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PRESS ADVISORY

FOR IMMEDIATE RELEASE

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Title IX and the Public Facilities Privacy & Security Act

Liberal groups have been claiming that North Carolina schools and universities will lose around \$4.5 billion in Title IX funding due to SL 2016-3, *Public Facilities Privacy & Security Act*. This claim is false.

Title IX ensures 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.” 20 U.S.C. §1681(a).

Under current law, neither states nor school districts will lose Title IX funding for enacting laws and policies that require students to use the restrooms and locker rooms of their biological sex.

Title IX and its regulations specifically allow schools to maintain separate facilities (including dormitories, restrooms and locker rooms) on the basis of sex without putting their funding at risk.

- Title IX states that “nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.” 20 U.S.C. § 1686.
- Title IX’s regulations further state that “[a] recipient may provide separate toilet, locker room, and shower facilities on the basis of sex.” 34 C.F.R. § 106.33.

Thus, schools may have separate restrooms, locker rooms, and showers for boys and girls without jeopardizing federal funding.

Every federal court to examine the issue so far has concluded that it does not violate Title IX to maintain separate restrooms and locker rooms on the basis of biological sex.

- “[T]he School Board did not run afoul of Title IX by limiting G.G. to the bathrooms assigned to his birth sex.” *G.G. v. Gloucester County School Board*, Federal Court for the Eastern District of Virginia (Sept. 17, 2015).
- “[T]he University’s policy of requiring students to use sex-segregated bathroom and locker room facilities based on students’ natal or birth sex, rather than their gender identity, does not violate Title IX’s prohibition of sex discrimination.” *Johnston v. University of Pittsburgh*, Federal Court for the Western District of Pennsylvania (Mar. 31, 2015).

Every time a school district or university has defended a student privacy policy in federal court it has won. The U.S. Department of Education seeks to bully schools and states into complying with its wrong interpretation of Title IX. When schools stand up to the Department, the Department loses in court.

No school district, university, or state has ever lost Title IX funding.

In the 40 years since Title IX was enacted, no educational institution or state has ever lost federal funding for noncompliance with Title IX. If the Department of Education threatens a school's funding, that school is entitled to a hearing before an administrative law judge and review by a court. If a school fights and ultimately loses, the school is given 30 days to comply and keep its Title IX funding. 20 U.S.C. § 1682; 28 C.F.R. § 42.111.

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