

**Testimony of Fatima Goss Graves  
Vice President for Education and Employment  
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Before the Council of the District of Columbia  
April 23, 2015**

My name is Fatima Goss Graves and I am the Vice President for Education and Employment at the National Women's Law Center.<sup>i</sup> Since Congress enacted Title IX of the Education Amendments of 1972, the Center has worked to advance opportunities for women and girls in education. I appreciate the opportunity to testify before the Council of the District of Columbia to offer our input regarding the Empowering Males of Color Initiative (EMOC).<sup>ii</sup>

EMOC includes a \$20 million plan designed to increase the academic performance of Black and Latino boys through a \$14 million partnership with Urban Prep Academies to bring an all-boys public school to Ward 7 or 8; \$5.5 million in innovative grants to improve academic and social outcomes of boys across the District; and a \$500,000 mentoring program to increase literacy.<sup>iii</sup> According to the District, its decision to develop this initiative was based on data revealing that Black and Latino students are more likely to fall behind White, Asian, and Multiracial students in several indicators of academic success and more likely to be pushed out of and dissatisfied with school.<sup>iv</sup> The important data analysis conducted by the District highlights the educational needs of boys of color, and we applaud the District for recognizing that there must be a more targeted effort to address the needs of its Black and Latino students. However, nothing in the analysis suggests that the initiative should implement sex-exclusive programs. To the contrary, the data show that the District has a long way to go before it is effectively meeting the needs of girls of color.

Furthermore, there are no conclusive data showing that single-sex education increases achievement for boys or girls. In fact, many single-sex programs have been criticized for relying on debunked science about supposed gender-based differences in cognitive abilities, promoting harmful sex stereotypes about the preferences and talents of boys and girls,<sup>v</sup> and raising potential enrollment issues for transgender and gender-nonconforming students.<sup>vi</sup> Additionally, the sex-exclusive approach of EMOC implicates federal and local civil rights laws, including the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution,<sup>vii</sup> Title IX of the Education Amendments of 1972,<sup>viii</sup> and the D.C. Human Rights Act.<sup>ix</sup> Rather than relying on the unproven model of sex-exclusive education, we ask the District to expand the initiative to include Black and Latina girls and prioritize taking on systemic challenges that lower the outcomes for both boys and girls of color in school. By doing so, the District can seize this opportunity to lead other states and

districts and show that an initiative to improve educational outcomes can focus on identifying and addressing needs by race and gender together, without excluding either sex.

## **I. DATA AND EDUCATIONAL POLICY CONCERNS DEMONSTRATE A NEED TO FOCUS ON BOTH GIRLS AND BOYS OF COLOR.**

There is no evidence that only boys of color would benefit from the types of targeted interventions included in EMOC. To the contrary, data compiled by the District of Columbia Public Schools (DCPS) show similar gaps in achievement for both girls and boys of color. These data suggest that the barriers students of color face relate to under-resourced schools and communities, which is a problem that cannot be fixed with a sex-exclusive approach. Furthermore, troubling national trends indicate that girls of color—especially African American girls—are at high risk of being pushed out of school and into the juvenile justice system and low-wage work, in part due to excessive disciplinary practices.

### **a. The District’s Data Highlight a Serious Need to Focus on *All* African American and Latino Students.**

Girls of color in the District—particularly Black girls—have a critical need for targeted intervention. According to the District’s own data, with the exception of Black boys, Black girls have the lowest proficiency rates in math—lower than every subgroup of girls and lower than Latino boys.<sup>x</sup> Only 37 percent of Black boys, 45 percent of Black girls, 55 percent of Hispanic boys, and 61 percent of Hispanic girls are proficient in math, compared to 91 percent of White boys and 93 percent of White girls. Similarly, Black girls enroll in Advanced Placement (AP) classes at lower rates than Latino boys (24 percent versus 31 percent),<sup>xi</sup> and the AP exam pass rate is virtually identical for Black and Latino students regardless of gender. The AP exam pass rates are between 10 and 20 percent for Black students and just under 40 percent for Hispanic students.<sup>xii</sup> In comparison, 65 percent of White girls and 61 percent of White boys enroll in at least one AP course<sup>xiii</sup> and the AP exam pass rate for both groups is between 70 and 80 percent.<sup>xiv</sup> In addition, reading proficiency rates for Black girls are comparable to the rates for Latino and Black boys. Only 46 percent of Black girls and 54 percent of Hispanic girls are proficient in reading compared to 32 percent of Black boys, 43 percent of Hispanic boys, 89 percent of White boys, and 94 percent of White girls.<sup>xv</sup>

School climate also adversely affects both boys and girls of color in the District. In the 2013-14 school year, Black girls accounted for 35 percent of suspensions in DCPS, compared to the four percent of suspensions that consisted of Latino boys.<sup>xvi</sup> That’s a larger share than any other group of girls, and nearly nine times the share of Latino boys.<sup>xvii</sup> In fact, Black children collectively made up 93 percent of all student suspensions in the 2013-14 school year even though they are only 68 percent of the DCPS student population.<sup>xviii</sup> Additionally, at 87 percent and 92 percent, Black and Latina girls have the same relatively low rates of attendance as Black and Latino boys, respectively.<sup>xix</sup> In comparison, White students have an in-seat attendance rate of 95 percent.<sup>xx</sup>

Black children on average miss 22 days of school and Hispanic students miss on average 13.5 days, compared to the nine days that White children miss on average.<sup>xxi</sup> Additionally, African American girls reported being dissatisfied with school at the same rate as African American boys.<sup>xxii</sup> A single-sex initiative that specifically targets only the needs of Black and Latino boys will not close the real and persistent achievement gaps that Black and Latina girls face in District schools.

**b. Resource Inequity Plays a Major Role in the Educational Success of Students of Color—Boys and Girls Alike.**

Generally speaking, girls and boys who live in the same communities are affected by the same school resource disparities. The correlation between attending a high-poverty, racially isolated (high-minority) school and lack of access to quality school resources is strong; in fact, research shows that concentrated poverty magnifies issues associated with poverty in general, including school quality.<sup>xxiii</sup> Racially isolated and high-poverty schools that have fewer resources than other schools have more difficulty recruiting and retaining qualified and experienced teachers.<sup>xxiv</sup> Racially isolated schools also have less access to rigorous academic programs or after-school enrichment activities.<sup>xxv</sup> All of these factors take a toll on African American and Latino students and can affect their ability to be successful in school.

African American children are also more likely than white children to have teachers who do not meet state licensure and certification requirements. Recent national data show that nearly seven percent of the country's African American students—over half a million students—attend schools where 20 percent or more of their teachers have not yet met state certification or licensure requirements.<sup>xxvi</sup> Additionally, teachers in high-minority and high-poverty schools are less likely to have the necessary materials available for their classes than those in low-minority and low-poverty schools.<sup>xxvii</sup>

The District has the added challenge that a number of racially isolated, high-poverty schools are under-enrolled, making it difficult to provide the same range of course offerings and resources at all schools. The recent Washington Post article on the significant disparities between libraries in the District's schools highlights this point. Some schools in the District had only a couple of books per student and no librarian, while other schools were "swimming in books."<sup>xxviii</sup> These resource disparities also play in course offerings. When we compared just the AP courses offered in racially isolated Ward 8 schools to a better resourced Ward 3 school, the difference is stark. In 2011, Anacostia High School, which is located in Ward 8, had a total student enrollment of 836—almost half of the 1,645 students Woodrow Wilson High School in Ward 3 enrolled at the time.<sup>xxix</sup> During that same period, Anacostia only offered seven AP courses compared to Wilson's 25 AP courses.<sup>xxx</sup> That same year, no students at Anacostia took AP math compared to the 77 students enrolled in that course at Wilson.<sup>xxxi</sup> The same low enrollment and limited course offerings applied to Ballou High School—also located in Ward 8—which in 2011 enrolled 1,060 students and offered only seven AP courses.<sup>xxxii</sup>

Data also suggest that even within under-resourced, racially isolated schools, girls have fewer extracurricular and athletic opportunities than boys. For example, girls at heavily minority high schools have only two-thirds of the opportunities to play sports as boys at heavily minority schools do.<sup>xxxiii</sup> When compared to students at heavily white schools, girls of color in racially isolated schools have only 39 percent of the opportunities to play sports as girls at heavily white schools do and only 32 percent of the opportunities to play sports as boys at heavily white schools do.<sup>xxxiv</sup> The systematic failure to treat girls, and especially girls of color, in an equitable manner deprives them of the many positive health, academic and employment outcomes associated with playing sports.

The data identified by EMOC highlights the serious need to promote resource equity and provide much needed resources to schools and communities that historically have lacked components essential to the success of students of color.

**c. Girls of Color—Particularly African American Girls—Are Increasingly Pushed Out of School and Into the Juvenile Justice System and Low-Wage Work.**

Larger nationwide trends indicate that girls of color—particularly African American girls—are increasingly becoming involved in the school-to-prison pipeline. For example, while African American males are the most likely to be excessively disciplined in school, African American females too are disproportionately suspended and expelled. In fact, an analysis of 2006-07 data on the suspension of middle school students showed that African American girls in urban middle schools had the fastest growing rates of suspension of any group of girls or boys.<sup>xxxv</sup> In the 2011-12 school year, 12 percent of all African American girls in grades pre-K through 12 were suspended from school—a rate higher than any other group of girls, and higher than white, Latino, and Asian American boys.<sup>xxxvi</sup>

African American girls are also disproportionately involved in the juvenile justice system. According to the 2009-10 Civil Rights Data Collection (CRDC), although African American girls represented less than 17 percent of all female students, they comprised 31 percent of girls referred to law enforcement and approximately 43 percent of girls who have experienced a school-related arrest.<sup>xxxvii</sup> In fact, girls are the fastest growing segment of the juvenile justice system population.<sup>xxxviii</sup>

The EMOC could take a range of steps to reverse the excessive discipline trend for both boys and girls of color. For example, the District could ban the use of out-of-school suspensions for students in its early childhood and elementary school programs; it could conduct universal mental health screenings and refer students with mental health needs to community resources; it could train school staff on implicit bias and stereotypes; it could train school staff to identify signs of unaddressed trauma that can lead to behaviors that draw a disciplinary response and ensure that students with a need get trauma-informed services; and it could expand its restorative justice, positive behavior supports, and social and emotional learning programs.

Efforts to help girls of color succeed in school are critical, because women of color are disproportionately represented in the low-wage workforce.<sup>xxxix</sup> The less education a person receives, the more likely she is to earn the minimum wage or less. African American women without a high school diploma make up a share of the low-wage workforce that is 4.5 times their share of the overall workforce; those with a high school diploma or its equivalent make up a share of the low-wage workforce that is 2.9 times their share of the overall workforce; even those with some college education or an associate's degree are disproportionately represented in the low-wage workforce. It isn't until an African American woman has a bachelor's degree or more that she is no longer disproportionately represented in the low-wage workforce.<sup>xl</sup> Furthermore, education levels have an extraordinary impact on poverty; in 2012, while African American women overall had higher rates of poverty than white men and women at every level of educational attainment, 49 percent of African American women ages 25 and older without a high school diploma were living in poverty, compared to 29 percent with a high school diploma and 8 percent of with a bachelor's degree or higher.<sup>xli</sup>

## **II. THE EMOC INITIATIVE RAISES CONCERNS ABOUT ACCESS TO EQUAL EDUCATIONAL OPPORTUNITIES FOR ALL STUDENTS AS REQUIRED BY THE U.S. CONSTITUTION, AS WELL AS FEDERAL AND LOCAL CIVIL RIGHTS LAWS.**

We are concerned that by pursuing a sex-exclusive initiative, the District is not fulfilling the promise of equal educational opportunity enshrined in federal and District law. Specifically, EMOC as currently proposed implicates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution (as applied to the District through the Fifth Amendment), Title IX of the Education Amendments of 1972, and the District of Columbia Human Rights Act (DCHRA).

The District must demonstrate that the justification proffered for limiting EMOC programming to only boys is exceedingly persuasive and can withstand scrutiny under the Equal Protection Clause of the Fourteenth Amendment.<sup>xlii</sup> As noted above, both girls and boys of color are falling behind on indicators of academic achievement. And the District has not explained how taking a single-sex approach achieves the governmental objectives of increasing academic performance for boys of color, or how single-sex education is substantially related to increasing performance for boys of color.<sup>xliii</sup> These explanations must be given before implementation, not post-hoc<sup>xliiv</sup> and must not be based on impermissible and overbroad generalizations about the different talents, capacities, or preferences of boys and girls.<sup>xlv</sup> It is also concerning that the District does not offer a substantially equal co-educational or all-girls equivalent to Urban Prep as required to avoid a violation of the Equal Protection Clause.<sup>xlvi</sup>

The lack of a substantially equal alternative to EMOC for girls of color also implicates a possible violation of Title IX.<sup>xlvii</sup> Urban Prep will be the only college preparatory school located in Ward 7 that will be open to all students regardless of academic achievement. The alternative, comparable options offered by DCPS are either selective enrollment schools that require applicants to have a

minimum GPA or meet other academic qualifications to qualify for admissions (i.e., Benjamin Banneker High School and School Without Walls); a specialized arts school (i.e., Duke Ellington High School for the Arts); or require residency within the boundaries of Wilson High School, which is not in Ward 7 or 8 and has far fewer children of color than Ward 7 or 8.<sup>xlvi</sup> Urban Prep’s open admissions policy could provide boys in Southeast DC who have the potential—but not the current GPA—a pathway to college. Girls of color with the same potential should have the same or a substantially equal pathway to a postsecondary education.

We also disagree with the Attorney General’s assertion that the educational benefits of EMOC are substantially equivalent to the New Heights Program.<sup>xlix</sup> To begin with, the three-year \$20 million investment that comes with EMOC dwarfs the \$3.9 million the District is likely to spend on New Heights in the same period.<sup>l</sup> In addition, New Heights, which is available to all student parents regardless of gender, only benefits a subset of girls and boys—those who are pregnant or parenting. New Heights does not cater to the needs of Black and Latina girls who do not have parenting responsibilities. Finally, although New Heights’ goal of encouraging student parents to graduate high school is important,<sup>li</sup> it is not an academic program and thus does not measure up to what EMOC is offering: a mentorship program designed to increase literacy; an innovative grant program designed to improve academic outcomes for boys of color; or Urban Prep’s goals of inspiring students of color to go to college and become leaders in their communities. In a time where women are two-thirds of low-wage workers, nearly half of such workers are women of color,<sup>lii</sup> and a college education is necessary to gain access to higher-paying careers, we should inspire not only teen parents, but all girls of color to achieve more.

Under the DCHRA, it is unlawful for an educational institution to “deny, restrict, or to abridge or condition the use of, or access to, any of its facilities, services, programs, or benefits of any program or activity to any person otherwise qualified” based on sex.<sup>liii</sup> Notably, there is no exemption for single-sex schools under the Act.<sup>liv</sup> States and local governments can and often do provide greater protections than what is provided in federal law,<sup>lv</sup> and the lack of an exemption in the DCHRA for single-sex schools indicates a deliberate intent to prohibit single-sex schools in the District.

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We applaud the District’s desire to bring a high-quality, college preparatory school to Ward 7 and employ other interventions to help boys of color succeed. The EMOC initiative has drawn attention to gulf-sized educational disparities in the District—disparities that are reflected in educational outcomes and school climate. But in the proposed \$20 million plan, the District misses the opportunity to tackle many of the underlying reasons behind poorer educational outcomes for boys and girls. It does not tackle the fact that African American students are disproportionately enrolled in schools with fewer resources and less rigorous course offerings. Nor does it address overly punitive disciplinary practices. Addressing these barriers would have a profound effect on all students of color in the District. It also does not attempt to provide any targeted solutions for girls of color, even though the data suggest an urgent need to do so. We urge the District to reevaluate what



solutions are really driven by the data it relied on in developing EMOC. Thank you for the opportunity to participate in this important meeting.

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<sup>i</sup> The Center serves as Vice Chair of the National Coalition of Women and Girls in Education and endorses the additional testimony submitted by the broad coalition of over 40 organizations.

<sup>ii</sup> EMPOWERING MALES OF COLOR, <http://dcps.dc.gov/DCPS/Beyond+the+Classroom/Empowering+Males+of+Color> (last visited Apr. 19, 2015).

<sup>iii</sup> EMPOWERING MALES OF COLOR, <http://www.emocdc.org/> (last visited Apr. 19, 2015).

<sup>iv</sup> *E.g.*, DISTRICT OF COLUMBIA PUBLIC SCHOOLS, OFFICE OF DATA & STRATEGY, EMPOWERING MALES OF COLOR DATA PRESENTATION 7-8 (2015) [hereinafter DATA PRESENTATION] (on file with author).

<sup>v</sup> *See generally* Diane F. Halpern et al., *The Pseudoscience of Single-Sex Schooling*, SCIENCE, Sept. 23, 2011, at 1706-07.

<sup>vi</sup> The Associated Press, *Transgender applicants find acceptance varies at women's colleges*, S. F. GATE (Sept. 10, 2014), <http://www.sfgate.com/nation/article/Transgender-applicants-find-acceptance-varies-at-5747022.php>.

<sup>vii</sup> U.S. CONST. amend XIV, § 1.

<sup>viii</sup> 20 U.S.C. §§ 1681-1688 (2014).

<sup>ix</sup> D.C. Code §2-1402.41 (2015).

<sup>x</sup> *See* DATA PRESENTATION *supra* note 3, at 9.

<sup>xi</sup> *Id.* at 17. Only 15 percent of Black boys and 37 percent of Hispanic girls enroll in AP courses.

<sup>xii</sup> *Id.* at 18.

<sup>xiii</sup> *Id.* at 17.

<sup>xiv</sup> *Id.* at 18.

<sup>xv</sup> *See id.* at 8.

<sup>xvi</sup> *Id.* at 14.

<sup>xvii</sup> *Id.*

<sup>xviii</sup> DATA PRESENTATION *supra* note 3, at 14.

<sup>xix</sup> *Id.* at 12.

<sup>xx</sup> *Id.*

<sup>xxi</sup> *Id.* at 13.

<sup>xxii</sup> *Id.* at 15.

<sup>xxiii</sup> William Julius Wilson, *Being Poor, Black, and American: The Impact of Political, Economic, and Cultural Forces*, 35 AM. EDUCATOR 10, 25 (2011), available at <https://www.aft.org/pdfs/americaneducator/spring2011/Wilson.pdf> (citing SCHOTT FOUND. FOR PUB. EDUC., *LOST OPPORTUNITY: A 50 STATE REPORT ON THE OPPORTUNITY TO LEARN IN AMERICA – NATIONAL SUMMARY REPORT* (2009), available at [http://www.otlstatereport.org/50\\_state\\_report\\_national\\_summary.pdf](http://www.otlstatereport.org/50_state_report_national_summary.pdf)).

<sup>xxiv</sup> Charles T. Clotfelter, Helen F. Ladd & Jacob Vigdor, *Who Teaches Whom? Race and the Distribution of Novice Teachers*, 24 ECON. EDUC. REV. 377, 378 (2004).

<sup>xxv</sup> For example, Latinos in California are less likely than White students to attend schools that offer Advanced Placement classes, and less likely to be enrolled in those courses when they are offered. Daniel Solorzano & Armida Ornelas, *A Critical Race Analysis of Latina/o and African American Advanced Placement Enrollment in Public High Schools*, 87 HIGH SCH. J. 15, 18-19 (2004) (finding that while Latina/o students made up 38 percent of California's high school enrollment, they only made up 16 percent of the student population enrolled in the state's top 50 high schools for Advanced Placement offerings. In the Los Angeles school district, for example, Latina/o students were 66 percent of the student population but comprised only 49 percent of the AP enrollment, while Whites comprised 12 percent of student enrollment and 22 percent of AP enrollment.).

<sup>xxvi</sup> CIVIL RIGHTS DATA COLLECTION, U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, ISSUE BRIEF NO. 4, DATA SNAPSHOT: TEACHER EQUITY 1, 5 (2014), available at <http://ocrdata.ed.gov/Downloads/CRDC-Teacher-Equity-Snapshot.pdf>.

<sup>xxvii</sup> National Science Foundation, National Center for Science and Engineering Statistics, Science and Engineering Indicators 2012, Appendix Table 1-25. Perceptions of working conditions of public middle and high school mathematics and science teachers, by minority enrollment and school poverty levels: Academic years 2003-04 and 2007-08, <http://www.nsf.gov/statistics/seind12/append/c1/at01-25.pdf>.

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<sup>xxviii</sup> See Michael Alison Chandler, *Unequal shelves in D.C. school libraries benefit wealthier students*, WASH. POST (Mar. 9, 2014), [http://www.washingtonpost.com/local/education/unequal-shelves-in-dc-school-libraries-benefit-wealthier-students/2015/03/09/f548db96-bd1f-11e4-8668-4e7ba8439ca6\\_story.html](http://www.washingtonpost.com/local/education/unequal-shelves-in-dc-school-libraries-benefit-wealthier-students/2015/03/09/f548db96-bd1f-11e4-8668-4e7ba8439ca6_story.html).

<sup>xxix</sup> U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION, available at <http://ocrdata.ed.gov>. Data are for 2011-12 school year.

<sup>xxx</sup> *Id.*

<sup>xxxi</sup> *Id.*

<sup>xxxii</sup> *Id.*

<sup>xxxiii</sup> NAT'L WOMEN'S LAW CTR. & POVERTY & RACE RESEARCH ACTION COUNCIL, FINISHING LAST: GIRLS OF COLOR & SCHOOL SPORTS OPPORTUNITIES 3 [hereinafter FINISHING LAST] available at

[http://www.nwlc.org/sites/default/files/pdfs/final\\_nwlc\\_girlsfinishinglast\\_report.pdf](http://www.nwlc.org/sites/default/files/pdfs/final_nwlc_girlsfinishinglast_report.pdf). The typical (median) heavily minority high school has 318 female students and 65 spots on teams for girls. These figures translate into just 20 spots on teams per 100 female students. By comparison the typical heavily minority high school has 322 male students and 97 spots on teams for boys. These figures translate into 30 spots on teams per 100 male students. This means at the typical heavily minority high school, girls are only receiving two-thirds of the athletic participation spots that boys are, per 100 students. Data are from the CRDC flat file. All data in the CRDC are self-reported by school administrators. Single-sex schools are excluded from NWLC's calculations. For additional details, see U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, *Civil Rights Data Collection (CRDC): 2011-12 CRDC*, <http://www2.ed.gov/about/offices/list/ocr/data.html?src=rt/> (last updated Mar. 21, 2015).

<sup>xxxiv</sup> See FINISHING LAST, *supra* note 33, at 4. The typical mostly white high school has 192 female students and 98 spots on teams for girls. These figures translate into 51 spots on teams per 100 female students. By comparison, the typical mostly white high school has 202 male students and 125 spots on teams for boys. These figures translate into 62 spots on teams per 100 male students. This means at the typical mostly white high school, girls are only receiving 82 percent of the participation opportunities that boys are, per 100 students. Nat'l Women's Law Ctr. calculations based on U.S. Department of Education Office for Civil Rights, *Civil Rights Data Collection (CRDC): 2011-12 CRDC*. Figures compare spots on sports teams per 100 students. Boys at the typical heavily minority high school receive just under half (48 percent) of the athletic participation opportunities that boys at the typical heavily white high school do (30 spots on teams per 100 students, compared to 62 spots on teams per 100 students).

<sup>xxxv</sup> DANIEL J. LOSEN & RUSSELL SKIBA, SUSPENDED EDUCATION: URBAN MIDDLE SCHOOLS IN CRISIS 7 (2010), available at [http://www.splcenter.org/sites/default/files/downloads/publication/Suspended\\_Education.pdf](http://www.splcenter.org/sites/default/files/downloads/publication/Suspended_Education.pdf). The report analyzed suspension rates in middle schools in 18 of the largest urban school districts in the United States: Los Angeles, CA; Denver, CO; Hartford, CT; Miami-Dade, FL; Palm Beach, FL; Atlanta, GA; Indianapolis, IN; Des Moines, IA; Springfield, MA; Baltimore, MD; Jackson, MS; Charlotte, NC; Providence, RI; Dallas, TX; Houston, TX; San Antonio, TX; Seattle, WA; and Milwaukee, WI.

<sup>xxxvi</sup> CIVIL RIGHTS DATA COLLECTION, U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, ISSUE BRIEF NO. 1, DATA SNAPSHOT: SCHOOL DISCIPLINE 3 (2014), available at [http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline\\_Snapshot.pdf](http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline_Snapshot.pdf).

<sup>xxxvii</sup> NAT'L WOMEN'S LAW CTR. & NAACP LEGAL DEF. & EDUC. FUND, UNLOCKING OPPORTUNITY FOR AFRICAN AMERICAN GIRLS: A CALL TO ACTION FOR EDUCATIONAL EQUITY 19 (2014) [hereinafter UNLOCKING OPPORTUNITY] available at <http://www.nwlc.org/resource/unlocking-opportunity-african-american-girls-call-action-educational-equity> (citing National Women's Law Center calculations based on U.S. Department of Education, Civil Rights Data Collection, 2009-10 National and State Estimations, National total, <http://ocrdata.ed.gov/downloads/projections/2009-10/2009-10-Estimations-Nation.xls>).

<sup>xxxviii</sup> LIZ WATSON & PETER EDELMAN, GEORGETOWN CTR. ON POVERTY, INEQUALITY, AND PUB. POLICY, IMPROVING THE JUVENILE JUSTICE SYSTEM FOR GIRLS: LESSONS FROM THE STATES 1 (2012), available at [http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/JDS\\_V1R4\\_Web\\_Singles.pdf](http://www.law.georgetown.edu/academics/centers-institutes/poverty-inequality/upload/JDS_V1R4_Web_Singles.pdf) (citing AM. BAR ASS'N & NAT'L BAR ASS'N, JUSTICE BY GENDER: THE LACK OF APPROPRIATE PREVENTION, DIVERSION AND TREATMENT ALTERNATIVES FOR GIRLS IN THE JUSTICE SYSTEM 1 (2001), available at [http://www.americanbar.org/content/dam/aba/publishing/criminal\\_justice\\_section\\_newsletter/crimjust\\_juvjus\\_justicebygenderweb\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_justicebygenderweb_authcheckdam.pdf)).

<sup>xxxix</sup> See NAT'L WOMEN'S LAW CTR., UNDERPAID & OVERLOADED: WOMEN IN LOW-WAGE JOBS 2, 13-14 (2014) [hereinafter UNDERPAID & OVERLOADED] available at <http://www.nwlc.org/resource/underpaid-overloaded-women-low-wage-jobs>.



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<sup>xl</sup> UNLOCKING OPPORTUNITY *supra* note 37, at 37 (citing National Women’s Law Center calculations based on Current Population Survey (CPS) 2013 using Miriam King et al., *Integrated Public Use Microdata Series, Current Population Survey: Version 3.0* [Machine-readable database] (Minneapolis: University of Minnesota, 2010)). Figures are for employed workers. The low-wage workforce is defined here as occupations with median wages of \$10.10 or less per hour based on Bureau of Labor Statistics (BLS) Occupational Employment Statistics data from May 2013. *See* Bureau of Labor Statistics, Occupational Employment Statistics, May 2013 National Occupational Employment and Wage Estimates United States, [http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm).

<sup>xlii</sup> U.S. Census Bureau, Current Population Survey (CPS), 2013 Annual Social and Economic (ASEC) Supplement, 2012 Poverty Table of Contents, POV29. Years of School Completed by Poverty Status, Sex, Age, Nativity and Citizenship, [http://www.census.gov/hhes/www/cpstables/032013/pov/pov29\\_100.htm](http://www.census.gov/hhes/www/cpstables/032013/pov/pov29_100.htm). Figures are for adults 25 and older who are of a single race.

<sup>xliii</sup> *See* United States v. Virginia, 518 U.S. 515, 524 (1996).

<sup>xliiii</sup> *See id.* (holding that sex-exclusive admission policies are constitutional if the policy “serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives”).

<sup>xliiv</sup> *Id.* at 533 (“The justification [for implementing a single-sex program] must be genuine, not hypothesized or invented post hoc in response to litigation”).

<sup>xliiv</sup> *Id.* (“[The justification] must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females”).

<sup>xlivi</sup> *Id.* at 554.

<sup>xlvii</sup> *See* 34 C.F.R. §106.34(c)(1) & (3) (2015) (stating that a school district that has a single-sex public school “must provide students of the excluded sex a substantially equal single-sex school or coeducational school” and outlining factors that indicate substantial equality).

<sup>xlviii</sup> *See generally* MY SCHOOL DC – HOW TO APPLY, <http://www.myschooldc.org/how-apply/what-you-need-to-apply/> (last visited Apr. 20, 2015).

<sup>xlix</sup> *See* Letter from Karl Racine, Attorney General for the District of Columbia, to Mary M. Cheh, Councilmember, Council of the District of Columbia (Mar. 20, 2015) 6-7 *available at* <https://s3.amazonaws.com/s3.documentcloud.org/documents/1698174/minority-school-oag-opinion.pdf>.

<sup>l</sup> *See id.* at 6 (stating that DCPS spends approximately \$1.3 million per year on the New Heights Program).

<sup>li</sup> *See id.* (stating the program “provides its students with the assistance, support and guidance they need to handle the responsibilities of raising a child and graduating from high school”).

<sup>lii</sup> UNDERPAID & OVERLOADED, *supra* note 39, at 2 & 21.

<sup>liii</sup> D.C. Code § 2-1402.41(1) (2015).

<sup>liiv</sup> *Id.* § 2-1401.03(b) (2015).

<sup>lv</sup> *E.g.*, Wyeth v. Levine, 555 U.S. 555, 578 (2009) (holding state laws that required additional drug-labeling requirements than what the federal Food and Drug Administration proscribed in regulations were permissible).