

MEMORANDUM



To: Interested Parties

From: Nancy Zirkin, Director of Public Policy and Government Relations

Date: May 4, 2000

Subject: Materials on S 2

For your information, attached are materials delivered to the Senate today regarding the Educational Opportunities Act (S 2), including:

- American Association of University Women (AAUW) letter on gender equity issues in S 2;
- National Coalition for Women and Girls in Education (NCWGE) factsheet on single-sex education; and
- NCWGE "Myth vs. Reality" on single-sex education.

If you have any questions, please contact me at 202/785-7720.

**SUPPORT EDUCATIONAL EQUITY FOR GIRLS IN S 2:
SUPPORT KENNEDY/SNOWE, OPPOSE HUTCHISON**

May 4, 2000

Dear Senator:

On behalf of the 150,000 members of the American Association of University Women (AAUW), I urge you to support the Kennedy/Snowe Amendment on Gender Equity in Education, which promotes educational equity for girls and help them succeed in school, as the Senate considers the Educational Opportunities Act (S 2). In addition, I urge you to oppose an amendment on single-sex education that Sen. Kay Bailey Hutchison (R-TX) is expected to offer.

Gender Equity in Education – While AAUW is pleased that the Women's Educational Equity Act (WEEA) is included in S 2, the Kennedy/Snowe Gender Equity Amendment is needed to encourage schools to take gender into consideration in the areas of education technology, school safety, teacher training, and dropout prevention. In order to ensure that girls and boys will be better equipped for the 21st century, it is important to maintain and update the critical gender equity provisions that were adopted in 1994. While some girls are doing better in schools, neither girls nor boys are succeeding in disadvantaged schools. Attention must be paid to both girls' and boys' learning needs.

WEEA represents the federal commitment to ensuring that girls' future choices and successes are determined not by their gender, but by their own interests, aspirations, and abilities. It is the only program in the Elementary and Secondary Education Act (ESEA) that was specifically created to assist schools in achieving educational equity for women and girls. WEEA, as reauthorized by S 2, will continue to provide a resource for teachers, administrators, and parents seeking proven methods to ensure equity in their school systems and communities. Since its inception in 1974, WEEA has funded over 700 programs. AAUW supports WEEA because it ensures programs that give girls the skills and self-confidence they will need to support themselves and help support their families.

Single Sex Education – The language on single-sex education already in S 2 would ensure that single-sex education is consistent with equal protection principles as articulated by the U.S. Supreme Court. In contrast, the Hutchison Amendment would not ensure that single-sex programs provide equal opportunities for students of both sexes. The amendment would substitute "comparable" for the requirement in S 2 that single-sex education be "equal" and compatible with the U.S. Constitution. AAUW opposes the Hutchison Amendment because it violates the constitutional guarantee of equal protection by permitting a return to the separate and unequal programs to which women and girls have too often been relegated.

Once again, I urge you to support the Kennedy/Snowe Gender Equity Amendment and oppose the Hutchison Single Sex Education Amendment to the Educational Opportunities Act (S 2) so the adults of tomorrow will be prepared to compete in the ever-changing global economy of the 21st century. If you have any questions, please call Nancy Zirkin, Director of Government Relations, at 202/785-7720, or Lisa Levine, Government Relations Manager, at 202/785-7730.

Sincerely,



Sandy Bernard
President

NCWGE NATIONAL COALITION FOR WOMEN AND GIRLS IN EDUCATION

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 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 U.S. Supreme Court's Virginia Military Institute (VMI) case, the Court held that under the equal protection clause of the Constitution, sex-based classifications must be based on an "exceedingly persuasive justification" and such classifications can meet this justification when they are aimed at overcoming barriers to opportunity for women.

The Hutchison Amendment allows for separate but "comparable" programs, while the Educational Opportunities Act (S 2) would require "equal" educational opportunities, which is the standard under the law.

- "Comparability" is a potentially dangerous standard. In VMI, the Supreme Court held that the creation of an all women's school that did not provide equal opportunities, did not cure the constitutional violation of excluding women from VMI. 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 are consistent with Title IX of the Education Amendments of 1972.

- Title IX permits single-sex programs when they are designed to compensate women for barriers to opportunity.
- Title IX has certain common sense circumstances where single-sex classes are specifically permitted (e.g. competitive athletics, human sexuality classes, choirs).

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.

The Department of Education is in the process of reviewing the Title IX regulations that apply to single-sex schools and classes.

- Congress should wait for the Department of Education to complete its review to ensure that education policymaking is consistent with the law.

Contacts: Leslie Annexstein, National Women's Law Center, 202/588-5180
Nancy Zirkin, American Association of University Women, 202/785-7720

May 4, 2000

NCWGE NATIONAL COALITION FOR WOMEN AND GIRLS IN EDUCATION

"Separate but Comparable" Single-Sex Programs: A Return to Inequality

Myth: *Single-sex opportunities will not exist if the standard is "equal."*

Reality: Single-sex opportunities will not exist if the standard is "comparable" because "comparable" clearly is not the standard under the U.S. Constitution. The "comparable" standard is an open invitation to lawsuits.

- "Comparability," which is a lesser standard than "equal", is contrary to well-established law and therefore vulnerable to attack, potentially subjecting school districts to significant liability.
- In *United States v. Virginia*, the U.S. Supreme Court makes clear that schools must provide equal opportunities to female and male students. Under the decision, factors that may be relevant to determining whether schools, courses, and programs are equal include the quality and availability of curricular and extracurricular activities, facilities, services, resources, faculty and staff; and the quality and availability of "intangibles" such as institutional history, prestige, and influence of alumni network.
- The Court also stated that "sex classifications may be used to compensate women 'for particular economic disabilities they have suffered ... to promote equal employment opportunity ... to advance full development of the talent and capacities of our Nation's people.'"

Myth: *Single-sex educational programs don't have to be equal to be constitutional.*

Reality: The Supreme Court made very clear in *United States v. Virginia*, that Virginia violated the Constitution by creating a separate school for women that was in every respect unequal to Virginia Military Institute (VMI).

- In the VMI case, the Supreme Court rejected the "substantive comparability" standard that the 4th Circuit had used, calling it "a standard of its own invention." The Court held that sex-based classifications must be based on an "exceedingly persuasive justification" and that such classifications can meet this justification when they are aimed at overcoming barriers to opportunity for women.

- The Supreme Court also held that the creation of a separate all-women's program, which was unequal to VMI in both tangible and intangible benefits, was not an adequate remedy for the constitutional violation of excluding women from VMI's opportunities and advantages.

Myth: *Numerous lower courts have upheld single-sex elementary and secondary education based on the term "comparable."*

Reality: In the few reported court decisions regarding single-sex elementary and secondary schools, none has been upheld based on a "comparable" standard. In fact, the cases demonstrate that such schools must provide equal opportunities for students.

- For example, a court found that the academic school for boys and the academic school for girls in Philadelphia were unequal. As in VMI, the boys school was superior to the girls school: the campus was significantly larger, the library had more books, the boys had a computer room, and the graduates from the boys school received more money for college scholarships. The court found that the exclusion of girls from the superior boys' school, based solely on their sex, denied them their equal opportunities and was therefore a violation of the Constitution.

Myth: *Single-sex education is the answer to the problems plaguing public education.*

Reality: Little research exists on single-sex education, and no research has been done on public single-sex schools in the United States.

- The AAUW report, *Separated by Sex: A Critical Look at Single-Sex Education for Girls*, found that in general, there is "no evidence that single-sex education is better than coeducation." The report's authors stress that the long-term impact of single-sex education on girls or boys is unknown and that more research is needed.

Myth: *In order to address the different learning styles and needs of girls and boys, single-sex programs cannot be equal.*

Reality: The different learning styles and needs of students must be addressed by programs that provide equal opportunities, otherwise they can reinforce harmful stereotypes that may lead to less challenging academic opportunities for one sex.

- If equality is not required, girls could be tracked into less challenging math, science, or technology classes. Further, girls could find themselves in schools that don't offer such programming, based on the belief that girls' needs, learning styles, and abilities preclude them from handling such courses.
- The VMI case is an example of such tracking. In that case, VMI tried to justify its exclusion of women on the ground that women cannot withstand stress as well as men. The Supreme Court rejected this sex-stereotyped view as a rationale for the exclusion of women.

Myth: *The Hutchison amendment would not modify Title IX of the Education Amendments of 1972.*

Reality: Title IX prohibits sex discrimination in federally funded education. It allows same-sex programming under certain limited circumstances.

- Title IX permits single-sex programs to be used when they are designed to compensate women for barriers to opportunity. Further, the law permits single-sex classes in certain common sense circumstances (e.g. competitive athletics, human sexuality classes, choirs).
- The Title IX statute does not use the word "comparable." The statute does contain an exception for admissions in elementary and secondary schools and single-sex schools that were in existence before Title IX was enacted. However, the 1975 regulation uses "comparable" for the implementation of this exception only. This exception does not apply to vocational schools.

Myth: *The word "comparable" is already used by the Department of Education in determining whether a single-sex school is permissible under Title IX.*

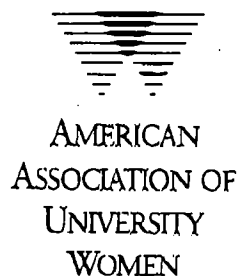
Reality: The Department of Education is in the process of reviewing the Title IX regulations that apply to single-sex schools and classes.

- Congress should wait until the Department of Education has completed its review of the Title IX regulations to ensure that education policymaking is consistent with the law.

Contact: Leslie Annexstein, National Women's Law Center, 202/588-5180
Nancy Zirkin, American Association of University Women, 202/785-7720

May 4, 2000

MEMORANDUM



To: Interested Parties

From: Nancy Zirkin, Director of Public Policy and Government Relations

Date: May 1, 2000

Subject: AAUW letter on gender equity amendments to S 2

For your information, attached is the American Association of University Women (AAUW) letter sent to the Senate on Friday, April 28, regarding educational equity amendments to the Educational Opportunities Act (S 2).

If you have any questions, please contact me at 202/785-7720.

*To Ann O'Leary
& Heather Howard
From Shirley*



SUPPORT EDUCATIONAL EQUITY FOR GIRLS IN THE EDUCATIONAL OPPORTUNITIES ACT (S 2)

April 28, 2000

Dear Senator:

On behalf of the 150,000 members of the American Association of University Women (AAUW), I urge you to support the following amendments to the Educational Opportunities Act (S 2) that promote educational equity for girls and help them succeed in school:

The Kennedy/Snowe Amendment on Gender Equity in Education allows schools to take gender into consideration in the areas of education technology, school safety, teacher training, and dropout prevention. It is important to maintain and update the critical gender equity provisions that were adopted in the 1994 law in order to ensure that girls and boys will be better equipped for the 21st century. While some girls are doing better in schools, neither girls nor boys are succeeding in disadvantaged schools. Attention must be paid to both girls' and boys' learning needs.

The Reed Amendment on Child Opportunity Zone (COZs) Family Centers establishes a grant program to encourage school-based or community-based coordinated services. Many schoolchildren today are struggling with a host of social problems—including poverty, poor nutrition, drug abuse, family violence, and inadequate health care—that prevent them from achieving their full academic potential. Nationwide, 13.5 million or 19 percent of young children live at or below the poverty level and more than half of the people who get food stamps are children.

The Bingaman Amendment on Preparing Tomorrow's Teachers to Use Technology (PT3) authorizes the only currently funded federal program that provides grants for pre-service technology-based teacher professional development. Girls face an alarming gender gap in technology. Although experts predict that in 2010, 65 percent of all jobs will require technology skills, a very small percentage of girls currently take computer science courses. Girls consistently rate themselves lower than boys on computer ability and only 17 percent of Advanced Placement test takers in computer science are girls.

Once again, I urge you to support these critical amendments to the Educational Opportunities Act (S 2) so the adults of tomorrow will be prepared to compete in the ever-changing global economy of the 21st century. If you have any questions, please call Nancy Zirkin, Director of Government Relations, at 202/785-7720, or Lisa Levine, Government Relations Manager, at 202/785-7730.

Sincerely,



Sandy Bernard
President