



## Congress of the United States

House of Representatives

Washington, DC 20515

June 17, 2024

The Honorable Fred Farias III  
Chairman  
Texas Higher Education Coordinating Board  
1200 E. Anderson Lane  
Austin, Texas, 78752

Dear Chairman Farias III,

We write to express our grave concern that institutions of higher education in Texas are being directed to take actions that will not only nullify students' and faculty members' civil rights protections, but also jeopardize these institutions' ability to receive billions of dollars from the federal government when the new academic year begins. After nearly a year of engaging with students, educators, and institutional stakeholders, the U.S. Department of Education ("Department") issued its agency rulemaking ("Rule") on April 29, 2024, regarding Title IX regulations.<sup>1</sup> Then, on May 8, 2024, Texas Governor Greg Abbott sent a letter instructing all public colleges and universities to ignore the federal law set to go into effect August 1, 2024.<sup>2</sup> As you know, failure to comply with Title IX puts an educational institution's federal funding at risk. We therefore seek information on guidance the Texas Higher Education Coordinating Board's ("THECB") has provided Texas public colleges and universities since the Governor's letter was sent.

Under the Rule, the Department has clarified its requirements for educational institutions under Title IX of the Civil Rights Act of 1964, as well as set forth specific actions, policies, and procedures educational institutions must take regarding discrimination on the basis of sex. Specifically, and among other things, the Rule (1) clarifies sex discrimination includes discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; (2) clarifies that prohibitions relating to "Pregnancy or

---

<sup>1</sup> 89 Fed. Reg. 33474 (Apr. 29, 2024), [www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal](https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal).

<sup>2</sup> Letter from Greg Abbott, Governor, State of Texas, to Chairman and Regents at Texas A&M University, Texas Southern University, Texas State University, Texas Tech University, Texas Women's University, University of Houston, University of North Texas, University of Texas, Texas Community Colleges (May 8, 2024), [https://gov.texas.gov/uploads/files/press/Texas\\_Regents\\_Title\\_IX.pdf](https://gov.texas.gov/uploads/files/press/Texas_Regents_Title_IX.pdf).

Related Conditions” includes, but is not limited to, conditions like preeclampsia, infertility, recovery from childbirth, miscarriage, abortion, ectopic pregnancy, prenatal or postpartum depression; and (3) requires Title IX Coordinators to take certain steps when they have knowledge of conduct that reasonably may constitute sex discrimination as defined under the Department’s new rule.<sup>3</sup>

As you know, federal “[p]reemption may result not only from action taken by Congress itself; *a federal agency acting within the scope of its congressionally delegated authority may pre-empt state regulation.*”<sup>4</sup> Moreover, as a body that regularly engages with the Department for receipt of federal funds, you know that in order for educational institutions to receive federal money, they must comply with all federal laws—not just those the state’s governor likes.

Undoubtedly, the mission of higher education institutions should always be to prioritize the care and safety of its students. Yet, recent actions by public officials have prompted us to reiterate that our constituents and all college students across Texas are not political pawns to be played merely to score partisan points or be used to get in the Governor’s good graces.

If Texas educational institutions fail to adapt their policies in accordance with the forthcoming Title IX revisions, the consequences would be catastrophic. By losing billions of dollars of federal funding, institutions would be unable to provide scholarships needed for most students to afford and access our colleges and universities. Indeed, hundreds of thousands of would-be Texas students would have their educational opportunity put at risk. Taking any action that could bring about such dire consequences should be steadfastly avoided by every institution of higher education.

However, the harm here is not exclusively monetary. Students who may be able to attend Texas institutions without federal support would still be denied federal civil rights protected under the Department’s Rule—being subject to unlawful actions by the state and malicious individuals who refuse to enforce these civil right protections. These fears are not unfounded. Indeed, two professors at the University of Texas Austin have openly stated their intent to take cruel and humiliating actions against their students by defying the requirements set forth under the Rule, including failing students who miss class to receive vital reproductive health care such as abortions despite their misguided and uneducated understanding of the circumstances in which individuals may need these.<sup>5</sup> This type of prejudiced, narrow-minded view is the exact kind of harm Title IX’s civil rights protections were created to prevent.

We acknowledge Texas colleges and universities have been placed in an undesirable position due to the coercive pressure of a zealous Governor, Lieutenant Governor, and Attorney General with a proven track record of using the perks of their public office to punish those who don’t bend the knee to their prejudiced political program. However, by yielding to such pressure, universities face the prospect of openly defying federal law, betraying their students, and jeopardizing federal funding for scholarships, facilities, and more.

---

<sup>3</sup> See *id.*

<sup>4</sup> *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 369 (1986).

<sup>5</sup> Pl.’s Amended Compl., *State of Texas v. U.S. Dep’t of Educ. et al.*, Case No. 2:24-cv-86-Z, ECF No. 12, (N.D. Tex., May 13, 2024), [www.texasattorneygeneral.gov/sites/default/files/images/press/Title%20IX%20Amended%20Complaint.pdf](https://www.texasattorneygeneral.gov/sites/default/files/images/press/Title%20IX%20Amended%20Complaint.pdf).

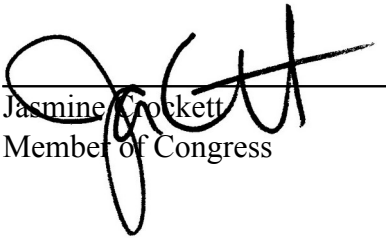
Accordingly, now more than ever, it is vital that the THECB provide crucial guidance to our Texas institutions to ensure adherence with federal law. It is also why the undersigned Members of the Texas Congressional Delegation are requesting expeditious answers to the following questions, no later than July 19, 2024:

1. Has the THECB provided guidance to public Texas colleges and universities regarding how to prepare for the update to Title IX in effect August 1, 2024?
  - a. If yes, please provide a copy of such guidance.
  - b. If no, please explain why no guidance has yet to be provided.
2. Has the THECB received any inquiries from Texas colleges and universities regarding how to prepare for the update to this forthcoming Title IX update?
  - a. What were the broad subjects of any such inquiries?
3. Has the THECB received any inquiries from Texas colleges and universities regarding how to proceed in light of the Governor's May 8 letter?
  - a. What were the broad subjects of any such inquiries?
4. Has the THECB provided guidance to public Texas colleges and universities regarding how to proceed in light of the Governor's letter?
  - a. If yes, please provide a copy of such guidance.
  - b. If no, please explain why no guidance has yet to be provided.
5. Has the THECB given guidance to public Texas colleges and universities regarding a timeline to update an institution's policies in accordance with the Department's new Rule to ensure federal funding is not put at risk?
  - a. If yes, please provide a copy of such guidance.
  - b. If no, please explain why no guidance has yet to be provided.
6. Has the THECB received inquiries from institutions regarding how to comply with the Department's new Rule?
  - a. If so, please provide information regarding the types of inquiries made.
  - b.
7. With the Rule's effective date being August 1, 2024, has the THECB provided, or provided guidance on the provision of, staff trainings related to ensuring implementation of the new requirements?
  - a. If yes, please provide a list of trainings or programming provided by THECHB or guidance regarding these trainings.
  - b. If no, please explain what actions THECB is taking to train staff.
8. Where Governor Abbott's directives conflict with the new federal laws, does the THECB acknowledge that its primary obligation is to comply with federal law?

- a. If no, please provide any internal analysis, materials, or legal justification for violating federal law.

\* \* \* \* \*

Sincerely,



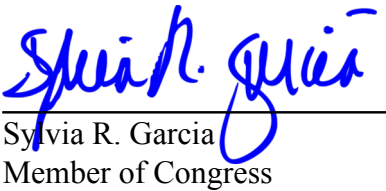
---

Jasmine Crockett  
Member of Congress



---

Al Green  
Member of Congress  
Scion of the Enslaved  
Africans -  
Sacrificed to Make America  
Great



---

Sylvia R. Garcia  
Member of Congress



---

Sheila Jackson Lee  
Member of Congress