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Single-Sex Education: Is it enough?

The legislature and school districts should consider a separate standard to separate children other than by gender. There are other ways of learning that could meet the children's' needs, especially those children who do not fit the gender stereotype. While there are many advantages to the newly tested single sex public schools and single sex public classrooms, there are remaining concerns regarding equal treatment and the best education for our nation's children. By looking at the positive and negative effects of past educational systems in comparison with newly implemented educational plans, we can at least come to the conclusion that education is not perfect and must improve constantly. The most notable changes currently involve the public single-sex classrooms and public single-sex schools. It is true that there have been single-sex private schools who effectively education all ages of children for over a century in a range of states across the country. Now we must decide if that is the applicable standard in public education or even possibly if we can separate students more.

Most of what we know about public, single sex education comes from the cases of colleges. By comparing the opportunities of high school students to college students, we can see how younger children are affected differently in single sex environments. First of

all, high schools across the country have a more similar curriculum than colleges do.¹ By comparing the quality or depth of classes that schools offer in the core subjects, the experience and expertise of teachers, and the success of students according to the standardized testing in their state, we could make sure the classes are equal for all schools and all sexes within those schools.²

Furthermore, there is a lack of choice for students to decide which school they go to in high school as compared to the vast amount of public schools a student may choose from to go to college. Most students are confined to go to high school in the area that they live.³ This is based on the fact that the state's primary concern is to supply all of its residents with a suitable high school education in general rather than narrowing the goal to offer options of schools to fit each student's best way of learning.⁴ When looking at it from the context of high schools, the government will not compare greater than a district wide comparison, so it is desirable for districts to offer options of single-sex class and non-single-sex classes to meet all student needs by giving them the choice.⁵

Another comparison of collegiate students to high school students is the difference between how boys and girls learn. Evidence is more compelling of this difference between younger children to learn better and also for them to be less

¹ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation's Students*, 57 Vand. L. Rev. 629, 676 (2004). "Colleges offer highly specific classes and can focus on a standing out in one area like business while another college stands out in engineering."

² Id. at 677.

³ Id. at 678. See also *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 664 (1999) (Kennedy, J., dissenting).

⁴ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation's Students*, 57 Vand. L. Rev. 629, 678 (2004) The state's first concern is supplying all of its residents with a suitable primary and secondary education rather than offering options of schools to suit each person's individual desires."

⁵ Id. at 679.

distracted at a young age.⁶ For example, the first public high school to offer single-sex classes was the Bailey Bridge Middle School who randomly assigned students to classes and ended up with a few single-sex sixth grade classrooms.⁷ These classrooms were not just the typical physical education or sex education classrooms but included many other core subjects.⁸ The school decided to keep the random assignments of single sex classrooms and in fact saw an improvement in academics overall for the students in that grade level and also an improvement in the reduction of discipline necessary.⁹ According to studies, the time when discipline and academic achievement are most controversial, are during the primary and high school educational years when single sex education can have the greatest positive effect.¹⁰ Creating a new style of separating children in classrooms might not help with the discipline reduction if girls and boys are acting out when in the same classrooms.

On the other hand, separating children by their learning style rather than by their gender could solve the issue of children feeling discriminated against. Students, especially females in early adolescences are affected more negatively by discrimination at a young age.¹¹ Apparently, older students are more discerning because they have had more time to develop self-awareness and self-esteem in certain areas.¹² One of the ideas behind the single-sex school is based on an assumption that coeducation is bad for girls

⁶ Id. at 670.

⁷ Frances Elizabeth Burgin, *"Fire Where There Is No Flame:" the Constitutionality of Single-Sex Classrooms in the Commonwealth*, 13 Wm. & Mary J. Women & L. 821, 838-839 (2007)

⁸ Id. at 838-839.

⁹ Id.

¹⁰ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation's Students*, 57 Vand. L. Rev. 629, 670 (2004)

¹¹ Id.

¹² Id.

in particular.¹³ That is not entirely true. The problem is not so much that girls do not learn well but the way that coeducational schools currently run.¹⁴ There are years of research explaining how teachers treat males and females differently at all levels of education, not just as the younger ages.¹⁵

One way that the government has tried to solve the issue of discrimination is with the No Child Left Behind Act. This Act opened the doors to experimental education and really encouraged schools all over the U.S. to offer some sort of single-sex education for students.¹⁶ The regulations under this Act encompass the Supreme Court's precedent which provides that once a school district with federal funding establishes single-sex classrooms or schools, it must offer a "substantially equal" opportunity for the other sex.¹⁷ Specifically, facts show that during the 2005-2006 school year, over 193 school districts offered single-sex classes in coed schools as a choice to students enrolled.¹⁸ This Act allows for these districts to offer single-sex classes backed by federal funding in order to improve the educational system overall.¹⁹

¹³ Cynthia Fuchs Epstein, *The Myths and Justifications of Sex Segregation in Higher Education: VMI and The Citadel*, 4 DUKE J. GENDER L. & POLY 101, 111 (1997) (stating that little or no consideration is given to preparing men to live and work in a world that is increasingly integrated by sex).

¹⁴ Bernice R. Sandler, *Sexual Harassment and the First Amendment*, 3 TEMPLE POL. & CIV. RTS. L. REV. 51, 52-54 (1993) ("Title IX is the law that covers employees if there are more than fifteen people in the workplace, and prohibits discrimination on the basis of race, color, religion, national origin and sex")

¹⁵ THE CHILLY CLASSROOM CLIMATE: A GUIDE TO IMPROVE THE EDUCATION OF WOMEN 7 (1996) "We have years of research showing that teachers unwittingly treat males and females differently at all levels of education, encouraging males more, giving them more attention, more feedback, more praise, more criticism, more help, more eye-contact and less interruptions."

¹⁶ Frances Elizabeth Burgin, *"Fire Where There Is No Flame:" the Constitutionality of Single-Sex Classrooms in the Commonwealth*, 13 Wm. & Mary J. Women & L. 821, 824 (2007)

¹⁷Id. at 832-33.

¹⁸ Id. at 824.

¹⁹ Id. at 833.

Who's to say that federal funding would not be better spent on giving students a test to find out what kind of learner they are (visual, listener, kinesthetic) and divide the students into classrooms that way. Considering the fact that not all commentators agree that single-sex opportunities for both sexes are constitutionally necessary, they face great skepticism.²⁰ Overall, schools wishing to institute single-sex classes should make sure to establish classes or schools for both sexes in order to avoid battles over which remediation is the goal of a program and which remediation is even necessary.²¹ This would be litigation eating up the costs of a school district which would be a waste of funds necessary for reaching the compelling interest of a good education for all.²²

On another note, single-sex schooling faces some hard limits and demands to meet the Equal Protection Clause standards. While focusing on single-sex programs for young students should ultimately make it easier for a public school district to stay within the bounds of the Equal Protection clause, the possibility of negative effects described above could create the opposite effect.²³ In fact, gender-based state actions require heightened scrutiny as a government action remains unconstitutional unless it “serves

²⁰ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation's Students*, 57 Vand. L. Rev. 629, 684 (2004). “The State in Garrett aimed to improve the education of boys in a failing school--an important state interest. The court was troubled, however, by the fact that the educational system was failing both sexes, yet the district attempted a solution only for boys. The court took the school board's approach to indicate that its members believed girls were the problem with the school system. The court refused to accept that the means chosen, which effectively focused only on addressing the problems facing boys, could be substantially related to the government interest of improving education for boys. With a similar opportunity for girls, the court may have been more persuaded of the connection between the means chosen and the objective of improving education.³¹¹ Instead, the court's decision led the district to abandon its plan to pursue this sort of innovative approach to improving inner-city education.”

²¹ Id. at 685.

²² Id. at 685.

²³ Id. at 681.

an important governmental objective.”²⁴ To meet the standard, the action must be substantially related to achieving those objectives and to show that distinguishing between the sexes serves an important governmental objective could get very messy.²⁵ Not to limit the problems, one issue is the fact that the Court condemns actions that generally reinforce “stereotypical and over-generalized notions” about men and women’s abilities.²⁶ As we have seen discussed over and over, *Brown v. Board of Education*, emphasizes the psychological effects and intangible factors that can affect students in both race and gender discrimination situations.²⁷ The Court in *Brown* even indicated that the message of separation in general is an evil against the Equal Protection Clause.²⁸ By creating classrooms based on type of learning for a student, the scrutiny would most likely be much lower than the gender-based heightened scrutiny.

Yet another issue is even if schools can adequately meet the scrutiny under the Equal Protection Clause, they still have to be able to provide an equal opportunity fairly to both sexes. Under Title IX, the recipient schools of federal aid must take affirmative action to overcome the effects of conditions which cause “limited participation therein by persons of a particular sex.”²⁹ Some studies show that our society favors boys while

²⁴ Frances Elizabeth Burgin, “*Fire Where There Is No Flame: the Constitutionality of Single-Sex Classrooms in the Commonwealth*,” 13 Wm. & Mary J. Women & L. 821, 825-26 (2007)

²⁵ Id. at 825-26.

²⁶ Id.

²⁷ Benjamin P. Carr, *Can Separate Be Equal? Single-Sex Classrooms, the Constitution, and Title IX*, 83 Notre Dame L. Rev. 409, 413 (2007)

²⁸ Id. “As one commentator noted, “[E]ven if the tangible aspects of the educational program are equal, the intangible message of the separatism itself was at the heart of *Brown*.”²¹ The Court indicated that the message of separatism--that one group is subordinate to another--was the evil against which the Equal Protection Clause protected.²² As the focus of the Court’s equal protection jurisprudence shifted from racial discrimination in *Brown* to later cases involving gender, the reliance on intangible factors would continue to animate much of the Court’s decision making.”

²⁹ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation’s Students*, 57 Vand. L. Rev. 629, 682 (2004) “Some commentators appear to believe that remedial objectives are applicable only to all-female classes, as

others show that in fact, boys are not favored over girls and especially not those boys who are underprivileged and barely literate.³⁰ Some districts use remedial arguments to justify a narrow range of all-male classes created that do not have an equal female class created as well.³¹ However, this argument is a weak one for which social scientists and other commentators have notes that on a consensus, girls face more discrimination.³²

Remedial measures might give another potation justification.³³ During litigation in Virginia, the Court stated that compensation to women for particular economic disabilities they have suffered might be justified under the Constitution.³⁴ Especially in secondary schools, evidence shows that in high schools, there are an academic achievement gap and a self-esteem gap between girls and boys in certain subjects, science and math.³⁵ This is because the girls were not pushed as hard in those subjects.³⁶ It seems as though the issue here could be resolved not by separate classrooms but by teachers consciously focusing equally on each gender as there is no data that teachers will not push the boy's classes harder than the girl's classes if the classes are split into single-sexes.

women historically have been discriminated against in education. If a state presents evidence both of the extent to which girls have faced discrimination in classrooms and of girls' need to be assisted to achieve in the fields studied in those classrooms, a state could meet the remedial exception currently included in Title IX and recognized in MUW. Under some circumstances, evidence would exist to support at least some single-sex classes for girls on a remedial basis, even absent such classes for boys.”

³⁰Id. at 683.

³¹ Id. 683

³² Id.

³³ Frances Elizabeth Burgin, *"Fire Where There Is No Flame:" the Constitutionality of Single-Sex Classrooms in the Commonwealth*, 13 Wm. & Mary J. Women & L. 821, 835 (2007)

³⁴ Id. at 835.

³⁵ Id.

³⁶ Id. “In secondary schools, empirical evidence suggests a “gap in academic achievement and self-esteem between girls and boys in science and math” based on years of women not being pushed to succeed in those subjects. “

If the single-sex classes are such a good idea, they must be an option rather than a mandated way of learning.³⁷ The first risk associated with a forced single-sex classroom is the generalization of girls and their learning styles. A school district risks forcing all girls or even all boys into a classroom that is run in a way best for that gender stereotype.³⁸ Since not all children fit into their stereotype, the classroom is less effective for those children who do not fit in.³⁹ In remedying this risk, the schools will have to not pay into stereotypes, but is that not why they break up the classes into single-sex in the first place.⁴⁰ This is a major issue. The second risk is that separate but equal is not exactly equal if children and their families do not get the choice of pursuing another type of education while in other districts children might have the choice of a coed or single-sex education.⁴¹ Finally the last risk is generally about the lack of choice. Forcing children into single-sex classes undermines one of the strongest arguments in favor of single-sex education, that parents should be able to elect what is best for their children.⁴² This is supported by the fact that President Bush supported the No Child Left

³⁷ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation's Students*, 57 Vand. L. Rev. 629, 685 (2004). "Mandating single-sex classes as opposed to providing an option for such classes presents additional problems for a school district, and would be barred under the proposed Title IX regulations."

³⁸ Id. at 685

³⁹ Id.

⁴⁰ Frances Elizabeth Burgin, "Fire Where There Is No Flame:" *the Constitutionality of Single-Sex Classrooms in the Commonwealth*, 13 Wm. & Mary J. Women & L. 821, 833 (2007) "The single-sex initiatives should seek to establish equality between the sexes, rather than play into negative stereotypes. In particular, separate classrooms for women cannot be "based on stereotypes about girls' underachievement."

⁴¹ Ashley Elizabeth Johnson, *Single-Sex Classes in Public Secondary Schools: Maximizing the Value of A Public Education for the Nation's Students*, 57 Vand. L. Rev. 629, 685 (2004)

⁴² Id. at 686.

Behind Act in order to offer greater options to parents with regards to their children's education.⁴³

Even considering the Department of Education's release of new Title IX regulations in 2006, schools still must meet strict requirements in order to provide single-sex classes or extracurricular activities.⁴⁴ These requirements are:

- (1) The single-sex class or activity must be based on an "important objective,"
- (2) the class or activity must be implemented in an "evenhanded manner," and
- (3) the class or activity must be completely voluntary.
- (4) The school must also conduct periodic evaluations of whether the class or activity meets the requirements of the regulations.⁴⁵

The requirements seem to be attainable through careful planning in not only the school districts overall but also in each school and more specifically each classroom. The overall education of the students in our country is a huge focus for which the government has put many standard in place and for which it continues to improve. Through the changes already put in place and with more changes, the educational system will continue to improve. These are tough requirements for which another type of separating children could possibly create better effects with less potential hoops for the school districts to jump through.

⁴³ See George W. Bush, No Child Left Behind 1-6 (2001), <http://www.ed.gov/nclb/overview/intro/presidentplan/proposal.pdf>.

⁴⁴ Benjamin P. Carr, *Can Separate Be Equal? Single-Sex Classrooms, the Constitution, and Title IX*, 83 Notre Dame L. Rev. 409, 430 (2007)

⁴⁵ 34 C.F.R. § 106.34(b)(1)(i)(A).

In conclusion, the government's cohesion with the school districts of this country has created with an ideal system to education students in an effort to give them a great education. As there are many positive noted regarding this single-sex classroom or single-sex schooling, the negative effects psychologically on the children are yet to be completely determined. Since this idea of single-sex public education is relatively new, we have not seen the children in these types of educational systems grow up. Neither will we be likely to gather any real statistical data for how it impacts these children's educations overall as there are many other factors that will go into their education over their life span. In hopes of a better education for all children, I think the government could go a step further by not only separating the children by gender but further separating them into classes based on learning style if there are enough children to make up multiple classes of each sex. To incorporate a way for children to not only choose the other students in their classroom but to actually choose how they will be learning on a daily basis would further support the cause of the best education possible for each student.