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Texas Senate GOP Caucus Wants Rights of All Students to Be Respected
Serious questions of legality in “Dear Colleague” guidance letter remain unresolved

Austin – The Texas Senate Republican Caucus has released an open letter, with nineteen signatories, to Texas school district superintendents and trustees in regards to the recently released “Dear Colleague” letter from the U.S. Departments of Justice and Education outlining “significant guidance” to school districts on allowing students to use the bathroom of their “gender identity”, defined as an individual’s “internal sense of gender.” The Texas Senate GOP Caucus has urged all school districts throughout the State to ignore this letter until questions of its legality are resolved. When asked to defend his statements, President Obama stated in an interview that this guidance letter was their “best judgment” on how to address the issue.

“We believe this issue should be addressed by using common sense and the best judgment on the part of the parties involved in a specific case, respecting the rights and privacy of ALL the children who might be affected,” said Senator Joan Huffman.

In their letter, the Department of Education’s and the Department of Justice’s interpretations of sex discrimination include not only an individual’s biological sex, but also an individual’s “internal sense of gender.” However, of the thirty-five legal footnotes provided in the document, not a single one substantiates this claim. There has been no federal law enacted or Supreme Court ruling to provide a legal basis for this overreach.

“In what has become the new normal, the White House has attempted to unilaterally write law,” said Caucus Chairman Paul Bettencourt. **“Of the thirty-five legal footnotes used to support the letter, not one supports the idea that Title IX applies to a student’s transgender status or internal sense of gender identity. There has been no federal law passed and no Supreme Court ruling that would justify the President’s attempt to unilaterally change how bathrooms at educational facilities are used.”**

For a complete statement of the Texas Senate GOP Caucus’ position, please refer to the attached letter.

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May 23, 2016

An Open Letter to Texas Independent School District Superintendents and Trustees

Re: Dear Colleague Letter on Gender Identity

You recently received a “Dear Colleague” letter from the Obama Administration outlining “significant guidance” to school districts on allowing students to use the bathroom of their “gender identity” under Title IX. The Departments define “gender identity” as an individual’s “internal sense of gender.” The Texas Senate Republican Caucus urges all school districts throughout the State to ignore this letter until questions of its legality are resolved.

The Departments are illegally attempting to create new law where none previously existed. As noted in a May 18th, 2016 letter from the Republican Study Committee, “This guidance (on Title IX) expands the Department of Education’s and the Department of Justice’s interpretations of sex discrimination to include not only an individual’s biological sex, but also an individual’s internal sense of gender.” Particularly noteworthy is that of the thirty-five legal footnotes supposed to support this position, not a single one substantiates the claim that Title IX applies to a student’s transgender status or internal sense of gender identity.

While it is certainly within the President’s purview to seek to pass or change a law, it is the role of Congress to enact such legislation if they deem it warranted. There has been no federal law passed and no Supreme Court ruling that would justify the President’s attempt to unilaterally change how bathrooms at educational facilities are used.

In addition to their effort to unilaterally rewrite law, the White House has stated that they could potentially deny federal funds to school districts that do not comply with the guidance in this letter. As commented on by Lieutenant Governor Dan Patrick, a near majority of federal funds sent to Texas schools are for free breakfast and lunch programs. Should the President choose to withhold these funds, he would quite literally be taking food out of the mouths of those in the most need. When asked to defend these statements, President Obama stated in an interview that this guidance letter was their “best judgment” on how to address the issue. We believe this issue should be addressed by using common sense and the best judgment on the part of the parties involved in a specific case, respecting the rights and privacy of ALL the children who might be affected.

The Texas Senate Republican Caucus calls on you to stand up for common sense, basic decency, and the rule of law in your school facilities.

Signed,

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Brian Birdwell
Konni Burton
Donna Campbell
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Bob Hall
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