KALAMAZOO ON TEXTBOOKS AND CURRICULUM

[These comments represent the thinking of several major women’s groups in Kalamazoo, Michigan: The Committee to Study Sex Discrimination in the Kalamazoo Public Schools, the Kalamazoo Area Chapter of the National Organization for Women, The Kalamazoo Young Women’s Christian Association, the Commission of the Status of Women of Western Michigan University, the Kalamazoo League of Women Voters, and the Kalamazoo Branch of the American Association of University Women. They are one section of a lengthy critique of the Title IX Guidelines.]

All educational materials, including textbooks, should be covered under Title IX guidelines. The Department of HEW excludes educational materials on the grounds that “specific regulatory provision in this area would raise grave constitutional questions under the First Amendment.” We find the First Amendment is not applicable to this case because the publishers’ rights are not infringed upon; requiring educational institutions to provide non-sexist curriculum material in no way suggests that publishers will be prohibited from producing any materials they desire. The only relevant question is whether public tax money can be used to purchase discriminatory materials imposed upon all students by the educational institution such as a required district-wide elementary reading program or a secondary-level American History course. The guidelines prohibit the distribution of any announcement, bulletin, catalogue and application form which is discriminatory in content. Failure to extend further the application of this principle to include curriculum materials points to a refusal to deal with an issue vital to the education of all children. Furthermore, the Department’s assumption that “recipients will deal with this problem” is false. School systems across the nation have indicated their unwillingness to deal with the issue of sexist educational materials. The Department’s goal to provide research, assistance and guidance to eliminate sex bias from the curriculum is unrealistic, given the scope and immediacy of the problem. Lack of enforceable Title IX guidelines thwarts any effort by the Department to achieve non-sexist educational materials. Failure to deal with this issue weakens the overall effect of the Title IX regulations because Title IX omits one of the most critical aspects of education, particularly at the elementary level.

Many states and public school systems already have mechanisms for evaluating materials, and these mechanisms have also been used to evaluate school curricula for racial bias when such action was demanded. It would be no great hardship on the schools then—and it would be a consistent application of Federal anti-discrimination laws—to require that procedures be used to investigate materials for the purpose of eliminating sex bias. The guidelines should require established procedures for the review of materials and curricula for sex bias.

NEW AGENCY TO MONITOR TITLE IX

The Project on Equal Education Rights (PEER), recently established under a Ford Foundation grant to the NOW Legal Defense and Education Fund, will monitor and publicize enforcement efforts under federal law barring sex discrimination in education. Based in Washington, D.C., PEER is focusing on the enforcement of Title IX. Because of the crucial importance of a child’s early education, PEER is concentrating mainly on Title IX’s enforcement progress in the elementary and secondary schools. PEER will assess enforcement progress, pinpoint major areas of weakness, and, through its newsletter, inform concerned groups and individuals about both progress and problems. PEER will also prepare materials on enforcement, keyed to specific needs of national organizations for in-depth information and analysis.

To receive the PEER newsletter, write to them at 1552 Connecticut Ave N W, Washington, D.C. 20036.

PEER ON TITLE IX

[The following comments come from the Project on Equal Education Rights (PEER), Washington, D.C.]

On Textbooks

The HEW regulation ducked the problem of sex-biased textbooks completely, arguing that while the problem is serious, tackling it by regulation raises “grave constitutional questions” under the free speech guarantees of the First Amendment. Not wanting to win equal rights for women if it diminishes rights for us all, we took a long and careful look at the First Amendment question. Our legal research persuaded us that the First Amendment does not make action impossible under Title IX, as long as it is limited in certain ways. Therefore, PEER submitted to HEW a specific proposal on how the regulation should cover sex-biased curriculum materials, draft language for inclusion in the regulation and a legal memorandum on the First Amendment issue. In brief, the PEER proposal would:

1. cover only textbooks and supplementary materials used in public preschool, elementary and secondary education, since we felt the First Amendment issues were different for private and higher education
2. require state and local education officials to approve and buy only new textbooks and supplementary materials which are not sex-biased, after the regulation is published in final form
3. allow use of existing sex-biased texts and supplementary materials only when accompanied by a “remedial action” program aimed at enabling students and teachers to overcome the effects of sex bias
4. cover only textbooks and materials which States and local school districts already review centrally, enabling them to use existing procedures for textbook selection
5. define “textbooks” and supplementary materials so that literature and anthologies aren’t covered—only materials specifically written for instructional purposes
6. call for Federal guidelines to enable State and local officials to identify sex bias.

Physical Education

The proposed regulation required that physical education classes be coeducational. We strongly recommend the retention of this requirement, believing that it was absolutely key to assuring equal sports opportunities for females now and in the future.

Competitive Athletics

The HEW regulation allows either separate teams for men and women or an integrated team. PEER recommended that:

1. institutions establish one or more “open” teams—open to members of both sexes—in each sport in which competitive opportunities are offered
2. that an additional affirmative action team, limited to members of the other sex, be established whenever the “open” team was predominantly single-sex (because of past discrimination or differences in training, interest or physical attributes)
3. the separate sex team be equal to the open team in all respects, including expenditures
4. the institution be required to take other affirmative action measures designed to eliminate, as much as possible, the effects of past discrimination and other factors limiting the participation of women
5. that special protections be provided to prevent discrimination against female physical education teachers and coaches when previously segregated sports programs are integrated.