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PUBLIC EDUCATION

Issues Involving Single-Gender Schools and Programs





United States
General Accounting Office
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**Health, Education, and
Human Services Division**

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The Honorable John R. Kasich
Chairman, Committee on the Budget
House of Representatives

Dear Mr. Chairman:

Growing concern over student performance and behavior in public elementary and secondary schools has led some educators and policymakers to consider single-gender educational settings to improve student performance. Local efforts have produced a variety of single-gender in-school and after-school programs. Certain states have also shown interest in promoting single-gender settings. For example, Virginia recently passed legislation permitting schools to establish single-gender classes consistent with constitutional principles, and in California the governor's 1996-97 budget proposes single-gender academies for students at risk of low achievement or dropping out. On the federal level, in recent years the Senate has seen at least three bills with single-gender education components. The latest, S. 1205, the Mentor Schools Act, was introduced in the fall of 1995.

Because of this recent interest, you asked us to identify the major educational and legal issues involved with public single-gender education and to cite some examples of recent public single-gender education programs. To develop this information, we interviewed local education agency officials in certain districts that had a variety of single-gender programs and officials at the Department of Education and other organizations who have had a role in single-gender education issues or research. We also reviewed some recent court decisions, law review articles, and other literature. In addition, the Department of Education's Office for Civil Rights (OCR) provided us with examples of different types of single-gender educational settings from the complaints and requests for guidance it had received. We conducted our study between February and April 1996 in accordance with generally accepted government auditing standards.

Results in Brief

Legal and educational issues surround single-gender elementary and secondary public education. Specifically, the basic issues involve the (1) legality of single-gender programs; (2) effectiveness of such programs in promoting desired educational outcomes; and (3) even if effective,

desirability of using such programs to achieve identified goals, such as fostering improved academic and social performance in boys and teaching girls mathematics in a nonthreatening setting.

Some public elementary and secondary schools have recently offered single-gender classes or programs in a coeducational setting. However, some of these programs have been terminated or have been modified to not exclude anyone on the basis of gender because federal or state officials determined that the programs had violated Title IX of the Education Amendments of 1972 or applicable state laws and policies. School districts that have such programs could face lawsuits brought under Title IX, the equal protection clause of the U.S. Constitution, state constitutions, or state laws.

Background

Public education evolved from primarily single-gender (boys') education to primarily coeducation before the turn of the 20th century.¹ In colonial America, formal public education was primarily available to boys; girls were typically educated informally and in the home. Gradually, girls began to be integrated into the public elementary or "common" schools and, by the middle of the 19th century, almost as many girls as boys were attending these schools.

Most of the common schools were small and located in rural areas where the economy of educating boys and girls together may have played a part in the coeducational model. Coeducational schools also thrived, however, in urban areas where population density made separate schools a more practical alternative. During the 1800s, the desirability of coeducation in secondary schools was debated, and opponents cited the need to protect girls both from danger to their health and from boys. In addition, considerable discussion centered on the appropriate curriculum, including differences in abilities and learning styles of boys and girls and whether they should learn the same subjects in school.

By 1890, coeducation was clearly the most common model for public schools; in a survey of 628 U.S. school superintendents, only 41 reported having single-gender schools. Reviewing the findings of this survey, the U.S. Office of Education and the National Education Association's Committee on the Education of Girls concluded at that time that the

¹David Tyack and Elisabeth Hansot, *Learning Together, A History of Coeducation in American Public Schools* (New Haven, Conn.: Yale University Press, 1990).

debate over the preferability of coeducation had been settled. Nevertheless, some single-gender schools existed.

In 1972, nondiscrimination legislation was passed to protect students from discrimination in education on the basis of gender. Title IX of the Education Amendments of 1972 prohibits school districts from discriminating against students on the basis of sex and sets legal limits to single-gender public education. In addition, several court cases in recent years have challenged single-gender public education under the Fourteenth Amendment of the U.S. Constitution.

In the last 2 years, at least three bills with single-gender education components were introduced in the Senate. In 1994, the Senate passed the Danforth Amendment to the Improving America's Schools Act of 1994. The amendment would have allowed a limited number of single-gender classrooms as demonstration projects; however, the demonstration projects were eliminated from the bill in conference. On May 15, 1995, Senator Kay Bailey Hutchison introduced S. 829, a bill to provide limited waivers from Title IX and other statutes to permit single-gender classes to enable researchers to collect data on the effectiveness of such classes for low-income educationally disadvantaged children. It was referred to the Committee on Labor and Human Resources. On September 6, 1995, Senator Dan Coats introduced S. 1205, the Mentor Schools Act. The purposes of the proposed bill are to (1) award grants to local education agencies for establishing same-gender schools for low-income students; (2) determine whether same-gender schools make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; (3) improve academic achievement and persistence in school; and (4) involve parents in the educational options and choices of their children. The bill authorizes an appropriation of \$300 million for fiscal year 1996 and additional sums as necessary for 1997 to 2000 to carry out the act. As of May 1996, this bill was in committee.

Educational Issues

Problems That Single-Gender Programs Might Address

Educators and other experts² with whom we spoke view single-gender programs as a way to address (1) high dropout rates, low academic achievement, and other problems faced by many urban males—

²The academic experts with whom we consulted were Cornelius Riordon, David Sadker, Susan McGee Bailey, and Spencer Holland.

particularly minorities—and (2) girls’ low academic performance in advanced mathematics and science; general lack of confidence, competence, and leadership skills; and narrow views of potential careers. The distraction that boys and girls may cause each other when in the same classrooms further contributes to problems for coeducation settings.

The concept of classrooms and schools that provide students male role models and cultural and social awareness enjoys popularity among many educators who see such settings as opportunities to combat high dropout rates, low academic achievement, and other problems faced by many urban males—particularly minorities. These programs typically provide mentoring, tutoring, field trips, and other personal and academic enrichment activities. They emphasize self-esteem building and responsibility to the community.

Recent research on the academic achievement of young girls suggests that they defer to boys in coeducational classrooms, are called on less than boys, and are less likely than boys to study advanced mathematics and science. Some educators believe that single-gender settings can improve girls’ academic performance and attitude toward these subjects. Such settings typically emphasize enhancing confidence, competence, and leadership skills as well as expanding their views of potential careers.

Finally, some educators report that single-gender settings reduce the distraction that boys and girls create for each other. They believe all-boy or all-girl classes provide calmer classrooms with lower risk for educational failure. The middle school years are the most distracting for students, according to some educators.

Effectiveness of Single-Gender Settings

Many educators are convinced of the value of single-gender settings for urban minority males. Several program officials we spoke with reported improved test scores, better attendance, or improved behavior among students in single-gender settings. Although public school single-gender programs have not been rigorously researched, some studies of minority students in private single-gender schools suggest academic gains for both boys and girls. The most commonly cited studies are those by Cornelius Riordan of Providence College, who showed that African American and Hispanic students of both sexes do better in single-gender schools on all tests and score nearly a year above their counterparts in coeducational

schools.³ In a more recent study of single-gender schools in four countries (Belgium, New Zealand, Thailand, and Japan), however, Riordan concluded that single-gender schools do not have uniform and consistent effects and their effects are conditional. That is, single-gender schools are most effective when they are atypical: “The more that these schools remain rare and special, the more effective they will be for those [sic] minority of students who select them.”⁴ Moreover, he points out that the most important factor contributing to the observed gains may be the parents’ and students’ making what he calls a “proacademic choice,” not the single-gender setting.

Officials we spoke with from all-girl programs were enthusiastic about the girls’ performance. As evidence of success they cited increased competence and confidence, development of leadership qualities, and better focus on academics than girls in coeducational classes.

Some recent studies have focused on gender bias against girls; they have viewed problems arising from such bias in coeducational settings compared with control groups of girls in single-gender settings. For example, a 1992 report by the Wellesley College Center for Research on Women for the American Association of University Women⁵ analyzed more than 1,200 research studies on girls and boys in public schools. It found, among other things, that girls receive significantly less teacher attention than boys, the gender gap in science has not declined and may be increasing, and many standardized tests contain elements of sex bias. In addition, the work of Myra and David Sadker explores and documents the gender bias girls face in coeducational classrooms and its adverse effects on their academic and career aspirations and self-esteem.⁶

Also in 1992, the Department of Education’s Office of Education Research and Improvement convened a group of researchers and practitioners to share their views and findings about single-gender education. The conferees reviewed and discussed various research studies and agreed that some studies support the assertion that single-gender schools may provide benefits. They also noted, however, that all single-gender schools

³Cornelius Riordan, *Girls and Boys in School, Together or Separate?* (New York: Teachers College Press, 1990).

⁴Cornelius Riordan, “Single-Gender Schools: Outcomes for African and Hispanic Americans,” *Research in Sociology of Education and Socialization*, Vol. 18 (1994), pp. 177-205.

⁵Susan McGee Bailey, *The AAUW Report: How Schools Shortchange Girls*, Center for Research on Women at Wellesley College (Wellesley, Mass.: 1992).

⁶Myra and David Sadker, *Failing at Fairness: How America’s Schools Cheat Girls*, (New York: Charles Scribner’s Sons, MacMillan Publishing Company, 1994).

are not equal in providing a productive learning environment and many factors contributing to the success of effective single-gender schools are fundamental to effective schools regardless of their gender policy: a small student body, strong emphasis on academics, and commitment to the school's mission and values.⁷

Desirability of Single-Gender Settings

Although single-gender settings may help avoid gender bias and the distractions of coeducational classrooms, some experts question whether they are the best remedy. They acknowledge the urgent problems single-gender programs are meant to solve; they also express concerns, however, about the risk of a separate and unequal allocation of education resources and the reinforcement of stereotypes that certain groups are low achievers and need extra help. Some experts caution that a program focusing on providing special services to urban minority males may not acknowledge that urban minority females share some of the same social and academic problems.

Some experts who are not proponents of single-gender education as a strategy noted that research has not conclusively identified single-gender education as the desired solution to gender bias in coeducational settings. Some believe that successful strategies used in single-gender settings—smaller classes and more individual attention—can be just as effective in coeducational settings. They believe teacher training in diversity and equity can also contribute to a bias-free coeducational classroom. Finally, some experts caution that separating the sexes should not be viewed as a simple solution to complex problems and that program goals, content, and desired outcomes must be carefully scrutinized.

Legal Issues

Whatever the effectiveness and desirability of single-gender programs, single-gender public elementary and secondary education is limited by law. Restricting enrollment in a public school program to either gender may discriminate on the basis of gender and, thus, be contrary to Title IX

⁷See *Single-Sex Schooling: Perspectives From Practice and Research*, Vol. 1, U.S. Department of Education, Office of Educational Research and Improvement, OR-94-3152 (Dec. 1993) for a selective review of the literature through 1991 on effectiveness of single-gender schooling on the elementary, secondary, and postsecondary levels. For more current sources, see Roberta Tovey, "Gender Equity: A Narrowly Gender-Based Mode of Learning May End Up Cheating All Students," *The Harvard Education Letter*, July/August (1995), pp. 3-6.

of the Education Amendments of 1972. It may also violate the equal protection clauses of the U.S. Constitution and state constitutions.⁸

Title IX

Title IX prohibits discrimination on the basis of gender in educational programs receiving federal financial assistance.⁹ Although Title IX does not govern admissions practices at the elementary and secondary school level except for vocational schools, it does require that school districts provide comparable facilities, courses, and services to boys and girls. Thus, Title IX does not preclude a school district from having single-gender schools. Title IX as implemented by the Department of Education regulation, however, generally prohibits single-gender classrooms in coeducational schools. The regulation has some exceptions; for example, single-gender classes are permitted for portions of physical education classes when students are playing contact sports or portions of classes on human sexuality. It may also be possible for a school to have single-gender classrooms as a remedy for past discrimination or as a form of affirmative action under certain specific conditions. (See app. I for a complete list of exceptions.)

Officials at the Department of Education's OCR, which enforces Title IX, state they have had relatively few complaints or requests for guidance on either single-gender schools or single-gender classrooms in the last 10 years. In each instance in which a complaint about a single-gender program has been filed with OCR, the school district and OCR have resolved the matter.

Single-Gender Schools

Single-gender public elementary and secondary schools may violate Title IX if the school districts do not provide comparable facilities, courses, and services to both boys and girls. OCR has investigated complaints against two allegedly single-gender public schools¹⁰ but concluded that neither of them violated Title IX.

⁸Our overview of legal issues does not include discussion of the Equal Educational Opportunities Act, which was passed in 1974 and prohibits, among other things, student assignment to a school other than a neighborhood school if assignment results in more segregation of students on the basis of race, color, sex, or national origin among the schools than would result if such students were assigned to the school closest to their homes. The purpose of the act was to specify appropriate remedies for the orderly elimination of vestiges of dual (for example, racially segregated) school systems; it has limited applicability in gender discrimination where choice of school is voluntary and has rarely been invoked in gender-based lawsuits.

⁹Title IX, of course, also applies to postsecondary education, but this report and the discussion of Title IX are limited to elementary and secondary schools.

¹⁰These were the only public schools with single-gender enrollments at the elementary or secondary level that we could identify as operating in recent years.

In 1992, OCR investigated complaints in Philadelphia and Baltimore alleging that the school districts maintained single-gender public high schools for girls only—Baltimore’s Western High School and Philadelphia High School for Girls. OCR examined whether the school districts were excluding anyone on the basis of gender from the districts’ schools. School officials of both schools stated that they did not deny admission to boys and the schools were open to both boys and girls.

Philadelphia High School for Girls traces its inception to the Model School, which opened as a coeducational teacher’s training school in 1818 and became the Girl’s Normal School in 1848. A school district official reported that the school offers an academic enrichment curriculum and the usual extracurricular activities such as sports and music. Currently, about 1,500 girls attend the school, which includes grades 9 through 12. According to school officials, the school draws students from all over the city, and—reflecting school district demographics—about 44 percent of the students are from families below the poverty line. They told us that the school targets for admission students with high academic performance and good attendance and report that about 98 percent of its graduates attend college. In 1992, the school was one of nine magnet high schools in the city. During OCR’s investigation, district officials stated that all students are encouraged to apply to these magnet schools and are provided with booklets that describe the high school programs. OCR found that district officials had no policy of excluding males from this school so the district had not violated Title IX.

Baltimore’s Western High School was founded in 1844 to provide girls an opportunity to receive an education beyond the elementary level. School officials told us that the school became college preparatory in the 1960s; about 96 percent of the current graduates go to college. From the beginning it offered a liberal arts curriculum as it does today; it also provides the typical after-school programs such as sports and clubs. Western is 1 of 10 citywide high schools in Baltimore and draws qualified students from the entire city. To be accepted for admission, students must have a B average, and, to remain at the school, they must maintain a C average. Total enrollment in grades 9 through 12 is about 1,250. Students at the school come from about 30 national and ethnic groups, and about 80 percent are African American. During a review of Western’s policies and curriculum, OCR found that other citywide high schools also offered programs to both sexes similar to those offered at Western. District officials stated that the booklets the guidance staff distribute have no language indicating that Western is for girls only and applications are

evaluated on merit and ranked in order without regard to sex. OCR found that the district did not exclude male students from applying or attending Western and was therefore in compliance with Title IX.

Single-Gender Classrooms

Typical requests for guidance and complaints brought against school districts involving single-gender classrooms, which are generally prohibited under the Title IX regulation,¹¹ include single-gender physical education classes, segregated technology classes, single-gender math classes for math-phobic girls, and single-gender mentoring clubs. Complaints were resolved in a variety of ways.

Complaints against single-gender physical education classes are among the most common. OCR states that schools segregate the sexes, unaware that in most cases this is not permissible under the Title IX regulation, although the regulation does permit portions of classes when students are playing contact sports to be separated by gender. These complaints are generally resolved by changing the physical education classes to coeducational classes. Merely adding coeducational classes while maintaining single-gender classes does not resolve the violation. Schools must discontinue segregating their physical education classes on the basis of gender to comply with the Title IX regulation.

Another type of complaint OCR has received alleges single-gender mathematics classes for girls. For example, in Ventura, California, the school district piloted a program to see if math sections composed primarily of girls who were math phobic or otherwise reluctant math students could, with support from adults, increase the girls' enrollment in higher level math courses. Some boys also fit this profile and were enrolled in the pilot classes. In response to a complaint filed with OCR, the district modified its procedures for counseling, registering, and recruiting students for the pilot math classes to reflect academic need rather than gender. The classes are therefore described as providing a supportive environment for students who are math phobic or doubtful about their ability to succeed in challenging mathematics courses; all students regardless of gender who fit these categories can be targeted and encouraged to enroll.

The Connecticut Department of Education also sought OCR's guidance on a new introductory technology course to be offered in two formats, an all-girl class and a mixed-gender class. After discussion with OCR,

¹¹The Title IX regulation states that a "recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex...." (34 C.F.R. 106.34). See app. I for exceptions to this general prohibition.

Connecticut revised the format so that it had a “regular class and a second class targeted for female students but accessible to all students regardless of sex.” Both classes were to be open to all students, and OCR noted that the revised proposal did not appear to raise concerns of discrimination under Title IX.

Concern for at-risk males has led some school districts to experiment with a separate educational program for minority males. One such school in Brooklyn, New York, operated a separate third grade class for at-risk minority students, which was alleged to separate students by race and gender. OCR’s investigation did not support the allegation of race segregation since the school was 100-percent minority; however, it did find that students were separated on the basis of gender. Regarding separation by gender, the New York Public School system agreed that if it decided to have a special program for at-risk students, it would submit criteria to OCR for placing at-risk students in a gender-neutral manner, document the reason each student was chosen for the class, and keep a record of the gender of each student in the class. According to OCR, the program was a 2-year pilot program and was not renewed.

Another program, which targeted young African American males with no male role models at home, was the object of a request for OCR guidance from Dade County Public Schools in Florida. Dade County wanted to evaluate the effect of having a gender- and race-segregated class with a male teacher for young African American males in kindergarten and first grade. OCR found that such division by race would violate Title VI of the Civil Rights Act of 1964¹² and such division by gender would violate Title IX. OCR determined that the proposal to assign students on the basis of gender, even though voluntary on the part of the boys who would participate, is not allowed under the Title IX regulation and does not fit into the rationale for the stated exceptions to the regulation.

Single-Gender Clubs

Mentoring is another area in which OCR has received a complaint. The complaint alleged that Prince George’s County Public Schools in Maryland sponsored single-gender mentoring clubs for boys. Upon investigation, OCR found that the district operated a multimillion dollar program of single-gender clubs for boys and operated a significantly smaller program of single-gender clubs for girls. At least one of these clubs for boys is operating at all of the county’s 176 schools, and, at some of the schools,

¹²Title VI prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving federal financial assistance.

the district also funds community-based clubs for boys only. OCR found that the district operates only 31 clubs for girls.

The need for mentoring activities through single-gender clubs was articulated by the district in a report on African American male achievement recommending that the district strengthen its efforts to provide students with mentors and experiences that forge ties between academics and the work world. OCR noted that single-gender clubs would comport with Title IX in meeting affirmative action standards only if (1) those who have experienced conditions resulting in a limited opportunity to participate in the district's programs due to their gender are the targeted beneficiaries, (2) less discriminatory alternatives have been considered and rejected, and (3) the evidence demonstrates that comparable gender-neutral means could not be reasonably expected to produce the results desired.

OCR found that despite the laudable goals of the district's program, it did not appear that the means to achieve those goals had been tailored to comply with the Title IX regulation. In response, the district opened all district-sponsored programs, clubs, and activities to all qualified students regardless of gender (excluding such usual Title IX exemptions as football and other contact sports). The district also agreed to ensure that female students are informed of and are welcomed into the district's formerly all-male mentoring programs and male students are informed of and are welcomed into the district's formerly all-female mentoring programs.

Equal Protection Clause of U.S. Constitution

Single-gender public education could also be challenged under the Fourteenth Amendment to the U.S. Constitution. The equal protection clause of the Fourteenth Amendment declares that a state may not deny anyone its jurisdiction the equal protection of the laws. The U.S. Supreme Court has not yet ruled on the constitutionality of single-gender elementary or secondary schools. Several cases, however, such as Mississippi University for Women v. Hogan,¹³ Vorchheimer v. School District of Philadelphia,¹⁴ and Garrett v. Board of Education of School District of Detroit,¹⁵ may provide guidance for policy decisions being made on single-gender schools.

¹³458 U.S. 718 (1982).

¹⁴532 F.2d 880 (3d Cir. 1976), affirmed by an equally divided court, 430 U.S. 703 (1977).

¹⁵775 F. Supp. 1004 (E.D. Mich. 1991).

The U.S. Supreme Court addressed the issue of a single-gender college in Hogan in 1982. A male student sought admission to a state-supported professional nursing program at Mississippi State University for Women (MSU). He was denied admission solely on the basis of gender because MSU has been limited to women since it was created by Mississippi statute in 1884. Hogan claimed that the admissions policy violated the equal protection clause of the Fourteenth Amendment. The Supreme Court agreed with Hogan in a five to four decision. In its analysis, the Court defined the standard applied in this case: A state needs to show an “exceedingly persuasive justification” for classifying individuals on the basis of gender. That burden can be met only by showing that the classification serves “important governmental objectives” and that the discriminatory means employed are “substantially related” to achieving those objectives.¹⁶ Under Hogan, this test must be applied free of fixed notions about roles and abilities of males and females.

In applying this standard to the facts, the Court found the state’s argument that its single-sex admissions policy compensates for discrimination against women to be unconvincing. Mississippi had not shown that women lacked opportunities to obtain nursing training when the school opened its doors or that women were deprived of such opportunities when Hogan sought admission. The Court found that Mississippi’s policy of excluding males from admission, rather than compensate for discriminatory barriers faced by women, tended to perpetuate the stereotyped view of nursing as an exclusively women’s profession. The policy also failed because the state did not show that the gender-based classification was substantially and directly related to its proposed compensatory objective.

The issue of single-gender public high schools came up in the Vorchheimer case in 1976, which was decided before Hogan and therefore did not use the same analytical framework as Hogan. A female high school student was denied admission to an all-male academic high school in Philadelphia solely because of her sex. The Philadelphia School District at that time operated two single-gender academic high schools, Central High School and Philadelphia High School for Girls. The court found both schools to have excellent reputations for academic excellence. Enrollment in either school was voluntary. The district also provided “comprehensive” coed

¹⁶This standard for review for gender classifications is known as “intermediate scrutiny.” The Supreme Court has articulated two other levels of scrutiny that can be applied in constitutional cases. Race classifications receive “strict scrutiny,” which requires that there be a compelling governmental interest and the means employed to achieve that interest must be narrowly tailored. Other cases must only pass the “rational basis test,” which requires that the state have a legitimate interest and that its means of achievement have a fair and substantial relationship to its interest.

high schools that included courses required for college admission and advanced placement courses. The U.S. Court of Appeals for the Third Circuit found that Girls and Central were academically and functionally equivalent and, consequently, the admission requirements based on gender classification did not offend the equal protection clause of the Fourteenth Amendment. The court reasoned that gender should not be treated the same as race under the equal protection clause because, although no fundamental difference exists between races, differences between boys and girls do exist that may, in limited circumstances, justify disparity in law. It also noted that the primary aim of any school system must be to furnish an education of as high a quality as feasible. “Thus, given the objective of a quality education and a controverted, but respected theory that adolescents may study more effectively in single-sex schools, the policy of the school board here does bear a substantial relationship” to providing high-quality education.¹⁷

Vorchheimer was decided in 1976 and predates the Supreme Court’s decision in Hogan discussed above. In Hogan, the Supreme Court referred to the Vorchheimer case to show how the issue it was deciding differed from that in Vorchheimer. The Supreme Court stated, “We are not faced with the question of whether States can provide ‘separate but equal’ undergraduate institutions for males and females,” as was the case in Vorchheimer.

The Supreme Court may answer the “separate but equal” question for colleges in a pending case, United States v. Virginia.¹⁸ Virginia was found by the U.S. Court of Appeals for the Fourth Circuit to be violating the

¹⁷On appeal, the decision in Vorchheimer was affirmed without comment by an equally divided Supreme Court, which means Vorchheimer is precedential only in the Third Circuit. Subsequently, in 1983, female students again sought admission to the all-boys Central High School and brought suit in the Common Pleas Court of Philadelphia County alleging that being denied admission to Central violated their rights under the Pennsylvania Constitution and the U.S. Constitution. The Court found that Vorchheimer did not bar the claim because representation by plaintiff’s counsel in Vorchheimer was “materially inadequate.” That is, because the plaintiff’s counsel made a very serious mistake by not providing the court with relevant evidence, the court could hear this case even though it was on the same facts and law. The court went on to order the admission of the girls to Central. In finding the representation inadequate, the trial court noted many facts not considered by the Vorchheimer court: for example, the boys’ campus was almost three times larger, its library had almost twice as many books, the boys’ school had a computer room, and its graduates received almost twice the amount of money for college scholarships. The court found that both the Pennsylvania Constitution and the U.S. Constitution had been violated. Central High School is currently coeducational. The Girls School, according to officials, does not deny admission to boys, but no boys are enrolled. See also the earlier discussion of this school on page 8.

¹⁸44 F.3d 1229 (4th Cir. 1995), cert. granted, 116 S. Ct. 281 (1995), argued, Jan. 17, 1996.

equal protection clause of the U.S. Constitution¹⁹ in operating Virginia Military Institute (VMI) as a male-only military college and not providing a similar single-gender educational environment for women. The court of appeals gave Virginia the option of admitting women to VMI, discontinuing its support of VMI, or establishing a parallel program for women. Virginia established a parallel program—the Virginia Women’s Institute for Leadership at Mary Baldwin. In reviewing this remedy, the court of appeals found that the distinctions in the VMI program and the Mary Baldwin program are justifiable because of gender differences but that the programs were otherwise comparable in substance. The following issues are on appeal before the U.S. Supreme Court: (1) whether a state that provides a rigorous military-style public education program for men can remedy the unconstitutional denial of the same opportunity to women by offering them a different type of single-gender educational program and (2) whether coeducation is the required remedy in this case.

Finally, a district court decision may also help guide school districts. In Garrett, the Detroit School District sought to establish three male academies in 1991 to serve approximately 250 boys from preschool through fifth grade, with grades six to eight phased in over the next few years. The academies were to offer special programs, including an Afrocentric curriculum, mentors, Saturday classes, individualized counseling, and uniforms. The plaintiffs contended that these special programs did not require a uniquely male atmosphere to succeed and that they addressed issues females face, too. Moreover, the academies did not target only at-risk boys but boys from all achievement levels.

The case came to the court on a motion for a preliminary injunction. In such cases, the courts do not render a final decision, but they will grant an injunction forbidding a party from engaging in certain activity if they find, among other things, that it is likely that plaintiffs would succeed at trial and would suffer irreparable injury if the injunction is not granted. The court applied the standard used in Hogan; it found that both the U.S. Constitution and the Michigan Constitution prohibit the exclusion of an individual from a publicly funded school because of his or her gender unless the school district can show that gender-based classification serves important governmental objectives and that the discriminatory means employed are substantially related to achieving those objectives. The court noted that no evidence existed that the education system was failing urban males because of females attending schools with males. The preliminary

¹⁹Title IX is not applicable because the statute excepts undergraduate institutions of higher education that have traditionally and continually had a policy of admitting only students of one sex. VMI is such an institution.

injunction was granted, and the case never came to trial.²⁰ The parties agreed to expand the academies to include girls and to have comparable male-focused and female-focused classes and activities.

Equal Protection Clauses of State Constitutions

In addition to the equal protection clause of the U.S. Constitution, some state constitutions have similar equal protection provisions or equal rights amendments that have been interpreted by their courts as more rigorous or restrictive than the federal equal protection clause. Thus, even if a particular example of a single-gender education program is acceptable under federal law, it may still be challenged under state laws.

Examples of Single-Gender Education Programs

Most single-gender education programs we identified were classroom rather than schoolwide programs. Several of the programs we examined, including those described below, have not been reviewed by OCR, and these programs may not be in compliance with Title IX. The five single-gender programs discussed in this section were operating at the time of our study. Following are descriptions of such programs based primarily on information we obtained from interviews conducted with program officials.

All-Boy Academy Within a Coeducational Middle School

In September 1995, a large urban middle school (grades seven and eight) in a northeastern city established an all-boy academy within the school. The academy is one of three magnet programs at the school. The school's enrollment is about 1,000 students, of whom about 99 percent are minority. The academy program, a 2-year program for seventh and eighth graders, is voluntary with an enrollment of 57 seventh graders. The school plans to recruit a new class of seventh graders to begin in September 1996. The academy has four teachers, and the boys travel among these teachers' classrooms. The objective of the program is to help the boys become responsible, successful people and to build self-esteem through academic success. The standard middle school curriculum is taught with an emphasis on individual growth, academic success, social responsibility, and good citizenship. Special curriculum components include a mentoring program in which boys are counseled on subjects such as careers, gangs, family issues, and academics. In addition, the curriculum emphasizes culture, history, society, and technology. The school is planning to initiate an all-girl program in September 1996 or 1997.

²⁰The court also noted that because Detroit did not offer schools for girls comparable to male academies, the court did not need to address whether the district could provide separate but equal public schools for boys and girls.

Girls' After-School Program (Elementary)

In autumn 1995, a teacher in a suburban elementary school established an after-school math and science program for fifth and sixth grade girls. The program is intended to encourage girls to study these subjects and to build self-confidence in their abilities. It is one of several after-school programs offered by the school, although the others—such as basketball, chess, and computers—are for both boys and girls. The girls meet every Thursday afternoon for an hour to learn about science-related matters, such as optical illusions and the metric system, and to participate in activities to enhance their enjoyment of math and science such as building tetrahedrons and playing math strategy games. The program founder told us the program has been filled to capacity, and she plans to continue it next year if the school district funds the late-running school bus that allows the children to attend an after-school program.

Elementary School With All Single-Gender Classes

In 1989, the principal of an urban coeducational elementary school decided to try single-gender classes in grades one and three. She subsequently expanded the program to include grades one through five. The program goal is to improve academic achievement for all the children and to identify best practices to encourage the boys to find alternatives to violence and to be supportive of each other. All students study the standard curriculum and this year have received special instruction in character issues such as honesty, trust, and conflict resolution. After-school activities include mentoring by high school and college students as well as local business and professional people. In addition, representatives from the U.S. Armed Forces visit the school weekly to tutor and discuss careers. The school operates year-round and offers summer courses aimed at building self-esteem and promoting career awareness in such areas as hotel management, nursing, and real estate.

Middle School With Choice of Single-Gender or Coeducational Classes

The principal in an urban middle school launched a single-gender program 3 years ago to address both academic and social issues relative to her students—especially African American boys with serious learning problems. In each of the three grades (six through eight), the school has all-girl classes, all-boy classes, and coed classes. Parents may choose whichever setting they prefer. About 650 students attend the school, and about 99 percent receive free or reduced-price lunch. All students in the school study an Afrocentric curriculum that was in place before the single-gender classes. The school has extracurricular mentoring programs for boys and girls and about 30 other after-school activities, including Karate, chess, and tutoring. The boys in the school serve as mentors for

the second grade boys at a nearby elementary school. The single-gender program will be discontinued after this school year to comply with the state administrative code.

Junior High School With Single-Gender Classes (Boys' and Girls')

In 1992, the principal in this urban junior high inaugurated single-gender homerooms for some students to provide a place where they could talk more openly about issues important to them and where teachers could provide crisis intervention when necessary. She believed it worked so well that the next year she made all classes in the school (grades seven through nine) single gender. Her primary goal was to promote the students' academic success and to also minimize the distractions of rowdiness or inappropriate behavior among the students. She believes that because the students face danger in their inner city neighborhood, the school must be a safe haven and likes to consider it a second family for the children. All students are taught the standard junior high curriculum, and social skills and responsibility are emphasized. The school has a Saturday program in which students from a nearby college tutor both boys and girls.

Observations

Officials we talked to in schools that have experimented recently with single-gender education said that such programs have resulted in observable qualitative differences in the behavior of children in single-gender environments; conclusive quantitative research, however, on the effectiveness of such public school programs is not available. Opponents maintain that targeted problems can be effectively addressed in coeducational settings without subjecting students to discrimination on the basis of gender and that the effectiveness of single-gender programs is questionable. Proponents believe, nevertheless, that single-gender programs ought to be available as tools for improving the academic and social performance of school children. Some single-gender programs, however, are subject to legal impediments.

Agency Comments

In commenting on a draft of this report, the Assistant Secretary for Civil Rights in the Department of Education made several suggestions on the report's purpose, research on single-gender education, and issues involving legal standards. As the Assistant Secretary correctly observed, our study was not intended to be an exhaustive research effort but was intended to identify the major issues in single-gender education and cite some examples. We did, however, add some additional references that may be useful to researchers.

Regarding legal standards, the Assistant Secretary asked that we further clarify and explain the applicable legal principles. We have done so in the final report. The Assistant Secretary also provided technical comments on specific statements and facts included in our draft report, and, where appropriate, we used the information to clarify our report.

If you have any questions about this report, please contact me at (202) 512-7014 or Eleanor L. Johnson, Assistant Director, at (202) 512-7209. This report was prepared by Susan Lawless, Evaluator-in-Charge, and Susan Poling, Assistant General Counsel.

Sincerely yours,

A handwritten signature in black ink that reads "Carlotta C. Joyner". The signature is written in a cursive style with a large, prominent initial 'C'.

Carlotta C. Joyner
Director, Education
and Employment Issues

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Abbreviations

MSU	Mississippi State University for Women
OCR	Office for Civil Rights
VMI	Virginia Military Institute

Title IX and Single-Gender Education in Elementary and Secondary Schools

Title IX of the Education Amendments of 1972 generally states that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance (20 U.S.C. 1681 (1990)). The implementing regulation is found in part 106 of title 34 of the Code of Federal Regulation.

Single-Gender Elementary and Secondary Schools

The Title IX regulation permits nonvocational, single-gender elementary and secondary schools, as long as comparable facilities, courses, and services are made available to students of both genders (34 C.F.R. 106.35(b)).

Single-Gender Classrooms in Elementary and Secondary Schools

The Title IX regulation generally prohibits single-sex classrooms in coeducational schools. It states that a “recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex....” (34 C.F.R. 106.34). Following are some exceptions to this regulation:

- contact sports offered in physical education classes (34 C.F.R. 106.34(c));
- chorus, when based on vocal requirements or quality (34 C.F.R. 106.34(f)); and
- portions of classes dealing with human sexuality (34 C.F.R. 106.34(e)).

Separate classes may also be provided for pregnant students, but must be voluntary (34 C.F.R. 106.40(b)(3)).

If the Assistant Secretary for Civil Rights finds discrimination on the basis of sex, a recipient may be required by the Assistant Secretary to take remedial action necessary to overcome the effects of the discrimination (34 C.F.R. 106.3(a)).

In the absence of a finding of discrimination by the Assistant Secretary for Civil Rights, a recipient may take affirmative action to overcome the effects of conditions that have limited participation by gender (34 C.F.R. 106.3(b)). Regarding affirmative action, in particular, the classifications that result in single-gender classes must be directly related to the reasons for the institution of the single-gender classes. This means that the (1) beneficiaries of the single-gender classes or programs must have had limited opportunities to participate in a school’s programs or activities due to their sex, (2) less restrictive or segregative alternatives that may have

Appendix I
Title IX and Single-Gender Education in
Elementary and Secondary Schools

accomplished the goals of the single-gender classes or programs must have been considered and rejected, and (3) there must be evidence that comparable sex-neutral means could not be reasonably expected to produce the results sought through the single-gender classrooms or programs.

Comments From the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

Ms. Carlotta C. Joyner
Director
Education and Employment Issues
General Accounting Office
Washington, D.C.

Dear Ms. Joyner:

Thank you for the opportunity to comment on your draft report to the Honorable John Kasich regarding single sex education. This letter represents the Department of Education's comments.

We have several comments and suggestions. Below, I summarize our general comments and recommendations. In addition, I also enclose a copy of the draft response, with more specific suggested revisions and comments directly on the document in pen and ink.

GENERAL RECOMMENDATIONS:

Research

o The report should clarify its purpose. That is, is this in response to specific questions posed by Congressman Kasich? While briefly addressed in the second paragraph of the letter, clarification on this point would be helpful. Is this report intended to be an exhaustive discussion of the law and the research in the area? If it is not intended as such, we recommend specifically stating this so as not to set false expectations for the reader.

o Many of the "observations" contained in the report seem impressionistic rather than based on a solid (or complete) body of research. We recommend that the report point out where the research exists and where it does not. For example, the first paragraph under "Educational Issues" refers to conversations with "[e]ducators and other experts," but does not go on to identify those experts. We recommend that you identify the authorities for the stated conclusions.

o As you note on page 17 of the report, conclusive research on the effectiveness of single-gender programs is limited. As a result the report includes very little data on the effectiveness and

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Appendix II
Comments From the Department of
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Ms. Carlotta C. Joyner, page-2

benefits of single-sex schools and classrooms. You may want to refer to a report prepared by the Department of Education's Office of Educational Research and Improvement (OERI), released in 1993, which found that, in general, results are inconclusive as to whether single-sex or coed education is more "effective" in promoting higher academic achievement and psychological development. This body of research does not appear to be referenced in your discussions regarding "effectiveness."

o Although the body of research on single sex education may be limited, the report may not be read as providing a balanced presentation of the available research. (You may want to consider the attached article from "The Harvard Education Newsletter," for additional references to research.)

Legal Standards

We have several substantive comments on the sections which discuss the legal principles -- especially the Title IX principles. In some cases, we have suggested alternative language. These specific revisions are shown directly on the attached copy of the report. In general, we have the following comments:

o The applicable legal principles should be explained in order to frame the case-specific discussions. There should be specific cites to the provisions of the laws or regulations being discussed so that there is no misunderstanding as to the basis of the report conclusion or observation. (Please see recommended language in insert 1 - attached.)

o Most of the legal discussion involving Title IX deals with elementary and secondary education. If the intent was not to address the postsecondary provisions of Title IX, perhaps this can be clarified at the beginning of the Title IX discussion.

o Discussions regarding the Title IX standards applicable to single-sex schools vs single-sex classrooms should reference the applicable Title IX regulations where possible.

o In addition, the report discusses examples of single-sex "education programs" without clarification as the term "programs." That is, a program could refer to a school within a School District or a classroom with a school. As different legal standards may apply in each of those cases, the report should clarify how it is treating the specific program being discussed - as a school, as a class, and on what factual and legal support does the report base this distinction. (See pp. 15-16.)

**Appendix II
Comments From the Department of
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Ms. Carlotta C. Joyner, page-3

Again, we appreciate the opportunity to comment on this report. Please feel free to call on me should you have any questions or a member of your staff may contact, Lilian Dorca of my staff at 205-5469.

Sincerely,

Norma V. Cantú

Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosures
As stated

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