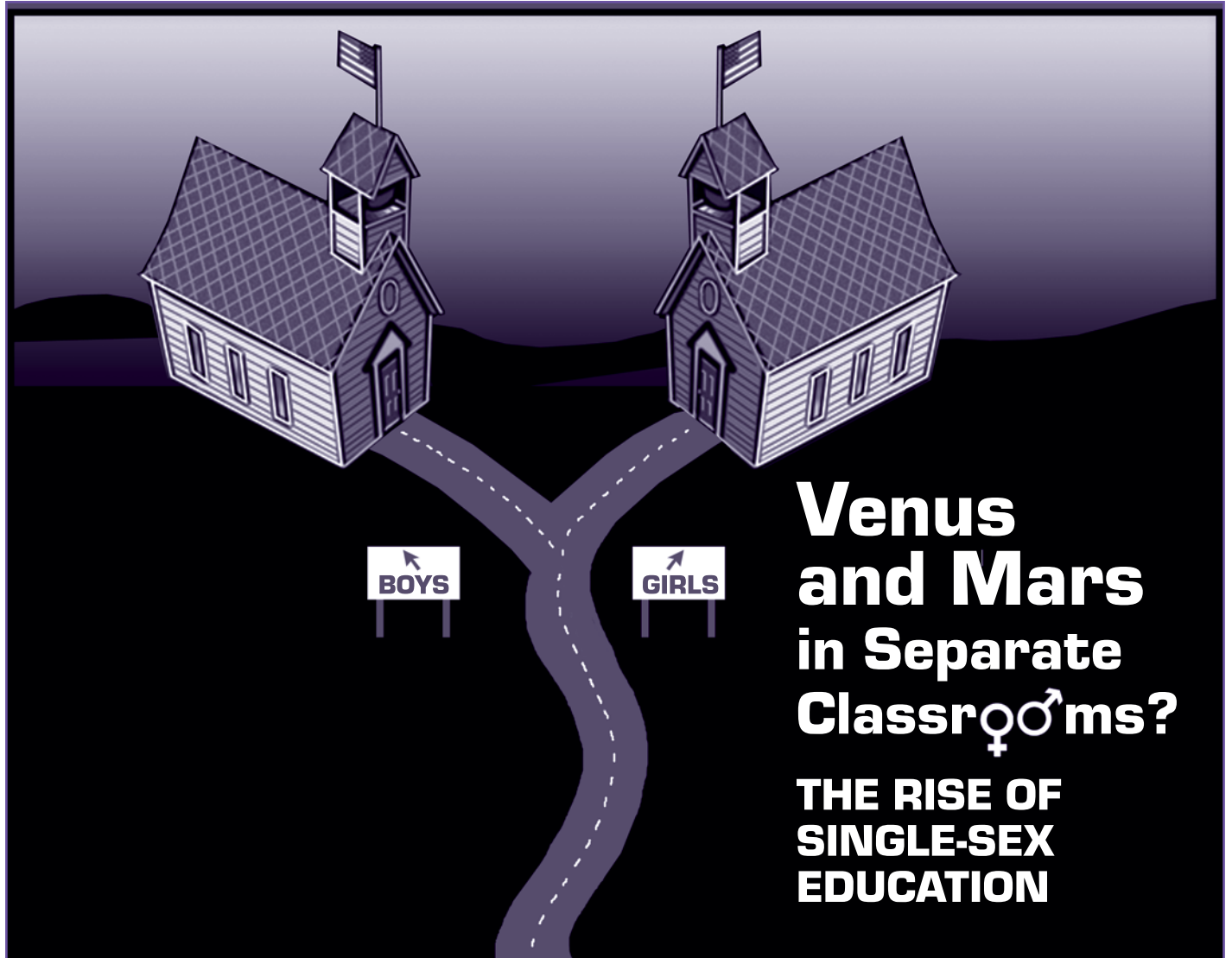




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## Venus and Mars in Separate Classrooms?

### THE RISE OF SINGLE-SEX EDUCATION

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# Venus and Mars in Separate Classrooms?

## *A Report on the Rise of Single-Sex Education in Florida and Around the Country*



by Emily J. Martin<sup>1</sup>

I recently represented 13-year-old Michelle Selden in a successful challenge to what is becoming a growing trend — sex-segregated public schools. In May 2006, the principal of Michelle’s junior high school in Livingston Parish, Louisiana, announced to students and parents that in the fall, boys and girls would be taught separately in all academic classes. No one could transfer from the segregated junior high school to a coeducational school. According to the principal, the decision to separate boys and girls was based on differences between boys’ and girls’ brains. Classes would be tailored to reflect these supposed brain differences; for instance, while girls would be taught “good character,” boys would be taught about “heroic” behavior and what it means to be a man. Michelle Selden and her parents went to court to stop the program from going forward, and they succeeded.<sup>2</sup>

Very few cases have ever been brought challenging sex segregation in public elementary and secondary schools, in large part because in recent decades, such segregation has been very rare. Today, however, more and more public schools are separating girls from boys, as school districts across the country experiment with single-sex classrooms and single-sex schools. In Pinellas County, Florida, for instance, sex-segregated classes were introduced this year for second graders at one elementary school and fourth graders in another. Hernando County recently voted to create single-sex classes in several elementary schools next fall. Schools in Broward, Volusia, and Duval Counties have also initiated

*“Classes would be tailored to reflect supposed brain differences; for instance, while girls would be taught ‘good character,’ boys would be taught what it means to be a man.”*

such programs. Indeed, according to the National Association for Single-Sex Public Education, while there were only four sex-segregated public schools in the country a decade ago, today there are over 250.<sup>3</sup>

### THE LEGAL BACKDROP

This trend is only likely to accelerate in the wake of the federal Department of Education (DOE)’s recent revision of longstanding Title IX regulations in order to permit more sex-segregated educational programs. Title IX is the federal law that prohibits schools which receive federal assistance from discriminating on the basis of sex. It applies to virtually all public schools in the United States, as well as many private schools. Specifically, it states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”<sup>4</sup>

For over thirty years Title IX regulations had interpreted this statutory language to mean what it says. These regulations prohibited coeducational schools from segregating students by sex for classes or other activities in almost all circumstances, with very narrow

exceptions for sex education and contact sports.<sup>5</sup> (Because Title IX does not govern admissions to elementary and secondary schools,<sup>6</sup> Title IX regulations have never strictly prohibited single-sex schools, as opposed to classrooms, though the Equal Protection Clause and other federal and state laws, discussed below, limit state and local governments’ authority to create such schools.)

Despite the language in Title IX stating that no one may be excluded from any educational program or activity on the basis of sex, the new Title IX regulations permit coeducational schools to offer sex-segregated classes in a wide variety of circumstances.<sup>7</sup> In essence, the regulations allow a school to create a single-sex class or extracurricular activity either to provide “diverse” educational options to students or to address what the school has judged to be students’ particular educational needs.<sup>8</sup> The regulations do make clear, however, that participation in a sex-segregated class must be completely voluntary and explain that participation is not completely voluntary unless a “substantially equal” coeducational class is offered in the same subject.<sup>9</sup> Finally, the new regulations require periodic evaluations to ensure that single-sex programs are not based on overbroad generalizations about either sex.<sup>10</sup>

The change in Title IX regulations, of course, does not affect other laws that limit sex segregation in public schools. The Supreme Court has found at least some single-sex programs violate the Equal Protection Clause of the Constitution, striking down both the Virginia Military Institute’s all-male policy and Mississippi University for Women’s all-female policy as unconstitutionally discriminatory.<sup>11</sup> It has also warned that public schools attempting to justify sex-segregated programs shoulder an extremely heavy burden of persuasion.<sup>12</sup> In addition, a federal law called the Equal

Educational Opportunities Act prohibits assigning students to single-sex schools.<sup>13</sup>

Some state laws also prohibit sex segregation in public schools. For instance, the Florida Constitution was amended in 1998 to state explicitly that “[a]ll natural persons, female and male alike, are equal before the law.”<sup>14</sup> The Florida Supreme Court has yet to rule on whether this revision heightened the constitutional scrutiny applied to gender classifications, including sex segregation in schools. Even more to the point, a 2002 Florida statute expressly provides, “The criteria for admission to a[n educational] program or course shall not have the effect of restricting access by persons of a particular ... gender.”<sup>15</sup> The same statute notes that students may be separated by gender for any portion of a class dealing with human reproduction or during contact sports, and for certain athletic teams, thus indicating that otherwise such separation is not permitted.<sup>16</sup> Legislation was introduced in the 2007 Session that would amend this provision, however, to permit school districts to authorize single-sex schools, classes and programs.<sup>17</sup>

Despite the continuing uncertainty of the legal status of single-sex programs in public schools given this statutory and constitutional backdrop, many school districts across the country have read the revision in Title IX regulations as a green light to segregate.

### THE NEW PUSH FOR SEX-SEGREGATED SCHOOLS

Those who favor sex segregation in education today do so for different reasons. Some argue that single-sex classes and schools are a gender equity measure — for example, that they offer girls an opportunity to receive more teacher attention and a chance to explore fields like math and science that boys often dominate.<sup>18</sup> On the flipside, many claim that boys need a single-sex environment to succeed because most coeducational classrooms reward girls’ strengths and learning styles.<sup>19</sup> Many current sex-segregated programs have arisen in inner-city schools, as an

attempt to address a broader educational crisis. These programs are often meant to respond specifically to the needs of poor, urban, African-American boys by providing strict discipline, male role models, education on what it means to be a man, or separation from sexual distractions.<sup>20</sup>

An increasingly popular reason for separating boys and girls in school, however, is the one that motivated those Livingston Parish officials who decided to segregate Michelle Selden’s junior high school: the notion that boys’ brains and girls’ brains are so different that they cannot both succeed in the same classroom. The two most influential proponents of this theory are the writers Leonard Sax and Michael Gurian. Sax is a psychologist and the founder of the National Association for Single-Sex Public Education; Gurian is a corporate consultant and novelist, with a graduate degree in creative writing, and founder of the Gurian Institute, which conducts trainings on brain differences between the sexes. Both Sax and Gurian maintain busy schedules as trainers for teachers in public school districts across the country experimenting with sex segregation.<sup>21</sup> Thus, many of those teaching single-sex classes are relying on the theories and methods that Sax and Gurian promote.

These theories and methods are based on the notions that boys are from Mars while girls are from Venus and teachers must treat them accordingly.<sup>22</sup> In his writings, for instance, Leonard Sax claims that teachers should smile at girls and look them in the eye, but must not look boys directly in the eye or smile at them.<sup>23</sup> He claims that boys do well under stress, and girls do badly. As a result, according to Sax, girls should never be given time limits on a test, and they should be encouraged to take their shoes off in class because this helps them relax and think.<sup>24</sup> Sax also

claims that girls will do better in school if they are allowed to bring blankets from home to cuddle in during class time.<sup>25</sup>

Michael Gurian propounds similar theories. According to Gurian’s writings,

boys are better than girls in math because their bodies receive daily surges of testosterone, while girls have similar mathematics skills only during the few days in their menstrual cycle when they have an estrogen surge.<sup>26</sup> Gurian argues that boys are abstract thinkers, so they are naturally good at things like philosophy and engineering, while girls are by nature

concrete thinkers because of their brain structure.<sup>27</sup> According to materials that the Gurian Institute uses in teacher training, “Pursuit of power is a universal male trait. Pursuit of a comfortable environment is a universal female trait.”<sup>28</sup>



### THE SOCIAL SCIENCE DATA

Whatever theory they rely on, most proponents of single-sex education argue that segregation leads to greater academic achievement. Yet no compelling, consistent evidence supports this conclusion. Some studies find that students in coeducational schools do better than students in single-sex schools. Other studies find the opposite. Many studies show no difference between the two in terms of student achievement. In 2005, the DOE published an extensive review of existing studies and characterized the data as “equivocal” — in other words, it found no clear evidence showing that in general students are more likely to succeed in single-sex schools.<sup>29</sup>

Researchers have investigated why some studies show that students do especially well in some sex-segregated programs, when other studies show no effect. Most have concluded that the successful programs aren’t successful because they are segregated. Instead,

► **GENDER**, Continued on Page 6

### EDITOR’S NOTE:

This important issue could affect our families and our communities. We welcome comments from our members on this issue. Please e-mail comments to [FAWL@FAWL.org](mailto:FAWL@FAWL.org).

► **GENDER**, From Page 4

these schools are successful because, for instance, they also have small classes, qualified teachers, parental involvement, adequate funding, and a focus on core academics.<sup>30</sup> Of course, these factors foster success in coeducational classrooms too.

**CAUSE FOR CONCERN?**

As sex segregation gains popularity as an educational technique, it is worth raising questions about the theories and evidence underlying school districts' decisions to implement these programs. Because sex segregation itself has not been shown to increase student academic achievement, in many schools the better educational approach may be to focus on what has been shown to work, such as smaller classes, more parental involvement, and more funding, rather than spending the resources, time, and effort on the sex segregation experiment.

Moreover, many people believe that when students socialize, compete and collaborate with students of the other sex at school, they are more prepared to succeed in the world, given that real life is not separated by gender. At their best, one of the strengths of public schools is the opportunity they provide for students of different sexes, classes, races

and religions to learn from each other. Indeed, these lessons are some of the most important that schools can teach. ■

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<sup>2</sup> *M.S. v. Livingston Parish School Board*, Civ No. 06-553-FJP-DLD (M.D. La. 2006).

<sup>3</sup> National Association for Single-Sex Public Education, Single-Sex Classrooms, at [www.singlesexschools.org/schools-classrooms.htm](http://www.singlesexschools.org/schools-classrooms.htm) (last visited April 2, 2007).

<sup>4</sup> 20 U.S.C.A. §1681(a) (2007).

<sup>5</sup> 34 C.F.R. 106.34 (2005).

<sup>6</sup> 20 U.S.C.A. §1681(a)(1) (2007).

<sup>7</sup> 34 C.F.R. §106.34 (2007); see also 71 Fed. Reg. 62,530 (Oct. 25, 2006).

<sup>8</sup> 34 C.F.R. §106.34(b)(i).

<sup>9</sup> Id. at §106.34(b)(iii), (iv). The regulations also provide that if a school district creates a single-sex school, it must provide a substantially equal educational opportunity for students of the excluded sex. Id. at §106.34(c).

<sup>10</sup> Id. at §106.34(b)(4).

<sup>11</sup> *United States v. Virginia*, 518 U.S. 515 (1996); *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718 (1982).

<sup>12</sup> *Virginia*, 518 U.S. at 524, 531, 533.

<sup>13</sup> 20 U.S.C.A. §1703(c) (2007).

<sup>14</sup> Fla. Const., art. I, § 2.

<sup>15</sup> Fla. Stat. §1000.05(2)(b) (2007).

<sup>16</sup> Id. at §1000.05(2)(d).

<sup>17</sup> S.B. 924, 2007 Sess. (Fla. 2007). As of this writing, the bill is currently before the Senate Judiciary Committee.

<sup>18</sup> E.g., Rosemary C. Salomone, *Same, Different,*

*Equal: Rethinking Single-Sex Schooling* (2003).

<sup>19</sup> E.g., Christina Hoff Summers, *The War Against Boys: How Misguided Feminism Is Harming Our Young Men* (2000).

<sup>20</sup> See generally Verna L. Williams, Reform or Retrenchment: Single-Sex Education and the Construction of Race and Gender, 2004 *Wis. L. Rev.* 15, 21-22 (2004) (describing movement and its theories).

<sup>21</sup> See, e.g., National Association for Single-Sex Public Education, 2007 Appearances and Events: Leonard Sax M.D. Ph.D., at [www.singlesexschools.org/2007events.htm](http://www.singlesexschools.org/2007events.htm) (last visited April 2, 2007); The Gurian Institute, Training Teachers to Help Boys and Girls Reach Their Potential, at [www.thegitd.com/](http://www.thegitd.com/) (last visited April 2, 2007).

<sup>22</sup> See generally John Gray, *Men Are From Mars, Women Are From Venus* (1992).

<sup>23</sup> Leonard Sax, *Why Gender Matters: What Parents and Teachers Need to Know About the Emerging Science of Sex Differences* 86 (2005).

<sup>24</sup> Id. at 88-92.

<sup>25</sup> See Carol E. Tracy & Terry Fromson, Single-Sex Schools Don't Work, *Phila. Daily News*, at 21 (Feb. 3, 2006) (describing Leonard Sax training for public school teachers in Philadelphia).

<sup>26</sup> Michael Gurian, *The Boys and Girls Learn Differently Action Guide for Teachers* 100 (2003).

<sup>27</sup> Id. at 17, 90-92.

<sup>28</sup> Gurian Institute, *Teacher Training Materials, How Boys and Girls Learn Differently* (2006) (on file with author).

<sup>29</sup> U.S. Department of Education, *Single-Sex Versus Coeducational Schooling: A Systematic Review* (2005).

<sup>30</sup> American Association of University Women, *Separated by Sex: A Critical Look at Single-Sex Education for Girls* (1998); see also Nancy Levit, Separating Equals: Educational Research and the Long-Term Consequences of Sex Segregation, 67 *Geo. Wash. L. Rev.* 451, 488, 491-92 (1999) (summarizing research).

► **PRESIDENT**, From Page 5

Ad Hoc Committee on Chapter Benefits, upgraded the FAWL website so members can now pay their dues and registration fees on line (welcome to the 21st century, FAWL!). Our merchant account provider also offers a reduced package to law firms of members to set up their own credit card accounts; so if you do any amount of credit card payments, this may be a great benefit for your law firm. The FAWL office also worked with Miami-Dade, C-FAWL, Palm Beach County Chapter, South Palm Beach County, and Tallahassee Women Lawyers to customize dues renewal statements.

Pat Stephens also continues to work on website redesign, which will allow Chapters to access and download their membership database to more easily e-mail their members. Several Chapters are currently subscribing to email newsletter programs that will

be available at no cost through the FAWL website. Look for more work to be done on this in the coming year.

A round of thanks to everyone who has helped me through this year. They are, of course, too numerous to mention, but I do want to extend thanks to the FAWL Board: **Sherri Johnson, Becky Steele, Carolyn Coukas, Dawn Bates-Buchanan, Musette Stewart, Carla Jones, C.J. Weinman** and **June McKinney**, all of whom have worked tirelessly on their projects and willingly stepped in to carry the baton when necessary. Thanks also to the Committee Chairs: **Susan Fox, Barbara Twine-Thomas, Patti Morgan, Dinita James, Evelyn Moya, Stephanie Fackender, Kasongo Butler, Kalinthia Dillard, Zelda Hawk** and **Peggy Wood**, as well as all those who served on FAWL's committees. Many, many thanks to all those Chapter Representatives

and Presidents who have participated in our FAWL meetings and carried word back to their Chapters about what FAWL is doing. I also extend my thanks to all the individual members of FAWL who have allowed me to lead this wonderful organization. It has been a huge honor. Finally, many, many thanks to **Pat Stephens**, who is the keystone for FAWL. Without her, I could not have done this job.

I look forward to seeing everyone in Orlando on June 28 for the installation of officers for our 2007-2008 FAWL year our luncheon, and on June 29th for the luncheon where FAWL will present the Rosemary Barkett Outstanding Achievement Award to Attorney General **Janet Reno**. Be sure to make your reservation through The Florida Bar Annual Meeting registration form so you can be assured of a seat at this luncheon. ■