



September 14, 2007

The Honorable George Miller
Chairman
House Committee on Education

The Honorable Howard P. "Buck" McKeon
Ranking Member
House Committee on Education

The Honorable Dale E. Kildee
Chairman
Subcommittee on Early Childhood,
Elementary and Secondary Education

The Honorable Michael Castle
Ranking Member
Subcommittee on Early Childhood,
Elementary and Secondary Education

Dear Representatives:

On behalf of the National Women's Law Center, an organization that, for nearly 35 years, has worked to expand the possibilities for women and girls in the areas of education and employment, family economic security, and health, we are writing to provide comments on the discussion drafts of the No Child Left Behind Act released by the Committee on August 28, 2007 and September 6, 2007. We appreciate this opportunity to offer input on these important drafts and look forward to working with the Committee in the upcoming weeks as it finalizes the legislation.

In general, there are numerous welcome components of the discussion draft, including the reauthorization of the Women's Educational Equity Act and the draft's initiatives to improve the participation of women and minorities in science, technology, engineering and mathematics disciplines. We focus here on three of the areas addressed in the discussion draft for which we have specific recommendations for additional language.

➤ ***High School Graduation Rates.***

We strongly support the steps taken by the Committee to further address the high school graduation crisis. As we have explained in earlier letters to the Committee, high school dropouts are less likely to be employed and more likely to be dependent upon public support programs than students who obtain high school diplomas; these consequences are particularly severe for women who leave school early. Thus, we appreciate that the discussion draft provides for a clear definition of graduation rates and that it takes steps to increase graduation rate accountability. We also commend the Committee's plan to maintain requirements for disaggregation of graduation rate and AYP data by gender, race, disability, English language learner, migratory status and economically disadvantaged status.

Nonetheless, we have a few concerns that we hope can be addressed as the Committee continues to make revisions to the draft. To begin with, although all collected

data must currently be disaggregated, we want to emphasize the importance of requiring that all data, for each of NCLB's reporting requirements, also be cross-tabulated. Although disaggregating data exposes disparities between genders or among different racial or ethnic groups, cross-tabulation of disaggregated data offers critical insight for parents, educators and policymakers into whether educational systems are adequately serving more refined subgroups of students and how their situations might be improved. For example, cross-tabulation of graduation data will enable schools and policymakers to track the graduation rate of Hispanic girls and compare it to the graduation rates of Hispanic boys or non-Hispanic girls – and to tailor interventions accordingly.

Second, neither NCLB nor the discussion drafts requires that schools track the educational progress of a critical subgroup – 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 in particular communities. This would require that, in Section 1124 the Committee insert “pregnancy status, and parenting status” on page 324 of the Title I Discussion Draft, line 17, following “economically disadvantaged.”

In addition, to provide the support that pregnant and parenting students need to stay in school, we recommend that the Committee amend Section 5421, the Subpart on Elementary and Secondary School Counseling Programs, to allow funds to be used for training for counselors, teachers, principals, and specialized instructional support personnel on the hurdles faced by pregnant and parenting students. This would require that the Committee insert “barriers faced by pregnant and parenting students” on page 103 of the Title III-XI Discussion Draft, line 24, following the phrase “on those students.”

➤ ***High School Athletics Accountability.***

A number of studies have shown that after-school programs improve graduation rates and academic achievement; thus, it is critical that all students have full access to these programs, particularly athletics. Although Title IX of the Education Amendments of 1972 requires that male and female students receive equal athletic opportunities, too many schools and school districts around the country provide fewer athletic opportunities to their female students.

To hold schools accountable for providing equal athletic opportunities, it is important that Congress incorporate into NCLB data reporting requirements for high schools that are similar to those applicable at the post-secondary level. A bipartisan bill, H.R. 901, has already been introduced in this Congress to require secondary schools to make publicly available information about the athletics benefits and opportunities they provide to their male and female students. The most updated version of that bill requires school districts to report, by race and gender, athletic participation and team expenditures (including expenses from outside funds). We have attached a marked-up version of H.R. 901 for your convenience.

The data requirements included in H.R. 901 are consistent with NCLB's demand for greater accountability at the secondary school level and are integrally related to the goal of increasing student achievement. We urge the Committee to include in its draft of NCLB the requirements for high school data collection and reporting that are set forth in the attached document. These data will make more transparent the extent of school compliance with Title IX's nondiscrimination mandates.

➤ *Safe and Drug Free Schools*

Research on the risk factors that affect a child's ability to achieve high school graduation has indicated that school safety plays a role in whether students complete school. We appreciate that the discussion draft takes steps to ensure the safety of school environments and, as is particularly relevant to female students, to make schools free of harassment and bullying. But we also recommend that the bullying and harassment provisions in the Safe and Drug Free Schools section of the bill expressly identify the bases on which bullying and harassment are prohibited, including race, national origin, sex, disability, religion, sexual orientation and gender identity. Moreover, to ensure adequate protection against harassment and to maintain consistency among schools, the bill should also be strengthened to clearly define the conduct that amounts to harassment and bullying. For harassment, we strongly recommend that the definition track the Department of Education Office for Civil Rights' definition of harassment – namely, conduct on a prohibited basis that affects one or more students and adversely affects the ability of a student to participate in or benefit from the school's education programs or activities because the conduct as reasonably perceived by the student is so severe, persistent, *or* pervasive. Finally, the Committee should make clear that this language does not modify and is in addition to Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. We have attached technical corrections to the Safe Schools Improvement Act (H.R. 3132) that apply these changes, which have been approved by the coalition supporting that Act.

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In sum, the Center believes that all children should have equal access to high quality education programs and that concentrated poverty, race, gender, disability, English language learner status, and parenting responsibilities should not stand as barriers to student achievement. We strongly believe that these changes will assist in meeting these goals. For additional information, please contact Jocelyn Samuels, Vice President for Education and Employment or Fatima Goss Graves, Senior Counsel at 202-588-5180.

Sincerely,



Jocelyn Samuels
Vice President for
Education and Employment



Marcia D. Greenberger
Co-President