



April 15, 2005

The Honorable Margaret Spellings  
Secretary, United States Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Secretary Spellings:

On behalf of the over 100,000 bipartisan members of the American Association of University Women (AAUW), we write with grave concerns regarding the Department of Education's new Title IX policy guidance, "Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test — Part Three." We believe this guidance, which was issued Friday, March 18, 2005 will undermine the law and the 30 years of progress made by women and girls as a result of this landmark legislation.

Since Title IX's enactment, women's participation in sports has increased by more than 400 percent at the college level and more than 800 percent at the high school level, and this law has opened up not only opportunities to play sports but the chance to receive college scholarships and the significant health, emotional, and academic benefits that flow from sports participation. Meanwhile, Title IX's goal of equal opportunity has yet to be fully realized. Female athletes continue to be shortchanged, at both the high school and college levels, both in their playing and scholarship opportunities and in the quality of the facilities and programs available to them. To reach the full potential of the law, the Department of Education should vigorously enforce Title IX rather than weakening any measure of compliance.

In particular, AAUW is deeply concerned that the clarification is a dramatic departure from the previous standards under which schools could demonstrate compliance with Title IX. We believe the new rule lowers the bar for schools, making it easier for schools to prove compliance by using a less rigorous e-mail-based survey method. The change seriously jeopardizes the number of athletic opportunities that will be available to women on campus and it threatens to turn back the clock on much of the progress that has been made in increasing women's athletic participation.

Research experts maintain that the results of interest surveys should not be used to limit athletic opportunities. In addition, the use of interest surveys to justify offering fewer opportunities to females has been rejected by the courts. Despite this, suggestions regarding the use of such surveys have consistently been used to advance the argument that institutions should be able to provide fewer athletics opportunities for women at the college level because they are "less interested in sports." However, this argument cannot stand against the evidence: 2.9 million high school girls compete for less than 200,000 college female athletic participation opportunities which include preferred admissions to the nation's best colleges for non-scholarship athletes and over \$300 million in athletic scholarship dollars. But more importantly, it is simply logical to assume that inherent athletic ability, like intelligence, is equally distributed by gender. As a result, fair distribution of athletic participation

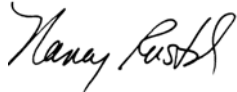
opportunities followed by rigorous enforcement of compliance must be determined by a broad set of indicators rather than a reliance on one measure of interest and ability.

Currently, schools have to take other factors into consideration, such as the opinions of coaches and administrators, or participation rates in sports in surrounding high schools or recreational leagues. These methods are more accurate measures of the demand for athletic opportunities among girls and women.

The public overwhelmingly supports the existing Title IX standards. A USA Today/CNN poll done in January 2003 found that seven of ten adults familiar with Title IX think the law should be strengthened or left alone. Indeed, the current policies have been in place through Republican and Democratic administrations and have been uniformly upheld by all eight of the federal appeals courts that have considered them. Despite the public support it enjoys, the issuance of this policy guidance appears to be the latest in a series of attempts to weaken Title IX.

AAUW was encouraged by the Department's July 2003 clarification letter that clearly reaffirmed Title IX and its enforcement mechanisms, as well as your supportive comments about Title IX during your confirmation hearings. However, this recent action appears to signal the willingness of the Department of Education to undermine Title IX's effectiveness. AAUW strongly urges the Department of Education to reconsider the new guidance issued March 18, 2005. Thank you for your consideration. If you have any questions, please contact Lisa Maatz, Director of Public Policy and Government Relations, at 202/785-7793, or Cyndi Lucas, Government Relations Manager, at 202/785-7730.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Rustad".

Nancy Rustad