

Contact:

Aidan O'Shea, [aoshea@publicjustice.net](mailto:aoshea@publicjustice.net)

Patty Guinto, [puinto@youthlaw.org](mailto:puinto@youthlaw.org)

## High School Organization Files Legal Action to End DeVos Title IX Regulations that Reduce Sexual Harassment Protections

### *High school student group alleges DeVos regulations will cause even more students to experience sexual harassment*

Today, the Women's Student Union (WSU) at Berkeley High School in Berkeley, California [filed a legal challenge](#) to Trump-era Department of Education regulations that put students nationwide in greater danger and represent a radical departure from the way previous Democratic and Republican administrations applied Title IX to school sexual harassment, including sexual assault.

WSU is represented by Public Justice, the National Center for Youth Law, and Correia & Puth. The lawsuit is the first challenge to former Education Secretary Betsy DeVos's 2020 regulations that focuses on the unique impact on K-12 students.

"High school students, like the members of WSU, have experienced the harm that the DeVos regulations have caused on their campuses," said Seth Galanter, Senior Director at the National Center for Youth Law. "They are incredibly brave for stepping forward to get their school, and all schools, to vigorously counter sexual harassment and assault."

As explained in the [legal challenge filed today](#), the 2020 regulations adopted by the Department of Education under Secretary DeVos serve to:

- Limit what type of misconduct is considered sexual harassment that schools need to respond to under Title IX
- Exclude from Title IX coverage any sexual harassment of students by other students or teachers if the harassment took place off school grounds and was not part of a school program, even if the victim then has to share a class with the harasser or otherwise struggles to learn because of the harassment.
- Remove a school district's obligation to redress sexual harassment under Title IX until school employees have "actual knowledge" of the harassment – even if the school *should* know about the harassment.
- Require only that schools provide remedies designed to restore or preserve equal access to the individual student who complained, letting schools off the hook from addressing wider cultures of sexual harassment and hostile learning environments.
- Limit the Department's assessment of compliance under Title IX to whether a school addressed reported sexual harassment in a manner that is "deliberately indifferent" or "clearly unreasonable," rather than requiring schools to take prompt and effective steps reasonably calculated to end the harassment and eliminate the hostile environment.

In today's complaint, WSU urges the U.S. District Court for the Northern District of California to strike down some of the most damaging provisions of the regulations because they are inconsistent with Title IX, unreasonable, and were adopted as part of a process – headed by Secretary DeVos – that ignored the costs of sexual harassment to students across the country.

*The Washington Post* and other news resources reported today that President Biden has ordered a "review" of last year's regulations, directing the Department of Education to explore whether they are "consistent with the policies" of his administration. If the Department concludes it should undo DeVos's policies, the Post report notes that "unraveling a regulation that is already in place may require a second complex rulemaking process." The potential length of a federal rulemaking process contrasts with the aim of this lawsuit: an immediate court order to set aside the DeVos rules, which would have the effect of better protecting students nationwide now.

“As an organization, the Women’s Student Union is dedicated to creating a safe space and advocating for a healthier and more equitable learning environment,” WSU officers said. “While we’ve attempted this within our school, it's become evident that without policy change on a national level, students will continue to struggle in silence. This lawsuit provides us with an opportunity to raise the bar for institutions across the country, and to require all school administrations to take initiative to ensure that everyone feels comfortable and safe in their classrooms.”

WSU seeks to address barriers to success and wellbeing for young women and non-binary students at their school. They advocate for school policies that protect their members and the student body from sex discrimination, including sexual harassment, and provide training to the student body about their rights under school policy and civil rights law.

“Thankfully, Betsy DeVos lost her job, but her legacy lingers on in her dangerous and destructive changes to the Department’s Title IX rules,” said Alexandra Brodsky of the Public Justice Students’ Civil Rights Project, who represents WSU in this action. “Rather than fulfilling her Department’s mission of promoting access to education, DeVos gutted long-standing protections for students, giving schools a green light to mistreat survivors and ignore cultures of harassment. The Biden Administration has rightly said it intends to review DeVos’s rules. This lawsuit complements that goal and offers the court an opportunity to more swiftly erase some of the worst parts of the regulations and restore critical protections that students need right now.”

“DeVos made it easier for schools to avoid their responsibilities to keep kids safe from sexual harassment and assault,” said Galanter. “Sexual harassment has not stopped for the pandemic. We know the Biden Administration is looking at this issue, but there’s no time to wait when children are at risk today.”

#### **About Public Justice’s Students’ Civil Rights Project**

*Public Justice’s Students’ Civil Rights Project uses litigation and advocacy to combat harassment and other forms of discrimination so that all students can learn and thrive in school. Our unique strategy for effecting lasting, systemic change pairs innovative legal advocacy with outreach, education, and mobilization efforts that empower young people to be catalysts for critical reforms.*

#### **About The National Center for Youth Law**

*The National Center for Youth Law advances justice through research, community collaboration, impact litigation, and policy advocacy that fundamentally transforms our nation's approach to education, health, immigration, foster care, and youth justice. Our vision is a world in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves.*

#### **About Correia & Puth**

*Correia & Puth is a recognized, national leader on use of Title IX as an effective tool to maintain an educational environment free from discrimination and retaliation.*