

October 24, 2016

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100

Vanita Gupta
Principal Deputy Assistant Attorney General for Civil Rights
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Office of the Assistant Attorney General, Main
Washington, D.C. 20530

Dear Ms. Lhamon and Ms. Gupta,

On behalf of the American Association of Collegiate Registrars and Admissions Officers (AACRAO), I write to respectfully submit the following comments regarding the Dear Colleague Letter on transgender students issued by the Departments of Education and Justice on May 13, 2016.

AACRAO is a nonprofit association of more than 11,000 higher education admissions and registration professionals who represent approximately 2,600 institutions and agencies in the United States and more than 40 other countries. The vast majority of our individual members are campus officials with direct responsibility for admissions, recruiting, academic records, and registration functions. Diversity and inclusion are integral to all aspects of admissions, registration, and enrollment management, and our members work diligently to fully integrate such principles in all aspects of professional practice. Because they serve as custodians of education records for current and former students, our members are also particularly knowledgeable about privacy issues in general, and specifically about information security and privacy requirements of Federal and State laws. As key stakeholders in promoting inclusiveness at all collegiate institutions and safeguarding student privacy, AACRAO members are particularly reliable partners in the Education and Justice Departments' efforts to create and sustain nondiscriminatory communities for all students.

AACRAO has been at the forefront of issues relating to gender identity recognition, in many cases leading the charge to push for more inclusive institutional policies. Our members have been working diligently to update their practices to treat students consistent with their gender identity, using preferred names and pronouns, protecting transgender students' privacy, and updating education records. Beyond that, AACRAO members seek to extend similar protocols and considerations to other student populations that may be affected by identity issues. For example, many international students wish to utilize an Americanized name when studying in the United States. Colleges and universities should not stop at accommodating transgender students for the purposes of creating a more inclusive environment. The varying student information systems (SIS) utilized at our member institutions are not always equipped to accommodate and accurately track such changes, though. Many SIS vendors are

currently collaborating with institutions to provide solutions, but the current piecemeal approach could create unnecessary confusion for well-intentioned school officials.

AACRAO expresses its support for Departments' efforts to ensure that transgender students enjoy a supportive and nondiscriminatory school environment. We commend both agencies' work to help colleges and universities understand their responsibilities to serve transgender students, particularly with regard to privacy, confidentiality, and student records. AACRAO stands ready to work with the federal government, SIS vendors, and other key stakeholders to advance diversity and inclusion at all collegiate institutions.

We are, however, concerned about certain aspects of the guidance outlined in the May 13, 2015 Dear Colleague Letter. In particular, our members believe that the letter gives conflicting guidance with regard to the treatment of transgender students' education records. The guidance initially states that, under Title IX, institutions may not require transgender students to produce identification documents that reflect their gender identity. It also maintains that institutions must respond to a request to amend information related to a student's transgender status consistent with its general practices for amending other students' records. While institutional policies vary from campus to campus, amending certain records (such as preferred names and pronouns in a student information system) may be accomplished with ease and in a manner conforming with practices extended to other students. However, a number of states and an even larger number of institutions consider student transcripts to be a legal document and require that students complete a legal name change in order to amend such a record.

While AACRAO understands that transgender students face restrictions in some states that prevent them from obtaining identification documents that reflect their gender identity, we believe that the current guidance conflicts with longstanding institutional policies and sets a separate standard for the treatment of education records for one group of students. The letter explicitly states that a school "must not treat a transgender student differently from the way it treats other students of the same gender identity." We believe that setting such a standard for transgender students while still requiring legal documentation from other students could lead to unintended consequences for institutions as well as students.

AACRAO requests additional clarification on the treatment of student education records to ensure that institutions promote inclusiveness while still maintaining the autonomy to set standard practices governing records amendments and corrections.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael V. Reilly". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Michael V. Reilly
Executive Director