

BUILDING ON THE SUCCESS OF 35 YEARS OF TITLE IX

HEARING

BEFORE THE

SUBCOMMITTEE ON HIGHER EDUCATION,
LIFELONG LEARNING, AND COMPETITIVENESS

COMMITTEE ON

EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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BUILDING ON THE SUCCESS OF 35 YEARS OF TITLE IX

**Tuesday, June 19, 2007
U.S. House of Representatives
Subcommittee on Higher Education,
Lifelong Learning, and Competitiveness
Committee on Education and Labor
Washington, DC**

The subcommittee met, pursuant to call, at 10:10 a.m., in room 2175, Rayburn House Office Building, Hon. Ruben Hinojosa [chairman of the subcommittee] presiding.

Present: Representatives Hinojosa, Tierney, Bishop of New York, Scott, Davis of California, Hirono, Keller, Petri, Foxx, Kuhl, Walberg, and McKeon.

Staff Present: Tylease Alli, Hearing Clerk; Lamont Ivey, Staff Assistant, Education; Danielle Lee, Press/Outreach Assistant; Ricardo Martinez, Policy Advisor for the Subcommittee on Higher Education, Lifelong Learning, and Competitiveness; Lisette Partelow, Staff Assistant, Education; Mark Zuckerman, Staff Director; Robert Borden, Minority General Counsel; Kathryn Bruns, Minority Legislative Assistant; Kirsten Duncan, Minority Professional Staff Member; Amy Raaf Jones, Minority Professional Staff Member; Victor Klatt, Minority Staff Director; Chad Miller, Minority Professional Staff; Susan Ross, Minority Director of Education and Human Services Policy; Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel; and Sally Stroup, Minority Deputy Staff Director.

Chairman HINOJOSA. A quorum is present. The hearing of the subcommittee will come to order. Pursuant to Committee rule XII(a), any member may submit an opening statement in writing which will be made part of the permanent record.

I now recognize myself and will be followed by the ranking member for an opening statement. In 1972, Congresswoman Patsy Mink of Hawaii introduced a simple legislative proposal stating that 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.

With the passage of Title IX, now known as the Patsy Takemoto Mink Equal Opportunity and Education Act, a new era of opportunity was ushered in for women and girls in America. Title IX ended the days of women being denied admission into academic

programs based on their gender. That year, in 1972, just as Title IX was enacted, women earned merely 28 percent of the bachelors degrees in the fields of science, technology, engineering and math. They are known as the STEM fields. Today, women earn 49 percent of the bachelors degrees in these fields.

Title IX shattered the myth that women and girls were not interested in competing in interscholastic athletics. Since the enactment of Title IX, the number of women participating in intercollegiate athletics has increased fivefold. The number of female high school athletes has grown almost 900 percent. As athletic opportunities for women have increased, their interest has soared. Our professional women's sports leagues are the byproduct of the doors that were opened by Title IX.

Despite these successes we still have work to do to achieve the promise of full equality and freedom from discrimination that is at the heart of Title IX. There are still gaps in support for women's athletics, gaps in participation in various disciplines in the STEM fields, and disparities in career and technical education programs.

More critically, there is still much to be done to ensure that our educational institutions are free from sexual harassment. We have seen ongoing efforts to undermine the protection of Title IX through regulation or through litigation. Over the course of the last 35 years, we have learned that we can never take equal opportunity for granted.

As we celebrate the success of Title IX, we also must look to the future and the work that remains to be done. In closing, I would like to thank our witnesses for joining us today. We are eager to hear your views and recommendations about how Title IX can strengthen opportunities for the next generation of women and girls in our schools and on our college campuses throughout the Nation. Thank you for joining us today.

And I would now like to yield to my colleague from Florida, the ranking member, Mr. Ric Keller, for his opening statement.

Prepared Statement of Hon. Reubén Hinojosa, Chairman, Subcommittee on Higher Education, Lifelong Learning, and Competitiveness

In 1972, Congresswoman Patsy Mink of Hawaii introduced a simple legislative proposal stating that "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."

With the passage of Title IX, now known as the Patsy Takemoto Mink Equal Opportunity in Education Act, a new era of opportunity was ushered in for women and girls in America.

Title IX ended the days of women being denied admission into academic programs based on their gender.

In 1972, just as Title IX was enacted, women earned merely 28 percent of the bachelor's degrees in the fields of science, technology, engineering, and mathematics—better known as the STEM fields. Today, women earn 49.2 percent of the bachelor's degrees in these fields.

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Despite these successes, we still have work to do to achieve the promise of full equality and freedom from discrimination that is at the heart of Title IX. There are still gaps in support for women's athletics, gaps in participation in various disciplines in the STEM fields, and disparities in career and technical education programs. More critically, there is still much to be done to ensure that our educational institutions are free from sexual harassment.

We have seen on-going efforts to undermine the protections of Title IX through regulation or through litigation. Over the course of the last 35 years, we have learned that we can never take equal opportunity for granted.

As we celebrate the success of Title IX, we also must look to the future and the work that remains to be done. I would like to thank our witnesses for joining us today. We are eager to hear your views and recommendations about how Title IX can strengthen opportunities for the next generation of women and girls in our schools and on our campuses throughout the nation.

Thank you for joining us today. I would now like to yield to my colleague from Florida, the ranking member, Mr. Ric Keller for his opening statement.

Mr. KELLER. Thank you very much, Mr. Chairman. I join with you in welcoming our outstanding witnesses today. And I want to welcome everyone to today's hearing celebrating 35 years of Title IX. In addition to this hearing yesterday, the House voted to pass a resolution offered by Representative Hirono to honor the 35th anniversary of this law. Today we are here to discuss the success of Title IX and to review the issues that have emerged since the law was enacted back in 1972. Title IX simply states that, quote, no person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of or be subject to discrimination under any education program or activity receiving Federal financial assistance, closed quote.

While Title IX affects many aspects of education from admissions to employment, most people associate it with school athletics. Institutions often struggle to comply with Title IX in this arena. While there are three different ways to comply with the law, most institutions attempt to comply with what is called the proportionality prong. I'm sure we will hear more about that today. Some institutions also point to Title IX when examining the number of women in areas like math and science. I look forward to today's discussion on the successes and challenges of Title IX, and I thank today's panel of witnesses for being here to share their views and experiences.

I yield back the balance of my time.

Prepared Statement of Hon. Ric Keller, Ranking Member, Subcommittee on Higher Education, Lifelong Learning, and Competitiveness

Good morning, and welcome to today's hearing celebrating 35 years of Title IX. In addition to this hearing, yesterday the House voted to pass a resolution offered by Representative Hirono to honor the 35th anniversary of this law. Today we are here to discuss the success of Title IX and to review the issues that have emerged since this law was enacted back in 1972.

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I look forward to today's discussion on the successes and challenges of Title IX, and I thank today's panel of witnesses for being here to share their views and experiences. I yield back.

Chairman HINOJOSA. Without objection, all members will have 14 days to submit additional materials or questions for the hearing record. Now I would like to give the introductions of each and every one of our witnesses, and then we will begin hearing from the first one.

[Questions submitted by Mr. Scott to Ms. Greenberger and Ms. Maatz follow:]

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VIA FACSIMILE- 202-588-5180

Marcia Greenberger
 Co-President
 National Women's Law Center
 11 Dupont Circle, Suite 800
 Washington, DC 20036

Dear Ms. Greenberger:

Thank you again for taking the time to participate in the House Education and Labor Higher Education, Lifelong Learning, and Competitiveness Subcommittee's hearing titled "Building on the Success of 35 Years of Title IX." Your participation and testimony provided the Committee with important information and insight on the status of this important legislation. As discussed during the hearing, the Committee would appreciate your assistance in providing written responses to the questions below to ensure that the Committee's hearing record is complete. We would appreciate your responses no later than July 3, 2007.


Representative Robert C. Scott (D-VA), a Member of the Subcommittee, has asked that you respond to the following questions:

1. *What is the impact or implication of Title IX on Elementary and Secondary Education and how should that impact NCLB reauthorization?*
2. *In cases where a disparity existed, please describe programs that have resulted in an increase of female participation as a result of Title IX?*

Please send an electronic version of your written response to the question to Ricardo Martinez of the Committee staff at Ricardo.Martinez@mail.house.gov by COB Tuesday, July 3 – the date on which the hearing will close. If you have any questions, please do not hesitate to contact Ricardo at (202) 225-3725.

Sincerely,


 GEORGE MILLER
 Chairman


 RUBEN HINOJOSA
 Chairman
 Subcommittee on Higher Education, Lifelong
 Learning, and Competitiveness

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VIA FACSIMILE- 202-872-1425

Lisa Maatz
 Director of Public Policy and Government Relations
 American Association of University Women
 1111 Sixteenth Street, NW
 Washington, DC 20036

Dear Ms. Maatz:

Thank you again for taking the time to participate in the House Education and Labor Higher Education, Lifelong Learning, and Competitiveness Subcommittee's hearing titled "Building on the Success of 35 Years of Title IX." Your participation and testimony provided the Committee with important information and insight on the status of this important legislation. As discussed during the hearing, the Committee would appreciate your assistance in providing written responses to the questions below to ensure that the Committee's hearing record is complete. We would appreciate your responses no later than July 3, 2007.

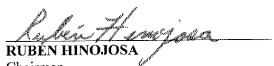
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Sincerely,


 GEORGE MILLER
 Chairman


 RUBEN HINOJOSA
 Chairman
 Subcommittee on Higher Education, Lifelong Learning, and Competitiveness

Chairman HINOJOSA. Marcia Greenberger is the founder and co-president of the National Women's Law Center established nearly 35 years ago in Washington, D.C. She has been a leader in developing strategies to secure the successful passage of legislation protecting women and counsel in landmark litigation establishing new legal precedents for women. And she is the author of numerous articles. She is nationally renowned with awards too numerous to delineate in this brief introduction. Marcia received her JD from the university of Pennsylvania in 1970. Has also worked in private practice and, since 1972, has dedicated herself to the center.

Lisa Maatz is the director of public policy and government relations for the American Association of University Women. She came to her position from the National Organization of Women's Legal

Defense Fund. And before that, she was legislative aid to Congresswomen Carolyn Maloney of New York. Lisa has also received numerous awards and was recently a mayoral appointment to the Washington, D.C., Commission on Women. She is a graduate of Ohio University and holds two masters degrees from Ohio State University. At the pleasure of attending and having a field hearing on your university campus, I was very impressed.

Margaret Edith "Peggy" Layne is currently the Advance project director at Virginia Tech University in Blacksburg, Virginia. The National Science Foundation sponsored program is designed to increase the number of women faculty in science and in engineering. She has been a Director of Diversity for the National Academy of Engineering, as well as a fellow on the staff of Senator Bob Graham. Peggy has degrees in environmental and water resources engineering from Vanderbilt University and the University of North Carolina School for Public Health. She is a registered professional engineer.

Jack Mowatt was born in Washington, D.C., went to high school in Maryland and then spent 8 years in the Air Force. Jack is a past president of the Maryland Fire Chiefs Association. And he retired from the Federal Aviation Administration after serving for 40 years. Jack was appointed softball commissioner in 1982, and in 2007, he is slated to be inducted into the American Softball Association, the National Hall of Fame in Louisville, Kentucky. Congratulations for the honor that will be bestowed upon you.

Eric Pearson is chairman of the Board of the College Sports Council, a national coalition of coaches, athletes, parents and sports alumni founded in the year 2002. The council is dedicated to preventing the elimination of college sports teams. He has served as the chairman of the Ivy League Wrestling Coaches Association. Eric has been a spokesman for the council's interests on various national networks, and he is a graduate of Princeton University.

Dr. Rita Simon, a professor at American University, whose research interests and primary areas of concentration include, among others, law and society. The jury system, the immigration issues, are really society and women's issues. She recently published her 50th book on these many issues. She is currently the editor of Gender Issues.

And we welcome you too, Rita.

Again, I welcome, together with all the Members of Congress, all of you as our witnesses. For those of you who have not testified before this subcommittee, please let me explain our lighting system and the 5-minute rule. Everyone, including members, is limited to 5 minutes of presentation or questioning. The green light is illuminated when you begin to speak. When you see the yellow light, it means you have 1 minute remaining and that you should bring your comments to a close. When you see the red light, it means your time has expired and you need to conclude your testimony. Please be certain as you testify to turn it on and speak into the microphone in front of you. A record is being kept, and we will certainly be very pleased to share what happens today with all the Members of Congress as we proceed. We will now hear from our first witness.

Ms. Greenberger, would you please start?

**STATEMENT OF MARCIA D. GREENBERGER, CO-PRESIDENT,
NATIONAL WOMEN'S LAW CENTER**

Ms. GREENBERGER. Thank you, Mr. Chairman.

I am Marcia Greenberger, co-president of the National Women's Law Center. And thank you very much for the invitation to appear today to mark the 35th anniversary of Title IX. And I appreciate that my full statement will be part of the record.

The National Women's Law Center was founded in 1972, the year that Title IX was enacted. And enforcement of Title IX, the realization of its great promise, has been a major priority of the center's ever since. And I am proud to say that Congresswoman Patsy Mink four times served on the board of the National Women's Law Center.

Women have certainly made significant and laudable progress in education in the last 35 years, as, Mr. Chairman, you have identified. But the job is not yet finished. The playing field is not yet level. Much remains to be done to ensure that women have true equal access and true equal opportunity in all areas of education, including athletics. And it is the area of athletics which will be the focus of my testimony today, although the National Women's Law Center is concerned and works on all of the facets of educational opportunity that Title IX covers.

The continuing support and need for Title IX is underscored by the results of a national survey that the center is releasing today. Over eight in ten adults, actually 82 percent, support Title IX. And this support crosses the political spectrum: 86 percent of Democrats; 78 percent of Republicans; 78 percent of Independents favor the law.

And the survey dramatically demonstrates as well that discrimination against young women remains alive and well on our Nation's playing fields. An astounding 22 percent of the survey respondents, a sample that represents more than actually 50 million adults, if you apply it across the population, were themselves personally aware of recent situations in which girls' sports teams were treated less favorably than boys' teams. It is hardly surprising, therefore, that 88 percent of survey respondents support girls or their parents taking action to correct situations in which girls' teams are treated inequitably. And this support, too, is consistent across genders and political affiliation. But only 40 percent of respondents knew what to do to enforce the law.

With the public largely ill-equipped to enforce Title IX on its own, the center also undertook and is releasing today a report analyzing the results of its just concluded examination of enforcement efforts by the Department of Education's Office for Civil Rights over the last 5 years and the nature of the athletic complaints that it has received. This report, "Barriers to Fair Play," shows, by the complaints filed and the relief secured, that 35 years after the enactment of Title IX women are still getting fewer opportunities than males to participate in sports and that even when schools give girls a chance to play, too often the opportunity comes with second-rate facilities, equipment, coaching, publicity and other services.

It is striking to see how many complaints involve high schools. And the Women's Sports Foundation recently released a report documenting that young women are short-changed in intercollegiate sports as well.

The center's report also documents that the Office for Civil Rights is not doing its job as it should. It is the Office for Civil Rights that has the chief responsibility for enforcing Title IX and making sure that our taxpayer dollars are spent by educational institutions in a fair and equitable way. They are, the Office for Civil Rights, is supposed to be conducting their own reviews, compliance reviews, of federally funded schools across the country, in addition to investigating complaints of discrimination that the Office for Civil Rights receives. But as the center's investigative report shows, during the last 5 years, the Office for Civil Rights initiated only one compliance review of a school's athletics program. And this is really an abdication, a serious abdication of OCR's enforcement responsibilities.

Because OCR enforcement efforts have fallen so short, ordinary people must shoulder the burden themselves. And you will hear from one of our heroes, Mr. Mowatt, who has done that very thing. We need more people who will be able to vindicate their own rights, and, as a result, the center is issuing, "Breaking Down Barriers," also today, a new report, which we prepared with DLA Piper law firm to explain to advocates how to vindicate those rights.

We call on Congress, however, to step up also to help with the enforcement of Title IX. First of all, to engage in oversight responsibilities with the Office for Civil Rights, to ensure that it is doing its job, which we think our report documents it is not doing as it should. Second, Congress must pass the High School Athletics Accountability Act that would require high schools to provide the gender breakdown of their treatment of sports teams, their support for it, to shine that spotlight on high school athletics as there is a report now available for intercollegiate athletic participation and support. And, finally, Congress must secure nullification of the so-called additional clarification that the Department of Education issued late on a Friday afternoon in March 2005 with no notice or opportunity for public comment that cuts back substantially and dramatically on Title IX's interpretation.

[The statement of Ms. Greenberger follows:]

Prepared Statement of Marcia D. Greenberger, Co-President, National Women's Law Center

I am Marcia Greenberger, Co-President of the National Women's Law Center. Thank you for the invitation to appear before you today to mark the 35th anniversary of enactment of Title IX of the Education Amendments of 1972 (Title IX), the bedrock federal law that bans sex discrimination in federally funded education programs and activities. On this anniversary, there is much to celebrate; women have made significant progress in education in the last three and one half decades. But the job is not yet finished and the playing field is not yet level; much remains to be done to ensure that women have truly equal access and opportunities in all areas of education.

The Center is a non-profit organization that has worked since 1972 to advance and protect the legal rights of women and girls across the country. The Center focuses on major policy areas of importance to women and their families, including education, employment, health and reproductive rights, and economic security—with particular attention paid to the concerns of low-income women. Founded in the year

that Title IX was passed, the Center has devoted much of its resources to ensuring that the promise of Title IX becomes a reality in all aspects of education.

In recognition of this year's anniversary, the Center is today releasing a variety of informational and enforcement materials which I will discuss in my testimony. These include a national survey of 1,000 likely voters that measures support for and understanding of Title IX; an analysis of the athletics complaints filed with, and compliance reviews conducted by, the Department of Education's Office for Civil Rights over the last five years; a legal manual that provides a step-by-step approach to educate those subject to discrimination in athletics, as well as their advocates and attorneys, on how to assert a Title IX claim; and a website designed to enable the public to hold their schools accountable for compliance with the law. These resources are intended to help to realize Title IX's as yet unfulfilled promise of true gender equity in the classrooms and on the playing fields.

Title IX was enacted in 1972 as a broad proscription against discrimination in any federally funded education program or activity. It states simply:

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.¹

Title IX applies to all public elementary and secondary schools and to virtually every college and university. It was intended to ensure equal opportunity for women and girls in all aspects of education—from access to higher education, to equal opportunities and fair treatment in elementary and secondary classrooms, to equal chances to participate in athletics programs. In passing Title IX, Congress recognized the critical role that education plays in promoting economic security for women and their families and mandated the broadest scope of protection against sex discrimination in school.

Congress' vision has borne fruit. Thirty-five years after enactment of the law, we have more female doctors and lawyers. The number of girls going to college has exploded; young women today comprise over half of the undergraduate students in the country, an increase of more than 160% from their representation in 1972.² The explicit exclusions of, and quotas for, women in education that were so prevalent 35 years ago have long since disappeared—or at least been driven underground.

In athletics as well, the progress of women and girls has been transformative. When Congress passed Title IX in 1972, fewer than 32,000 women competed in intercollegiate athletics.³ Women received only 2 percent of schools' athletics budgets, and athletic scholarships for women were nonexistent.⁴ Today, the number of college women participating in competitive athletics is now five times the pre-Title IX rate. In 2004-05, a record number of 166,728 women competed at the college level, representing 42% of college athletes nationwide.⁵

Title IX has also had a tremendous impact on female athletic opportunities at the high school level. Before Title IX, fewer than 300,000 high school girls played competitive sports.⁶ By 2005, the number had climbed to 2.95 million, an increase of almost 900%.⁷

And Title IX has garnered overwhelming public support. The national survey the Center is releasing today confirms that more than eight in ten voters—or 82% of adults—support Title IX.⁸ In fact, support for the law is intense, with nearly two-thirds (65%) strongly supporting the law and fewer than one in ten (9%) strongly opposing it. This support crosses the political spectrum; 86% of Democratic voters and 78% of Republican and independent voters favor the law.⁹

Moreover, Americans are nearly unanimous in backing those who take action to redress discrimination. Eighty-eight percent of respondents to the survey support girls or their parents taking action to address situations in which girls' high school teams are being treated worse than the boys' teams. This support is consistent across genders and political affiliation.¹⁰

But despite this progress, significant problems remain. Girls, like their male peers, are dropping out of high school at dangerously high rates. In fact, one in four girls overall, and nearly one in two African American, Hispanic, and Native American female students, fail to graduate with a diploma each year.^{11,12}

While girls in each racial and ethnic group fare better than boys of the same race or ethnicity, moreover, Black, Hispanic, and American Indian/Alaskan Native female students graduate at significantly lower rates than White and Asian-American males. And tellingly, the consequences for girls who fail to graduate from high school are profound and deeply disturbing. Female dropouts are at much greater risk than their male peers of being unemployed. They make significantly lower wages and are more likely to rely on public support programs to provide for their families.

Another example of the pervasive barriers that remain can be found in career and technical education (CTE). The divide between boys and girls in CTE has barely

narrowed since Congress passed Title IX 35 years ago. Just as in the 1970s, high school girls are the vast majority of those who enroll in traditionally female courses, such as cosmetology and child care, while boys make up all but a tiny percentage of the students in traditionally male fields such as auto mechanics and construction and repair. This sex segregation in the nation's vocational classrooms—and the relegation of girls to traditionally female programs—has deep impact on the earning power and job prospects of the young women who graduate from these programs. Girls who take up traditionally female occupations can expect to earn half—or less—what they could make if they went into traditionally male fields like auto repair, welding, or engineering.¹³

As my colleagues on the panel today will discuss, similar problems plague women in science, technology, engineering and math—the STEM disciplines. And as you will also hear, sexual harassment remains all too widespread, creating hostile educational environments for far too many young women at every level of education. All of these are areas in which Congress must act—to ensure that the strongest possible legal standards exist to protect the civil rights of young women; to mandate that the Department of Education and other Title IX enforcement agencies take the proactive and comprehensive steps necessary to enforce the law; and to ensure that Title IX's promise of true gender equity becomes a reality.

For my testimony today, I would like to focus on Title IX's impact on athletics and the steps that still must be taken to create a level playing field for our nation's daughters.

I. Women and Girls Still Face Persistent Discrimination in Athletics

Notwithstanding the extraordinary gains that women have made, female participation in intercollegiate sports remains below pre-Title IX male participation: while 170,384 men played college sports in 1971-1972, only 166,728 women played college sports in 2004-05.¹⁴ In addition, participation opportunities as well as resources for women's athletic programs continue to lag behind men's. Women receive only 43% of the opportunities to participate in college sports,¹⁵ even though they comprise 55% of today's undergraduates.¹⁶ In Division I, they receive only 45% of athletics scholarships, 37% of athletics operating expenses, and 32% of the dollars spent on recruit¹⁷

The persistence of discrimination is further illustrated by recent research. The survey being released by the Center today shows that 22% of respondents—a sample that represents more than 50 million adults—were aware of recent situations in which girls' sports teams in high school or college were being treated worse than boys' teams.¹⁸

Moreover, the Center has just concluded a new examination of the athletics complaints filed with, and compliance reviews conducted by, the Department of Education's Office for Civil Rights over the last five years. This review reveals that 35 years after the enactment of Title IX, women are still given fewer opportunities than males to participate in sports, and, when they do play, are treated like second-class citizens in the facilities, equipment, coaching, publicity and other support services that they receive. Here are some of the key findings of the Center's report, "Barriers to Fair Play."¹⁹

Discrimination against girls and women in sports remains widespread. There were 416 athletics complaints filed with OCR between January 1, 2002 and December 31, 2006—likely just a fraction of the number of complaints that were raised informally with schools during that period. The OCR complaints challenged discrimination against girls or women 11 times more frequently than they claimed discrimination against males, demonstrating concretely that the playing field is still far from level for female athletes.

Schools' second-class treatment of female athletes, even when they are given a chance to play, is a particular concern. While more than one-quarter of the complaints overall challenged schools' failures to provide sufficient participation opportunities for girls and women, more than half—54%—challenged inequitable treatment of girls' or women's teams once female athletes were allowed to play. Among complaints filed by or on behalf of girls, moreover, fully 60% of the allegations concerned inequities in treatment of female teams. And many of the treatment complaints—particularly those concerning disparities between girls' softball and boys' baseball teams, such as in the quality of softball versus baseball fields—identified blatant and egregious inequities that had persisted for many years.

Coaches fear retaliation if they complain, so the burden typically falls on students and their parents to protest discrimination. Although coaches have greater access to information and are often in the best position to perceive and challenge discrimination, coaches filed only just shy of 8% of the 416 complaints made during the rel-

evant period. Tellingly, a full 50% of those complaints alleged retaliation in addition to other forms of discrimination against the coaches and their female athletes.

Discrimination complaints filed by or on behalf of female athletes were far more likely to be meritorious enough to secure changes than complaints filed by or on behalf of male athletes. Schools made changes to their athletics programs in response to complaints filed by or on behalf of female athletes at close to five times the rate at which they made changes in response to complaints filed by or on behalf of male athletes. As a corollary, OCR found no violation in almost double the number of complaints filed by men as in complaints filed by women.

In addition to, and reinforcing, the report and survey the National Women's Law Center is issuing today, the Women's Sports Foundation last week released a new report, "Who's Playing College Sports," which includes an analysis revealing the disparities that still exist between men's and women's participation opportunities in intercollegiate sports. These resources all confirm the persistence of discrimination against women and girls on the playing field.

II. OCR Enforcement Efforts Have Fallen Short

Significantly, *Barriers to Fair Play* also reveals that OCR has failed to take the proactive steps necessary to combat discrimination in athletics. In some cases, moreover, the agency delayed justice or placed unreasonable burdens on complainants.

In addition to responding to complaints, OCR is responsible for initiating assessments of Title IX compliance by federally funded educational institutions across the country. During the five year period covered by the Center's review, however, OCR initiated only one compliance review of a school's athletics program—a record substantially below that of the preceding Administration. Not only has the number of compliance reviews noticeably decreased over the past 6 to 7 years; the focus of those reviews has narrowed considerably. Between 1995 and 2000, OCR annual reports either listed equal opportunity in athletics as a focus of enforcement efforts or provided examples of compliance reviews that addressed athletics. But between 2001 and 2005, no annual reports mentioned athletics as a focus for compliance reviews, and none cited examples of athletics as evidence of successful reviews. Instead, OCR reports for 2003 through 2005 all focus on ensuring that state agencies have designated Title IX coordinators, developed and disseminated antidiscrimination procedures, and implemented grievance procedures. In fact, 50 of 59 compliance reviews between 2002 and 2006 dealt exclusively with these procedural violations.²⁰

Strong internal procedures and policies are, of course, essential for schools to adequately address substantive Title IX violations. But the existence of such policies should represent only the beginning of an inquiry about a school's compliance with Title IX's substantive requirements. A school's designation of a Title IX coordinator and the establishment of procedures are necessary but insufficient steps to ensure that real action is being taken to end sex discrimination. OCR's failure to go beyond this superficial examination of a school's policies and practices represents a damaging reduction in its enforcement efforts.

In addition, the resolution of some of the complaints filed in this period was unreasonably delayed in a number of instances; in one case, a complaint languished in the Kansas City regional office for nearly 4½ years. Moreover, OCR sometimes put onerous evidentiary burdens on female athletes filing complaints, for example by refusing to investigate a complaint alleging disparities between a school's softball and baseball teams unless the complainant could produce evidence of overall program violations for all teams.²¹ This represents an abdication of OCR's enforcement responsibilities, given that complainants often lack access to the information necessary to evaluate an athletics program overall, and demonstrates the need for strong oversight over OCR's enforcement efforts.

III. Private Enforcement is Necessary to Ensure Effective Protection of Title IX Rights

The inadequacies of OCR's enforcement point up the importance of educating people about their rights under the law and ensuring that they have the tools and the representation they need to effectively challenge violations of Title IX. In fact, the Center's own experience confirms that individuals can make an enormous difference in leveling the playing field. Here are just a few examples of individuals we have worked with and supported over the past five years:

As you will later hear from Mr. Jack Mowatt, in 2006 the Prince George's County Public Schools Board of Education approved a county-wide Title IX settlement with the Center to ensure that girls in each of the county's middle and high schools are given equal treatment of their teams and equal opportunities to participate in sports. The settlement resulted after Mr. Mowatt brought attention to the unsafe conditions at county softball fields; as a Washington Post article, *Title IX Deal Transforms Dreams to Fields*, demonstrated during the spring, female athletes in

Prince George's County were elated with the improvements the County has already begun to make.

In 2003, Washington-Lee High School in Arlington, Virginia agreed to take significant steps toward correcting inequities that pervaded the girls' sports program. The settlement resulted after Christine Boehm, a senior and four-year member of the field hockey team, realized there were serious disparities between the treatment of male and female athletes, including the absence of a locker room for female athletes, poorly maintained field hockey fields, and fewer amenities such as permanent scoreboards and covered dugout areas. Ms. Boehm first brought the problems to the school's attention in 2002. The Center, along with the law firm of DLA Piper, negotiated the settlement to remedy the inequalities.

In 2005, the United States Supreme Court held that Title IX provides protection from retaliation to those who challenge discrimination. In *Jackson v. Birmingham Board of Education*, Roderick Jackson sued the Birmingham Board of Education for firing him as the girls' high school basketball coach after he complained about the inequalities his team endured, including inferior facilities, travel arrangements to games, amenities, and financial support from the city. Following the Supreme Court ruling, the Board reached an agreement with Coach Jackson in November 2006. He returned to coaching at Jackson-Olin High School and was compensated for his financial losses. Significantly, the Board also agreed to district-wide modifications to their athletics programs to ensure that all of its schools were in compliance with Title IX.

Earlier this year, the United States Supreme Court denied review in *Communities for Equity v. MHSAA*, in which the lower courts consistently found that the Michigan High School Athletics Association had violated the U.S. Constitution, Title IX and Michigan state law by scheduling six girls' sports, and no boys' sports, in non-traditional and disadvantageous seasons. A group spearheaded by two local parents, Communities for Equity, brought suit to challenge MHSAA's scheduling decisions, which meant that girls across the state had limited opportunities to be seen by college recruiters, to compete for athletic scholarships, and to play club sports. The Supreme Court's denial of review means that justice for Michigan girls should finally be around the corner, when the Association implements a plan that will equalize the seasons in which boys and girls play in the state.

IV. More Must Be Done to Ensure that Students, Parents, Coaches and Advocates Have the Tools They Need to Enforce the Law

As the examples above illustrate, individuals, including students, parents, coaches and other advocates, have a tremendous ability to make a difference in leveling the playing field for female athletes. But the poll the Center is releasing today shows that they need information and guidance. In the national survey, only 40% of respondents said they knew what steps to take to enforce Title IX.²² Similarly, *Barriers to Fair Play* reveals that more must be done to educate high school students and parents about their rights. Although female high school athletes file a greater absolute number of complaints than their college-aged counterparts, female college athletes file complaints at significantly higher rates than high school students. This trend, which likely reflects high school students' lack of knowledge about Title IX or their rights under the law, is particularly troubling because it is most often through participation in sports in their teenage years that girls not only learn life skills but become prepared to play in college and to maintain healthy lifestyles into the future.

In order to provide this education—and in the absence of adequate government enforcement of the law—the Center is today unveiling two new resources designed to enable individuals to effectively assert their rights under Title IX. The first is *Breaking Down Barriers*, a comprehensive manual that takes a step-by-step approach to educate those subject to discrimination in athletics, as well as their advocates and attorneys, on how to assert a Title IX claim. The second is a new website, *FairPlayNow.org*, which the Center is maintaining with the Women's Sports Foundation and regional partners from around the country including the Women's Law Project in Philadelphia, the California Women's Law Center and the Northwest Women's Law Center. *FairPlayNow* is designed to provide one-stop shopping for students, parents, coaches, advocates, and attorneys to learn about Title IX, find tools to evaluate their schools' compliance with the law, and use materials that can help them hold their schools accountable for remedying discrimination.

VI. Congress Must Do More to Ensure Effective Protection From Sex Discrimination

My colleagues today will address some of the ways in which Congressional action is necessary to address the barriers that persist in STEM disciplines and the sexual harassment that continues to limit educational opportunities for far too many young

women. With regard to athletics, there are three specific and concrete actions that Congress can, and must, take to ensure effective protection of the law.

First, given the rampant discrimination that still exists, Congress must exercise more oversight over OCR. With its enforcement powers, OCR can effect great changes, but this requires a targeting of resources and a greater commitment to enforce Title IX in all areas of education. Congressional oversight can help to ensure that OCR uses all of the enforcement tools available to it, including compliance reviews and proactive measures like the provision of technical assistance, as well as that OCR applies strong legal standards and seeks effective remedies for discrimination.

Second, Congress can vastly improve the ability to address discrimination at the high school level by passing the High School Athletics Accountability Act. This bipartisan bill, which was introduced in the House by Representatives Louise Slaughter and Shelley Moore Capito, would amend the Elementary and Secondary Education Act of 1965 to direct coeducational elementary and secondary schools to make publicly available information on equality in school athletic programs. The bill would require schools to provide information about the gender breakdown of students who participate in athletics, as well the expenditures the schools make for each team. This information is already required at the college level, and is largely collected, but not disclosed, by high schools. The bill would thus fill a gaping hole in access to information that is necessary to evaluate whether schools are fulfilling their obligations under Title IX and would thereby improve the ability of students, parents and others to ensure enforcement of the law.

Third, Congress must take steps to overturn and limit the Additional Clarification that the Department of Education issued in March 2005 without notice or opportunity for public comment. This new policy is dangerous because it allows schools to show compliance with Title IX's participation requirements simply by sending an email survey to female students and then claiming that a failure to respond indicates a lack of interest in playing sports. The Clarification weakens the law by eliminating schools' obligations to look broadly and proactively at whether they are satisfying women's interest, and threatens to reverse enormous progress women and girls have made in sports since the enactment of Title IX.

Conclusion

While much progress has been made over the last 35 years under Title IX, many battles still must be fought to eradicate sex discrimination in education and enable women and girls to realize their full potential. Women and girls still face unacceptable and unlawful barriers to athletic opportunity, which continue to contribute to the "corrosive and unjustified discrimination against women" that Title IX was intended to eliminate.²³ We must use this anniversary to recommit ourselves to making the letter and the spirit of the Title IX law a reality across all areas of education.

ENDNOTES

¹Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

²U.S. Department of Education, National Center for Education Statistics (NCES), The Condition of Education, table 8-1, available at <http://nces.ed.gov/programs/coe/2007/section1/table.asp?tableID=672>.

³See Department of Health, Education, and Welfare, Policy Interpretation, 44 Fed. Reg. at 71419 (1979).

⁴Remarks of Senator Stevens (R-AL), 130 Cong. Rec. S 4601 (daily ed. April 12, 1984).

⁵National Collegiate Athletic Association (NCAA), 1981-82—2004-05 NCAA Sports Sponsorship and Participation Rates Report 72 (2006).

⁶National Federation of State High School Associations (NFHS), 1971 Sports Participation Survey (1971).

⁷National Federation of State High School Associations (NFHS), 2005 High School Athletics Participation Survey 2 (2005).

⁸Memorandum from The Mellman Group, Inc. on Title IX to the National Women's Law Center, 1 (June 8, 2007) (on file with the National Women's Law Center.)

⁹Id.

¹⁰Id. at 2.

¹¹Greene, J. and Winters, M., Leaving Boys Behind: Public High School Graduation Rates, Manhattan Institute Civic Report 48 (2006).

¹²Orfield, G., et al., Losing Our Future: How Minority Youth are Being Left Behind by the Graduation Rate Crisis, Cambridge, MA: The Civil Rights Project at Harvard University. Contributors: Urban Institute, Advocates for Children of New York, and The Civil Society Institute (2004).

¹³See National Women's Law Center, Tools of the Trade: Using the Law To Address Sex Segregation In High School Career and Technical Education (2005), available at <http://www.nwlc.org/pdf/NWLCToolsoftheTrade05.pdf>.

¹⁴ See Department of Health, Education, and Welfare, Policy Interpretation, 44 Fed. Reg. at 71419 (1979).

¹⁵ National Collegiate Athletic Association (NCAA), 1981-82—2004-05 NCAA Sports Sponsorship and Participation Rates Report 72 (2006).

¹⁶ National Collegiate Athletic Association (NCAA) 2003-04 Gender-Equity Report 12 (2007).

¹⁷ *Id.* at 25.

¹⁸ The Mellman Group, Inc., Title IX Survey, Conducted May 22-24, 2007 1 (on file with the National Women's Law Center).

¹⁹ Each of the following points is drawn from the National Women's Law Center's report Barriers to Fair Play, available at <http://www.nwlc.org>.

²⁰ National Women's Law Center, Barriers to Fair Play (2007).

²¹ *Id.*

²² Memorandum from The Mellman Group, Inc. on Title IX to the National Women's Law Center, 2 (June 8, 2007) (on file with the National Women's Law Center.)

²³ 118 Cong. Rec. 5803 (1972) (remarks of Sen. Bayh).

[Internet address to three amicus briefs, submitted by Ms. Greenberger, follows:]

<http://www.nwlc.org/pdf/3%20Amicus%20Briefs-%20Neal,%20Wrestlers,%20Cohen.pdf>

Chairman HINOJOSA. Thank you very much for your presentation. As stated earlier, the entire testimony which you presented will be made part of today's congressional hearing.

And I must move forward, because we have quite a few witnesses to speak today. With that, I recognize Ms. Maatz.

STATEMENT OF LISA M. MAATZ, DIRECTOR OF PUBLIC POLICY AND GOVERNMENT RELATIONS, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Ms. MAATZ. Thank you, Chairman Hinojosa, Ranking Member Keller. Thank you very much for having me here today.

My name is Lisa Maatz. I am the director of public policy and government relations for the American Association of University Women. And I appreciate the opportunity to testify today in honor of Title IX's 35th anniversary and, more specifically, about the law's impact on sexual harassment in education.

Founded in 1881, the American Association of University Women has over 100,000 members and a proud 125-year history as a vocal advocate for education and equity for women and girls. AUW has been in the forefront of research on sexual harassment in schools for more than a decade, releasing its first report in 1993, just one year after the U.S. Supreme Court explicitly recognized sexual harassment as a violation of Title IX.

Before Title IX, there was little remedy for addressing sexual harassment in education settings. However, legal rulings have determined that Title IX offers protections from sexual harassment for both students and employees. While awareness and reporting have increased, AUW has found that sexual harassment continues to be an exceedingly common occurrence in our Nation's schools. Further, while it is clear that it disproportionately affects women, boys and men experience sexual harassment as well and, like women, have used Title IX in an attempt to improve their situations.

Increased awareness to proactive efforts on behalf of educational institutions and Title IX advocates and legal remedies have all resulted in better efforts to confront the issue, but they have not

solved the problem. Since A UW's first research into this area, we have found that while students have become much more aware of schools' harassment policies and the resources available to them, this has not translated into fewer incidents, nor has it increased the likelihood that a person would actually report an incident of sexual harassment. In fact, more than one-third of college students tell no one after being harassed, and only 7 percent actually tell a college official.

While not every incident of sexual harassment reported in A UW studies is necessarily representative of a violation reaching Title IX proportions, these statistics do depict a campus climate that, at a minimum, is likely to be fertile ground for Title IX violations. A UW urges schools to go beyond the policies and take proactive measures and practical strategies to combat the range of sexual harassment. In so doing, we hope to promote the best learning environment possible as well as to avoid potential litigation.

According to our research, 80 percent of students at the secondary level report that they have experienced sexual harassment. Over one in four say that they experience it often. And these persistently high rates disrupt students' abilities to learn and succeed in their studies. At the post-secondary level, nearly two-thirds of college students say that they have been sexually harassed, and 41 percent of students admit that they have sexually harassed another student.

A UW's research also shows that sexual harassment takes an especially heavy toll on female students. Among women college students who encountered harassment, a third stated that they felt afraid. Almost half tried to avoid the harasser, and almost 10 skipped a class or dropped a course so that they could do so. Girls at the secondary level are even more likely to change their behaviors, including not talking in class and also going to extreme measures to avoid their harassers.

So how does Title IX protect students? It protects them in all of a school's programs or activities, whether the harassment takes place in the facilities of the school, on a school bus or at a class or training program that is sponsored by the school. Title IX also prohibits sexual harassment by employees of the school. Covered institutions must have a procedure in place that provides for the equitable resolution of any sexual harassment complaints which may at the same time be the procedure that is also set up for general Title IX complaints.

The groundwork for protecting students from sexual harassment was first laid in 1972 with the passage of Title IX. In 1992, the Supreme Court case *Franklin v. Gwinnet County Public Schools* made it possible for students to seek monetary damages for sexual harassment by a teacher. In 1997, the U.S. Department of Education's Office for Civil Rights issued a policy guidance making it clear that inaction is never the right response to sexual harassment and urging schools to adopt policies and procedures that would help to prevent such misconduct.

However, the harsh liability standards under the 1998 *Gebser* and the 1999 *Davis* decisions by the Supreme Court have been damaging for students. Schools are liable only if those in authority have actual knowledge about harassment and responded with de-

liberate indifference. This creates a perverse incentive for schools to insulate themselves from knowledge of harassment.

AUW and its coalition partners believe that Congress should overturn the liability standards set in Gebser and the Davis decisions and provide the same remedies and protections to students that are available to employees who experience sexual harassment.

So what else can we do? AUW believes that parents, educators and advocates should focus on changing the culture of harassment in schools and promote students' use of existing resources to address the problems. The Federal Government also has a role to play in preventing sexual harassment, as well as a role in responding to it when it does happen.

School policies aren't enough, and we must have strong, proactive and effective Title IX enforcement. First, educational programs and institutions must perform their Title IX responsibilities, including naming a Title IX compliance officer. Second, educational institutions at all levels must create publicized and enforce clear and accessible sexual harassment policies so that we can proactively educate all members of a school community. They should be a part of student codes of conduct, clarify expectations, spell out ramifications and protect students after harassment has occurred. Third, educational institutions must take all sexual harassment behaviors seriously. Incidents brushed off as harmless joking or bullying can sometimes turn into bigger problems. And lastly, the United States Department of Education must vigorously enforce all portions of Title IX in all aspects of education. Undertaking proactive compliance reviews to identify problems in both policies and climate should be important strategies of solid enforcement.

Sexual harassment defies a simple solution, but the problem is unlikely to go away on its own. While many schools have taken the first step in creating policies, more could be done and should be done to help alleviate the culture of harassment that impacts the lives and educational experiences of so many students. Thank you again for the opportunity to testify and I look forward to answering your questions.

[The statement of Ms. Maatz follows:]

Prepared Statement of Lisa M. Maatz, Director of Public Policy and Government Relations, American Association of University Women; Interim Director, AAUW Legal Advocacy Fund

Chairman Hinojosa and members of the subcommittee, thank you for the opportunity to testify today about Title IX and this wonderful civil rights law's impact on sexual harassment in education since its inception 35 years ago.

Founded in 1881, AAUW has over 100,000 members and 1300 branches across the country. AAUW also has a long and proud 125-year history as an advocate for education and equity for women and girls, releasing its first report on women and education in 1885. Today, AAUW continues its mission through education, research, and advocacy.

Sexual harassment has long been a part of the educational experience, affecting students' well-being and their ability to succeed academically. The term "sexual harassment," coined in the early 1970's, became more commonly used in the 1980's. Sexual harassment is unwanted and unwelcome sexual behavior—including comments and actions—that directly deprives a person of educational benefits or is sufficiently severe or pervasive to create a hostile environment, thereby limiting full access to education and work. Before Title IX, there was little remedy for addressing sexual harassment in educational settings. However, legal rulings have conclusively determined that Title IX offers protections from sexual harassment for students and

employees—indeed, the U.S. Supreme Court explicitly recognized sexual harassment as a violation of Title IX in 1992.¹

Despite these court holdings, sexual harassment continues to undermine equal opportunity in education. While awareness and reporting have increased, AAUW research has demonstrated the reality that sexual harassment continues to plague our nation's schools and students. When a student experiences sexual harassment on campus or in the classroom, the hostile environment it creates can undermine their educational opportunity. Awareness of the issue, proactive efforts on behalf of educational institutions and Title IX advocates, and legal remedies have resulted in more efforts to address the problem in recent years—but those efforts have not cured the problem. Further, while it is clear that sexual harassment in the schoolroom and on college campuses disproportionately affects women, boys and men experience harassment as well, and they have used various Title IX remedies in an attempt to improve their situations. While improvements must be noted and praised, and best practices should be shared to create a better educational climate for all, sexual harassment remains a pervasive problem.

AAUW has been at the forefront of research on the topic for more than a decade.² Since AAUW's first research into this area in 1993, students have become more aware of their schools' harassment policies and the resources available to them.³ Unfortunately, students' increased awareness has not translated into fewer incidents of sexual harassment, nor has it increased the likelihood that students will report such incidents.⁴ Sexual harassment has serious implications for students, some of whom may experience a hostile educational environment on a daily basis. However, most students do not report it or even talk openly about sexual harassment as a serious issue.⁵ In fact, according to AAUW's 2006 research, *Drawing the Line: Sexual Harassment on Campus*, more than one-third of college students tell no one after being harassed; almost half (49 percent) confide only in a friend; and only 7 percent of students report the incident to a college employee.⁶ While not all the harassment incidents reported in the 2006 research would necessarily represent a violation of Title IX, these statistics raise serious concerns about barriers that continue to exist for women on our nation's campuses and depict a campus climate that, at a minimum, is likely to be a breeding ground for Title IX sexual harassment violations.⁷

Scope of the Problem

AAUW research reveals a significant climate problem, which if fixed could prevent the need for people to go to file sexual harassment suits to protect their rights. By taking a broad approach in analyzing this issue, AAUW's research seeks to identify the scope of the problem so that schools can take proactive steps to address sexual harassment. In so doing, we hope to promote the best learning environment possible as well as avoid potential litigation. Improving the climate is critical, because sexual harassment on college and university campuses has a damaging impact on the educational experience of many college students.⁸ Similarly, persistently high rates of sexual harassment among students at the secondary level disrupt students' ability to learn and succeed in their studies.⁹ Most students have an intuitive understanding of what defines sexual harassment, and when asked to provide a definition, describe it as physical and non-physical behaviors including touch, words, looks, and gestures.¹⁰ According to AAUW's own research, student reports of sexually harassing behavior remain high:

- 80 percent of students at the secondary level report that they experience sexual harassment; over one in four say they experience it often.¹¹
- At the postsecondary level, nearly two-thirds of college students (62 percent) say they have been sexually harassed,¹² including nearly one-third of first year students;¹³ 41 percent of students admit they have sexually harassed another student.¹⁴

Consequences of Sexual Harassment in Schools

A college education is increasingly becoming a prerequisite for many career paths and for lifelong economic security. With a college student population that has topped 10 million and continues to grow, creating a climate that is free from bias and harassment is a necessary concern for the entire higher education community. Young adults on campus are shaping behaviors and attitudes that they will take with them into the workplace and broader society. A campus environment that tolerates inappropriate verbal and physical contact and that discourages reporting these behaviors undermines the emotional, intellectual, and professional growth of millions of young adults.

AAUW's research shows that sexual harassment on campus takes an especially heavy toll on young women. Among female students who encountered harassment,

a third stated that they felt afraid, and about one in five women who report being harassed said that they were disappointed in their college experience as a result of the harassment.¹⁵

Commonly, students at the secondary and postsecondary level are often resigned that sexual teasing and harassment is just something they have to live with, though they find the incidents troubling and distressing.¹⁶ Girls are far more likely than boys to feel “self conscious” (44 percent to 19 percent), “embarrassed” (53 percent to 32 percent), and “less confident” (32 percent to 16 percent) because of an incident of harassment.¹⁷

How Title IX Protects Students

Title IX protects students from unlawful sexual harassment in all of a school’s programs or activities, whether the harassment takes place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere. Title IX protects both male and female students from sexual harassment, regardless of who the harasser may be.¹⁸

Title IX also prohibits sexual harassment by any employee or agent of the school. Covered institutions must have a procedure in place that provides for equitable resolution of sexual harassment complaints, which may be the same procedure set up for general Title IX complaints.¹⁹ While many schools and universities have taken the first step in creating policies to address this problem, more must be done to help alleviate the culture of harassment that impacts the lives and educational experiences of so many students.

Case Law and Regulations Addressing Sexual Harassment in Schools

The ground work for protecting students from sexual harassment was first laid in the educational arena in 1972, when Title IX was passed and sex discrimination was prohibited in any educational program or activity that receives federal funding. In 1986, the U.S. Supreme Court first recognized what is now known as hostile environment sexual harassment in *Meritor Savings Bank v. Vinson*.²⁰ The decision was based on Title VII of the Civil Rights Act of 1964, but was immediately adopted under Title IX as well.²¹ The 1992 Supreme Court case, *Franklin v. Gwinnet*,²² resulted in the landmark Title IX ruling that made it possible for students to seek monetary damages for sexual harassment by a teacher. Since then, the number of sexual harassment cases against colleges and universities, as well as elementary and secondary public schools, has grown substantially.

In 1997, the U.S. Department of Education’s Office for Civil Rights issued policy guidance on sexual harassment, outlining Title IX’s requirements in this area and providing schools with much-needed help in defining, addressing, and preventing sexual harassment.²³ The 1997 guidance makes clear that inaction is never the right response to sexual harassment, and urges schools to adopt policies and procedures that help prevent such misconduct.

In 1998, *Gebser v. Lago Vista Independent School District*,²⁴ the U.S. Supreme Court created a new Title IX standard not used in virtually any other anti-discrimination law. The court held that regardless of the absence of policies, grievance mechanisms or other reasonable actions, schools cannot be held financially responsible for the harm done when a teacher sexually harasses a student unless a school official with authority to take corrective measures had “actual knowledge” of the specific harassment and responded to it with “deliberate indifference.”²⁵ The court rejected standards of Title VII of the Civil Rights Act of 1964, resulting in fewer protections for students than for employees of a school system, and making students vulnerable to sexual harassment.

In 1999, the U.S. Supreme Court ruled again on sexual harassment in schools in *Davis v. Monroe County Board of Education*.²⁶ The court found that school districts can be held liable under Title IX for student-to-student sexual harassment if the school district knew about the harassment and responded with deliberate indifference. The harassment must be severe, pervasive, and offensive, and it must interfere with the student’s ability to get an education. Schools cannot, however, be held responsible for teasing and bullying.

These harsh standards for liability have been extraordinarily damaging for students and have resulted in the dismissal of dozens of harassment claims since the *Gebser* and *Davis* decisions were issued. They create a perverse incentive for schools and school districts to insulate themselves from knowledge of harassment, and provide an inadequate level of protection to students. For these reasons, AAUW and its coalition partners believe that Congress must step in and overturn the liability standards set in the *Gebser* and *Davis* decisions, and restore effective legal protection by providing the same remedies and protections to students that are available to employees who are victims of sexual harassment.

In 2001, U.S. Department of Education Office of Civil Rights released important new policy guidance on sexual harassment to clarify a school's obligations in light of the Gebser and Davis decisions.²⁷ The new 2001 guidance reinforces the 1997 guidance that schools are responsible for recognizing and remedying sexual harassment. Further, schools are potentially liable for failing to recognize or remedy such harassment.

In an investigation into sexual harassment complaints filed by students with OCR between 1998 and 2005, conducted by the AAUW Legal Advocacy Fund and to be released this fall, it was found that OCR allowed all university and colleges they found to be in violation of title IX to agree to changes in their policies and procedures rather than institute any form of sanction against the institution—regardless of the egregiousness of the violation. This approach is damaging and sends the implicit message that institutions may as well wait until a complaint is filed than be proactive in ensuring their sexual harassment policies are clear, accessible, effective and enforced.²⁸

Recommendations

AAUW believes that parents, educators, and advocates should focus on changing the culture of harassment in schools, and promote students' use of existing resources to address the problems. The federal government also has a role to play in preventing sexual harassment in educational situations, as well as a role in responding when it does happen. Policies aren't enough—follow up action is critical in addressing this problem at all levels of education. While many schools and universities have taken the first step in creating policies and procedures to address this problem, more must be done to help alleviate the culture of harassment that disrupts the educational experience of so many students.

Sexual harassment defies a simple solution but still demands action. As AAUW's research over the last decade demonstrates, the problem is unlikely to go away on its own. Dialogue is a good first step in the right direction. Students, faculty and staff, and parents and guardians must begin to talk openly about attitudes and behaviors that promote or impede our progress toward a harassment-free climate in which all students can reach their full potential.

AAUW believes we also must commit ourselves to strong Title IX enforcement at the local, state, and federal levels and ensure policymakers maintain a commitment to Title IX.

- First, education programs, activities, and institutions must comply with their Title IX responsibilities and ensure that programs do not discriminate on the basis of sex, including designating an employee to be responsible for compliance with Title IX (typically known as a Title IX coordinator).

- Second, educational institutions at all levels must create and enforce clear and accessible sexual harassment policies to proactively protect and educate students, and post them in an accessible place and on web sites. These policies should be part of school discipline policies and student codes of conduct, and include provisions for effectively protecting students after harassment has occurred.²⁹

- Third, educational institutions must take sexual harassment behaviors very seriously, even if those behaviors are not immediately legally actionable. These behaviors can quickly turn into serious sexual harassment and should not be brushed off as harmless joking or minor bullying.

- Fourth, Title IX coordinators and their respective schools or universities must proactively disseminate information in the school and campus community to ensure that students and employees are aware of sexual harassment policies, as well as the school's process for filing complaints.

- Lastly, the U.S. Department of Education must vigorously enforce all portions of Title IX in all aspects of education. Undertaking proactive compliance reviews to identify problems of sex discrimination and fully implementing Title IX regulations are important strategies of solid enforcement.

Thank you again for the opportunity to testify, and for holding this hearing to mark the 35th anniversary of Title IX. It continues to be a truly transformative civil rights law. I look forward to answering your questions.

ENDNOTES

¹ Franklin v. Gwinnet County Public Schools, 503 U.S. 60 (1992).

² In 1993, AAUW released *Hostile Hallways: The AAUW Survey on Sexual Harassment in America's Schools*, which revealed that four out of five students in grades eight to 11 had experienced some form of sexual harassment. In 2001, the AAUW Educational Foundation released the follow-up report, *Hostile Hallways: Bullying Teasing and Sexual Harassment in School*, which found that nearly a decade later, sexual harassment remained a major problem and a significant barrier to student achievement in public schools. In response, AAUW developed a resource guide, *Harassment-Free Hallways* (2002), which provides guidelines and recommenda-

tions to help schools, students, and parents prevent and combat sexual harassment. The AAUW Educational Foundation released *Drawing the Line: Sexual Harassment on Campus*, on Jan. 24, 2006. This report presents the most comprehensive findings to date on sexual harassment on college campuses. All of these publications, including *Drawing the Line*, are available at www.aauw.org/research.

³AAUW Educational Foundation. *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p.4. 2001.

⁴AAUW Educational Foundation. *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p.5. 2001.

⁵AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p.33. 2006.

⁶AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p. 32. 2006.

⁷For its research, AAUW used the following definition of sexual harassment: “unwanted or unwelcome sexual behavior that interferes with your life.”

⁸AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p.4. 2006.

⁹AAUW Educational Foundation. *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p.4. 2001.

¹⁰AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p. 9-10. 2006. AAUW defines sexual harassment in school as any unwanted and unwelcome sexual behavior that interferes with the student’s ability to perform in an educational setting (*Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p. 2. 2001.)

¹¹AAUW Educational Foundation. *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p. 4. 2001.

¹²AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p. 15. 2006.

¹³AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p 2. 2006.

¹⁴AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p. 22. 2005.

¹⁵AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*, p. 29. 2006.

¹⁶AAUW Educational Foundation. *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p. 32. 2001.

¹⁷AAUW Educational Foundation. *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School*, p. 32. 2001.

¹⁸U.S. Department of Education Office for Civil Rights. Title IX and Sexual Harassment. <http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.html> Accessed April 12, 2005.

¹⁹U.S. Department of Education Office for Civil Rights. Title IX and Sexual Harassment. <http://www.ed.gov/about/offices/list/ocr/docs/ocrshpam.html> Accessed April 12, 2005.

²⁰*Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986).

²¹*In Cannon v. University of Chicago*, 441 U.S. 677 (1979), the U.S. Supreme Court held that Title IX was patterned after Title VII.

²²*Franklin v. Gwinnet County Public Schools*, 503 U.S. 60 (1992).

²³U.S. Department of Education Office for Civil Rights. “Sexual Harassment Guidance 1997.” <http://www.ed.gov/about/offices/list/ocr/docs/sexhar01.html> Accessed April 12, 2005.

²⁴*Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998).

²⁵U.S. Department of Education Office for Civil Rights. Federal Register, page 2. <http://www.ed.gov/legislation/FedRegister/other/2000-4/110200b.pdf> Accessed April 12, 2005.

²⁶National Women’s Law Center. Sexual Harassment, *Davis v. Monroe* Brief. <http://www.nwlc.org/pdf/DavisBrief.pdf> Accessed April 12, 2005. *Davis v. Monroe* County Board of Education, 526 U.S. 629 (1999).

²⁷U.S. Department of Education Office for Civil Rights. Title IX and Sexual Harassment <http://www.ed.gov/legislation/FedRegister/other/2000-4/110200b.html> Accessed April 12 2005.

²⁸This research was conducted based on student sexual harassment complaints filed with and then obtained from OCR through an AAUW FOIA request. The final findings will be released by the AAUW Legal Advocacy Fund in fall 2007.

²⁹AAUW Educational Foundation, *Harassment Free-Hallways: How to Stop Harassment in School*, 2004, p. 17.

[Additional materials submitted by Ms. Maatz follow:]



April 13, 2007

Chairman George Miller
Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, DC 20515

Ranking Member Howard McKeon
Committee on Education and the Workforce
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Miller and Ranking Member McKeon:

On behalf of over 100,000 bipartisan members and 1,300 branches of the American Association of University Women (AAUW), we respectfully submit the following priorities as you work toward reauthorization of the Higher Education Act. Since its founding in 1881, AAUW has been committed to making the dream of a higher education a reality for women. AAUW believes that the most important goal of HEA reauthorization should be updating the bill to reflect the needs of the modern college student.

With changes in the workforce over the last 125 years, higher education is becoming less of a luxury and more of a necessity. By the year 2014, it is estimated that there will be 12 million new jobs where postsecondary education will most likely be necessary.¹ As the skill requirements of jobs continue to increase, so too should access to postsecondary education for all students.

AAUW believes ensuring and increasing access to higher education is imperative to helping women obtain financial security and economic independence. AAUW places particular importance on access to higher education for nontraditional students, ensuring students can stay in school to complete a degree, increasing financial aid, and improving opportunities for women in science, technology, engineering, and mathematics fields.

The New Norm: Nontraditional Students

Nontraditional students—students who are part-time, working, older, or parenting—face unique challenges as they seek to finance a college education. During the 1999-2000 school year, nearly 73 percent of undergraduates were considered “nontraditional,” meaning they are older, they may work, or attend school part-time.² In light of the increasing number of nontraditional and parenting students—the majority of whom are women³—legislation must create programs that help these students enter college, stay in college, and earn a degree.

In contrast to traditional students, nontraditional students also face challenges as a result of the responsibilities which tax their time and financial resources. While early intervention and support programs currently exist for at-risk, traditionally-aged students, there are no stand-alone federal programs to assist nontraditional students, including pregnant and parenting students, in attending postsecondary education. AAUW believes funding for programs to provide guidance, mentoring, and support services for adults re-entering college—or who need assistance in finding a postsecondary program that fits their needs—should be established.

Childcare Funding (CCAMPIS Program): AAUW supports expanding access to support services which help women balance the demands of work, family, and education. Parenting students face serious problems securing convenient and affordable child care, which often becomes a barrier to higher education. Providing quality, campus-based child care will allow thousands of women to pursue a postsecondary education and succeed in that endeavor. Studies show that student parents with children have higher grade point averages, graduate in fewer years, and demonstrate greater persistence when their children are cared for in campus-based child care centers.⁴ In 1998, Congress recognized the importance of child care as a support service for parenting students, and authorized the Child Care Access Means Parents in School (CCAMPIS) program through HEA, which provides funds to schools for campus-based child care and after-school programming, primarily to serve the needs of low-income students. AAUW believes campus child care programs should be a top priority for higher education funding; unfortunately, appropriations for this program have dropped in recent years. AAUW also believes HEA should provide incentives for schools to operate CCAMPIS programs at night and on weekends, when many nontraditional and parenting students take classes.

Year-round Pell Grants: AAUW supports allowing students to qualify for Pell grants based on a year-round enrollment schedule. Many nontraditional students attend classes during the summers, and Pell grants should be available to these students.

Federal Loans for Part-Time Students: Many nontraditional students only have the opportunity to return to school one class at a time.⁵ AAUW believes such students should have access to financial aid while ensuring that the integrity of the federal aid programs is maintained. While Pell grants are available to students who attend school less than part-time, most loan programs require students to be enrolled at either the part-time or full-time level. AAUW believes federal student loans should be available to all students willing to make a commitment to higher education, even if they have to chip away at the dream of a college degree one class at a time. Creating night and weekend programs would put a postsecondary education within the reach of more nontraditional students.

Preparing Students to Succeed in Higher Education

Two of the major determinants of whether or not a student will attend college are encouragement and preparation. However, many guidance counselors are not trained to handle the full range of student needs, including college preparation, and are often overburdened and under resourced. AAUW believes programs that train guidance counselors to encourage and prepare students and their families for the realities and rigors of college should be established within elementary and secondary schools and colleges and universities.

Improving Student Aid (Title IV)

Over 6,600 colleges and universities participate in student aid programs funded by HEA, which provide approximately 63 percent of all federal, state, and institutional aid given to students for 2004-2005.⁶ The largest program under Title IV of HEA, the section that pertains to student aid, is the Pell grant program. Pell grants were originally intended to serve as the foundation for all financial aid. While the program services over one-quarter of all undergraduates per year,⁷ the maximum grant amount was funded in fiscal year 2006 at \$4,050 (even though the FY 2006 program was authorized for a maximum grant amount of \$5,800). The FY 2007 budget, which passed through a continuing resolution in February 2007, included an increase in Pell grants for the first time in four years. The measure (H. J. Res. 20) included \$13.6 billion for the program, an increase of \$615.4 million that will increase the maximum Pell grant per student by \$260 to \$4,310.

Funding of Pell Grants: The purchasing power of the Pell grant has declined substantially. Today, the maximum Pell grant covers only 33 percent of the total cost at a public 4-year institution, versus 55 percent of those costs 20 years ago.⁸ This is particularly disturbing given that the Pell grant program was designed to aid low-income students and their families achieve their college dreams. In 2004-2005, a third of all Pell grant recipients classified as independent (for tax purposes), made less than \$10,000 per year, and over 60 percent had incomes below \$20,000.⁹ To update the Pell grant program, AAUW supports increasing the maximum award level to \$5,100 and advocates mandatory appropriations to provide the increased resources for the program.

Income Protection Allowance: AAUW supports a reduction of the “work penalty”—or income protection allowance—and encourages Congress to allow single, financially independent students to keep more of their income when determining eligibility for financial aid. Every year, 400,000 college-qualified students enroll in community college instead of going to a four-year institution, and 200,000 students do not enroll in college at all, because of financial barriers.¹⁰ Because many nontraditional students must work full-time to support their families, even a very modest income can mean they make too much money to qualify for a significant financial aid package. The income protection allowance does not reflect the actual cost of living for independent or parenting students. Raising the

allowance permits students to work without that income counting against their financial aid package. Congress should not punish students who work hard, support their families, and are trying to increase their skills and climb the career ladder. AAUW supports raising the income protection allowance to \$9,000 for dependent students and \$12,000 for independent students.¹¹ AAUW also believes that the cost of dependent care in student assistance calculations should be extended to graduate students. AAUW supports passage of the Part-Time Student Assistance Act as a stand alone piece of legislation or incorporating this legislation into the reauthorization of the Higher Education Act. This legislation would reduce the work penalty, provide for additional campus-based child care, and allow for year-around Pell grants.

The Rising Cost of College and Managing Debt

Loan repayment is an even more significant burden for women, who earn less on average over the course of their lives than their male counterparts. According to AAUW research, in 2004, college-educated women 25 and older earned 75 percent of what their male peers earned.¹² This pay gap appears within the first year after college—even when women are working full-time in the same fields as men—and widens in the first ten years in the workforce. AAUW research points to several factors that appear to be pivotal including the field of study, the decision to have children, occupational choice, and discrimination.¹³ Since women are more likely to borrow than men and they will make less on average after graduation, female graduates are more likely to struggle with their loan debt.¹⁴

There are several steps Congress can take to make loan repayment more manageable for students. First, give students the option of having their federal student loan payments capped at 15 percent of their monthly discretionary income, and forgive student loans after 25 years. Also, provide loan forgiveness for public sector employees after 10 years. Lastly, AAUW also supports increasing the allowable college tuition tax deduction from \$4,000 to \$12,000, and converting the existing student loan tax deduction into a tax credit.¹⁵ Therefore, AAUW supports passage of the Student Debt Relief Act (S. 359) as a stand alone piece of legislation or incorporating this legislation into the reauthorization of the Higher Education Act.

No student wants to borrow more than is necessary to finance higher education, but when students need to borrow they should have access to loans that carry the most favorable terms and conditions. This means that some students need additional access to federal student loans, especially Subsidized Stafford Loans and Perkins Loans to avoid higher-rate, private bank loans. President George W. Bush has called for the elimination of the federal Perkins Loan program, which requires institutional matching funds and services low-income students. This program offered aid to approximately 673,000 students in 2004.¹⁶ AAUW believes the Perkins Loan program is a crucial part of the total aid package for low-income students, and the program should be maintained and expanded. AAUW also

supports increasing unsubsidized Stafford loan limits for graduate and professional students.

Access to affordable loan programs reduces students' reliance on private bank loans, which relieves the debt burden on students over the long term.

Equity in Athletics Disclosure Act

The Equity in Athletics Disclosure Act requires co-educational college and universities that have intercollegiate athletics programs and participate in Title IV student aid programs to prepare an annual report on athletic participation, staffing, and revenues and expenses, by men's and women's teams.¹⁷ This report is submitted to the U.S. Department of Education, which uses this information in preparing its required report to the Congress on gender equity in intercollegiate athletics.¹⁸ AAUW believes this Act, which is part of HEA, should be continued. This information is crucial for monitoring compliance with Title IX, and improving women's opportunities in collegiate athletics.

Women in Science, Technology, Engineering, and Math Education
Girls in Science, Technology, Engineering, and Math Education

AAUW supports promoting and strengthening science, technology, engineering, and mathematics (STEM) education, especially for women and other underrepresented populations in the fields. By 2010, one in four new jobs will be "technically oriented," or involve computers. However, women still lag far behind in earning computer technology degrees and working in computer technology-related professions. High school girls represent only 16 percent of computer science AP test takers¹⁹ and college-educated women earn only 29.1 percent of bachelor's degrees in mathematics and computer science (down from 39.3 percent in 1984) and 24.7 percent of doctorate degrees in mathematics and computer science.²⁰ Overall, women comprise roughly 27 percent of computer and mathematical professionals.²¹ AAUW supports the following efforts to improve women's achievement in math and science and increase the number of women who choose careers in STEM fields.

Fulfill the Need for More STEM Teachers: There is currently a shortage of highly-qualified teachers and an even larger shortage of highly-qualified math and science teachers. Therefore, AAUW supports passing the 10,000 Teachers, 10 Million Minds Science and Math Scholarship Act (H.R. 362) as a stand alone piece of legislation or incorporating this legislation into the reauthorization of the Higher Education Act. This measure will have a great impact on teacher preparation by providing teachers with much-needed professional development and improve student achievements by strengthening math and science curriculum. In addition, the bill authorizes scholarships for students majoring in STEM fields who commit to teaching K-12 science or math. In order to build STEM subjects into all levels of curriculum, schools must have access to a qualified pool of teachers. AAUW

supports expanding innovative programs that improve teacher recruitment, training, and retention so that every child learns from a highly qualified teacher.

Ask For a Report Responding to “Rising Above the Gathering Storm”: The timely report, *Rising Above the Gathering Storm*, commissioned by Congress from the National Academies on Science, Engineering and Medicine, states that U.S. advantages in science and technology have begun to erode and discusses the need to improve math and science education. Unfortunately, the report largely ignores the issue of women in STEM fields. Congress should request a follow-up report on how to and what affect increasing the number of women in STEM fields would have on enabling the U.S. to remain a leader in the global marketplace. This will illustrate the important contributions women can make to the fields and put weight behind efforts to increase opportunities for women and girls.

Expand SMART Grant Eligibility: In the 109th Congress AAUW supported the addition of SMART grants. However, AAUW believes current regulations do not reflect the needs of nontraditional students, the majority of whom are women. As the regulations stand today, the SMART grant program denies help to students who are part-time, often as a result of work or family responsibilities they must fulfill while they pursue higher education. Therefore, AAUW believes part-time students who are otherwise eligible should be able to receive SMART grants. In addition, students who receive SMART grants, and are therefore Pell grant eligible, should be able to receive both SMART grants and Pell grants.

Diversifying the Professoriate: Patsy Mink Graduate Fellowship Program

Minorities make up less than 20 percent of all collegiate faculty.²² Further, although women make up 39 percent of full-time collegiate faculty, they tend to be concentrated in less-senior instructional positions and at two-year institutions, as opposed to research universities.²³ AAUW, together with the United Negro College Fund, recommends a new program be established under HEA. This program would authorize fellowships for doctoral and terminal master’s degree study for students interested in obtaining a doctorate, or other terminal degree, with a specified service requirement to teach at degree-granting institutions of higher education after graduation. Appropriately named in honor of former Congresswoman Patsy Mink (D-HI), a primary force behind the passage of Title IX, the fellowships would be targeted at minorities and women to help diversify the higher education professoriate. The Mink Graduate Fellowship Program was one of just a few new programs included in the Senate HELP Committee-passed HEA legislation during the 109th Congress.

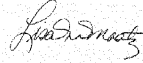
Hate Crimes on Campus

Every year, more than half a million students endure bias-motivated slurs, vandalism, threats, and physical assaults on college campuses.²⁴ The FBI typically documents almost 10,000 hate crimes every year, and other estimates range as high

as 200,000.²⁵ To increase awareness of hate crimes on college campuses, the 1998 Higher Education Act required all colleges and universities to collect and report hate crime statistics to the Office of Postsecondary Education (OPE) of the U.S. Department of Education. Currently, colleges must report any crimes involving bodily injury in which the victim was targeted because of his or her race, gender, religion, sexual orientation, ethnicity, or disability. However, there are limitations to the data gathered under HEA, which likely result from discrepancies between the FBI definition of hate crimes and the HEA definition. The FBI definition includes several types of offenses omitted by the HEA definition. These include arson, larceny/theft, intimidation, and destruction/ damage/vandalism.²⁶ The omission of these crimes result in significant gaps in OPE data and substantial inconsistencies between FBI and OPE statistics. Improved data would give parents and students a more accurate sense of campus safety, and education institutions a better picture of their campus climate. AAUW supports amending the HEA hate crime definition to align it with the definition used by the FBI.

Modernizing HEA programs offers a critical opportunity to make higher education an engine for workforce training and productivity. The U.S. Census Bureau estimates that on average a worker's annual earnings will double with a college degree compared to a high school degree.²⁷ In addition to increasing personal earnings, a college degree has other economic and social benefits, including increased tax revenues, decreased reliance on public assistance programs, lower unemployment rates,²⁸ and increased voting, volunteering, and other civic activities.²⁹ In order to do this, however, emphasis must be placed on helping students shoulder the economic burden of college attendance costs. AAUW looks forward to working with members of the House Committee on Education and Labor in order to modernize programs under HEA so that they reflect and meet the needs of today's student body. If you have any questions, please feel free to contact me at 202-785-7720, or Tracy Sherman, government relations manager at 202-785-7730.

Sincerely,



Lisa M. Maatz
Director, Public Policy and Government Relations

cc: House Committee on Education and Labor

¹Bureau of Labor Statistics, Occupational Projections and Training Data, 2006-07 Edition. <http://www.bls.gov/emp/otpd/optd001.pdf> Accessed December 15, 2006.

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- ⁴ National Campus Children's Centers. 2004 <http://www.campuschildren.org/policy/fact2004.html>
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- ⁶ National Association of Student Financial Aid Administrators. "Facts for the Media." <http://www.nasfaa.org/Subhomes/MediaCenter/FactsForTheMedia.pdf>, as reported from The College Board, *Trends in Student Aid*, 2005, Table 1.
- ⁷ The College Board, *Trends in Student Aid*, 2006, p. 18.
- ⁸ The College Board, *Trends in Student Aid*, 2006, p. 17.
- ⁹ U.S. Department of Education. 2004-2005 Federal Pell Grant Program End-of-Year Report. <http://www.ed.gov/finaid/prof/resources/data/pell0405.pdf> Accessed December 14, 2006.
- ¹⁰ Non-attendance within two years of graduating from high school. Fitzgerald, Brian. Advisory Committee on Student Financial Assistance. *Empty Promises: The Myth of College Access in America*. New England Board of Higher Education. September 27, 2004. <http://www.coeao.org/resource/data/am2004/FitzgeraldCobeno12604.ppt#265.1.Empty>
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- ¹² U.S. Department of Education, National Center for Education Statistics. 1993/2003 Baccalaureate and Beyond Longitudinal Study.
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April 13, 2007

Chairman George Miller
Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, DC 20515

Ranking Member Howard McKeon
Committee on Education and the Workforce
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Miller and Ranking Member McKeon,

On behalf of the over 100,000 bipartisan members and 1,300 branches of the American Association of University Women, we respectfully submit the following comments as you work towards reauthorization of the No Child Left Behind Act. AAUW remains committed to ensuring strong academic principles and closing the achievement gap for all children—objectives at the heart of the No Child Left Behind Act. The federal government has a critical role to play in attaining these goals. AAUW endorses the use of a reasonable accountability system that helps ensure all children are prepared to be successful, participating members of our democracy.

AAUW believes it is possible and necessary to maintain a commitment to high standards and greater accountability in our nation's public schools. However, that pledge cannot be in principle only; it must be accompanied by the federal commitment and financial assistance to make it a reality. As Congress contemplates reauthorization of the No Child Left Behind Act, AAUW supports the following efforts to reform and strengthen the law's goals and improve its implementation.

Girls in Science, Technology, Engineering, and Math Education

AAUW supports promoting and strengthening science, technology, engineering, and mathematics (STEM) education, especially for girls and other underrepresented populations in the fields. By 2010, one in four new jobs will be "technically oriented," or involve computers. However, women still lag far behind in earning computer technology degrees and working in computer technology-related professions. High school girls represent only 16 percent of computer science AP test takers¹ and college-educated women earn only 29.1 percent of bachelor's degrees in mathematics and computer science (down from 39.3 percent in 1984) and 24.7 percent of doctorate degrees in mathematics and computer science.² Overall, women comprise roughly 27 percent of computer and mathematical professionals.³ AAUW supports the following efforts to improve girls'

achievement in math and science and increase the number of women who choose careers in STEM fields.

Fulfill the Need for More STEM Teachers: There is currently a shortage of highly-qualified teachers and an even larger shortage of highly-qualified math and science teachers. Therefore, AAUW supports passing the 10,000 Teachers, 10 Million Minds Science and Math Scholarship Act (H.R. 362) as a stand alone piece of legislation or incorporating this legislation into the reauthorization of the No Child Left Behind Act. This measure will have a great impact on teacher preparation by providing teachers with much-needed professional development and improve student achievements by strengthening math and science curriculum.

Give STEM Subjects and Activities Preference in After-school Programs: While math and science in after-school programs are authorized activities under Title IV, Section 4205, they are not a program preference. Including STEM subjects and activities in after-school programs allows students to explore the field in a supportive atmosphere and enhances student interest in STEM careers. Research suggests that information about the usefulness of engineering to everyday life and hands-on experiences with science, math, and technology helps girls develop a sustained interest in these fields. AAUW supports making math and science activities in after-school programs a preferred activity under Section 4205.

Emphasize Math and Science in Early Education, Not Just High School: Studies show that students begin to lose interest in STEM subjects by junior high school; this is particularly true for girls. Teaching children about math and science in elementary and middle school is critical to not only improving competency but also sparking and maintaining girls' interest in the field. AAUW supports voluntary content standards such as those in the Standards to Provide Educational Achievement for Kids Act (SPEAK) Act (H.R. 325). These standards cover mathematics and science for kindergarten through grade 12 and reflect the knowledge students need to enter college or the workforce and compete in the global economy. In order to build STEM subjects into all levels of curriculum, schools must have access to a qualified pool of teachers. AAUW supports expanding innovative programs that improve teacher recruitment, training, and retention so that every child learns from a highly qualified teacher.

Ask For a Report Responding to "Rising Above the Gathering Storm": The timely report, *Rising Above the Gathering Storm*, commissioned by Congress from the National Academies on Science, Engineering and Medicine, states that U.S. advantages in science and technology have begun to erode and discusses the need to improve math and science education. Unfortunately, the report largely ignores the issue of girls and women in STEM fields. Congress should request a follow-up report on how to and what affect increasing the number of women in STEM fields would have on enabling the U.S. to remain a leader in the global marketplace. This will illustrate the important contributions women can make to the fields and put weight behind efforts to increase opportunities for women and girls.

Measure Student Achievement in Science: AAUW supports measuring student aptitude in science as well as reading and math. Therefore, AAUW supports passing the Standards to Provide Educational Achievement for Kids Act (SPEAK) Act (H.R. 325) as a stand alone piece of legislation or incorporating this legislation into the reauthorization of NCLB. Measuring students' achievement in science will provide schools with necessary information on how well students are progressing and the improvements that still need to be made to enhance achievement. The data gathered from such testing programs should continue to be disaggregated by sex, race, and socioeconomic status. However, Congress must recognize that while testing is an important measure of success, high stakes testing should not be the sole indicator of student competency or a school's progress.

Teacher Training: AAUW supports efforts under Title II, Section 2202 that train teachers to encourage girls and other underrepresented groups to pursue math and science careers. This is particularly important because while studies show that all students start to lose interest in science and math by junior high, the loss is particularly steep for girls at puberty, and results from much different social expectations and gender-based peer pressure.

Reauthorize the Women's Educational Equity Act

AAUW supports the reauthorization of the Women's Educational Equity Act (Title V, Section 5611-5618). This law was first enacted in 1974 to promote educational equity for women and girls, through the provision of funds to help education agencies and institutions meet the requirements of Title IX of the Education Amendments of 1972. Title IX remains a vital tool in providing equal educational opportunities and WEEA, when used properly, can provide critical technical assistance to schools as they work comply with Title IX.

Include High School Athletics Accountability Act

AAUW supports the inclusion of High School Athletics Accountability Act (H.R. 901) in the reauthorization of NCLB. This legislation would require high schools to report basic data on the number of female and male students in their athletic programs and the expenditures made for their sports teams. Better information can help high schools enhance compliance with Title IX and aid in fostering the continued expansion of athletic opportunities. Unlike colleges, high schools are not currently required to disclose any data on equity in sports, making it difficult for high schools and the communities they serve to assess their compliance with Title IX and the status of girls' access to athletic opportunities. This is important because while girls comprise 49 percent of the high school population,⁴ it is estimated that they receive only 41 percent of all athletic participation opportunities, which is 1.25 million fewer participation opportunities than male high school athletes.⁵ Despite the gains women have made under Title IX, resources for women's sports have never risen to the level of resources allocated for men's sports.

Additional Recommendations

School Accountability: AAUW believes in holding schools accountable for demonstrating that they are meeting educational goals, but we should do so in a way that doesn't create a bigger problem than it seeks to solve. NCLB designates schools that fail to meet AYP as "low-performing," and provides sanctions against such schools. AAUW believes the federal government should offer incentives and assistance to struggling schools, rather than punishment, which only serves to further harm students.

Testing: AAUW urges the committee to recognize that, while testing is an important measure of success, it is not the sole indicator of student progress. High-stakes testing as the sole indicator of achievement is problematic and discriminatory. Other key measures that demonstrate student achievement and progress should be explored and utilized, where appropriate. AAUW joins some 90 national education, civil rights, and religious organizations that have signed a statement to this effect.⁶

Mandatory Funding: AAUW believes in making NCLB funding mandatory at the authorized levels. Recent research by the Center on Education Policy found that approximately 80 percent of school districts said they have costs associated with the law not covered by federal funding.⁷

Physical Education: AAUW believes Title V, Section 5501-5507 should be amended to ensure adequate physical education classes and equity in facilities and equipment access and usage. Over the past 25 years, the percentage of overweight girls has more than doubled; currently, 16 percent of girls ages 6 to 19 are overweight, up from 6 percent in 1974.⁸ Further, minority⁹ and low income girls have the highest rates of childhood obesity.¹⁰

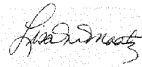
After-school Programs: After-school programs should be expanded, perhaps through 21st Century Community Learning Centers, to enrich the school experience and improve educational outcomes. Only 11 percent of the nation's K-12 youth are in after-school programs.¹¹ However, the demand for such programs is great. The parents of 30 percent of children not currently engaged in after-school programs report they would enroll their child if an after-school program were available.¹²

Bullying and Harassment: AAUW encourages the committee to amend Title IV, Section 4112 to implement strong policies to deter bullying and harassment to ensure a safe learning environment. AAUW's 2001 research revealed that 83 percent of girls and 79 percent of boys reported having experienced sexual harassment, and over one in four students stated that harassment happens "often."¹³ Also, although large groups of both boys and girls report experiencing sexual harassment, girls are more likely to report being negatively affected by it.¹⁴ A recent National School Board's Association study found that half of those surveyed

reported that they see other students being bullied at least once a month.¹⁵ More disturbing is that almost half of students surveyed stated that they doubted teachers could stop the behavior.¹⁶

While AAUW continues to support the ideals behind the No Child Left Behind Act, we call on the federal government to reform the program and provide the commitment and resources necessary to ensure it will be the effective aid it was envisioned to be for our schools and our children. Until the federal government fulfills its promises and obligations under the No Child Left Behind Act, there will continue to be large gaps between a workable implementation of the law and the realization of its laudable goals. AAUW looks forward to working with members of the House Committee on Education and Labor to incorporate additional provisions that guarantee that no child is left behind in American schools. If you have any questions, please feel free to contact me at 202-785-7720, or Tracy Sherman, government relations manager at 202-785-7730.

Sincerely,



Lisa M. Maatz
Director, Public Policy and Government Relations

cc: House Committee on Education and Labor

¹ The College Board. *AP Program Summary Report 2006*. http://apcentral.collegeboard.com/apc/public/repository/ap06_prog_summary_rpt.pdf Accessed January 17, 2007.

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- ¹⁰ Koplan, Jeffrey P., Catharyn T. Liverman, and Vivica A. Kraak, eds. Committee on Prevention of Obesity in Children and Youth. *Preventing Childhood Obesity: Health In The Balance*. Institute of Medicine of the National Academies, National Academies Press, Washington, DC, September 2004. From *The New Normal*, Girl Scouts of the USA. http://www.girlscouts.org/research/publications/original/gs_key_facts_p1c.pdf Accessed February 2, 2007.
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June 14, 2007

Chairman Edward Kennedy
Committee on Health, Education,
Labor and Pensions
644 Dirksen Senate Office Building
Washington, DC 20515

Ranking Member Michael Enzi
Committee on Health, Education,
Labor and Pensions
835 Hart Senate Office Building
Washington, DC 20515

Chairman George Miller
Committee on Education and Labor
2181 Rayburn House Office Building
Washington, DC 20515

Ranking Member Howard McKeon
Committee on the Education and Labor
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Kennedy and Miller and Ranking Members Enzi and McKeon,

We are writing on behalf of the National Coalition for Women and Girls in Education (NCWGE), a nonprofit coalition of more than 50 organizations dedicated to improving educational opportunities for women and girls. We respectfully submit the following comments as you work towards reauthorization of the Higher Education Act.

NCWGE believes ensuring and increasing access to higher education is imperative to helping women obtain financial security and economic independence. NCWGE places particular importance on access to higher education for nontraditional students, ensuring students can stay in school to complete a degree, increasing financial aid, and improving opportunities for women in science, technology, engineering, and mathematics fields. We remain committed to eradicating barriers to equal educational opportunity for women. As a result, this letter focuses on provisions that NCWGE urges Congress to include in its reauthorization of the Higher Education Act.

Increase Support for the Pell Grant

The purchasing power of the Pell grant has declined substantially. Today, the maximum Pell grant covers only 33 percent of the total cost at a public 4-year institution, versus 55 percent of those costs 20 years ago.⁷ This is particularly disturbing given that the Pell grant program was designed to aid low-income students and their families achieve their college dreams. In 2004-2005, a third of all Pell grant recipients classified as independent (for tax purposes), made less than \$10,000 per year, and over 60 percent had incomes below \$20,000.⁸ To update the Pell grant program, NCWGE supports increasing the maximum award level to \$5,100 and advocates mandatory appropriations to provide the increased resources for the program. In addition, NCWGE supports allowing students to qualify for Pell grants based on a year-round enrollment schedule. Many nontraditional students attend classes during the summers, and Pell grants should be available to these students.

Expand SMART Grant Eligibility

Current regulations for the SMART grant do not reflect the needs of nontraditional students, the majority of whom are women. As the regulations stand today, the SMART grant program denies help to students

who are part-time, often as a result of work or family responsibilities they must fulfill while they pursue higher education. Therefore, NCWGE believes part-time students who are otherwise eligible should be able to receive SMART grants. In addition, students who receive SMART grants, and are Pell grant eligible, should be able to receive both SMART grants and Pell grants.

Create the Patsy Mink Graduate Fellowship Program

Minorities comprise less than 20 percent of all collegiate faculty.³⁸ Although women make up 39 percent of full-time collegiate faculty, they tend to be concentrated in less-senior instructional positions and at two-year institutions, as opposed to research universities.³⁹ NCWGE recommends a new program be established under HEA. This program would authorize fellowships for doctoral and terminal master's degree study for students interested in obtaining a doctorate, or other terminal degree, with a specified service requirement to teach at degree-granting institutions of higher education after graduation. Appropriately named in honor of former Congresswoman Patsy Mink (D-HI), a primary force behind the passage of Title IX, the fellowships would be targeted at minorities and women to help diversify the higher education professoriate. As it is becoming increasingly difficult for students from under-represented communities to pursue graduate degrees, we urge Congress to maintain the requirement for institutions to make this a priority.

Increase Support for the Childcare Access Means Parents In School (CCAMPIS) Program

NCWGE supports expanding access to support services that help women balance the demands of work, family, and education. Parenting students face serious problems securing convenient and affordable childcare, which often becomes a barrier to higher education. Providing quality, campus-based childcare will allow thousands of women to pursue a postsecondary education and succeed in that endeavor. Studies show that student parents with children have higher grade point averages, graduate in fewer years, and demonstrate greater persistence when their children are cared for in campus-based child care centers.⁴⁰

The CCAMPIS program provides funds to schools for campus-based child care and after-school programming, primarily to serve the needs of low-income students. NCWGE believes campus childcare programs should be a top priority for higher education funding; unfortunately, appropriations for this program have dropped in recent years. The program was authorized at \$45 million, though funding has never matched that level. The President's FY 08 budget requested level funding for this program at \$15.8 million, far below what is needed to adequately serve eligible student parents. NCWGE also believes HEA should provide incentives for schools to operate CCAMPIS programs at night and on weekends, when many nontraditional and parenting students take classes.

Make Student Loans More Manageable

Loan repayment is an even more significant burden for women, who earn less on average over the course of their lives than their male counterparts. According to research, in 2004, college-educated women 25 and older earned 75 percent of what their male peers earned.⁴¹ This pay gap appears within the first year after college—even when women are working full-time in the same fields as men—and widens in the first ten years in the workforce. Since women are more likely to borrow than men and they will make less on average after graduation, female graduates are more likely to struggle with their loan debt.⁴²

There are several steps Congress can take to make loan repayment more manageable for students. First, give students the option of having their federal student loan payments capped at 15 percent of their monthly discretionary income, and forgive student loans after 25 years. Also, provide loan forgiveness for public sector employees after 10 years. Lastly, NCWGE also supports increasing the allowable college tuition tax deduction from \$4,000 to \$12,000, and converting the existing student loan tax deduction into a tax credit.⁴³ Therefore, NCWGE supports passage of the Student Debt Relief Act (S. 359) as a stand

alone piece of legislation or incorporating this legislation into the reauthorization of the Higher Education Act.

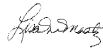
No student wants to borrow more than is necessary to finance higher education, but when students need to borrow they should have access to loans that carry the most favorable terms and conditions. This means that some students need additional access to federal student loans, especially Subsidized Stafford Loans and Perkins Loans to avoid higher-rate, private bank loans. The President has called for the elimination of the federal Perkins Loan program, which requires institutional matching funds and services low-income students. This program offered aid to approximately 673,000 students in 2004.¹⁶ NCWGE believes the Perkins Loan program is a crucial part of the total aid package for low-income students, and the program should be maintained and expanded. Access to affordable loan programs reduces students' reliance on private bank loans, which relieves the debt burden on students over the long term.

Improve Collection of Hate Crimes Data

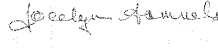
Every year, more than half a million students endure bias-motivated slurs, vandalism, threats, and physical assaults on college campuses.¹⁷ The FBI typically documents almost 10,000 hate crimes every year, and other estimates range as high as 200,000.¹⁸ To increase awareness of hate crimes on college campuses, the 1998 Higher Education Act required all colleges and universities to collect and report hate crime statistics to the Office of Postsecondary Education (OPE) of the U.S. Department of Education. Currently, colleges must report any crimes involving bodily injury in which the victim was targeted because of his or her race, gender, religion, sexual orientation, ethnicity, or disability. However, there are limitations to the data gathered under HEA, which likely result from discrepancies between the FBI definition of hate crimes and the HEA definition. The FBI definition includes several types of offenses omitted by the HEA definition. These include arson, larceny/theft, intimidation, and destruction/damage/vandalism.¹⁹ The omission of these crimes result in significant gaps in OPE data and substantial inconsistencies between FBI and OPE statistics. Improved data would give parents and students a more accurate sense of campus safety, and education institutions a better picture of their campus climate. NCWGE supports amending the HEA hate crime definition to align it with the definition used by the FBI.

NCWGE would like to thank you for your attention to these issues as members of the House Committee on Education and Labor work towards reauthorization of the Higher Education Act. We look forward to working with members of the committee to incorporate additional provisions that guarantee that every woman can pursue higher education regardless of her background. If you have any questions, please feel free to contact Lisa Maatz at 202-785-7720 or Jocelyn Samuels at 202-588-5180.

Sincerely,



Lisa M. Maatz
Chair, NCWGE
American Association of University Women
202-785-7720



Jocelyn Samuels
Vice-Chair, NCWGE
National Women's Law Center
202-588-5180

cc: Senate Committee on Health, Education, Labor, and Pensions
cc: House Committee on Education and Labor

¹ The College Board. *Trends in Student Aid*, 2006, p. 17.

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- ³⁶ Price, Derek V. 2004. *Borrowing Inequality: Race, Class, and Student Loans*. Boulder, CO: Lynne Reinner Publishers.
- ³⁷ A tax credit is a direct reduction in tax liability, independent of tax bracket. For example, a \$1,815 tax credit lowers an individual's tax liability by \$1,815. A tax deduction is an adjustment to income, on which the individual is paying tax. A tax credit is better but is also more expensive.
- ³⁸ American Council on Education. "Bush Budget Proposal Is a Mixed Blessing: More Money for Pell Grants, Increase in Student Loan Limits, Cuts in Pre-College Programs." February 10, 2005. <http://www.aceast.edu/AM/Template.cfm?Section=Home&CONTENTID=3550&TEMPLATE=/CM/ContentDisplay.cfm>. Accessed December 18, 2006.
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May 15, 2007

Chairman Edward Kennedy
Committee on Health, Education,
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Ranking Member Michael Enzi
Committee on Health, Education,
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835 Hart Senate Office Building
Washington, DC 20515

Chairman George Miller
Committee on Education and Labor
2181 Rayburn House Office Building
Washington, DC 20515

Ranking Member Howard McKeon
Committee on the Education and Labor
2101 Rayburn House Office Building
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Dear Chairmen Kennedy and Miller and Ranking Members Enzi and McKeon,

We are writing on behalf of the National Coalition for Women and Girls in Education (NCWGE), a nonprofit coalition of more than 50 organizations dedicated to improving educational opportunities for women and girls. We respectfully submit the following comments as you work towards reauthorization of the No Child Left Behind Act.

NCWGE believes it is possible and necessary to maintain a commitment to high standards and greater accountability in our nation's public schools. However, that pledge cannot be in principle only; it must be accompanied by the federal commitment and financial assistance to make it a reality.

We remain committed to eradicating barriers to equal educational opportunity for girls. As a result, this letter focuses on gender equity provisions that NCWGE urges Congress to include in its reauthorization of the No Child Left Behind Act.

Improve Opportunities for Girls in Science, Technology, Engineering, and Math Education

NCWGE supports promoting and strengthening science, technology, engineering, and mathematics (STEM) education, especially for girls and other underrepresented populations in these fields. Girls still lag far behind in STEM subjects. According to College Board research, high school girls represent only 16 percent of computer science AP test takers, and National Science Foundation research found that college-educated women earn only 29.1 percent of bachelor's degrees in mathematics and computer science (down from 39.3 percent in 1984) and 24.7 percent of doctorate degrees in mathematics and computer science. NCWGE supports the following efforts to improve girls' achievement in STEM subjects.

Fulfill the Need for More STEM Teachers: There is currently a shortage of highly-qualified teachers and an even larger shortage of highly-qualified math and science teachers. Therefore, NCWGE supported the passage of the 10,000 Teachers, 10 Million Minds Science and Math Scholarship Act (H.R. 362) and similar provisions in the America Competes Act (S. 761). This measure will have a great impact on teacher preparation by providing teachers with much-needed professional development and improve student achievement by strengthening math and science curriculum.

Give STEM Subjects and Activities Preference in After-School Programs: While math and science in after-school programs are authorized activities under Title IV, Section 4205, they are not a program preference. Including STEM subjects and activities in after-school programs allows students to explore the field in a supportive atmosphere and enhances student interest in STEM careers. Research suggests that hands-on experiences with science, math, and technology help girls develop a sustained interest in these fields. NCWGE supports making math and science activities in after-school programs a preferred activity under Section 4205.

Emphasize Math and Science in Early Education, Not Just High School: Studies show that students, especially girls, begin to lose interest in STEM subjects by junior high school. Teaching children about math and science in elementary and middle school is critical not only to improving competency but also to sparking and maintaining girls' interest in the field. NCWGE supports voluntary content standards such as those in the Standards to Provide Educational Achievement for Kids Act (SPEAK) Act (S. 224 and H.R. 325). These standards cover math and science for kindergarten through grade 12 and reflect the knowledge students need to enter college or the workforce and compete in the global economy. In order to build STEM subjects into all levels of curriculum, schools must have access to a qualified pool of teachers. NCWGE supports expanding innovative programs that improve teacher recruitment, training, and retention so that every child learns from a highly qualified teacher.

Measure Student Achievement in Science: NCWGE supports measuring student aptitude in science as well as reading and math. Therefore, NCWGE supports passing the Standards to Provide Educational Achievement for Kids Act (SPEAK) Act (S. 224 and H.R. 325) as a stand alone piece of legislation or incorporating this legislation into the reauthorization of NCLB. Measuring students' achievement in science will provide schools with necessary information on how well students are progressing and the improvements that still need to be made to enhance achievement. The data from such testing should continue to be disaggregated by sex, race, and socioeconomic status and publicly reported. Although testing is an important measure of success, high stakes testing should not be the sole indicator of student competency or a school's progress.

Include the High School Athletics Accountability Act

NCWGE supports the inclusion of the High School Information Collection Act (S. 518) and the High School Athletics Accountability Act (H.R. 901) in the reauthorization of NCLB. This legislation would require high schools to report basic data on the number of female and male students in their athletic programs and the expenditures made for their sports teams. Unlike colleges, high schools are not currently required to disclose data on equity in sports. This makes it difficult for high schools and their surrounding communities to assess their compliance with

Title IX and the status of girls' access to athletic opportunities. As a result, better information can help high schools enhance compliance with Title IX and aid in fostering the continued expansion of athletic opportunities. The need for this legislation is clear. According to the U.S. Census Bureau School Enrollment Data, while girls comprise 49 percent of the high school population, they receive only 41 percent of all athletic participation opportunities, or 1.25 million fewer participation opportunities than male high school athletes. Despite the gains women have made under Title IX, resources for women's sports have never risen to the level of resources allocated for men's sports.

Reauthorize the Women's Educational Equity Act and Fund Title IX Coordinators

NCWGE supports the reauthorization of the Women's Educational Equity Act (Title V, Section 5611-5618). This law was first enacted in 1974 in order to help education agencies and institutions meet the requirements of Title IX of the Education Amendments of 1972. Title IX remains a vital tool in providing equal educational opportunities, and when WEEA is used properly it can provide critical technical assistance to schools as they work to comply with Title IX. In addition to reauthorizing WEEA, it is important that funding for it be greatly expanded. This additional support is needed as many gender inequities persist.

It is also critical to develop a strong national network, based on the provisions in the Title IX regulations for Title IX gender equity coordinators, of informed professionals who know about, and focus on, creating gender equitable education. Prior to 1996, many states had full time Title IX Equity Coordinators and vocational education Sex Equity Coordinators who provided training and assistance to district level Title IX Coordinators – who in turn assisted school level Title IX Coordinators. Today, however, no states have full time Title IX Equity Coordinators. The use of Title IX Coordinators should be re-established with increased rigor and effectiveness.

Improving Graduation Rate Data

Although much of the focus on the need for improved graduation rates has been on boys, its also important for girls. Far too few girls – indeed only 70 percent – graduate with a regular high school diploma in four years. And girls of color have particularly low graduation rates. Over 40 percent of African-American girls and approximately half of Hispanic girls and Native American girls fail to complete high school on time. The individual and societal consequences of these low graduation rates are staggering and the economic consequences are particularly severe for girls. For example, high school dropouts are less likely to be employed and more likely to be dependent upon public support programs. Moreover, female high school drop outs earn approximately \$24,600 less than females with a high school diploma. To address this current crisis in graduation rates, NCWGE recommends the following changes to NCLB:

Promote A System of Uniform Graduation Rates: Although graduation rates are critical measures of a successful school and educational accountability is a central component of NCLB, states currently are not required to track graduation rates through a consistent and transparent system that enables inter-state comparisons. As a result, there are wide gaps between state and local estimates of graduation rates and those verified by independent sources. And even among independent researchers, there is disagreement over the most accurate method for calculating

graduation rates. Fortunately, educators and policymakers have recognized that a reliable and consistent system is necessary; at the state level, the National Governors' Association has made progress in getting all 50 states to agree to a common definition for calculating graduation rates.

NCLB should provide incentives for states to build on their current data systems to allow for systematic, reliable collection, and publication of uniform information on graduation and dropout rates. An important step is to encourage and fund the development of longitudinal data systems that can track student-level data over time, whether students drop out of high school and re-enter at a later date, enroll in GED programs, enter alternative schools, or are placed in juvenile detention centers.

Increase Graduation Rate Accountability: To avoid creating incentives for school districts and schools to meet their Adequate Yearly Progress (AYP) targets by forcing low-performing students out of high school early, NCLB requires high schools to meet graduation rate goals as a part of AYP. However, NCLB does not set a standard goal for graduation rates and does not require states to make meaningful and measurable progress. If this problem is not addressed in the reauthorization, it stands to undermine the entire intent of the law and could have the unintended effect of giving schools incentives to "push out" low-performing students whose test scores threaten to lower school averages. Accordingly, NCLB should be modified to ensure that it fulfills the promise of graduation rate accountability by including a reasonable graduation rate floor, with a rigorous standard for exceptions.

Require That Graduation Rate and AYP Data Be Disaggregated and Cross-tabulated by Subgroup: NCLB requires that graduation rates be disaggregated by a number of subgroups, including by race, disability, limited English proficiency, and economically disadvantaged Status. Although most states initially did not disaggregate this information – and some even failed to report graduation rates at all – NCWGE recommends that requirements for disaggregated data reporting be reinforced and expanded in the reauthorization.

First, NCLB should enhance the requirement that graduation rates be disaggregated by subgroup. Currently, schools and school districts that have received waivers from the disaggregation requirement can make AYP regardless of how low the graduation rates of a given minority group may be. This loophole in graduation rate accountability reinforces the exact incentive Congress was attempting to avoid – school districts now may be tempted to ignore racial or other disparities in graduation rates and to continue to "push out" low achieving students.

Second, one subgroup that is currently ignored under NCLB is pregnant and parenting students. Yet research has shown that at least one-third of female students and one-fifth of male students report leaving school without a diploma because of issues related to their pregnant and/or parenting status. To fully address the alarming dropout rates, NCLB should separately track graduation rates of pregnant and parenting students to determine the extent of the problem.

Third, NCLB should require that all disaggregated data be maintained and reported in a format that may be fully cross-tabulated. Cross-tabulation offers valuable insight into whether educational systems are adequately serving subgroups of students and how their situations may be improved. It will enable schools to report and analyze disparities by smaller, more revealing subgroups. For example, cross-tabulation of graduation data will track the number of Hispanic

girls to ascertain their graduation rate and to compare that rate to the graduation rates of Hispanic boys or non-Hispanic girls. And although we have not gone in detail here about ways in which the AYP reporting systems may be improved, we recommend that all reported data that is disaggregated also be cross-tabulated.

Additional Recommendations

Physical Education: NCWGE believes Title V, Section 5501-5507 (the Carol White Physical Education Program) should be amended to ensure adequate physical education classes and gender equity in school facilities and equipment access and usage. Over the past 25 years, the percentage of overweight girls has more than doubled. According to the Centers for Disease Control and Prevention, 16 percent of girls ages 6 to 19 are overweight, up from 6 percent in 1974, and minority and low income girls have even higher rates of childhood obesity.

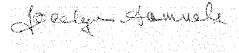
Bullying and Harassment: In order to ensure a safe learning environment, NCWGE encourages the committee to amend Title IV, Section 4112 to implement strong policies to deter bullying and harassment. Congress should also provide funding for the identification and use of effective programs for all age levels to combat sexual harassment and bullying. The American Association of University Women's research revealed that 83 percent of girls and 79 percent of boys reported having experienced sexual harassment, and over one in four students stated that harassment happens "often." In addition, although large groups of both boys and girls report experiencing sexual harassment, girls are more likely to report being negatively affected by it. A recent National School Boards' Association study found that half of those surveyed reported that they see other students being bullied at least once a month. More disturbing is that almost half of students surveyed stated that they doubted teachers could stop the behavior.

NCWGE would like to thank you for your attention to these issues as members of the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and Labor work towards reauthorization of the No Child Left Behind Act. We look forward to working with members of the committees to incorporate additional provisions that guarantee that no child is left behind in American schools. If you have any questions, please feel free to contact Lisa Maatz at 202-785-7720 or Jocelyn Samuels at 202-588-5180.

Sincerely,



Lisa M. Maatz
Chair, NCWGE
American Association of University Women
202-785-7720



Jocelyn Samuels
Vice-Chair, NCWGE
National Women's Law Center
202-588-5180

cc: Senate Committee on Health, Education, Labor and Pensions
cc: House Committee on Education and Labor

Chairman HINOJOSA. Thank you Ms. Maatz.
Jack, you are next.

**STATEMENT OF JACK MOWATT, COMMISSIONER, MARYLAND-
D.C. AMATEUR SOFTBALL ASSOCIATION**

Mr. MOWATT. Chairman Hinojosa, Ranking Member Keller and members of the committee, thank you for inviting me to testify before you today. I would like to share with you the story of a gender equity problem that I saw in the girls' athletics programs in Prince George's County, Maryland, and how those problems were resolved in a way that could be replicated in other communities across the country.

I have been an active softball umpire in the metropolitan Washington, D.C. Area since 1968 and have seen many softball fields in Maryland. Over the years, I became more concerned about the many safety issues that I saw in the girls' high school softball fields in Prince George's County, Maryland. Several years ago during a game, I thought that these young women deserve more than this. It had been my belief that athletes who play on good fields play better and enjoy the game much more.

I talked to a fellow umpire who had also been officiating for a number of years, and we decided to go around the schools in Prince George's County to take pictures of the safety hazards on the girls' fields and see what could be done to get the school district to make the improvements to the fields. Our main concern was the unsafe conditions which these young women were exposed to on the school softball fields.

At first I did not think it was a gender equity problem but now realize by not taking care of the softball fields, the county was sending a message to the girls that their sport was not as important as the boys. Our photographs of the fields showed problems that go beyond safety concerns. The girls' softball fields did not have basic things that the boys' fields had, such as benches for the team and protective fences to protect them. For example, at Largo High School, the boys' baseball field had perimeter fencing, dugouts and a scoreboard. The girls' softball field had none of these.

After we had taken the pictures of every high school softball field in Prince George's County, we presented the county athletic director with the photographs and asked him to make improvements to the fields. We also requested help from the former school superintendent. Unfortunately, after numerous conversations, nothing was done to improve the girls' fields.

After a year, when we saw that Prince George's County was not responding, one of the softball coaches and I contacted the National Women's Law Center in 2003. Together with the center we did a more comprehensive investigation of the treatment of female athletes as compared to male athletes in Prince George's County. We found serious problems in the way girls' teams were treated, including the number of participation opportunities offered to the girls and the amount of money that the school districts spend on girls' sports.

The center sent a letter to the attorneys for Prince George's County schools in the fall of 2004 describing all the ways in which the girls were not being treated fairly and reminded the county of its Title IX obligation. Fortunately, the county stepped up to the plate and recognized that it needed to make changes.

Over the next year and a half, the center, together with the attorneys from the D.C. Office of Steptoe & Johnson negotiated an agreement that included all middle and high schools in the county require equal treatment for girls in opportunities to practice and play, funding and facilities and many other areas. Some of these areas included, by the beginning of the 2007 softball season, the Board had to improve the softball fields and the conditions to play, which some schools required that it install backstops and fencing to protect players and fans from balls; eliminate jagged edges

around fencing; and make sure fields were free of other safety hazards.

These small changes, which the Board had already made, has led the girls' softball to feel like, for the first time, they are important. See Josh Barr, "Title IX Deal Transforms Dreams to Fields," in the Washington Post on March 22 of 2007.

By the beginning of the 2008 softball season, the Board will make additional improvements to the softball field to provide girls with the same amenities that are already provided for the boys' baseball teams. In some cases, they include covered dugouts, scoreboards and bleachers.

Beyond softball, the Board agreed to provide equal funding for the boys' and girls' sports to make the outside fundraising not create inequities between boys' and girls' programs. The board will also provide girls' and boys' teams with equal facilities, and the male and female athletes will receive an equal quality of publicity.

People of Prince George's County will be able to hold the Board to its word that they will provide these equal opportunities to the male and female students. The agreement requires the Board to regularly evaluate the athletic program and its compliance with the agreement.

I am so glad the board of education agreed to do the right thing and correct the problems. The action sends a strong message to girls that they mean just as much as the boys. And providing girls with equal opportunities to play sports is an investment in their future. Studies show that girls who play sports have higher grades, are less likely to drop out and have higher education rates than those that do not play sports. Athletes are less likely to smoke or use drugs. And female athletes have a lower rate of both sexual activity and pregnancy than females that do not play sports. Playing sports also deprives our young women of chances to develop heart disease, breast cancer and depression.

Unfortunately, I have learned the problems we found in Prince George's County are not unique. Title IX turns 35 this week. While women and girls have come a long way since the law was passed in 1972, a lot of work still needs to be done. For example, there are many reports that girls across the country and even in your district are playing in run-down, bare-bones softball fields while boys are playing on Major League baseball teams.

[The statement of Mr. Mowatt follows:]

Prepared Statement of Jack Mowatt, Commissioner, Maryland-DC Amateur Softball Association

Chairman Hinojosa, Ranking Member Keller, and members of the Committee, thank you for inviting me to testify before you today. I would like to share with you my story of the gender equity problems that I saw in the girls' athletics programs in Prince George's County, Maryland and how those problems were resolved in a way that could be replicated in other communities across the country.

I have been an active softball umpire in the Washington, D.C. metropolitan area since 1968 and have seen many softball fields in Maryland. Over the years, I became more and more concerned about many of the safety issues that I saw on the girls' high school softball fields in Prince George's County, Maryland. Several years ago during a game, I thought: These young women deserve more than this. It has been my belief that athletes who play on good fields play better and enjoy the game much more.

I talked to a fellow umpire who has also been officiating for a number of years, and we decided to go around to the schools in Prince George's County and take pic-

tures of the safety hazards at the girls' fields and see if we could get the school district to make improvements to the fields. Our main concern was the unsafe conditions to which these young women were exposed on their school softball fields. At first, I did not think of the problems as gender equity problems, but now I realize that by not taking care of the softball fields, the county was sending a message to girls that their sports are not as important.

Our photographs of the fields showed problems that go beyond safety concerns. The girls' softball fields did not have basic things that the boys' fields had, such as benches for the team and fencing to protect them. For example, at Largo High School, the boys' baseball field there had perimeter fencing, dug outs and a scoreboard. The girls' softball field had none of those amenities.

After we had taken pictures of every high school softball field in Prince George's County, we presented the County Athletic Director with the photographs and asked him to make improvements to the girls' fields. We also requested help from the former superintendent. Unfortunately, after numerous conversations, nothing was done to improve the girls' fields.

After a year, when we saw that Prince George's County was not responding, one of the softball coaches and I contacted the National Women's Law Center in 2003. Together with the Center, we did a more comprehensive investigation of the treatment of female athletes as compared to male athletes in Prince George's County. We found serious problems in the way girls' teams were treated, including in the number of participation opportunities offered to girls and the amount of money the school district spends on girls' sports.

The Center sent a letter to attorneys for the Prince George's County Public Schools in the fall of 2004 describing all the ways in which girls were not being treated fairly and reminding the county of its Title IX obligations. Fortunately, the county stepped up to the plate and recognized that it needed to make changes. Over the next year and a half, the Center, together with attorneys from the D.C. office of Steptoe & Johnson, LLP, negotiated an agreement that includes all public middle and high schools in the county and requires equal treatment for girls in opportunities to practice and play, funding and facilities, and many other areas. Some of the details include:

- By the beginning of the 2007 softball season, the Board had to improve its softball fields and conditions of play, which at some schools required that it install backstops and fencing to protect players and fans from balls, eliminate jagged edges around fencing, and make sure that fields are free of gaping holes and other safety hazards. These small changes, which the Board has already made, have led girls playing softball to feel like for the first time, they are important. (See Josh Barr, "Title IX Deal Transforms Dreams to Fields," Wash. Post, March 22, 2007, at E7.)

- By the beginning of the 2008 softball season, the Board will make additional improvements to the softball fields to provide girls with the same amenities that are already provided to boys' baseball teams. In some cases this will include covered dugouts, scoreboards and bleachers.

- Beyond softball, the Board agreed to provide equal funding for boys' and girls' sports and to make sure that outside fundraising does not create inequalities between boys' and girls' programs. The Board will also provide girls' and boys' teams with equal facilities and the male and female athletes will receive equal amounts—and equal quality—of publicity.

- Finally, the people of Prince George's County will be able to hold the Board to its word that it will provide these equal opportunities to its male and female students. The Agreement requires that the Board regularly evaluate its athletics program and its compliance with the Agreement, and that it make its reports public.

A copy of the agreement is attached to my testimony.

I am so glad that the Board of Education agreed to do the right thing and correct these problems. Their actions send a strong message to girls that they matter just as much as boys. And providing girls with equal opportunities to play sports is an investment in their future. Studies show that girls who play sports have higher grades, are less likely to drop out and have higher graduation rates than those who do not play sports. Athletes are less likely to smoke or use drugs, and female athletes have lower rates of both sexual activity and pregnancy than females who do not play sports. Playing sports also decreases a young woman's chance of developing heart disease, breast cancer and depression. (See National Women's Law Center, "The Battle for Gender Equity in Athletics in Elementary and Secondary Schools," June 2007, available at <http://www.nwlc.org/details.cfm?id=2735§ion=athletics>.)

Unfortunately, I learned that the problems we found in Prince George's County are not unique. Title IX turns 35 this week, and while women and girls have come a long way since the law was passed in 1972, there is lots of work still to do. For

example, there are many other reports of girls across the country playing on run-down, bare bones softball fields, while boys play on fields fit for minor league baseball teams.

I am so glad that the Board agreed to make changes that will benefit girls throughout Prince George's County and I hope school districts nationwide follow the school board's lead. Several years ago I decided that the conditions were too unsafe for me to continue umpiring in the County. But because of this agreement, I decided to go back to being an umpire and I am so excited to see the changes first hand. Thank you.

[Additional submission by Mr. Mowatt follows:]

Commitment to Resolve

I. PRELIMINARY STATEMENT

The parties—Prince George's County Public Schools ("PGCPS") and the National Women's Law Center ("NWLC")—have jointly agreed through their designated representatives that the interests of male and female students at Prince George's County Public Schools are best served by reaching agreement regarding the manner in which each individual school in the county will comply with Title IX of the Education Amendments of 1972. The parties concur that providing equal athletic participation opportunities and benefits to male and female students is essential to Title IX compliance. Believing that these objectives can best be achieved through a cooperative effort joining Title IX's requirements with the parties' dedication to providing an athletics program that treats all PGCPS students fairly, the parties have entered into this Commitment to Resolve (or "Agreement"), the provisions of which apply to each individual school that PGCPS comprises, and which is effective as of the date of execution by the parties ("Effective Date").

II. GENERAL TITLE IX PRINCIPLES

PGCPS agrees to comply with the general mandates of Title IX, its Regulations, 1979 Policy Interpretation, and 1996 Clarification of Intercollegiate Athletics Policy Guidance. Title IX prohibits gender-based discrimination under educational programs receiving federal financial support.

PGCPS is not required to have or maintain an athletics program, but if it does, Title IX requires that it provide equal opportunities to male and female students to play sports. In particular, the interests of female students must be effectively accommodated insofar as they continue to be underrepresented in athletics programs. Accommodation of interests may be accomplished through the initiation of new sports teams, through the addition of appropriate levels of teams in connection with existing sports, or through the addition of slots on existing teams as long as they represent meaningful participation opportunities.

In addition, Title IX requires PGCPS to provide male and female athletes with equal benefits and services. These benefits and services for elementary and secondary schools include, but are not limited to, the following:

1. Funding of interscholastic and other school-sponsored sports programs;
2. Equipment and supplies;
3. Uniforms;
4. Scheduling of games and practice times;
5. Travel and related expenses;
6. Opportunity to receive coaching and the assignment and compensation of coaches;
6. Provision of locker rooms, practice facilities, and competitive facilities;
7. Provision of medical and training facilities and services; and
8. Provision of publicity.

The parties acknowledge that the Title IX Regulations and Policy Interpretation indicate that unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams alone will not constitute non-compliance with Title IX, but that a failure to provide necessary funds for teams of one sex is relevant to assessing equality of opportunity for members of each sex. Furthermore, identical benefits, opportunities, or treatment are not required, provided the overall effects of any differences are negligible. PGCPS may be in compliance with Title IX in the event that a comparison of program components shows that treatment, benefits, or opportunities are not equivalent in kind, quality or availability, if due to non-discriminatory factors, such as unique aspects of particular sports or athletic activities, rules of play, the nature of equipment, rates of injury resulting from participation, the nature of the facilities required for competition, or the maintenance/upkeep

requirements of those facilities. Other factors may include legitimate sex-neutral factors related to special circumstances of a temporary nature as long as any such special circumstances do not disproportionately burden members of one sex. Moreover, activities directly associated with the operation of a competitive event in a single-sex sport, may, under some circumstances, create unique demands or imbalances in particular program components and resulting differences would not be discriminatory if any special demands associated with the activities of sports involving participants of the other sex are met to an equivalent degree and according to neutral rules that do not relate to the sex of the team. Examples would include, but not be limited to, the costs of managing athletic events due to crowd size.

The above is a brief review of Title IX as it relates to secondary school athletics programs. It is not intended to be comprehensive or dispositive of the schools' obligations or individual rights or responsibilities. It is, however, the statutory and decisional framework upon which this Commitment to Resolve has been considered and reached. The purpose of this Commitment to Resolve is to ensure that PGcps meets the requirements of Title IX; no provision contained herein is intended to require PGcps to take any actions beyond what is required by Title IX.

III. PROVISION OF ATHLETIC OPPORTUNITIES, BENEFITS, AND SERVICES

A. Participation

1. To ensure that it is providing its middle and high school female students with equal participation opportunities, PGcps will:

- a. Provide participation opportunities for male and female students in numbers substantially proportionate to their respective enrollments; or
- b. Expand participation opportunities in response to the developing interests of its female students; or
- c. Fully and effectively accommodate the interests of its female students.

Regardless of which of the above three ways PGcps chooses to comply with Title IX's participation requirements, the burden will be on PGcps, as opposed to the students, to ensure that it is providing equal opportunities for female students.

2. In determining whether its athletics program fully and effectively accommodates the interests and abilities of its female students, PGcps may choose to use a student interest survey or any other nondiscriminatory method to ascertain the level of interest in sports that are not currently offered, as long as the method it chooses uses straightforward techniques that reach all middle and high school female students and is open-ended regarding the sports students can express interest in. As set forth in paragraph 3 below, if a survey or other nondiscriminatory method is utilized, it will be only one among several factors used to evaluate interest and will be conducted at least every other academic year so that PGcps can identify and respond in a timely manner to the developing interests of its female students. Students' non-responsiveness to any such survey or instrument may not be interpreted as lack of interest in athletics. Any survey will be vetted through a public process and the Title IX Coordinator before use, and the resulting data will be documented after receipt and made available publicly to ensure that multiple constituencies have an opportunity to express comments.

3. PGcps will not rely exclusively on the results of any interest survey in showing that it is fully and effectively accommodating its female students' athletic interests. Rather, PGcps will also consider the following to ascertain likely interests and abilities of its female students in particular sports and to further identify potential additions to PGcps' athletic offerings for its female students: opinions of the Title IX Coordinator, coaches, middle school, and high school students that a particular sport be added; a review of the participation surveys that appear in the National Federation of High Schools Handbook; and input from the MPSSAA, Prince George's County Athletic Association, Prince George's County Middle School Athletic Association, representatives of the Maryland National Capital Park and Planning Commission, and the local Boys and Girls Clubs, with whom PGcps will meet at least annually.

4. PGcps currently operates a middle school interscholastic athletics program. In the 2004-2005 school year, 28 out of 29 middle schools participated; there were 23 girls' teams, 23 boys' teams, and 5 schools which had coed teams, available for both boys and girls. In the 2005—2006 school year, all 30 middle schools received baseball and softball equipment. There are 28 girls' softball teams, 29 boys' baseball teams, 30 boys' basketball teams, and 29 girls' basketball teams. All 30 middle schools are expected to field boys' and girls' soccer teams in Spring 2006. To the extent that PGcps continues to offer sports for middle school students, it will provide male and female students with equal opportunities to participate in these sports, and equal benefits and services to male and female athletes.

5. PGCPs will review all of its policies related to athletic participation and, if necessary to comply with Title IX, will adopt, ensure distribution of, and publicize policies to encourage and not discourage girls' and boys' sports participation.

6. For purposes of measuring participation rates, PGCPs will not count cheerleading as a sport unless 1) the primary purpose of a cheerleading squad is athletic competition and not support of other sports; and 2) the squad is treated like other athletic teams with respect to the requirements it is subject to and the athletic benefits and services it receives, including but not limited to, coaching, recruitment, budget, try-outs, eligibility, and practice sessions and competitive opportunities.

B. Other Benefits and Services

1. Softball

Specific concerns about the treatment of softball teams were brought to the attention of the NWLC and prompted the program-wide athletics investigation that subsequently led to the negotiation of this Commitment to Resolve. PGCPs agrees to take the following specific actions with respect to its softball teams and to provide to the NWLC monthly written updates on the progress it makes in satisfying these obligations, commencing on November 1, 2006 and terminating on the date on which all of the obligations are met, at which time PGCPs shall so advise NWLC in writing of its compliance.

a. With regard to all its softball fields, PGCPs will by no later than the first day of practice for the 2007 softball season:

(1) Install protective fencing of an adequate height (at least 6 feet) and width in front and, where necessary due to the location of the backstop, on the side closest to the batter of all player benches. PGCPs will determine where it is necessary to install protective fencing on the sides of the player benches with input from the NWLC or its designated representative;

(2) Install backstops and make necessary safety adjustments/repairs to existing backstops;

(3) Install field perimeter fencing where there are obstacles or barriers around the circumference on the fields. The NWLC has raised special concerns about the fields at Northwestern High School, Charles H. Flowers High School, Crossland High School and Oxon Hill High School. In response to these concerns, PGCPs will install a retaining wall and fencing on the left field line connected to the outfield fence at Charles H. Flowers High School; fencing on the right field line at Crossland High School; and fencing around the scoreboard at Northwestern High School. The parties understand that Oxon Hill High School will not require additional perimeter fencing because the concerns raised by the NWLC will be addressed by campus construction in the 2006-2007 and 2007-2008 academic years;

(4) Install safety capping on all fences to protect players from exposure to sharp or jagged edges;

(5) Provide warning tracks, where needed for safety when the field has fencing in the outfield;

(6) Ensure that fields are level and free of any holes, depressions, raised sprinkler heads or other obstacles and clear the fields of any poison ivy/poison oak, debris or foreign objects;

(7) Inspect fields before practices or games, to reasonably ensure their condition for safe use;

(8) Inspect benches/stands/bleachers for structural soundness and safety and make necessary repairs; and

(9) Provide transportation to and from home fields that are not located on the school's campus.

(10) All steps taken under this section will meet standard National Federation of State High School Association regulations, if any, with regard to layout, dimensions and fixtures, unless it is physically impossible to adhere to such regulations.

b. To the extent that a school's baseball field has any of the following benefits or accommodations, not available at the softball field at that school, PGCPs will provide to the softball team, by no later than the beginning of the softball season in 2008:

(1) Stationary, covered dugouts that include player benches, except at Bowie High School, where PGCPs asserts that space is not available;

(2) Field perimeter fencing if the baseball field has such fencing for purposes other than to demarcate property lines;

(3) Storage sheds for equipment;

(4) Bleachers of equal type and quality;

(5) Scoreboards of equal type and quality, except that the parties acknowledge that the scoreboards currently existing at Bowie High School do not need to be modified pursuant to this section;

(6) Fields that meet standard National Federation of State High School Association regulations, if any, with regard to layout, dimensions and fixtures, except for Frederick Douglass High School, Parkdale High School and Potomac High School, where PGCPs asserts that it is physically impossible to adhere to such regulations;

(7) Tarps for covering the fields;

(8) Batting cages; and

(9) Warm-up pitchers' areas.

2. Funding

a. Subject to the provisions referenced hereinabove, in Section II, PGCPs will use its best efforts to allocate funding proportionately to the participation ratio of male and female student-athletes. However, as PGCPs works to increase the number of female student-athletes and to remedy inequities in the treatment of female athletes, additional funding for girls' sports may be needed to ensure Title IX athletic compliance.

b. PGCPs will make every possible attempt not to cut participation opportunities or other athletic benefits and services for boys' teams in order to implement the terms of this Agreement.

c. PGCPs will ensure that donor gifts and concession receipts do not create a disparity between boys' and girls' sports on a program-wide basis. To that end, PGCPs will draft and approve a formal policy stating its commitment to gender equity in the funding of its athletics programs.

3. Equipment, Supplies, and Uniforms

a. PGCPs will provide athletes of both genders with uniforms and other apparel of equal quality and durability. The uniforms for teams of one gender will not be replaced more frequently than the uniforms for teams of the other gender unless the wear-and-tear on such uniforms clearly necessitates more frequent replacement. Each school shall maintain a purchase schedule for uniforms, equipment and supplies.

b. To the extent that PGCPs provides athletes of one gender with equipment and supplies, it will also provide an equal percentage of athletes of the other gender with equipment and supplies necessary to compete effectively.

c. PGCPs will allocate to teams of both genders equipment storage space that is equal in terms of quality, accessibility by the teams, and the percentages of the total amount of equipment accommodated.

4. Scheduling of Games and Practice Times

a. PGCPs will ensure that male and female teams have equal amounts of practice time.

b. PGCPs will ensure that if boys' and girls' teams both require the use of the same practice facility, then the teams shall rotate practice times so that teams of each gender have an equal opportunity to practice during the "prime" practice hours, unless there are safety concerns for athletes and/or when coaches' schedules preclude them from doing so, provided that neither safety concerns nor coaches' schedules disproportionately advantage or disadvantage athletes of one gender. Practice times will be communicated to each team, posted, and made publicly available.

c. PGCPs will provide male and female teams with equal numbers, levels, and quality of competitive events, and equal opportunities to engage in available pre-season and post-season competition. In addition, PGCPs will ensure that the seasons (i.e., time of year) when competitions are scheduled do not disproportionately advantage/disadvantage athletes of one gender.

d. If boys' and girls' competitions are scheduled for the same day in the same facility, then PGCPs will arrange the schedules such that neither the boys' nor the girls' teams are disproportionately advantaged or disadvantaged in terms of being able to play at "prime" times.

5. Travel and Related Expenses

a. To the extent that PGCPs provides transportation to and from games or practices, it shall provide an equal amount and quality of transportation to teams of both genders. In determining whether transportation is provided equally to teams of both genders, PGCPs will consider whether a team's "home" field is located on-campus or off-campus.

b. To the extent that PGCPs provides hotel accommodations, "per diem," or other amenities for out-of-town competitions, it will do so equally for teams of both genders.

6. Coaching

a. PGCPS will provide coaches (both head and assistant coaches) to teams of each gender in an equitable manner such that the ratio of the total number of coaches to the total number of participants is similar for both the boys' and girls' programs. The parties understand that the nature of the sport of football, including the number of participants needed to field a team, the rate of injury, and the rate of severe injury, often justifies the assignment of several assistant coaches.

b. PGCPS shall make its best efforts to ensure that the coaches for teams of each gender have similar levels and types of experience. For example, if PGCPS requires that coaches for the boys' teams have substantial experience as successful coaches, then it shall seek equivalent levels of experience in coaches for the girls' teams.

c. PGCPS will ensure that uniform criteria are used to determine the compensation and benefits (including emoluments), hiring, firing, and promotion of coaches and athletics personnel. The criteria used will be applied equally to coaches for teams of both genders and to male and female athletics personnel.

d. To the extent that PGCPS assigns other duties to its coaches and athletics personnel, it will ensure that those assignments do not disproportionately burden the coaches of teams of one gender or personnel of one gender. Coaches of male and female teams shall also be provided with equal support staff and office resources.

e. Consistent with applicable law, PGCPS will make every effort to increase the representation of women among its coaches, athletic administrators, and athletic directors.

7. Practice and Playing Facilities and Locker Rooms

a. Practice and Playing Facilities

(1) PGCPS will provide its male and female teams with practice and playing facilities that are equal in terms of quality, size (taking into account sport-specific needs), exclusivity of use, and the quality, quantity and accessibility of fixtures and amenities, subject to Part III.B.1.

(2) PGCPS will ensure that practice and playing facilities, including fixtures and amenities, are prepared and maintained equally and in good, safe, and playable conditions for teams of both genders.

(3) If boys' and girls' teams are scheduled to practice or play in interchangeable facilities of different quality, then PGCPS will rotate the use of such facilities so that each gender has an equal opportunity to practice and play in the better facility.

(4) PGCPS will not permit the teams of one gender to displace the teams of the other gender in the use of facilities when such facilities have been reserved in advance or when such facilities are regularly used or known to be used by a team of the other gender during that time; where teams are displaced due to emergency circumstances, teams of one gender shall not be disproportionately advantaged or disadvantaged.

(5) To the extent that scorekeepers, referees, or other officials are used at athletic competitions, PGCPS shall ensure that they are provided to teams of both genders on an equal basis.

(6) PGCPS will use its best efforts to provide adequate access to the various school-sponsored organizations using its facilities. To the extent that facilities are overused, however, PGCPS will schedule use of the facilities such that teams of one gender are not disproportionately advantaged/disadvantaged.

(7) To the extent that new high schools are built or existing high schools are renovated, PGCPS shall distribute available field and practice space at such new or renovated schools equitably between girls' and boys' teams;

(8) PGCPS will provide restroom facilities that are reasonably accessible from the fields, such that teams of one gender are not disproportionately advantaged or disadvantaged by the location of the restroom facilities.

b. Locker Rooms

(1) PGCPS will provide female athletes with locker rooms and lockers of at least the same quality and size (taking into account sport-specific needs) as those provided to male athletes and shall use its best efforts to allocate lockers in numbers that reflect and are in proportion to the percentages of athletes that are male versus female.

(2) To the extent that an athletic facility provides locker rooms or individual lockers for sports teams, PGCPS will ensure that they are provided equally to teams of both genders.

(3) PGCPS will ensure that the proximity of teams' locker rooms to the facilities in which they practice/compete does not disproportionately burden teams of one gender.

8. Training and Medical Services

a. To the extent that PGCPS provides training and medical services to its athletes, it shall ensure that such services are provided equally to athletes of each gender.

b. PGCPS will ensure that male and female athletes have equal access to and use of any weight-rooms or training facilities. PGCPS will also ensure that appropriate weights and other items are equally available to athletes of both genders. If PGCPS permits teams to schedule the exclusive use of a weight room for a certain time period, it shall ensure that permission to schedule exclusive use is granted equally to male and female teams and that teams of one gender do not monopolize the most popular times for use. Any such schedule will be posted and publicly available.

c. To the extent that PGCPS provides off-season training or access to certain training facilities and services to its student-athletes, PGCPS will ensure that they are available equally to male and female athletes.

9. Publicity

a. PGCPS will provide equal amounts and quality of publicity to its male and female athletes.

b. To the extent PGCPS provides the following types of publicity, it will do so equally for its male and female athletes

- (i) Information to the media;
- (ii) Media guides and other school sponsored materials;
- (iii) Announcement of athletics events or scores over a school's public announcement system;
- (iv) Printed competitive schedules;
- (v) Promotional events such as pep rallies;
- (vi) Displays of trophies, banners, and other marks of accomplishment;
- (vii) Cheerleading squads at competitive events, with the understanding and recognition that efforts will be made not to interfere with the squads' competitive events, as long as such efforts do not disproportionately advantage or disadvantage athletes of one gender; and
- (viii) Coverage of athletics teams in PGCPS yearbooks and other school-sponsored materials.

10. Security

PGCPS will provide its male and female athletes with equal levels of security and supervision at athletic competitions and events, based upon attendance, location (including location of off-campus home fields), day and time of the event, and other factors. In evaluating whether levels of security are equal, PGCPS shall consider that off-campus home fields may require enhanced security.

11. Educating and Training Employees About this Agreement

The provisions of this agreement will be explained to all relevant PGCPS employees, including but not limited to the county supervisor of athletics, principals, athletics administrators, coaches, trainers, maintenance staff, and high school administrators. In addition, PGCPS will provide a training every other academic year, beginning the 2006-07 academic year for all of the above groups of people about the requirements of this agreement and Title IX. The training will explain PGCPS-specific strategies for compliance with this agreement and Title IX.

IV. SELF-EVALUATION

A. PGCPS will ensure the appointment of a county-wide Title IX Coordinator. PGCPS will also designate one person in each Regional Office to serve as a Title IX Regional Coordinator. The functions of these positions will be 1) to carry out the duties dictated by the Title IX Regulations; 2) to oversee the implementation of this Agreement; 3) and to serve as a liaison between students, staff, and administrators on all Title IX issues, including but not limited to, athletics. PGCPS will publish the name and contact information of each Title IX coordinator, taking all necessary steps to notify all students, parents, and employees of Title IX coordinators' identities and functions. In addition, this information will be posted and regularly updated on the PGCPS website.

B. PGCPS must have a sex discrimination and sexual harassment policy and grievance procedure that meets the requirements of Title IX. PGCPS shall notify all middle and high school students, parents, and employees of its discrimination policy and grievance procedure. In addition, this information will be posted and regularly updated on the PGCPS website. Individuals who report instances of potential sex discrimination or non-compliance with Title IX's requirements will receive an additional copy of the grievance procedure.

C. Beginning December 1, 2006, PGCPS will annually produce, publicize and post a report outlining the progress made towards serving the principles of this Agreement and Title IX ("progress report"). The reports will be delivered to the NWLC by December 1 of the reporting year. The NWLC will have 90 days to review the report and provide feedback to PGCPS. In the event that the report leads the NWLC to conclude that PGCPS is not meeting the terms of this Agreement, the NWLC will take steps to notify PGCPS in accordance with Section VI below. For

the years that PGCPs produces an audit report in accordance with Section IV. D below, the reporting requirements of this section may be incorporated into the audit report. Each progress report will include an outline of:

1. Steps taken and accomplishments (since the date of this Agreement or the previous year) to meet PGCPs' obligations to increase participation opportunities for females in accordance with this Agreement;

2. Steps taken and accomplishments (since the date of this Agreement or the previous year) to meet PGCPs' obligations to ensure equality in the treatment of and benefits and services provided to female and male teams in accordance with this Agreement.

3. A list of any complaints received alleging inequities between the girls' and boys' athletics programs or deficiencies in complying with this Agreement or Title IX;

4. An outline of actions that will be taken to correct any identified deficiencies;

5. An outline of PGCPs' plans under this Agreement for the upcoming academic year; and

6. A copy of all procedures and policies adopted by the PGCPs Board of Education relating to gender equity.

D. PGCPs will self-evaluate its compliance with this Agreement and Title IX by conducting an audit every other academic year beginning the 2007-08 academic year, and by producing, publicizing and posting a report of the findings and conclusions ("audit report"). The audit report will be delivered to the NWLC by December 1 of that same academic year. The NWLC will have 90 days to review the report and provide feedback to PGCPs. In the event that the report leads the NWLC to conclude that PGCPs is not meeting the terms of this Agreement, the NWLC will take steps to notify PGCPs in accordance with Section VI below. Each audit report shall include:

1. A full accounting, by each high school, and by the system as a whole, of: the student enrollment and athletic participation rates, broken down by gender; the expenditures of school-based or school-controlled funds related to athletics, broken down by gender and category of expenditure (i.e., travel, publicity, etc.); the number of head coaches and assistant coaches per team, broken down by gender of the team and gender of the coach; and the name and gender of each school's and the county-wide athletic director or supervisor;

2. A full accounting, by each high school, and by the system as a whole, of funds or in kind benefits received by each team, broken down by gender, from each of the following sources: 1) the school system, 2) game and concession receipts, 3) fund-raising or boosters, 4) donations, 5) the individual school's budget, 6) grants and 7) any other sources;

3. The plans, if any, for expenditures of funds for the upcoming academic year for boys' and girls' teams by each high school and district-wide;

4. An outline of the steps taken and accomplishments (since the date of this Agreement or last report) to meet PGCPs' obligations to increase participation opportunities for females in accordance with this Agreement (same as Section IV.C.1);

5. An outline of steps taken and accomplishments (since the date of this Agreement or last report) to meet PGCPs' obligations to ensure equality in the treatment of and benefits and services provided to female and male teams in accordance with this Agreement (same as Section IV.C.2);

6. In the event that NWLC has reason to believe that a Title IX compliance problem has arisen at one or more PGCPs middle schools, then NWLC may request in writing that the audit report obligations set forth in paragraphs 1, 2 and 3 of this Subsection IV.D. be expanded to specifically include information for the relevant middle school or middle schools. In the event of such a request, PGCPs shall thereupon include the requested audit information for the relevant middle school or schools in its next scheduled audit report.

7. The format of the audit report is left to the discretion of PGCPs, provided that the selected format produces reasonably clear and comprehensible reports. PGCPs will make available a knowledgeable representative to answer any questions the NWLC or its designee might have regarding the reports.

V. NON-RETALIATION

A. PGCPs and its agents will not retaliate against anyone for his/her participation in investigating or reporting violations or potential violations of this Agreement or any Title IX matter. Prohibited retaliation against students includes, but is not limited to, reduction in playing time, refusal to provide letters of recommendation, or withholding of athletic awards. Prohibited retaliation against employees includes, but is not limited to, reduction in wages and/or benefits or changes in coaching/teaching assignments.

B. PGCPSS will take affirmative steps to inform its Board of Education members, administrators and employees that retaliation is illegal and against PGCPSS policy. PGCPSS will take disciplinary action against any such person found to be engaged in retaliatory conduct.

C. PGCPSS employees shall not take any action (directly or indirectly) to discourage, threaten, or otherwise dissuade girls from participating in any sport. Nor shall any PGCPSS employee encourage (directly or indirectly) any other person to discourage, threaten, or otherwise dissuade girls from participating in any sport.

VI. ENFORCEMENT

A. If the Title IX Coordinator or the NWLC suspects or learns that PGCPSS has failed to meet any of the terms of this Agreement, its first step will be to notify PGCPSS of this failing through correspondence. PGCPSS will respond within 10 days to any such correspondence and will take the steps necessary to correct the problem(s). PGCPSS will give notice to the NWLC of the steps it so takes.

B. If the problem(s) remains unresolved within 90 days of the Title IX Coordinator or the NWLC's initial correspondence, and if the parties mutually agree, the parties may refer the dispute to mediation before a mediator agreed upon by the parties. Costs for any such mediation will be the responsibility of PGCPSS.

C. If mediation fails to provide an adequate resolution, or if the parties fail to agree to mediate, the parties reserve the right to seek a remedy in a court with jurisdiction over the matter in dispute. Maryland law shall govern this Commitment to Resolve.

D. This Agreement will terminate on June 30, 2010, provided that PGCPSS has timely fulfilled all of its obligations under this Agreement, except that PGCPSS agrees that it is committed to continued full compliance with Title IX after the termination of this Agreement and that the periodic audits provided for in Section IV.D and the enforcement provisions in Section VI of this Agreement will survive termination.

AGREED:

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| | NATIONAL WOMEN'S LAW CENTER, |
| <i>Marcia D. Greenberger, Co-President;</i> | <i>Neena K. Chaudhry, Senior Counsel; Fatima</i> |
| | <i>Goss Graves, Senior Counsel.</i> |
| | PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS, |
| | <i>Dr. John Deasy, Chief Executive Officer.</i> |

Chairman HINOJOSA. Thank you very much for your presentation.

Ms. Layne.

STATEMENT OF MARGARET EDITH LAYNE, PROGRAM DIRECTOR, ADVANCE VT, VIRGINIA TECH UNIVERSITY, ON BEHALF OF THE SOCIETY OF WOMEN ENGINEERS

Ms. LAYNE. Mr. Chairman and members of the subcommittee, I am a past president of the Society of Women Engineers, a 20,000 member educational and service organization committed to establishing engineering as a highly desirable career for women. I am currently employed as the Advance program director at Virginia Tech, but I would like you to know that I am speaking today on behalf of the Society of Women Engineers and not on behalf of my employer. I want to thank you for providing us opportunity to discuss how Title IX relates to science, technology, engineering and math, referred to as STEM fields, and the law's impact on STEM over the past 35 years. My comments will focus primarily on discrimination that still exists in the academic STEM community today and how Title IX can be used as a tool to increase the participation of women in engineering.

Women's participation in STEM fields has increased considerably since Title IX was enacted. As you noted in your opening remarks, Mr. Chairman, in 1972, women earned only 28.8 percent of STEM

bachelors degrees. By 2004, that number increased to 49.2 percent. But the proportion of women varies widely among the individual STEM disciplines. Currently, women make up about 13 percent of the U.S. engineering work force, up from about 5.8 percent 25 years ago. The number of women earning engineering degrees in the United States increased dramatically following the passage of Title IX from around 2 percent in 1975 to 15 percent in 1985.

I witnessed that increase firsthand as an engineering student in the late 1970s. When I earned my first engineering degree in 1980, I fully expected that increase to continue and for women engineers soon to no longer be unusual. When I found 20 years into my engineering career that women were still only 10 percent of the engineering work force, I decided to change careers and work full time on this problem so we won't still be talking about these same issues 20 years from now.

Gains in women's share of bachelors and doctoral degrees in STEM disciplines have not translated into work place parity, particularly in academia. Women are fewer than one in five faculty members in computer science, math, engineering and the physical sciences. In engineering in particular, women account for just over one in ten faculty members and are concentrated in the more junior ranks. At Virginia Tech, only 6 of the 138 faculty members holding the highest rank of professor in the College of Engineering are female. And we are not unusual in that regard. In fact, the American Society for Engineering Education reported in the fall of 2005, Virginia Tech had the third highest number of women in tenured and tenure track engineering in the U.S.

At Virginia Tech, we found that 78 percent of male faculty but only 41 percent of female faculty believe that all faculty members are treated fairly regardless of gender. In an interview, a male engineering faculty member told us that the way women are treated in his department is a big issue. He said, quote, I am friends with many of the women. They tell me stories about what's been going on. I can scarcely believe what people say to them.

These findings are, again, not unique to Virginia Tech. A National Academy of Sciences study highlights the issues that impede women's progress in STEM. The report, "Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering," points out that both bias and structural barriers built into academic institutions and occupation of professor limits many women's ability to be hired and promoted. It also notes that women faculty are slower to gain promotion than men, are less likely to reach the highest academic rank, have lower salaries and are awarded less grant money than their male colleagues.

A 2004 GAO report requested by Senators Wyden and Boxer revealed that many educational institutions can't show compliance with the most basic requirements of Title IX. Following the report, NSF and NASA conducted Title IX reviews of a few STEM departments during 2006. While these selective reviews are a start, more widespread and systematic reviews are needed. Mr. Chairman and members of the subcommittee, in many ways, the story of women and STEM is a positive one. Women are making progress in STEM education and careers, although more slowly than we would like. And societal and institutional factors that slow women's advance-

ment can be overcome with continued attention and tools such as Title IX.

Therefore, I would like to make the following recommendations: Conduct oversight hearings and call for enhanced agency enforcement, particularly an increase in the number and frequency of compliance reviews to ensure that federally funded education programs provide equal access and opportunity to all students and make those reviews available to the public. Authorize and fund a comprehensive public education campaign to raise awareness of Title IX and the importance of gender equity in education among students, parents, teachers and administrators. Increase funding for programs that focus on attracting and retaining women and girls to nontraditional and STEM careers and removing institutional barriers to their success. Thank you again for the opportunity to present our views today.

[The statement of Ms. Layne follows:]

Prepared Statement of Margaret Edith Layne, P.E., Past President of the Society of Women Engineers

Mr. Chairman and Members of the Subcommittee: Good morning. My name is Peggy Layne. I am a Past President of the Society of Women Engineers (SWE), and I am currently employed as the ADVANCE Program Director at Virginia Tech. ADVANCE is a National Science Foundation funded program to increase the number and success of women faculty in the sciences and engineering. I am speaking today on behalf of the Society of Women Engineers (SWE) and not on behalf of my employer or the National Science Foundation.

I want to thank the Subcommittee for providing me with this opportunity to discuss how Title IX relates to science, technology, engineering, and mathematics (referred to as STEM) fields, and the law's impact on STEM over the past thirty-five years. My comments will focus primarily on the discrimination that still exists in the academic STEM community today, and how Title IX can be used as a tool to increase the participation of women in engineering.

SWE is a 20,000 member educational and service organization that is committed to establishing engineering as a highly desirable career aspiration for women. Currently, women make up approximately 13% of the U.S. engineering workforce, or 200,000 engineers, which is up from 5.8% 25 years ago.ⁱ The proportion of women, however, has remained relatively flat for the past ten years, and women represent only 10.6% of the faculty in U.S. engineering schools today.ⁱⁱ

In January of 2005, Harvard president Lawrence Summers suggested that "intrinsic aptitude" might help to explain why few women reach the highest ranks of STEM careers in academia. While the ensuing media storm brought much needed attention to the under-representation of women in STEM, fascination with perceived differences in men's and women's brains unfortunately diverted attention from what evidence shows to be the all too real culprits: socialization and discrimination.

Women's participation in the STEM fields has increased considerably since Title IX was enacted. In 1972, women earned 28.8% of STEM bachelor's degrees, and by 2004, they earned 49.2%, with differing proportions within the individual STEM disciplines. Women's share of STEM doctorate degrees more than tripled over that time, with women earning only 11.1% of STEM-related doctorates in 1972, but 37.4% in 2004.ⁱⁱⁱ

Overall, women now comprise nearly 60 percent of all undergraduate college students, and nearly half of all master's, doctoral, law and medical students.^{iv} Women still remain under-represented in engineering and the physical sciences, however, earning only 20 percent of all bachelor's degrees granted in engineering and physics, and a decreasing share of bachelor's degrees in mathematics and computer science.^v Although women's share of STEM degrees earned still lags men's, the number of women in STEM fields has steadily increased over the past 35 years, while the number of men earning STEM degrees has remained constant over the same period of time.^{vi}

Despite this progress, stigmatizing and stereotyping behaviors regarding girls' abilities in STEM persist. Attrition along the pipeline still has much to do with a culture that presents obstacles to the success of women and girls. Although the obstacles are becoming more subtle than the overt discrimination of the past, girls

continue to receive less attention in K-12 mathematics and science courses; undergraduate women transfer out of STEM fields before graduating because of unsupportive classroom environments characterized by lack of role models, a limited peer group, and outdated pedagogy; and women scientists and engineers earn less and advance more slowly than men in both academia and the private sector.^{vii} And while some of these differences could result from personal choices, the culture of STEM fields too often creates circumstances that isolate and exclude girls and women, dissuading them from pursuing these careers.

The number of women earning engineering degrees in the United States increased dramatically following the passage of Title IX, from around 2% in 1975 to 15% in 1985.^{viii} I witnessed that increase first hand as an engineering student in the late 1970s. When I earned my first engineering degree in 1980, I fully expected that increase to continue and for women engineers to no longer be an anomaly by the time I reached the midpoint of my career. If women's participation in engineering had continued to increase at that same rate for the last 25 years, I would not be speaking to you today. Women engineers would be commonplace in the workforce, and when I introduce myself, I would no longer be told that "you don't look like an engineer." When I found that 20 years into my engineering career women were still only 10% of the engineering workforce in the U.S., I decided to change career paths and work full time on this problem, so we would not be here talking about these same issues again twenty years from now.

I am now the ADVANCE Program Director at Virginia Tech, in Blacksburg, Virginia. Virginia Tech is the recipient of an ADVANCE Institutional Transformation grant from the National Science Foundation. The ADVANCE program is designed to support innovative and comprehensive programs for institution-wide change that promotes the increased participation and advancement of women scientists and engineers in academe. The ADVANCE program at Virginia Tech recognizes that there are structures, policies, and practices at academic institutions that inherently disadvantage women, and seeks to create a more equitable environment for women faculty.

At the university level, gains in women's attainment of bachelor's and doctoral degrees in STEM disciplines still have not translated into workplace parity—particularly in academia. Women represent fewer than one in five faculty members employed in computer science, mathematics, engineering and the physical sciences. In engineering in particular, women account for just over one in ten faculty members, and are concentrated in the more junior ranks of the faculty.^{ix} At Virginia Tech, only six of the 138 faculty members holding the highest rank of professor in the College of Engineering are female, and we are not unusual in that regard. In fact, the American Society for Engineering Education reported that in the fall of 2005 Virginia Tech had the third highest number of women in tenured and tenure track engineering faculty positions in the U.S.^x

Through our research at Virginia Tech, we have found that while 94% of the male faculty believe that their department is supportive of the success of women faculty, only 75% of those women agree. Seventy-eight percent of male faculty, but only 41% of female faculty believe that faculty members are treated fairly regardless of gender. When it comes to balancing professional success with personal obligations, 75% of women believe that it is difficult to be promoted or earn tenure and have a personal life, compared with 55% of the men.

A female faculty member stated in a focus group that "Expectations at this university are built around men who have stay-at-home wives." In an interview, a male faculty member told us that the way women are treated in his department is a big issue. He said, "I am friends with many of the women. They tell me stories about what has been going on. I can scarcely believe what people say to them." These findings are again not unique to Virginia Tech, but are consistent with data reported by the American Association of University Professors in their report, AAUP Faculty Gender Equity Indicators 2006.^{xi}

A National Academy of Sciences study further explores the issues that impede women's progress in STEM. The report, entitled *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering*, points out that "both bias and structural barriers built into academic institutions and the occupation of professor limit many women's ability to be hired and promoted."^{xii} The report notes that women faculty are slower to gain promotion than men, are less likely to reach the highest academic rank, and have lower salaries and are awarded less grant money than their male colleagues. In fact, as recently as the period from 2001 to 2003, female grant applicants received only 63% as much funding as male applicants at the National Institutes of Health (NIH).^{xiii}

Sex discrimination also exists in academia with regard to laboratory space, compensation, access to grants, and leave policies. While not always deliberate, this dis-

crimination can be undeniable. In the late 1990s, Dr. Nancy Hopkins, a professor of molecular biology at the Massachusetts Institute of Technology (MIT), requested an extra 200 square feet of lab space. When her request was denied and she learned her lab was actually 1,500 square feet smaller than those of her male counterparts, she realized that discrimination still existed and became an advocate at MIT for change.^{xiv} Through Dr. Hopkins' efforts and those of many other individuals and committees, educational institutions are beginning to address these inequities. The accumulation of such small, lingering day-to-day inequities, however, ultimately results in a significant overall equity gap, as documented by Professor Virginia Valian in her book *Why So Slow? The Advancement of Women*.^{xv}

In response to Professor Hopkins' findings, MIT took action to identify and address inequities and increase the hiring of women faculty, and those actions drew national attention in 2001, but last year when Professor Hopkins looked at the impact of those actions she saw that women had made progress for a few years but that progress stalled following the departure of a particular administrator.^{xvi} MIT's experience emphasizes why continued attention to these issues is critical to removing the entrenched barriers to women's participation in science and engineering careers.

A 2004 GAO report requested by Senators Ron Wyden (D-OR) and Barbara Boxer (D-CA) revealed that many educational institutions cannot show compliance with the most basic requirements of Title IX. The report, entitled *Gender Issues: Women's Participation in the Sciences Has Increased, but Agencies Need to Do More to Ensure Compliance with Title IX*, looked at Title IX compliance practices at three federal agencies that support significant basic research in the STEM disciplines: the National Science Foundation (NSF), Department of Energy (DOE), and National Aeronautics and Space Administration (NASA), as well as the Department of Education (DOEd).^{xvii} The report pointed out that these agencies have not fulfilled their statutory obligations to ensure that grant recipients comply with Title IX. Furthermore, the report noted that grant recipients cannot prove compliance with even the most basic of Title IX requirements.^{xviii} Moreover, because the responsibility for gathering compliance data rests with the individual granting agencies, there is no centralized way to determine whether a particular school has conducted the required self-assessment, and no cross-agency standard for what a self-assessment should look like. Instead, when granting funding, federal agencies tend to accept as proof of compliance the educational institution's own pro forma statement that merely attests to the fact that the educational institution complies with Title IX in all respects.^{xix} Additionally, the report pointed out that female faculty and students do not file Title IX complaints against their institutions either because they believe Title IX applies only to athletics, or because they fear retribution.^{xx}

In the wake of the GAO report, NSF and NASA began to conduct Title IX reviews of STEM departments at postsecondary institutions during 2006. While these selective reviews are a start and may uncover interesting information relevant to the institutions involved, more widespread and systematic reviews are needed to bring about change on the scale necessary to increase the percentage of women in STEM fields. In particular, such reviews should focus on the culture and climate of relevant STEM departments to understand whether women and men face different barriers to success.

Mr. Chairman and Members of this Subcommittee: In many ways, the story of women in STEM is a positive one. Women are making progress in STEM education and careers, although more slowly than we would like, and the societal and institutional factors that slow women's advancement can be overcome with continued attention and tools such as Title IX.

Title IX cannot (and should not) correct for the personal choices that lead women and girls to select certain fields of study. The law can and must, however, address barriers to pursuing educational programs that reflect individual interests and abilities. Proper enforcement of and compliance with the law will help to create conditions that allow women and girls the opportunity to succeed in STEM fields by eliminating conduct and practices that disadvantage students or employees on the basis of their gender.

The persistent discrimination against women and girls in STEM, coupled with widespread concerns about American competitiveness in the global marketplace, demonstrate that enforcement of Title IX in these fields is critical. Thus far, too little has been done to realize the promise of this law in the area of STEM. Therefore, we would like to recommend the following policy recommendations to you:

- Conduct oversight hearings and call for enhanced agency enforcement, particularly an increase in the number and frequency of compliance reviews conducted by the U.S. Department of Education's Office for Civil Rights to ensure that federally-

funded education programs provide equal access and opportunity to all students. Then make those reviews available to the public to ensure transparency of process.

- Authorize and fund a comprehensive public education campaign to raise awareness of Title IX and the importance of gender equity in education among students, parents, teachers, and administrators.
- Increase funding for programs that focus on attracting and retaining women and girls to non-traditional and STEM careers and removing institutional barriers to their success.

Thank you again for the opportunity to present our views.

ENDNOTES

ⁱNational Science Foundation, Division of Science Resources Statistics, Women, Minorities, and Persons with Disabilities in Science and Engineering: 2004, NSF 04-317 (Arlington, VA, 2004).

ⁱⁱGibbons, Michael T. *A Year in Numbers 2005*, American Society for Engineering Education. ⁱⁱⁱCommission on Professionals in Science and Technology. *Four Decades of STEM Degrees, 1966-2004: The Devil is in the Details*. STEM Workforce Data Project: Report No. 6. <https://www.cpst.org/STEM/STEM6—Report.pdf>.

^{iv}Ibid

^vNational Science Foundation, Division of Science Resources Statistics, Women, Minorities, and Persons with Disabilities in Science and Engineering: 2004, NSF 04-317 (Arlington, VA, 2004).

^{vi}Ibid

^{vii}National Academies of Science. *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering*: 2006, National Academies Press (Washington, D.C., 2006).

^{viii}Commission on Professionals in Science and Technology. *Four Decades of STEM Degrees, 1966-2004: The Devil is in the Details*. STEM Workforce Data Project: Report No. 6. <https://www.cpst.org/STEM/STEM6—Report.pdf>.

^{ix}Gibbons, Michael T. “A Year in Numbers 2005”, American Society for Engineering Education.

^xGibbons, Michael T. “A Year in Numbers 2005”, American Society for Engineering Education.

^{xi}American Association of University Professors, AAUP Gender Equity Indicators 2006.

^{xii}National Academies of Science. *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering*: 2006, National Academies Press (Washington, D.C., 2006).

^{xiii}The Rand Corporation. *Gender Differences in Major External Federal Grant Programs*: Technical Report sponsored by NSF 2005.

^{xiv}Rimer, Sarah. “For Women in Sciences, Slow Progress in Academia,” New York Times. <http://www.nytimes.com/2005/04/15/education/15women.html?ex=1271217600&en=e5322d3fd78ddf3&ei=5088&partner=rssnyt&emc=rss>

^{xv}Valian, Virginia. *Why So Slow? The Advancement of Women*, MIT Press: 1998.

^{xvi}Hopkins, Nancy. “Women’s Gains in Sciences at MIT Have Stalled, Study Finds.” *Chronicle of Higher Education*, April 28, 2006

^{xvii}U.S. G.A.O., *Women’s Participation in the Sciences Has Increased, but Agencies Need to Do More to Ensure Compliance with Title IX*, GAO-04-639 (Washington, DC, 2004).

^{xviii}Ibid

^{xix}Ibid.

^{xx}Ibid.

Chairman HINOJOSA. Thank you. Thank you for your presentation. Now I would like to call on Mr. Eric Pearson.

STATEMENT OF ERIC PEARSON, CHAIRMAN, COLLEGE SPORTS COUNCIL

Mr. PEARSON. Thank you, Chairman Hinojosa, Ranking Member Keller, and all members of the committee. I would like to thank you for giving me this opportunity today to share with you the College Sports Council’s concerns about Title IX. I have been invited here today to discuss Title IX and its impact on collegiate sports. However, any discussion of Title IX must first acknowledge the fact that there is a widening disparity between the enrollment rates of male and female students in our Nation’s colleges and universities. This gender disparity is most severe among our African American and Hispanic communities. For example, our Nation’s historically Black colleges and universities have enrollment ratios averaging in the range of 65 percent female to 35 percent male. This gender dis-

parity creates very real problems for schools trying to dutifully comply with the current regulations governing Title IX. The CSC fully supports the spirit of Title IX. We don't want anyone to be discriminated on the basis of their gender.

The CSC takes issue only with how the law has been regulated, or more precisely, we are critical of the proportionality prong of the three-part test. A school is deemed to be in compliance with proportionality if the gender ratio of its intercollegiate athletes mirrors its undergraduate student enrollment. In most athletic departments, male athletes are the majority; yet most schools have a student body that is majority female, hence the dilemma. Pressure to achieve proportionality places incentives on college administrators to decrease the number of their male athletes. As a result, we are witnessing an unrelenting decimation of men's sports programs. Just in the last year, James Madison University announced that it would eliminate ten teams in order to bring its athletic department in line with proportionality. Other schools, like Rutgers University, Slippery Rock and Ohio University, have also recently instituted cuts of multiple teams.

Since 1996, proportionality has been recognized as the safe harbor for complying with Title IX. Every time someone mentions a school is out of compliance, whether right or wrong, proportionality is almost always referenced as the measure of noncompliance. A case in point is the report card recently created by the Women's Sports Foundation. It rates schools assigning letter grades based on proportionality alone.

Unfortunately, HBCU member schools rate poorly. For example, Howard University, located here in the District of Columbia, received an F grade. Howard University is typical of most of the HBCU member schools. Its undergraduate ratio is 67 percent female. In 2002, Howard eliminated its baseball and wrestling programs despite offers from its alumni to help with funding. As a result of proportionality, opportunities for young male students to play sports are being severely limited. For example, there is only one NCAA division one men's soccer team in the entire state of Texas despite its popularity at the scholastic and club levels. Funding is frequently cited as the reason for these limitations. But from the CSC's experience this simply is not the case. CSC is regularly contacted by athletes and former athletes who would like to start and fully fund teams for male students. But they are told by school administrators that proportionality prevents them from adding any men's teams. The sport of football sometimes cited as the root of all the problems, but fully 41 percent of the member schools in the NCAA don't even sponsor football teams.

In addition, among the NCAA Division 1A schools that are considered the big time programs, there are only 118 football teams, which represents only 11 percent of the total of NCAA schools. Therefore, it is unfair and untrue to say that all the problems of Title IX compliance are due to football. Title IX was never intended to limit participation. When you speak with coaches of women's teams, they will tell you that what they want is to have equal access to facilities, equivalent funding for their teams, good locker rooms, uniforms and sufficient travel budgets. They are not inter-

ested in how many players are on the men's rosters. And they certainly don't want to see teams eliminated.

We believe that reform of Title IX can go hand in hand with efforts to increase enrollment of male students on campus. If schools like those included among the HBCUs didn't have to worry about proportionality, they could use athletics to attract more male students to their campuses rather than narrowing down opportunities for male athletes.

With slight modification, a solution may be found in the third prong of Title IX's three-part test which already has an interest and abilities component. Currently the regulations only protect the interest of the underrepresented gender, in other words the female athletes. The CSC recommends that male students also be included in any and all measurements of interest. Through regular student surveys, athletes should be given a voice of record and a degree of influence in the process that determines the a school's sports sponsorship. Reforming prong three of Title IX will create incentives not only to retain programs but also to add new teams.

The current system of Title IX enforcement is unsustainable. If left unchanged, we will continue to see the widespread limitation of athletic opportunity for male athletes. In the end, the harm done to male students will continue to disproportionately affect those athletes from our minority communities.

In closing, I would like to say, it has been 35 years since Title IX was passed into law. And the environment of today's college campuses is very different from the era of the 1970s. Female undergraduate enrollment now surpasses male enrollment. And today, NCAA schools sponsor over 1,000 more teams for women than they do for men. Thank you very much.

[The statement of Mr. Pearson follows:]

Prepared Statement of Eric Pearson, Chairman, College Sports Council

Chairman Hinojosa, Ranking member Keller, and all members of the Committee, I would like to thank you for giving me this opportunity to speak today, and share with you the College Sports Council's (CSC) concerns about Title IX.

The CSC is a national coalition of coaches, athletes, parents, and former athletes founded in 2002. The majority of our members are involved with the traditional Olympic sports of track and field, swimming, wrestling, and gymnastics. We are devoted to the preservation and promotion of the student athlete experience. We place the highest value on the opportunity to participate in organized athletics, and we measure the overall state of health of America's sports system by the total number of participants involved. In our view, the more students that get to play, the better.

I have been invited here today to discuss Title IX, and its impact on collegiate sports. However, any discussion of Title IX must first acknowledge the fact that there is a widening disparity between the overall enrollment rates of male and female students in our nation's colleges and universities. This gender disparity is most severe among our African American and Hispanic communities. For example, our nation's Historically Black Colleges and Universities (HBCU) have enrollment ratios averaging in the range of 65% female to 35% male. This gender disparity creates very real problems for schools trying to dutifully comply with the current regulations governing Title IX.

The CSC fully supports the spirit of Title IX. We don't want anyone to be discriminated against on the basis of their gender. The CSC takes issue only with how the law has been regulated, or more precisely, we are critical of the proportionality prong of the three-part test. A school is deemed to be in compliance with proportionality if the gender ratio of its intercollegiate athletes mirrors its undergraduate student enrollment.

In most athletic departments male athletes are the majority, yet most schools have a student body that is majority female, hence the dilemma. Pressure to achieve proportionality places incentives on college administrators to decrease the numbers

of their male athletes. As a result, we are witnessing an unrelenting decimation of men's sports programs.

Just in the last year, James Madison University announced that it would eliminate 10 teams in order to bring its athletic department in line with proportionality. Other schools like Rutgers University, Slippery Rock, and Ohio University have also recently instituted cuts of multiple teams.

Since 1996, proportionality has been recognized as the 'safe harbor' for complying with Title IX. Every time someone mentions that a school is out of compliance, whether right or wrong, proportionality is almost always referenced as the measure of non-compliance. A case in point is the report card recently created by the Women's Sports Foundation. It rates schools, assigning letter grades based on proportionality alone. Unfortunately, HBCU member schools rate poorly. For example, Howard University, located here in the District of Columbia, received an 'F' grade. Howard University is typical of most of the HBCU members. Its undergraduate ratio is 67.1% female. In 2002, it eliminated its baseball and wrestling programs, despite offers from its alumni to help with funding.

Athletic administrators are often praised for pursuing a 'gender equity' plan even if it merely consists of the elimination of teams and the limitation of men's squad sizes. The current environment of Title IX compliance creates incentives to drive male students away from athletic programs, shrink squad sizes, and drop teams entirely.

As a result of proportionality, opportunities for young male students to play sports are being severely limited. For example, there is only one NCAA Division I men's soccer team in the entire state of Texas despite its growing popularity at the scholastic and club level. Funding is frequently cited as the reason for these limitations, but from the CSC's experience this simply is not the case. The CSC is regularly contacted by athletes and former athletes who would like to start and fully fund teams for male students, but are told by school administrators that proportionality prevents them from adding any men's teams.

The sport of football is sometimes cited as the root of all problems, but fully 41% of the member schools in the NCAA don't even sponsor football teams. In addition, among the NCAA Division IA schools that are considered the 'big time' programs, there are only 118 football teams, which represents only 11% of the total of NCAA schools. Therefore, it is unfair and untrue to say that all the problems with Title IX compliance are due to football.

In addition to the outright elimination of men's teams, and the refusal to add new teams, administrators have developed other strategies designed to reduce the number of male participants in their athletic departments. One notorious practice is commonly referred to as 'roster management.' It is a strict limit placed on male teams only. It is important to understand that these squad caps are created by administrators, not by the coaches of these teams. In most sports, men's coaches prefer to be inclusive, allowing participation to all who want to try out as long as they respect the rules of the program.

Administrators like to justify the practice of 'roster management' by saying that they are managing their resources by managing the squad sizes. But this practice is not, by any means, gender neutral. It is not uncommon to see a men's swimming or track team given strict limits, while their female counterparts are asked to inflate their rosters. Women's coaches don't like this practice either, because it interferes with the control that they have over their teams, especially with the problem athletes who they'd prefer to cut. There is no more clear cut example of discrimination on the basis of gender than the practice of 'roster management.'

Title IX was never intended to limit participation. When you speak with coaches of women's teams they will tell you that they want to have equal access to facilities, equivalent funding for their teams, good locker rooms, uniforms, and sufficient travel budgets. They are not interested in how many players are on the men's rosters, and they certainly don't want to see teams eliminated.

We believe that reform of Title IX can go hand in hand with efforts to increase enrollment of male students on campus. If schools, like those included among the HBCUs, didn't have to worry about proportionality, they could use athletics to attract more male students to their campuses, rather than narrowing down opportunities for male athletes.

With slight modification, a solution may be found in the third prong of Title IX's three-part test, which already has an interest and abilities component. Currently, the regulations only protect the interest of the underrepresented gender, in other words, the female athletes. The CSC recommends that male students also be included in any and all measurements of interest. Through regular student surveys, the athletes would be given a voice of record, and a degree of influence in the proc-

ess that determines a school's sports sponsorship. Reforming prong three of Title IX will create incentives to not only retain programs, but also to add new teams.

In the present system, the athletes have no real power over the decisions that impact the very existence of their programs. Just look at the protests on campuses across the country where sports teams have been dropped. Fresno State, Rutgers, and James Madison University have all recently dropped programs despite the outcries of students, both male and female, who don't want to see athletic teams terminated.

The current system of Title IX enforcement is unsustainable. If left unchanged, we will continue to see the widespread limitation of athletic opportunity for male athletes. In the end, the harm done to male students will continue to disproportionately affect those athletes from our minority communities.

In closing, I'd like to say that it's been 35 years since Title IX was passed into law, and the environment of today's college campus is very different from the era of the 1970's. Female undergraduate enrollment now surpasses male enrollment, and today NCAA schools sponsor over 1,000 more teams for women than they do for men. We cannot overlook this significant change if we want to create a more fair and reasonable system to comply with Title IX, one that continues to protect young women from discrimination, but doesn't harm young men.

Again, I thank you for including the CSC in this very important dialogue.

Chairman HINOJOSA. Thank you, Mr. Pearson.
Now I would like to call on Dr. Rita Simon.

**STATEMENT OF RITA J. SIMON, UNIVERSITY PROFESSOR,
AMERICAN UNIVERSITY**

Ms. SIMON. Thank you very much for the opportunity to testify today before the committee. In my capacity as a member of the Title IX Commission and as a strong supporter of the principle of equal opportunity for boys and girls to participate in collegiate sports, I strongly urge the collection of systematic information on the interest, desires and plans of high school boys and girls to participate in athletic programs when they become university students.

I should say, as a sociologist, I believe very strongly in the collection of empirical data to help assess and resolve public policy issues. Now, what I mean by the collection of systematic information is the sending out of surveys on a regular basis to a random sample of high schools throughout the country. For example, surveys should be sent from State universities to a sample of high schools in that State at the beginning of the academic year. The high schools will then distribute the questionnaires to boys and girls who have just entered their senior year. The questionnaires would contain a series of items on a respondent's interest and their participation in athletics. They would be asked to indicate whether they have been and are currently involved in any kinds of high school sports; swimming, track, basketball, et cetera. Are they on the school's team in some sport?

The next series of questions would ask about future plans and hopes. Respondents would be asked if they plan to go on to college after high school graduation. The completed surveys would be divided into two categories, boys and girls. The responses will tell us the percentage of boys and girls who do participate in athletic programs in their high schools and the specific sports that they play. And the percentage by gender who would like to participate in athletics at the collegiate level. What percentage plan to apply for an athletic scholarship and for what sport? The questionnaire responses will provide us with empirical data about the overall per-

centage of boys and girls who are interested in and plan to participate in collegiate sports. Other responses close to the 50 percent in scholarships that have been set aside for full time boy and girl undergraduates, are the responses more like 70 percent boys and 30 percent girls who express interest or 65 percent girls and 35 percent boys who express interest in athletics. And for the different sports, what percentage of boys and girls express interest in participating, what percentage would like to be on swim teams, wrestling teams, basketball teams, tennis, et cetera. Now, I do not claim that the survey results should determine university policies. But I do strongly urge that the findings be taken into account. The survey results would be the only empirical data that the universities have about the relative interests and plans of incoming freshman boys and girls.

Now, this is very important. The surveys should not be a one-time event. They should be sent out on a regular yearly basis for the foreseeable future. And if I might just add a few more details. Probably what we are talking about is, when I say a random sample of high schools, perhaps 150 high schools in the country; the largest high school in any given State, the high school in a major urban center and a high school in a rural area. As to who will administer the surveys, it could be an independent survey research center, perhaps the Department of Education, the Office of Civil Rights, et cetera. Who will analyze the data, and who will write the report? Again, these can be independent researchers or the staff of the Civil Rights Commission or what have you. And what I strongly want to emphasize is that the survey data may show that the issue is not discrimination against women, but the need to publicize athletic programs that women can apply for, can be involved with and arouse greater interest on the part of women to participate in collegiate sports. Thank you very much.

[The statement of Ms. Simon follows:]

Prepared Statement of Rita J. Simon, University Professor, American University

In my capacity as a member of the Title IX Commission and as a strong supporter of the principle of equal opportunity for girls and boys to participate in collegiate sports, I strongly urge the collection of systematic information on the interests, desires, and plans of high school boys and girls to participate in athletic programs when they become university students.

By systematic information I mean the sending out of surveys on a regular basis to a random sample of high schools throughout the country. For example, surveys should be sent from state universities to a sample of high schools in that state at the beginning of the academic year. The high schools would then distribute the questionnaire to boys and girls who have just entered their senior year. The questionnaire would contain a series of questions on the respondent interests and participation in athletics. They would be asked to indicate whether they have been and are currently active in some sport: i.e. track, basketball, swimming, etc. Are they on the school's team or do they play with friends on a regular basis? The next series of questions would ask about future plans and hopes. Respondents would be asked if they plan to go to college after high school graduation.

The completed surveys will be divided into two categories: boys and girls. The responses will tell us the percentages of boys and girls who participate in athletic programs in high school (the specific sports) and the percentages by gender who would like to participate in athletics at the collegiate level. What percentage plan to apply for an athletic scholarship and for what sport?

The questionnaire responses will provide us with empirical data about the overall percentage of boys and girls who are interested in and plan to participate in collegiate sport. Are the responses close to the 50 percent in scholarships that have been

set aside for full time boy and girl undergraduates? Are the responses more like 70 percent boys and 30 percent girls who express interest or 65 percent girls and 35 percent boys with athletic interest? And for the different sports, what percentage of boys and girls express interest in participating, eg. what percentage would like to be on swim teams, wrestling teams, basketball, tennis, etc.?

I do not claim that the survey results should determine university policies, but I do strongly urge that the findings be taken into account. The survey results would be the only empirical data that the universities would have about the relative interests and plans of incoming freshmen boys and girls.

These surveys should not be a one time event. They should be sent out on a regular yearly basis for the foreseeable future.

Chairman HINOJOSA. Thank you very much, Dr. Simon.

Having heard from all of the witnesses, we are now going to start a line of questioning. And I give myself 5 minutes. My first question is to Commissioner Jack Mowatt. Your efforts seem to be having an effect as a model in Prince George's County. Can you tell us if the Maryland State Department of Education or even the U.S. Department of Education, are they supporting your efforts? If so, how?

Mr. MOWATT. I guess what is happening here with the Title IX agreement in Prince George's County is, I would say that it is going to be supported by everybody because it is a great role model for the entire country. And a lot of things have been done in the last year for these fields. And there are other counties in the State of Maryland that need to be done and probably around the county also.

Chairman HINOJOSA. Dr. Simon, your testimony suggests sending out surveys regularly.

Ms. SIMON. Yes?

Chairman HINOJOSA. To a random sample of high schools throughout the country.

Ms. SIMON. Yes?

Chairman HINOJOSA. Do you envision the Secretary of Education doing this, and have you proposed it to Secretary Spellings?

Ms. SIMON. When I served on the Title IX Commission, this was something that we did discuss. My memory is, I am not positive, that many members of the commission also strongly supported the idea of surveys. And people on the Civil Rights Commission, I know Jerry Reynolds for example, very strongly supported the idea.

Chairman HINOJOSA. Would you support Congress passing some type of an amendment that would require the Department of Education to do this?

Ms. SIMON. Yes.

Chairman HINOJOSA. Thank you.

Eric Pearson, many pro-Title IX advocates tell us that the Department of Education does a very poor job of enforcing compliances with the regulations. However, you indicated that the current system of Title IX is unsustainable. Is your point that there is too much or too little enforcement?

Mr. PEARSON. Mr. Chairman, first of all, I would like to say, College Sports Council is a pro-Title IX group. We do support Title IX. We don't believe anybody should be discriminated on the basis of gender. We are a pro-reform group. But whether there is too much enforcement or too little, I think that question has to be narrowed down to how you enforce. For example, Mr. Mowatt's testimony,

there are many things that we agree with in his testimony. For example, the fair access to facilities, equal access to equivalent facilities, equivalent funding; those things are all very important, and we support that. My concern and our concern as an organization is, if we focus only on proportionality, inevitably it incentivizes administrators to decrease the opportunities for male athletes to compete.

Chairman HINOJOSA. Do you remember that the gap is so big that, unless we leap frog the improvement, we will not see that there will be fair opportunity and equality for young women? It seems to me that, listening to the testimony and what we hear out in the field, is that there is insufficient enforcement and there isn't a mind-set at the Federal level to try to inject the Federal investment to close that gap. So how would you propose to speed this up?

Mr. PEARSON. I think, in your question, there is a very important question. And that is, what is gender equity, and how do we define it, and when do we know we are there? Is gender equity strictly proportionality? Then, perhaps, we will never achieve gender equity without eliminating almost all opportunities for males. Is gender equity fair treatment and no bias based on gender? Then I believe that we can achieve that.

Chairman HINOJOSA. Let me reclaim my time because it is running out. I want to say that, just as has been pointed out, that in the athletics, there is a huge gap. Ms. Layne has made it very clear that in engineering, and I can certainly testify for architects because I am married to one, women do not get the same investment in effort by Congress or by State legislators to be able to increase the numbers that get into that field into that career path, so that they, too, can be professionals, in examples as Ms. Layne gave, which was the STEM careers. So, with that, I am going to close and give an opportunity to my good friend and colleague, Mr. Keller, from Florida.

Mr. KELLER. Well, thank you, Mr. Chairman. And I have questions for several of our witnesses.

Mr. Mowatt, let me begin by thanking you for your service on behalf of girls' softball teams. One of the things I learned from your testimony is that, beginning in the 2008 softball season, the school board is going to make sure that the girls have equal facilities in terms of dugouts, score boards and bleachers similar to the boys' baseball teams. Have you ever encountered a situation where you have a large high school and the boys' baseball team has lights on their facility for night games and the girls' softball field does not? And do you consider that common or an inequity that you feel needs to be addressed?

Mr. MOWATT. Well, you are talking about lights on softball fields and baseball fields. I don't think there is a lighted field in Prince George's County for the girls' high school softball. Boys do have some baseball fields with lights on them. The girls don't have any. If they had some, they would probably have their parents out here at night watching the games. When they play all the games in the afternoon, it is tough for parents to get there. But softball fields with lights would be a plus.

Mr. KELLER. I notice you didn't mention the lighting in your comments, and I kind of heard feedback from some folks back in my

hometown that they think lights should be there if the boys have them. But you didn't ask for the lights, but you think that would be a good idea as well?

Mr. MOWATT. I think it would be a great idea, but money is the biggest root of all evil around here.

Mr. KELLER. Let me ask you about another part of your testimony. You said that National Women's Law Center hired this law firm and they pursued legal remedies against Prince George's County which resulted in a binding and negotiated agreement that said, according to your testimony, male and female athletes will receive equal amounts and equal quality of publicity, closed quote. And you think this agreement should be a role model for this country to follow. I am somewhat concerned that, despite your good intentions and heart, that that is somewhat unenforceable and unrealistic. And let me give you just one example. LaBron James, the star of the Cleveland Cavaliers, went to St. Vincent-St. Mary High School in Akron, Ohio. He was a three time All-American, led his team to three State championships. As a high school student, he appeared on the cover of Sports Illustrated with the headline, "The Chosen One." now, I don't know who the star shortstop on the girls' softball team at the same St. Vincent-St. Mary High School is in Akron, but I know that she wasn't on the cover of Sports Illustrated. And so, by definition, there is no way that she received an equal amount or an equal quality of publicity as LaBron James. If this sort of binding agreement were to become a national model and into law, would that school district in Ohio be able to be sued for not providing an equal amount and equal quality of publicity to the female athletes, Mr. Mowatt?

Mr. MOWATT. I personally don't think so, to tell you the truth. I think what you are looking for is equal opportunity for the male and the female.

Ms. GREENBERGER. That is absolutely right. And in fact—

Mr. KELLER. Let me just—Ms. Greenberger I'll ask you a question when I am ready for you.

Ms. GREENBERGER. Just so I could clarify?

Mr. KELLER. I'll give you a chance, but I have got some other things.

You realize, Mr. Mowatt, because this is your testimony that I am asking you about, that a school can send out a press release saying, hey, we have a female shortstop and she has a 600 batting advantage, and she is a three time all-State shortstop, and she has led her team to three national championships, but Sports Illustrated is not going to put that on the cover. It is their decision. We don't control the media. So my point is, that is a pretty hard thing to enforce, however good your intentions are.

Mr. MOWATT. I think you are looking at something different here than with LaBron James and all that. What we are talking about is equal publicity for everybody for what they do. And I'll give you an example. Right here in this area, you have a women's professional softball team that played Team China last week and beat them three times, and you couldn't get anything in the paper.

Mr. KELLER. That's right. That's right. And I'll give you an example. We know that Michael Jordan is considered by most to be the best basketball player ever. There is a female that just retired,

Shamika Holdsclaw considered the Michael Jordan of the WNBA, and she is not exactly a household name. But let me close.

Ms. Greenberger, if you want to have a chance to follow up on what I asked, my time is expired after to.

Ms. GREENBERGER. I think there was a misunderstanding that what the agreement went to is an effort on the part of the school and certainly not what happens with respect to the media and what they pick up on, because you are certainly right; what Sports Illustrated may choose to cover is not within the purview of the agreement. But what the school newspaper covers, the publicity that the school sends out, the notices that it sends out, just as you mentioned, with respect to a high school sending that information out, that is what the agreement was dealing with, not whether or not the private media actually picks it up. So I think we are actually—it is an agreement that, by your own question, I think you were reflecting, looking at what the school's efforts are, not what the private media responds to.

Chairman HINOJOSA. The gentleman's time has expired. And I would like to say that, ordinarily, I allow Members of Congress to speak in the order in which they arrived. But at this time, I want to exercise a point of privilege and call on the Congresswoman from Hawaii, Mazie Hirono, who is very special to this Title IX in that she went to the House floor yesterday and called to our attention the 35th anniversary of Title IX and the author of that legislation Patsy Mink, with whom we served here in Congress on this Education Committee, and I would like to call on her for her 5 minutes of questioning.

Ms. HIRONO. Thank you very much, Mr. Chairman, for holding this hearing; and I would like to thank all of the members of the panel for appearing.

I think it is really important as we celebrate the 35th anniversary of Title IX that we bring out some of the remaining issues and challenges before us, and I note that the panelists focused on different aspects of Title IX, but one area that I am interested in—

Before I proceed further, I would like to thank Mr. Mowatt for literally going to bat for the young women in your jurisdiction. It just goes to show that private citizens have a major role to play in the enforcement of Title IX. I thank you very much.

I am interested in pursuing this idea of sending out surveys. I think, Ms. Greenberger, your testimony was cut short because your time ran out, and I think you were getting into this area.

Dr. Simon, you indicated that you thought this was a good idea; and, in fact, I think that is what the DOE was contemplating doing, is sending out surveys as a way to determine whether there was real interest among, presumably, women in pursuing athletic opportunities.

The concern I have here is that this kind of survey could merely confirm to a large extent the effects of socialization and discrimination and the attitudes and notions that young women may have as far as the opportunities for them in athletics; and, therefore, the survey, as I said, would reflect socialization and culturalization, as opposed to a true understanding of the potential for them under Title IX.

Ms. Greenberger, if you would like to react or respond to my concern about a survey.

Ms. SIMON. And may I respond afterwards?

Ms. GREENBERGER. As is always the case, the devil is in the details of what kind of survey we might be talking about and then what use those surveys are put to and whether they are misinterpreted.

The Office for Civil Rights in this clarification that they issued said that—and this is for the first time—at the collegiate level, not the high school level as Ms. Simon was recommending, that schools be allowed to send out e-mails to students. A notoriously unreliable way of expecting to get feedback, of course, is sending out e-mails to students or to virtually anybody and then to determine what their interest is in playing and then the lack of response. This is the most outlandish part of the whole proposal, the lack of response that schools would be allowed to interpret as a lack of interest, and they would not have to look at another thing. So it is a way of eliminating schools' obligations to take a serious look to see what is the real interest of young women in playing sports on their campuses.

I have to say that, to the credit of the NCAA, they urged all of their member institutions not to follow that and to take advantage of that enormous loophole that the Office for Civil Rights was creating because it was, on its face, so irresponsible to tell schools that an e-mail is enough and that a lack of response equates a lack of interest.

I wanted to just make one other quick point, if I could, and that has to do with the interrelationship between all of the different forms of discrimination that we have been talking about. I was glad to hear Mr. Pearson say that he could understand the kinds of problems with those fields in Prince George's County; and if you had seen the photographs that Mr. Mowatt took, you would be pretty taken aback at the quality of the fields.

Well, once those fields were improved, not only did we have a safer situation for those young girls in Prince George's County, but it will not surprise you to know that we have seen a dramatic increase in the number of girls interested in playing. So the interest of girls is there if they are given a safe opportunity to play, as Mr. Mowatt said, if they are given publicity so they know the opportunities are there to play.

Ms. HIRONO. Before I go to you, Dr. Simon, is this a rule that was—or this proposal, is that in place already, to allow schools to take this kind of e-mail survey, and is there anything we can do? Those of us who have a concern about the lack of scientific, really, basis for that kind of survey being the deciding factor, is there something we can do to stop this?

Ms. GREENBERGER. Yes. Well, the Office for Civil Rights issued it as a final interpretation without notice, without comment on, as I said, a late Friday afternoon and in the spring when many schools were on break. So we have asked the Office—we have called on Congress to do several things: first of all, to ask the Office for Civil Rights to explain itself on how it could possibly justify this kind of interpretation. Secondly, Congress should be directing the Office for Civil Rights, and it has a variety of tools at its disposal

to do that, not to be using that clarification as a justification in the way that it enforces Title IX. We think it does a disservice to schools because it would never be held up in a court.

Ms. HIRONO. Thank you.

Mr. Chairman, is my time up?

Chairman HINOJOSA. Yes, it is.

Ms. HIRONO. I am sorry we could not get to you. Perhaps someone else could offer you the opportunity to respond, Dr. Simon.

Thank you.

Chairman HINOJOSA. Thank you.

I would like to now call on the gentleman from Virginia, Congressman Robert Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Ms. Greenberger, I wanted to follow up on that same issue.

In your response, you attack the notoriously unreliable aspect of sending out these e-mails. You did not respond to the idea that you may be perpetuating stereotypes. I am sure if you sent out an e-mail on STEM science, technology, engineering, mathematics that you would have a gross disparity between boys and girls which, by virtue of an accurate sample, would suggest that these colleges do not have to comply.

Can you say a little bit about the perpetuation of the stereotype part of the question?

Ms. GREENBERGER. Yes. Congressman Scott, that is very true. There are many ways of criticizing this clarification beyond what I got to, and that is a key way.

Surveying the students in the schools themselves, just the college survey and looking at nothing else, courts have held to be inappropriate even if they had used a better mechanism than this e-mail mechanism for several reasons.

First of all, if a school, a college or a university does not offer a particular team for young women, many of the most serious high school athletes will not come to that school to play because it does not have the team to offer. So they have already screened out many of the most likely players for particular teams if all they do is survey the students who are currently at the school and do not look at the teams offered in high schools around the area that might be the recruiting area for the university or for the college or if they do not look at what the teams are at other universities or colleges and the like. So it certainly perpetuates the discrimination and the stereotyping that the school, itself, created.

One other very quick note: There are close to 3 million high school girls playing sports today and not quite 170,000 opportunities for young women to play at colleges and at universities. So the notion that there are not enough to have that expanded equal opportunity, on its face, is pretty bizarre.

Mr. SCOTT. Thank you.

Does your organization have a brief on the constitutional issue of Title IX that equal protection requires a compelling State interest and the remedy being narrowly tailored? Have you briefed those issues?

Ms. GREENBERGER. We have; and there have been a number of challenges, some brought by Mr. Pearson's organization and some others, arguing that Title IX, in making lots of different argu-

ments, is unconstitutional and the like. And every Court of Appeals to consider it—and there have been, I think, about eight of them—uniformly have upheld the legality of Title IX, the constitutionality of Title IX, the appropriateness of Title IX, and we have participated and briefed in many of those cases.

Mr. SCOTT. If you could provide that briefing to the committee, I would appreciate it.

Ms. GREENBERGER. We would be happy to.

Mr. SCOTT. Now, another question, Ms. Greenberger:

Title IX exempts military institutions. I note several of the military institutions have been sued presumably in the other laws. Are the other laws sufficient to prohibit the discrimination that women could find in military institutions without eliminating the exemption?

Ms. GREENBERGER. Well, it is an interesting question.

Title IX has some exceptions to it, especially in the area of admissions and in other areas as well, as you point out. When we are dealing with a governmental entity like a U.S. military academy, the Constitution does—of course, we cannot exempt from the constitutional requirements, so those still pertain, and there are other protections in military academies, but they do not have the enforcement mechanism of Title IX and the like.

During the Clinton administration, actually, the Defense Department schools were not covered by Title IX or by Title VI; and during the Clinton administration, at the 25th anniversary of Title IX, President Clinton issued an executive order to cover for Title VI and Title IX purposes the Defense Department schools, which is, of course, the largest school district in the world. The Virginia Military Institute and the Citadel, which are private—well, they are State-run institutions—were actually sued under the Constitution because they were excluding women, and Title IX did not cover them. So Title IX does not have the full reach that, ideally, it might.

Mr. SCOTT. To get into compliance, we have heard great theater about some male programs being cut.

How many schools got into compliance by increasing opportunities for women?

Ms. GREENBERGER. Well, the General Accounting Office did a study several years ago, and I think they found that over 70 percent of schools had expanded opportunities in order to come into compliance with Title IX, so the great majority did not cut any men's sports. The General Accounting Office study, we understand, is under way now to update that study, and its conclusions should be made public soon, but I do want to say a couple quick things.

When JMU dropped sports, as Mr. Pearson said, he did not mention that they also dropped women's teams as well as men's teams. Clearly, Title IX does not require that any one particular team must be kept in perpetuity. Schools have flexibility to add and to subtract teams. In fact, what studies have shown is that men's baseball, men's Lacrosse, men's soccer and, it will not surprise you to know, men's football have shown dramatic increases over the years. Unfortunately, it is true that men's wrestling has been dropped by schools, but the biggest drop actually took place during a period when Title IX, for a variety of reasons before Congress

passed the Civil Rights Restoration Act, did not even apply to intercollegiate athletics.

Mr. SCOTT. I want to pose another question for which I probably do not have time to get an answer, and that is whether or not there are issues in elementary and secondary education that we ought to be looking at in terms of No Child Left Behind. If any of the members of the committee would respond after the hearing, I would appreciate it, because we are going to be redoing not only the Higher Education Act but also No Child Left Behind.

Thank you, Mr. Chairman.

Chairman HINOJOSA. Thank you. Thank you, Mr. Scott.

I am now going to go to the other side of the aisle and call on Congressman Timothy Walberg from Michigan.

Mr. WALBERG. Thank you, Mr. Chairman. Sorry for being late and sorry for leaving early, but I have to go have lunch with the Detroit Tigers, so it kind of fits here, huh?

Mr. Pearson, you have stated that, while your organization supports the spirit of Title IX, you find the law's regulatory mechanisms, the three-pronged test and specifically proportionality as an inappropriate way of measuring compliance. How then does the College Sports Council suggest that the Department of Education manage and regulate compliance with the law?

Mr. PEARSON. Well, first of all, we support Title IX and the good that it has done in specific areas of providing access to facilities. It is very important that the female athletes and the male athletes are able to get access to facilities in a fair and unbiased way. The access to facilities, the funding for teams, the access to locker rooms, things like that are extremely important, and it does make a difference, and I believe that is the main way that Title IX has really helped female athletes.

Let us go back to what Title IX is. It is a law that says discrimination based on gender is illegal, all discrimination based on gender. So how do we measure that discrimination, and are we going to allow discrimination against one gender like male athletes? Is that permitted in Title IX? There has not been much discussion about the gender disparity overall in enrollment. I think that is something that we, as a society, are going to have to deal with, and we feel that athletics could be part of a fix to that wide gender disparity.

To answer your question, in the end, what do we see as a solution? As I said in my testimony, we feel that the third prong, the three-part test, accounts for interest and abilities, and we feel that you should include male students in any measurements of interest and abilities, and that includes surveys. However you do them, they should be comprehensive, they should be ongoing, and I think Dr. Simon, who is an expert in that area, could comment as well.

Thank you.

Mr. WALBERG. Dr. Simon, I would ask you to follow up on that then.

Ms. SIMON. Well, I was going to say that it seems to me that the surveys provide empirical data so we are not making policy on the basis of ideology. I would hope that we would also include empirical data when we make policy, and I want to say, in terms of response rate, there was criticism about what would be the response rate of

surveys. The surveys, as I suggest they be carried out, by sending them to high schools at the beginning of the academic year and distributing them to seniors—the questionnaires would be filled out in the classroom so that, in terms of a response rate, it would be almost a 100 percent response rate that we would be getting from the high school seniors who receive the questionnaire; and, therefore, that would be a reasonably good basis for suggesting public policies.

Mr. WALBERG. Okay. Thank you.

I would yield to my ranking member, Mr. Keller.

Mr. KELLER. Well, thank you, Mr. Walberg.

Back to you, Dr. Simon. I know that Ms. Greenberger and Ms. Hirono were questioning you a little bit about the surveys. You just had a chance to respond a little bit to the response rate issue and how you would address that. Is there anything—

Ms. SIMON. Which is very important.

Mr. KELLER. Is there anything else you would like to respond to, based on the questioning of this survey system as someone who has actually served on this Title IX Commission?

Ms. SIMON. Well, one of the other things that, of course, the survey would do is it could arouse curiosity and interest on the part of, perhaps, some of the recipients as to, gee, maybe it would be fun to participate in collegiate sports—it could be—and it may be more high school girls than boys who had not considered it, but getting a survey and asking them these questions might say it might be fun to run track or it might be fun to try out for the tennis team or something like that. So the surveys could also stimulate interest in it as well as provide data.

Mr. KELLER. Could the surveys also have a benefit by being applied to areas outside of athletics such as careers in math and science?

Ms. SIMON. It could be.

Mr. KELLER. Okay. What about your service on that commission led you to feel so strongly about this data collection issue?

Ms. SIMON. I will start out by telling you, as a sociologist, I am always interested in data. Of the 55 books that I have written, all of them are empirical monographs in which I address issues of public policy like immigration or women in crime, et cetera, by looking at data. So I came on to the Commission being concerned with “What do we know?”

Mr. KELLER. Your Ph.D. is from?

Ms. SIMON. The University of Chicago.

Mr. KELLER. Which I know, as a sociology minor, that is considered, I would say, the Harvard of sociology but even higher than Harvard, actually, in the field of sociology.

Ms. SIMON. Right, we always felt that way.

Mr. KELLER. Absolutely. Well, thank you.

Ms. SIMON. I also taught at the University of Chicago.

Mr. KELLER. You bet. Folks who could not get into my alma mater at East Tennessee State had no choice but to go to Harvard or to the University of Chicago. I am just teasing.

Thank you for your testimony, all of you.

I yield back the balance of my time.

Chairman HINOJOSA. Thank you.

Now I would like to call on the gentleman from Massachusetts, Congressman John Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman.

I will tell the ranking member that it is similar in my State. People who could not quite get into Salem State College ended up going to Harvard.

I just think it is appropriate, Mr. Chairman—you and I both had an opportunity to serve with Patsy Takemoto Mink, and it is appropriate to be talking about a bill that she authored and did such a great job on. She was such a tremendous Member. Congresswoman Hirono is certainly doing a great job in following in that seat.

Ms. Layne, you mentioned earlier the barriers to women in STEM courses in some of the higher education institutions. Would you talk a little bit about what some of those barriers are and what we might do to deal with them?

Ms. LAYNE. Well, there are barriers along the entire pathway of interest in and pursuit of STEM careers. Many of them are highlighted in the National Academies' report, as I mentioned, so I would refer you and your staffers to that for details, but they include teachers and guidance counselors at the K through 12 levels who continue to discourage girls from pursuing math- and science-related careers to the atmosphere and the teaching methods used in college classrooms that in many cases do not appeal to girls in the same way that they appeal to boys, even to the level of the kinds of examples used in college classrooms that are areas that are typically of more interest to boys than to girls.

My particular focus in my current position is on faculty careers, and we have done a lot of work in trying to revise university policies that allow women faculty to have the same kinds of opportunities to reach their fullest potential as the male faculty. A particular problem for women in tenure-track position is the timing of the tenure decision for young faculty, which often coincides with the prime child-bearing years, so women are put in the position of trying to either postpone having children until after they have achieved tenure or in trying to balance establishing their research and academic careers at the same time that they are raising young children. So all of those issues are described in more detail in the National Academies' report.

Mr. TIERNEY. Thank you.

Ms. Maatz, would you care to respond to Mr. Pearson's discussion on proportionality? We have not heard as much from you as perhaps we should have on that.

Ms. MAATZ. Thank you, Congressman.

Well, first of all, I think part of what we are talking about here is that the survey that Ms. Simon is talking about is not what the Office of Civil Rights is proposing. That is the first thing to make clear. It is basically civil rights enforcement through spam in terms of what the Office of Civil Rights has proposed. Part of what they are trying to do, which I think is fundamentally problematic, is they are requiring that girls and women prove their interest in sports, which in many ways is completely contrary in terms of perpetuating the various stereotypes that Title IX was actually imple-

mented to address. So, in some ways, we are actually, I think, going a step backwards in terms of what they are proposing.

In terms of proportionality, the thing that is really clear that I think the committee needs to know is that there are three prongs. Any school can use any one of those prongs. Each one of those prongs is equal to the other in terms of being able to satisfy compliance with Title IX; and, in fact, the vast majority of schools use prongs two and three. So part of what we are talking about here, I think, in some ways is, you know, chasing an argument.

The reality is that girls and women are still underrepresented in sports. There are still the stereotypes out there, as Mr. Mowatt has talked about, in terms of how we provide services for them; and I think that that is critically important.

If I may make one other point in terms of the STEM fields as to what my other colleague was just talking about, this is also an area where we need to consider the sexual harassment issue. Because we do know that, in terms of the pipeline for women and girls interested in STEM fields, sexual harassment is actually one of the reasons that they jump out.

So that is one thing that we can do in terms of improving the climate on campuses and in schools for girls and women who are interested in going into those fields. As we all know, we need more—we need more women, we need more men going into those fields, because that is the engine of the 21st century economy. It is important for homeland security, and it is really a high-end job as well.

Mr. TIERNEY. Thank you.

Let me just end with one general question. Intramural sports. We have talked a lot about collegiate sports, but are the opportunities for students on intramural aspects where we want them to be or is there work to be done in that area as well?

Ms. Greenberger, you are nodding your head.

Ms. GREENBERGER. Well, I think certainly in all areas of sports and at every level there is room for improvement, and I have to say a couple of things on that front.

First of all, the proportionality is also discussed at a collegiate level, but those standards and principles apply at a high school level and below, too. So to the extent that this is being challenged and attacked, it is really going down to the younger levels and our public schools' obligation to give broad opportunities to young girls growing up so that they can see for themselves the life-long benefits of sports.

And that gets me to your point about intramural sports, club sports, physical activity in general. As we know, they are not being provided to people to the degree it should, male or female, and certainly at younger ages, too, with very devastating, life-long adverse health consequences.

So as to the whole notion of encouraging physical participation, whether in the more elite intercollegiate of teams or intramural sports or club teams or lower-level participation in sports, all of that, there is a lot of room for improvement.

Mr. TIERNEY. Thank you very much.

Thank you very much, Mr. Chairman. I yield back.

Chairman HINOJOSA. The gentleman yields back.

Now I would like to ask unanimous consent that the statement—Joyce M. Roché, the President and CEO of Girls, Incorporated, has presented me with a statement; and I ask unanimous consent that it be allowed into the permanent record.

Hearing none, so be it.

[The statement of Ms. Roché follows:]

Prepared Statement of Joyce M. Roché, President and CEO, Girls Incorporated

Mr. Chairman and members of the Committee, thank you for the opportunity to submit this testimony on the occasion of the 35th anniversary of Title IX of the Education Amendments of 1972. My name is Joyce Roché, and I am the President and CEO of Girls Incorporated, the national non-profit youth organization that inspires all girls to be strong, smart, and bold. On behalf of Girls Inc., our 78 local affiliates, and the girls that we serve, I want to share with you the necessity for continued support for this critical law.

Girls Incorporated has been a supporter of Title IX since its inception and has seen the vast benefits that the legislation has provided not only for girls and women, but for society as a whole. We believe that strong enforcement of the law is key to continue to move our country forward. We believe in the integrity of the law and want to be sure that there will be no changes to it. We recognize that although it has done great work thus far, there is still work to be done.

The focus of my testimony today is the impact of Title IX on science, technology, engineering, and math (STEM), disciplines that we as an organization have focused on for over 20 years. We know that Title IX has increased the opportunities for girls and women in STEM, and yet that barriers persist. With continued enforcement of Title IX, these barriers can be overcome, gaps between boys and girls closed, and the full participation of girls and women in STEM achieved. This will be to the benefit of both our nation's security and competitiveness.

Title IX has unquestionably increased the number and performance of girls and women in STEM courses and disciplines.

Before Title IX, educators, misled by stereotypes that girls could not achieve in STEM subjects or careers too often steered high school girls away from higher-level math and science classes, and frequently excluded them from extracurricular activities such as science and math clubs. Not surprisingly, girls' achievement in STEM lagged behind boys' through much of the last century.

Today that picture has changed dramatically. With the support and implementation of Title IX over the past 35 years, the 2005 NAEP math and science assessments for grades 4, 8, and 12, showed a gap no bigger than 4 points.ⁱ Girls now comprise 48% of AP test takers in calculus AB, 47% in chemistry, and 58% in biology. And, in 2007, half of the 40 finalists in the Intel Science Talent Search were girls.ⁱⁱ

Women at the university level have also increased their presence in STEM. In 1970, women earned 17.5% of bachelor's degrees in natural sciences and engineering. By 2004, they earned 38.4%, and women are now over-represented in biological and agricultural sciences. In the same timeframe, women's share of doctorate degrees in these fields more than quadrupled from 6.7% to 30.5%.ⁱⁱⁱ

Title IX has helped to overcome stale stereotypes and the exclusion of girls and women from the STEM industry. Women and girls have proven that they have both the capacity and drive to succeed in these vital fields.

In spite of this remarkable progress, substantial gaps remain, and discrimination persists.

The barriers to girls' and women's progress in STEM begin in K-12 education, where messages that are received in schools tend to have lasting consequences. In a 2006 Girls Inc. survey conducted by Harris Interactive, 44% of girls and 38% of boys agreed with the statement, "the smartest girls in my school are not popular," and 17% of girls and 14% of boys thought it was true that "teachers think it is not important for girls to be good at math."^{iv} The overall pattern has changed little since a similar survey conducted in 2000, suggesting that these stereotypes are difficult to eradicate.

These pervasive attitudes and messages influence girls' academic paths, and future options in STEM may be curtailed by an insufficient course foundation early on. The Chronicle of Higher Education cites an anecdote of a girl who was one of two girls in her high-school programming courses, where the boys in the classes repeatedly told her that she was not good at programming and out of place. "One of guys I grew up with and was in all of the classes with told me that, scientifically,

girls were not programmed to do math like guys could,” she said. “And I believed him.”^v According to psychologists, girls and women are more likely to internalize criticism and biased comments like this one.

Indeed, girls continue to lag behind boys in computer science and physics, comprising only 31% of physics AP test takers in 2006 and just 16% in computer science. Of college-bound seniors in 2005, young women comprised just 13% of those intending to major in computer science, 15% of those intending to major in engineering, and 40% of those intending to major in math.

At the university level, women continue to be under-represented in engineering and the physical sciences. Even though women make up 60% of the undergraduate college population, they earn only 20% of all bachelor’s degrees granted in engineering and physics, and a decreasing share of bachelor’s degrees in mathematics and computer science.^{vi}

Evidence of sex discrimination in academia—in areas such as compensation, access to grants, leave policies, and laboratory space—is compelling, even though the discrimination may not be intentional. A professor of molecular biology at the Massachusetts Institute of Technology (MIT), Nancy Hopkins said that she entered science “convinced that civil rights laws had eliminated gender discrimination from the workplace.”^{vii} It was not until she asked for, and was denied, an extra 200 square feet of lab space that she started to recognize the persistent, though not overt, discrimination. When her request was denied, she got down on her hands and knees with a tape measure to see just how much smaller her lab space was when compared to her male counterparts. She learned that she in fact had 1,500 fewer square feet.^{viii} After that, she started talking to other female faculty, and found that there existed several relatively minor areas where they were being shortchanged, which amounted to a large difference in the end. Institutions are beginning to address structural barriers and outdated attitudes that persist in the academy, but women scientists consistently report we have far to go.

Girls Inc. believes that Congress has a vital role to play in fulfilling the promise of Title IX in the STEM fields.

According to the report of the Commission on the Advancement of Women and Minorities in Science, Engineering and Technology, there are four points in life at which girls and women seem to lose interest in STEM: as they enter middle school, late high school, college and graduate school, and finally in their professional life.^{ix} Because Girls Inc. specializes in girls, our recommendations focus on grades K-12:

- Adequately fund the Office for Civil Rights in the U.S. Department of Education so that this office can be proactive in monitoring compliance with Title IX in this area. This includes providing technical assistance to schools concerning their obligations under Title IX, and enforcing existing requirements for Title IX compliance officers in every building. Students, parents, and faculty should be informed of their rights under Title IX, the compliance officer’s name and contact information, and OCR must promptly and thoroughly investigate any discrimination complaints.
- Promote informal STEM education through federally-funded afterschool programs. For more than 20 years, Girls Inc. has offered a research-based afterschool program to inspire and nurture girls’ interest in STEM from an early age. Girls Inc. Operation SMART and other programs like it have the capacity to be more flexible, creative, and hands-on than school day classes, and feature female role models and field trips that increase girls’ confidence and competence in science and math. Proven, national programs like ours incorporate the latest research on girls’ engagement and persistence in STEM and can and should be partners with schools in addressing the under representation of girls and minorities in STEM.
- Enlist classroom teachers and administrators as partners in promoting STEM to girls. Provide professional development opportunities to teach gender-fair teaching methods and to help them foster learning environments (including classrooms and computer rooms) free of harassment.

We look forward to the opportunity to work with you on these and other recommendations. With the continued support of Title IX, girls and women can overcome the barriers standing in their way to be successful in STEM.

Girls Incorporated(r) is a national nonprofit organization that inspires all girls to be strong, smart, and boldSM. With local roots dating to 1864 and national status since 1945, Girls Inc. has responded to the changing needs of girls and their communities through research-based programs and advocacy that empower girls to reach their full potential and to understand, value, and assert their rights. Programs focus on science, math, and technology, health and sexuality, financial literacy, sports, leadership and advocacy, and media literacy for girls ages 6 to 18 throughout the United States and in Canada.

ENDNOTES

ⁱ“2005 Assessment Results, The Nation’s Report Card,” U.S. Department of Education, National Center for Education Statistics. <http://nces.ed.gov/nationsreportcard/nrc/reading—math—2005>

ⁱⁱ“66th Annual Intel Science Talent Search (2006-2007) Finalists,” Science Service, Jan 2007. <http://www.sciserv.org/sts/66sts/finalists.asp>

ⁱⁱⁱ“Four Decades of STEM Degrees, 1966-2004: The Devil is in the Details. STEM Workforce Data Project: Report No. 6,” Commission on Professionals in Science and Technology. 10.

^{iv}Girls Incorporated. The Supergirl Dilemma: Girls Grapple with the Mounting Pressure of Expectations, Summary Findings. Harris Interactive. Oct 2006: 22.

^vCarlson, Scott. “Wanted: Female Computer-Science Students: Colleges work to attract and support women in technology majors,” The Chronicle of Higher Education. 13 Jan 2006. <http://chronicle.com/temp/email2.php?id=yjmCGg4WqYrYkDvzzjgxxgQRgyWCxjrkH>

^{vi}National Science Foundation, Division of Science Resources Statistics (2004). Women, Minorities, and Persons with Disabilities in Science and Engineering; 2004. (NSF 04-317).

^{vii}Hopkins, Nancy. “Academic Responsibility and Gender Bias,” MIT Faculty Newsletter 17.4 (Mar/Apr 2005) 22.

^{viii}Rimer, Sarah, “For Women in Sciences, Slow Progress in Academia,” New York Times. 15 Apr 2005. <http://www.nytimes.com/2005/04/15/education/15women.html?ex=1181966400&en=ccacb449228792b3&ei=5070>

^{ix}“Land of Plenty: Diversity as America’s Competitive Edge in Science, Engineering, and Technology.” September 2000. <http://www.nsf.gov/pubs/2000/cawmset0409/cawmset—0409.pdf>

Chairman HINOJOSA. I am now pleased to call on the gentleman from the great State of New York, Congressman Timothy Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. Thank you very much for holding this hearing.

I want to go back to the issue that Ms. Maatz just spoke about and put a question to Mr. Pearson.

Proportionality is one of only three prongs that a school must satisfy in order to be in Title IX compliance. The whole focus of both your written testimony and your testimony this morning has been on the issue of proportionality. So if a school is resorting to proportionality in order to qualify or to satisfy Title IX obligations, as I understand it, they are either implicitly or explicitly acknowledging that they have failed the test on the other two, that they cannot point to program expansion that is responsive to the interests and abilities of the underrepresented sex nor can they say that they have fully accommodated the interests or abilities of the underrepresented sex.

So if we have a school that is acknowledging their deficiencies in those two areas, why is it that we should cut them some slack on proportionality, and how does cutting them some slack on proportionality advance the general interests of that school?

Mr. PEARSON. Congressman, going back to the three-part test—and you have heard that there are three ways to comply.

Mr. BISHOP. Right.

Mr. PEARSON. One is proportionality. One is really just a step towards proportionality. It is a measurement of whether or not they have added a team for females in the last 5 years. The third is measuring interest and abilities, demonstrating that you have met the interest and abilities, and that prong has never held up in court. Brown University tried to demonstrate that they had measured the interest of their student athletes, and it did not hold up in court.

So what happens is there is a migration towards proportionality as the safe way to comply, this safe harbor, and that is why we have advocated ways for schools to have a concrete way to measure interest and abilities so they can feel safe with that prong, because a lot of pressure comes from interest groups threatening lawsuits.

So as far as cutting them slack on proportionality, is that—

Mr. BISHOP. Well, let me try a different approach. Let us forget interests and abilities and accommodations. A school would have to acknowledge that they have not been responsive to the interests and abilities of the underrepresented sex if they are, in effect, foregoing prong two and going to proportionality, right? So they would have to acknowledge they have been unresponsive. Now why is it not in the school's interest to be responsive?

Here is, I guess, the thrust of my question. College participation rates—college-going rates among women have increased. Are we aware of any data, either empirical data or impressionistic data, that says that part of that increase in college-going rates on the part of females is that they now have more access to intercollegiate activities and that they have greater ability to satisfy their interests in college?

I guess where I am going with this is, if Virginia Tech had a sudden increase in the students who accepted their offers of admission in math, I would assume that Virginia Tech would have offered additional sections of entry level math courses for freshman year to accommodate that interest, correct? Okay.

So why is it that we ought not to be encouraging schools to meet the expectation levels of those students, and why is it not in a school's interest? Schools are going to build enrollment if, in fact, they are satisfying the interests of their students.

Mr. PEARSON. Well, it can go the other way as well.

If you are saying you want to increase enrollment, part of my presentation was about increasing enrollment on the male side. We have got a serious problem with the disparity in enrollment between males and females; and when you apply proportionality, it is going to exacerbate that disparity. Proportionality does not help female athletes as well. There are many sports teams at JMU—Marcia Greenberger mentioned JMU dropped three women's teams, and we are seeing an alarming trend of dropping small roster women's teams as well because schools are just counting numbers. It is easier for them to have walk-on athletes join a rowing team and have 100 athletes come out than to have these gymnasts who have practiced all of their lives but where there are only seven people on their roster or ten people on their roster. Tennis teams are being dropped. At JMU, it was also an archery team and a fencing team. So proportionality, from our experience, is not serving women well.

What is serving women well when it comes to Title IX is the equal access to facilities, the funding for teams, equivalent salaries. These things are very important.

Proportionality has a track record of not working. Not only is it hurting men, but it is not helping women. When you cut a men's swimming team, you hurt the female athletes who are on the team because they train together, and it affects the culture of the whole team. That is happening across the board. You are seeing track teams—men's track teams—being dropped, men's swimming teams being dropped where they keep the women's teams, and it affects them because they train together.

Mr. BISHOP. My time has expired. Thank you, Mr. Chairman.

Chairman HINOJOSA. The gentleman yields back.

Next, I would like to call on the gentlewoman, Susan Davis, the congresswoman from California.

Mrs. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman.

I apologize for having missed your presentations, and I have a good sense of what you were saying, but I wanted to go back to the issue of women pursuing higher degrees in the STEM area, the STEM degrees, and just if you could help, I guess, all of us understand.

We have been talking a lot about how women can best compete, but it is really more the global competitiveness as well that we are concerned about. How much is that really impacting our ability to compete? Because we do not have women seeking higher degrees, higher STEM degrees, that means we do not have the faculty, that means we do not have the people, really, in front of young women. Beyond that, what do you think is really happening for the country as well in that area that we should be very aware of, or is this a big problem?

Ms. LAYNE. Well, it certainly is a big problem.

For many years now, the majority of Ph.D. degrees in engineering have gone to non-U.S. citizens. In many cases, those people have remained in this country and have contributed greatly to our economic competitiveness and innovation, but we are seeing that actually less and less.

As some of the economies and as some of the countries that have been sending us their best and brightest students have become more productive, many more of these people are going back to their home countries. So we certainly would like to see more U.S. citizens pursuing careers in science and in engineering, underrepresented minorities as well as women. So there are many things that we can do to encourage more participation by U.S. citizens in those careers, and I think those would help men and women as well as the U.S. economy.

Ms. MAATZ. One of the things that I think would be interesting, there was a very well-covered report last year that came out called The Gathering Storm that talked about the fact that the United States is falling behind in terms of STEM education, in terms of people going into those fields and the repercussions it would have for competitiveness and for national security.

One of the things, though, that was interesting, despite all of the enlightening facts in that particular report, was that they really overlooked women and minorities. The notion of if we actually could remove some of these barriers and if we could actually get women and minorities into the STEM fields in the numbers that they should be going into those fields, how does that then change the picture? Because I think if we had that information that would help us in terms of not only building some of the programs that we already have to move women and minorities into the STEM fields but to get the support we need to enlarge them for them to be successful.

AUW has actually asked, together with several of our coalition partners, for there to be another report from the National Academies that actually looks at the whole idea of The Gathering Storm but filters in the whole notion of women and minorities. Because we think if you do that that that improves the picture; and then

that obviously gives us the tools, hopefully, and the resolve to do some of the things that we need to do to get women and minorities into STEM fields.

Ms. GREENBERGER. I think one of the things that is important in the context of Title IX is to realize that there has not been, as was said, the kind of attention to this area that there needs to be. There is a lot of public attention to athletics discrimination because it is hard to miss—it is so visible—but this is an area, the STEM area, where it is less visible and is much more subtle in the kind of barriers and discrimination that is still at play; and, therefore, we should really be making sure that enforcement agencies—the Department of Education, the Office for Civil Rights—should be looking at this area.

As the General Accounting Office study had shown a couple of years ago, our other government agencies that have Title IX enforcement could be looking at Defense Department contractors and all kinds of other educational and training grounds that Title IX addresses to try to encourage this pool. And because the discrimination continues and builds upon itself from the lower grades to the higher grades, to faculty, to promotions, to tenure decisions, to research grants, all of that is a piece that needs to be addressed for the sake of the country as well as for individual women and for people of color. I think urging better Title IX enforcement is very important.

Mrs. DAVIS OF CALIFORNIA. I guess I would ask, at those levels, as you have developed that, all the way up to the higher levels, if there is one place that we should focus as key in terms of legislation, perhaps, or oversight, where would that be? I mean, where do you think the biggest problem lies on that ladder of opportunity?

Ms. MAATZ. In terms of STEM fields particularly?

Mrs. DAVIS OF CALIFORNIA. In terms of STEM fields particularly, yes.

Ms. MAATZ. Well, you know, it is interesting. Because there has been some great work done by groups like Girls, Inc. and Girl Scouts who have talked about how girls really face a barrier when they hit adolescence and the whole peer pressure that comes into play when they might have already developed an interest in STEM kinds of subjects, but then other things—parental pressure, school pressure and teaching, you know, pedagogies as well as their peers—come into play and can really derail girls in their adolescence. I think that is certainly a place that we need to look at that would be particularly important.

I would also, obviously, defer to Peggy.

Chairman HINOJOSA. The gentlelady's time has concluded, and I believe that everyone has had an opportunity to ask questions.

I would like to make some concluding remarks and say that I have enjoyed listening to the witnesses and to the important information that you bring to us here in this 21st century.

I was pleased to hear John Tierney say that he and I had the pleasure—and Bobby Scott—of serving with Patsy Mink, who had a real passion and commitment to opening doors of opportunity for girls and for young women in schools and in colleges. We followed her. We followed her lead. Look at what improvements have been made.

I want to——

Mr. SCOTT. Mr. Chairman.

Chairman HINOJOSA. Yes. I recognize Congressman Scott.

Mr. SCOTT. Mr. Chairman, apparently, you are not going to have a second round of questions, but I did have one question that I had mentioned. That is, what issues may affect elementary and secondary?

I would also like to pose another question for them to answer, if they would please; and that is, when you have programs, STEM programs, to encourage women to get into the STEM fields, do those programs actually work? Do girls actually get into those fields? If you could provide some success stories, we would appreciate it. What can we do to actually accomplish that goal?

Thank you, Mr. Chairman.

Chairman HINOJOSA. All witnesses are allowed to give answers to the questions that Congressman Scott asked. I know that all of the other committees are meeting, and some are members of those committees, so I have to respect their time also to be able to get to those committees.

I will say that it has certainly made me realize that—of my five children, four are daughters and one is a young man. My two older daughters are teachers, and they were rooting for this hearing because they said that they had not been recruited to play sports and that they wish now that somebody had at least recognized that they could have been college players. Whereas, of my two youngest who are now in school, one is a soccer and track star and the other is a basketball and softball star because the older sisters, who are young teachers, have stimulated their interest and told them they could do it. And, sure enough, both of them have straight A's in their academic work and are also beginning to be recognized in that they have taken and have kicked the ball and have shot the basketball and have done those kinds of things. So they are very proud of themselves.

So, with that, I want to say that, as previously ordered, members will have 14 days to submit additional materials for the hearing record. Any member who wishes to submit follow-up questions, as did Congressman Scott, in writing to the witnesses should coordinate with majority staff within the requisite time.

Without objection, this hearing is adjourned. Thank you.

**Prepared Statement of Hon. Jason Altmire, a Representative in Congress
From the State of Pennsylvania**

Thank you, Mr. Chairman, for holding this hearing on Title IX's 35 years of success.

I would like to take this opportunity to recognize my colleague, Representative Mazie Hirono for her work on celebrating the accomplishments of Title IX. Just yesterday, the House passed H.Res. 406, a resolution introduced by Representative Hirono and of which I am a cosponsor. Representative Hirono, I commend you for your leadership and thank you for all of your hard work on this important issue.

Title IX has been remarkably successful in providing new opportunities for women and girls. Nowhere has the impact of Title IX been greater than in female athletics. In 1972, the year Congress passed Title IX, less than 300,000 girls competed in high school athletics. In 2005, 2.95 million girls competed in high school athletics, an increase of approximately 900%.

While these statistics demonstrate that Title IX has been an incredible success, it is important to remember that girls are still not offered all of the opportunities available to boys. This is why Title IX remains as relevant today as it was 35 years

ago. I look forward to hearing how the successes that have been achieved by Title IX can be built upon so this nation can move closer to the ideal of providing equal opportunity to girls and boys.

Mr. Chairman, thank you again, for holding this hearing. I yield back the balance of my time.

[Whereupon, at 11:49 a.m., the subcommittee was adjourned.]

