



## Senate Resolution No. 2018/2019-038

### *In Opposition to Proposed Definition of Sex under Title IX and in Solidarity with Transgender and Non-Binary Students*

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#### **Primary Sponsor**

Teddy Lake (ASUC Senator)

#### **Cosponsors**

Mia Villasenor (Legislative Director, Co-President of the Queer Student Union), Nuha Khalfay (External Affairs Vice President), Juniperangelica Cordova (MCC), Zach Carter (ASUC Senator)

**WHEREAS**, Title IX of the Education Amendments Act of 1972<sup>1</sup> is a federal civil rights statute that prohibits discrimination based on sex in educational programs or activities that receive federal funds;

**WHEREAS**, UC Berkeley is one of many institutions that receives federal funds and, thusly, falls under Title IX's jurisdiction;

**WHEREAS**, on October 21, 2018, the New York Times reported that the Department of Health and Human Services (HHS) is working to "establish a legal definition of sex" under Title IX<sup>2</sup>;

**WHEREAS**, the HHS's proposed "definition" is purposefully trans-exclusive, as it seeks to create an understanding of sex and gender that is fixed, determined by genitalia at birth, and limited to the binary (i.e. the options being either male or female)<sup>3</sup>;

**WHEREAS**, the Trump administration's new Title IX definition of sex would also require individuals to undergo invasive genetic testing in order to dispute their state-assigned sex<sup>4</sup>;

**WHEREAS**, the Obama administration's Title IX guidelines<sup>5</sup> explicitly protected trans

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<sup>1</sup> <http://www.ncaa.org/about/resources/inclusion/title-ix-frequently-asked-questions>

<sup>2</sup> <https://www.nytimes.com/2018/10/21/us/politics/transgender-trump-administration-sex-definition.html>

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> <https://education.findlaw.com/discrimination-harassment-at-school/title-ix-protections-for-transgender-students.html>

individuals from discrimination upon the basis of their gender identity, including (but not limited to) harassment, denial of access to the student's preferred restroom, and requirements regarding medical documentation;

**WHEREAS**, the Trump administration's suggested definition of sex does not take into account that "biological sex" has little to do with gender;

**WHEREAS**, *Medical News Today*, amongst other reputable scientific outlets, now recognize that one's biological sex is not an indicator of their gender, as such externalities are often inconsistent with an individual's gender identity, performance, and/or expression<sup>6</sup>;

**WHEREAS**, the Trump administration's proposed definition of sex disregards transgender individuals, who have undergone hormonal treatment, gender-affirmation surgeries, legal name changes, and other methods of official gender recognition that have previously been upheld under the law;

**WHEREAS**, the Trump administration's proposed definition of sex disregards studies that invalidate the sex binary and, instead, present it as a spectrum that allows for the existence of intersex individuals, whose genitalia at birth may not adhere to the binary, and the existence of non-binary and gender non-conforming individuals, whose gender identity and/or expression does not adhere to the binary<sup>7</sup>;

**WHEREAS**, the Trump administration's proposed Title IX changes will rob transgender, non-binary, and otherwise gender non-conforming students of their right to seek legal recourse for discrimination on the basis of their gender identity;

**WHEREAS**, according to the *New York Times*, approximately 1.4 million Americans<sup>8</sup> will lose crucial, federal recognition of their transgender identity, including identifying UC Berkeley students;

**THEREFORE BE IT RESOLVED** that the Associated Students of the University of California stands in firm opposition to the Trump administration's proposed definition of sex under Title IX;

**THEREFORE BE IT RESOLVED** that the Associated Students of the University of California urges the UC Berkeley administration to publicly reinforce their support of transgender, non-binary, and gender non-conforming students;

**THEREFORE BE IT RESOLVED** that the Associated Students of the University of California urges the UC Berkeley administration to better publicize the legal, psychological, health, and social resources available to transgender, non-binary, and gender non-conforming students on and off campus, including but not limited to:

1. The Gender Equity Resource Center (GenEq)
2. The Queer Alliance Resource Center (QARC)
3. Transgender Health Services at the Tang Center
4. Office for the Prevention of Harassment & Discrimination (OPHD): Denise Oldham,

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<sup>6</sup> <https://www.medicalnewstoday.com/articles/232363.php>

<sup>7</sup> <https://www.genderspectrum.org/quick-links/understanding-gender/>

<sup>8</sup> <https://www.nytimes.com/2016/07/01/health/transgender-population.html>

Title IX Officer and Director

5. UC Berkeley Transgender Student Wellness Initiative (TSWI)
6. Transgender Law Center
7. Pacific Center
8. National Center for Transgender Equality

## Appendix List

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