

March 20, 2018

Secretary Betsy DeVos
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary DeVos,

The undersigned organizations advocating for lesbian, gay, bisexual, transgender, and queer and questioning (LGBTQ) students write to urge you to maintain the Department's January 2014 "Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline," and to stress its importance for ensuring equal opportunity for all students. When it was written, it was a testament to a government-wide commitment to reducing the devastating impacts of harsh discipline, particularly for students of color; disabled students; LGBTQ students, and students at the intersections of these identities. We urge that the Department of Education maintain its support for diminishing exclusionary discipline practices and establishing restorative approaches to create safe and inclusive schools for all students.

In addition to the findings reported from the federal Civil Rights Data Collection, GLSEN's research provides evidence that LGBTQ students are disproportionately subject to harsh and exclusionary school discipline practices. Among those surveyed, almost two thirds (62.8%) of LGBTQ students had experienced some form of discipline, whether that was detention, in-school or out-of-school suspension, or expulsion, compared to less than half (45.8%) of non-LGBTQ students.ⁱ LGBTQ students of color are more significantly impacted by these practices, with 46.7% of Black/African American LGBTQ students, 44.1% of Hispanic/Latino LGBTQ students, and 47.3% of multiracial LGBTQ students facing discipline, compared to 36.3% of white LGBTQ students surveyed. Similarly, 47.8% of disabled LGBTQ students reported experiencing school discipline compared to 36.9% of students who did not report a disability.ⁱⁱ These numbers are compounded when considering students who have intersecting identities.

LGBTQ students are uniquely at risk for experiencing school discipline—and the negative educational and career outcomes that stem from it—because of punitive responses to their experiences of harassment and assault, discriminatory school policies and practices, and a lack of access to supportive resources to help them mitigate identity-based conflict in substantive ways. In fact, LGBTQ students who experience harassment and assault are more likely to encounter school discipline and the juvenile justice system. Additionally, these students are more likely to miss days of school and fear for their safety in the classroom.ⁱⁱⁱ

The consequences of exclusionary school discipline practices can be devastating, especially for students who may already face marginalization in school, their communities, and even at home. These students lose critical instruction time and are often pushed out of school, leading to involvement with the juvenile justice system or homelessness.

While federal law clearly prohibits school districts from discriminating in the administration of school discipline based on personal characteristics, the 2014 Dear Colleague Letter, as well as

other documents affirming the position of the Department on this matter, are crucial to ensuring that marginalized students are kept in the classroom and out of the criminal justice system.^{iv}

Although the Dear Colleague Letter did not explicitly discuss the disparate discipline faced by LGBTQ students, the careful review of disciplinary practices encouraged by this guidance benefits LGBTQ students tremendously. The rescission of this guidance would send a message that the Department of Education is no longer concerned with the discriminatory impacts of harsh school disciplinary practices in our schools. The support of the Department is crucial to the continued efforts to challenge the school-to-prison pipeline at the state and local level.

We look forward to your response and hope that you will affirm the 2014 guidance and the Department of Education's commitment to serving marginalized youth facing the disparate and discriminatory impacts of exclusionary school discipline.

Sincerely,

American Civil Liberties Union
Family Equality Council
Genders & Sexualities Alliance Network (GSA Network)
GLBTQ Legal Advocates & Defenders (GLAD)
GLSEN
Human Rights Campaign
Lambda Legal
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
National LGBTQ Task Force
National Queer Asian Pacific Islander Alliance (NQAPIA)
PFLAG National
The Trevor Project

ⁱ Greytak, E.A., Kosciw, J.G., Villenas, C. & Giga, N.M. (2016). From Teasing to Torment: School Climate Revisited, A Survey of U.S. Secondary School Students and Teachers. New York: GLSEN.

ⁱⁱ GLSEN (2016). Educational exclusion: Drop out, push out, and school-to-prison pipeline among LGBTQ youth. New York: GLSEN.

ⁱⁱⁱ GLSEN, Educational exclusion.

^{iv} See: Title VI, Civil Rights Act of 1964, Title II, Americans With Disabilities Act, Individuals with Disabilities in Education Act, *Plyler v. Doe*, etc.