



E. SCOTT PRUITT
ATTORNEY GENERAL

May 13, 2016

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

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. 20530-0001

In re: Colleague Letter on Transgender Students

Dear Assistant Secretary Lhamon and Assistant Attorney General Vanita Gupta,

We have reviewed the “significant guidance letter” issued today. Despite contending that it “does not add requirements to applicable law,” this letter most definitely changes the law in that it takes the unprecedented step of redefining “sex” to mean “gender identity.” Your citations to U.S. Supreme Court precedent and references to lower court cases and administrative action are disingenuous at best.

Further, you have forced this definition on parents, students, and communities because you have deemed unjustifiable any discomfort that they may express. Your determination thus elevates the status of transgender students over those who would define their sex based on biology and who would seek to have their definition honored in the most private of places. Indeed, those latter students and their families cannot even seek reassurance that a transgender student’s self-definition is not premised on whim or caprice because you have disavowed the school’s ability to seek any form of documentation regarding the transgender child’s self-definition.

Not only does this “significant guidance letter” attempt to redefine for all Americans their most fundamental beliefs about who they are, it compels schools to join with you in enforcing this

new definition. By conditioning the receipt of federal funds on compliance with the “significant guidance letter,” schools have been given an ultimatum: take it or lose it. As you must know, this leaves many schools without any real choice. You have thus transformed the federal “carrot and stick” approach to school funding into “all stick.”

We believe that your actions today are unlawful and that they represent the most egregious administrative overreach to date. You have taken a public policy issue that must, by our constitutional design, be worked out in the laboratory of democracy and enforced it on all people. And you have done so through a misuse of the spending power.

Please be advised that if you attempt to enforce this “significant guidance letter” on schools in the State of Oklahoma, we will vigorously defend the State’s interests.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a large, stylized flourish above the name.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA

ESP:cr

C: State Department of Education, State Superintendent Joy Hofmeister
Chancellor Glen D. Johnson