printed testimony, I'm also providing relevant research from the WSF which might be helpful to you.

Title IX has been a huge catalyst in affording girls and women in the US access to sports. For a long time, that has been the average person's main understanding of the law – that it gives girls the opportunity to play sports.

While I understand today's meeting and proposed changes were largely brought on by very important conversations around sexual harassment and violence in schools, I wanted to join today to provide a quick reminder that Title IX is a broad law.

Title IX prohibits sex-based discrimination in educational programs which receive federal funds. Full stop. This means all aspects of an educational opportunity should be provided free from sex-based discrimination.

Sport is an educational opportunity. Yes, because they are often quite literally provided by our schools but also because sports provide increased physical and psychological health, academic outcomes and leadership skills. Sports offer the critical benefits we would expect an education to provide.

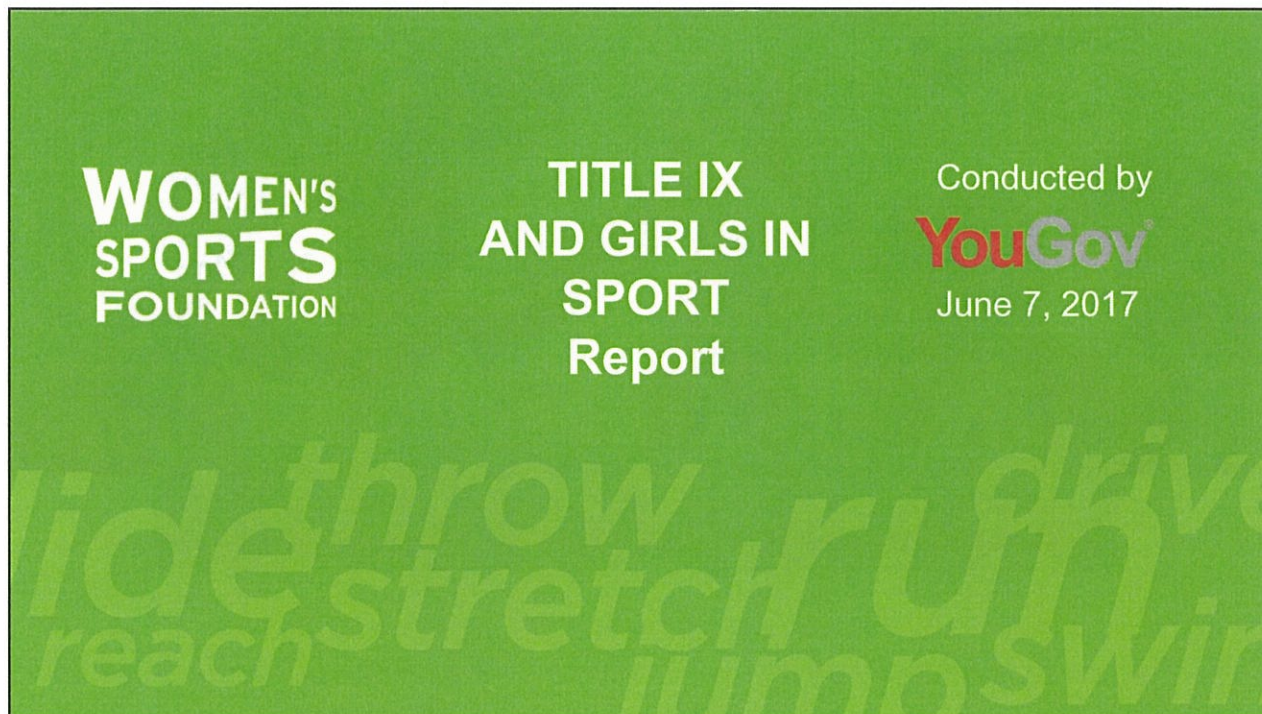
We are thrilled to see that the City Council is considering adding additional Title IX coordinators. Too often the burden of compliance with the law is placed on the person being discriminated against. It is crucial that these Title IX Coordinators are well trained and equipped to handle all aspects of the law.

I see that you are also considering reporting requirements on Title IX-related statistics. While the full text of this legislation calls out tracking of specific items like complaints, I would like to ask that you consider also collecting information as it relates to athletics and Title IX, looking to the Federal Equity in Athletics Disclosure Act (passed in 1994) which applies to colleges as an example of the types of statistics which could be collected and reported. This is not without precedent at more local levels for high schools as some states have enacted their own similar laws.

April 30, 2019
New York City Council Title IX Hearing
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Data transparency is critical in allowing students, parents and constituents to understand how a school divides its sports opportunities and the budgets associated with it. This information would also let them know when it is within their rights to ask for new opportunities, or additional benefits and services. Information which would have been helpful when two student-athletes from NYC schools called the WSF to ask how it could be that the boys on the track and field team were provided metro cards but the girls on the team were not.

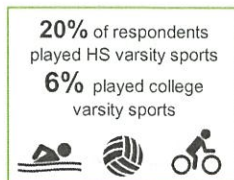
I ask that you do everything within your power to afford students in NYC schools an environment free from all aspects of sex-based discrimination so that they can thrive and become tomorrow's leaders.



Background & Methodology: In anticipation of the 45th anniversary of Title IX, the Women's Sports Foundation commissioned a national poll about Title IX awareness and support and attitudes and behaviors about girls' sports participation.



- Data was collected between May 18 and May 24. The survey was carried out online. The figures have been weighted and are representative of all US adults (aged 18+)
- n=1,152 nationally representative sample of U.S. adults age 18+
- n=220 over sample of U.S. adults with daughters who play(ed) high school or college sports, for a total of n=278 of these parents, 6% of the population meet this criteria
- For a full description of the sample(s), please see Appendix 1



Sports Participation Among Respondents' Children

Among Parents with Daughters in High School or Older:

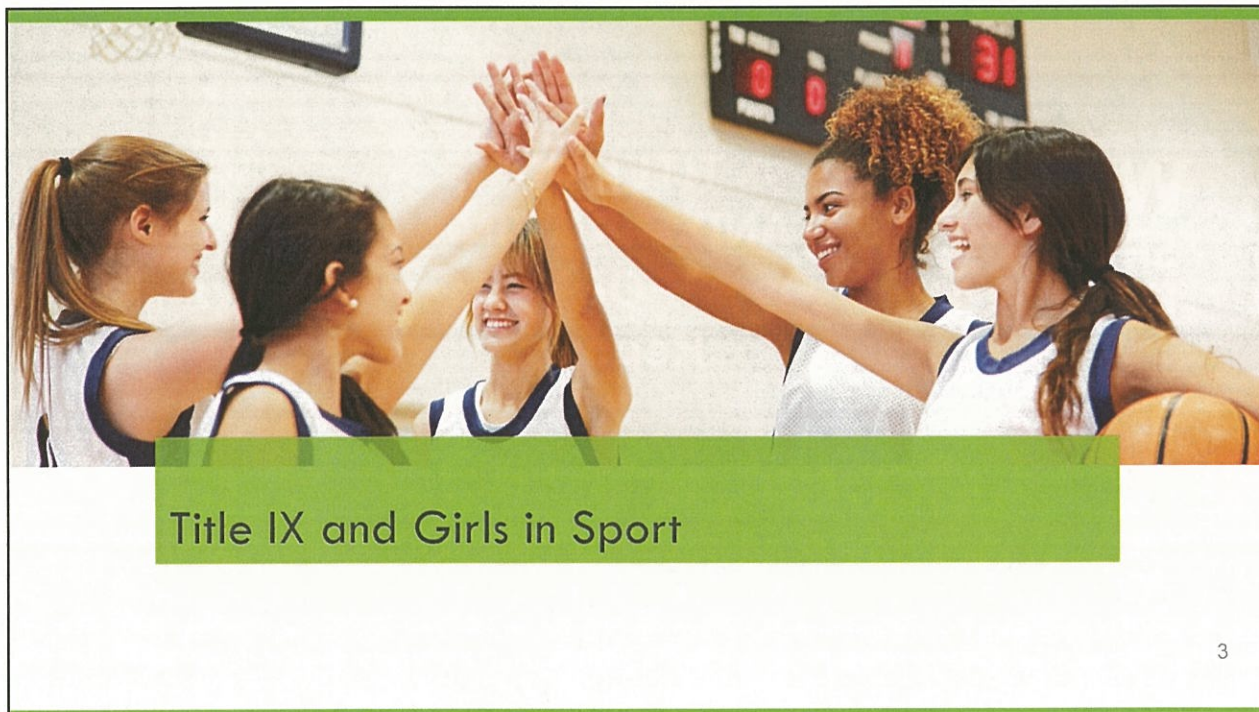


Among Parents with Children not Yet in High School...

Parents anticipate their sons to participate in...	Parents anticipate their daughters to participate in...
<ul style="list-style-type: none"> • High school intramural sports - 26% • College club or intramural sports - 19% • High school varsity sports - 44% • NCAA varsity sports - 17% 	<ul style="list-style-type: none"> • High school intramural sports - 14% • College club or intramural sports - 14% • High school varsity sports - 36% • NCAA varsity sports - 12%

Note: Throughout the deck, statistical significance is denoted in either a blue callout box or is a circle in data tables/charts.





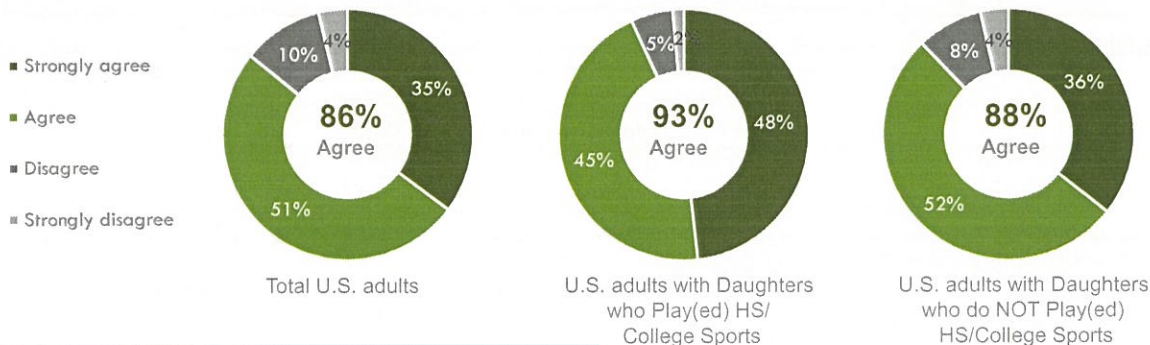
Title IX and Girls in Sport

Most U.S. adults (86%) agree that participating in sports promotes leadership and teamwork skills that students might not otherwise have the opportunity to hone in the classroom.



AGREEMENT WITH STATEMENT

Participating in sports promotes leadership and teamwork skills that students may not necessarily be exposed to in the classroom



ADDITIONALLY:

Women are more likely than men to say that participating in sports promotes skills students might not be exposed to in the classroom (89% vs. 82%).

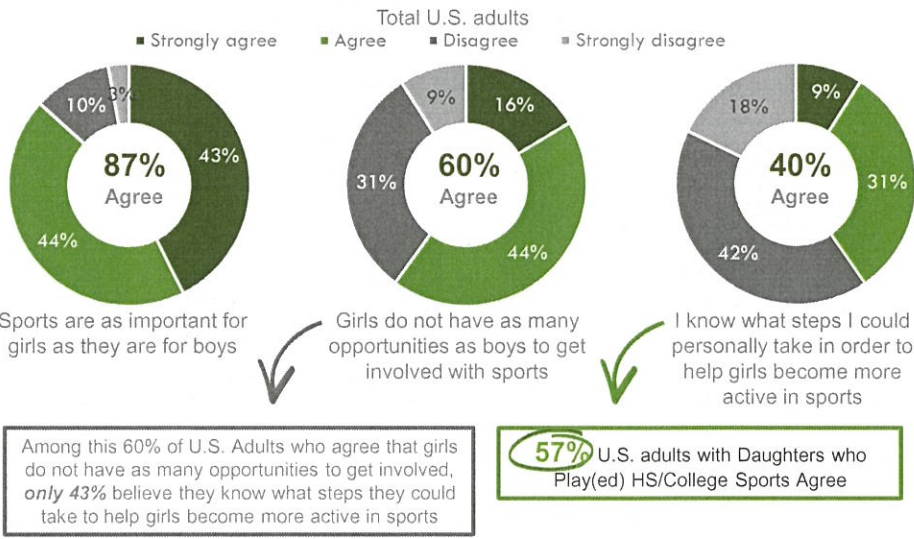
Q12. Please tell us how much you agree or disagree with each of the following statements.



Most U.S. adults (87%) agree that sports are as important for girls as they are for boys; yet six in 10 say girls have fewer opportunities to be involved with sports than do boys. Only four in 10 know what steps they could take to help girls become more active in sports.



AGREEMENT WITH STATEMENT



ADDITIONALLY:

Women are more likely than men to believe that sports are as important for girls as boys (92% vs. 81%) and that girls do not have as many opportunities as boys to get involved with sports (63% vs. 56%).

The following groups are more likely than their peers to believe they know the steps to take in order to help girls become more active in sports:

- Millennials: 46% vs. older adults: 38%
- Adults who played HS/college sports: 48% vs. others: 40%
- African-Americans, Hispanics in comparison to Caucasians (61% and 52% respectively vs. 34%).

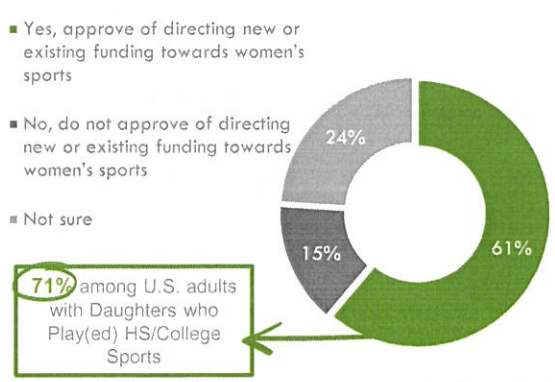
Q12. Please tell us how much you agree or disagree with each of the following statements.



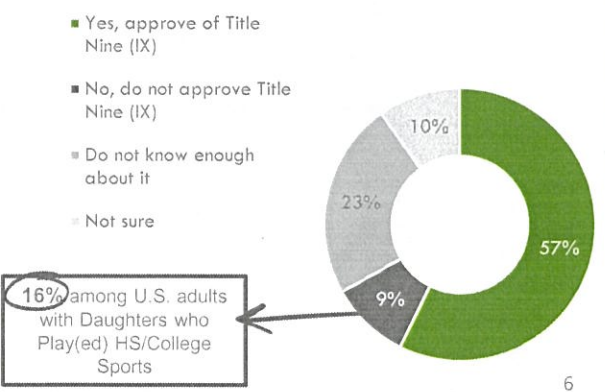
About six in 10 U.S. adults (61%) approve of using funds to ensure equal athletic opportunities for women, and this increases among parents with daughters who play(ed) sports (71%). Just under six in 10 (57%) approve of Title IX, with only 9% disapproving and 33% saying they are either not sure or don't know enough to say. Additionally, women are more somewhat more likely than men to approve of Title IX (60% vs. 54%).



Approval of Directing Funds Towards Equal Athletic Opportunities for Women



Approval of Title Nine (IX)

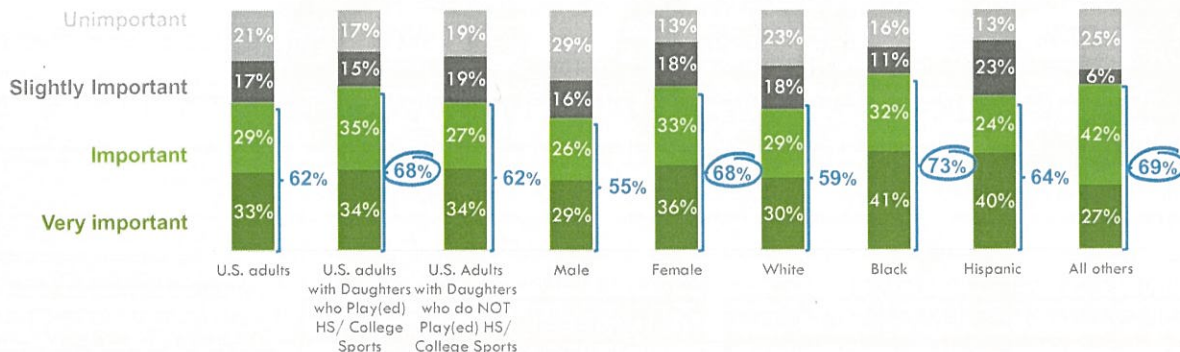


Q5. Do you approve or disapprove of Title Nine as it is described here? Title Nine (IX) is a federal law that prohibits high schools and colleges that receive federal funds from discriminating on the basis of gender. Title Nine (IX) is most commonly associated with equal opportunities for girls and women in high school and college athletics. Q6. Do you approve or disapprove of directing new or existing funding to ensure equal athletic opportunities and support for women?



Sixty-two percent (62%) of U.S. adults believe that it is important that the Department of Education ensures that Title IX as it applies to sports is enforced. This increases to 68% among those with daughters who play sports, to 68% among women and to 73% among African - Americans.

Importance of Dept. of Education Enforces Title IX

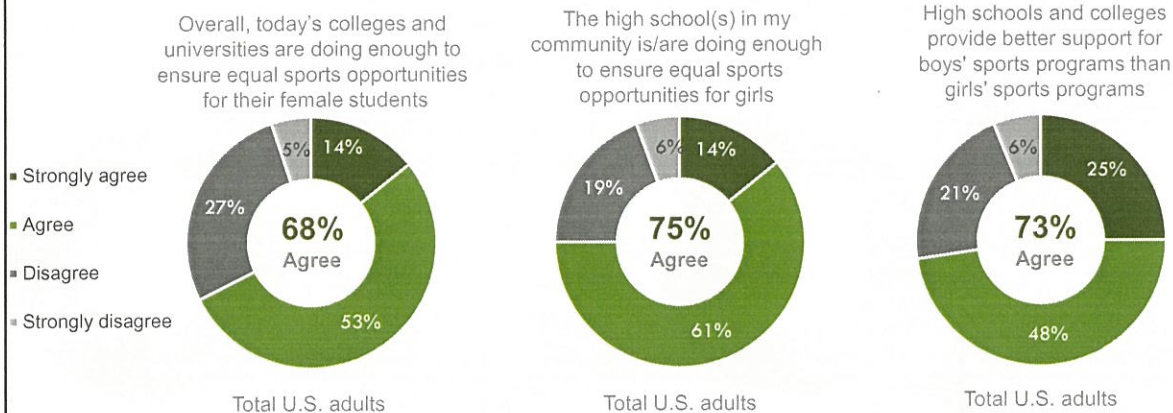


7

Q7. The Department of Education is responsible for making sure that schools comply with Title Nine (IX). How important is it to you that the Department of Education ensure that Title Nine (IX), as it applies to sports, is enforced?

A majority of U.S. adults feel that today's colleges and universities are doing enough to provide equal access to sports opportunities for female students (68%), with slightly more saying the same of their local high schools (75%). At the same time, a majority also say that colleges and high schools provide **better support** for boys' sports programs relative to girls (73%). There are no significant differences across subgroups on these measures.

AGREEMENT WITH STATEMENT



8

Q12. Please tell us how much you agree or disagree with each of the following statements.



14

Expanded Methodology Statement

**WOMEN'S
SPORTS
FOUNDATION**

This survey has been conducted using an online interview administered to members of the YouGov panel of 1.2 million individuals who have agreed to take part in surveys. Emails are sent to panelists selected at random from the base sample. The e-mail invites them to take part in a survey and provides a generic survey link.

The responding sample is weighted to the profile of the sample definition to provide a representative reporting sample. The profile is normally derived from census data or, if not available from the census, from industry accepted data.

YouGov makes every effort to provide representative information. All results are based on a sample and are therefore subject to statistical errors normally associated with sample-based information.

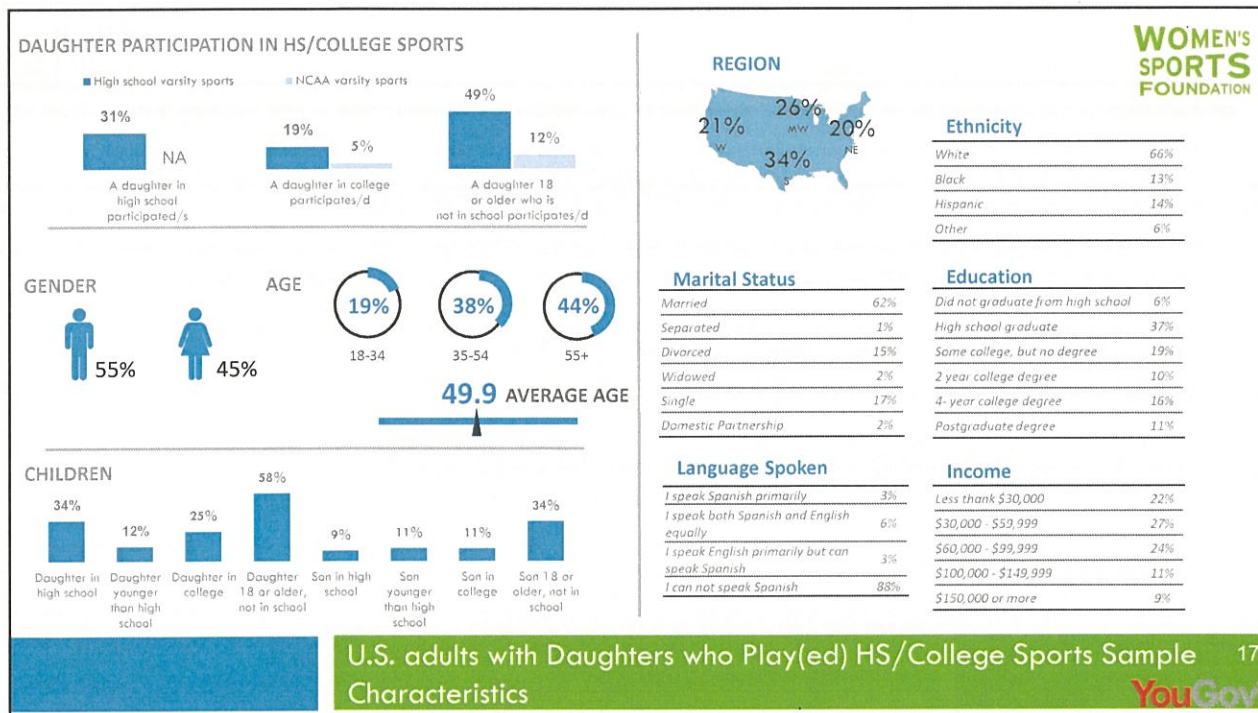
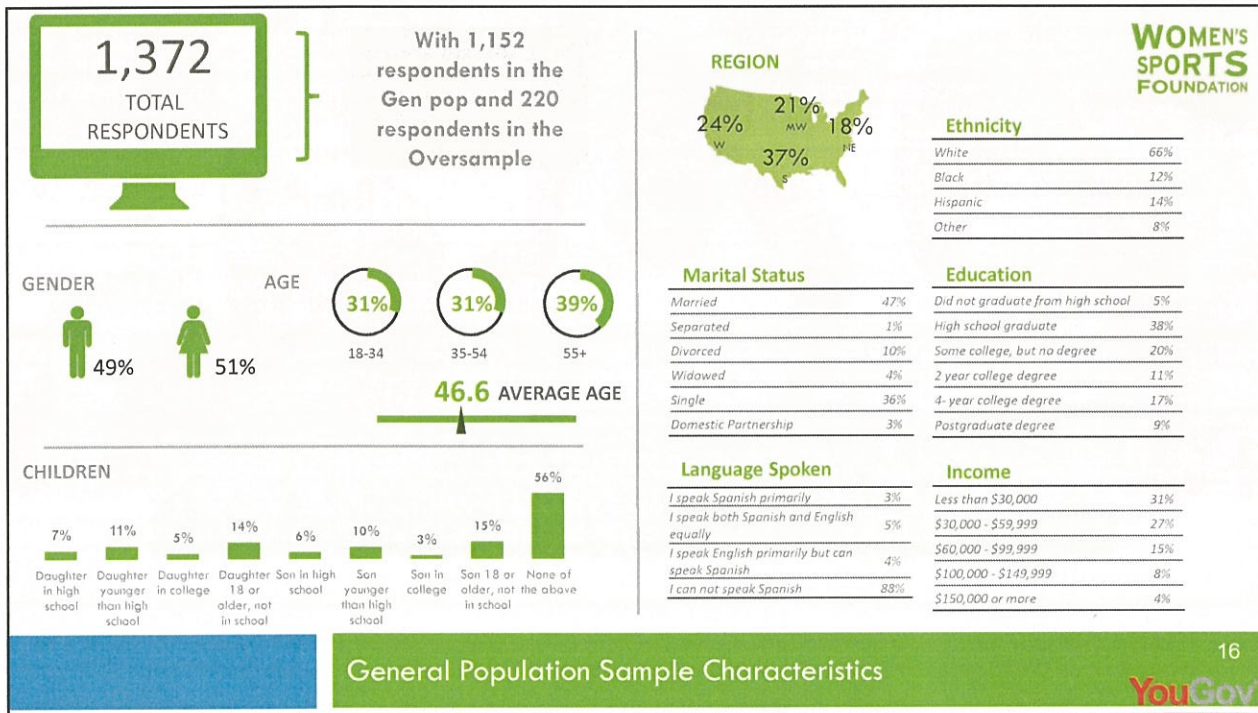
All press releases should contain the following information:

Total sample size was 1,372 adults. Fieldwork was undertaken between May 18 and May 24. The survey was carried out online. The figures have been weighted and are representative of all US adults (aged 18+).

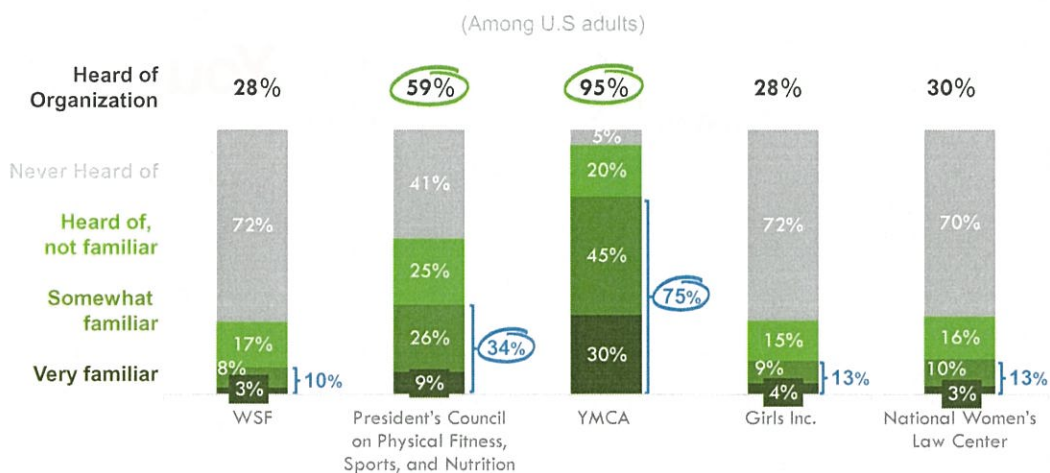
NOTE: All press releases or other publications must be checked by YouGov before use. YouGov requires 48 hours to check a press release unless otherwise agreed.

15

YouGov



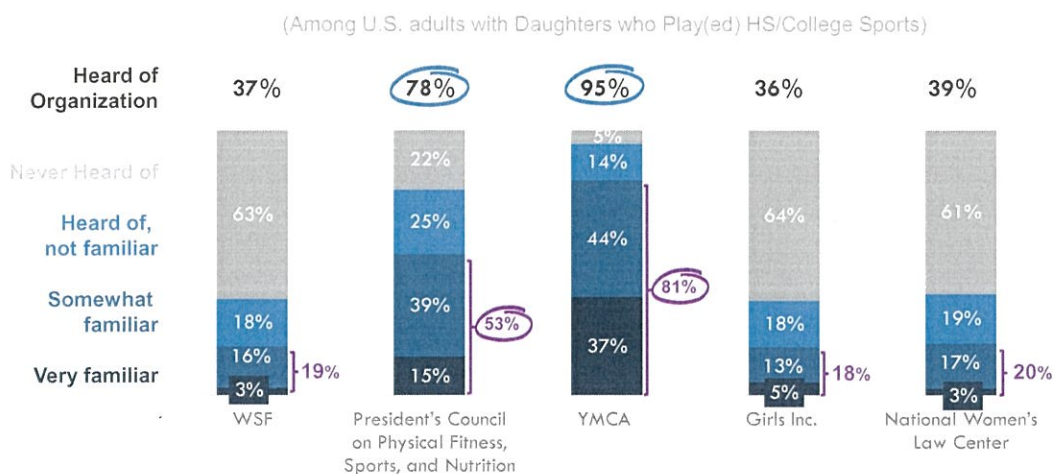
Nearly one-third of U.S. adults have heard of WSF and 10% are very/somewhat familiar with the organization. Almost everyone has heard of the YMCA. Nearly 60% have heard of the President's Council on Physical Fitness, Sports and Nutrition and around a third have heard of Girls Inc. and National Women's Law Center.



13

Q8. How familiar, if at all, are you with each of the following organizations?

U.S. adults with daughters who play(ed) sports are more likely to have heard of almost all organizations. 37% indicate having heard of WSF and 19% say that they are very/somewhat familiar with it.



14

Q8. How familiar, if at all, are you with each of the following organizations?

**WOMEN'S
SPORTS
FOUNDATION**

For Questions About The
Survey Findings Please
Contact
Info@WomensSportsFoundation.org

Conducted by
YouGov[®]
June 6, 2017



TESTIMONY OF CHARLOTTE KAYSEN, LAW STUDENT

NEW YORK CITY COUNCIL, COMMITTEE ON WOMEN AND GENDER EQUITY, COMMITTEE ON EDUCATION, AND COMMITTEE ON HIGHER EDUCATION, HEARING TO ADDRESS TITLE IX AND THE NEW YORK CITY DEPARTMENT OF EDUCATION

Thank you to the City Council, and its Committees on Women and Gender Equity, Education, and Higher Education for holding this hearing on gender discrimination under Title IX.

My name is Charlotte Kaysen and I am a law student at New York Law school. I speak on behalf of the CyberHarassment Clinic at New York Law School. As part of the New York Law School's Institute for Cybersafety, the clinic is the first-of-its-kind law school pro bono clinic helping victims of cyberharassment obtain justice. The clinic focuses on raising awareness about cyberharassment and to provide direct services to victims of nonconsensual pornography, cyberbullying, and other forms of online harassment, through legal advocacy and policy analysis. We believe that cyberharassment can be a form of gender discrimination and therefore can interfere with a student's right to an education free from discrimination under Title IX.

Cyberharassment, which includes cyberbullying, is the use of communications technology to harass, harm, threaten, and victimize another person. Particularly among youth, cyberharassment can take the form of incessant social media posts, text messages, videos and pictures, the creation of fake profiles, and the sharing of intimate images or videos. While cyberharassment has the same elements as the "traditional" in-person harassment, it has an added element of inescapability. Abusers can reach their victim at any time and in any place due to the vast expanse of the Internet and technology. Often this harassment continues at school. Taunts, slurs, and humiliating images can be easily disseminated to an entire student body at the simple push of a button. According to the 2017 Youth Risk Behavior Survey, among New York City public

high school students, 13.3 percent of high school students report being “e-bullied” within the past year.¹

Title IX coordinators, in their positions to address discrimination on High Schools should be aware of the invasiveness of cyberharassment, both the rates of such activity and how it penetrates the lives of tens of thousands of high school students in New York City. We believe that this issue should be of deep concern for the Department of Education, the City Council, and should be a priority for Title IX coordinators and any school staff committed to ensuring that young people receive an education free from discrimination.

Through the effective use of Title IX coordinators and the allocation of resources toward gender equity and violence prevention, NYC has the power and the resources to address and diminish this problem. In an environment where federal protections under Title IX are being rolled back or weakened, New York City has the opportunity to step up and strengthen protections. We applaud that the council is taking action through these resolutions, we want to note that protection from sexual and gender based harassment includes cyberharassment, abuse and bullying.

We offer the following comments:

1. Recognize the harm caused by cyberharassment and its deep effects on students within NYC

There are 1.1 million students in NYC, of all different backgrounds. Students of color, LGBTQ, and young women are disproportionately subjected to cyberbullying and experiencing its devastating harms. Currently, girls are 40.6% more likely to be victims of cyberbullying than boys, who are at 28.8%.² According to one study, “Nearly three-quarters of cyberharassment reports come from women.”³ “Nearly half of all lesbian, gay, bisexual, and transgender (LGBT) youth experience cyberharassment each year, and LGBT teens are three times more likely than heterosexual teens to be harassed online and are twice as likely to receive threatening or harassing text

¹ New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System - [Youth Risk Behavior Survey 2017].

² (Cyberbullying Research Center, 2015). https://enough.org/stats_cyberbullying

³ <http://www.bu.edu/bulawreview/bulronline/online-symposia/>

messages.”⁴ 87% of teenagers have observed cyberbullying, and 25% of these teenagers reported having a face-to-face confrontation with someone from social media.

5

Studies demonstrate that students who are victims of cyberharassment report increased anxiety, depression, suicidal behavior, and somatic symptoms. One study indicates that “Kids who experience cyberbullying have a higher likelihood of using alcohol and drugs and experiencing health problems... Girls who are bullied are more likely to have lower GPAs and standardized test scores than kids who are not bullied and they are more likely to miss, skip, or drop out of school.”⁶

These statistics show that there are students dealing with this type of harm all across the country, and NYC is no exception. In 2014, a 15-year old girl committed suicide off an Upper West Side building as a result of cyberharassment.⁷ Prior to her suicide, she created posts on Facebook addressing the abuse she was receiving from the online bullies who tormented her. One such post addressed that she was receiving online criticism about her weight and people constantly encouraging her to take her life. These harms continue today, with the series of noted suicides of young LGBTQ students across the county.

2. Improve Protocol, Responses by Schools and Title IX Coordinators, and Reporting Procedures for Victims of Cyberharassment

- *Make Processes for Students reporting Cyberharassment written, explicit and available online*

Students who are experiencing cyberharassment may feel powerless and isolated, and they may not be fully aware of their options. The Department of Education, through its Title IX coordinators and the use of its resources should inform parents and students of their rights and their options, and how they may protect themselves.

The Department of Education should provide students with information on what steps they can take if they are the targets of cyberbullying. ⁸ Best practices can help limit the harm young people are experiencing and provide options for resources and reporting, both within school, within the community and online. When appropriate,

⁴ Amplifying Abuse. Waldman, Ari. 95 B.U. L. Rev. Annex 83 (2015) http://www.bu.edu/bulawreview/bulronline/waldman-amplifying-abuse/#_ftn4

⁵ (McAfee, 2014 Teens and the Screen study: Exploring Online Privacy, Social Networking and Cyberbullying).

⁶ <https://girlsinc.org/app/uploads/2017/06/Bullying-and-Sexual-Harassment.pdf>

⁷ <https://www.nydailynews.com/new-york/manhattan/girl-15-jumps-death-uws-building-article-1.1613052>

⁸ <https://www.stopbullying.gov/cyberbullying/how-to-report/index.html>

students should feel empowered to seek help and report cyberharassment to law enforcement.

As students and parents may not be familiar with the full extent of what types of acts are covered under Title IX, the Department of Education should publish Title IX policies online. These procedures should include policies to protect those who come forward and report cyberharassment. In the wake of the #MeToo movement, students may feel more empowered to come forward in the event they are abused. It is essential that these students are not retaliated against or scorned for coming forward about their experiences or the experiences of others who are being victimized. Whether there are remedies available through Title IX or the application of the Chancellor's regulations regarding harassment, these policies should be easily accessible.

3. Continue to monitor and learn about the evolving use of technology and include expert voices on the Commission of Gender Equity

- **Simply put, young people and students use technology, including apps and social media differently than adults.** In addressing the issues of cyberharassment, Title IX coordinators need a comprehensive understanding of the generational gaps in the use of technology, the unique harms experienced by student victims and how to best utilize their resources.
- **Expand the commission on Gender Equity to include experts in the areas of social media literacy and online harassment against girls and LGBTQ students.** Experts can help to spread awareness and provide expertise on cyberharassment and provide important assistance in educating Title IX Coordinators so that they can then educate schools and students.

We envision schools as an affirming, empowering and a safe space for all students to grow and thrive and reach their brightest potential. By taking some of the steps we mention above, we believe the Department of Education takes action towards fulfilling this vision.

Thank you for the opportunity to speak to these issues. The Cyberharassment Clinic at New York Law School would be honored to partner further with those of you who would like to examine this issue in greater detail.

NFHS 2017-18 ATHLETICS PARTICIPATION SUMMARY

TEN MOST POPULAR BOYS PROGRAMS

Schools			Participants		
1.	Basketball	18,510	1.	Football – 11-Player	1,036,842
2.	Track and Field – Outdoor	16,990	2.	Track and Field – Outdoor	600,097
3.	Baseball	16,196	3.	Basketball	551,373
4.	Cross Country	15,463	4.	Baseball	487,097
5.	Football – 11-Player	14,079	5.	Soccer	456,362
6.	Golf	13,524	6.	Cross Country	270,095
7.	Soccer	12,393	7.	Wrestling	245,564
8.	Wrestling	10,775	8.	Tennis	158,151
9.	Tennis	9,793	9.	Golf	144,024
10.	Swimming & Diving	7,595	10.	Swimming & Diving	138,935

TEN MOST POPULAR GIRLS PROGRAMS

Schools			Participants		
1.	Basketball	18,171	1.	Track and Field – Outdoor	488,592
2.	Track and Field – Outdoor	16,951	2.	Volleyball	446,583
3.	Volleyball	16,434	3.	Basketball	412,407
4.	Softball – Fast Pitch	15,544	4.	Soccer	390,482
5.	Cross Country	15,216	5.	Softball – Fast Pitch	367,861
6.	Soccer	12,007	6.	Cross Country	223,518
7.	Tennis	10,289	7.	Tennis	190,768
7.	Golf	10,289	8.	Swimming & Diving	175,594
9.	Swimming & Diving	7,961	9.	Competitive Spirit	162,669
10.	Competitive Spirit	6,877	10.	Lacrosse	96,904

ATHLETICS PARTICIPATION SURVEY TOTALS

Year	Boys Participants	Girls Participants	Total	Year	Boys Participants	Girls Participants	Total
1971-72	3,666,917	294,015	3,960,932	1996-97	3,706,225	2,474,043	6,180,268
1972-73	3,770,621	817,073	4,587,694	1997-98	3,763,120	2,570,333	6,333,453
1973-74	4,070,125	1,300,169	5,370,294	1998-99	3,832,352	2,652,726	6,485,078
1975-76	4,109,021	1,645,039	5,754,060	1999-00	3,861,749	2,675,874	6,537,623
1977-78	4,367,442	2,083,040	6,450,482	2000-01	3,921,069	2,784,154	6,705,223
1978-79	3,709,512	1,854,400	5,563,912	2001-02	3,960,517	2,806,998	6,767,515
1979-80	3,517,829	1,750,264	5,268,093	2002-03	3,988,738	2,856,358	6,845,096
1980-81	3,503,124	1,853,789	5,356,913	2003-04	4,038,253	2,865,299	6,903,552
1981-82	3,409,081	1,810,671	5,219,752	2004-05	4,110,319	2,908,390	7,018,709
1982-83	3,355,558	1,779,972	5,135,530	2005-06	4,206,549	2,953,355	7,159,904
1983-84	3,303,599	1,747,346	5,050,945	2006-07	4,321,103	3,021,807	7,342,910
1984-85	3,354,284	1,757,884	5,112,168	2007-08	4,372,115	3,057,266	7,429,381
1985-86	3,344,275	1,807,121	5,151,396	2008-09	4,422,662	3,114,091	7,536,753
1986-87	3,364,082	1,836,356	5,200,438	2009-10	4,455,740	3,172,637	7,628,377
1987-88	3,425,777	1,849,684	5,275,461	2010-11	4,494,406	3,173,549	7,667,955
1988-89	3,416,844	1,839,352	5,256,196	2011-12	4,484,987	3,207,533	7,692,520
1989-90	3,398,192	1,858,659	5,256,851	2012-13	4,490,854	3,222,723	7,713,577
1990-91	3,406,355	1,892,316	5,298,671	2013-14	4,527,994	3,267,664	7,795,658
1991-92	3,429,853	1,940,801	5,370,654	2014-15	4,519,312	3,287,735	7,807,047
1992-93	3,416,389	1,997,489	5,413,878	2015-16	4,541,959	3,324,306	7,866,265
1993-94	3,472,967	2,130,315	5,603,282	2016-17	4,563,238	3,400,297	7,963,535
1994-95	3,536,359	2,240,461	5,776,820	2017-18	4,565,580	3,415,306	7,980,886
1995-96	3,634,052	2,367,936	6,001,988				

2017-18 SUMMARY OF ATHLETICS PARTICIPATION

TOTALS BY STATE

State	Boys	Girls	Total ¹	State	Boys	Girls	Total ¹
1. Texas	492,351	332,268	824,619	27. Louisiana	61,689	47,430	109,119
2. California	465,775	353,850	819,625	28. Kentucky	57,533	48,518	106,051
3. New York	202,358	175,707	378,065	29. Kansas	60,835	40,710	101,545
4. Ohio	204,214	143,353	347,567	30. Oregon	55,572	44,335	99,907
5. Illinois	195,266	143,582	338,848	31. Oklahoma	55,755	42,528	98,283
6. Pennsylvania	169,051	150,816	319,867	32. South Carolina	60,413	36,447	96,860
7. Florida	175,225	136,136	311,361	33. Nebraska	46,129	32,429	78,558
8. Michigan	169,527	127,098	296,625	34. Arkansas	39,818	28,186	68,004
9. New Jersey	161,740	120,060	281,800	35. Utah	38,906	28,575	67,481
10. Minnesota	122,595	117,838	240,433	36. Maine	27,693	24,156	51,849
11. Massachusetts	126,433	100,613	227,046	37. Idaho	26,845	21,456	48,301
12. North Carolina	113,708	89,766	203,474	38. New Mexico	26,359	21,875	48,234
13. Georgia	120,987	80,480	201,467	39. New Hampshire	24,028	20,831	44,859
14. Wisconsin	106,986	74,514	181,500	40. Nevada	24,942	18,211	43,153
15. Washington	100,980	74,803	175,783	41. Hawaii	20,989	16,690	37,679
16. Virginia	99,616	75,914	175,530	42. West Virginia	21,382	15,418	36,800
17. Missouri	102,897	71,464	174,361	43. Rhode Island	17,335	13,547	30,882
18. Indiana	89,868	62,884	152,752	44. Montana	16,885	13,704	30,589
19. Iowa	82,696	56,344	139,040	45. Delaware	16,902	13,139	30,041
20. Alabama	88,374	47,616	135,990	46. South Dakota	16,404	13,386	29,790
21. Colorado	72,901	59,525	132,426	47. North Dakota	15,599	11,530	27,129
22. Arizona	69,335	51,983	121,318	48. Alaska	11,998	10,647	22,645
23. Maryland	67,014	50,611	117,625	49. Wyoming	10,968	8,853	19,821
24. Mississippi	68,873	43,662	112,535	50. District of Columbia	7,623	5,203	12,826
25. Connecticut	59,217	51,911	111,128	51. Vermont	5,412	4,246	9,658
26. Tennessee	69,579	40,458	110,037				

¹ Reflects participation rate, i.e., individual who participated in two sports is counted twice, three sports – three times, etc.



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116 Nassau Street, 3rd Floor
New York, New York 10038
212.714.1184 voice | 212.714.2627 fax
212.714.1141 24-hour hotline

Juliette Verrengia, Policy Advocacy Specialist
jverrengia@avp.org

Good afternoon and thank you to Council Member Mark Treyger and the rest of the Committee on Education for holding this budget hearing. My name is Juliette Verrengia and I am the Policy Advocacy Specialist at the New York City Anti-Violence Project. I help coordinate and support policy work for the National Coalition of Anti-Violence Programs, which is comprised of 50 organizations working to end violence against and within LGBTQ and HIV-affected communities across the country. Today, I am here to advocate for increased funding in the budget to hire 7 more full-time Title IX coordinators for New York City schools.

The impacts of sexual violence and harassment are severe, especially for young people. A 2015 study showed that 34% of college women who experience sexual violence dropped out of their university. In an earlier study, high school survivors of sexual harassment were found to switch schools and actively avoid particular areas and people on school property. Sexual violence has been associated with poorer physiological health outcomes including, but not limited to, increased risk of STIs, depression and anxiety disorders, substance use, and truancy. The negative impacts of sexual violence are amplified for LGBTQ students, who are already targeted and discriminated against due to homophobia and transphobia. Sexual violence happens in every state and every city. This issue deserves to be prioritized for our students, none of whom should be subjected to this type of treatment or expected to manage it essentially alone.

The fact that there is one single Title IX coordinator serving 1,800 schools and 1.1 million grade school students across New York City is simply unacceptable. This shortage is especially troubling considering the federal attacks on Title IX, which would make it even harder for students to find support and justice after violence or harassment. Title IX was created to ensure that all students are able to equitably access their education, and to ensure cases of violence are handled diligently and comprehensively. These are not goals that our city can cut corners on.

Experiencing sexual harassment and violence without institutionalized support can severely alter the emotional, social, physical, and educational wellbeing of survivors – especially for young people in crucial developmental stages throughout grade school. The work of Title IX coordinators is essential in preventing further violence and mitigating the harmful consequences of these incidents, such as the aforementioned impacts. Allocating increased funding for more full-time Title IX coordinators sends a message to New York City schools, parents, and students that discrimination based on gender and related sexual violence is not tolerated.

New York City cannot continue to fail its young people by limiting access to resources and support around sexual violence. I hope you take these points into consideration when making your decision. Thank you very much for your time.

4-30-2019 Statement of Ronald Schneider *in opposition to Resolution 0811-2019.*

I am the attorney primarily responsible for the initial drafting of most of the legal documents submitted by 17 bus contractors in their successful lawsuit that halted DOE's recent attempt to re-impose EPPs. As such, I am very familiar with the issues surrounding EPPs.

I am also a resident of New York City, and as a taxpayer, I am appalled -- appalled that members of this committee appear once again to be allowing the interests supporting EPPs to pull the wool over your eyes and thereby, among other things, derogating your duty to the public fisc. These pro-EPP interests claim that EPPs produce a wonderland full of positive results. But their arguments rely on false narratives, misdirection, and outright lies.

I do not have time to even begin to go through all of these failings, but as one simple, quick example: They point to all the problems with school busing, such as happened at the beginning of the 2018-19 school year, including safety issues, and cry out "do it for the children," asserting that if we just had EPPs things would be better -- that our children would be safe. Of course, everyone wants a safe and reliable busing system for the children, but the problems that have occurred have nothing to do with having EPPs or not having EPPs. In fact, every specific problem hitting the newspapers that I was made aware of was with a company that *had* EPPs, not a company without EPPs. Thus, if anything, the evidence is that EPPs foster these problems, not prevent them, and thus, if anything, the "it" in "do it for the children" should be to get rid of EPPs in the contracts that still have them, not the other way around.

More generally, if you want to begin to get to the truth, review the arguments against EPPs in the court record, and particularly the court's various decisions -- don't just let them pull the wool over your eyes with honeyed words.

What I *will* focus on in my limited time today, instead of the false narratives, misdirection, and outright lies used to prop up the purported benefits, is something even more insidious: The idea they now advance -- and that has found its way into the proposed resolution -- that EPP's purported benefits are cost free; that we live in a wonderland where we can sprinkle a little fairy dust and get something for free, that we can have our cake and eat it too.

Of course, in the real world we don't have fairy dust, instead we have bought and paid for consultants that will prepare a supposed comprehensive analysis to reach the desired result that we not only can have all the purported benefits for free, we will *save* \$288 million too. This result of the so-called Cherrydale report -- the idea we can get these purportedly wonderful benefits without cost and with millions in savings too -- is absurd on its face. Accordingly, it is not surprising that an examination of its supposed analysis shows that it is full of one-sided conjecture, misdirection, falsehoods, and ridiculous premises, and ignores the actual evidence. Time permitting, I will highlight some of these failings, but first let me give you two reasons that it should be dismissed out of hand -- two reasons in addition to that just noted, i.e., that the fairy dust like results are absurd on their face.

First, the question of whether EPPs save money has already been litigated, *twice*, and both times, the courts of this state concluded that there was no evidence that EPPs saved money. In particular, a decade ago and again last year, when the DOE tried to include EPPs in solicitations, the courts found that EPPs were atypical anti-competitive provisions subject to heightened scrutiny under which the DOE had to demonstrate that the EPPs saved the public money. Both times the courts found against the DOE -- the DOE had a chance to show that EPPs saved money and they twice failed to do so.

Who are you going to believe, a one-sided bought and paid for consultant, or an adversarial process following defined procedures in the independent, unbiased, neutral court system? Furthermore, the result that EPPs do not save money was not just from a random judge or two. The case a decade ago went all the way to the Court of Appeals and was decided without dissent at every stage -- a total of twelve judges unanimously reaching this conclusion after considering evidence in an adversarial proceeding. Once again, in last year's case, there was no dissent, the trial court judge and five appellate division judges unanimously agreed. And the Court of Appeal apparently thought there was not even a meaningful issue needing resolution, as they refused the DOE's request for leave to appeal to them. *18* independent judges or one paid for consultant: Who are you going to believe?

To the extent EPP proponents may argue that the courts' conclusions did not have the benefit of the Cherrydale report, the Committee should consider why not. Does the Committee think that the attorneys in the Corporation Counsel's office are incompetent, that if there was a credible argument to make that they were not capable of obtaining such or report -- or themselves preparing such an analysis? The reason something like the Cherrydale report was never submitted to the courts is because it would not have been credible on its face, and once subject to an adversarial proceeding would have been torn apart, damaging any credibility of the Corporation Counsel's attorneys if they had submitted such a thing. Do not let yourselves, because of the lack of an adversarial process, be swayed by the absurdity that is the Cherrydale report. The Corporation Counsel's office understood very well that they could not demonstrate that EPPs saved money -- since they do not -- and instead primarily argued as a legal issue that they did not need to demonstrate any savings. The courts disagreed.

Second, the empirical evidence has already demonstrated that EPPs *cost* a billion dollars over five years. There is no need to resort to unsubstantiated conjecture like the Cherrydale report, as we have actual empirical evidence. The City itself stated that it saved approximately \$100 million on the first set of contracts without EPPs, then another \$100 million on the next set, then another \$200 million on the following set. As the saying goes: \$100 million here, \$100 million there, and pretty soon you're talking about real money. At this savings rate, if the City had continued soliciting contracts without EPPs for the rest of its bus routes, the estimated savings based upon the actual savings to the City would have approached \$1 billion. (The savings by not having EPPs is, of course, equivalent to the cost of having EPPs.) The Cherrydale report just brushes aside and ignores these numbers because the author is not aware of how the City

calculated them. Somehow the author wants you to believe that his conjecture is more reliable than the City statement that was based on actual data.

Furthermore, there is even better evidence than these estimates of the hundreds of millions of dollars that EPPs cost. In the fall of 2014 the City instituted a grant program that offered to reimburse certain contractors that won contracts that did not include EPPs for the additional costs if they paid and provided benefits as though the contracts did have EPPs – those additional costs by definition would be the actual, historical cost of EPPs for those contracts. The result of this grant program was reimbursements of at least \$30-\$35 million a year for a mere 11% of the City's bus routes. In other words, while the City's own estimates of hundreds of millions of dollars is far more reliable than the Cherrydale report's conjecture, here we have something even more reliable – direct, empirical evidence of the actual costs of EPPs. The Cherrydale report completely ignores this evidence, which is not surprising since it proves the actual five-year costs of EPPs of at least \$150 million for a mere 11% of bus routes, which extrapolates to total costs of well over a billion dollars.

In case these two points are not enough for you to simply dismiss out-of-hand the Cherrydale report's absurd proposition that you can have your cake and eat it too, I'll now highlight *some* of the specific failings of the report.

First, as mentioned above, it ignores the actual, direct, empirical evidence that the cost of EPPs is over a billion dollars, and instead uses conjecture and supposition to assert the cost is only thirty million dollars.

Second, it plays three card monte with the cost of the grant program. It claims that with EPPs the City will save \$170 million by no longer having to make payments under the grant program. It, of course, ignores that the City voluntarily chose to implement the grant program, and the City could save this money simply by ending the grant program. Furthermore, even if with EPPs no payments would be needed under the grant program, that does not mean that the City would save that \$170 million dollars, because it would just pay it instead under the now more expensive busing contracts that include EPPs. The money is paid either way, changing where it is paid through does not save anything.

Third, it outright falsely claims that EPPs will save the City \$100 million as a result of the EPPs preventing the City from having to pay for withdrawal liability. But this issue has already been litigated, and the federal courts, both the trial court and the Second Circuit on appeal, have ruled that the City is not subject to any withdrawal liability – regardless of whether there are EPPs or not. EPPs cannot save money that the City is not obligated to pay in the first place.

In sum, there is absolutely no doubt that EPPs cost, not save, money, and the empirical evidence indicates that cost is well over a billion dollars over five years. As illustrated by the example given above, EPPs do not result in the claimed benefits. But even if you are taken in by the honeyed words of the interests supporting EPPs and believe otherwise, at least be honest and

recognize the billion dollar cost of seeking those purported benefits through EPPs, and only support this resolution if you honestly believe spending that kind of money here – as opposed to elsewhere (for example, on other programs that will need to be cut if the money is spent here) or not at all – is warranted.

Hello, my name is Diane Milutinovich. I have been a Jr. High School, High School and college coach and a collegiate athletics administrator. I am an advocate for Title IX and gender equity and a member of the Women's Sports Foundation Advocacy Committee. Thank you for the opportunity to speak today.

The landmark law called Title IX of the Education Amendments of 1972 was signed into law by President Richard Nixon. It was reaffirmed in 1988 when both Houses of Congress overrode a presidential veto to pass the Civil Rights Restoration Act.

While significant progress has been made, we still have a way to go.

Under Title IX all educational recipients of federal financial assistance must assure the government that it is compliance with the non-discrimination mandates of Title IX and its implementing regulations.

As part of those assurances, a recipient must designate at least one employee to serve as its Title IX Coordinator and notify all its students and employees of the name(s), office, address and telephone number of the employee(s) designated to serve as its Title IX Coordinator.

Coordinators have the responsibility to coordinate the recipients' efforts to comply with the obligations of Title IX and its regulations which includes monitoring compliance, instituting a grievance procedure and coordinating any investigations of complaints received pursuant to Title IX and its regulations.

In order to determine compliance, the most objective way is to use data to complement surveys and anecdotal evidence.

Data is especially important because it is factual, objective way to measure compliance and determine any disparities and/or Inequalities.

This information in this requirement is critical to determining Title IX compliance and informing students, employees and the public regarding progress or lack of progress toward achieving the requirements of Title IX.

Finally, I would like to address a few myths regarding Title IX:

1. Title IX only applies to girls and women - No, it applies to the under-represented gender boys or girls
2. Title IX requires equal spending - No, it requires equitable opportunities and treatment
3. Title IX forces schools to drop boys sports - No, OCR stated in a July 11, 2003 Dear Colleague Letter, OCR would negotiate with schools not to drop sports.

In conclusion, NYC will be providing more opportunities and improving Title IX compliance by having more coordinators and accurate annual reporting.

Talking Points

- Good afternoon, my name is **MARIE PERICLES**. I am a proud parent and a member of ATU Local 1181. Thank you for today's Resolution to call on state lawmakers to pass Employer Protection Provisions (EPP).
- In my ~~27~~ ^{JN THE SCHOOL BUS INDUSTRY} years as a school bus driver, I have seen firsthand how important school bus workers are to our communities and our city.
- Each day, I wake up at the crack of dawn to transport ^{our precious cargo} New York City's school children, many of them disabled, ^{ARTISTIC WITH SPECIAL NEEDS} to and from school, because I know they are the ones who will shape our city's future.
- I love my job and these children, and I want to keep doing it for as long as possible.
- Because Mayor Bloomberg removed EPPs from school bus contracts in 2012, though, I don't know how much longer I can keep doing what I love.
- These protections provide me and my family with a stable wage, job security, and the guarantee that I will have a pension to take care of myself and my family even when I am too old and sick to work.
- Because of EPPs, I have been able to rely on steady wages and benefits no matter which bus company I worked for.
- Now, I don't have the same sort of security-- **explain what losing EPP has meant for you personally** ^{I CAN BE LET GO AND NEVER BEEN CALLED BACK}
^{I CAN BE LAID OFF AND NEVER BEEN CALLED SINCE I HAVE NO PROTECTION.}
- As the first face these kids see in the morning and the last one before they go home for the night, I am often one of the few sources of stability in their lives.
- In the years I've ^{been a mother and a driver, I climbed the ladder towards} ~~driven my~~ route, I've gotten to know these students, learn about their ^{THE EPP} lives, and watch them grow and mature. I desperately want to keep doing so.
- That is why I am grateful for the Resolution you have introduced calling on State Lawmakers to pass the bill and reinstate EPPs to help take care of our drivers and matrons like myself. Thank you!



TESTIMONY OF AMANDA REYNOSO-PALLEY, ESQ.,
NEW YORK CITY COUNCIL, COMMITTEE ON WOMEN AND GENDER EQUITY,
COMMITTEE ON EDUCATION, AND COMMITTEE ON HIGHER EDUCATION, HEARING TO
ADDRESS TITLE IX AND THE NEW YORK CITY DEPARTMENT OF EDUCATION

Thank you to the City Council, and its Committees on Women and Gender Equity, Education, and Higher Education for holding this hearing on gender discrimination under Title IX. At Day One, an organization that works at the intersections of dating violence, sexual assault, and consent education for students and youth, we believe that New York City can play a pivotal role in this moment to ensure that students are receiving quality education free from gender discrimination.

Day One is the only New York organization committing its full resources to address dating violence among youth 24 years of age and under. We work to create a world without dating violence by delivering a combination of services that include social services and legal advocacy for young survivors of relationship abuse, leadership development for teenagers, and preventive education for students in kindergarten through college. We appreciate the opportunity to share our experiences and perspective on the importance of strengthening protections for student survivors of dating violence.

Since 2003, Day One has educated or assisted tens of thousands of youth under the age of 24 who are experiencing or at risk of dating violence. We work to ensure that all of our services for youth are delivered within a framework that appreciates the intersectionality of identities and the complex dynamics of intimate partner violence, healthy relationships, and consent. Through our legal department, we have assisted many New York City student survivors in obtaining accommodations and accountability in their schools, ensuring that our clients continue to receive their education in a safe environment free from harassment. We have also trained school administrators, staff, and teachers on their obligations under Federal, State, and local laws to provide student survivors with the tools they need to continue their education after experiencing violence.

Dating violence among young people is a serious and widespread issue. According to the 2017 Youth Risk Behavior Survey, among New York City public high school students, 10



percent report experiencing physical violence in a dating relationship within the past year, and 15.4 percent report experiencing sexual dating violence within the past year.¹ The New York City Domestic Violence Hotline receives an average of 1,400 calls from teenagers every month.² Nationally, women aged 16-24 experience the highest per capita rate of intimate partner violence, triple the national average.³ In our fifteen years of experience in this area we have seen that students experiencing dating violence often fall behind in school, experience an increase in absences, or never graduate. I started at Day One as a post-graduate legal fellow, and I focused on advocating for high school students experiencing dating violence, which included accessing protections available under Title IX. We offer the following testimony focused on the unique experiences of young survivors in school settings and the belief that strong protections for young survivors are essential to upholding all students' rights to a quality education.

In September 2017, Secretary of Education, Betsy DeVos, rescinded previous guidance regarding Title IX and campus sexual misconduct. In November 2018, the Department of Education introduced new proposed regulations and opened a notice and comment period. The protections previously found in Title IX have played an important role in many of our clients' pathways towards safety and healing, providing an option for our clients to hold the person who has caused them harm accountable and receive much-needed accommodations to continue with their education. While we welcome regulations that would strengthen Title IX and provide more protections for survivors of sexual violence, we are deeply troubled that many of the new rules in the proposed regulations will do the opposite, and will cause further trauma and harm to survivors.

Though the new regulations proposed by the U.S. Department of Education will apply to all schools receiving federal funding, they offer only the baseline of actions schools must take to protect their students. States and local governments are able to, and should, enact and enforce stronger protections for students experiencing gender discrimination on campus. We at Day

¹ New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System - [Youth Risk Behavior Survey 2017].

<https://a816-healthpsi.nyc.gov/epiquery/YRBS/yrbsIndex.html>

² New York City Mayor's Office, Mayor's Office to Combat Domestic Violence. (2007). 2007 Fact Sheet: New York, NY.

³ Rennison, C.M., & Welchans, S. United States Department of Justice, Bureau of Justice Statistics. (2000). Intimate partner violence (NCJ Publication No. 178247). Rockville, MD.



One, ask that City Council and the New York City Department of Education step in to protect young survivors harmed by the federal changes to the enforcement of Title IX. Specifically, with the understanding that sexual harassment is a form of gender discrimination, we ask that:

- 1. As the largest school district in the United States, the Department of Education (DOE) should ensure that there is more than one Title IX Coordinator for all of the students of New York City.** One in three New York City public school students experience sexual harassment in school. It is imperative that the city provide students with resources to prevent and protect students. We stand by *Girls For Gender Equity's* call that there be at least seven Title IX Coordinators, with at least one coordinator at each borough field support center. These coordinators must focus on all forms of gender-based discrimination, not only teacher-on-student sexual harassment. The Title IX Coordinators must be trained in the many types of sexual harassment that occur on campus, as well as off campus sexual harassment that affects students on campus, such as technology abuse. To that end, the city already has many resources that can be used to train the Title IX coordinators, such as the Sexual Health Education Task Force. Students and parents should be informed as to who the Title IX Coordinator is in their neighborhood and should be informed that if a school ignores reports of sexual harassment, students and parents can report the incident to the Title IX Coordinator for further investigation. We support the proposal to amend the administrative code to include reporting on Title IX to the Commission on Gender and Equity's annual report to the city;
- 2. In a city as large as New York, students deserve to have adequate resources to eradicate gender discrimination.** In 2016 the city hired its first Gender Equity Coordinator, responsible for establishing and sustaining effective collaborative partnerships between the Department of Education, other city agencies, and community-based organizations in order to increase the capacity of schools to support students historically and currently underserved and underrepresented due to gender. The Coordinator has played an important role in educating, training, and combating student-on-student sexual harassment, however, one person can only do so much to reach all of the students across New York City. The city should increase funding to hire additional Gender Equity Coordinators and future Title IX coordinators to promote the rights of students to be free from sexual harassment and gender-based discrimination in New York City public schools;
- 3. The DOE already has strong regulations in place to protect young survivors; the DOE must ensure that these regulations are enforced.** The DOE must educate all schools on Chancellor's Regulation A-831 and must make sure the regulation is being followed. Under the regulation, every public school should have a sexual harassment



policy and a designated staff member to whom reports of student-on-student sexual harassment can be made. The designated staff member should be properly trained to handle investigations into sexual misconduct in a neutral and trauma-informed manner. Students and parents should know who the designated staff person is at their school, and should be made aware of the school's sexual harassment policy at the start of each school year.

4. **To stop sexual harassment in schools, students have to be able to identify behaviors that constitute sexual harassment.** The DOE should ensure that young people and professionals who work with young people are educated and trained on healthy relationships, consent, and the many different ways dating violence can manifest, including technology abuse; and lastly
5. **Organizations across New York City are working to combat all forms of gender-based discrimination and to ensure young people have access to quality education, the city needs to listen to those already doing this work.** We support Council Member Rosenthal's amendment to the administrative code to have the commission on gender equity include information on the city's compliance with Title IX. The commission should be further expanded to include members working in community based organizations with young survivors of sexual assault, dating violence, and technology abuse.

Thank you for allowing us to speak to these issues. We would be honored to partner further with those of you who would like to examine this issue in greater detail. Please help us as we continue to partner with the Department of Education and other city agencies to do this critical and life-saving work. Thank you as always for prioritizing these issues and for your support of young survivors and Day One.

Good afternoon. I am Sandy Vivas, former co-chair of the board of the Women's Sports Foundation, founded by Billie Jean King in 1974 an organization dedicated to creating leaders by ensuring girls and women access to sport.

Since its passage in 1972, Title IX's impact on girls and women's participation in sports in America has been tremendous. You have all seen the results in our women's performances at the last few summer and winter Olympics, you see it on the court at Flushing Meadows, you see it in the demand for equal pay by our national soccer team and you see it on the court at Madison Square Garden.

The underpinnings of these performances is based on the opportunities girls, your daughters, granddaughters and nieces, have on the playing fields and courts of America's schools. Title IX made these opportunities a reality, but the actual opportunity to play and compete depends on the enforcement of the law and the vigorous work of those that understand that the benefits of playing sport accrue not just to our boys, as has always been the belief of our competitive country, but to our girls as well.

An ever growing and evolving body of research, including the Women's Sports Foundation's series of studies, "Her Life Depends on It," supports the health benefits of participation in sport and physical fitness. A physically active lifestyle leads to the lowering risk of chronic illnesses that adversely affect women's lives.

The Women's Sports Foundation January 2018 study, "Teen Sport in America: Why Participation Matters" reaffirmed prior evidence-based research to measure the impact of physical activity and sport on girls and reaffirmed that teens who play sports not only do better in school, but also are more likely to have high self-esteem, stronger relationships and improved physical health.

"Her Life Depends on It III & Girls and Women of Color" outlines the barriers that are faced by these populations in challenging ways when it comes to access to opportunities. Girls and women of color encounter an array of issues that affect access to sport and physical activity: fewer programs, fewer resources, less access to safe and securing playing areas. By extension, girls and women of color have less access to the educational, social, and health benefits that can be realized from being physically active.

There is no objective way to monitor Title IX compliance without data and statistics. These measures take the emotion out of the equation in determining deficiencies and/or inequities while monitoring trends of participation. Including rigorous statistical information about Title IX compliance in the City's annual report will assist on-campus educators' allocation of resources towards affording the opportunities for physical activity and sports that was the promise of Title IX for all the City's students.

***All WSF Research can be accessed here: <https://www.womenssportsfoundation.org/research/articles-and-reports/all/>**

April 30, 2019

Chairman Mark Treyger
New York City Council Education Chairman
250 Broadway, Suite 1785
New York, NY, 10007

Dear Chairman Treyger,

Thank you for your years of support and the recent City Council Resolution to reinstate Employee Protection Provisions (EPP). I have been a bus driver with for the past 25 years, and EPPs mean everything to me and my family. In those 25 years, I have worked for 6 different bus companies, and thanks to EPPs, I was able to keep the same salary and all my benefits at each. EPPs allowed me to move between companies with no negative effects. I was able to keep a stable job for me and my family.

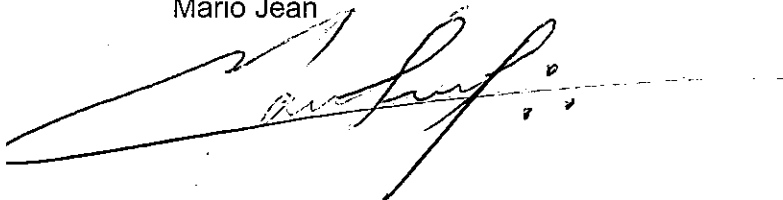
For bus drivers and matrons, EPPs are so valuable in making our lives easier. In fact, we seek out companies which offer EPPs. One company I worked for, Atlantic Express, had over 2,000 employees because they offered EPPs. All professional bus workers look for companies with EPPs because they are so important to us. In turn, they are important for parents, because they let the parents know that only the most responsible and professional drivers will be transporting their children.

Without EPPs, the bus driving industry will become a revolving door, and professional drivers will be forced to leave. While EPPs gave us stability for decades, it has become harder and harder to stay in the same job since they were taken away. Through our jobs, we develop bonds with the children we drive to and from school and feel responsible for their safety.

As a driver, I have watched kids grow from 1st grade to high school and have been a reliable figure in their lives that entire time. We work so hard to make sure the kids are safe and get to school on time, which is only possible because of EPPs. I thank you for your commitment to helping us get our EPPs. Today's resolution is so important because it shows state lawmakers how important EPPs are for the safety of our kids and the security of our drivers. Thank you for having me, and for your support.

Sincerely,

Mario Jean

A handwritten signature in black ink, appearing to read "Mario Jean", written over a horizontal dashed line.

April 30, 2019

Honorable Mark Treyger
New York City Council Education Chairman
250 Broadway, Suite 1785
New York, NY 10007

Dear Chairman Treyger,


I am a proud mother, bus driver, and member of ATU Local 1181. I thank you for your support and introduction of today's Resolution calling on state lawmakers to reinstate Employee Protection Provisions (EPP). In my ~~26~~ ²⁷ years ~~as a school bus driver~~ ^{IN THE SCHOOL BUS INDUSTRY}, I have dedicated myself to waking up at the crack of dawn so that I can safely transport New York City's children, many of them special needs and disabled, to and from school each day. This service is essential to the parents, the students and the city. I love my job, I love the children, and I want to keep doing it for as long as possible.

Because Mayor Bloomberg removed EPPs from school bus contracts in 2012, though, I don't know how much longer I can keep doing what I love. These protections provide me and my family with a stable wage, job security, and the guarantee that I will have a pension to take care of myself and my family even when I am too old and sick to work. Without them, I don't have any sense of stability. For decades, I could rely on my job as a bus driver to pay for the necessities of life for my family, but no longer.

I have driven for years, picking up and dropping off the children I care so much about each day. The relationship between a bus driver and the students they transport is a special one. I am the first face these kids see in the morning, and the last one they see before going home for the night. In the years I've driven my route, I've gotten to know these students, learn about their lives, and watch them grow and mature. I desperately want to keep making these connections, but I can't until I have the protections I need to live with stability. How can I be asked to take care of the city's children if I can't even take care of my own?

Thank you for your support to call on lawmakers to reinstate EPPs and let me get back to safely and reliably transporting the most vulnerable people in our city, our children. Thank you.

Sincerely,

Marie Pericles


April 30, 2019

Honorable Mark Treyger
New York City Council Education Chairman
250 Broadway, Suite 1785
New York, NY 10007


Dear Chairman Treyger,

Thank you for the introduction of the City Council's Resolution to reinstate Employee Protection Provisions (EPP). As a New York City school bus driver for 14 years, I have seen the industry at its best and at its worst. For decades, school bus drivers offered safe and reliable transportation for the city's children and received the wages and benefits which ensured industry stability. We take pride in being professionals who transport the children we pick up in a timely and safe manner and connect with the students on our routes. This stability was a result of the EPPs which were in school bus contracts, which ensured our fair wages and benefits, independent of the contractor the city hired.

In 2012, though, Mayor Bloomberg took EPP requirements out of school bus contracts, sending the school bus industry into chaos. In 2013, this led more than 8,000 school bus workers to enter a month-long strike against unfair labor practices, leaving 152,000 students, many of whom were special needs and some of whom were disabled, to be left without transportation to and from school. This was the first strike by school bus drivers in over 33 years, a direct result of the loss of job security from Mayor Bloomberg's decision.

Since then, the industry has continued its downward spiral, as inexperienced, underpaid, and under-trained bus drivers move the city's children to and from school each day. It has led to lower wages and fewer and fewer benefits, leading to massive turnover as experienced school bus drivers move into different industries. Now, this once-stable part of the city's infrastructure is close to collapse, with a huge shortage of drivers, particularly experienced drivers. As bus workers, thank you for calling on state lawmakers to reinstate EPPs to make sure that those of us who take care of the city's most vulnerable populations, are also taken care of. Thank you.

Sincerely,



Wanda Rosario Cartagena

My name is Elizabeth Flores-Amaya and I am an Associate Director of Community Impact at the Women's Sports Foundation. Since Title IX has become a federal law in 1972, much progress has been made in ensuring girls and women are afforded equitable opportunities through federally-funded programs yet there is much to be done from preventing sexual harassment and violence in schools to making sure that girls have access to **quality sports programming in a safe environment**. On behalf of the WSF, I am pleased to join the discussion today with the City Council Members and fellow advocates – about the **transformational** role that sport and physical activity play in shaping the lives of girls...

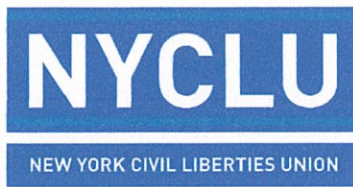
We know – from research – that sports matter as they have a lifelong impact on the lives of girls and women:

1. Sports participation improves physical health: reducing chronic diseases like obesity, heart disease, and diabetes
2. It improves psychological health: lowering depression, and raising self-esteem and confidence
3. It improves educational outcomes with better grades, and lower delinquency rates
4. It empowers girls with the confidence and skills to achieve, skills like perseverance, endurance, discipline and resilience.
5. And it advances careers and cultivates leaders: Girls who play sport have higher earning potential and are more likely to pursue careers in male dominated fields... In fact, **94% of women CEO's played sports in their youth**.

We also know from our Women's Sports Foundation research, "Teen Sport in America," that we still have a long way to go for gender equity. And who are the girls who are not playing? The greatest disparities are with girls in underserved communities, girls with disabilities, immigrant girls, African American, Hispanic and Native American girls who on average, enter sports at a later age, participate in lower numbers and drop out earlier than their white counterparts. I speak on behalf of our 150 plus community partners who provide free out of school programs when I say that we can do better in offering school-based sports participation opportunities for girls.

Despite Title IX being in place when I was in high school, my district lacked adequate sports programs. Today, more than 20 years after I was in high school, many girls, especially Hispanic girls like I once was and African-American girls **still lack access to school sports opportunities**. School-based athletic opportunities for girls in elementary and middle school are even less available. Although there are out-of-school girls' athletic options, most are unaffordable to girls and families who live in the community. As a parent one of my top priorities is to ensure that my daughter and girls like her have access to the benefits and life skills that sports have to offer regardless of her gender, the color of her skin and zip code.

Through the unifying power of sport, **we can change lives** by expanding opportunities for all girls, all women, in all sports. I urge you to do what's in your power to make sure New York City schools provide equitable access and opportunities for all girls and women to participate and thrive in a safe environment, free of bias and harassment! Thank you.



Abigail Delgado
NYCLU Teen Activist Project
Testimony on Title IX Coordinators, Respect for All
and Comprehensive Sex Education
City Council Hearing

Good afternoon. My name is Abigail Delgado and I am a senior at the American Sign Language and Secondary English High School. I am also a member of the New York Civil Liberties Union's Teen Activist Project, a youth organizing program with nearly 200 members focused on developing and engaging young leaders as activists in their schools and communities.

Did you know that 1 in 3 students has experienced sexual harassment? When I was younger, I experienced sexual abuse. Where was my Title IX Coordinator? It is that person's responsibility to make sure children feel safe and supported at school and free from sexual violence, but unfortunately, in my situation, I was let down not only by the Title IX Coordinator, but by the Department of Education. This experience changed my life completely. It made me fearful and cautious of my surroundings. I no longer wear skirts. I have had to deal with this trauma since a young age. Even now, I do everything I can to not let this experience define me. I am not afraid to speak up anymore.

Today, I am here to urge the Department of Education and the City Council to work together to increase the number of Title IX Coordinators in our public schools. One is simply not enough. There are 1.1 million students in the NYC public school system and surely one person cannot account for all of those students' experiences and issues. With only one person responsible for this job, how can students adequately identify this person and know how to reach them or file a complaint? There is no way that person can be in multiple schools at the same time. We need to have at least one Title IX Coordinator in every borough. One in each borough is a great start. We should aim for even more than that.

We need Title IX Coordinators looking after every child in school to make sure that our schools are not letting them down and are helping them to succeed. The Title IX Coordinator can work alongside

the Respect for All Liaison to ensure that bullying and harassment is reported and monitored. The Respect for All Liaison is a trained staff person that should understand how to respond to and report bullying and harassment. Why are they not working together? Let's identify ways for these two individuals to work together and make sure that all students' voices are heard. In order for this to happen, the Department of Education needs to make sure that students know who the correct Respect for All Liaison is. We just finished our annual survey of our peers and found that out of 594 respondents, only 17% knew who the correct person was. So if the Title IX Coordinator is supported by the RFA Liaison, there needs to be better transparency regarding who these individuals are.

Lastly, it is really important that students are taught comprehensive sexuality education that meets the National Sex Education Standards. It's great that we want to have these educators as people who students can come to, but we need to stop harassment before it even gets there. We need mandated sex education that teaches about consent and healthy relationships. It is my understanding that we have a task force right now that is monitoring how sex education is operating in NYC. Let's make sure sex education is comprehensive, inclusive, medically accurate and teaches about consent. This can make a huge difference.

We can make these changes and we can make them now. Let's work together to make sure all students feel safe and welcome at school. Thank you.



DIGNITY IN SCHOOLS

Title IX and Gender Discrimination Hearing Tuesday, April 30th

My name is Kate McDonough and I am the Director of the Dignity in Schools Campaign-NY, a multi stakeholder citywide coalition of students, parents, educators, organizers and advocates who work for education justice and an end to school pushout and the school to prison pipeline.

Due to the efforts of many over the years, there has been a focus on ensuring that young people, especially young people of color, are not pushed out of school. This has led to an increased attention on reducing the number of suspensions in schools. However, simply focusing on reducing suspensions alone is not enough. As we work to keep young people in school, we must also ask the question, is school an enjoyable place to be? Right now, 1 in 3 young people report being sexually harrassed in school and the majority of them stated that nothing was done about it. That is school pushout. It is not an enjoyable experience to have people consistently comment about your body, what you are wearing that day and touch you without your consent.

As the city determines what kind of budget we will have, it's important to keep in mind that you get what you pay for. Right now, there are more school safety agents than there are guidance counselors and social workers combined. We have one Title IX coordinator for 1.1 million students. We spend over \$400 Million on the NYPD's school safety division budget and only \$1.3 million on implementing restorative justice in schools. Budgets are moral documents and right now the city is signaling that they care more about criminalization than the supporting the success of our young people.

Now is the time to transform the school system by investing in things that young people want need and deserve. Now is the time to have a Title IX coordinator in every borough support office so that schools can get the tools they need to address sexual harassment and create cultures of consent. Now is the time to invest \$56.4 million in restorative justice so that it can be expanded citywide and schools can have the option to hire restorative justice staff or invest in their current restorative justice efforts. Now is the time to invest \$162.3 million a year for 5 years so that every school can have a guidance counselor and social worker at a ratio of 1:150. Now is the time to invest in our young people and divest from the harm the system continues to cause them.



**Testimony for the New York City Council
Title IX and Gender Discrimination Oversight Hearing
Committee on Education, Committee on Women and Gender Equity and
Committee on Higher Education**

Delivered by: Oumou Kaba, Youth Organizer/Young Women's Advisory Council
Girls for Gender Equity
April 30th, 2019

Good afternoon, Chair Treyger, Chair Rosenthal, Chair Barron and Council Members and staff of the Committee on Education, Committee on Women and Gender Equity and the Committee on Higher Education. My name is Oumou Kaba and I am 17 years old. I am a junior at Urban Assembly School for Global Commerce. I am a first generation high school student and I identify as an African activist. I am also a youth organizer with The Young Women's Advisory Council (YWAC) at Girls for Gender Equity who I am also here representing today. Girls for Gender Equity is an organization that teaches young women of color and gender non conforming young people of color political and social justice education and then supports us in community organizing and civic engagement to advance policy that affects us. GGE also supports us socially, emotionally, and mentally. On behalf of The Young Women's Advisory Council, I would like to thank you for having myself and my organization here. I really appreciate you taking the time to hear my voice, and through this, I know my voice matters.

I am testifying today because I want different communities to be aware of what girls of color like myself go through all the time in school and the trauma we have and can have because of this. The lack of Title IX coordinators in schools prevents us from feeling safe and being able to be ourselves in schools. When things happen to us, we're blamed for it and we have no one to report it to or go to for support. In my school, the School Safety Agents (SSA's) make girls feel very uncomfortable. I remember one day my friend and I were in the hallway on our way to class and one of the security guards stopped us and began to flirt and talk to us in a very non-consensual romantic way. He looked at us in a very sexual and objectifying manner. It made me feel like I was a piece of meat. He then tried to escort us to class even when we denied being escorted. This made my friend and I feel unsafe and confused. I felt like a sexual object and not a student and what left me feeling even more unprotected was that there was no one I could even share this story with. There was no one that would do anything. The people who were in my school to protect me, were trying to hurt me.



With the weather getting warmer, I also dread going to school because I know my administrators are going to police my body and dehumanize me. Last year, when summer rolled around and I wore jeans that had rips in them, my principal instructed one of the teacher's assistants to put cardboard on my legs to cover the holes in my jeans. I was told that I would be distracting boys even though no matter what I'm wearing, boys cat call me in the hallways everyday and no one does anything about it. My school condones rape culture and boys are always being catered to instead of understanding the perspectives of girls of color in school, they continue to victim blame us and shame us.

Title IX and Title IX coordinators are important to ensure that young people in NYC schools feel safe and protected. By hiring 7 full time trained Title IX coordinators in NYC and including this in the budget for 2020, girls of color and students of color like myself will be able to have an experience in schools that's more about what we're learning and less about what our bodies look like and what we're wearing. These are just a few stories that I have experienced and even fewer than what I know about and what my peers have experienced. With Title IX coordinators, there will be someone specific responsible for supporting us and who we can report to when we're experiencing gender-based violence and discrimination in our schools. Students who are most vulnerable to these traumas in schools will be able to rely on someone that is trained on how to help them.

I join organizations like GGE because it gives me a safe space to talk about the ways I've been a victim in school and how I can bring change to my school and community. I'm hoping that by testifying today, you take into consideration how much the lack of Title IX coordinators in schools directly affects us and how you can help to change that by fulfilling our budget ask. Please remember my stories as you are moving forward and making decisions that will impact myself and the other 1.1 million students in New York City who are being denied their safety everyday.

Thank you again for having me here today.

FOR THE RECORD



The Zonta Club of Brooklyn is the first club to form in the Centennial Biennium of Zonta International. Zonta International works to empower women and girls through service and advocacy, and has for decades supported strategies to implement Title IX.

As you know, Title IX of the Education Amendments Act of 1972 is a federal law that states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." It is an important Act that has worked to move women and girls into a more competitive position with their male counterparts, especially in the area of sports. The implementation of this law covers public schools, charter schools, and private schools. It covers any educational institution that receives federal funds.

But there are so many more areas that the law addresses. For example, in the area of sexual assaults, equality of pay and educational opportunities for teachers and students. It has served to level the playing field between boys and girls, men and women.

The Zonta Club of Brooklyn believes that a law passed needs to be properly implemented to create the change intended by the legislation. Implementation of Title IX requires adequate staff to ensure its intended implementation in New York City. One staff person is not adequate. We endorse the call for 7 staff to more appropriately implement this important law.

Presented by Leslie Wright, President, Zonta Club of Brooklyn
April 30, 2019

NOBODY'S VICTIM

FIGHTING PSYCHOS, STALKERS,
PERVS, AND TROLLS

CARRIE GOLDBERG

with Jeannine Amber



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To: All Dutton authors

From: Managing editorial

Date: March 19, 2019

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Nobody's Victim

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Thank you.

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NOBODY'S VICTIM

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For T.
(Now do you believe this book isn't about you?!)

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CHAPTER 4
GIRLS' LIVES MATTER

The first time I met Vanessa she looked like a zombie. Her cheeks were sunken and her dark eyes vacant as she shuffled into my office with her mother and toddler half brother in tow. I extended my hand to welcome her, and Vanessa gave me the limpest handshake I've ever felt. She was there in body, but everything about her—the way she slumped in her chair and barely made eye contact—told me she wanted to disappear.

Vanessa was only thirteen years old, so I opened with a few tween-friendly questions to get help her feel more at ease. I learned she liked Ariana Grande, Beyoncé, and shopping at H&M. She did well in school and science was her favorite subject. But home life hadn't always been easy. Vanessa shared that for more than a year the family had lived in homeless shelters after her mother escaped a violent relationship. Vanessa's mother is Haitian and speaks very little English. It was up to Vanessa to translate as they moved from place to place, applying for benefits and housing vouchers, and searching for a landlord

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NOBODY'S VICTIM

01 willing to take a government subsidy for rent. Life had been chaotic—
02 one time, all their belongings were stolen from storage—but over the
03 past few months, there'd been more stability. The family had settled
04 into an apartment, and Vanessa had enrolled in eighth grade at Spring
05 Creek Community School, a middle school in East New York, Brook-
06 lyn. She'd been there five months, the longest she'd been at any school
07 in years. Only Vanessa hadn't been to class for a while, she told me.
08 Not since the video of her attack had gone viral.

09 "Can you tell me what happened?" I asked.

10 Vanessa took a breath and stared at the floor. "It was on the last day
11 of school, before spring break," she began. A month and a half earlier,
12 on the afternoon of April 2, 2015, Vanessa had been waiting at the bus
13 stop near her school. She was there later than usual that day. After her
14 last class, Vanessa and some friends had gone on the hunt for one of
15 the friends' missing cell phones, then stopped at a corner store for
16 snacks. Her friends were headed home in a different direction, so they
17 parted ways and Vanessa crossed the street to wait for her bus. She
18 hadn't been standing there long when she noticed a boy walking in
19 her direction. She recognized him from English class, but they weren't
20 friendly, which made it all the more shocking when he approached
21 her and announced that the two of them should go somewhere and
22 have sex. Just like that, out of the blue. Vanessa told him no, but he
23 kept badgering her. Suddenly, he grabbed her by the arm and started
24 dragging her toward a nearby alley, away from the view of oncoming
25 cars. He undid her belt buckle and pulled down the blue pants of her
26 school uniform. She tried to get free, but he told her to stop struggling
27 unless she wanted to see what would happen if she didn't. Straddling
28 her waist, he turned Vanessa onto her stomach, on the cold concrete,
29 and sodomized her. The pain was excruciating; he kept telling her she
30S wasn't doing it right. Then he flipped her over, tried to penetrate her
31N vaginally, gave up, and demanded she perform oral sex. Again she told

GIRLS' LIVES MATTER

him no. He grabbed her by the head and shoved his penis in her mouth.

When he was done, the boy—who was thirteen at the time, like Vanessa—zipped up his pants and left her in the alley. She could hear him on his phone as he walked away telling someone on the other end, “Yeah, I got her to do it.” Vanessa pulled on her clothes and ran to the bus. She had eleven missed calls from her mother, who’d been expecting Vanessa to meet her at a hair salon. Vanessa cried the whole way there.

When Vanessa’s mother saw her, she asked why her daughter was so disheveled. But Vanessa didn’t tell her what happened. She didn’t tell anyone. She was afraid her religiously devout mother, who’d warned Vanessa countless times to stay away from boys, would be angry. Even as Vanessa haltingly recounted the story of her sexual assault in my office, her mother repeatedly interjected to fret about Vanessa’s virginity, wondering aloud if it could still be considered intact.

Spring break lasted ten days. The whole time, Vanessa barely left her room. She couldn’t eat or sleep. She lost six pounds from her already thin frame. Her mother kept asking what was wrong, but Vanessa couldn’t bring herself to put into words what had happened in that alley. The attack was the most awful thing she’d ever experienced. Never in her life had she felt so ashamed. But when she went back to school things only got worse.

Every so often the news cycle is filled with horrific reports of a teacher who had sexually assaulted his or her young student. The stories are sickening, and inspire collective outrage over the abuse of power and violation of trust. But what many people don’t realize is that the greatest threat of sexual assault among students in K-12 schools comes not from teachers, coaches, or administrators. On and around school

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grounds, students are most at risk of being sexually assaulted by their peers. For every report of sexual violation committed by an adult on a child at school, there are seven incidents in which the perpetrator is another student, according to a groundbreaking analysis of state education records and federal crime statistics conducted by the Associated Press in 2017. In four years, between the fall of 2011 and the spring of 2015, the AP reported seventeen thousand incidents of peer-to-peer sexual assaults. These figures do not include consensual acts, the AP notes, or even incidents reported as "sexual harassment." These are the most serious violations, including rape, sodomy, rape with a foreign object, and forced groping.

While the vast majority of sexual assaults on children happen in their homes—with babysitters, cousins, neighbors, stepparents, and family friends—the second most common place for sexual violations of children is in and around schools. These attacks happen in stairwells, lunchrooms, parking lots, school buses, and empty classrooms—anywhere kids are left unattended—and no school is immune. Student-on-student sexual assaults have been reported at wealthy suburban schools and under-resourced inner-city schools alike.

The impact of a sexual assault can be earth-shattering, especially for adolescents who may be too frightened or embarrassed to tell anyone, seek counseling, or find support. In addition to the psychological symptoms associated with trauma—depression, anxiety, guilt, shame, eating disorders, and suicidal thoughts—sexual assaults can also lead victims to engage in high-risk behavior such as binge drinking or self-medicating, which actually increases a victim's risk of further assault. Children who've experienced a rape or attempted rape as adolescents are fourteen times more likely to experience a rape or attempted rape in their first year of college, according to the National Center for Victims of Crime.

And no child is safe, no matter how young. Of the seventeen

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thousand incidents of student-on-student sexual assault reported by the AP, 5 percent happened to children as young as five or six years old. Forty percent of these youngest victims were boys. By the time kids reach middle school, the rate of peer-on-peer sexual assaults rises dramatically and girls are overwhelmingly the most frequent targets. Eighty-five percent of all victims are girls.

Vanessa dreaded going back to school when spring break was over. She worried she'd see her attacker and feared what he might say. But it wasn't until she'd been back at school a few days that she first heard the laughter. Vanessa was in the lunchroom. She noticed a group of boys at the next table huddled around a phone. They were pointing at the screen and cracking up. One of them exclaimed, "Yo, she did *that*?" Another boy glanced up, noticed Vanessa, and snickered. He called her a thot (slang for "slut"), picked up the phone and shoved it in her face. On the screen was a video of Vanessa getting raped. Vanessa had no idea her attacker had taped the assault. She fled to the bathroom, locked herself in a stall, and wept.

Vanessa's friends urged her to tell the guidance counselor about the assault, and offered to go with her to the meeting. On April 15, three days after she'd returned to school, Vanessa and her friends went to report the crime. The counselor asked Vanessa if she'd agreed to the sex. She said she hadn't. The counselor suggested Vanessa try to put the incident behind her and move on with her life. But how could she?

Everywhere Vanessa went—in Spanish class, in math, in English—someone had something to say about the video. They pointed at her, laughed, and called her names. In the school hallways, twelve- and thirteen-year-old boys would pantomime sex acts, proposition her, make lewd gestures, ask her details about the assault. One called out, "I wish it was me." She overheard another boy ask her attacker if he

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wore a condom and, if so, what brand. Vanessa had been sexually assaulted and filmed without her consent, but according to the unwritten rules of middle school, the boy who raped her was a hero and she was a ho. Vanessa spent more and more time hiding in the girls' bathroom.

On April 24, Vanessa was summoned to the principal's office. It had been more than three weeks since the assault. By then the video was circulating all over school. To Vanessa's horror, the video of her rape had also made its way to other middle and high schools in the city. Her friends' older siblings had seen it. In the principal's office, the school's resource officer met with Vanessa first. He'd seen the tape, he said, and asked Vanessa why she hadn't done more to fight off her attacker. "Have you ever been in a fight before?" he inquired. Vanessa said once she'd gotten into a scuffle with a girl from school. "Why didn't you fight him like that?" the officer wanted to know.

When the principal joined the meeting, she said she'd also seen the tape. She asked Vanessa if the sex had been consensual. Vanessa told me she didn't even know what the word meant.

Vanessa's mother was called to the school; so were the police. The cops took Vanessa and her mother to the 75th Precinct. When they arrived, the first person Vanessa saw was the boy who'd attacked her. He was already there with his parents. He looked up as Vanessa walked in and smirked. The officers asked Vanessa about the incident and warned her that if she pressed charges against the boy, there was a good chance that the boy's parents would press charges against her, too.

"For what?" she asked, confused.

"Underage sex," the officer said. Vanessa didn't understand what was going on. The officer was acting like *she* was the one in trouble. He kept pointing out that the boy was only thirteen, and asking if she was *sure* the two of them weren't friends before the attack. Eventually, Vanessa and her mother went home.

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A few days later, on April 27, Vanessa's mother returned to the school to ask about the possibility of Vanessa transferring to another school. The vice principal said she'd make arrangements for a safety transfer. In the meantime, she said, Vanessa should stay home since her presence at Spring Creek would only "make things worse."

"Wait," I interrupted, when Vanessa got to this part in the story. "Did anyone from your school refer you to counseling or legal services?"

"No," she answered.

"So you reported your assault," I said, slowly, "and then you were told not to come to school?"

Vanessa nodded yes. That's why she and her mother had come to see me, she explained. Her mother was confused by the bureaucracy and wanted help getting her daughter back into school. But I was alarmed by what I was hearing: a child had been violently assaulted, then humiliated, bullied, and shamed by her classmates. In response, school administrators had effectively suspended her for reporting her abuse, denying her the right to an education. This is more than egregious treatment of a young victim of sexual assault; it's also against the law.

According to Title IX of the Education Amendments, when a student makes a report of sexual violence to a school administrator, a number of things are supposed to happen: the school is required to conduct a thorough and impartial investigation, protect the victim, and provide accommodations so the victim can continue his or her education in a safe environment. In addition, the school is supposed to take steps to prevent retaliation against the student for making the report.

When Title IX first became federal law in 1972, it wasn't intended to combat sexual misconduct at school. Originally, the goal of lawmakers was much more rudimentary. Title IX was a way to ensure that girls and women would not be discriminated against at schools

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because of their gender. Specifically, the thirty-seven-word clause mandated that women and girls must have equal access to education and programs offered at all schools that received federal funding, which includes K-12 public schools and most colleges and universities. At the time, only 8 percent of American women had college degrees. Some colleges refused to admit female students; others had quotas, or higher admissions standards, for girls. Certain colleges and universities banned women from particular programs, like medicine, entirely. Title IX made these practices illegal, which changed everything. In 1972, men went to college at approximately twice the rate of women. By 2017, women were outpacing men on campus, making up more than 56 percent of students enrolled in colleges nationwide.

Title IX also ensured that girls and young women had access to the same athletic programs as their male counterparts, revolutionizing American sports. Between 1972 and 2011, the number of high school girls playing sports soared from less than three hundred thousand to more than three million. When Jackie Joyner-Kersey was a child, the only athletics available to her was cheerleading. After Title IX passed, she was able to join her school's track team. She went on to compete in four consecutive Olympic games, breaking world records in the heptathlon and winning three gold medals, one silver, and two bronzes. *Sports Illustrated* named Joyner-Kersey the greatest female athlete of the twentieth century.

Title IX was a game-changer for women and girls. It made available opportunities we now take for granted, like equal access to college or the right to play high school soccer on the same field as the boys. But it took more than two decades from the time Title IX was enacted before the Supreme Court, in two landmark decisions, determined that being sexually harassed, molested, or assaulted at school impacted girls' ability to access education, and therefore fell under the

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protection of Title IX. In 1999, the Supreme Court heard *Davis v. Monroe County Board of Education*, a case involving a fifth grader whose school repeatedly ignored reports that the girl was being sexually harassed by another student, creating a hostile and abusive environment. The court's ruling established that colleges, universities, and school districts receiving federal funding that respond to reports of sexual misconduct with "deliberate indifference" can be held responsible under Title IX and may be sued for damages.

Title IX became a powerful tool in combating sexual assault, especially on college campuses, and led to some notable legal actions. In 2007, for instance, a federal appeals court ruled that the University of Colorado Boulder (CU) could be held responsible for the 2001 rapes of two female students that took place during football recruitment season, following years of widely reported sexual misconduct involving the team. According to the ACLU, "The court held that . . . the risk of rape during recruiting visits was so obvious that CU violated Title IX by ignoring this risk." The school was sued and agreed to pay almost \$3 million in damages to the victims.

Under Vice President Joe Biden's stewardship, during the Obama administration Title IX enforcement became a priority. The White House established the Task Force to Protect Students from Sexual Assault, offering colleges and universities resources and recommendations to combat sexual misconduct and comply with Title IX. And, in 2011, the US Department of Education's Office for Civil Rights (the agency that handles Title IX complaints), issued a nineteen-page "Dear Colleague" letter reminding schools of the requirement to investigate and address reports of sexual assaults. The letter also detailed a variety of ways schools can respond to victims, such as connecting them to counseling, and noted that failure to comply with Title IX might cost a school its federal funding. In response, colleges spent

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millions of dollars putting in place Title IX coordinators, lawyers, investigators, caseworkers, survivor advocates, and other trained professionals to deal with complaints. In 2011, the Association of Title IX Administrators (ATIXA) did not exist. By 2016, the organization boasted five thousand members.

But while colleges attempted to adhere to Title IX regulations—with varying degrees of success—in many K-12 school districts across the county, administrators did the bare minimum when it came to compliance, if they paid any attention at all. In 2017, only eighteen states reported having any requirements for training K-12 teachers, school administrators, or students about peer-on-peer sex assault, according to the Associated Press. Not surprisingly, the majority of high school guidance counselors reported feeling ill-equipped to address reports of abuse, according to Break the Cycle, a national organization aimed at reducing dating violence among teens.

Instead of offering students care and counseling, school administrators are often confounded by reports of sexual assault. They minimize, victim-blame, interrogate the victim in the presence of their alleged attacker, and dismiss accusations based on nothing more than a denial by the accused. Sometimes they deliberately try to cover up the crime. In an interview with the Associated Press, Dr. Bill Howe, a former K-12 teacher who spent seventeen years overseeing Connecticut's compliance with Title IX, explained the problem as: "No principal wants their school to be the rape school, to be listed in the newspaper as being investigated. Schools try to bury it."

Sometimes students who report sexual harassment and assault are deliberately pushed out of their schools. AP reporter Emily Schmall, who worked on the news organization's yearlong investigation into peer-on-peer sexual violations in K-12 schools, said on a May 2017 episode of *Reveal* podcast, "[Victims] are suspended or they're ex-

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pelled or they're forced to transfer to another school, because the schools won't accommodate them in a way that allows them to go to school without being terrified of an assault happening again." This is exactly what happened to Vanessa.

Vanessa had been told by her principal to stay out of school until things calmed down. But there had been no follow-up. No one told Vanessa or her mother when she could return to school. They didn't even forward her any homework. By the time she and her mother came to see me, Vanessa had been out of school for weeks.

My first meeting with Vanessa and her mother lasted almost six hours. When they got up to leave, it was close to midnight. "I know this is hard," I told Vanessa as I walked her to the door. "I promise you won't feel like this forever. I'm going to do everything I can to help you. You aren't alone."

I stayed in my office until two a.m., trying to figure out a plan. This was my first sexual assault case, and Vanessa was my youngest client. I had never done anything like this before. All I knew for sure was that my client was in crisis. My first priority was getting her care.

Over the next week I filled an entire legal pad with notes. I called almost two dozen providers looking for a therapist who took Vanessa's mother's Medicaid and a trauma-informed pediatric gynecologist. I also made countless calls to the 75th police precinct to find out the status of the case. I learned the police had neither detained the boy nor charged him with a crime. Instead, they'd gone to his house for a "knock and talk," which is basically when cops try to scare the shit out of you with a stern warning. People often assume when police learn a crime has been committed and there's a suspect, they automatically make an arrest. But that's not how it works. Officers can use their

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discretion. And in this case, they thought giving the offender a good talking-to was an adequate response to a reported rape of a thirteen-year-old. This type of scenario is shockingly common. According to federal crime data compiled by RAINN, the nation's foremost organization devoted to combatting sexual assault, out of 230 reported rapes, only forty-six lead to an arrest and only five cases result in a conviction.

I also sent Freedom of Information requests to the New York City Department of Education looking for any information relating to Vanessa's case, and sent demand letters to DOE's lawyers insisting they preserve all related emails and internal writings. Meanwhile, I was also working my way through the labyrinth of DOE requirements to get Vanessa enrolled in another school, which took a couple of weeks. It turned out her principal had not even initiated the process.

I also found Vanessa a therapist. But even after she began counseling, she admitted to me that she frequently felt suicidal. I gave her my cell number and told her she could use it whenever she needed to talk. She'd text me sometimes, late at night, telling me she was having "bad thoughts." I'd call her right back. One time she was in the bathroom, fighting the urge to drink a bottle of bleach. "I can't take this anymore," she said, weeping. We talked a lot in those first few months, sometimes spending hours on the phone. If Vanessa was especially distraught, I would conference in the Suicide Prevention Lifeline so I could have an expert on the call. (Years after I'd started working her case, Vanessa texted "SOS" while I was in Los Angeles, in the writers' room for the Netflix teen drama *13 Reasons Why*, consulting about a revenge porn plotline. I excused myself and called her back. Vanessa was frantic. A girl at her new school was threatening to beat her up over a boy. The girl said she knew all about Vanessa's tape. I returned to the meeting and delivered a diatribe about how teenagers can never

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escape a sexual assault. Even when they have doctors, lawyers, and therapists helping them, the kids at school won't let them move on.)

It wasn't long after I found Vanessa a therapist that our legal strategy began to take shape. Of course we were going to sue the school in civil court. That was a given. But I thought we could strengthen our case by first lodging a complaint with the federal Department of Education Office for Civil Rights (DOE-OCR). Vanessa's case was such a clear violation of Title IX, I was sure they would rule in our favor, which would only bolster our position when we filed a civil suit down the road.

In November 2015, I filed a Title IX complaint with the DOE-OCR. I demanded an investigation into the school and the district's noncompliance with the federal law. I also included demands for systemic improvements that were very important to Vanessa. For instance, we demanded that all New York City schools be ordered to implement comprehensive policies for responding to students' reports of sexual misconduct, including the distribution of nonconsensual sexual images. "These policies and procedures must be such that they are likely to prevent future harassment and retaliation against complainants who report sexual abuse and harassment," I wrote in the complaint. Vanessa wanted to make sure that what happened to her didn't happen to anyone else.

I knew this couldn't have been easy for Vanessa. After a sexual assault, fighting back can feel like getting dragged into a war you didn't sign up for. And she wasn't battling only her attacker; she was going up against the largest public school system in the country. I was so proud of her. "You're a gladiator, a goddess, a warrior," I told her during one of our late-night calls. "What you are doing is so courageous. You're my hero."

On the other end of the line, Vanessa giggled: "Thanks, Ms.

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Carrie." She'd been a zombie when I first met her. Slowly Vanessa was coming back to life.

When I first started working on Vanessa's case, I assumed the way she'd been treated by her school's administration was an anomaly, an exception to how reports of serious sexual assaults are usually handled by public schools. But as months went by, I made a shocking discovery. Vanessa's mistreatment wasn't an outlier. What happened to her is part of an insidious pattern of punishing victims at New York City schools.

I first met "Destiny," a fifteen-year-old disabled student from Teachers Preparatory High School in Brownsville, Brooklyn, after her mother was referred to me by a law student at one of New York University School of Law's free legal clinics. Destiny has a severe developmental delay, loves chocolate chip cookies, and is fascinated by luxury cars, especially Mercedes. One afternoon in February 2016, Destiny was coaxed into an unsupervised stairwell at her school by a group of seven boys. Two of them forced Destiny to her knees and made her perform oral sex on them, while their friends watched and stood guard. A few days later, the boys told Destiny they were going to do it again. She complained to a school guidance counselor, who made a report of the incident. Destiny and one of the boys who'd watched the assault were called to the vice principal's office. The VP interviewed Destiny and the boy, and determined that the behavior had been "consensual." He then suspended Destiny for six days for engaging in sexual activity on campus, which is against school rules. Just like Vanessa's case, Destiny's assault was not properly investigated, no attempts were made to ensure she was safe from further attacks, and she was denied her education after she reported the assault.

After I took the case and sued the city, Destiny's assault was written about in the *New York Daily News*. Within days, another student

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came forward to reveal that she, too, had been sexually assaulted in that same stairwell, raped by a fellow student in 2010. In that case, the city had paid a \$500,000 settlement to the victim, who for years suffered from PTSD as a result of the attack. I was infuriated when I learned that the assault had happened under the same vice principal who was now punishing Destiny. I became convinced that the school's assertion that Destiny had engaged in "consensual sex" was actually an attempt to cover up that another assault that had taken place in the same stairwell, in the same school, on the same administrator's watch. I immediately amended our suit and doubled the amount of money we were demanding the city pay.

A few months after I started working with Destiny, I met "Kai," an eighth grader at Brooklyn's Middle School 584. In November of 2015, Kai had been tackled by two boys in a school hallway. One boy punched her in the vagina, then jumped on top of her and started simulating sex while the other boy slapped her in the head. One of her attackers was suspended for a month. When he returned to school, Kai was forced to see him during three classes and the lunch period they had in common. Kai started having anxiety attacks. Her mother requested a safety transfer to another school. But Kai was denied placement, a blatant violation of her Title IX rights for accommodations. It took Kai's mother almost two months traversing the bureaucratic maze of New York's public school system to find another school that would take her traumatized daughter.

Within one year, I was representing three clients between the ages of thirteen and fifteen, at three separate public schools, all with similar stories of sexual assault followed by formal or informal school suspension after the victims reported the attacks. But that's not all my youngest clients have in common: Vanessa, Destiny, and Kai are all girls of color. These cases aren't only about gender discrimination; they are also about race.

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In my line of work, it's impossible not to be aware of the impact of race on who gets considered an "innocent victim" and where we place our compassion and concern. Every day, I see the disparity play out in the way my clients, and others, are treated by law enforcement, school officials, the public, and the press. In sexual assault cases, for instance, white women are often seen as deserving protection in a way that women of color, in particular black women, are not. Even when racial biases are not openly acknowledged or spoken about, they exist below the surface, permeating our beliefs and behaviors. For decades, researchers have studied the effects of assumptions—called unconscious bias—we make about individuals based on their race, ethnicity, or other identities. One famous study showed that résumés from fictitious job applicants with white-sounding names (like "Conner," "Heather," or "Harrison") were offered follow-up interviews 50 percent more often than applicants with black-sounding names (like "Jamal," "Keisha," or "Shaquan"). Other research found medical professionals assumed black people were more likely to abuse pharmaceuticals and were less sensitive to pain than their white patients and routinely prescribed them less pain medication as a result, even when the patients were seriously ill children. A meta-analysis of forty-two studies on shooter bias found that individuals were quicker to shoot at targets depicting an armed black person than an armed white person. And the US Government Accountability Office found, in 2018, that teachers in K-12 schools were more likely to suspend black boys than white boys who committed the same infractions. This bias impacts children as soon as they enter the school system, according to the report. Black children make up 18 percent of preschool enrollment, but 48 percent of suspensions or expulsions.

When it comes to faulty assumptions adults levy against black

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girls, there is perhaps no study more elucidating than Georgetown Law Center on Poverty and Inequality's 2017 report *Girlhood Interrupted: The Erasure of Black Girls' Childhood*, which looked at adults' perceptions of black girls between the ages of five and fourteen. Researchers administered questionnaires to hundreds of adults from various backgrounds, ostensibly asking about child development in the twenty-first century. None of the participants knew the real purpose of the study. Instead, they were randomly assigned surveys that measured their attitudes about either white or black girls. Researchers found adults were more likely to view black girls as "more sexually mature" than their white peers, and also more knowledgeable about "adult topics." Adults also regarded black girls as more "aggressive," and less in need of "nurturing, comfort and support." The study's authors note that adults frequently ascribe to black girls attributes of grown black women. Black girls are seen as hypersexual—a toxic image of black women that has persisted since slavery days—and, consequently, less in need of care. The phenomenon, called "adulthoodification," can have a profound effect on the way black girls are treated, especially by law enforcement and in schools.

"What we found is that adults see black girls as less innocent and less in need of protection as white girls of the same age," Rebecca Epstein, executive director of the Georgetown Law Center on Poverty and Inequality told the *Washington Post*. The compelling report reveals the insidious and deeply damaging effects of the adulthoodification of black girls. "[It's] a form of dehumanizing," the authors argue, "robbing black children of the very essence of what makes childhood distinct from other developmental periods: innocence." Writing about the study in the *Washington Post's* parenting blog, African American mother Jonita Davis noted wryly: "Any black mother could've told the researchers that, from the time they are talking and walking, little black girls are deemed 'fast,' a word synonymous with promiscuity."

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When Destiny and Vanessa reported their assaults to school officials, there was no doubt the sex happened; no one ever suggested the girls were “making it up.” The question in the minds of the administrators was about consent. In other words, maybe the girls had *wanted* it. The resource person at Vanessa’s school asked her repeatedly, why, if the sex hadn’t been consensual, she hadn’t done more to fight off the boy? He was clearly skeptical of Vanessa’s complaint.

After Destiny was assaulted in a stairwell at her school—an assault witnessed by multiple students—the vice principal of her high school not only deemed the act “consensual,” he also sent a letter home to Destiny’s mother, placing the blame squarely at her daughter’s feet: “This behavior constitutes a danger to the health, safety, welfare and morals of your child and others at school.” The vice principal was holding Destiny—who has an IQ of 71—responsible for her own assault, and blaming her for being a bad influence on the entire student body. For the record, Destiny is unflinchingly shy and had an unblemished school disciplinary record. Her best—and only—friend was her little brother.

The fear of being met with skepticism keeps many women from reporting their sexual assaults. For girls and women of color, the prospect of facing challenges to their credibility must feel insurmountable. Some experts estimate that for every black woman who reports her rape, at least fifteen stay silent about their assaults. This is three times as high as the nonreport rate among white women rape survivors. Other studies show that even when black women do step forward to report sexual assault, they are less likely to be believed than their white counterparts. And if the offender is brought to justice, the disparity is likely to continue: According to a review of relevant studies conducted by Brandeis University’s Feminist Sexual Ethics Project, the adjudication of rape cases can vary significantly according to

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the race of the victim. Juries are more inclined to see black victims as less credible and their assaults as less serious. When presented with various rape crime scenarios, mock jurors were significantly more likely to find a defendant guilty when the victim was a white woman, compared to scenarios in which the victim was portrayed as black.

In early 2019, Lifetime aired a scathing six-part docuseries, *Surviving R. Kelly*, which detailed the middle-aged R&B star's history of alleged serial sexual predation on underage black girls. Scores of victims, many of whom were first targeted by the singer while they were still in high school, shared anguished accounts of being groomed, manipulated, beaten, and sexually enslaved by Kelly. Almost as shocking as the scope of the abuse is the fact that Kelly's behavior had been allowed to continue, largely unchecked, for decades. Kelly's conduct had been the subject of credible press reports, was widely discussed in the music industry, and hotly debated among his fans. It was no secret. But where was the public outrage? In 2017, revelations about the sexual predation of dozens of powerful men, like Harvey Weinstein, Kevin Spacey, and Matt Lauer, led to widespread condemnation; the men were pushed out of their respective industries, fired, shunned, and cancelled. Yet, somehow, Kelly evaded a #MeToo moment of his own. It wasn't until weeks after the docuseries aired that Sony Music, R. Kelly's record label, finally dropped the multi-platinum-selling artist from their roster. The obvious question—and one posed repeatedly in the wake of the series—is would there have been more of an outcry if Kelly's victims had been white?

In the final episode of *Surviving R. Kelly*, Tarana Burke, the founder of the #MeToo movement, notes that the distraught parents of at least two of Kelly's victims had been trying to get the attention of media and law enforcement for years: "But [public perception is that] black girls don't matter," said Burke. "They don't matter enough."

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NOBODY'S VICTIM

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The Title IX cases I've brought on behalf of my clients against New York's Department of Education are about holding the city accountable for the value it places on black girls' lives.

In June 2016, six months after I filed Vanessa's Title IX complaint with the Department of Education's Office for Civil Rights, I filed two more complaints on behalf of Destiny and Kai. Since together these cases demonstrate a clear pattern of race-based neglect, I included race as another form of discrimination my clients had endured at school. I called on the federal Department of Justice, which has concurrent authority with the US Department of Education to enforce Title IX, to conduct a joint investigation into the city's school system. "It is our strong belief that these incidents are indicative of institutionalized deliberate indifference to the needs of black female victims of sexual assault 'educated' by the New York City Department of Education," I wrote in my complaint. "Our clients' tortured experiences prove that the New York City Department of Education feels entitled to run a free-wheeling bureaucracy exempt from state, federal, municipal, and administrative laws aimed at protecting our most vulnerable students."

In my demand for an investigation, I specifically requested the DOJ review New York City's Title IX resources, which were woefully inadequate. By federal law, all school districts, colleges, and universities receiving federal financial assistance must designate at least one employee to act as a Title IX coordinator, overseeing compliance with the law. As I noted in my complaint to the DOE-OCR, Harvard University has one Title IX employee for every 420 students. By comparison, New York City's Department of Education—which serves more than one million kids—has only one Title IX coordinator. One. Total.

When I opened my firm, the idea of representing clients who were still in middle school wasn't even on my radar. But by 2018 I'd filed seven Title IX complaints with the US Department of Education

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Office for Civil Rights, including five on behalf of middle and high school students who were sexually violated by their peers, then shamed and blamed by the school officials who were supposed to be protecting them. I've had more K-12 Title IX complaints investigated by the federal office than any other litigator in the nation.

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Vanessa's case is one of the most meaningful I've handled at my firm. Not only because it put the entire New York City Department of Education on notice, but also for a more personal reason: Vanessa helped save my firm.

Before we met, in May of 2015, I was teetering on the edge of financial ruin. I'd been in practice less than a year, and was running my business into the ground. Back then, I had a few clients and I was representing almost all of them for free, including Vanessa. In the two months after taking her on as a client, I'd made less than \$4,000 in revenue. My only advertising strategy, if you can call it that, consisted of tweeting feverishly about revenge porn and writing dazzling opinion pieces that ended up on my blog, which nobody read. In my free time, I created a map on my website that showed the revenge porn laws in every state, which I updated religiously. About a month after I opened my practice, *Brooklyn* magazine published an article in which they referred to me as a "revenge porn expert." I got a few clients after that. But not enough. Plus, I'd offered Adam, my intern, a full-time job as soon as he passed the bar, which he was scheduled to take that July. I realized, with a knot in the pit of my stomach, there was no way I could pay him. I couldn't even pay myself.

And then there was the matter of office space. I held my first meeting with Vanessa and her mother in my tiny office in the shared workspace I rented in Dumbo. But by the end of that summer, it had become clear that I was going to have to move. At the time, I had an

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order of protection against my psycho ex, but it was about to expire, and I was scared. The building in Dumbo didn't feel safe. It was on a desolate street and the front door lock was always broken. Sometimes I'd still be working at two a.m. I felt exposed in an office with glass walls, where anyone could come in at any time of the night and find me all alone.

I hired a real estate agent and asked him to find me the cheapest office space in Brooklyn with twenty-four-hour security. He showed me a place on the twenty-fifth floor of a pre-war building directly across the street from where I used to work at the Vera Institute of Justice. The space had huge windows with spectacular views of the Hudson River. Other than that, it was a dump, with dingy, low-slung ceiling tiles, peeling paint, and stained puke-green carpeting. And it was way more than I could afford. But I had no choice; I had to feel safe. "I'll take it," I told my agent, with the caveat that the landlord agree to strip the paint, remove the carpet, and take down the ceiling tiles before I moved in. Then I went to the gym and took out my anxiety on a punching bag.

Looking back, I don't know what I was thinking. I was charging blindly ahead, fueled by Diet Mountain Dew and adrenaline, with no concrete plan for sustainability. Every meeting with Vanessa left me feeling guilty and ashamed because I knew my firm wasn't going to survive. I had to get my shit together, but I didn't even know where to start. They don't teach you how to run a business in law school.

Luckily for me, the landlord agreed to do the renovations, which bought me some time. In October, a few months before I was set to move into my new office, I attended the New York City Bar Association's annual conference for small law firms. There were a bunch of lectures on topics like social media for attorneys, and booths selling management software and malpractice insurance. I wasn't planning on getting much out of the conference. I'd gone with my best friend,

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Susan, who was opening her own firm. But while there I went to a presentation led by a rep from a law firm management organization. He was gesticulating wildly and using decidedly unprofessional language, like "shit" and "asshole," which caught my attention, in a good way. The rep was admonishing small law firm owners, like myself, for having a poverty mind-set. He said we acted like martyrs, in constant competition with one another over who put in the longest hours, got paid the least, and was the most miserable. Then he made an outrageous pronouncement: in a year and a half, he said, a law firm should be able to become a million-dollar company. It sounded preposterous, like some kind of scam. But the longer he spoke, the more excited I became. I was vibrating in my chair.

A few months later, Susan and I flew out to Malibu for our first law firm management conference. Over a weekend of back-to-back lectures on everything from cash flow projections to developing an owner mind-set, I absorbed the kind of life-changing lessons that make you wonder how you ever managed before. The first thing I learned is that I was doing my clients a horrible disservice. I was promising them a solution, but not creating a business that would allow me to actually deliver. It seems obvious, but the realization hit me like a ton of bricks. I kept thinking about Vanessa. Who would I refer her to if I went out of business? Handing off her case wasn't an option; I had to keep my firm afloat. I had to be strategic, analytical, and disciplined. I had to think about sales, marketing, and financial controls. If my ultimate goal was to help the maximum number of people, then I had to grow my business and make it profitable so I could hire more attorneys. If I wanted to run a company, I had to be a boss.

I also learned it takes a certain confidence to turn a business around. You have to believe you're entitled to success. But that didn't come easy for me. Ever since I opened my firm, I'd felt like an imposter. I hadn't done particularly well in law school, and I guess part of

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01 me had resigned myself to a life of professional mediocrity. I didn't
02 think I could do Big Things. But then I met Vanessa. Her case was
03 bigger than anything I could have imagined. We were fighting the
04 entire fucking city of New York.

05 I came back from the conference and started to hustle. I devoured
06 self-help books and small-business manuals. I learned how to write a
07 business plan and a budget. I put systems into place and learned how
08 to delegate work so I could hire more staff and not do every single
09 thing myself. I learned how to work on my business and make it grow.
10 Within a year, I'd hired a receptionist, another associate lawyer, and
11 a marketing person. By 2016, I'd increased my revenue by 400 per-
12 cent. In 2017, Law Firm 500 declared my firm the fastest growing in
13 the country. In three years I'd increased my revenue by almost 2000
14 percent. I don't know if any of this would have happened if I hadn't
15 been so scared of failing my youngest client. I got my shit together
16 because I couldn't stand the thought of letting Vanessa down.

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19 In February 2017, billionaire and Republican mega-donor Betsy De-
20 Vos was confirmed as the Trump administration's secretary of educa-
21 tion. One of DeVos's first acts of power was to rescind Obama's Title
22 IX guidelines, which she called "a failed system." Survivor advocates
23 are no fans of DeVos. But you know who loves her? Guys who've been
24 accused of rape. Shortly after taking office, DeVos met with various
25 men's rights activists for guidance on how best to investigate sexual
26 assaults on campus. Many men's rights activists believe countless in-
27 nocent men's lives are being ruined by the scourge of false rape accusa-
28 tions plaguing our nation's schools. (In fact, some experts estimate
29 that false allegations account for less than 1 percent of reported rapes.)
30S Arguably, a far greater problem is the vast majority of rapes that are
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never reported. Rape is the most underreported of all crimes, according to the National Sexual Violence Resource Center. On colleges campuses more than 90 percent of sexual assault victims do not report the crime.

After almost two years in office, DeVos finally unveiled a proposal for a new set of Title IX guidelines. Her sweeping overhaul lessened liability for colleges, and gave new rights to the accused, including the chance to cross-examine their accuser. Advocates, myself included, disagree vehemently with the notion that justice will be best served by allowing victims to be interrogated by their attackers. In fact, the initiative seems like a particularly cruel deterrent, designed to keep victims from coming forward and reporting their crimes.

Once DeVos took the helm at the DOE, I changed strategies. Instead of aggressively pursuing Title IX investigations, I turned my attention to filing civil suits on behalf of my clients without waiting for a finding from the DOE's Office for Civil Rights first. In January 2018, I filed a civil lawsuit against the city of New York on behalf of Destiny, my client who'd been sexually assaulted by a group of boys in her school stairwell. Six months later, on a gloriously sunny day in June, we reached a settlement; the city agreed to pay Destiny \$950,000.

I know the money will never compensate for Destiny's pain: she may carry the weight of what happened to her in that stairwell forever. But the money will make her life more comfortable, which is what she deserves. After the judge awarded the settlement amount, Destiny and her mother came to my office for fancy cookies to celebrate. The money is going to be paid out to her over many years. It's enough for Destiny to take care of her family and get herself something nice, too. I asked her if she had anything special in mind. She beamed and told me she wanted to take her mother and brother to Disney World.

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In July 2018, on Vanessa's behalf I filed a civil lawsuit against the City of New York, its Department of Education, the city's schools chancellor, and the principal of Vanessa's middle school. We are suing these entities and individuals for, among other infractions, violating Vanessa's right to education as stipulated in Title IX of the Education Amendments Act of 1972 and Title IV of the Civil Rights Act of 1964. We are also suing for their negligence in breaching their duty to protect a student in their care and intentional infliction of emotional distress. My client was harmed; someone needs to pay.

When Vanessa walked into my office three and a half years earlier, she was a shattered child, as lifeless as a zombie. Fighting back helped her gain back control. Three months after we sued the city, Vanessa spoke publicly about her assault for the very first time. We were at a protest at city hall organized by the Brooklyn-based advocacy group Girls for Gender Equity (Tarana Burke is the organization's senior director). I'd been working with GGE on their School Girls Deserve campaign to create safer school environments for girls of color by, among other things, calling on the city to hire more Title IX coordinators. There were several speakers, but I couldn't take my eyes off Vanessa. She shined like a star. "Four and a half years ago I went through a nightmare I thought I would never wake up from," she began in a bold, clear voice. "I felt like I was all alone in the cold dark world. To women in the world who have been through this," she continued, "I want you to know you are not alone." Vanessa had come to me in need of help; now she was the one offering solace. It was one of the proudest moments of my life.

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Alliyah Logan, NYCLU Teen Activist Project
Testimony on Gender Discrimination Title IX Hearing

Dear City Council,

My name is Alliyah Logan and I am 17-year old Jamaican American Teen Advocate from the Bronx. I am an active member of the NYCLU Teen Activist Project, where we focus on enhancing the accessibility to an equitable education. In New York State there are many ways that students of color and other marginalized identities are held back from reaching our fullest potential in our academic career. As a woman of color, I understand the importance of giving resources to underserved communities to ensure our success.

I am a Junior at NYC iSchool located in Soho. Throughout my years attending public schools, I continue to face racial and gender-charged discrimination. These teachers made comments attacking my identity as a Black Women because of their lack of knowledge for my intersectional identity. I have attended schools that have had strict dress codes for students. Dress codes are the direct way that schools uphold patriarchal and racist stereotypes for specific students. I would always get told that my outfits were inappropriate because of my body type. The oversexualization and adultification of Black girls have been implemented in New York City Schools. We assume that Black and Brown's girls are wearing outfits to impress their male peers. We assume that Black girls mature faster than young white girls. Dress codes in schools made me feel sexualized and uncomfortable and it is time we dismantle these forms of oppression in New York City schools. These dress codes are not only holding us back from having self-confidence but it is holding us back from succeeding in schools.

Gender Discrimination should not be deemed as unimportant because it is directly impacting 1.1 million students in New York City schools. Title IX is extremely crucial to ensuring that student like myself are given a safe learning environment to succeed in. It is unacceptable that there is 1 person for **1.1 million students**. The Title IX Coordinator deals with sex discrimination, technical education programs, concerns related to gender identity or gender expression. It is impossible for 1 person to fully accommodate every student and complaint made. By having one coordinator you are showing the students of New York City that you do not care about the sexual discrimination that marginalized communities face. You are showing us that our stories are not important. To all the members listening today, I want to stress the importance of having at least one coordinator in each borough. But this is not the solution to the problem it is a mere short term idea. We need to have multiple coordinators in each borough to actually stand up against gender discrimination in public schools.

I am lucky enough to attend a school that gives quality Sexual Education but there are many students especially low-income students who do not receive the Sex Ed that they deserve. We have to change the curriculum of Sex Ed to include discussions on the importance of consent. I am an active member of the Mayor's Sexual Health Education Taskforce where we are trying to reform and shape Sex Ed for students. Organizations and initiatives like the

Alliyah Logan, NYCLU Teen Activist Project
Testimony on Gender Discrimination Title IX Hearing

NYCLU, Mayor's Task Force and Girls for Gender Equality should not be responsible for adopting and implementing comprehensive Sex Ed. That is the responsibility of the DOE. Sex Ed should not be determined by your socioeconomic status it should not be determined race, gender identity, sexual orientation, your zip code or anything else. Sexual Education is not a privilege it is a right that we deserve. I heard the mention of the Respect for all coordinator, which can be someone to work with the Title IX Coordinator, but students need to know who that is first. NYCLU TAP program 600 peers this year and only 17% knew who the right person was.

What is stopping you from making effective change in our education? You have the funds to hire more qualified Title IX coordinators. You have the resources to provide comprehensive, medically accurate, age-appropriate, honest, consent informed, LGBTQ inclusive and healing informed sexual education. Each of you holds the power to make a change in our communities and our education. It is time for you to start investing in the education of New York City students.



**New York City Alliance
Against Sexual Assault**

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**Testimony for the New York City Council
Title IX and Gender Discrimination Oversight Hearing
Committee on Education, Committee on Women and Gender Equity and Committee on
Higher Education**

Delivered by: Nastia Gorodilova
Senior Coordinator of Systems and Training, New York City Alliance Against Sexual Assault
April 30, 2019

Good afternoon Chair Treyger, Chair Rosenthal, Chair Barron, Council Members and staff of the Committee on Education, Committee on Women and Gender Equity and the Committee on Higher Education. My name is Nastia Gorodilova and I am the Senior Coordinator of Systems and Training at the New York City Alliance Against Sexual Assault (hereafter, the Alliance). Thank you for holding this important hearing regarding oversight of Title IX and Gender Discrimination in New York City.

The New York City Alliance Against Sexual Assault (the Alliance) was founded in 2001 to lead citywide efforts to prevent sexual violence and ensure that survivors have access to the best acute and long-term care. It is due to our work with young people and sexual violence survivors in New York City that we find it particularly important to be here today. The Alliance leads **Project Dream, Own, Tell (DOT)** - a grassroots youth leadership-based sexual violence prevention program designed to engage underserved and minority youth who are often not the recipients of traditional interventions. During the 18-week program, youth are coached to become impactful change-makers and combat sexual violence within their communities by participating in a 7-10-week educational curriculum on healthy relationship, practicing consent and bystander behaviors, leading up to a youth-led community mobilization and social media campaign.

Through our discussions with youth, it is consistently apparent how much young people crave this critical information, and yet lack access to nuanced discussions about the complexities of gender, sexuality, dating, and sex. In fact, we have found in our work that most young people have never even heard of Title IX – a civil rights statute that protects their right to access education. **There is often little to no understanding that students in middle and high schools have the right to an education free from sexual violence and gender-based discrimination.**

Yet the reality is that our young people are experiencing gender-based harassment and violence too young and too often. One in four women experience sexual assault by the age of 18ⁱ. From a survey of LGBTQ identified high school students in New York City, 24 percent reported being bullied on school property and nearly 20 percent have attempted suicideⁱⁱ. This is why the Alliance focuses so much of our work on primary prevention – to stop these incidences from occurring. **However, the environment can be a key contributing factor, and can impact both prevention of violence, and minimizing harm in the aftermath.** It is challenging for us to create brave and safer spaces for young people to explore harmful dynamics, knowing that these conversations may not be continued in the place in which they spend the majority of their time – their schools.

A fundamental, yet often overlooked aspect to Title IX is its inclusion of prevention and underscoring of the necessity of resources. Consequences of sexual violence and dating violence can range from physical injuries, psychological distress in the form of anxiety or depression, and even chronic concerns related to gastrointestinal, cardiovascular and sexual health problems for the survivorⁱⁱⁱ. Trauma responses from sexual violence can also include behaviors that to an untrained eye may look like ‘acting out’, and result in punishment or sanctions, rather than the much-needed resources and accommodations. This is one of the ways in which violence, discrimination and harassment can push students out of school – the very thing Title IX intends to protect against^{iv}. Already, there are too many barriers to accessing critical resources and accommodations. Increasing the number of trained Title IX Coordinators in New York City can and should work towards address these gaps.

Furthermore, sexual and gender-based violence and harassment create a ripple effect that permeates across individuals and systems. It affects more than those directly involved. Witnessing a peer experience or even simply attempt to process harm and trauma also affects other students. Our young people are constantly taking in signs and signals from their surroundings. Bystanders, friends, and classmates are all internalizing the messages – both explicit and implicit – that they receive from their teachers, advisors, and systemic school responses. Many survivors have shared that what was most traumatic for them, was not always the experience of violence or harassment itself, but the neglectful, harmful, or even discriminatory responses to disclosure that many receive^v.

A school’s response to sexual and gender-based violence is therefore communicating what our society values not only to those most directly involved, but to the entire school community. **We have such an opportunity for our New York City schools to demonstrate to our young people that gender-based discrimination is not acceptable, that harassing youth of color, queer and gender-nonconforming people is not tolerated, and that sexual violence will never be okay.** We do not currently have the infrastructure in New York City to support schools with this critical task however. **Increasing the number of Title IX Coordinators is a necessary step towards this goal.** Principals, school teachers, and guidance counsellors need the expertise of more full-time trained Title IX Coordinators to support them in these complex processes as well as create a safe learning environment for all students.

We support Girls for Gender Equity's 'School Girls Deserve' campaign and the call to New York City Department of Education and City Council to do the following:

- Ensure equal protection for all students under Title IX by expanding the number of full time Title IX Coordinators to *at least* seven - with at least one in every Borough/Citywide office.
- Expand the role of Title IX Coordinators to ensure that these individuals are focused on preventing sexual violence and gender discrimination - in addition to responding to violence once it occurs.

We are additionally requesting the New York City Department of Education and City Council to consider the following accommodations under Title IX that we believe will facilitate a safer and positive learning experience for middle and high school students:

- Access to in-school sexuality and sexual violence prevention education inclusive of all identities to reduce the incidences of violence and harassment.
- Protective measures or, accommodations for student survivors such as those to class schedules, after-school activities, and assignment deadlines.
- Ongoing education for school staff on how best to prevent harassment, reduce the harm caused and support students impacted by sexual harassment in a culturally responsive manner.
- Clear, well-publicized and accessible information about students existing rights to an education free from violence.

Thank you Chairs Treyger, Rosenthal, Barron, council members and committee staff for allowing us the opportunity to share our expertise and for holding today's hearings. We hope to engage in ongoing conversations with members of this body to ensure that our schools are the safe and affirming environments that all students in New York City deserve.

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in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Wanda Rosario Cartagena

Address: 1 Jefferson Ct. Stony Point N.Y. 10980

I represent: ATU 1181

Address: 20 N Central Ave. Valley Stream NY 11580

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Name: MARIO JEAN

Address: 170 E 195th apt 2A Brooklyn NY 11226

I represent: ATU LOCAL 1181

Address: 20 North Central Valley Stream NY 11580

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(PLEASE PRINT)

Name: MARIO PERALES #2N

Address: 1625 24th Ave Apt 2C Brooklyn NY 11226

I represent: TU 1181

Address: 20 North Central Ave Valley Stream NY 11580

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I intend to appear and speak on Int. No. _____ Res. No. 0797-209

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Name: Manam Mohammed

Address: 26 Bleeker St.

I represent: Planned Parenthood of NYC

Address: _____

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Title IX

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4-29-19

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Name: Carrie Goldberg

Address: 170 Livingston St. 17L Brooklyn

I represent: _____

Address: _____

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I intend to appear and speak on Int. No. 1536-2019 Res. No. 0797-2019

in favor in opposition

Date: 4/30/2019

(PLEASE PRINT)

Name: Amanda Russo-Palley, Esq.

Address: P.O. Box 3220, Church St. Station, New York, NY 10008

I represent: Day One

Address: Same as above

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Appearance Card

I intend to appear and speak on Int. No. 1536-7019 Res. No. T 209-4045
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Simone Gumble

Address: 140th

I represent: The Brotherhood sisters of

Address: 140 Hamilton Place NY, NY 10034

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

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Name: Kate McDonough

Address: _____

I represent: Dignity in Schools Campaign - NY

Address: _____

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THE CITY OF NEW YORK**

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 4/30/2019

(PLEASE PRINT)

Name: Keshia Wright

Address: 135 Eastern Pkwy #6F

I represent: _____

Address: _____

Please complete this card and return to the Sergeant-at-Arms

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I intend to appear and speak on Int. No. _____ Res. No. 0797
 in favor in opposition 2019

Date: _____

(PLEASE PRINT)

Name: Charlotte Kayser
Address: 104 Sullivan St
I represent: New York Law School
Address: 185 W Broadway

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 in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Rachael Peters
Address: 16 Webster Place Brooklyn 11215
I represent: Peer Health Exchange
Address: 55 Exchange Pl 1005

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 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Andreea Gonzales
Address: _____
I represent: Girls for Gender Equity
Address: _____

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in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Emma Roth, Esq.

Address: 205 Water St #5B, Brooklyn, NY 11201

I represent: ACLU Women's Rights Project & NYCLU

Address: 125 Broad St, New York, NY 10004

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 0797

in favor in opposition

Date: 4-30-19

(PLEASE PRINT)

Name: Shiwali Patel, Esq.

Address: 11 Dupont Circle NW Washington DC

I represent: National Women's Law Center

Address: 11 Dupont Circle NW Washington DC

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1536-209 Res. No. 0797-209

in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Alliyah Logan

Address: 1 Whitehall St, NY, NY 10004

I represent: NYCLU Teen Activist Project

Address: "

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Appearance Card

I intend to appear and speak on Int. No. 1536-2019 Res. No. 1097-2019
 in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Abigail D'Agostino

Address: 171 29th St Apt 5 Rm 504 NYC 11232

I represent: New York Civil Liberties Union - teen activist project

Address: _____

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Meridith Maskava

Address: 40 Wall St, 701, NYC, NY

I represent: Girl Scouts of Greater New York

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 4/30

(PLEASE PRINT)

Name: Laura Brantley

Address: Executive Director

I represent: Office of Equal Opportunity

Address: 1 Div of Human Management

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Kay Kenyatta Reid (PLEASE PRINT)

Address: Executive Director

I represent: Ex Director of School

Address: Climate, DOE

**THE COUNCIL
THE CITY OF NEW YORK**

Title IX

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Sofia Quinten (PLEASE PRINT)

Address: _____

I represent: Girls Inc of NYC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Greg Walthman (PLEASE PRINT)

Address: _____

I represent: G1 Quantum (G-One-Quantum)

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Jacqueline Banks

Address: _____

I represent: NYC Commission on Gender Equity

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 0811-2019

in favor in opposition

Date: 4/30/2019

(PLEASE PRINT)

Name: Ronald Schneider

Address: 134 W 82nd St. Apt 4C NNY 10024

I represent: myself and 17 bus companies

Address: varied

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1536 AND Res. No. 797

in favor in opposition

Date: April 30, 2019

(PLEASE PRINT)

Name: Cathren Cohen

Address: 120 Wall Street, 19th Floor, NYC

I represent: Lambda Legal

Address: (above)

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: PRESIDENT MICHELLE ANDERSON

Address: BROOKLYN COLLEGE

I represent: CUNY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: BRIDGET BARBERA, ASSOC. GENERAL

Address: COUNCIL CUNY

I represent: CUNY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Rodney L. Pepe-Souvenir - University

Address: Title IX Director

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 7-30-19

(PLEASE PRINT)

Name: Sandy Vivas

Address: 11 Waban St Wellesley MA 02182

I represent: Womens Sports Foundation

Address: 247 W 30th St NYC 5th Fl

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Elizabeth Flores - Amaya

Address: 247 West 30th Street, 5th Floor, NYC

I represent: Women's Sports Foundation

Address: 247 West 30th Street, 5th floor, NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/30/19

(PLEASE PRINT)

Name: Sarah Faultless-Axelson

Address: ~~247 W 30th St~~ 5 65 Lincoln Blvd Apt C4

I represent: Women's Sports Foundation Long Beach NY 11561

Address: 247 W. 30th St. 5th Floor NYC 10001

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4-30-19

(PLEASE PRINT)

Name: Diane Milutinovich

Address: 7227 N. Durant Fresno, CA 93711

I represent: Womens Sports Foundation

Address: 247 W. 30th St NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Brittany Brathwaite

Address: _____

I represent: Girls For Gender Equity

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Brittany Brathwaite

Address: _____

I represent: Girls For Gender Equity

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: ^{Jaylyn} Bernice Gerbach

Address: Girls for Gender Equity

I represent: Girls for Gender Equity

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: ^{Beth} Saunders

Address: Girls for Gender Equity

I represent: Girls for Gender Equity

Address: _____

Please complete this card and return to the Sergeant-at-Arms