

RESOLUTION TO OPPOSE THE PROPOSED CHANGES TO TITLE IX AND TO AFFIRM PARENTAL RIGHTS AND LOCAL CONTROL OF OHIO K-12 EDUCATION

The concept of education rests on the understanding that there are objective facts and absolute truths. Biological sex – male and female – is one such objective, scientific fact.

Sex is not arbitrarily assigned at birth but rather identifies observable, quantifiable differences between males and females. Merriam Webster defines “sex” as “either of the two major forms of individuals that occur in many species and that are distinguished respectively as female or male especially on the basis of their reproductive organs and structures.”

Denying the reality of biological sex destroys foundational truths upon which education rests. To safeguard the wellbeing of children and to support parents, schools, and districts in doing the same, The State Board of Education (the "Board") hereby adopts the following Resolution:

WHEREAS, the Ohio State Board of Education’s sacred oath of office is to uphold and defend the Constitution of the United States and the Constitution of the State of Ohio; and

WHEREAS, Title IX of the Education Amendments of 1972 was enacted into law based on the Declaration of Independence’s promise of equal rights to ensure that “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.” Further, original and existing Title IX regulations acknowledge “physiological differences between the male and female sexes”; and

WHEREAS, on July 12, 2022, the U.S. Department of Education entered into the federal registry for public comment proposed regulatory changes to Title IX that contradict the plain language of the original law, illegally bypass the legislative process, and undermine the very protections for female students that Title IX sought to provide; and

WHEREAS, the proposed regulations would prohibit schools that receive federal funds from “adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with their gender identity,” thereby compelling schools to deny biological reality; and

WHEREAS, the proposed regulations would potentially deprive federally funded educational institutions, employees, and students of their First Amendment right to free speech; and

WHEREAS, the proposed regulations pertaining to athletics would require sports teams to be based on gender identity rather than biological sex, causing biological women and girls to compete on an unfair basis against biological males. Further, schools would be required to grant access to sex-separate facilities based on gender identity rather than on biological sex; and

WHEREAS, the proposed regulations would effectively require K-12 schools to socially transition minor children to a different gender without requiring parental consent, involvement, or notification; and

WHEREAS, the Board acknowledges the pain experienced by those suffering with gender dysphoria and that decisions regarding the appropriate course of action for minor students experiencing symptoms of gender dysphoria rightfully belong in the hands of parents rather than the state; and

WHEREAS, Ohio law, the United States Constitution, and legal precedent recognize the right of parents to direct the education, upbringing, and physical and mental health of their children. In the 1972 case *Wisconsin v. Yoder*, the United States Supreme Court declared that the "primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"; now, therefore, be it

RESOLVED, that the State Board of Education declares its emphatic support for Title IX of the Education Amendments of 1972, considers the original and authentic meaning of the law to be a historical and continuing pillar in upholding the rights and opportunities of women and girls, and unequivocally opposes the proposed regulatory changes released by the U.S. Department of Education on July 12, 2022; and

BE IT FURTHER RESOLVED, that the Board supports the efforts of the Ohio Attorney General in safeguarding federal nutritional assistance for students in need, which may be in jeopardy due to new Department of Agriculture rules; and

BE IT FURTHER RESOLVED, that the State Board of Education calls upon the General Assembly to resist federal executive branch attempts to undermine the original intent of Title IX. The Board urges the General Assembly to safeguard the inviolable rights of parents, the innocence of children, the rights, privacy, safety, and opportunities of women and girls in schools and athletics, and local control of school districts as defined in Chapter 3313 of the Ohio Revised Code; and

BE IT FURTHER RESOLVED, that the Board directs the acting Superintendent of Public Instruction to issue, within twenty-one calendar days, a mailed copy of this resolution and a cover letter, approved by the Board president, to every Ohio public school district and to every Ohio elementary or secondary school or preschool program licensed by the Department of Education receiving federal funds. For public school districts, the cover letter and copy of this resolution shall be mailed to the district superintendent and to each district board member. The cover letter shall indicate that:

- the State Board opposes the proposed regulatory changes released by the U.S. Department of Education on June 23, 2022
- the applicable USDOE guidance documents have been enjoined by a U.S. District Court and are, therefore, unenforceable at this time
- the State Board disagrees with the rule promulgated by the Department of Agriculture on June 14, 2022
- while this rule currently remains in effect, the Ohio Attorney General has joined with twenty-one other state attorneys general in seeking injunctive relief from the new USDA rule
- this correspondence is intended to inform schools and districts, not to compel them to take a particular course of action

BE IT FURTHER RESOLVED, that with this action the State Board of Education expresses its unwavering commitment to excellence in education for all, education that empowers each student to flourish, to succeed, and to reach his or her full potential as a member of the next great generation of Ohioans.