

NCWGE NATIONAL COALITION FOR WOMEN AND GIRLS IN EDUCATION

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

April 23, 2004

RE: Proposed Regulations for Single-sex Education

Dear Assistant Secretary Marcus:

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, as well as organizations representing millions of parents, teachers, school administrators, school board members, educators, other education advocates, and civil rights advocates who are committed to the support and improvement of education, we express our opposition to your March 9, 2004, proposal to amend regulations implementing Title IX of the Education Amendments of 1972 governing single-sex education. We believe that Title IX and its regulations are critical to ensuring that *all* students have equal educational opportunities. We further believe that the Department's proposed regulations will severely weaken current Title IX standards and throw out basic protections against sex discrimination in education. Even those who support single-sex education are alarmed by the Department's proposal, which threatens basic civil rights and will undermine equal educational opportunity.

We oppose the Department's proposed regulations for the following reasons:

- **While women and girls have come a long way since 1972, gender discrimination in school is still a serious problem.** Contrary to the premise of the proposed regulations, women and girls are still denied equal educational opportunity. Ongoing problems include rampant sexual harassment in our nation's schools; under-representation of females in math, science, and high technology programs; female students' significantly lower scores on a wide variety of standardized tests; highly sex-segregated vocational education programs with female students overwhelmingly enrolled in programs that are "traditionally female" and lead to low wage jobs; exclusion of female students from many athletics opportunities, including athletic scholarships worth millions of dollars; and discrimination against pregnant and parenting young women. Allowing schools to exclude girls from programs restricted to boys will only exacerbate this discrimination.
- **The proposed regulations are unnecessary.** Title IX and the United States Constitution already permit educational institutions to establish single-sex programs in appropriate circumstances, and there is no evidence that single-sex programming promotes educational benefits beyond the contexts in which it is already permitted. Moreover, there is absolutely no legal mandate for the Department to modify current Title IX

regulations. While Section 5131(a)(23) of the No Child Left Behind Act (NCLBA) allows local education agencies to use innovative program funding “to provide same-gender schools and classrooms (*consistent with applicable law*)” (emphasis added), that section did not call for revisions to Title IX regulations. It simply required the Department to issue guidelines on applicable law – i.e., *current* Title IX and constitutional standards -- to schools seeking funding under this section.

- **The proposed regulations ignore applicable legal standards and encourage harmful sex-stereotyping.** While allowing for appropriate flexibility, Title IX and the Constitution contain strong legal protections against sex discrimination and stereotypes that limit girls’ opportunities. The Department may not legally disregard these safeguards. But that is precisely what the proposed regulations attempt to do. The regulations allow school districts to exclude girls or boys from classrooms or schools based on harmful sex stereotypes – for example, that girls cannot learn in fast-paced environments or that separating boys and girls is the only way to remedy sexual harassment. The proposed regulations would also allow schools to create sex-segregated programs based exclusively on parent or student preferences. These standards not only constitute bad policy; they also violate applicable civil rights laws. As a result, they will expose schools to legal liability.
- **The proposed regulations leave excluded children behind by failing to mandate equal treatment for them.** The proposed regulations allow schools to offer single-sex programs for one gender but to deny them to the other. The regulations also condone a host of inequities between a sex-segregated and a coeducational school, as long as those inequities are balanced in some unspecified way by other aspects of each school’s program. This is inappropriate and unlawful.
- **The proposed regulations rely on faulty and unproven assumptions about appropriate educational techniques.** The NCLBA repeatedly points to the need for “scientifically-based research” to be the foundation of implementing new programs and initiatives. However, even the Department admits that the research on single-sex education is at best inconclusive, largely anecdotal, and based on the private and parochial schools, not public schools. Some research studies, in fact, confirm the potentially harmful effects of single-sex education.
 - Research on the state of California’s attempt to implement single-sex education found that the program resulted in reinforced sex stereotyping, despite a clear state government mandate and honest efforts from teachers, schools and policymakers to create quality, equal educational opportunities for boys and girls. Datnow, A., Hubbard, L., & Conchas, G. (2001), *How Context Mediates Policy: The Implication of Single Gender Public Schooling in California*, Teachers College Record, Volume 102, Number 2, 184-206.
 - The AAUW Educational Foundation’s 1998 report, *Separated by Sex*, is a comprehensive review of research on single-sex education in K-12 public schools. Among other findings, the report concludes that there is no evidence that single-

sex education in general “works” or is “better” than co-education; that although single-sex programs produce positive results for *some* students in *some* settings, there is conflicting evidence about whether girls do better in single-sex environments; and that the long-term impact of single-sex education for boys and girls is unknown. *Separated by Sex: A Critical Look at Single-sex Education for Girls*, AAUW Education Foundation (1998).

In fact, moreover, where benefits have been found, it is unclear whether they result from the single-sex environment or from other factors that contribute to successful education for *all* students: a focus on core academics, small class size, qualified teachers, sufficient funding, and parental involvement. 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 pp. 17-18.

- **The proposed regulations promote sex-segregation without accountability.** Schools are not required to report to the Department, to maintain data on the results of their single-sex programs, or to identify or reach measurable goals.

In sum, we do not believe that the Department of Education has the authority to, or should, revise the Title IX regulations. The Department’s proposal will allow schools to launch unlawful, unproved, and damaging educational experiments on our nation’s young people. We strongly oppose the proposed amendments to Title IX’s implementing regulations, and request that the Department reject the amendments in their entirety. If you have any questions, please contact Lisa Maatz, American Association of University Women, at 202/785-7793; or Jocelyn Samuels, National Women’s Law Center, at 202/588-5180.

Sincerely,

American Association of University Women (AAUW)
American Association of University Women Legal Advocacy Fund
American Civil Liberties Union (ACLU)
ACLU Women’s Rights Project
American Federation of State, County, and Municipal Employees (AFSCME)
American Humanist Association
Americans for Religious Liberty
Association for Gender Equity Leadership in Education (AGELE)
Association for Women in Science (AWIS)
California Women’s Law Center (CWLC)
Clearinghouse on Women’s Issues
Dads and Daughters
Feminist Majority Foundation
General Federation of Women’s Clubs
Human Rights Campaign
Legal Momentum (the new name for NOW Legal Defense Fund)
Myra Sadker Advocates

NA'AMAT USA

National Association of Collegiate Women Athletic Administrators (NACWAA)

National Association for Girls and Women in Sport (NAGWS)

National Center for Lesbian Rights (NCLR)

National Council of Women's Organizations (NCWO)

National Education Association (NEA)

National PTA

National Partnership for Women and Families

National Women's Law Center (NWLC)

People for the American Way Foundation (PFAW)

United Church of Christ Justice and Witness Ministries

Women Employed

Women Work!

Women's Information Network (WIN)

Women's Sports Foundation

YWCA USA