

Congress of the United States
Washington, DC 20515

March 27, 2024

The Honorable Miguel A. Cardona, Ed.D.
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Dept of Ed. Office for Civil Rights
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona and Assistant Secretary Lhamon:

We write today to thank the U.S. Department of Education Office for Civil Rights (OCR) for swiftly opening an investigation into the Owasso Public School System in light of complaints filed against the district alleging it failed to properly respond to sex-based harassment, which may have contributed to the tragic death of 16-year-old student Nex Benedict.

Nex Benedict, an indigenous TNB+ (transgender and non-binary) student from Oklahoma, died on February 8, 2024, after they were attacked in a school restroom by their classmates. This attack following several claims of bullying that went on for over a year, which were not adequately addressed¹. Nex's death comes at a time when trans and gender-nonconforming Americans face heightened risk of discrimination and attacks amidst growing politically motivated rhetoric and discriminatory legislation nationwide. While these sentiments have long fostered a culture of violence against the LGBTQ community, the FBI's Annual Crime Report of 2022 shows that anti-LGBTQ+ hate crimes have hit staggering records. Alarming, over 1 in 5

¹ Soto, Jose. "Honoring Nex Benedict, 16-Year-Old Non-Binary Student." *Human Rights Campaign*, 21 Feb. 2024, www.hrc.org/news/honoring-nex-benedict-16-year-old-non-binary-high-school-student-who-tragically-died-after-school-beating.

hate crimes being committed are motivated by anti-LGBTQ+ bias². The last three years have been the deadliest on record for transgender people, especially for transgender women of color³.

We are deeply concerned about the trajectory of continued bigoted and anti-trans rhetoric, attacks, and legislation sweeping across the country. Adverse impacts are being felt by schoolchildren in schools everywhere, especially in states where this discrimination has turned from rhetoric to policy.

Oklahoma is among the states that have taken centerstage in pushing these policies at every level, from school districts to the state legislature. In 2022, Oklahoma became the first state in the United States to prohibit the use of non-binary gender markers on birth certificates.⁴ In schools, state law bans transgender women and girls from competing on sports teams consistent with their gender identity, and students are legally required to use a bathroom that corresponds with sex assigned at birth⁵. Minors are legally prevented from receiving gender-affirming health care in Oklahoma⁶, making it one of the 19 states with laws on the books that restrict gender-affirming care, with several other state legislatures aiming to follow suit.

Every student deserves to learn in a safe and affirming environment where they can thrive, and students deserve to go to school without fear of being bullied, harassed, or assaulted for expressing themselves or their gender identity. Because of the increase in racist, sexist, ableist, and anti-LGBTQ policies being implemented around the country, our nation's schools are undeniably less safe for LGBTQ students, putting their lives at risk. The need for vigorous civil rights law enforcement by OCR is clearer now than ever.

Our nation's civil rights statutes—which prohibit discrimination in schools on the basis of race, color, national origin, language status, sex, sexual orientation, gender identity, pregnancy and parenting status, disability, and age—is intended to protect and expand on students' civil rights. While the Biden Administration and OCR has stood strong in affirming its commitment to protecting students against sex-based harassment, the assault on Nex Benedict is an inevitable result of the hateful rhetoric targeting trans youth. Nex's death is a testament to the work that still

² Luneau, Delphine. "FBI's Annual Crime Report - amid State of Emergency, Anti-LGBTQ+ Hate Crimes Hit Staggering Record Highs." *Human Rights Campaign*, 16 Oct. 2023, www.hrc.org/press-releases/fbis-annual-crime-report-amid-state-of-emergency-anti-lgbtq-hate-crimes-hit-staggering-record-highs.

³ Reed, Betsy. "Transgender Deaths in US on Rise with Increase in Anti-Trans Laws, Report Shows." *The Guardian*, Guardian News and Media, 22 Nov. 2023, www.theguardian.com/society/2023/nov/22/transgender-deaths-remembrance-report.

⁴ Alfonseca, Kiara. "Oklahoma Governor Signs Ban on Nonbinary Gender Markers." *ABC News*, ABC News Network, 27 Apr. 2022, abcnews.go.com/US/oklahoma-governor-signs-ban-nonbinary-gender-markers/story?id=84343194.

⁵ Rose, Andy, and Paul LeBlanc. "Oklahoma GOP Governor Signs Anti-Transgender Bathroom Bill into Law | CNN Politics." *CNN*, Cable News Network, 26 May 2022, www.cnn.com/2022/05/25/politics/oklahoma-anti-transgender-bathroom-law-signed-stitt/index.html.

⁶ Murphy, Sean. "Oklahoma Governor Signs Gender-Affirming Care Ban for Kids." *AP News*, AP News, 2 May 2023, apnews.com/article/oklahoma-transgender-medical-care-children-9b9ed20596bc9458df56832dcec13e65.

needs to be done to prevent similar tragedies from taking place, and to hold states and school districts accountable for propagating discriminatory sex-based rhetoric, which can be reasonably assumed will result in the continued harassment and anti-LGBTQ attacks.

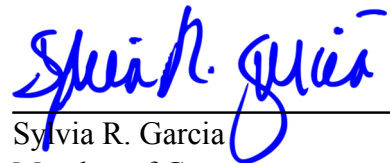
We will continue to work to ensure that OCR has all the tools necessary to effectively enforce its unique responsibility to enforce these core nondiscrimination statutes in schools, but in order to ensure we are providing the requisite resources, we rely on the Department to communicate its needs to Congress. Again, we appreciate the Department of Education's swift response to complaints against Owasso Public Schools and will monitor the situation closely. We ask that you please provide an update on the investigation no later than 60 days from the receipt of this letter.

We stand ready to work with the Department to eliminate discrimination against historically marginalized students, especially students of color, Native and indigenous students, students with disabilities, LGBTQ+ students, women and girls, immigrant students, and English learners in classrooms across our country.

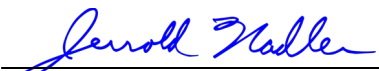
Sincerely,



Adam B. Schiff
Member of Congress



Sylvia R. Garcia
Member of Congress



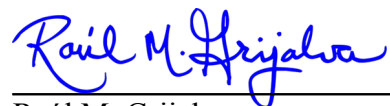
Jerrold Nadler
Member of Congress




Katie Porter
Member of Congress



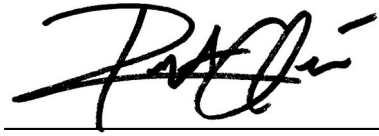
Nikema Williams
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Robert Garcia
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Kevin Mullin
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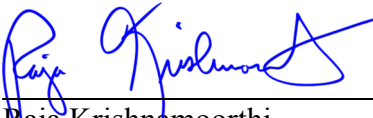
Chellie Pingree
Member of Congress



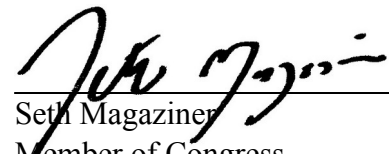
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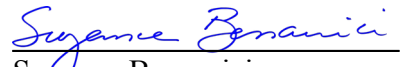
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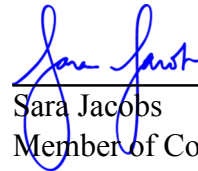
Sheila Jackson Lee
Member of Congress



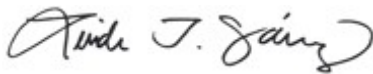
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Linda T. Sánchez
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Henry C. "Hank" Johnson, Jr.
Member of Congress



Paul D. Tonko
Member of Congress



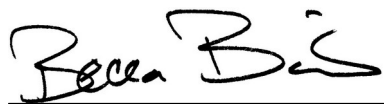
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Eric Swalwell
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