



Request for Office of Civil Rights to Investigate Title IX Violations in Rhode Island

*Named are RI Commissioner of Education,
RI Interscholastic League, RI Attorney General, and
Six RI School Districts*

from the Law Centre at the RI Center for Freedom & Prosperity

March 5, 2025

VIA EMAIL ONLY ocr@ed.gov

Craig Trainor
Acting Assistant Secretary, Office for Civil Rights
Lyndon B. Johnson Department of Education Bldg.
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Request for investigation regarding violations of Title IX of the Education Amendments of 1972 against the following entities:

- 1. The Rhode Island Commissioner of Education, Angélica Infante-Green;**
- 2. The Following Rhode Island School Districts:**
 - a. Barrington Public Schools**
 - b. Chariho Regional School District**
 - c. Cumberland School District**
 - d. East Greenwich School District**
 - e. North Kingstown School District**
 - f. Providence Public Schools;**
- 3. The Rhode Island Interscholastic League; and**
- 4. The Rhode Island Attorney General, Peter Neronha**

Dear Acting Assistant Secretary Trainor:

The Rhode Island Center for Freedom & Prosperity (“Center”) is a nonprofit and nonpartisan, free-enterprise public policy research and advocacy organization dedicated to providing concerned citizens, the media, and public officials with empirical research data, while also advancing market-based solutions to major public policy issues in the state.

On January 20, 2025, newly inaugurated President Trump issued an Executive Order, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.” President Trump ordered all agencies and departments within the Executive Branch to “enforce all sex-protective laws to promote [the] reality” that there are “two sexes, male and female,” and that “[t]hese sexes are not changeable and are grounded in fundamental and incontrovertible reality.”

As a result of that Executive Order, on February 4, 2025, the U.S. Department of Education sent a “Dear Colleague” letter to K-12 schools advising educators and administrators that the department’s Office for Civil Rights will enforce the Trump Administration’s 2020 Title IX Rule. Under this interpretation, Title IX, 20 U.S.C. §1681 et seq. (“Title IX”): prohibits discrimination on the basis of biological sex and cannot be expanded by rule to require recipients of federal funds to issue policies prohibiting discrimination on the basis of “gender identity.”

By this letter, the Center seeks to have the Office of Civil Rights open investigations into the Rhode Island Commissioner of Education; the Rhode Island Interscholastic League; the Rhode Island Attorney

General; and the following public-school districts: Barrington Public Schools; Chariho Regional School District; Cumberland School District; East Greenwich School District; North Kingstown School District; Providence Public Schools, for related and continuing violations of the Executive Order, Title IX, and other applicable federal laws.

The Rhode Island Commissioner of Education’s Gender Regulation:

Under Rhode Island Law, “the entire care, control, and management of all public school interests of the several cities and towns shall be vested in the school committees of the several cities and towns.” R.I. Gen. Laws § 16-2-9. Although there are 39 cities and towns in Rhode Island, there are 66 public Local Education Agencies (LEAs) or districts in Rhode Island. These include:

- 32 regular school districts (single municipalities)
- 4 regional school districts (more than one municipality)
- 4 state-operated schools (statewide)
- 1 regional collaborative LEA
- 23 charters¹

In addition to the local LEAs, there is a Commissioner of Education,² who is hired by the Rhode Island Board of Education.³ Her duties include promulgating regulations to enforce Rhode Island’s statute barring discrimination based on sex in RI public schools, See RI Gen. Laws § 16-38-1.1(5): “The commissioner of elementary and secondary education shall be responsible for enforcing this section and is empowered to promulgate rules and regulations to enforce the provisions of this section.”

Pursuant to the Executive Order, and Title IX, on February 13, 2025, the Center sent a letter (*See attached Exh. A*) to Angélica Infante-Green, the Rhode Island Commissioner of Elementary and Secondary Education, asking that she repeal her regulation which was enacted in 2018, Regulation 200-RICR-30-10-1, entitled “Regulations Governing Protections for Students Rights to be Free from Discrimination on the Basis of Sex, Gender, Sexual Orientation, Gender Identity, or Gender Expression.” (“Gender Regulation” *Exh. B*) This regulation states as follows:

1.1 Authority

The Commissioner, pursuant to R.I. Gen. Laws § 16-38-1.1(a)(5) has the authority to promulgate regulations to enforce the statutory requirements prohibiting discrimination on the basis of sex, *gender, sexual orientation, gender identity, or gender expression* in schools. (*emphasis added*)

1.2 Definitions

¹ <https://ride.ri.gov/students-families/ri-public-schools/school-districts>

² R.I. Gen. Laws § 16-1-5

³ R.I. Gen. Laws § § 16-97-1.2(f)

- A. “Gender non-conforming” means a term used to describe people whose gender expression differs from stereotypic expectations. This includes people who identify outside traditional gender categories or identify as both genders. Other terms that can have similar meanings include “gender variant”, “gender expansive”, or “gender atypical”.
- B. “Transgender” means an umbrella term used to describe a person whose gender identity or gender expression is different from that traditionally associated with their assigned sex at birth.

1.3 Protection for Transgender and Gender Nonconforming Students

- A. Programs and activities operated by Rhode Island public educational agencies shall be free from discrimination based on sex, gender, sexual orientation, gender identity or gender expression. By July 1, 2018, each Local Education Agency (“LEA”) shall adopt a policy addressing the rights of transgender and gender non-conforming students to a safe, supportive and non-discriminatory school environment.
- B. The LEA policy shall be consistent with state and national best practices, guidance, and model policies and shall address, at a minimum, such issues as confidentiality and privacy, discipline and exclusion, staff training, access to school facilities and participation in school programs, dress codes, official school records and use of preferred names and pronouns.

The sole statutory legal basis of the 2018 Gender Regulation is the anti-discrimination provisions of R.I. Gen. Laws § 16-38-1.1. (*Exh. C*) That statute provides:

(a)(1) Discrimination on the basis of sex is prohibited in all public elementary and secondary schools in the state and in all schools operated by the board of regents for elementary and secondary education. This prohibition shall apply to employment practices, admissions, curricular programs, extracurricular activities including athletics, counseling, and any and all other school functions and activities.

Like Title IX, there is no mention in R.I. Gen. Laws § 16-38-1.1 of gender, sexual orientation, gender identity, or gender expression. In fact, the statute goes on to specifically identify a distinction between only males and females:

- (a)(2) Notwithstanding this prohibition, schools may do the following:
- (i) Maintain separate restrooms, dressing, and shower facilities for males and females;
 - (ii) Conduct separate human sexuality classes for male and female students; and
 - (iii) Prohibit female participation in all contact sports provided that equal athletic opportunities which effectively accommodate the interests and abilities of both sexes are made available.
 - (iv) Provide extracurricular activities for students of one sex, including, but not limited to, father-daughter/mother-son activities, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex. School districts are required to allow and notify students that they may bring the adult of their parent’s or guardian’s choice to the event.

It is important to note that the original statute was enacted in 1985, and was last amended in 2013 to include paragraph (iv). Yet the Commissioner promulgated no regulation until 2018. It was at that time that

the Commissioner read into the statute *gender, sexual orientation, gender identity, or gender expression* in schools. (*emphasis added*) We argued that there appears to be no state law authority for the Commissioner to read “gender” in the statute.

Regardless of the statutory basis for the Gender Regulation, we cited to the Commissioner the Executive Order and Dear Colleague letter, and numerous federal district court decisions which have enjoined the prior Presidential Administration’s rule interpreting Title IX on the grounds that Title IX prohibits discrimination on the basis of sex, not gender identity. *See, e.g., Oklahoma v. Cardona*, Case No. 5:24-cv-461-JD, 2024 WL 3609109 (W.D. Okla. July 31, 2024); *Arkansas v. U.S. Dep’t of Educ.*, Case No. 4:24-cv-636-RWS, 2024 WL 3518588 (E.D. Mo. July 24, 2024); *Carroll Indep. Sch. Dist. v. U.S. Dep’t of Educ.*, Case No. 4:24-cv-461-O, 2024 WL 3381901 (N.D. Tex. July 11, 2024); *Texas v. United States*, No. 2:24-cv-86-Z, 2024 WL 3405342 (N.D. Tex. July 11, 2024); *Kansas v. U.S. Dep’t of Educ.*, Case No. 5:24-cv-4041-JWB, 2024 WL 3273285, at *12–13 (D. Kan. July 2, 2024); *Tennessee v. Cardona*, Case No. 2:24-cv-72-DCR, 2024 WL 3631032 (E.D. Ky. July 10, 2024); *Louisiana v. U.S. Dep’t of Educ.*, 737 F. Supp. 3d 377 (W.D. La. 2024).

Moreover, in *United States Dep’t of Educ. v. Louisiana*, 603 U.S. 866 (2024), all nine justices of the Supreme Court of the United States, “accept[ed] that the plaintiffs were entitled to preliminary injunctive relief as to three provisions of the rule, including the central provision that newly defines sex discrimination to include discrimination on the basis of sexual orientation and gender identity.” *Id.* at 867.

After noting various other OCR investigations of school districts violating the Executive Order and Title IX, we urged the Commissioner to repeal her regulation.⁴

In a letter dated February 25, 2025, Anthony F. Cottone, Chief Legal Counsel for the Rhode Island Department of Education (“RIDE”), rejected our request. (*Exh. D*) In his letter of rejection, Mr. Cottone

⁴Under the RI Board of Education Regulation 200-RICR-20-35-2, in response to a request to repeal a regulation the Commissioner must do the following:

2.5 Consideration and Disposition of Request for the Promulgation of a Rule

- A. The Department shall promptly consider and respond to the request for the Promulgation of a Rule as provided in R.I. Gen. Laws § 42-35-6.
- B. The Department may, at its discretion and within the thirty (30) day period prescribe by statute:
 - 1. Hold a hearing for further consideration and discussion on the Petition;
 - or
 - 2. Request further information or documents from the Petitioner necessary for the full evaluation of his or her Petition.

The Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-6, provides:

Any person may petition an agency to promulgate a rule. An agency shall prescribe, by rule, the form of the petition and the procedure for its submission, consideration, and disposition. Not later than thirty (30) days after submission of a petition, the agency shall:

- (1) Deny the petition in a record and state its reasons for the denial; or
- (2) Initiate rulemaking.

ignores R.I. Gen. Laws § 16-38-1.1. This is peculiar, since RIDE issued a “Guidance for Rhode Island Schools on Transgender and Gender Nonconforming Students.” (*Exh. E*) In that Guidance, RIDE relied on that statute to justify its guidance, and made this specific finding:

RIGL §16-38-1.1 states in part that “Discrimination on the basis of sex is hereby prohibited in all public elementary and secondary schools in the state . . .” *The state statute is essentially a restatement of the federal Title IX. (emphasis added)*

Mr. Cottone also ignores the February 4, 2025, “Dear Colleague” letter from you, and yet in that “Guidance” it relies upon a prior 2016 Dear Colleague letter. This smacks of cherry-picking interpretations of federal law which favors Mr. Cottone and the Commissioner’s preferred policy views.

Mr. Cottone dismisses the case law cited by noting they were enjoined in the “preliminary injunction stage,” and that the Supreme Court decision “merely denied a motion for a stay pending appeal.”

Bizarrely, Mr. Cottone then references Rhode Island’s non-discrimination in public accommodation statute, R.I. Gen. Laws § 11-24-2; a statute involving the State Department of Child Youth and Families, R.I. Gen. Laws § 42-72-15; and a statute that references a State agency primarily tasked with enforcing affirmative action plans in state agencies and state government contracts, R.I. Gen. Laws § 28-5.1-7. None of these statutes applies to the issue here; none were cited by RIDE as the legal basis for the Gender Regulation, and none supersedes federal law.

Finally, after noting that other of President Trump’s executive orders that are not at issue here have enjoined, Mr. Cottone fails to address the fact that OCR will enforce the 2020 Title IX regulations, which no court has enjoined.

The Rhode Island Interscholastic League:

The Rhode Island Interscholastic League (“RIIL”) is a “voluntary nonprofit association whose membership consists of school principals who chose to become members.” *Hebert v. Ventetuolo*, 480 A.2d 403, 407 (R.I. 1984). Pursuant to Article 1, Section 2 of its Rules and Regulations, the RIIL will: “supervise and control the athletic programs, contests, and schedules and matters relating thereto, in participating secondary schools (grades 9-12) of the State of Rhode Island, whose principals are members of the Rhode Island Association of School Principals, to maintain, improve and raise the athletic standards in the participating schools of the State of Rhode Island, and in general carry on any other lawful activity which is calculated, directly or indirectly to promote and enhance the goals of the Rhode Island Interscholastic League.” (*Exh. F*) For practical purposes, nearly every public and private secondary school in Rhode Island belongs to and adheres to the policies of the RIIL.

The RIIL has adopted a Rule which conforms to the Commissioner of Education’s Gender Regulation. Article 3: ELIGIBILITY, Section 3(B) (*Exh. G*) states:

GENDER IDENTITY 1) The RIIL recognizes the value of participation in interscholastic sports for all member school student athletes. The RIIL is committed to providing all student-athletes with

equal opportunities to participate in RIIL athletic programs consistent with their gender identity. This policy addresses eligibility determinations for students who have a gender identity that is different from the gender listed on their official birth certificates. ***The RIIL has concluded that it would be fundamentally unjust and contrary to applicable state and federal laws, to preclude a student from participation on a gender specific sports team that is consistent with the public gender identity of that student for all other purposes.*** Therefore, for purposes of sports participation, the RIIL shall defer to the determination of the student and his or her local school regarding gender identification. In this regard, the RIIL member school shall determine a student's eligibility to participate in a RIIL gender specific sports team based on the gender identification of that student in current school records and daily life activities in the school and community at the time that sports eligibility is determined for a particular season. Accordingly, when a member school submits a roster to the RIIL, it is verifying that it has determined that the students listed on the gender specific sports team are entitled to participate on that team due to their gender identity and the member school has determined that the expression of the student's gender identity is bona fide and not for the purpose of gaining an unfair advantage in competitive athletics. ***Students who wish to participate on a RIIL gender specific sports team that is different from the gender identity listed on the student's current school records are advised to address the gender identification issue with the local school and/or district well in advance of the deadline for athletic eligibility determinations for a current sports season.*** Students should not be permitted to participate in practices or try out for gender specific sports teams that are different from their publicly identified gender identity. Nothing in this policy shall be read to entitle a student to selection to any particular team or to permit a student to transfer from one gender specific team to a team of a different gender during a sports season. In addition, the RIIL shall expect that, as a general matter, after the issue of gender identity has been addressed by the student and the member school, the determination shall remain consistent for the remainder of the student's high school sports eligibility. The RIIL has concluded that this policy is sufficient to preclude the likelihood that a student will claim a particular gender identity for the purpose of gaining a perceived advantage in athletic competition. (*emphasis added*)

The policy appears to defer to the local school districts the determination of whether a male still identifies as a female and can therefore play on a girls' team. However, as you will see below, some school districts refer to this RIIL regulation as the justification for their local school gender policy. This creates a whipsaw effect, where the RIIL and local schools point fingers at each other for creating these policies in the first place.

School Districts:

This letter will not address every Gender policy adopted by all of the LEAs in Rhode Island but will focus on six of the most egregious. Every policy has similar provisions:

1. Definitions of Gender which are not based on the biological reality of two sexes;
2. Mandatory use of a student's "preferred pronouns";
3. Use of female bathrooms and locker facilities by boys who identify as girls;

4. Participation in girls' sports by biological boys;
5. Circumstances in which parents are kept in the dark about their children's "transitioning" at school.

A. Barrington Public Schools

The Barrington Public School's policy (*Exh. H*) has the following definitions:

Gender Expression: How a person represents gender to others, including behavior, clothing, hairstyles, and mannerisms.

Gender Identity: A person's deeply held sense or psychological knowledge of their gender may or may not align with their assigned sex at birth.

Gender Diverse: Individuals whose gender expression differs from stereotypical expectations, including those who identify outside traditional gender categories.

Transgender: An umbrella term for individuals whose gender identity or expression differs from their assigned sex at birth.

The policy allows students to assert their "gender identity" without question: "The school shall accept a student's assertion of their gender identity based on a consistent assertion or other evidence that it is sincerely held."

The policy provides for circumstances where the school will not notify parents of a student's "gender transition":

Generally, notification to a student's parent(s)/guardian(s) about their gender identity, expression, or transition is unnecessary, as they are already aware and supportive. However, some transgender students do not want their parents to know about their transgender status. These situations must be addressed on a case-by-case basis and require schools to balance the goal of supporting the student with the desire that parents be informed about their children. In these circumstances, the school administration will inform the superintendent. If the superintendent believes additional steps may be needed, the superintendent will guide the team. If the school licensed mental health provider determines that notifying the family carries risks for the student, it should work closely with the student to assess the degree to which, if any, the family will be involved in the process and must consider the age, health, well-being, and safety of the student.

The policy continues to demand that school staff use the student's "preferred" pronouns; change school records to reflect the chosen name; allow the student to use bathrooms aligning with their gender identity; and participate in school athletics based upon their gender preference.

For legal support for its policy, the Barrington School District cites:

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (1974).

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Dear Colleague Letter: Transgender Students (May 13, 2016).

Guidance for Rhode Island Schools on Transgender and Gender Nonconforming Students, Rhode Island Department of Education (March 2016).

As with the RIDE policy, the Barrington School District seems to be happy to reference a Dear Colleague letter it prefers, and not yours. And it of course references Title IX but ignores the determination made by your office as well as every Court which has addressed the issue that sex does not mean gender.

B. Chariho Regional School District

Chariho Regional School District's policy (*Exh. I*) has the following definitions:

Gender Non-Conforming: This term describes a person whose gender expression differs from stereotypic expectations. This includes individuals who identify outside traditional gender categories or identify as both genders. Other terms that can have similar meanings include "gender variant", "gender expansive", or "gender atypical".

Transgender: This term describes a person whose gender identity or gender expression is different from that traditionally associated with their assigned sex at birth.

Chariho's policy also provides for staff must recognize gender identity: "The school and staff shall accept a student's statement of their gender identity when the assertion is consistent and uniform."

The policy allows hiding gender transition from parents, bathroom use and participation in sports. For example, the policy provides for excluding parents from a team of staff members who are convened when a student requests accommodations for their perceived gender change: "In those rare incidents where inclusion of the parent/guardian may carry a risk for the student, the principal may seek the Superintendent's authorization to exclude the parent/guardian from this team."

The policy allows boys to claim to be girls and go into girls' facilities:

School Facilities – All students are entitled to have access to restrooms and locker rooms so that they can comfortably and fully engage in their school programs and activities. As such, all students will have access to both private restroom and changing areas (where available) and sex-segregated group restrooms and changing areas (where available). The team shall consider all ramifications of allowing access to restrooms and locker rooms, with the understanding that transgender and gender non-conforming students may be allowed to use facilities aligned to their gender identity.

With regard to sports, the policy places the burden on the RIIL, which as outlined above claims to put the burden back on the school district:

Participation in School Programs – The team shall make accommodations regarding participation in school programs with the understanding that transgender and gender non-conforming students may be allowed to participate in school programs and events in a manner consistent with their gender

identity. *The only exception to the above is in regards to participation in interscholastic sports, where the policy of the RI Interscholastic League shall prevail. (emphasis added)*

C. Cumberland School District

The Cumberland School District's definitions in its Gender policy (*Exh. J*) are particularly offensive:

Gender Identity is a person's deeply held knowledge of their own gender, which can include being a man, woman, another gender, or no gender. Gender identity is an innate part of a person's identity. One's gender identity may or may not align with society's expectations with the sex they were assigned at birth (male, female, or intersex).

Gender Expression is the manner in which a person expresses their gender, whether through hairstyle, makeup, or personal fashion which may change over a person's lifetime.

Transgender/Trans describes a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth. A trans woman is a woman whose sex was assigned male at birth. A trans man is a man whose sex was assigned as female at birth. Some transgender people are not male or female, and may use terms like nonbinary to describe their gender.

Gender non-conforming is a term sometimes used to describe people whose gender expression differs from social expectations, such as "feminine boys," "masculine girls," and people who are perceived as androgynous in some way. Being gender nonconforming is distinct from being transgender, though some trans people may consider themselves to be gender nonconforming.

Nonbinary is a term used to refer to people whose gender identity is not exclusively male or female, including those who identify with a different gender, a combination of genders, or no gender. Other similar or more specific terms may include genderqueer, gender fluid, agender, or Two-spirit (for students who are Native American).

Cisgender is a term to describe a person whose gender identity corresponds with the gender society typically associates with the sex they were assigned at birth. The majority of people are cisgender, while a minority are transgender.

Sexual Orientation is a person's sexual attraction to other people. This includes being straight, gay, bisexual, queer, asexual, or many other terms. This is different and distinct from gender identity. People who are transgender or nonbinary may be straight, gay, lesbian, asexual, or any other sexual orientation.

Transition is the process in which a person begins to live according to their gender identity. Transition is a process that is different for everyone, and it may or may not involve specific medical treatments or changes to official documents.

QTBIPOC is an acronym for Queer, Trans, Black, Indigenous, and People of Color.

NOTE: Terminology and language describing individuals who are transgender can differ based on region, ethnicity, age, culture, and many other factors. Students who identify as transgender or non-binary may use a number of words and expressions to describe their lives. A general recommendation is to avoid assumptions and employ the term that the student uses to describe themselves.

Cumberland requires students to explicitly authorize disclosure of their gender transition to anyone, including parents:

All persons, including students, have the right to keep private one's transgender status or gender nonbinary presentation at school. Information about a student including assigned birth sex, name change for gender identity purposes, gender transition, medical or mental health treatment related to gender identity, or any other information of a similar nature, is considered to be confidential medical information and protected under Rhode Island General Law §5-37.3. School personnel may not disclose information that may reveal a student's transgender status or gender nonbinary presentation to others, including parents, students, volunteers, and other school personnel, unless legally required to do so or unless the student has explicitly authorized such disclosure. Students who are transgender or gender nonbinary have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information. When contacting the parent or guardian of a student who is transgender or gender nonbinary, school personnel should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student, parent, or guardian has specified otherwise.

D. East Greenwich School District

The East Greenwich School District's Gender policy (*Exh. K*) repeats all of the definitions and mandates as the other policies.

Definitions:

Gender Identity is a person's deeply held sense or psychological knowledge of one's own gender. One's gender identity can be the same or different than the gender assigned at birth.

Gender Expression is the manner in which a person represents or expresses one's gender to others, often through behavior, clothing, hairstyles, activities, voice or mannerisms.

Transgender describes a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth. Other terms that can have similar meanings are transsexual and trans.

Transition describes a process in which a person goes from living and identifying as one gender to living and identifying as another.

Gender non-conforming describes people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as

androgynous. This includes people who identify outside traditional gender categories or identify as both/neither gender. Other terms that can have similar meanings include gender diverse or gender expansive.

Terminology and language describing individuals who are transgender may differ based on a variety of factors. Persons who identify as transgender or gender nonconforming may use different words and expressions to describe their individual situations and experiences. A few such words include but are not limited to: trans, transsexual, transgender, male-to-female, female-to-male, bi-gender, agender, and gender neutral. A general recommendation is to employ the term (s) that the person uses to describe themselves.

Under “Privacy and Confidentiality”, the policy states: “All persons, including students, have the right to keep private one’s transgender status or gender nonconforming presentation at school.” It prohibits notifying parents “unless legally required to do so or unless the student has explicitly authorized such disclosure.” Even if a student agrees to let his or her parents know, school personnel can make the decision not to notify parents: “Prior to notification of any parent/guardian regarding information outlined above, district personnel should assess the degree to which, if any, the parent/guardian will be involved in the process and must consider the health, well being, and safety of the transitioning student.”

Everyone at the school, including students, must refer the transgender student by his or her preferred pronouns, upon threat of punishment: “ The intentional or persistent refusal to respect a student’s gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student’s gender identity) is a violation of this policy and may result in disciplinary action by the East Greenwich Public Schools.”

The policy goes on to permit boys in girls bathrooms and locker rooms, and boys to participate in girls’ sports.

What is noteworthy is that, like Barrington, East Greenwich relies upon Title IX and other interpretive statements for its legal justification.

E. North Kingstown School District

The North Kingstown School Department (*Exh. L*) uses the same definitions as Cumberland, but with this added note:

(Above definitions come from the GLSEN Model LEA Policy on Transgender and Nonbinary students, Revised October 2020)

Sex assigned at birth: The assignment and classification of people as male, female, intersex, or another sex assigned at birth often based on physical anatomy at birth and/or karyotyping. (Trans Student Educational Resources, 01.08.24)

Intersex: A term used for an individual born with a combination of male and female biological characteristics, such as chromosomes, genitals, hormones, etc. (NYC Guidelines to support Transgender and Gender Expansive Students 01.19.24)

Apparently, according to the North Kingstown School Department, an organization known as “GLSEN”, and some NYC Guidelines determinations as how many sexes there are trumps what the elected President and his appointed staff at OCR decide.

North Kingstown has the same litany of mandated pronouns, secrets from parents, and boys in girls’ spaces and on girls’ sports teams. And again, they use as legal justification Title IX.

F. Providence Public Schools:

The Providence School Department is the largest in the State and is currently being operated by the Commissioner of Education due to its chronically poor performance. As a recent newspaper article noted: “In 2019, a scathing report by a team of educators from Johns Hopkins University *found the Providence school system one of the worst performing in the country*, where ‘very little visible student learning was going on in the majority of classrooms and schools we visited.’ The report found “*an exceptionally low level of academic instruction*,” schools lacking quality curriculum, buildings in disrepair, school leadership strangled in bureaucracy, teachers demoralized and student expectations low.” In five years since the State takeover, the Commissioner has not accomplished much: “Almost five years later with state intervention, Infante-Green has touted improvements in such areas as curriculum, school renovations and teacher training, and pointed out that the Providence school system mitigated learning losses from the pandemic better than surrounding communities. *But proficiency test scores in math and English for many grades remain extremely low.*” (Emphasis added) ⁵

Yet the Providence School Department found the time and effort to pass its own Gender policy (*Exh. M*), with the same definitions, mandates and secrecy as the other districts.

The District even has the time to have a **Transgender and Gender Expansive Student Point Teams**: “Each school shall form a point team that will serve as a visible resource for all students who have questions and concerns regarding any issues related to gender identity and expression. The point team shall also be a resource for any questions regarding the Transgender and Gender Expansive Students policy. The point team will receive specialized training in the policy and resources available. The point team should be comprised of individuals throughout different areas of the school community including but not limited to: teachers, administrators, social workers, counselors, parent advocates, security, health and physical education staff, or other support staff.”

⁵ <https://www.providencejournal.com/story/news/education/2024/08/30/providence-schools-takeover-will-continue-heres-how-city-officials-feel/75013007007/>

The District pays for and takes away teaching time for staff to engage in **Training and Professional Development**:

The District shall ensure that training is provided for all staff members on their responsibilities under applicable laws and this policy, including teachers, administrators, counselors, social workers, security and health and physical education staff. Information regarding this policy shall be incorporated into training for new school employees.

The District shall implement ongoing professional development to build the skills of all staff members to prevent, identify, and respond to bullying, harassment and discrimination. The content of such professional development shall include but not be limited to:

- Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents.
- Developmentally appropriate strategies for communication with students and parents/guardians about issues related to gender identity and gender expression that protect student privacy.
- Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyber bullying.
- District policies, and local, state and federal laws regarding bullying, discrimination, and gender identity and expression issues and responsibilities of staff.
- Experiences of transgender and other gender nonconforming students.
- Gender-neutral language and practices.
- Data regarding risks for transgender and gender nonconforming students, and the positive impact of nondiscrimination policies on school climate.

And the District’s primary legal support for its policy comes from Title IX and “the U.S Department of Education, Office for Civil Rights and U.S. Department of Justice’s Civil Rights Division, Dear Colleague Letter: Transgender Students (May 13, 2016)”.

The Rhode Island Attorney General:

Action by the OCR is especially critical in this case because Rhode Island Attorney General Peter Neronha stated in a February 28, 2025, letter to all school districts in the State, that “the legality and enforceability of the Executive Orders and the OCR Letter are dubious.” (*Exh. N* at p. 2). One Executive Order referred to in the Neronha letter includes the January 20, 2025, Order entitled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”. *See Exh. N*,

p. 1, n. 1.⁶ Curiously, despite citing to numerous Executive Orders and an OCR letter, the Neronha letter ignores that on February 4, 2025, the U.S. Department of Education sent a “Dear Colleague” letter to K-12 schools and institutions of higher education advising educators and administrators that the department’s Office for Civil Rights will enforce the Trump Administration’s 2020 Title IX Rule.

Moreover, the Neronha letter references a number of cases which have enjoyed the enforcement of the DEI Executive Order, but no Court has enjoyed the “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” Executive Order or the February 4, 2025, Dear Colleague letter prohibiting the use of “gender” in school policies.

In a lengthy dissertation on state and federal law entitled: “**The Executive Orders and the Rights of LGBTQ+ Students**”, AG Neronha goes on at length to justify the assertion that “the Order did not and could not require state or local officials to take any action, and the implications for Rhode Islanders are far from apparent.” He ignores all of the cases cited above that Title IX does not and cannot define “sex” to mean “gender”. Instead, after citing the Commissioner’s Gender Regulation, he makes the bold assertion that, “Until a court holds otherwise, these state laws and regulation continue to govern.”⁷

By the letter, AG Neronha is denying that the President has the authority under Title IX or other federal law to withhold federal funds to the Rhode Island Department of Education, RIIL, and every Rhode Island school district, if they fail to follow the Executive Order and Dear Colleague Letter interpreting Title IX. This direct challenge to the authority of the federal government to enforce federal law, including Title IX, raises substantial questions under the Supremacy Clause, and should be addressed by OCR and the DOJ. See *Felder v. Casey*, 487 U.S. 131, 138 (1988) (“any state law, however clearly within a State’s acknowledged power, which interferes with or is contrary to federal law, must yield”) (citations omitted).

The possible effect of Attorney General Neronha’s wrong opinion under Rhode Island law increases the urgency of these matters in Rhode Island. The letter was issued in conjunction with the Commissioner of Education and makes this threat: “[M]aking any changes [to school district gender policies] would be ill-advised and may even be in violation of existing federal and state law.” It is thus imperative that OCR and the DOJ take action to ensure that school districts in Rhode Island do not face the Catch-22 of either

⁶ The letter addresses the legality of the January 20, 2025, Order entitled “Ending Radical and Wasteful Government DEI Programs and Preferencing”; the January 21, 2025 Order entitled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity”; and the January 29, 2025, Order entitled “Ending Radical Indoctrination in K-12 Schools. The letter also references an U.S. Department of Education’s February 14, 2025, letter (“the OCR Letter”), which addresses the issue of DEI in schools. This OCR complaint letter does not address those issues.

⁷ Attorney General Neronha repeats practically verbatim the language in Attorney Cottone’s February 25, 2025, letter referencing irrelevant antidiscrimination statutes.

violating Title IX and President Trump’s order, or legal action against them by the Commissioner of Education and the Rhode Island Attorney General.

Conclusion:

The Rhode Island Commissioner of Education, the Rhode Island Interscholastic League, and the various school districts, have, by regulation and policy, eliminated the protections that Title IX requires of K-12 institutions that accept federal funding, and their regulations and policies run afoul of President Trump’s Executive Order of January 20, 2025, and Title IX. By these actions, they have incorrectly told parents that they are required by law to abandon protections from discrimination on the basis of sex in favor of policies that eviscerate the notion of sex itself and replace it with “gender identity.” The recent injunctions against the similar position taken by the Biden Administration’s lawless Title IX rewrite make clear that these school districts have it wrong.

As these parties have shown no inclination to end their discriminatory policies, the Department of Education should immediately open investigations into these schools and, if necessary, cut off all federal funding. Given the direct challenge to the federal Supremacy Clause by Attorney General Neronha, OCR’s vigorous action against these parties is particularly warranted.

Very truly yours,



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