



National Alliance for Partnerships in Equity

Mr. Kenneth L. Marcus
U.S. Department of Education
400 Maryland Avenue SW, Room 5000
Mary E. Switzer Building
Washington, DC 20202-1100

April 22, 2004

RE: Single-sex proposed regulations comments

Dear Mr. Marcus:

The National Alliance for Partnerships in Equity, Inc. (NAPE), submits the following comments to object to your March 9 single-sex proposed regulations amending the regulations of Title IX of the Education Amendments of 1972 regulations. We urge you to abandon the attempt to change Title IX regulations regarding single-sex education.

Overview

NAPE is a consortium of state agencies whose mission includes promoting key equity issues, particularly gender equity, in education and workforce development. NAPE is an advocate for educational policy and programming for youth and adults that reduce the barriers and biases commonly found in our educational and workforce systems. Students who have been served through these efforts credit the policies and programs with changing their lives, enhancing their options, strengthening their confidence, and improving their skills.

Even though single-sex programming consistent with Title IX, especially compensatory programming, can be very beneficial, NAPE objects to the proposed regulations for the following reasons. First, the research on single-sex general education and its benefits is inconclusive, at best. Second, it is unclear why the Department of Education Office for Civil Rights (herein after referred to as OCR) has determined to amend the Title IX regulations. Finally, the proposed regulations create legal liability for schools.

No conclusive research on single-sex general education

There has been no national comprehensive controlled study of academic performance for U.S. students in public K-12 single-sex and coed schooling. Many of the smaller studies that do exist regarding single-sex education do not control for important variables (curriculum, student self-selection, or teacher).¹

The independent research studies and the research syntheses are inconclusive regarding the merits of single-sex general education. In 1993, the U.S. Department of Education, Office of Educational Research and Improvement, noted it is "inconclusive as to whether one type of school [i.e., single-sex or coeducational] is more effective than another in

¹ Patricia B. Campbell and Jo Sanders, "Challenging the System: Assumptions and Data behind the Push for Single-Sex Schooling," in *Gender in Policy and Practice: Perspectives on Single-Sex and Coeducational Schooling* (Amanda Datnow and Lea Hubbard, editors) (Routledge Falmer, 2002).

promoting higher academic achievement and psychological development.² In 1998, the AAUW Educational Foundation released *Separated by Sex: A Critical Look at Single-Sex Education for Girls*, a comprehensive review of research on the subject. Although the research was inconclusive, the report found “no evidence that single-sex education is better than coeducation.”³

In 1997, California became the first state to experiment with single-sex public education on a large scale. Six districts opened single-sex academies (both boys and girls) as a result of former California Governor Pete Wilson’s legislation and funding for a single-sex academies pilot program in the public school system. The three-year program evaluation, which is the most comprehensive study of single-sex public schooling that has been conducted in the U.S., involved over 300 extensive interviews with educators, policymakers, and students, and school and classroom observations. The evaluation report noted the implementation of single-sex academies had positive and negative consequences for the students and educators in both the single-sex academies and those remaining in counterpart coeducational settings.⁴

Most, if not all, of the academic outcomes in the single-sex research are identical to outcomes in schools with strong and research-based pedagogy, small class sizes, quality educators, adequate school resources, and parent and community involvement.⁵

Authorizing educational agencies to expand single-sex environments when the research about the benefit general educational settings is inconclusive violates the Department’s own policy of requiring a sound scientific basis for educational innovations.

No mandate for change

Although the *No Child Left Behind Act* allows local education agencies to use Innovative Assistance Program funds “to provide same-gender schools and classrooms (consistent with the applicable civil rights law),” (§5131(a)(23)) the bill did not call for amendments to the Title IX regulations. In fact, amendment co-author Senator Hillary Rodham Clinton noted, in a letter to OCR, “As a co-author of the amendment in *No Child Left Behind*, I intended for this provision to instruct the Department to help guide local school districts wishing to use the Innovative Program funds, rather than to suggest the existing regulations required revision in order to support the use of funds.”⁶

In lieu of revising the Title IX regulations, Senator Clinton respectfully recommended that the Secretary of Education:

(1) Conduct an independent study that investigates and fully evaluates the educational outcomes and impact on the surrounding districts of existing and previously existing publicly funded single-sex instructional settings; (2) Establish a single-sex instruction pilot program to enable districts in different regions around the country to experiment for a statistically significant period of time to ensure adequate measurable outcomes. Such a program should include rigorous data collection and evaluation. (3) Require local educational agencies seeking to use the Innovative Program Funds to demonstrate a research-based rationale and plan for experimenting with single-sex instruction. A sound research-based approach will prevent unfounded, regressive stereotypes from infiltrating efforts to implement innovative reform. (4) Emphasize that underlying any Federal guideline or provision regarding single-sex instruction is the core belief that same-gender education is an option for parents and students, not a mandate for districts.

These steps, if taken consistent with Title IX, would be more inline with the spirit of No Child Left Behind. Further, Senator Clinton noted that these steps would “ensure the strength and force of Title IX and the Equal Protection Clause

² U.S. Department of Education, Office of Educational Research and Improvement, *Single-Sex Schooling: Perspectives from Practice and Research*, Vol. I, OR-94-3152 (Dec. 1993) at 17.

³ American Association of University Women Foundation, *Separated by Sex: A Critical Look at Single-sex Education for Girls*, (1998).

⁴ Amanda Datnow, Lea Hubbard, and Elisabeth Woody, *Is Single Gender Schooling Viable in the Public Sector?: Lessons from California’s Pilot Program* (2001).

⁵ *Separated by Sex: A Critical Look at Single-sex Education for Girls*, *supra* note 3.

⁶ Letter dated June 27, 2002, from Hillary Rodham Clinton to Gerald A. Reynolds, Assistant Secretary for Civil Rights, Department of Education.

of the Constitution, while simultaneously providing local school districts with the opportunity to experiment with single-sex instruction." In the bipartisan move toward educational flexibility, OCR has received no mandate from Congress, schools, parents, or teachers to amend Title IX regulations.

Legal liability for schools

Current Title IX regulations are consistent with constitutional requirements surrounding equal educational opportunities and establish important independent standards of their own which these proposed amendments also violate. The proposed regulations raise constitutional concerns, including the constitutionality of sex-segregated general education classes and schools. Because the regulations propose a vague standard of "substantial equality" that is unlikely constitutional and is far from the equality required by law, school districts' practices of creating single-sex environments under the proposed regulations will surely be challenged through lawsuits. It is irresponsible for the Department to expose schools to legal liability, which harms girls and boys by taking already scarce resources away from children.

Conclusion

NAPE strongly recommends that Title IX regulations are not amended regarding single-sex classes and schools. The proposed regulations rest on a small, inconclusive, and warring body of research in a time when the Department of Education is requiring research-based educational decision-making. Without ample "sound science" research that reflects conclusive data, the Department of Education decided alone to rewrite civil rights in public education. In times of tight budgets, increased demands, and greater complexities and challenges, it is untenable to ask schools to propose programming that will attract litigation like a lightning rod.

Again, NAPE strongly opposes amendments to Title IX's implementing regulations. We request that the Administration reconsider its decision to amend the long-standing and effective Title IX regulations, and instead, put forward the mandate for the Department of Education to conduct thorough research that may provide data to justify change in the current regulations. If you have any questions, please contact Mimi Lufkin, Executive Director, at 610-345-9246.

Sincerely,

Mary Conrad
President

Mimi Lufkin
Executive Director

MC/ML:crj