



Statement on DHHS Definition of Sex

The Department of Health and Human Services (DHHS) plans to lead an effort to establish a legal definition of sex under Title IX, the federal civil rights law that bans gender discrimination in education programs that receive government financial assistance. A draft memorandum reveals the agency's proposal that sex would be defined as either male or female, unchangeable, determined by the genitals that a person is born with. Any dispute about one's sex would be clarified using genetic testing.

In the recent DHHS memorandum, it is proposed that sex and gender should be "unchangeable and determined on a biologic basis," essentially ignoring the difference between sex and gender and decades of supporting science that has the potential to improve the health of individuals of all sexes and genders in our society. The DHHS support of an extremely narrow definition of sex and gender would essentially destroy the efforts to acquire a greater understanding of their impact on the population as a whole, would erase the existence of 1.4 million transgender Americans, and would ignore the reality that variations of chromosomes and sexual characteristics in intersex people is common scientific knowledge. Most importantly, this would exclude transgender and intersex people from federal non-discrimination protections. Restricting nondiscrimination protections will adversely affect access to care and worsen health outcomes and disparities experienced by transgender and intersex individuals.

DHSS has called on the Departments of Education, Justice, Health and Human Services, and Labor — to adopt its definition in regulations that will establish uniformity in the government and increase the probability that courts will accept the definition.

The Society for Academic Emergency Medicine (SAEM) joins with many organizations in the house of medicine to oppose this proposal. Sex and gender do not have the same meaning. The current distinction between sex and gender has evolved over the past decade in the scientific community based upon the increased understanding of biological, pathophysiological and cultural evidence of their impact on health and disease. Sex and gender are considered separate but related constructs and non-binary entities. Sex is a

biologic construct typically determined by chromosomes and hormonal profiles, and often assigned at birth, while gender is a social construct that is fluid and may vary over time and place. This distinction is critical to continue the advancement underway towards the delivery of personalized medicine.

SAEM understands that inclusion recognizes each person's worth and that no one is devalued or excluded based on fundamental parts of their identity, such as their skin color, gender, religion, place of birth, sexual orientation, and gender identity and expression.

Providing competent, equitable, and quality care demands that we recognize and are knowledgeable and inclusive of our differences. We cannot turn the clock back on decades of scientific evidence to the contrary.

On behalf of the Academy for Diversity and Inclusion in Emergency Medicine (ADIEM), Sex and Gender in Emergency Medicine Interest Group (SGEM), Academy for Women in Academic Emergency Medicine (AWAEM) and the SAEM Residents and Medical Students (RAMS)

Society for Academic Emergency Medicine