

November 29, 2018

The Honorable Alex Azar
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar,

On behalf of the organizations listed below, we write to express our serious concerns with recent reports of a proposal under consideration by your agency to narrowly define sex. Our associations believe that the federal definition of sex under discussion, which is so narrowly drafted as to exclude the identities of numerous faculty, staff and students already acknowledged by our institutions, is an unnecessary and unreasonable step that is bound to cause fear and confusion.

In the simplest terms, we believe that higher education and the students we educate are not served by a federal definition that limits or restricts the identity of an individual. While all campuses differ in their specific approaches, it is important to recognize that they are best suited to determine how they serve their students, consistent with the law. Many institutions, reflecting their missions, have chosen to embrace transgender and gender non-binary individuals and have tailored their policies in ways that go beyond their legal obligations, but are unquestionably permissible under federal, state and local laws. These efforts mirror the individual values and goals of each institution.

Any definition developed by your agency, which would come with the imprimatur of the federal government, could have an outsize influence on the actions of students and institutions. Such a change could cause needless confusion, uncertainty and anxiety about protections afforded to transgender and gender non-binary individuals on our campuses under federal, state and local law, particularly Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act.

Far from improving how institutions serve their communities, the approach under consideration by your agency could result in some members of those communities being perceived as less equal, and entitled to fewer rights and processes than their peers.

For these reasons, we oppose any efforts to promulgate such a definition and urge you not take this step.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Mitchell".

Ted Mitchell
President

On behalf of:

ACPA-College Student Educators International

ACT

American Association of Colleges for Teacher Education

American Association of Collegiate Registrars and Admissions Officers

American Association of Community Colleges

American Association of State Colleges and Universities

American College Health Association

American Council on Education

American Dental Education Association

APPA, Leadership in Educational Facilities

Association of American Colleges and Universities

Association of American Medical Colleges

Association of American Universities

Association of Community College Trustees

Association of Governing Boards of Universities and Colleges

Association of Public and Land-grant Universities

College and University Professional Association for Human Resources

Council for Advancement and Support of Education

Council of Graduate Schools

EDUCAUSE

NAFSA: Association of International Educators

NASPA - Student Affairs Administrators in Higher Education

National Association for College Admission Counseling

National Association for Equal Opportunity in Higher Education

National Association of Colleges and Employers

National Association of Independent Colleges and Universities

The College Board

The Common Application

UPCEA