



May 21, 2012

David Theoharides, Sanford School Department Superintendent
c/o Daniel Rose, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600,
Portland, ME 04101-2480

Re: Willard School Single-Sex Classes

Dear Superintendent Theoharides,

Under the United States Constitution, the Sanford School Department may not provide any single

The documents produced also suggest that these gender stereotypes were incorporated into the curriculum in the single-sex classrooms. The presentation notes that an “[o]bjective of the program is to create a safe learning environment where each gender is able to reach his/her potential by having. . .the students be more mindful of what their culture says is appropriate for each gender.” In the description of the “Single-Gendered Sixth Grade Classroom Pilot,” the description states that “[i]nstruction may best be differentiated and enhanced through the exploration and tailoring of how each gender learns.” Another document suggests how this played out in the boys and the girls’ classrooms: the Willard School December News describes the sixth-grade girls class: “young ladies have developed some important routine [] for themselves one [] is a daily cup of cocoa as they read the Portland Press Herald and discuss local, national and global events.” Over on the boys’ side, there are different routines: “The class has created an exercise area within the class and all the young men have the opportunity to exercise . . .Ms. Wagenfield’s class has signed up with the NFL Experience which is a free program sponsored by the National Football League where students can earn points towards

improved academic or behavioral outcomes. The district produced only one 2009 research report from the National Association of Elementary School Principals, _____, in which the author concluded that the results of existing studies were “equivocal” and cautioned that schools should “have a clearly articulated rationale and specific program goals before implementation efforts begin”—both of which were absent here.

2. The Willard School program appears to violate the statutory prohibition in Title IX on segregation on the basis of sex within coeducational institutions, as well as the implementing regulations of numerous regulatory agencies from which the Sanford School Department receives federal funds.

Under Title IX, “No person in the United States shall, on the basis of sex, be excluded from participation in . . . any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a). Separation of students by sex within coeducational institutions violates this prohibition on discrimination. Accordingly, numerous federal agencies have promulgated regulations to implement this Title IX mandate. For example, regulations issued by the United States Department of Agriculture (USDA) flatly prohibit single-sex classes. 7 C.F.R. § 15a.34 (“A [USDA funding] recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis . . .”). USDA regulations apply to all Maine schools as a result of their participation in the USDA-funded school lunch program.

3. The Willard School program appears to violate regulations promulgated by the United States Department of Education.

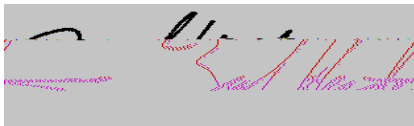
While Title IX regulations promulgated by the United States Department of Education permit sex segregation under certain limited circumstances as a matter of federal enforcement of Title IX by the Department, its regulations require at a minimum that any single-sex class within a coeducational school must be based on specific, identified objectives; must be completely voluntary; must ensure that a substantially equal coeducational option is available;⁴ and must be periodically evaluated “to ensure that single-sex classes or extracurricular activities are based

20 U.S.C. § 7215(a)(23). For the reasons discussed above, the program at the Willard School does not satisfy that requirement.

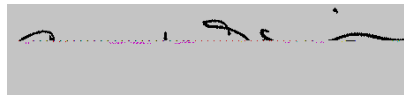
In light of these serious legal concerns, we therefore respectfully request that the Sanford School Department agree to cease all single-sex programs and activities with the exception of those permitted under Title IX by the start of the next school year. A proposed agreement is enclosed for your consideration. Should the Board fail to agree to take the steps outlined therein, the ACLU will consider pursuing legal action, including the filing of a lawsuit and/or an administrative complaint with the pertinent federal agency or agencies.

We expect your response no later than June 4, 2012.

Very truly yours,



Zachary L. Heiden,
Legal Director, ACLU of Maine



Galen Sherwin,
Staff Attorney, ACLU Women's Rights Project

ENCLOSURE