

NCWGE NATIONAL COALITION FOR WOMEN AND GIRLS IN EDUCATION

March 28, 2005

The Honorable Margaret Spellings
Secretary, United States Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Spellings:

We are writing on behalf of the National Coalition for Women and Girls in Education (NCWGE), a nonprofit coalition of more than 50 organizations dedicated to improving educational opportunities for women and girls, with grave concerns regarding the Department of Education's new Title IX policy guidance, "Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test — Part Three." We believe this guidance, which was issued late in the day Friday, March 18, 2005, appears to be nothing short of an under-the-radar effort to dismantle Title IX and undermine the 30 years of progress made by women and girls as a result of this landmark legislation.

Title IX bars sex discrimination in federally funded education programs, including athletics programs. Since Title IX's enactment, women's participation in sports has increased by more than 400% at the college level and more than 800% at the high school level. The law has opened up not only opportunities to play sports, but also the chance to receive college scholarships and the significant health, emotional, and academic benefits that flow from sports participation. At the same time, Title IX's goal of equal opportunity has yet to be fully realized. Today, women and girls receive only 41 percent of athletic opportunities despite the fact that they constitute half of student enrollments, and they continue to be shortchanged in terms of athletic scholarship opportunities, facilities, and other benefits and services.


Vigorous enforcement of Title IX ought to be the goal of the Department of Education rather than weakening any measure of compliance. We are deeply concerned that the recent "Clarification" is a departure from the previous standards under which schools could comply with Title IX by showing that they are fully accommodating women's athletic interests. Currently, to make such a showing, schools have to evaluate multiple factors to determine whether there are interests they are not accommodating, such as the opinions of coaches and administrators, or participation rates in sports in surrounding high schools or recreational leagues. The "Clarification" makes it easier for schools to demonstrate compliance by using a less rigorous and thorough e-mail-based survey method, and allows schools to interpret a lack of response to such an email survey as a lack of interest. This new policy seriously jeopardizes the number of athletic opportunities that will be available to women and threatens to turn back the clock on the progress that has been made in increasing women's athletic participation.

Moreover, research experts maintain that the results of interest surveys should not be used to limit athletic opportunities. And courts have recognized that surveys are likely only to provide a measure of the discrimination that women and girls have faced, because interest cannot be measured apart from opportunity. Nevertheless, such surveys have been used consistently to support the unfounded and legally impermissible argument that institutions may provide fewer athletics opportunities for women because they are less interested in sports than are men. This argument cannot stand against the evidence: 2.9 million high school girls compete for fewer than 200,000 college female athletic participation opportunities, which include preferred admissions to the nation's best colleges and over \$300 million in athletic scholarship dollars.


The public overwhelmingly supports Title IX. A January 2003 USA Today/CNN poll found that seven of ten adults familiar with Title IX think the law should be strengthened or left alone. Indeed, the current policies have been in place through Republican and Democratic administrations and have been uniformly upheld by all federal appeals courts that have considered them.

NCWGE was encouraged by the Department's July 2003 clarification letter that clearly reaffirmed Title IX and its enforcement mechanisms, as well as your supportive comments about Title IX during your confirmation hearings. However, this recent action demonstrates the willingness of the Department of Education, under your leadership, to undermine Title IX's effectiveness. NCWGE urges the Department of Education to rescind the new guidance issued March 18, 2005. Thank you for your consideration. If you have any questions, please contact either of us.

Sincerely,



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Vice-Chair, NCWGE
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Member Organizations*

Academy for Educational Development
*American Association for the
Advancement of Science*
*American Association of School
Administrators*
American Association of University Women
American Civil Liberties Union
American Council on Education
American Educational Research Association
American Federation of Teachers
American Psychological Association
*Association for Gender Equity Leadership in
Education*
Association for Women in Science
*Association of American Colleges and
Universities*
*Association of Junior Leagues
International, Inc.*
Association of Teacher Educators
Business & Professional Women USA
Center for Advancement of Public Policy
Center for Women's Policy Studies
Council of Chief State School Officers
Resource Center on Educational Equity
Dads and Daughters
Equal Rights Advocates
*Federation of Organizations for
Professional Women*
Feminist Majority Foundation
*Gallaudet University,
Women's Basketball Coach*
Girl Scouts of the USA
Girls Count
Girls Incorporated
Girlstart
Leadership Conference on Civil Rights
Ms. Foundation for Women
Myra Sadker Advocates for Gender Equity
*Legal Momentum, formerly NOW Legal
Defense and Education Fund*
National Alliance for Partnerships in Equity

*National Association for Girls & Women
in Sport*
*National Association of Collegiate Women
Athletic Administrators*
National Center for Lesbian Rights
*National Council of Administrative Women
in Education*
National Council of Negro Women
National Education Association
National Organization for Women
National PTA
National Partnership for Women & Families
National Women's History Project
National Women's Law Center
National Women's Political Caucus
Partners of the Americas
U. S. Student Association
Wider Opportunities for Women
Women Work!
Women's Edge
Women's Research and Education Institute
Women's Sports Foundation
Young Women's Christian Association

**(Attached for informational purposes only. Some member organizations do not take positions on judicial nominations.)*