

Women as Leaders in Education

SUCCEEDING DESPITE INEQUITY,
DISCRIMINATION, AND OTHER
CHALLENGES

VOLUME 2: WOMEN'S LEADERSHIP IN
CLASSROOMS, SCHOOLS, AND K-12
ADMINISTRATION

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Women and Careers in Management
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The Risks of Sex-Segregated Public Education for Girls, Boys, and Everyone

Susan S. Klein¹

Many people have called Title IX the most important law passed for women since they obtained the right to vote in 1920. Title IX of the Education Amendments of 1972 is the primary U.S. civil rights law prohibiting sex discrimination in education.² Title IX is patterned after Title VI of the Civil Rights Act of 1964, which helped implement the 1954 *Brown v. Board of Education* Supreme Court decision prohibiting race segregation. Title VI makes discrimination on the basis of race, color, and national origin in programs and activities that receive federal financial assistance illegal.³

¹This chapter is based in part on the April 27, 2010, presentation at the Clearinghouse on Women's Issues meeting in Washington, D.C., by Drs. Bernice Sandler, Senior Scholar at Women's Research and Education Institute, who is known as the "Godmother of Title IX," and Susan Klein, Education Equity Director, Feminist Majority Foundation and editor of the *Handbook for Achieving Gender Equity through Education* (Klein, 2007). Klein updated and expanded on the Clearinghouse presentation in developing this chapter and Sandler, along with Rosalind Barnett, Nancy Brown, Kim Gandy, Elizabeth Homer, Amy Katz, Renata Maniaci, Jennifer Martin, Dawn Pickard, and David Sadker, reviewed and suggested many improvements in the chapter.

²Title IX (20 U.S.C. § 1681): No person in the United States 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.

³Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, title VI, Sec. 601, July 2, 1964, 78 Stat. 252.): No person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

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Title IX prohibitions against sex discrimination are limited to education and thus not as broad in scope as Title VI, but the principles prohibiting sex segregation in education are very similar to the principles prohibiting race segregation. However, few educators and others understand the risks and problems with sex-segregated public education as well as they understand the reasons for racial integration.

In many areas, Title IX has contributed to more deliberately equal treatment of girls and boys, women and men in education. This has led to many triumphs for women's equality. For example, in 2008 to 2009, women finally earned more doctorates (50.4%) than men (Bell, 2010). Title IX has also helped men and boys by allowing them to participate in traditionally female courses of study such as home economics, nutrition, and nursing and to be protected from homophobic sexual harassment (Sandler & Stonehill, 2005; *The Triumphs of Title IX*, 2007).

However, the Bush administration signaled that it planned to allow single-sex classrooms and schools in 2002 when its Department of Education (ED) issued a notice to change the Title IX implementation regulation to increase schools' flexibility in using deliberate sex segregation in public education. The Bush ED issued proposed changes in Title IX regulation in 2004 and made them final in 2006 (Office for Civil Rights, 2006; Title IX Defined web page). This ED 2006 Title IX regulation allows K–12 nonvocational schools more flexibility in their use of purposeful and absolute sex segregation than the Congressionally reviewed 1975 Title IX regulation had permitted.⁴ Legal experts point out that this sex segregation violates Title IX, the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, the Equal Educational Opportunities Act, and in some cases also state laws.

Based on the Feminist Majority Foundation (FMF) study of the "State of Public School Sex Segregation in the States" (Klein, 2011) and insights from others, it is likely that officially approved sex segregation was used in about 1,000 U.S. K–12 public schools in the 2007 to 2009 school years.

FMF and organizations participating in the National Council of Women's Organizations and the National Coalition for Women and Girls in

⁴Purposeful sex segregation means that males and females are separated or excluded by a rule or policy based on their biological sex (not gender roles). This segregation has been absolute, meaning that no exceptions are made to allow any boy in girls' classes or the reverse. We recommend that if sex segregation is allowed, that it no longer be absolute.

Education have requested that the Obama Administration and Secretary of Education rescind this 2006 Title IX regulation and return to the 1975 Title IX regulations used by other federal agencies. But as of November 2010, this has not happened.

This chapter provides multiple insights on why sex-segregated public education is risky for everyone while addressing six public policy reasons to rescind the Bush administration's 2006 ED Title IX regulation, which contributed to the increase in public school sex segregation. Other critically important reasons why sex-integrated education (or nonsexist coeducation) is desirable include: increasing the development of human potential by decreasing sex stereotyping and creating expanded expectations for girls and boys, helping students become better socialized for real life and work that are not sex segregated, increasing the full use of neuroplasticity in brain development, and increasing variability among the species⁵ (Barnett & Rivers, 2004; Klein et al., 2007; Pickard, 2010; Sadker, Sadker, & Zittleman, 2009).

Using the 1975 Title IX regulations,⁶ sex segregation in public education should only be allowed if it meets all legal requirements and if there is compelling evidence that it is more effective in achieving gender equity outcomes⁷ than comparable (less risky) coeducation. Many view purposeful

⁵Pickard noted that inbreeding of members of groups that practice sex and other types of segregation such as Hasidic Jews has led to genetic problems and recommends diversity for human survival.

⁶We sometimes use the 1975 Title IX regulations (plural) when discussing the pre-2006 Title IX regulations because they were issued by different federal agencies. These regulations only allow sex segregation for limited exceptions, such as affirmative or remedial purposes to end sex discrimination in the desired outcomes. The ED 2006 Title IX regulation (singular) conflicts with and does not replace these federal Title IX regulations from other agencies.

⁷Gender equity outcomes: 1. Ensure that both women and men acquire, or are given equitable opportunity to acquire, the most socially valued characteristics and skills (even if they have been generally attributed to only one sex), so that fewer jobs, roles, activities, expectations, and achievements are differentiated by sex. This would be accompanied by a decrease in gender stereotyping in decision making by or about individuals and a decrease in sex segregation in education and society caused by gender stereotyping and other inappropriate discriminatory factors. 2. Ensure parity or equity between women and men in the quality of life, academic, and work outcomes valued by our society, without limitations associated with sex stereotypes, gender roles, or prejudices. Both women and men have important roles to play in attaining these outcomes.

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sex-segregated public education (as it is generally practiced) as turning back the clock toward increased sex discrimination and sex stereotyping that is harmful to everyone (Stone, 2007).

The rest of this chapter will make recommendations on standards that should be used (hopefully after the rescission) when deciding if any sex segregation is allowed even for increasing gender equality in the outcomes. The following six public policy reasons to rescind the ED 2006 Title IX regulation provide a framework for our discussion of the risks of sex-segregated public education.

1. The 2006 ED Title IX regulation conflicts with stronger protections against sex discrimination in public education that are still guaranteed under the 1975 Title IX regulations used by other agencies, the U.S. Constitution, and other federal and state laws.
2. Inappropriate public school sex segregation has increased since the Bush administration signaled it would weaken the Title IX regulation in 2002.
3. Separate is rarely equal, especially in public education. Sex segregation has a negative impact on both girls and boys because it often favors one sex over the other and encourages misguided sex-stereotyped education practices.
4. Most justifications for deliberate public school sex segregation are improper because the sex-segregation strategies they actually use violate legal standards and are based on scientifically unsound educational policies and practices such as false beliefs that males and females learn in different ways.
5. There is no credible evidence that sex-segregated public education is more effective in increasing gender equality and other desirable outcomes than less risky equally well-resourced gender equitable coeducation.
6. Sex-segregated public education in the United States is more expensive than the less risky coeducation alternatives.

These reasons are intertwined. For example, good research on this topic must be conducted using a framework that addresses legal issues as well as educational, psychological, and economic measures. Thus, it is important

to assess gender equality in the educational practices as well as in the outcomes that result from these activities and to compare sex segregation with coeducation and the impact on both girls and boys.

Public Policy Reasons to Rescind the 2006 Bush Title IX ED Regulation

Reason 1. The 2006 ED Title IX regulation conflicts with stronger protections against sex discrimination in public education that are guaranteed under the 1975 Title IX regulations used by other agencies, the U.S. Constitution, and other federal and state laws.

Early History of Title IX Protections against Sex Segregation

In the early 1970s, much public attention focused on adding the Equal Rights Amendment (ERA) to the U.S. Constitution and on ways girls and women were not always treated fairly in education. When Title IX passed in 1972, routine sex segregation, such as woodworking or shop for boys and home economics for girls, or career days for boys and fashion shows for girls, was no longer allowed.

The 1975 Title IX regulation used by the Department of Health, Education and Welfare's Office of Education and later the Department of Education (ED) created in 1980 provided guidance on how Title IX should be interpreted. It prohibited most sex segregation in education institutions that received federal financial assistance. For the most part, sex-segregated classes, programs, and schools have always been considered sex discrimination under Title IX. Sex stereotyping is also considered sex discrimination. Essentially, Title IX says that other than the exceptions listed in the law, it is illegal to classify (or discriminate against) people on the basis of sex, just as under other laws such as Title VI of the Civil Rights Act it is illegal to classify or assign students on the basis of race or national origin. Thus, extra benefits or opportunities cannot be given based on the sex or race or national origin of a student. Students can be sorted in many other ways, such as test scores, previous grades, and so forth, but not by sex or race.

All federal agencies except the ED still use the stricter provisions against sex segregation in the 1975 Title IX regulations rather than the

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more permissive 2006 Title IX regulation. These 1975 Title IX regulations contain a few exceptions where some sex segregation is allowed. For example, certain youth groups, such as the Boy Scouts and Girl Scouts and fraternities and sororities, may meet in schools. Under Title IX, some K–12 schools that were single sex before 1975 can remain single sex.⁸ Dormitories may be single sex (although coed dormitories are increasingly popular). Additionally, sexuality education classes can be conducted separately for boys and girls. Also, under the 1975 Title IX regulations, some sex segregation is allowed in athletics such as in contact sports.

But the most relevant exception for this discussion is that under the 1975 regulations, some affirmative action (to help females or males) is allowed as long as the purpose is to reduce sex discrimination—the key purpose of Title IX. However, few deliberate sex-segregated programs were used for affirmative action under Title IX before the Bush administration signaled that it was weakening the standards required to justify sex segregation under Title IX. For example, when some science programs were designed to attract girls, some parents of boys objected and pointed out that their boys needed this kind of program, too, and boys were allowed in. The same practice was followed with the programs that were developed primarily to help women overcome math anxiety (Tobias, 1993).

Also, instead of segregating girls to provide them with remedial support or affirmative benefits to help them receive more equitable outcomes, many people active in the women’s movement have pushed for coeducational classes and schools to become less sexist and for more gender balance in classes such as physics. They have also encouraged the identification and use of best practices from private single-sex and coed schools. Examples include encouraging females to speak up, using a variety of teaching techniques including collaborative learning and competitive activities, and encouraging teachers to consciously pay equal attention to

⁸However, other laws such as the Fourteenth Amendment and the PA Equal Rights Amendment have been used to prohibit sex segregation. Women were allowed to enter the Virginia Military Institute after the 1996 Supreme Court decision, and the 1983 PA decision allowed girls to attend the previously all-male academic Central High School in Philadelphia (Klein, 2007, Chapters 5 and 9).

all the students in the class, not just those who are the most vocal and active (Klein, 2007, especially Chapters 7 and 9; Sadker, Sadker, & Zittleman, 2009).

The 2006 ED Title IX Regulation Weakens Protections against Sex Discrimination

Allowing single-sex classes, programs, and schools, especially when they reinforce sex stereotypes, is the biggest threat to Title IX since the 1984 Supreme Court *Grove City College v. Bell* decision, which limited Title IX protections only to specific programs that received targeted federal funding. This meant that enforcement of Title IX was extremely limited from 1984 until Congress passed the Civil Rights Restoration Act over President Reagan's veto in 1988. For example, sex discrimination in athletics was generally allowed during these years because the federal government rarely funded athletic programs. The Civil Rights Restoration Act made it clear that Congress intended Title IX and other federal civil rights laws such as Civil Rights Act Title VI to apply to the whole institution providing education services, not just to the specific program or student receiving federal financial assistance (Nash, et al., 2007).

When the draft version of this 2006 Title IX regulation was released in 2004, only about 100 of the more than 5,000 public comments were supportive (Klein, 2005), but the Bush ED proceeded to issue the 2006 version with few changes. Many discussions of the history of this 2006 ED Title IX regulation improperly attribute it to provisions in the 2002 *No Child Left Behind* legislation. However, that legislation did not call for a change in the Title IX regulation. It did allow for single-sex education "consistent with existing law" specifically as one provision for local programs and it required guidance on single-sex education. The Bush ED of its own volition issued a notice of proposed regulation in 2002 to let advocates of single-sex education know that it planned to allow more flexibility in purposeful single-sex education. (See more details under reason #2, FMF's *Title IX Defined* web page, and Klein, 2005).

The limited safeguards in the 2006 ED Title IX regulation specifically allow single-sex classes, schools, programs, and extracurricular activities in primary and secondary nonvocational public schools as long as there

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is “substantial equality.” This 2006 regulation also includes procedural guidance limiting some inappropriate sex segregation by requiring that:

- Enrollment in a single-sex class or school must be completely voluntary.
- A “substantially equal” coeducational class or extracurricular activity in the same subject or activity for the excluded sex must be provided.
- An “important governmental objective” “to improve educational achievement of its students,” provided that the “single-sex nature of the class or extracurricular activity is substantially related to achieving that objective” must be shown. These “sex-based means used to further that objective” must be “genuine” and (must . . .) “not rely on overly broad generalizations about either sex.”
- A link between an education goal and the single-sex program must be shown. The 2006 Title IX regulation requires that the “single-sex classes or extracurricular activities are based upon genuine justifications and do not rely on overly broad generalizations about the different talents, capacities, or preferences of either sex and that any single-sex classes or extracurricular activities are substantially related to the achievement of the important objective for the classes or extracurricular activities.” (Office for Civil Rights (2006) Section 106.34 (b) (3)). This standard was defined in more detail in the 2010 ED and Department of Justice (DOJ) Amicus Brief in the Vermilion Parish School Board case where a dissertation by the school’s principal used inaccurate information about the benefits of his “experiment” to justify sex-segregated classes to the school board.
- Evaluations are required every two years to justify the continuation of the single-sex class, program, or school and to ensure that they are based on genuine justifications that do not rely on sex stereotypes.

Although these procedural requirements in the 2006 regulation provide some restrictions on inequitable and illegal sex segregation, collectively they are rarely followed by schools implementing sex segregation. (See Klein, 2010, 2011 and the discussion under Reason 2.)

Legal experts have pointed out many flaws in the 2006 ED Title IX regulation that show weakening Title IX conflicts with the way Congress intended it to be interpreted, as well as with the U.S. Constitution’s

Fourteenth Amendment Equal Protection Clause, federal laws such as the Equal Educational Opportunities Act (1974), and equal rights provisions in state constitutions (Nash et al., 2007). Proponents of adding the Equal Rights Amendment to the U.S. Constitution point out that the ERA would provide more extensive and stable legal protections against sex discrimination in all public entities. For example, ERA would also protect against sex discrimination outside of education programs and activities and in public entities even if they are not recipients of federal financial assistance.⁹

The cases against schools that have engaged in sex segregation by the American Civil Liberties Union (ACLU) and the recent briefs appealing the *Vermilion Parish* Federal District Court decision that allowed sex-segregated classes to continue provide many details on how regulations for Title IX should be interpreted so that they are consistent with the existing civil rights protections (American Civil Liberties Union, 2010; National Women’s Law Center, 2010; Stone, 2007; U.S. Depts. of Justice & Education, 2010).

Reason 2. Inappropriate public school sex segregation has increased since the Bush administration signaled it would weaken the ED Title IX regulation in 2002.

The Increase in Sex Segregation in Public K–12 Education

Over the years before and two decades after the passage of Title IX in 1972, single-sex private education declined and deliberate single-sex public education was rare. Single-sex public education was so rare that it was barely mentioned in the *Handbook for Achieving Sex Equity through Education* (Klein, 1985). The 1994 classic *Failing at Fairness: How America’s Schools Cheat Girls* reported that “Today, single-sex schools are an endangered species; they are [often] illegal in the public system and vanishing rapidly from the private sector” (Sadker, Sadker, & Zittleman, 2009, p. 253). From 1975 to 2002, equity advocates focused on counteracting accidental or deliberate sex discrimination in coed schools. Attention was

⁹While this chapter focuses on public schools, even private K–12 schools that receive some federal financial assistance are covered by Title IX prohibitions against sex discrimination, including illegal sex segregation.

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on creating gender-equitable coed physical education classes as required by the 1975 Title IX regulation (Geadelmann et. al., 1985), on ensuring that previously sex-segregated vocational education schools and classes would be integrated, and on identifying and decreasing sex-discriminatory classroom interactions in coed classes (Lockheed, 1985).

During the 1990s, a few Congressional efforts to suspend Title IX to allow experiments with public school sex segregation failed. In 1996, new well-publicized single-sex schools were established in New York City and California. They were justified under the affirmative provisions in the 1975 Title IX regulation to advance gender equity. The Young Women's Leadership School of East Harlem was established in 1996. But this public school faced legal challenges because there was no evidence that it was more effective in helping its female students succeed and overcome sex discrimination than comparably well-resourced coed schools serving the same types of students with a similar commitment to gender-equitable education.¹⁰ The evaluations of the 1996 California dual academy experiment (where the state provided extra funds to six paired girl and boy schools) found that they created more problems (especially for boys) than they solved (Datnow, Hubbard, & Woody, 2001). The Supreme Court decisions allowing girls into the Virginia Military Institute and men into the nursing program at Mississippi University for Women also helped discourage sex segregation in public education.

Despite these fairly well-funded single-sex experiments in New York and California, before 2002, the major focus was on equity in instruction, especially in creating sex equity in coeducational classroom interactions. But, concerns changed and the *Handbook for Achieving Gender Equity through Education, 2nd Edition* (Klein, 2007) devoted most of Chapter 9, "Gender Equity in Coeducational and Single-sex Educational Environments," and a good part of the summary Chapter 31 to this emerging challenge to gender equality.

The forthcoming FMF study of the "State of Public School Sex Segregation in the States" (Klein, 2010) documents more than 600 public

¹⁰As of 2010, this school is still operating along with Young Women's Leadership schools across the nation. These public schools and their affiliates also receive support from the Young Women's Leadership Network (www.ywlnetwork.org). However, none of the CA Dual Academies remain sex segregated.

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schools with purposeful single-sex classes in school years 2007 to 2008 and 2008 to 2009. These totals include about eighty public single-sex schools or dual academies. This estimate does not include many more public schools that only have:

- Short-term segregated sexuality education as allowed specifically in 1975 Title IX regulation.
- Sex-segregated physical education classes. (Many of these classes do not involve contact sports and violate Title IX.)
- Sex segregation for youth in the juvenile justice system (correctional schools).
- Unintentional sex segregation in elective or special courses—especially common in vocational education and special education.

However as noted earlier, it is likely that there were even more than the 600-plus public schools that did not publicize their deliberate sex-segregated classes. Most published estimates of schools with single-sex classes are based on information in the National Association of Single Sex Public Schools (NASSPE) website maintained by single-sex education advocate Leonard Sax. The FMF researchers used multiple sources for information on public schools with sex segregation and found both overreporting and underreporting on the NASSPE website. Despite rhetoric that single-sex education is an important public school choice, it is very difficult to find information on single-sex education strategies on school websites. An examination of the Office for Civil Rights (OCR) 2006 large-sample survey results indicated that many coed public schools said they had single-sex academic classes for the 2006 to 2007 school year. This suggests that they started this sex segregation before the 2006 ED Title IX regulations became effective in November 2006.

The OCR 2006 survey results showed that 2,885 schools reported having specific types and numbers of single-sex academic classes in the 2006 school year. Klein and Sesma (2010) called some of the schools to verify the survey response that they had single-sex classes during 2006 and also found that many continued sex-segregated classes in subsequent years. Research by others, such as ACLU public information requests and the Brown and Pickard (2010) study of public charter schools in Michigan

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also found more sex segregation in public schools than they were able to locate using publicly shared information.

Future trends in sex-segregated public education depend in part on the leadership of the Obama administration and gender-equity advocates who support rescission of the 2006 ED Title IX regulation. Even if researchers documented 1,000 public schools with sex-segregated classes, this would be a small proportion of the 98,000 U.S. public schools in 14,000 school districts serving nearly 50 million public school students (President’s Council of Advisors on Science and Technology, 2010).

Many Schools Have Used the 2006 ED Title IX Regulation as Permission to Sex Segregate—Often Inappropriately

The forthcoming FMF study on the “State of Public School Sex Segregation in the States” (Klein, 2010) and legal cases challenging sex-discriminatory sex segregation led by the American Civil Liberties Union (ACLU) have shown that the minimal protections for voluntary sex segregation, coeducational options, adequate justification of need for segregation, and evaluations that are required in the 2006 ED Title IX regulation have generally been ignored.

Schools rarely articulate their sex-segregation policy and procedures and do not provide a specific justification for sex segregation as an affirmative action to decrease sex discrimination. Except for the sexual attraction argument, which obviously fails for gay and transgender youth, it is hard to find a rationale for excluding one sex to accomplish a specific governmental objective. For example, the FMF researchers did not find anything on a school website justifying a girls’ physics class because they were not performing as well as boys or because there is evidence that they will learn physics better in an all-girl class than in a coed class.¹¹ If the school does provide some justification language, it often repeats generalized misconceptions about the purported advantages of single-sex education, which are used by single-sex education advocates such as Leonard Sax and his National Association of Single Sex Public Education. Sax and others assert that girls and boys learn differently and thus need to be

¹¹This is a hypothetical example. We know of no studies that show girls learn physics best in a sex-segregated class.

taught differently in sex-segregated classes (Kaufmann, 2007a, 2007b; NASSPE website).¹²

Schools may indicate that they are using the sex-segregated classes to reduce sex stereotypes, but their actions show the reverse. It was also rare to find a school or subject area where there are sex-segregated classes for only boys or only girls. Most schools had the same number of all-boy and all-girl classes in each subject area. This also points to a generalized justification based on sex stereotyping rather than a specific justification that some type of sex segregation will help improve gender-equitable outcomes for either girls or boys who need affirmative “catch-up” support.

Few, if any, schools have publicized the required evaluations of their single-sex programs to let parents and researchers know if their objectives have been met. In the rare cases where they may conduct an evaluation, they rarely ask the question, “Did the sex segregation improve gender equity in outcomes?” Ideally, each school should conduct a study to determine if sex segregation is better than coeducation for its students. FMF found few evaluation results based on systematic studies, although it was common for media reporters to describe some anecdotal information about teacher, student, or parent reactions to single-sex classes. Occasionally journalists also reported how some outcome, such as test scores for the single-sex classes, went up compared to previous years or compared to a coed class. But these articles rarely referenced evaluations or studies that could be examined for the adequacy of their methodology and credibility of their conclusions.

Few state Title IX coordinators have been able to identify and monitor the public schools with single-sex classes in their states, although many helped FMF researchers learn about sex segregation in their states. A key exception is the South Carolina Department of Education, which encourages sex-segregated classes in its public schools and maintains a website with information on South Carolina public schools that use “single-gender” education. Iowa and Washington have accountability requirements related to reporting on or evaluating single-sex schools and classes.

¹²Leonard Sax created the National Association of Single Sex Public Education. In recent years he has acknowledged that sex differences are not universal and that single-sex education may not be best for all girls and boys.

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However, there are currently no state or federal requirements for the public sharing or the submission of justifications for, or evaluations of, single-sex schools or classes related to the Title IX requirements.¹³ Thus, despite the consistent Bush administration and Congressional education legislation focus on accountability and attaining scientific evidence of effectiveness, it is difficult to find detailed justifications for, or evaluation results on, the effects of sex-segregated public education. In their efforts to verify schools with sex segregation, FMF found many websites that post comments on schools and sometimes even describe student demographics, but there was no information on these third party websites or on the official school websites about their sex segregation practices, and FMF did not find any evaluations of the school's sex-segregation practices.

Although the 2006 ED Title IX regulation stresses that the single-sex classes must be completely voluntary, it is rare to find compliance with this in coed schools with single-sex classes. Many children have been placed in single-sex classes without their permission or that of their parents.¹⁴

Often schools with sex-segregated classes do not have a coed option, or if they do have some coeducational classes, there is no substantial equality. For example, in the ACLU *Vermilion Parish* case, the plaintiffs were assigned to single-sex classes. When their mother objected, one was assigned to the coed special education class even when that was not appropriate for her. Dual academy schools that separate all of their students by sex for all or most classes and other school activities also do not provide a coed option for students who do not choose sex segregation. FMF even found that some of these dual-academy schools in Philadelphia are the “default” neighborhood schools, so if the parents do not want their child to be in sex-segregated classes, they must find other schools that will admit their children.

It is difficult to have substantial equity in three types of classes—boys, girls, and coeducational—and on all of the important indicators of equity. In the ACLU Breckinridge County Board of Education case (2009), a girl

¹³Some states have requirements for other types of school reports and accountability, but it is unlikely that many Title IX coordinators or others have the chance to review these for information related to the legality or effectiveness of single-sex education practices in these schools.

¹⁴This breach has been documented in the ACLU cases against illegal sex segregation in public education.

wanted to be in a coed class, but the most advanced mathematics class, where she belonged, was the all-girl class. When the school discovered the girls were doing better than the boys, the school tried to slow down the girls' class so the boys' class could catch up. In addition to the level of the class, some other indicators of equity may include assessments of curriculum, teacher quality, type and effectiveness of instruction, number of students in the class, equal resources and facilities, and, of course, absence of sex stereotyping.

In many cases, these schools not only do not have substantial equity, but they increase sex stereotyping by teaching girls and boys differently. Sometimes they even teach the girls and boys different content. Sex stereotyping is compounded by teaching teachers to believe that there are important sex differences when, in fact, sex similarities related to learning are more prevalent (Hyde & Lindberg, 2007). Teaching teachers to treat boys and girls differently and according to sex stereotypes is illustrated by a *Washington Post Education Review* article on "Separate but Equal" (Houppert, 2010).

Lack of Enforcement and Education to Discourage Illegal Sex Segregation

In addition to weakening Title IX protections, the Bush administration did little to enforce Title IX in general. The Obama administration has reversed the Bush administration's objectionable guidance related to equity in athletics, but to date, its only visible action related to sex-segregated public education has been the Department of Justice (DOJ) and ED brief filed to support the ACLU appeal in the Vermilion Parish case (2010). Many organizations supporting gender equity have requested that the Obama administration rescind the Bush ED 2006 Title IX regulation.

ED and DOJ are hiring more staff especially in regional civil rights offices and may take a more active role working with Title IX Coordinators to help them learn about the oversight needed for schools engaging in unjustified and potentially illegal sex segregation. The FMF study (2011) found that few state Title IX coordinators had much knowledge of this aspect of Title IX and even fewer included this guidance on their websites. If recommendations for an updated Women's Educational Equity Act (WEEA, 2010) are approved, the federal government should be able to provide more

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funding and guidance to Title IX coordinators and their gender equity partners to decrease these gender inequities related to sex segregation.

Reason 3. Separate is rarely equal, especially in public education. Sex segregation has a negative impact on both girls and boys because it often favors one sex over the other and encourages misguided sex-stereotyped education practices.

Why Many Object to Sex Segregation and Race Segregation in Education

“Separate is not equal” is a key principle articulated by the Supreme Court in the 1954 *Brown v. Board of Education* decision, which made race-segregated education illegal under the U.S. Constitution. Additionally, there are substantial research studies by Gary Orfield (2009) and many others that show advantages of racial integration. Similarly, there are powerful studies especially in some business environments that show the value of having males and females work together to increase productivity and democracy (Eisler, 2007).

Whether talking about facilities, quality of instruction, levels of expectations, treatment of students, or preference for a particular teacher, it is very difficult to provide even “substantial” equality in sex-segregated schools, classes, or activities. As in race or ethnic discrimination, the less prestigious or less valued group often receives less favorable resources.

Sex-Segregated Public Education Can Harm Girls

Throughout U.S. history, sex-segregated girls have generally received inferior resources and more sex-stereotyped limitations than boys (Tyack & Hansot, 1990). This continues to apply to current public school sex segregation. For example:

- When the Albany, New York, Brighter Choices dual academies split into two school buildings, the boys got the new school and the girls remained in the old building (Klein et al., 2007).
- The “best” teachers may be assigned to the boys’ classes because boys “need” the help more. Similarly, boys are often assigned to smaller classes than the girls because the girls are supposed to be easier to manage (Sadker, Sadker, & Zittleman, 2009).

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- Stereotypes about being passive, feminine, girly, or uncompetitive are often emphasized. For example, a Dayton, Ohio, second-grade public school for girls in a low-income African American neighborhood focused on instruction on etiquette such as how to eat in a fancy restaurant.
- Sex segregation of women and girls is often “justified” by views that they need to be protected from men and boys, but this often limits girls’ options and fails to teach boys who may be causing problems to behave according to societal standards or to provide for safety for all students.
- Sex-segregated girls miss out on the more extensive knowledge transfer available to segregated males. This inequity was used in the litigation that resulted in allowing girls to enter the all-boys academic public high school in Philadelphia as well as the 1996 Supreme Court decision that integrated the previously all-male Virginia Military Institute (Cohen, 2010).

Sex-Segregated Public Education Can Harm Boys

Masculine stereotypes tend to be exaggerated and encouraged in sex-segregated classes. Here are some of the ways sex segregation harms boys:

- The teachers of boys are likely to emphasize machismo behaviors including competition, aggression, hiding emotions, and higher prestige for sports and fame than academic success (Barnett & Rivers, 2007; Cohen, 2010).
- Boys who do not fit these stereotypes are made to feel like outsiders even though the proponents of sex-segregated education often mention how boys who are not “masculine enough” will benefit from these classes (Cohen, 2010).
- Sexual harassment and bullying related to homophobia are often exaggerated in all-male groups.
- Expectations that boys are not good at writing and some other verbal and self-control skills may be reinforced.
- Boys will lose out on the often good academic modeling and positive encouragement of girls.

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- Sex-segregating black males does not ensure better achievement or even higher teacher expectations for their success. This was a clear finding in the California study of the dual academies (Datnow, Hubbard, & Woody, 2001). Some recent data also suggest that states with the lowest numbers of public schools with sex segregation may also have the highest black male graduation rates. When comparing graduation rate information for black males in neighboring New York (25%) and New Jersey (69%) in a Schott Foundation for Public Education study (Balfanz, 2010) with information on states with sex-segregated schools, we found that New Jersey had only one sex-segregated school and New York had twenty-two (Klein, 2010, 2011). Moreover, when black males do well in sex-segregated schools, we have not seen any evidence that this should be attributed to the sex-segregated program itself or, instead, to the extra attention, resources, and better instruction than in comparable coed schools.

Sex Segregation in Public Education Is Generally Bad for Everyone

Sex segregation emphasizes sex-role stereotypes rather than individual needs and abilities. Sex-segregated classes focus on the differences between girls and boys and thus make the other sex strangers. They also contribute to potential employment discrimination, as it is common to assign male teachers to boys' classes and female teachers to the girls' classes. (Assigning teachers on the basis of their sex violates both Title IX and Civil Rights Act Title VII.) Due to the relative scarcity of men teachers, this may also lead to hiring a male teacher who is less qualified than a female teacher to instruct the boys' classes. In some highly acclaimed sex-segregated public schools, extra public and private resources are used to help the targeted population, often minority boys or girls. It is logical that these richly resourced schools may be providing their students with more benefits than less endowed coed schools, but the results do not indicate that the sex-segregated grouping is what contributes to their success. They also draw resources away from the more universal improvements to help with systematic reform to help students in coed schools (Balfanz, 2010).

As it is generally practiced, sex-segregated public education increases sex discrimination and sex stereotyping compared to sex-integrated public

education. It also creates extra problems for lesbian, gay, and transgender students and staff. Although there are still inequities other than single-sex programs in our public schools, the inequities in the sex-segregated schools and classes create unnecessary harm that can be avoided by retaining or returning to coeducation.

In December 2009, CNN American Morning ran a story that supported sex-segregated classes, although it also contained a snippet from long-time teacher educator and gender equity expert Professor David Sadker discussing why sex-segregated classes were educationally unsound. The show spent most of its time with Leonard Sax, a well-known advocate of public school sex segregation and founder and head of the NASSPE, and it highlighted one of his well-publicized schools, Virginia's Woodbridge Middle School. The video showed a boys' class at this school playing an active competitive game throwing things at a board with a sexy lady among other targets. The girls' class had dim lights to help girls cooperate in a restful atmosphere (Klein, 2009).

South Carolina has a whole state education agency (SEA) office encouraging "single-gender" classes. Their teacher training focuses on sharing "good practices" on how to teach girls and boys differently according to "gender" roles or stereotypes. It is common to see news articles describing "single-gender" middle school classes that allow boys to move around a frosty cool class and toss a ball to determine whose turn it is to talk or to clap and stomp their answers while girls are told to raise their hands and to mostly talk in whispers in a toasty warm classroom that smells like flowers (Lauer, 2008; South Carolina Department of Education website).

Reason 4. Most justifications for deliberate public school sex segregation are improper because the sex-segregation strategies they actually use violate legal standards and are based on scientifically unsound educational policies and practices such as false beliefs that males and females learn in different ways.

Background on Legal Standards That Allow Limited Sex Segregation in Public Education

The initial 1975 Title IX regulation clearly limits sex segregation to very unique circumstances such as using single-sex education in public schools for affirmative purposes to decrease sex discrimination in the outcomes.

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The 2006 ED Title IX regulation expanded allowable sex segregation by recipients of ED funds and helped decrease attention to gender-fair coeducation. It permitted sex segregation for broad purposes that were not tied to remedial or affirmative actions to increase gender equality.¹⁵ As documented earlier in this chapter, when “given an inch” by this more permissive 2006 ED regulation, we found that schools went well beyond what was allowed in justifying and implementing sex segregation. As the saying goes, many single-sex education advocates have been “given an inch and taken a mile”—in this case they went in the wrong direction. Now, even when schools use the affirmative action justification allowed under the 1975 Title IX regulation, and even if they follow some of the procedural guidelines in the 2006 ED Title IX regulation, they rarely provide evidence that their risky sex segregation¹⁶ is more effective than less risky and less costly coeducation in increasing gender equality or other desirable student outcomes.

The wide-scale abuse of increased “flexibility” in allowing sex segregation in public education can be understood by examining how existing standards are being used inappropriately to justify public school sex segregation. We believe the 1975 Title IX regulation (which allows very limited sex segregation for affirmative purposes) requires full compliance with very clear legal and research standards as discussed below. These standards can be met only if very specific sex-segregation strategies are supported by high-quality evidence that they increase gender-equity outcomes more effectively than a comparable coed option and if they do not produce inequities while they are being used for either females or males.

Recommendations for Establishing Federal Standards to End Illegal and Scientifically Unsound Sex Segregation Policies and Practices

The 2006 ED Title IX regulation must be rescinded because its goal to allow sex segregation for vague governmental objectives undermines the sole purpose of Title IX—to decrease sex discrimination. The 2006 ED

¹⁵During this time it was pointed out that schools used an affirmative action justification rather than the allowable remedial action because they didn’t want to admit that they had previously been legally responsible for allowing sex discrimination. Thus, we focus on the affirmative rather than remedial purposes in this chapter.

¹⁶We are calling public school sex segregation “risky” because it is likely to contribute to substantial inequities and be illegal.

Title IX regulation inappropriately allows sex segregation to be justified for vague improvement purposes instead of ending sex discrimination. The vague “governmental objectives” allowing the justification of sex segregation in the 2006 ED Title IX regulation are not appropriate and they are often interpreted as allowing anything that someone might consider improvement. These “improvements” range from providing parents an option to choose sex segregation because they like it and think it will increase test scores—even if this broadens the gender gap and increases sex stereotyping and sex discrimination in the desired outcomes.

There are also other problems with this 2006 regulation, such as additional exemptions from compliance with equity standards by specific types of schools and somewhat different standards for single-sex schools and coed schools with single-sex classes.

If any sex segregation is allowed for affirmative purposes using the 1975 Title IX regulations, it must meet the following five equity standards:

(1) If sex segregation is allowed to decrease sex discrimination in desired outcomes, it must not be totally exclusionary and it must have compelling evidence to justify its proposed actions.

The school would need to provide compelling answers to questions such as: What is the specific gender-equity problem that will be ameliorated by the specific sex-segregation strategy? What is the evidence that it will be more effective than comparable coeducation? Will it be feasible and cost effective? This may mean that if there was a program for girls that had evidence that it helped them enter well-paying “nontraditional” careers better than a coeducational program with similar purposes and resources, it would be legitimate for a school to select this single-sex program primarily for girls. This sex-segregation strategy would only meet adequate criteria for continuation if the students in the single-sex class did better than similar students in the comparably well-resourced coed class and if there was ample evidence that the sex segregation was the cause of the decrease in sex-discriminatory outcomes.

If legitimate indicators, in addition to increasing gender equality such as overall increases in test scores, are measured, they could be used as a supplemental justification to either support or discourage the use of the sex-segregation strategy based on the nature of the evidence.

The current Women’s Educational Equity Act (WEEA) of 2001 prohibits the exclusion of boys from programs designed for girls, and the

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August 2010 gender-equity advocates' draft of a revised WEEA also prohibits the exclusion of girls in programs designed to advance gender equality for boys. This nonexclusion principle (such as allowing males in women-focused courses as feminist religion professor Mary Daly was required to do) should be applied to entities covered by Title IX. It is already being used in higher education institutions, which are almost all covered by Title IX protections. The use of policies prohibiting the total exclusion of individuals based on sex should also provide needed flexibility to accommodate transgendered students and staff.

(2) There must be a well-articulated school-specific and class-specific need for using predesignated sex-segregation strategies for affirmative action.

Until the brief by the U.S. Departments of Justice and Education (2010) supporting the ACLU appeal of the *Vermilion Parish* case, it was not clear that these agencies expected more prior evidence and a classroom-specific justification for why the sex segregation would meet “*an important governmental or educational objective.*” (p. 21). This brief says “ED’s regulations thus make clear that single-sex classes are the exception rather than the rule and place the burden on recipients wishing to establish such classes to show that they have met the criteria specified in the regulations.” (p. 16) and that “the recipient must meet the regulatory requirement for *each* single-sex class” (p. 17). These justifications “must be genuine”—and “must not rely on overbroad generalizations about the different talent, capacities, or preferences of males and females.” (p. 17). We assume that DOJ also would use this same principle of a required classroom-specific justification for the exceptions in the 1975 Title IX regulations allowing remedial or affirmative action that are used by all non ED agencies.

Additionally, if guidance is provided on how to implement the 1975 Title IX regulation, it would help to include and strengthen three procedural requirements from the 2006 Title IX regulation: completely voluntary options, equal coeducational opportunities, and the disqualification of a justification based on overbroad stereotypes. (See previous discussions in this chapter.)

In the *Vermilion Parish* case associated with the DOJ and ED brief described in this section, the Vermilion Parish School Board actually received some school-specific justification for the proposed sex-segregated classes in a dissertation by the middle school’s principal, David

Dupuis. However, the Federal District Court hearing revealed that the reported justification for needing a sex-segregated intervention was inadequate in two respects. One was that no data were presented to show that boys or girls needed sex segregation in any specific classes due to poor performance or other special considerations. The other problem was that Dupuis' dissertation presented "extremely flawed" results (*Doe v. Vermilion Parish School Board*, 2010, p. 7). An analysis of the dissertation by the ACLU expert (Halpern, 2009b) found errors in his data and statistics. For example, while the data in the dissertation showed that grades had improved during the experimental period of sex segregation, the verified grades showed the reverse to be true.

It is rare to find any detailed pilot study that is used to justify sex segregation in a specific school. In this case, the Vermilion Parish School Board members and the Parish school administrators failed to verify the dissertation research, the sole legal basis for the school board agreeing to the sex segregation. The District Court said that this failure was negligence on the part of the school board and administrators.

(3) Overbroad stereotypical generalizations or related pseudoscience understandings of sex differences must not be used to justify, select, or evaluate actual sex segregation strategies.

As discussed earlier, most of the justifications for sex-segregated public education are based on overgeneralized stereotypes, which are not allowed under the 2006 ED Title IX regulation. Additionally, these justifications rarely address needs in the school that could possibly be improved by using a sex-segregated strategy in any specific class. Often, these justifications say that one of their objectives is to decrease sex stereotypes. This could mean that they would be describing an affirmative strategy to end sex discrimination in line with the 1975 Title IX regulations. However, what they actually do in the sex-segregated classrooms is to teach boys and girls differently according to sex-stereotyped notions of what they need. (See discussion of Reason #3, separate is rarely equal.)

In addition to being based on these impermissibly "overbroad generalizations about the different talent, capacities, or preferences of males and females" (p. 17), the conclusions used in these generalizations are rarely supported by systematic research evidence from multiple studies, although they underlie the work of single-sex public education advocates such as Leonard Sax and Michael Gurian (Arms, 2007).

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Our understandings of what is good for us do change. As previously mentioned, there is increasing evidence of the positive effects of race integration and sex integration. Common inaccurate justifications for sex-segregated public education that support the illegal general sex stereotypes include:

- A belief in inherent differences in abilities between the sexes.
Actually, differences between boys and girls are negligible compared to the differences among all girls or all boys. In other words, the differences within each sex are far greater than the differences between the two sexes. Think of height as an example: we would all agree that men are generally taller than women. Yet there are many men who are shorter than some women and women who are taller than some men (Halpern, 2009a; Hyde & Lindberg, 2007).
- A belief that there are sex differences in learning.
While there are some small physiological differences in male and female brains—just like body size—there is no evidence that these minor differences have any impact on learning. The so-called “conclusions” of brain research typically go far beyond the research and ignore how the role of culture and environment interplay with the physiological brain. There are no male and female “learning styles” (Eliot, 2009; Halpern, 2009a).
- A belief that boys and girls are so different in the way they learn that they will learn better in sex-segregated classes.
“There is no (quality) evidence based on multiple studies by independent reviewers that shows that girls learn better than boys do in cooperative groups or boys excel when they are placed in competitive situations” (Halpern, 2009a, pp. 24–25). There are also some related misperceptions such as: a belief that boys are so distracted by girls that they cannot learn in their presence and a belief that girls won’t get into “trouble” (read pregnant) if kept away from boys (Halpern, 2009a). The review by Campbell and Sanders (2002) shows how quality research fails to support related assumptions about the value of single-sex education. For example, they find no support for the assumption that “Sexual tension between girls and boys and the desire to impress each other is a distraction to learning that can be eliminated by single-sex schooling” (p. 40).

(4) Constitutional Equal Protection criteria must be used to assess the treatment of all groups. This should apply to comparisons between males and females and between the sex-segregated groups and the coed groups.

In addition to using the 1975 Title IX regulation, a public school must meet the Equal Protection requirements described in the Supreme Court Virginia Military Institute (VMI) 1996 decision and also referenced in the 2006 Title IX regulation. These Equal Protection standards (such as equal access to knowledge, quality teachers, same size classes, etc.) must be met for boys and girls and for single-sex and coed classes. Using these legal standards, sex segregation might be justified *if* there were evidence of a need to decrease sex discrimination and evidence that a sex-segregated delivery strategy worked better (to a substantial degree) to decrease sex-discriminatory outcomes than a comparable coed strategy.

A related standard of completely voluntary selection of single-sex or coed grouping by parents and students is also critically important, but it may make it harder for the school to meet this Equal Protection standard if there is a differential demand for segregated or coed classes.¹⁷

(5) Comparative effectiveness is an essential part of any equity evaluation standard.

Schools should be able to show evidence that the proposed sex segregation has had or will have a more positive impact on increasing gender equity than comparable coeducation and that it has no negative impact on the boys or the girls. This is a standard where both the legal equality standards and the research comparison and evidence of effectiveness standards mesh. Another comparison should determine if the initial “needs” or the initial specific objectives to justify the sex segregation are met by the recipients of sex segregation better than by the nonrecipients.

If any sex segregation is allowed using the 1975 Title IX regulations, it must meet high quality research and evaluation standards.

Quality research and evaluations are needed to provide initial justifications for acceptable and legal sex segregation as well as to justify the continuation of existing public school sex segregation.

¹⁷As part of these related completely voluntary participation standards, we recommend that the parents and students must opt in to the more risky sex-segregated class or school. Segregation shouldn't be the “default” assignment.

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The 2006 Title IX regulation requires evaluations every two years, but no clear standards have been provided on the quality of these evaluations, the nature of the comparisons, the questions they should address, or who should receive them, and if they should be made publicly available. Also, since the initial need for sex segregation was rarely specified, if there was some evaluation, it was probably not focused on success in meeting the specific initial needs or goals whether these were to meet general governmental objectives or to use sex segregation as an affirmative action to decrease sex discrimination in outcomes. New federal standards are needed to address all of these concerns.

In addition to making appropriate continuation decisions at the school level, reviews of multiple high-quality evaluations are needed to gain insights into the potential value of any type of sex-segregated public education. Rigorous standards such as those used by the ED “What Works Clearinghouse” must be specified for any sex segregation that might be allowed under Title IX or other civil rights laws. However, FMF found only a few formal evaluations of sex-segregated public school classes. They had mixed or negative results about the effectiveness of the sex-segregation strategy. In some cases, evaluation results were used to justify ending some sex-segregation practices (Klein, 2010, 2011). Most public reports of sex-segregated classes in coed schools are journalistic snapshots of sex-stereotypic activities in single-sex classes, sometimes using video. Occasionally the schools will report student outcomes compared to previous years when different cohorts had coed classes. These evaluations and reports of comparisons of test scores by students in coed and single-sex classes often did not provide sufficient information to judge their credibility or validity.

There are many problems with the relatively few studies that exist of sex segregation in public education. Although most studies of public school sex segregation are not as misleading as the previously discussed Dupuis dissertation in the *Vermilion Parish* case, few studies provide adequate information on the equity process measures discussed previously or on the comparative outcomes using comparable groups and careful methodology. Some of the common methodological flaws related to studies of single-sex public education include:

1. Drawing conclusions about the value of sex-segregated education for an individual study, not a review of multiple similar education interventions

Similarly, it is common for those examining sex-segregated public education to base their conclusions on anecdotal observations or a few “critical” incidents rather than on unbiased systematic collection of data on how the treatments compare and on the relationship of the treatments to the results. For example, one male science teacher in a television interview stated that he was so happy teaching an all-boys science class because the “research showed that boys liked more hands-on teaching.” There is no research on this at all, and indeed the research shows that girls, too, like hands-on activities.

2. The Hawthorn Effect

Dating back to the 1930s, a large number of research studies in different fields show that when something new is done, it is likely to have an effect simply because it is new. Thus, sex-segregated programs often are successful at the beginning because they are new. The effects often diminish substantially after a while because they did not result from the program itself but from the excitement that it was something new. Thus, short-term evaluations of sex-segregated programs may be misleading, especially since the effect is often not evaluated over multiple years.

3. The John Henry and Pygmalion Effects

The success of some or all of the sex-segregated programs is contaminated by the expectations that the children and the program will succeed. If you tell parents, staff, and students that the sex-segregated program will make it easier for the children to learn than their previous experience, that alone may be enough to make a program succeed initially. For example, research on a small group of children chosen randomly described how their teachers were told that the tests show that these children will really take off during the coming year, and indeed the children did better than other children. Expectations and motivations do matter.

4. Bias in the studies

The proponents of single-sex public education are likely to identify measures and report on results in biased and inappropriate ways—often unintentionally (Halpern, 2009a, 2009b). This bias is illustrated in the Dupuis dissertation and in other studies where teachers rate student performance higher when they expect it to be higher when given a

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certain treatment. (It is difficult to have a single-sex class where the evaluators do not know or are “blind” to the composition of the class.)

5. Selection bias

Often more motivated students or their parents volunteer for the new innovative class such as the all-boy or all-girl class. Similarly, the best teachers may be selected for these “showcase” classes. It is difficult to overcome this bias by random assignment when the law requires that all participation in public school sex segregation must be completely voluntary.

6. Inequitable resources for comparison groups

Teachers for the sex-segregated classes typically receive some training on how to teach the all-male and all-female classes, where the teachers of the coed classes receive no extra training such as for treating their male and female students equitably in classroom interactions. Regardless of the quality or the aim of the training, the teachers may be more enthusiastic because it is something new and they may, in turn, pay more attention to students than they had previously paid. These differences may make the students learn better. Many of the sex-segregated classes include other benefits not available to coeducational classes, such as a newly painted classroom, a small student-teacher ratio, an enriched curriculum, and so forth. It is difficult to separate the effect of single-sex classrooms from the effects of these other factors. In some instances, the single-sex classes for boys and girls may also not have the same facilities, resources, and the like, thus making them inherently unequal even if both have more resources than the coed classes.

Advice on Applying these Rigorous Standards to Justify Sex Segregation

It is important to use these standards for the deliberate decisions to allow or discontinue sex segregation in public education. When addressing questions about the legality, quality, fairness, and effectiveness of sex-segregated public education, these standards should be used for both pre- and postimplementation decisions. The preimplementation decision should be used to review evidence justifying the risky sex segregation

before the sex-segregated public education policy and specific instructional strategies are approved. The second and continuing set of decisions should occur after the sex segregation is implemented to help determine if the specific sex-segregation practices that were used should be continued because they meet the equality requirements and decrease sex discrimination in desired outcomes.

In making these decisions, both process and outcome indicators should be evaluated using proper comparisons. For example, these comparisons would examine how effective classes for girls were compared to classes for boys and how each single-sex class compared to the most comparable coed classes. Evaluators would also examine the effectiveness of the sex-segregated programs in addressing the initial gender-equality needs.

Reason 5. There is no credible evidence that sex-segregated public education is more effective in increasing gender equality and other desirable outcomes than less risky equally well-resourced gender-equitable coeducation.

Much of the deliberate sex segregation that has been occurring in U.S. public schools is “justified” based on inaccurate and misleading research suggesting that sex segregation will improve educational outcomes more than comparable quality coeducation will. These misleading research claims often indicate that single-sex public education will reduce sex stereotyping and improve other student outcomes (and thus might be justified using the 1975 Title IX regulations allowing limited sex segregation for purposes of decreasing sex discrimination in outcomes). But high-quality legitimate research provides no consistent evidence that sex-segregated education contributes to the achievement of better (or more gender-equitable) outcomes for girls or boys than comparable coeducation (Arms, 2007; Salomone, 2007; U.S. Department of Education, 2005). Instead, this body of research generally indicates that sex segregation increases rather than reduces sex stereotyping (Barnett, 2007; Datnow, Hubbard, & Woody, 2001; Halpern, 2009a).

Most research on single-sex education has been on private schools, not on single-sex classes in U.S. public schools. Therefore, it is inappropriate and inaccurate to state that single-sex classes (in public schools) have been proven to be better than coed classes. Additionally, the quality research in private schools rarely shows effectiveness of their single-sex education compared to comparably resourced private school coeducation.

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A widely cited meta-analysis of fairly high-quality studies of single-sex schools was sponsored by the ED. The analysis did not find conclusive results favoring either single-sex or coed schools. The authors of this important review also noted that they were not able to include any studies that provided evidence of student outcomes related to measures of increased gender equity (Arms, 2007; U.S. Department of Education, 2005).

There has been little evidence that any specific sex-segregation strategies are more effective than coed strategies with similar purposes (Halpern, 2009a; Klein & Homer, 2007). Thus, it is quite a challenge for a school to identify and justify a specific sex-segregation approach to decrease sex-discriminatory outcomes in a specific class. The only effective single-sex strategy that the ED Gender Equity Expert Panel identified was a program developed for women in women's prisons called Orientation to Non-Traditional Careers for Women (ONOW), (U.S. Department of Education, 2001). However, it was not feasible to compare this ONOW program with a similar coed program.

There are a few anecdotal and other studies designed to assess the advantages of single-sex classrooms over comparable public school coed classrooms. To date, it appears that evaluations that show the most favorable results for single-sex classes are those with the poorest methodology and the studies that show no consistent advantages are those with the best methodology. Also, it does not appear that single-sex education is more effective in increasing gender-equitable outcomes than coeducation. These findings suggest that it will be difficult to satisfy the ED 2006 Title IX regulations' requirement that sex segregation be justified.

Reason 6. Sex-segregated public education in the United States is more expensive than the less risky coeducation alternatives.

Sex segregation in public schools is more expensive than coeducational classes and schools. The separate and often duplicate operations and facilities for public single-sex education are more costly than comparable coeducation. It takes more time and money to assure that all facilities and resources are equitable for both girls and boys in segregated rather than in coeducational facilities. These challenges are apparent even in simple things like ensuring equal numbers of students in the parallel boy and girl classes. A study of "single-sex Catholic schools found that per-pupil expenditures at boys' schools were 25 percent higher than those at girls'

schools, and 30 percent higher than those at coed schools” (Campbell & Sanders, 2002, p. 39). Equalization of student–teacher ratios is also a challenge because the selection of sex-segregated education is required to be completely voluntary.

After the rescission of the 2006 ED Title IX regulation, it is still important to use the previously discussed multiple standards. However, the additional costs in time and resources to meet these standards should be considered in any decision to use sex-segregated public education. For every single-sex class, the 2006 regulation requires a substantially equal coeducational class. In many cases, it also requires substantially equal single-sex classes for both girls and boys. It also requires voluntary selection and evaluations every two years. If implemented adequately, these procedural standards can be quite expensive. Additional resources are needed for staff training to address how to counteract, rather than reinforce, sex stereotypes, a particularly difficult challenge when the classes are sex segregated.

Schools that sex segregate have already faced expensive lawsuits for violations of Title IX and other federal and state nondiscrimination laws. The higher costs of single-sex classes were even noted by David Chadwell, who coordinates single-gender initiatives in South Carolina. He explained that the number of public schools in South Carolina with single-sex classes was reduced in 2009 to 2010 due to state and local budget cuts (see SC Department of Education website).

Summary and Recommendations

This chapter describes how the *Risks of Sex Segregated Public Education for Girls, Boys, and Everyone* can be reduced if the ED 2006 Title IX regulation is rescinded and if appropriate standards are used to guide the use of any sex-segregated education that is still allowed under the 1975 Title IX regulation, the 14th Amendment to the U.S. Constitution, and other applicable laws.

Many aspects of the 2006 ED Title IX regulation have been challenged on both legal and scientific bases. To remedy the damage resulting from these 2006 regulations and to prevent future inequalities, it is critically important to provide clear and comprehensive guidance on the standards needed to justify any sex segregation that would continue to be allowed

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under the 1975 Title IX regulation exceptions for affirmative actions to increase gender equality in desired outcomes.

Additionally, federal background information accompanying this rescission should explain how the Bush administration's weakening of Title IX regulations encouraged misguided and illegal education policies. These policies led to scientifically unsound and costly sex-segregation practices in about 1,000 public schools during the 2007 to 2008 and 2008 to 2009 school years. Sex segregation, allowed under the 2006 ED Title IX regulation, was absolute—meaning that only girls were allowed in the girls' classes or schools and vice versa for boys. This absolutism is also detrimental to transgender students. In increasing schools' flexibility in allowing sex segregation, this 2006 ED regulation did not even mention what many consider a legitimate justification for single-sex education. It omitted reiterating the affirmative purposes that were in the 1975 Title IX regulations allowing limited sex segregation to decrease sex discrimination.

When ED rescinds the 2006 ED Title IX regulation and reverts to the 1975 Title IX regulations as recommended, it is important to encourage ED and DOJ to require that any proposed sex segregation meet the recommended legal equity standards as well as the standards for high-quality research comparisons. Both agencies can provide consistent guidance on preventing illegal and scientifically unsound sex-segregation policies and practices in accordance with all the 1975 Title IX regulations, the U.S. Constitution, and other relevant federal laws.¹⁸

Standards they address should:

- Allow sex segregation only for affirmative purposes to decrease sex discrimination in the desired outcomes as already allowed in the 1975 Title IX regulations.
- Insist that there be an approved well-articulated specific school and class need for using a predesignated sex-segregation strategy for the above affirmative purposes.

¹⁸DOJ's Civil Rights Division has authority to coordinate regulations for all agencies responsible for Title IX implementation and issued a common rule that provides Title IX regulations for all the federal entities that do not have their own unique Title IX regulations.

- Prohibit any justifications or comparative evaluations to be based on overbroad stereotypical generalizations related to understandings of sex differences.
- Require voluntary selection of equal coed and single-sex options. This should apply to comparisons between females and males and between the sex-segregated groups and the coed groups. Exceptions should be made to allow appropriately qualified males, females, or transgendered students in female or male classes or schools if this is what they want.
- Require adequate convincing evidence of comparative effectiveness of the single-sex school or class over comparable coeducation.
- Provide guidance on how evaluation studies should use high research quality standards to learn if the single-sex treatment is better on important outcome measures of effectiveness than the coed treatment and if the sex-segregated boys do better than the sex-segregated girls.
- Require that all public school sex-segregation plans and justifications be approved by appropriate governing authorities (with adequate expertise¹⁹) and that all approved plans, justifications, approval notices, and annual evaluation reports be easily available from free and easily accessible websites.

Additionally, to be effective in decreasing public school sex segregation, education policy makers and the public need to understand that much of the existing or planned single-sex public school education is risky, likely to be unjust or unfair, and a waste of valuable education resources. All decision makers need to understand their roles and the roles federal, state, and local education agencies and Title IX coordinators have in implementing the rigorous standards and ending inappropriate public school sex segregation.

Researchers and evaluators also need to use the legal framework as they develop their studies. In using these standards, decisions about public school sex segregation should be informed by high-quality research on the evidence of effectiveness of these strategies. Comparative evaluation results that adequately justify any public school sex segregation for

¹⁹It was evident that the Vermilion Parish School Board lacked expertise to judge a greatly flawed evaluation report.

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affirmative purposes allowed under the 1975 Title IX regulations could be used as models.

It is likely that the better the quality of the study, the less likelihood results will show that sex segregation is either equitable in its treatment of students in the compared groups or that it advances desired gender-equality outcomes. Since high-quality research is very expensive, public school sex segregation strategies should not be initiated unless there are some preliminary indicators from other related situations that the strategy will be more effective in advancing gender equity than comparable coeducational strategies are. Additionally, if the government allows even limited sex segregation for affirmative purposes to increase gender-equitable outcomes, it should make descriptions of the strategies and the justifications and evaluations of these sex-segregation experiments publicly available on easily accessible websites. Also, the governmental “authorizers” of any publicly supported sex-segregated education should collect, review, and synthesize the quality studies to learn more about the positive and negative impact of sex-segregated public education.

Finally, the 2006 weakening of Title IX by allowing increased sex-stereotyped sex segregation demonstrates the importance of maintaining and enforcing a strong and well-implemented Title IX. Title IX implementation can be increased by including a reinvigorated version of the Women’s Educational Equity Act (WEEA, 2010) in the forthcoming Elementary and Secondary Education Act (ESEA). This new and improved WEEA will also be essential in helping decision makers avoid inappropriate and illegal sex segregation. An August 2010 draft of the new WEEA would establish Title IX Action Networks at the local, state, and national levels, National Gender Equity Collaboratives to conduct research, development, evaluation, and technical assistance, and an Office for Gender Equity to provide catalytic leadership to purposefully advance gender equality.

Title IX coordinators and other gender-equity advocates must become active leaders in preventing illegal and misguided sex segregation. ED can help end illegal sex segregation by rescinding its 2006 Title IX regulation and issuing standards suggested in this chapter to guide educators to meet the affirmative provisions in the 1975 Title IX regulation. Congress can make this happen by including the proposed reinvigorated WEEA in the next ESEA. We look forward to success in efforts to stop this

sex-segregation backlash and continue our nation's progress in creating a society where education contributes to equal opportunities for all.

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