

Oppose the Hutchison Amendment: Single-Sex Education Must be Equal

Senator Kay Bailey Hutchison's (R-TX) single-sex education amendment would allow local education agencies to establish single-sex classes and schools as long as "comparable" programs are provided for both sexes. Such programs would not comply with current antidiscrimination law.

The Hutchison Amendment allows for separate but "comparable" programs, while the Better Education for Students and Teachers Act (S.1) would require "equal" educational opportunities, which is the standard under the law.

- "Comparability" is a potentially dangerous standard. The male-only policies of VMI and the Citadel in South Carolina were declared unconstitutional, even though alternative women's schools were touted by Virginia and South Carolina as "comparable," and best-suited to women.
- For example, Virginia claimed that a separate school opened for girls met a "comparability" standard even though the girls' alternative offered no engineering, advanced math, or physics courses, and was unequal in other respects, including faculty credentials, funding, selectivity of students, and prestige. Notably, the Supreme Court rejected the "substantively comparable" test of the lower court, stating that the Fourth Circuit had created a "standard of its own invention."

The Hutchison Amendment fails to ensure that single-sex programs comply with the 14th Amendment of the U.S. Constitution and its guarantee of equality under the law.

- In the VMI case, the Court held that the equal protection clause of the Constitution requires sex-based classifications to be based on an "exceedingly persuasive justification." Such classifications can meet this justification, the Court ruled, when they are aimed at overcoming barriers to opportunity for women.

Without legal protections, the Hutchison Amendment fails to protect against stereotypes that can limit academic opportunities for women and girls.

- With the adoption of the Hutchison Amendment, local educational agencies could establish all-girl schools that do not offer physics or calculus, instead providing "comparable," less-challenging science and math courses, based on the stereotype that girls cannot handle such subjects. For example, in the VMI case Virginia tried to justify its exclusion of women on the argument that women cannot withstand stress as well as men. The Supreme Court rejected this stereotype as a rationale for the exclusion of women.

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