

AMERICAN ACADEMY OF  
CHILD & ADOLESCENT  
PSYCHIATRY

W W W . A A C A P . O R G

June 23, 2020

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

*Re: Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority, Final Rule (RIN 0945-AA11)*

Dear Secretary Azar:

On behalf of the American Academy of Child and Adolescent Psychiatry (AACAP), I am writing today to express grave concern about the June 19, 2020, Section 1557 Final Rule, which dismantled protections against discrimination for patients who are transgender, LGBTQ, women, and others, in healthcare settings.

AACAP is the professional home to 9,500 child and adolescent psychiatrists, some of whom also treat adults and transitional age youth (age 18 and above) and is the leading organization for child and adolescent psychiatrists worldwide. Our mission includes promoting the healthy development of all children, adolescents, and families. As such, we are committed to supporting the preservation of civil rights for all individuals, particularly at-risk youth.

In our view, it is disingenuous to state that the Final Rule demonstrates the agency's commitment to ensuring the civil rights of all individuals, when in fact, its contents will do just the opposite by creating barriers to needed services for individuals who already face challenges in accessing healthcare. In addition, youth who are gender diverse and/or transgender experience significant health disparities, including an alarming higher rate of negative mental health outcomes when compared to the general population.

Also as noted in the Final Rule, "[t]he Department continues to expect that a holding by the U.S. Supreme Court on the meaning of 'on the basis of sex' under Title VII will likely have ramifications for the definition of 'on the basis of sex' under Title IX. ***Title VII case law has often informed Title IX case law with respect to the meaning of discrimination 'on the basis of sex,'*** [emphasis added] and the reasons why "on the basis of sex" (or "because of sex," as used in Title VII) does not encompass sexual orientation or gender identity under Title VII have similar force for the interpretation of Title IX." Because the Supreme Court has now ruled

contrary to your stated limitation, in *Bostock v. Clayton County*, AACAP calls for the immediate retraction of this egregious and harmful Final Rule.

Left unchanged, the adverse impact of this Final Rule cannot be overestimated. Any attempt to isolate specific segments of the population spills over to all children, youth, and their families, putting them at greater risk for long-term mental and physical health conditions. The existing disparities will only worsen, and these youth will be at an even greater risk for depression, anxiety, substance use, and suicidality. Targeting a minority population affects *all youth and families*, as it promotes the concept of marginalizing and othering those who are different. Moreover, the Final Rule conveys that bullying and discrimination are acceptable in our society. Our laws and regulations should be creating a culture of non-discrimination and inclusivity in all settings and protect all citizens.

Should you have questions about the contents of this letter, or would like to discuss it further with AACAP members who have expertise in these issues, please do not hesitate to reach out to Karen Ferguson, Deputy Director of Clinical Practice, at [kferguson@aacap.org](mailto:kferguson@aacap.org).

Sincerely,

A handwritten signature in black ink that reads "Gabrielle A. Carlson". The signature is written in a cursive style and is enclosed within a large, sweeping, handwritten flourish that extends to the right and then loops back under the name.

Gabrielle A. Carlson, MD  
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