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ETR Objects to Proposed Changes to Title IX Regulations

ETR, a leading nonprofit education, training and research organization dedicated to advancing health equity, has released its response to the U.S. Department of Education's proposed new regulations under Title IX. The statement reads in part:

"Overall, the Department's proposed regulations incorporate practices and procedures from formal litigation settings into what should remain an administrative grievance procedure, ratcheting up the adversarial nature of an often already contentious process. The proposed regulations place unnecessary administrative burdens on K-12 recipients by requiring unwieldy and costly notification and other compliance actions in the name of due process while creating loopholes that could lead to egregious impacts on student safety, health, and wellbeing.

If adopted, the proposed regulations would result in fewer students coming forward to report allegations of sexual and/or gender-based harassment and significantly undermine K-12 recipients' efforts to create and sustain safe and positive learning environments for all students regardless of their sex, gender identity, or gender expression."

ETR's comments are based generally on its 30-year history of working effectively in the K-12 milieu as researchers, independent evaluators, policy and program consultants, and health educators across many health and wellness issues. ETR's comments are specifically informed by partnerships over the past five years with K-12 districts and schools that are or have been under investigation by the United States Department of Education's Office for Civil Rights (OCR), under resolution agreement with OCR, or otherwise assessing and/or strengthening their K-12 Title IX Programs. The [K12T9 Initiative](#), which is housed in ETR's School Based Health & Wellness work, provides a range of services and supports to kindergarten through twelfth-grade (K-12) districts and schools seeking to improve or enhance their Title IX programs.

Objections to some of the prominent changes proposed by Education Secretary Betsy DeVos and the Trump administration include the following:

- Increasing barriers to reporting cases of sexual harassment by making the reporting process unnecessarily burdensome, complex, or difficult to access;
- Allowing schools to ignore cases that don't meet a dramatically higher standard of "actual knowledge," present only in a formal, signed complaint;
- Redefining "sexual harassment" as conduct that is "so severe, pervasive and objectively offensive" that it completely denies a student access to education, thereby failing to address the full continuum of unwelcome conduct and undermining early intervention efforts; and

- Blocking schools from investigating Title IX complaints related to incidents that occur off campus or outside of school-related activities, when there are many behaviors that can occur off campus but still have deleterious effects on students' access to the educational environment.

In addition to these objections, Senior Research Scientist John Shields, PhD, MSW, the Director of ETR's K12T9 Initiative, challenges the Department's estimate of the number of sexual harassment investigations as "very low." The Department has estimated the number of formal complaints as 3.23 *per year* for each educational institution. ETR's research indicates K-12 districts investigate 3.5 cases *per week* on average. The Centers for Disease Control & Prevention's (CDC) Youth Risk Behavior Survey (YRBS) and the California Healthy Kids Survey (CHKS) also provide evidence that the number of potential Title IX sexual assault cases are significantly higher than the Department's estimate. For example, results from the latest statewide survey of students shows that nearly 250,000 K-12 students in California public schools report being subjected to multiple incidents of gender-based harassment or bullying each year. Population-level surveillance data also show significantly higher exposure to sexual and/or gender-based harassment by students of color, gay, lesbian, and bisexual students, and transgender students.

Regardless of their sex, sexual orientation, gender identity, or gender expression, all K-12 students deserve to be educated in a safe, positive learning environment that is free of sexual and gender-based harassment, bullying, intimidation and discrimination.

ETR strongly opposes the proposed regulations and requests they be withdrawn in their entirety.