



June 10, 2026

Hon. Linda McMahon
Secretary
Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Hon. Todd Blanche
Acting U.S. Attorney General
Hon. Eric Hamilton
Deputy Assistant Attorney General
Federal Programs Branch
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Secretary McMahon, Acting Attorney General Blanche, and Deputy Assistant Attorney General Hamilton:

Defending Education is a nationwide grassroots organization whose members include students, educators, professionals, and concerned citizens. Our mission is to prevent the politicization of America's education system. Defending Education writes this letter to encourage the Department to formally rescind the Biden Administration's misguided Title IX rule, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance." 89 Fed. Reg. 33474 (Apr. 29, 2024) (codified at 34 C.F.R. pt. 106). The Biden rule radically altered the regulatory framework of Title IX and did violence to the law's plain text.

The Biden rule was the subject of litigation in courts across the country, including a successful challenge led by Defending Education. *See Alabama v. U.S. Sec'y of Education*, 2024 WL 3981994 (11th Cir. Aug. 22, 2024); *see also Dep't of Education v. Louisiana*, 603 U.S. 866, 871 n.3 (2024) (Sotomayor, J., dissenting) (cataloging litigation). Indeed, almost "every court presented with a challenge to the final rule has indicated that it is unlawful." *Tennessee v. Cardona*, 762 F. Supp. 3d 615, 627-28 (E.D. Ky. 2025) (collecting cases). And the rule has now been vacated nationwide in its entirety. *Id.* at 626-28.

Those decisions were plainly correct. The rule radically departed from the plain text of Title IX, redefining the term "sex," which "unambiguously refer[s] to biological sex," to cover so-called "gender identity." *Alabama*, 2024 WL 3981994 at *4 (cleaned up). It also expanded the definition of "harassment" in a manner that "flies in the face" of the Supreme Court's limiting construction of that term in *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999). *Id.* at *5-6. And the rule is unconstitutional, as it would compel students and faculty to use preferred pronouns rather than biologically accurate language, forcing

them to endorse a message about sex and gender with which they disagree. *Tennessee*, 762 F. Supp. 3d at 625.

The rule is also contrary to “the policy of the United States,” which “recognize[s] two sexes, male and female,” and rejects “the false claim that males can identify as and thus become women and vice versa.” *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, Exec. Order 14168 §2(f), 90 Fed. Reg. 8615 (Jan. 20, 2025). The President has directed all agencies to “remove all statements, policies, regulations that promote or otherwise inculcate gender ideology,” *id.* §3(e), and there is no greater purveyor of gender ideology currently in the Federal Register than the Biden Administration’s Title IX rule.

Now that the rule has been judicially vacated, it can be rescinded expeditiously. “Retaining ... facially unlawful regulations” that have been vacated by federal courts “is clearly contrary to the public interest,” so the Biden Title IX rule can be withdrawn “without notice and comment” per “the ‘good cause’ exception in the Administrative Procedure Act.” *Presidential Memorandum for the Heads of Executive Departments and Agencies Directing the Repeal of Unlawful Regulations* (Apr. 9, 2025), bit.ly/4dZFcUn. “[U]nlawful regulations” should not “remain on the books” in any form. *Id.*

Thank you for your attention to this critical matter. We look forward to your prompt action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Parshall Perry', written over a horizontal line.

Sarah Parshall Perry
Vice President & Senior Legal Fellow
Defending Education