

No. 20-62

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**In the Supreme Court of the United States**

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PARENTS FOR PRIVACY, ET AL., PETITIONERS

*v.*

WILLIAM P. BARR, ATTORNEY GENERAL, ET AL.

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT*

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**MEMORANDUM FOR THE FEDERAL RESPONDENTS**

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In a complaint filed in November 2017, petitioners challenged (1) informal guidance issued by the federal government between 2014 and 2016 concerning the application of Title IX to transgender students in public schools, and (2) a policy of an Oregon school district permitting transgender students to use the school bathrooms, locker rooms, and showers associated with their gender identity rather than their biological sex. See Pet. App. 87a-95a. The district court dismissed petitioners' claims against the government for lack of Article III standing, observing that by the time they had

(1)

filed their complaint, the government had “unequivocally withdrawn,” and had “forbidden reliance on,” the “only guidance on the issue.” *Id.* at 112a.

Petitioners did not challenge the dismissal of claims against the government on appeal, and the Ninth Circuit therefore expressly declined to review that dismissal. Pet. App. 21a n.9. Petitioners also expressly disclaim (Pet. ii n.1) any challenge to the dismissal now. That factbound aspect of the court of appeals’ decision is clearly correct and does not warrant certiorari, especially in light of petitioners’ repeated waiver. The government takes no position on whether certiorari is warranted with respect to the remainder of the decision below, addressing petitioners’ claims against the school district.\*

Respectfully submitted.

JEFFREY B. WALL  
*Acting Solicitor General*

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\* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.