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Women & Families
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Maya Wiley

June 16, 2025

David Taggart

Office of the General Counsel
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

RE: RIN 1903-AA25 Nondiscrimination on the Basis of Sex in Sports Programs arising out of Federal Financial Assistance

Dear Mr. Taggart,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 50 undersigned organizations, we offer the following **significant, adverse comments** in opposition to the Department of Energy's direct final rule, "Nondiscrimination on the Basis of Sex in Sports Programs arising out of Federal Financial Assistance," published in the Federal Register on May 16, 2025 and **urge its immediate withdrawal**. This direct final rule is inconsistent with our civil rights laws, undermines the protections they provide, and has been issued through an inappropriate process.

Our nation's civil rights laws are a promise made by Congress to the American people that they will be free from the burdens of discrimination and that their constitutional rights and human dignity will be respected. The existing regulation, which provides opportunities for all students — but especially women and girls — to play sports supports compliance with and the spirit of Title IX. Requiring schools to allow students who are members of the sex for which athletic opportunities have previously been limited (typically women and girls) to try out for a non-contact sex-separated sports team that is unavailable to them provides tremendous benefit to individual students, their teammates, and our society as a whole.

The existing regulation is crucial to increase sports participation for all students, but especially women and girls who have historically been denied opportunities to play. Under existing regulations, women and girls have been able to play competitively on men's and boys' sports teams and on mixed-gender teams despite the DFR's wrongful — and harmful — implication that they cannot play on the same teams because of "differences between the sexes." Indeed, if this DFR goes into effect, schools could effectively ban women and girls from playing non-contact sports (for example, baseball, tennis, swimming, badminton,

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bowling, etc.) by offering a team only for men or boys with no corresponding women's or girls' team.

While there is no administrative process that would justify closing doors to opportunity as the direct final rule does, the use of the direct final rule process in this instance reinforces the inappropriateness of the agency's action. The direct final rule process is intended for merely technical or noncontroversial rules that are unlikely to raise objections. Denying students the opportunity to participate in school athletics alongside their peers is clearly controversial.

The Department of Energy's direct final rule, "Nondiscrimination on the Basis of Sex in Sports Programs arising out of Federal Financial Assistance," must be immediately withdrawn, and the agency must instead focus on robust enforcement of the underlying law and existing regulation. If you have any questions or need additional information, please contact Liz King, educational equity senior program director, at king@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
The Advocacy Institute
Advocates for Youth
AFL-CIO
AFT
Alliance to Reclaim Our Schools
American Atheists
American Humanist Association
Arab American Institute (AAI)
Aspira Charter Schools of IL
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Bazelon Center for Mental Health Law
Brown's Promise
Center for Public Representation
CenterLink: The Community of LGBTQ Centers
Clearinghouse on Women's Issues
The Community Equity Initiative at NYU School of Law
Disability Rights California
Education Law Center-PA
Equal Justice Society
Equality California
Equality Ohio
Family Equality
Family Voices NJ

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Feminist Majority Foundation

FL National Organization for Women (FL NOW)

Gibson-Banks Center for Race and the Law, University of Maryland Francis King Carey School of Law

Greater Orlando National Organization for Women (Greater Orlando NOW)

Honesty for Ohio Education

Impact Fund

Indianapolis Urban League

Japanese American Citizens League

Jax NOW

Lawyers for Good Government

Michigan Alliance for Special Education

National Association of Councils on Developmental Disabilities

National Association of Social Workers

National Center for Youth Law

National Education Association

National Partnership for Women & Families

NETWORK Lobby for Catholic Social Justice

PolicyLink

Positive People Network, Inc.

SAGE

Service Employees International Union (SEIU)

Silver State Equality

SPAN Parent Advocacy Network

Teach for America

WorkLife Law