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Diane Watson

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**Immediate Release**  
**April 30, 2004**

**Contact: Bert Hammond**  
**(202) 225-7084**



### **57 MEMBERS OF CONGRESS JOIN REPRESENTATIVE WATSON IN OPPOSING ADMINISTRATION'S WEAKENING OF TITLE IX EDUCATION PROGRAMS**

Washington, D.C. – 57 members of Congress joined Congresswoman Diane E. Watson (CA-33rd) in sending a letter to the Department of Education opposing its proposed amendments to regulations under Title IX of the Education Amendments of 1972 that substantially expand authorization of single-sex education without ensuring basic protections against sex discrimination.

"Once again, I am troubled and disturbed by an Administration that consistently interprets and promulgates laws and regulations that support a radical agenda," said Congresswoman Watson. "Both Title IX and the United States Constitution allow single-sex education in appropriate circumstances. The Supreme Court has also consistently ruled that gender-based classifications may be used to compensate women for particular economic disabilities and to promote equal opportunities. Despite the Court's clear rulings, the Department's proposed regulations allow schools to rely on stereotypes or parental preferences as permissible bases for excluding one gender from educational options they make available to others. It is fundamentally wrong to assume that just because women have made welcome strides in gender equity that it is appropriate to relax anti-discrimination protections."

The 57 members who signed the letter expressed concern that the proposed regulations would not require schools to identify or reach measurable goals, thereby increasing the potential for civil rights violations, and that Congress had not been consulted before the Department of Education announced its reformulation of Title IX regulations.

Among the signatories are Minority Leader Nancy Pelosi (CA); Hilda Solis (CA), Vice Chair, Congressional Women's Caucus; and Louise Slaughter, Co-Chair, Congressional Women's Caucus.

#### TEXT OF LETTER FOLLOWS:

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

RE: Single-Sex Proposed Regulations Comments

Dear Mr. Marcus:

As members of Congress dedicated to ensuring effective enforcement of our nation's civil rights laws and promoting a quality education for every child, we respectfully express our grave concerns regarding the Department's March 9 Proposed Regulations, which substantially expand authorization for single-sex classes and schools under Title IX of the Education Amendments of 1972. We have fought hard to preserve the integrity of Title IX and its regulations, and we know how critical this law is in ensuring that all students have equal educational opportunities. But even those of us who support single-sex education are deeply troubled by the Department's decision to throw out basic protections against sex

discrimination in these proposed regulations. We urge you to abandon the proposed regulations and to maintain, without change, the current Title IX regulations governing single-sex education.

Both Title IX and the United States Constitution allow single-sex education in an array of appropriate circumstances. For example, the U. S. Supreme Court has consistently ruled that gender-based classifications may be used to "compensate women for particular economic disabilities they may have suffered...to promote equal employment opportunities...to advance full development of the talent and capabilities of our Nation's people." But both Title IX and the Constitution contain strong legal protections against sex discrimination and stereotypes that limit girls' opportunities. The Supreme Court has made clear that gender-based classifications may not rest on, or perpetuate, stereotypes – that is, "overbroad generalizations about the different talents, capacities, or preferences of males and females." Close to 50 years ago, moreover, the Court stated unequivocally that "the vitality of . . . constitutional principles cannot be allowed to yield simply because of disagreement with them." The Brown decision, and its clear recognition that separation of children on the basis of race is inherently unequal, should give us substantial pause before allowing the expansion of sex-based segregation in our schools. But despite the Court's clear rulings, the Department's proposed regulations allow schools to rely on stereotypes or parental preferences as permissible bases for excluding one gender from educational options they make available to the other. The regulations thus create a dangerous and imminent tension between school flexibility and civil rights law, and they expose schools to serious legal liability.

Additionally, we are concerned that the Department has decided to tamper with civil rights law with no mandate to do so from Congress, parents, educators, or the public. The No Child Left Behind Act of 2001 (NCLB) already allows local education agencies to use innovative program funding "to provide same-gender schools and classrooms (consistent with applicable law)," and directed the Department to issue guidelines on how schools could use such funding in a manner consistent with Title IX and the Constitution. The Act did not call for a reexamination and reformulation of Title IX regulations.

The Department's reformulation of these long-standing regulations causes concern in other ways as well, including:

- The proposed regulations do not offer sufficient accountability. The regulations contain no requirement that schools or local educational agencies report to the Department, maintain data on the results of their single-sex programs, or identify or reach measurable goals. This lack of accountability not only opens the door to civil rights violations but is especially dangerous because, as the Department acknowledges, the evidence is incomplete and inconclusive whether its proposed uses of single-sex education will actually benefit students. The research shows that where single-sex programs have had some success, that success may be due not to the sex-segregated environment, but to factors that benefit all children: a focus on core academics, small class size, qualified teachers, sufficient funding, and parental involvement.
- The proposed regulations do not require equal treatment for the gender excluded from a single-sex option. Even where a school concludes – as it must to conform to applicable law – that single-sex education provides a benefit, the proposed regulations would not typically require the school to offer single-sex programs for each gender.

We strongly disagree with the Department's assertion that, simply because educational options for women and girls have improved, it is appropriate to relax anti-discrimination protections. While women and girls have made many welcome strides since Title IX was passed, it is unfortunately true that gender discrimination is alive and well in our nation's schools. Moreover, it is the strong protections of the law, including Title IX and its regulation, that have enabled the advances that have been made. It is ill-advised and dangerous to diminish the very protections that have brought girls and young women so far.

We strongly urge you to abandon the approach of the proposed regulations and instead to maintain current Title IX anti-discrimination regulations in their entirety.

Respectfully,

Co-signers (58): Watson, Tubbs Jones, Lee, Inslee, Van Hollen, Case, Moore, Maloney, Grijalva, McDermott, McGovern, Filner, Owens, Baldwin, Gene Green, DeLauro, Sanders, Norton, Millender-McDonald, Berkley, Slaughter, Sherrod Brown, Wexler, Solis, C Brown, Pelosi, Stark, Jackson Lee, Taucher, C. McCarthy, McCollum, J. Carson, E.B. Johnson, Payne, K. McCarthy, Waters, Woolsey, Napolitano, Schakowsky, Harman, Crowley, Linda Sanchez, Loretta Sanchez, Weiner, Lofgren, Bordallo, Larson, Kilpatrick, Roybal-Allard, Capps, Baca, Lowey, Hooley, George Miller, Christian-Christensen, Tom Allen, Diana DeGette, Marcy Kaptur

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