

Congress of the United States
Washington, DC 20515

October 22, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra,

As members of the U.S. House of Representatives, we write to thank you and the Biden-Harris Administration for your strong support of the intersex community and to request an update on the Administration's efforts to publish a report on "Promising Practices for Advancing Health Equity for Intersex Individuals."

Intersex people—those born with variations in their physical sex characteristics—are a substantial and important part of the U.S. population and of the LGBTQI+ population, but for too long their needs have gone unaddressed due to silence, stigma, and lack of education. The Biden-Harris Administration has done tremendous work to change that, including by issuing a Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World;¹ convening the first-ever White House roundtable with intersex advocates;² issuing a landmark Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals;³ and cosponsoring the landmark UN Human Rights Council Resolution on "combating discrimination, violence and harmful practices against intersex persons."⁴ The Administration has also taken critical steps to clarify that our civil rights laws protect the intersex community. The Department of Justice has made clear that the Supreme Court's reasoning in holding that Title VII's prohibition on sex discrimination includes discrimination on the basis of sexual orientation and gender identity "applies with equal force to discrimination against intersex people,"⁵ and the Department of

¹ *Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World*, White House (Feb. 4, 2024), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/04/memorandum-advancing-the-human-rights-of-lesbian-gay-bisexual-transgender-queer-and-intersex-persons-around-the-world/>.

² *Readout of White House Roundtable on Intersex Awareness Day*, White House (Oct. 27, 2021) <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/27/readout-of-white-house-roundtable-on-intersex-awareness-day/>.

³ *Exec. Order 14075, Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals*, 87 FR 37189 (2022), <https://www.federalregister.gov/documents/2022/06/21/2022-13391/advancing-equality-for-lesbian-gay-bisexual-transgender-queer-and-intersex-individuals>.

⁴ *Combating discrimination, violence and harmful practices against intersex persons*, United Nations Human Rights Council, A/HRC/RES/55/14 (2024), <https://documents.un.org/doc/undoc/gen/g24/060/57/pdf/g2406057.pdf>; Outcomes of the 55th Session of the UN Human Rights Council, Dep't of State (Apr. 5, 2024), <https://www.state.gov/outcomes-of-the-55th-session-of-the-un-human-rights-council/>.

⁵ *Title IX Legal Manual*, Dep't of Justice (Sept. 14, 2023), <https://www.justice.gov/crt/title-ix>.

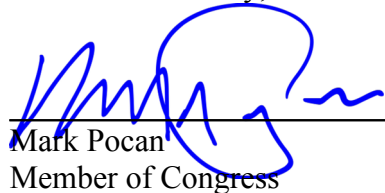
Education has published a final rule explicitly clarifying Title IX prohibits discrimination on the basis of sex characteristics⁶ and a resource on supporting intersex students.⁷

Under your leadership, the Department of Health and Human Services (HHS) has also been a leader in supporting the intersex community. An alarming 88 percent of LGBTQ+ intersex respondents to a 2021 survey reported that they experienced some form of discrimination from a doctor or health care provider in the previous year,⁸ highlighting the importance of your 2024 rule explicitly clarifying that Section 1557 of the Affordable Care Act prohibits discrimination on the basis of sex characteristics.⁹ Among other actions, HHS' SOGI Data Action Plan¹⁰ and the National Institute of Health's work to fund and promote health research on intersex people¹¹ represent important steps for advancing intersex rights.

As members who are dedicated to addressing the discrimination and health disparities intersex people face,¹² we urge you to build upon these great efforts by publishing the report on "Promising Practices for Advancing Health Equity for Intersex Individuals." Last year, several members wrote to you expressing support for the publication of the report and highlighting key issues the report should request. We kindly request an update on when you expect this report to be published.

Again, we thank you for your significant work to advance intersex equality. We are grateful to have you and the entire Biden-Harris Administration as partners in this fight.

Sincerely,



Mark Pocan
Member of Congress

⁶ *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 89 FR 33474 (2024), https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal?_aiid=12167.

⁷ *Supporting Intersex Students: A Resource for Students, Families, and Educators*, Dep't of Education (Oct. 2021), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/ocr-factsheet-intersex-202110.pdf>.

⁸ Caroline Medina and Lindsay Mahowald, *Key Issues Facing People With Intersex Traits*, Center for American Progress (October 26, 2021), <https://www.americanprogress.org/article/key-issues-facing-people-intersex-traits/>.

⁹ *Nondiscrimination in Health Programs and Activities*, 89 FR 3752 (2024), <https://www.federalregister.gov/documents/2024/05/06/2024-08711/nondiscrimination-in-health-programs-and-activities>.

¹⁰ *Sexual Orientation and Gender Identity (SOGI) Data Action Plan*, Dep't of Health & Human Services, <https://www.hhs.gov/sites/default/files/hhs-sogi-data-action-plan.pdf>

¹¹ *DSD & Intersex Research Portfolio: A Snapshot of the NIH FY 2019 SGM Portfolio Analysis*, Nat'l Institute of Health, https://dpcpsi.nih.gov/sites/default/files/2023-09/SGMRO-Snapshot-DSD-Intersex_2019-508.pdf.

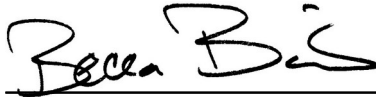
¹² See, e.g., National Academies of Sciences, Engineering, and Medicine, *Understanding the Well-Being of LGBTQI+ Populations*, the National Academies Press (2020), <https://doi.org/10.17226/25877>; Rosenwohl-Mack et. al, *A national study on the physical and mental health of intersex adults in the U.S.*, PONE, (2020), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0240088>; Caroline Medina and Lindsay Mahowald, *Key Issues Facing People With Intersex Traits*, Center for American Progress (Oct. 26, 2021), <https://www.americanprogress.org/article/key-issues-facing-people-intersex-traits/>.



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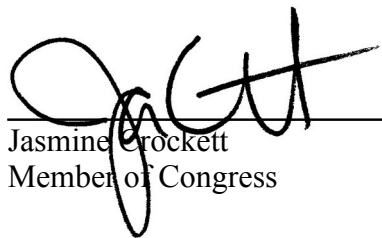
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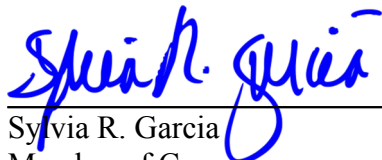
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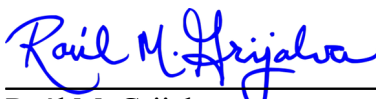
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