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July 11, 2013

The Hon. Lincoln Chafee  
Governor  
State House  
Providence, RI 02903

BY MAIL AND EMAIL

RE: VETO 2013-S 12A as amended

Dear Governor Chafee:

It has been almost 40 years since Congress passed the seminal federal law known as Title IX, barring sex discrimination in educational institutions. Thanks in part to that law and others like it, girls and women have come a long way since then. Amazingly, however, on the last night of this year's legislative session, the R.I. General Assembly took an incredible step backward by passing a law, in direct conflict with Title IX, which encourages sex discrimination in our schools. We urge you to veto this bill.

S-12A as amended allows school districts to offer "extracurricular activities to students of one sex" so long as "reasonably comparable" activities are provided to students of the other sex. As Title IX makes clear, however, we as a society have for decades rejected the notion that separate is equal in our public schools. Thus, this bill not only codifies an extraordinarily regressive and sexist policy, it contravenes Title IX, whose regulations authorize only an extremely narrow gender exception for extracurricular activities. See 34 CFR §106.34(b).

Under this bill, a school could limit an after-school debate team to boys and offer an alternative "home economics" extracurricular activities to girls, or send boys on after-school science trips while girls went on a "comparable" trip to a bead shop. A star female softball player could be barred from going to a school-sponsored baseball outing simply because the ball game was designated for boys and a trip to the ballet was planned for girls.

One of the other dangers of this bill is that it will be read as encouraging schools to institute various types of questionable extracurricular single-sex programming or activities. In doing so, the legislation will provide a false sense of security to school administrators, who might wrongly believe that the bill's standards meet those required by Title IX and

constitutional requirements under the Equal Protection Clause. They could end up being legally liable for their errors in that regard.

As background, it should be noted that the bill clearly has its roots in a minor kerfuffle that occurred last year in Cranston when a school PTO, contrary to the school district's own anti-discrimination policy, held a father-daughter dance and a mother-son baseball game outing. The school district reminded PTOs that such sex-segregated events were improper and should not be held again. The result is this legislation, designed to allow that which should not be allowable -- especially in the year 2013.

It is true that Title IX has a limited exemption for "mother-daughter" and "father-son" activities (though this bill refers to "father-daughter/mother-son" activities). It is from that exemption that the bill's "reasonably comparable" language comes from. But even if this legislation had limited its reach to allowing segregated and discriminatory school conduct solely for parent-child activities, it would still be poor public policy.

As the Cranston incident demonstrates, people have different notions of what constitute "reasonably comparable" activities. Having a dance for girls and a sports-themed activity for boys are not, from our perspective, "reasonably comparable." To the contrary: the stereotypes they embody undermine the whole point of school-related anti-discrimination laws. Yet all too often that is the point of the activities that the bill seeks to encourage.

For almost 30 years, Rhode Island law has, with three very limited exceptions, banned sex discrimination in school activities. R.I.G.L. §16-38-1.1(a)(2). This is not the time for the state to take a step back and encourage the promotion of sex segregation in our schools. If parents wish to privately organize sex-segregated events, they can do so without this bill. But such events, and most certainly other types of extracurricular activities, should not be allowed with school resources or under school auspices.

We respectfully urge your veto of 2013-S 12A as amended.

Sincerely,

Steven Brown  
Executive Director  
ACLU of Rhode Island

Carolyn Mark  
President  
RI NOW

Marcia Coné  
CEO  
Women's Fund of RI