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1

1 THE SECRETARY'S COMMISSION ON OPPORTUNITY IN ATHLETICS

2

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7 MS. DEBBIE PRICE: Good morning,

8 everyone. My name is Debbie Price, and I'm the

9 executive director for the Commission.

10 I have a couple of brief announcements I
11 would like to make before we get started. One is if
12 anyone is here that needs an interpreter, we have
13 interpretation services, if you could let Tracy --
14 raise your hand, Tracy -- let Tracy know and we'll
15 continue to provide those to you today.

16 The second, if you could turn off your cell
17 phones and beepers, or put them on vibrate, we
18 certainly would appreciate it.

19 And now to begin the meeting, I would like
20 to introduce you to Bill Hansen. Bill is the Deputy
21 Secretary for the Department of Education. He is my
22 direct boss, of which I'm very thankful.

23 Bill has been a part of previous
24 administrations. He was in the Reagan administration
25 at the Department of Education and also in a previous

1 Bush administration.

2 I worked in the Senate for several years,
3 and when I started doing education issues, my boss
4 said, if you need to know anything about education,
5 call Bill Hansen. And that is absolutely true. He's
6 probably the most knowledgeable about education from K
7 through 12, postsecondary. I mean, he has a grasp of
8 the topic better than anyone I've ever known, and I am
9 very proud to say that I work for him. And I would
10 like to introduce Bill to you right now.

11 MR. BILL HANSEN: Thank you, Debbie,
12 and good morning. On behalf of the Secretary, I
13 welcome all of those in attendance and also all the
14 commissioners.

15 This is an exciting time for all of us.
16 It's back to school time for our nation's youth, and
17 I'm getting my six kids back to school. As I depart
18 here, I'll be driving two kids out west to college, and
19 two more are starting high school this week, so it's a
20 wonderful time for all of us as we go about our work
21 and understand how this work impacts our nation's youth
22 and each of us individually.

23 I do want to welcome the commissioners and
24 also make it clear that these individuals have made an
25 extensive commitment to this commission. We're very

1 thankful that they are here today working on this
2 important issue. This is a great call to public
3 service, and we do appreciate your time and commitment.
4 We know you're all very busy individuals in your
5 respective lives, and we appreciate the leadership and
6 vision that you're bringing to this commission.

7 I would also like to welcome the speakers
8 who will be sharing with us this morning their
9 experiences and understanding of Title IX. Most
10 importantly, I want to welcome you, the general public,
11 who we will also hear from this afternoon. Thank you
12 all for taking the time from your busy schedules to be
13 with us in Atlanta.

14 I would also like to thank Phillips
15 Petroleum for sponsoring this event. It couldn't have
16 been pulled off without their support, and we
17 appreciate them.

18 The Secretary's Commission on Opportunity in
19 Athletics has an important mission, and this Town Hall
20 meeting will get it off to a great start.

21 I know I speak for Secretary Paige and
22 President Bush and his entire administration when I say
23 we are adamant in our support for Title IX. This
24 landmark legislation has opened doors of opportunity
25 for generations of women and girls to compete, to

1 achieve, and to pursue their American dreams. There
2 should be no question of our commitment to Title IX.

3 In large way because of Title IX, it is no
4 longer unusual to see women in positions of power and
5 influence, including running large companies, ruling
6 from the bench, or advising the President of the United
7 States. Women fill key leadership positions throughout
8 the administration, including at the Department of
9 Education, and, as we will hear today, actively
10 participating in sports.

11 Without question, America's students do want
12 to play sports and be involved in athletics. Sports
13 have been great to our students and to our schools.
14 It's a wonderful opportunity to work for Secretary
15 Paige, who has extensive experience in athletics as he
16 has been a player and a coach and has studied and
17 written about sports. He knows how important athletics
18 are for American students. That's why he's asked for
19 the President to put these commissioners on his team.
20 That's why the Commission is holding these Town Hall
21 meetings.

22 Coach Paige and I are very proud of this
23 quality team and look forward to working with you in
24 the coming months.

25 I think it's important for most

1 commissioners and also for the public to also
2 understand President Bush's commitment to education in
3 general. The Department of Education really has about
4 four fundamental responsibilities. There are a couple
5 of additional ones, but these four areas really
6 encompass over 90 percent of the work that we do.

7 First is our K through 12 educational
8 programs helping the disadvantaged students. Secondly
9 is our higher education programs that open up doors of
10 opportunity to 15 million Americans going off to
11 college. The third is our special education program,
12 which benefit the lives of millions of special
13 education students. And fourthly is our enforcement of
14 the civil rights laws of this country.

15 On each of those first three items President
16 Bush has had an incredible agenda before him for the
17 last 18 months. We have worked in a bipartisan way in
18 pushing landmark legislation through Congress called No
19 Child Left Behind, and when the President talks about
20 No Child Left Behind, he literally means it. And this
21 is legislation that is truly landmarked, and it's
22 changing the lives of millions of American students,
23 and mostly disadvantaged students, to help all to have
24 the opportunity to achieve.

25 And as President Bush I think so eloquently

1 says, we've got to stamp out and stop bigotry of all
2 expectations for our students, especially for our lower
3 income minority students, to make sure that they are
4 held to the same standards and also given the
5 opportunities to achieve as all students are.

6 On special education as well the President
7 has called for more money and for more reforms of
8 special education. He's called for budget increases
9 that more than the previous eight years have been
10 requested. And he has a commission likewise on special
11 education that will be guiding us through the
12 reauthorization of the Special Education Act.

13 Thirdly is the area of higher education. We
14 are now providing almost five million Pell grants to
15 low income students to have access for opportunity for
16 college. This is about one-third of the college adult
17 population. The President also signed a bipartisan
18 bill into law in January that offers the lowest
19 interest rates of stability for student loans. They
20 are now 4.06 percent and making college more affordable
21 for all Americans who want to go on to college.

22 The tax cut bill last year also offered 20
23 plus billion dollars of incentives and savings
24 opportunities for students to be able to go on to
25 college.

1 As we enter into this fourth domain, I just
2 think it's very clear to understand the President's
3 commitment and Secretary Paige's commitment to not
4 being shy to reform, but also to make sure that the
5 resources and reforms equal better results. And that
6 is what our agenda has been all about for the last 18
7 months, and that's why we look forward to our agenda
8 moving forward.

9 I would like to as we talk about the fourth
10 component of the department right now, we really are
11 here to focus on Title IX. It has not just been an
12 important civil rights law in our country, but it's
13 also been an important educational law.

14 For the last 30 years Title IX has opened
15 the doors of opportunity for women and girls to
16 compete, to achieve, and to pursue their dreams. This
17 law has made our nation richer as well as many of our
18 individuals.

19 Thanks to the vigorous enforcement of Title
20 IX as well as other social trends, more women than ever
21 are playing sports, graduating from college, and
22 pursuing their dreams.

23 President Bush and Secretary Paige fully
24 support Title IX and the tremendous opportunities that
25 have been followed since its passage.

1 For example, let me just give you a couple
2 of statistics. Many girls and women in sports have
3 exploded the size and number at the high school and
4 college levels. In 1971 before Title IX went into
5 effect, more than 294,000 girls participated in high
6 school sports. Last year that number exceeded 2.7
7 million, an 847 percent increase over the last 30
8 years.

9 Between 1981 and 1999 the number of college
10 women's teams rose by two-thirds, and according to the
11 General Accounting Offices, our colleges created nearly
12 3,800 new women sports teams, including 846 soccer
13 teams, 516 cross country teams, 432 softball teams, 350
14 volleyball teams, 304 indoor track teams, and 302
15 basketball teams. Hopefully my four daughters get to
16 take place in some of those sports.

17 In 1972 when Title IX became law 44 percent
18 of all Bachelor's degrees went to women. Today women
19 earn more than half of the Bachelor's degrees in this
20 country, 57 percent in the year 2000, and many women
21 are pursuing careers that their grandmothers would have
22 never dreamed of or considered.

23 Clearly the changes brought about by Title
24 IX greatly expanded the opportunities for girls and
25 women to achieve their greatest potential, and we at

1 the Department of Education are working to build on
2 these successes.

3 We celebrate not only the success, but also
4 the spirit of Title IX, which says "open to all."
5 Listen to these key words that are in the heart of
6 Title IX, quoting out of the statute, "no person in the
7 United States shall on the basis of sex be excluded
8 from participation in, be denied the benefits of, or be
9 subjected to discrimination under any educational
10 program or activity receiving federal financial
11 assistance. And it's a wonderful opportunity.

12 We happen to have one of the authors of this
13 language with us today, Senator Bayh. We look forward
14 to hearing his comments.

15 As Title IX reaches this milestone of its
16 30th anniversary, it's appropriate to celebrate its
17 achievements and to examine its effects and see if
18 there are ways to improve it even more.

19 President Bush said recently that tremendous
20 advances have been made in the fight for equality. We
21 must remain diligent in enforcing our nation's laws,
22 and we still have work to do in this area. I'm proud
23 to be part of implementing the President's vision of a
24 nation where civil rights laws are enforced fairly and
25 vigorously. So the charge being given to the

1 Commission is to gather facts, to listen to Americans,
2 and to find out how Title IX sports programs are doing.

3 I know each of you are experts in your
4 field, but I think it's going to be very important for
5 us to also do a lot of listening and to find out what
6 we can about these programs.

7 At these meetings the commissioners will
8 hear from the general public as well as experts who
9 have distinguished themselves in public service and
10 athletics. Their insights will be invaluable in
11 helping us understand the promise and achievements of
12 Title IX.

13 The Department of Education is fortunate to
14 have them serving in these important positions of
15 public trust. And of course we will benefit greatly
16 from the perspective again of Senator Bayh, who is one
17 of the authors of this landmark legislation.

18 All of us are united by our commitment to
19 ensuring a fair and equitable plan to every boy and
20 girl and every young man and young woman in America.
21 It is my belief that an open and candid exchange of
22 ideas will benefit this society, especially those young
23 people who have made sports an integral part of their
24 lives.

25 Again, let me clearly state that this

1 administration is firmly committed to the spirit of
2 access to sports for all our children. There can and
3 should be no mistake about our intent. I know that
4 Co-Chair, Cynthia Cooper, and Ted Leland will encourage
5 a lively discussion and also respectful listening and a
6 thoughtful report.

7 It is my pleasure to introduce them to you
8 today. Cynthia Cooper is currently the Chief Executive
9 Officer of the sports marketing company ProHaven.
10 Prior to that Cynthia, I think as everybody knows, led
11 the Houston Comets to four WNBA championships. She
12 also led the league in scoring as MVP during all four
13 of her years. She also won two Olympic medals and two
14 NCAA championships.

15 I think Cynthia is truly a hero for many of
16 our boys and girls in this country. She's also a
17 writer, a business leader, a singer and, more
18 importantly, a mother. Most of all, she has been an
19 aspiring example to all of our nation's youth.

20 Ted Leland is the Director of Athletics at
21 Stanford University. During his tenure at the
22 university he won 42 national team championships,
23 including 20 women's titles. Indeed, Stanford has
24 shown a remarkable competitiveness by winning eight
25 straight Sears Directors' Cup championships.

1 Ted is not only a proven winner, he's also a
2 strong supporter of women's athletics. In fact, Sports
3 Illustrated For Women twice named Stanford the top
4 college for women's athletics in this country.

5 When they perform well, our nation's schools
6 and colleges give our youth the skills and knowledge
7 they need to succeed. The sports teach them lessons
8 they probably won't learn in the classrooms, lessons
9 like good sportsmanship, a healthy lifestyle, and never
10 giving up.

11 And I'm also convinced that our athletic and
12 sports opportunities also promote patriotism in a lot
13 of our country as well as opening up opportunities
14 for coaching and teaching and mentoring, a very
15 important part of our country.

16 As Ted and Cynthia know, the greatest
17 beneficiaries of college sports are not the All
18 Americans, they are not the medalists, they are not
19 heroes. The greatest benefits go to the students who
20 discover often for the first time the joys of
21 competition, of developing skills and muscles and team
22 work.

23 All of us want to make sure that high school
24 and college athletics are accessible and full
25 opportunity for everyone. The only barriers in

1 statements, I would like each member of the Commission
2 to briefly introduce him or herself. And start here
3 to the right.

4 MR. BRIAN JONES: I am Brian Jones.
5 I'm General Counsel of the U.S. department of Education
6 and an ex officio member of the Commission, and I'm
7 thrilled to be here.

8 MR. GERRY REYNOLDS: Good morning. My
9 name is Gerry Reynolds. I serve as the Assistant
10 Secretary for civil rights for the Department of
11 Education. The Office of Civil Rights is charged with
12 enforcing all civil rights laws, including Title IX.

13 This series of Town Hall meetings is
14 extremely important. It will give us an opportunity to
15 listen to experts in the field, to listen to
16 administrators, athletes, coaches. We need to hear
17 this. We need to find ways to strengthen Title IX to
18 make sure that the progress that we've made over the
19 last 30 years remains and that we build upon it.

20 MR. BOB BOWLSBY: My name is Bob
21 Bowsby. I'm Director of Athletics at the University
22 of Iowa.

23 MS. JULIE FOU DY: My name is Julie
24 Foudy. I am currently with the U.S. women's national
25 team, am captain of the U.S. women's national team, and

1 with the San Diego Spirit, the soccer team out in
2 California, and still playing, so I'm a current athlete
3 and, like Gerry said, eager to hear the different
4 opinions and ideas from administrators and ex athletes
5 as well.

6 MR. GENE DeFILIPPO: I'm Gene
7 DeFilippo, the director of athletics at Boston College.

8 MS. CARY GROFF: Good morning, I am
9 Cary Groff, director of athletics at Northern Illinois
10 University.

11 MR. PERCY BATES: My name is Percy
12 Bates. I'm the Athletic Director at the University of
13 Michigan.

14 MS. MUFFET McGRAW: My name is Muffet
15 McGraw. I'm entering my seventeenth season as the head
16 women's basketball coach at the University of Notre
17 Dame.

18 MR. TOM GRIFFIN: I'm Tom Griffin, the
19 General Counsel at Brigham Young University.

20 MS. RITA SIMON: I'm Rita Simon. I'm a
21 university Professor in the School of Public Affairs
22 and the Washington College of Law at American
23 University, and I'm looking forward to learning a lot
24 this morning.

25 MS. DEBORAH YOW: Good morning, I'm

1 Debbie Yow, Director of Athletics at the University of
2 Maryland.

3 MR. GRAHAM SPANIER: I'm Graham
4 Spanier, President of Penn State University.

5 MS. SALLY STROUP: I'm Sally Stroup.
6 I'm the Assistant Secretary for Post Secondary
7 Education at the U.S. Department of Education.

8 MR. TOM LELAND: Thank you. Over the
9 next six months we will hold four Town Hall public
10 hearings to collect information, analyze issues and
11 obtain broad public input into this issue.

12 The Secretary has asked us to look at seven
13 specific areas to address. One, are Title IX standards
14 for assessing equal opportunity in athletics working to
15 promote opportunities for male and female athletes?
16 Two, is there adequate Title IX guidance that enables
17 colleges and school districts to know what is expected
18 of them and to plan for an athletic program that
19 effectively meets the needs and interests of their
20 students? Three, is further guidance or other steps
21 needed at the junior or senior high school levels where
22 the availability or absence of opportunities will
23 critically affect the perspective interests and
24 abilities of student athletes when they reach college
25 age? How should activities such as cheerleading or

1 bowling factor into the analysis of equitable
2 opportunities? How do revenue producing and large
3 roster teams affect equal opportunity in athletics? In
4 what ways do opportunities in other sports venues such
5 as Olympics, professional leagues, and community
6 recreational programs interact with the obligations of
7 colleges and school districts to provide equal
8 opportunity? And seven, apart from Title IX
9 enforcement, are there other efforts to promote equal
10 athletic opportunities for male and females, such as
11 public and private partnerships, to support the efforts
12 of school districts in colleges in the local area?

13 Permit me to emphasize that the job of this
14 commission is primarily to listen, especially today.
15 We will listen to the experts, we will listen to the
16 public, we will look at research, we will talk to
17 athletes, students, coaches, administrators, educators,
18 parents, and others who have information and
19 perspectives about Title IX.

20 I should say that we are excited about our
21 mission. I am excited about my fellow commissioners.
22 We've got great staff support. I'm really glad to be
23 here. As a personal aside, I should say that my
24 daughter is a college athlete, and when I was asked by
25 the Secretary to chair this commission, of course I was

1 sort of excited and proud and my wife called up my
2 daughter, who was away at college, and said, gee,
3 Mandy, you should be proud of your father, he's just
4 been nominated as Chairman of this commission and they
5 are going to study Title IX, and my daughter's response
6 was, well, tell dad that's great, but my friends and I
7 are watching him.

8 So I understand that our deliberations are
9 important and that there are lots and lots of people
10 who have been affected positively by Title IX, and
11 we're just excited about the challenge.

12 Now let me turn it over to Cynthia for a
13 short statement.

14 MS. CYNTHIA COOPER: Thank you, Ted.
15 Good morning everyone. As Ted noted, Title IX has
16 brought enormous benefits to our society. Millions of
17 American girls and boys, women and men have benefited
18 from the law. Despite the benefits of Title IX, it is
19 time to revisit the law.

20 The 30th anniversary of the law provides us
21 with an opportunity to conduct a national dialogue
22 about Title IX. As Secretary Paige recently remarked,
23 with the help of this commission, we will learn how we
24 can do a better job of enforcing a law that represents
25 hope for so many Americans.

1 As we begin that task today, our Town Hall
2 hearing in Atlanta will set the table for the
3 Commission's work. We will hear about the history and
4 the background of Title IX as well as many current
5 issues regarding the law and its enforcement.

6 I want to thank each panelist who has
7 traveled here to provide testimony. I also want to
8 thank each and every member of the public who is here
9 with us. We will receive your input this afternoon and
10 again tomorrow.

11 We now open the first hearing of the
12 Secretary's Commission on Opportunity in Athletics.
13 And I would like to ask panel one to come forward,
14 please. And I'll apologize in advance for
15 mispronouncing anyone's name.

16 The Honorable Birch Bayh. Birch Bayh is a
17 former member of the United States Senate.

18 SENATOR BIRCH BAYH: The clumsy one.

19 MS. CYNTHIA COOPER: We forgive you.

20 Where he was privileged to serve his home state of
21 Indiana and to be a part of historic legislation
22 affecting the American Presidency and the individual
23 rights of women, minorities, and youth.

24 Currently, Senator Bayh is a partner in a
25 distinguished Washington, D.C. law firm. Senator Bayh

1 continues to work on behalf of his long-held passions
2 of education, citizen rights, and the fight against
3 bias, bigotry and racism in America.

4 Senator Bayh was the author of the
5 legislation we are discussing today, Title IX to the
6 Higher Education Act, which mandates equal opportunity
7 of women students and faculty.

8 Today's rise of women in all academic
9 disciplines in school sports and the Olympics is a
10 direct outgrowth of this landmark legislation.

11 Since leaving the Senate, Senator Bayh has
12 continued his commitment to public policy. He is the
13 founding Chairman of the National Institute Against
14 Prejudice and Violence, a nonprofit, first of its kind
15 organization dedicated to studying prejudice and hate
16 crimes in America.

17 Senator Bayh.

18 SENATOR BAYH: I'm not at all nervous
19 here. Having been blessed by having two families, the
20 younger of which when he was growing up and we were
21 sitting around the dinner table or breakfast table,
22 when the sound of something being spilled was heard,
23 his mother always looked at his father, and it usually
24 was yours truly, so forgive me for this clumsy entrance
25 this morning, and thanks to all of you and your

1 thoughtful introduction.

2 I appreciate the opportunity to share some
3 thoughts with you this morning on the implementation
4 and progress thereof of the legislation we call Title
5 IX. And permit me, if I may, in time you'll understand
6 this. Let me emphasize my role of legislative intent.

7 Just what did members of the House and
8 Senate mean when they wrote that one sentence, which
9 now is Title IX, which has had such a profound impact?

10 As I listened to Secretary Hansen's
11 comments, I thought the Commission could write its
12 report today and go home because of the way you really
13 covered the field there. But let me tell you what was
14 in my mind when we passed this legislation 30 years
15 ago. And I think it's only fair to say that we're all
16 affected by our own personal experiences, so let me
17 share with you just a couple of quick ones.

18 My father coached four sports at Indiana
19 State and then moved his family in the mid-30s, I'm
20 dating myself here, to accept the position as Director
21 of Physical Education for the District of Columbia in
22 the public school system. He spent 55 years in public
23 education. And I remember as a small boy, I don't
24 remember how old but I couldn't have been very old,
25 listening to him tell us at the breakfast table that

1 that morning he was going to testify before Congress
2 and he was going to ask them to appropriate money so
3 that girls in the Washington D.C. public school system
4 could have physical education.

5 He was going to tell them that little girls
6 needed strong bodies to carry their minds around just
7 like little boys. And you know, that theory is true
8 today for girls and young women of all ages and really
9 is sort of a bedrock of Title IX if you stop to think
10 about it with all the publicity that it's gotten.

11 Later on I had my first experience with how
12 the system discriminated against young women when I was
13 struck, or stricken as the case may be, by a lightning
14 bolt in the form of a 19-year-old daughter leave home
15 going to Oklahoma.

16 She was a straight A student in high school,
17 had been President of the student body, was elected
18 Governor of the Oklahoma girl's team, and elected
19 President of the girls' station.

20 Her girlhood dream was to be able to go on
21 and attend the University of Virginia, but when the
22 time came, she was told girls need not apply. So when
23 she hit me, she was about to become a sophomore at what
24 was then Oklahoma A & M. In a matter of months I had
25 steered her off to western Indiana to attend Indiana

1 State and help me run a cows, hogs, corn, and soy beans
2 farm.

3 We spent 26 wonderful years together, and
4 through that whole period of time I think we were both
5 committed to do everything we could in our own small
6 way to deal with discrimination.

7 I think it's fair to say an observation of
8 everything that has been said here this morning, not
9 just my opinion, that Title IX is really the most
10 significant contribution to the equality of women, or
11 one of the most significant contributions to the
12 equality of women since the 19th amendment to the
13 Constitution.

14 It indeed did open up the door for
15 opportunity. And, Director Hansen, in your speech you
16 showed just how wide and a lot of specificity. But
17 despite all the doors of opportunity that have been
18 opened by Title IX, and the progress surely seems to be
19 made in bringing out discrimination against women
20 students, Title IX is at this very moment under serious
21 attack.

22 Title IX required quotas for women,
23 particularly in athletics, and some of the most
24 vigorous critics say some other things about Title IX
25 and people that support Title IX that I just as soon

1 not be hearing this morning.

2 You on the Commission all have had a chance
3 to read Title IX. You don't have to be a genius, you
4 just have to be able to understand English to
5 understand what we meant when we passed that
6 legislation.

7 The word quota does not appear. The
8 compelling thrust is there shall be no discrimination
9 in our system's education system on the basis of sex,
10 plain and simple. What we were really looking for was
11 equal opportunity, equal opportunity for young women
12 and for girls in the educational system of the United
13 States of America. Equality of opportunity. Equality.
14 That shouldn't really be a controversial subject in a
15 nation now for 200 years has prided itself in equal
16 justice. And that's what Title IX was intended to do.

17 I think in fairness, much of this opposition
18 results from a lack of understanding, of knowledge of
19 what Title IX does and what it doesn't do. Let's look
20 at some of these facts very quickly. As I said
21 previously, it does not require quotas, as each of the
22 eight U.S. appellate courts have held when they had
23 cases brought before them. In fact, a school can
24 comply with Title IX, as you've noted from reading the
25 regulations for Title IX, by just merely making

1 progress in expanding opportunities for female athletes
2 or by accommodating the interests of female students at
3 that school, whatever the number of opportunities may
4 be.

5 Much of the recent furor is due to the very
6 unfortunate misperception that Title IX forces schools
7 to terminate men's teams, like wrestling. Let me make
8 the record clear. And I think I can speak without
9 contravention of any of the others who were involved in
10 this effort.

11 The authors of Title IX had no intention
12 whatsoever of taking away opportunities for young men.
13 Our goal is to provide more opportunities for young
14 women. And in most instances fortunately, not
15 surprisingly, but fortunately that's been the case.

16 The detractors ignore the fact that 72
17 percent of all our nation's institutions of higher
18 education, 72 percent have added teams for women
19 without cutting the first men's team, men opportunity
20 or men sports. In fact, men's budget and participation
21 and opportunities in sports have increased overall
22 during the period of Title IX.

23 There have been enormous growth in men's
24 opportunities, such as in baseball, for example, which
25 if you just look at the raw numbers there to see how

1 the increase has taken place, in 1982 there were 642
2 NCAA member schools that had baseball teams. Today 857
3 have baseball teams. That's a 30 percent increase of
4 opportunity for men, and more power to them. A similar
5 story can be told about additional opportunities for
6 men to play soccer.

7 So Title IX wasn't designed in any way, nor
8 I believe overall has had the impact of decreasing
9 men's opportunities.

10 It's not female athletes who are crowding
11 out wrestlers, it's the more popular men's programs
12 that continue to dominate sports budgets, leaving
13 women's and other men's teams with only a small share
14 of the pie. And some of you who are athletic directors
15 are painfully aware of the kind of task that that
16 provides for you.

17 But fortunately many dedicated and creative
18 school administrators, some of you here, have
19 established programs which, like football, create many
20 slots for women. I hate to pick one example, but
21 there's one that just is too good to pass by, and
22 that's Washington State, where they offer a rowing
23 program for women, and they have exactly the same
24 number of women on the water as there are men on the
25 turf on the football team.

1 Other new teams have been created, and in
2 many instances women's teams have become profit centers
3 when they are adequately and properly promoted. In
4 addition, alumni and other sources of support have been
5 developed. A quick flashback to the Title IX era will
6 show just what the task is, what we were confronted
7 with.

8 Secretary Hansen hit the nail on the head
9 when he looked at what was happening then and what is
10 happening now. But we were looking at a situation
11 where 1 percent of the varsity college level athletes
12 and 2 percent of the budget went to women.

13 Today the number of college level
14 participants has ballooned. As you pointed out, there
15 were somewhere around 32,000, I think, participants in
16 '72. Today it's up to 150,000. And at the high school
17 level, which I think really is the sign of the future,
18 we've gone from 300,000 in 1972 to almost 2,800,000
19 girls who are participating in our junior high schools
20 and high schools.

21 So please don't listen to those people who
22 will tell you that women and girls aren't interested in
23 playing, they are. As Kevin Costner said in Field of
24 Dreams, build it and they shall come.

25 Let me emphasize one other fact that you

1 touched on, Secretary Hansen, which I think is really
2 more important than all the numbers, and that is today,
3 primarily because of Title IX, we have young women who,
4 together with their male peers, now enjoy the attendant
5 benefits of increased health, self-esteem, academic
6 performance, leadership skills, team work, as well as
7 decreased drug use, smoking, and teen pregnancy.

8 They learn a different way of life. They
9 have the opportunity to establish for themselves
10 personal values that will serve them in a different way
11 in the future.

12 On the world stage we have taken a great
13 deal of pride, we all have; female Olympians, World Cup
14 soccer champions. At home we've seen better sports
15 coverage of women's NCAA basketball teams. And
16 contrary to some who say no one will pay to see women
17 play, they are packing them in at schools like Perdue,
18 and I must say Notre Dame, Tennessee, Connecticut and
19 others where women's basketball is taken seriously, and
20 the job is done of promoting women's basketball the
21 same as men's basketball.

22 If you tried to find a ticket to the
23 Mystic's first playoff game in the WNBA here last week,
24 you were out of luck. It was packed to the ceiling.
25 And so has been the case time after time where women

1 draw good crowds the same as men. But despite the
2 progress, let me say quickly that Title IX's vision is
3 far from complete.

4 Women are 53 percent of the student body in
5 Division 1 colleges, but are only 41 percent of the
6 athletes and receive only 36 percent of athletic
7 operating budgets. All too many schools fail to
8 provide women with their fair share of athletic
9 scholarships. And the same disparity exists
10 unfortunately at the high school level.

11 Tragically, the attacks on Title IX has
12 diverted attention from the law's dramatic improvement
13 in academic opportunities for women students. And
14 perhaps that's really not your wishing here, but I
15 think it's the foundation on which we are governing our
16 institution of higher learning.

17 Prior to Title IX, many of our nation's
18 colleges and universities simply excluded women
19 outright. As I pointed out in my personal experience,
20 some would give -- I think it was law schools that
21 would give 10 to 15 just sort of tokens. And many
22 required women applicants to have significantly higher
23 grades and SAT scores, and so it went on.

24 Women and students received only half as
25 many scholarships, and they were worth half as much,

1 and there were some major scholarship programs, like
2 the Rhodes programs, where women need not apply.

3 And I should incidently add that at that
4 time only 18 percent of the faculty in higher education
5 were women. 30 years later women students represent
6 over half of all undergraduates, preparing themselves
7 for the future. They compete for financial and other
8 types of aid whether they're single, married, parents,
9 or part-time students. And women constitute 37 percent
10 of all faculty.

11 We must not overlook the tremendous strides
12 that women and girls have made in education. At the
13 same time, we must not allow a mistakenly drawn debate
14 to threaten progress that still needs to be achieved to
15 reach true equality in our nation's classrooms and our
16 playing fields.

17 Chairman Leland mentioned those seven
18 questions that were the challenge of Secretary Paige.
19 Permit me to be audacious enough to add one more
20 question that you ought to ask. Not just this panel,
21 but I think we need to ask society and we need to ask
22 as family members do we wish less opportunity for our
23 daughters than for our sons?

24 Thank you.

25 MS. CYNTHIA COOPER: Beverly Ledbetter.

1 Beverly Ledbetter currently serves as Vice President
2 and General Counsel at Brown University in Providence,
3 Rhode Island. She has earned a B.S. in chemistry from
4 Howard University and a J.D. in law from the University
5 of Colorado.

6 She has also attended Harvard University's
7 Institute for Education Management. She serves on the
8 Board of Directors of the National Association of
9 College and University Business Officers, the Civil
10 Justice Advisory Group for the U.S. district Court for
11 the District of Rhode Island, and is a faculty member
12 for Harvard University's management development program
13 and Institute for School of Law. I'm getting through
14 this.

15 In addition, Beverly was President of the
16 National Association of College -- it's a whole page.
17 You've done way too much.

18 In addition, Beverly was President of the
19 National Association of College and University
20 Attorneys, served as General Counsel and member of the
21 Executive Committee of the Rhode Island Black Lawyers
22 Association, was delegate to the Rhode Island and
23 American Bar Association, and was a member of the
24 National Collegiate Athletic Association Committee on
25 Infractions.

1 Beverly, please.

2 MS. BEVERLY LEDBETTER: Now we're going
3 to talk about the one thing I wasn't able to do. It's
4 my honor to appear before you today. Although I am the
5 latest addition to this panel, I hope that my comments
6 are timely.

7 We have all learned that we should keep it
8 simple. My plea today is not only to keep it simple,
9 fair and equitable, but to also make it reasonable,
10 rational, and flexible.

11 Those who make or enact the rules must
12 remember to keep them reasonable, the guidelines must
13 be rational, and those who apply should be able to
14 count on them being flexible.

15 It has been more than five years since Cohen
16 V. Brown, yet public discourse still sounds oddly
17 familiar and unchanged. The advocates, the
18 complainers, the defenders of nonrevenue sports, the
19 haters of football, the blamers of Title IX, they are
20 still shouting, still talking.

21 Perhaps it is because the situation at Brown
22 was so different from that of the average college. It
23 is difficult to generalize. They are, for example, no
24 athletic scholarships at stake. The ivy league doesn't
25 allow them. There was the unusual size of the women's

1 program prior to the suit, and prior to the suit, Brown
2 already had one of the nations's broadest varsity
3 programs for women.

4 And finally, Brown was able to resolve its
5 proportionality requirements by simply restructuring
6 its program without deleting men's teams. Or perhaps
7 it was the odd sensation that after all the dust of the
8 trial had settled, the central issue, proportionality,
9 is still with us. As it stands, the law eliminates the
10 actual interest and ability of students as a factor in
11 the design of varsity programs.

12 Institutions are responsible for the raw
13 universe of people, not the universe of students who
14 have the varsity ability and interest, but the
15 university of all students, whether or not they care to
16 be involved in varsity athletics.

17 Ironically, as interest in women's sports
18 grows and as more college aged women are interested and
19 able to compete at an intercollegiate level, Title IX
20 may well be functioning as a ceiling.

21 A compliant program that would normally seek
22 to accommodate the increased interest and abilities of
23 its female students, all compliance limits to its
24 expansion beyond the gender ratio that obtains in the
25 entire undergraduate student body.

1 There will be no serious proponents of
2 eliminating or in any way addressing Title IX in such a
3 way that it does not provide additional opportunities
4 for women. Colleges and universities are committed to
5 that; as we have heard today, the U.S. Government is
6 committed to that; and we as the citizenry of the
7 United States are committed to that.

8 However, it is worth noting that we live in
9 different universes and that there are things that we
10 must note about the way we operate differently.

11 Colleges do not select from their applicant
12 pool on the basis of gender alone or even gender and
13 race or ethnicity. Admission itself is a complex art
14 that encompasses recognition of and attention to
15 scholastic achievement, career interest across a
16 spectrum of available fields of study, and diversity
17 that includes geographic cultural representation and
18 socioeconomic status.

19 Few schools have the luxury of expanding any
20 special group without first reflecting on their own
21 existing resources to accommodate the group, including
22 their fiscal and facilities.

23 Advanced planning is not just an important
24 element of change, it is a critical component. It just
25 simply isn't true in all aspects that if you build it,

1 they will come. It is true that if you build it, they
2 will come, but the question is in what numbers?

3 The screenings for higher education have not
4 been hit in many cases, and yet we are committed to
5 continuing to build it and continuing to encourage them
6 to come.

7 Scheduling volleyball games for a stadium
8 will not fill the stadium, televising the swimming
9 meets won't tilt the Nielsen ratings, and adding
10 significant numbers of women's teams has not
11 automatically generated the interest and participation
12 that we had all hoped and prayed for.

13 This, of course, does not mean that we
14 should in any way not provide substantial and increased
15 opportunities for women to compete at the highest
16 possible level in intercollegiate athletics. That is
17 in fact the thrust of Title IX and should in fact be
18 both its promise and our hope.

19 Similarly, we should provide both women and
20 men the opportunity for club sports or recreational
21 activities outside the bounds of team or individual
22 competition.

23 Our efforts to date to seek common sense
24 reasonable and rational regulations and guidelines
25 still leaves much to be desired. For instance, the

1 decision to require schools to disclose information
2 about athletic programs, participation levels and
3 expenditures provided little insight into the actual
4 factors that go into decision making with respect to
5 the offering of our support for athletic teams.

6 While schools were required to reveal
7 expenditures by team and by gender, there was much
8 opposition to any placing of a line in the disclosure
9 forms for per capita expenses by gender.

10 Per capita costs should be as relevant as
11 per team costs, and yet neither accurately reflects
12 whether or not schools or teams are having their needs
13 met. This can only be done by building the budget for
14 the team with adequate inclusions for equipment,
15 uniforms, travel, et cetera, and all the other
16 components that are necessary to run an athletic
17 program, unlike the early and perhaps some of the
18 ongoing propositions for Title IX and by Title IX
19 advocates, to split university financial expenditures
20 evenly, 50/50, at an institution with 50 percent women
21 and 50 percent men. These analyses have been designed
22 to show how women's teams fare in the overall
23 allocation of financial resources, but unlike a 50/50
24 proposition, the inclusion of a per capita analysis
25 shows the amount spent on each man compared to the

1 amount spent on each woman.

2 In the first instance the school with a ten
3 million dollar budget for funding of athletic teams
4 would be required to spend five million dollars on
5 women's teams and five million dollars on men's teams
6 regardless of the relative needs of the team.

7 A per capita analysis, however, might point
8 out that a men's team with 30 members might have a per
9 capita expense less than a women's team with 10
10 members, or vice-versa.

11 What we really need are regulations that are
12 reasonable, rational, and flexible. I urge this
13 commission to look at and to consider regulations and
14 guidelines that are both fair and equitable, rational,
15 meaning that they are related to meaningful measures,
16 including the relevant student populations, flexible,
17 allowing for expansion and contraction over time,
18 allowing for regional and geographic differences,
19 taking into account availability of physical resources
20 as well as fiscal resources.

21 I urge you to adopt regulations and
22 guidelines or to propose or suggest regulations and
23 guidelines that are realistic, that recognize and make
24 allowances for differences of rates of competition for
25 team sports versus individual competition sports, that

1 recognize and make allowances for revenue versus
2 nonrevenue sports, for to do otherwise could seriously
3 jeopardize a valuable source of revenue for
4 substantially a few sports, if not all sports, and thus
5 allows institutions who are fortunate enough to be the
6 beneficiaries of such income.

7 I am not one such institution. To use
8 university or other resources to support nonrevenue and
9 emerging sports, I want you to recognize that teams
10 have natural limits and universities have natural
11 limits on their athletic programs that interested
12 schools are often impacted by factors unrelated to the
13 school's good faith efforts to promote interest in
14 certain sports, to recognize and accept that spectator
15 interest and dollar support play a legitimate role but
16 should not play the dominant role in the choice of and
17 support for institutional athletic offerings.

18 They are not legitimate considerations and
19 should not influence the availability of opportunities
20 for play on any team for provisions for the sport and
21 welfare of individual students, including training,
22 medical attention, marketing, or general sports
23 information.

24 We must have regulations and guidelines that
25 are equitable and provide for equitable treatment and

1 considerations, not equal. Outcomes do not necessarily
2 paint the real picture with respect to the integrity of
3 a university's athletic program.

4 Information sought from institutions must
5 focus more on the relevance of costs used to build the
6 budgets rather than the comparison by teams of
7 expenditures.

8 We must utilize not only overall
9 expenditures and expenditures by team, but also per
10 capita expenditures and go beyond that in analyzing
11 what makes both reasonable.

12 And finally we must preserve institutional
13 autonomy. Universities must have full discretion and
14 responsibility to determine the breadth and scope of
15 their athletic offerings just as they do for their
16 academic programs. Small, private, large public
17 community colleges, rural and urban community colleges
18 will all differ in their approach, and yet all can have
19 legitimate programs with integrity.

20 To achieve this, it is certainly necessary
21 to modify or at least clarify the three-part test that
22 you are looking at. And I will have comments on that
23 at a later point in time when we are asked questions.
24 It is, however, appropriate that we revisit the issue
25 and the provisions relating to substantial

1 proportionality.

2 Statistical disparity, if used, must be
3 correlating to the relevant populations; the relevant
4 populations, not the enrollment by gender. If the rule
5 of proportionality is to stand, we must give it a
6 rational basis.

7 The history of continuing expansion must
8 move away from an analysis that mimics the political
9 priorities, such as, what have you done for me lately?
10 We must be able to accommodate viable sports and allow
11 the provision to measure interest in both women's and
12 men's sports to determine if universities are meeting
13 their obligations equitably.

14 It has been appropriately determined in
15 court cases outside the athletic context that
16 evidentiary standards that infer discrimination based
17 on statistical comparisons, which include a pool of
18 persons who are not interested in the opportunities,
19 may be tantamount to preferential treatment.

20 We should be careful to avoid this while
21 still maintaining our objective of providing women with
22 more and better opportunities. Of course colleges and
23 universities can and should do better. They must adopt
24 standards for setting their priorities, and they must
25 make those standards known.

1 Whatever is decided, neither colleges and
2 universities or their student athletes or their student
3 bodies should be subject to the whims of shifting
4 regulatory schemes. The umbrella is large enough and
5 should always be large enough to allow threatened men's
6 teams, including wrestling and swimming, emerging
7 women's teams, and yes, even football, to coexist
8 within an athletic environment that is ethical,
9 reasonable, rational and flexible and yet embraces
10 institutional autonomy.

11 This is your task. It is our hope. Thank
12 you very much.

13 MS. CYNTHIA COOPER: Thank you. Marcia
14 Greenberger. Marcia Greenberger is founder and
15 Co-President of the National Women's Law Center in
16 Washington, D.C. Yes, it's your turn.

17 Marcia has been involved extensively in
18 issues pertaining to sex discrimination and the law and
19 has participated in the development of key legislative
20 initiatives and litigation protecting women's rights,
21 particularly in the areas of education, employment and
22 health.

23 Marcia established herself as a Director of
24 the Women's Rights Project of the Center for Law and
25 Social Policy, which then became the National Women's

1 Law Center in 1981. Her professional honors include
2 the women's lawyer of the year award by the D.C.
3 women's Bar Association in 1996.

4 In addition, she received a Presidential
5 appointment to the National Skill Standards Board and
6 is also a member of the Executive Committee of the
7 leadership Conference on Civil Rights.

8 She is a member of the American Law
9 Institute and the American Bar Association Council of
10 the Individual Rights and Responsibilities Section.

11 Marcia.

12 MS. MARCIA GREENBERGER: Thank you very
13 much, and thank you to the Commission for giving me
14 this opportunity to appear before you here today.

15 I'm very grateful for the chance to speak to
16 you about such an important issue as Title IX and the
17 way it has been interpreted and enforced since its
18 passage in 1972.

19 I began working on the issue of women's
20 rights right after the passage of Title IX in 1972, and
21 I am very much a grateful beneficiary of that statute,
22 not for my own self and my own educational experiences
23 because I went through college and law school pre 1972
24 days, but for my daughter's opportunities to play. And
25 it has made an enormous difference in their lives as

1 well as the lives of so many other young women. And as
2 they grow and mature, as Senator Bayh pointed out so
3 eloquently, in their future lives, their very health,
4 their professional opportunities, the benefits of
5 athletic participation really can't be debated anymore
6 than the way they were in 1972 when Title IX was
7 passed.

8 I remember very distinctly being attacked by
9 those who claimed that supporters of Title IX were
10 really trying to hurt women because women's
11 participation in athletics was hurtful to them. It was
12 hurtful to them physically, it would interfere with
13 their ability to bear children, it would mean that they
14 would lose their femininity, it would ruin their
15 ability to get along with people. Those kinds of
16 arguments are hopefully behind us.

17 And every person who has spoken today has
18 talked about the enormous benefits of athletic
19 opportunities for women, and isn't that a great
20 achievement after 30 years.

21 It's also, though, so important to recognize
22 that Title IX and the simple statement of principle
23 that Senator Bayh so brilliantly described and
24 gratefully engineered through passage, that simple
25 words of support for that principle have to be

1 translated into concrete actions, into specific
2 policies, into specific regulations, into specific
3 actions that colleges, universities, public schools at
4 the elementary and secondary level have to take.

5 When Title IX was passed, these colleges,
6 universities and schools said they couldn't understand
7 what those simple words meant. It needed to be
8 translated into specifics. We still hear that cry
9 today, and one of the questions that the Commission has
10 put before it is whether even now today there's enough
11 guidance for schools to know what their actual
12 obligations are.

13 So simply saying that everyone supports
14 Title IX can mask an enormous variation in obligations,
15 in responsibilities, and I don't know very many people
16 who would claim that without Title IX, without the
17 regulations that were issued in 1975, without the
18 policies that were issued in 1979, without the court
19 decisions that have upheld those policies in case after
20 case after case.

21 So we now do have an established body of
22 law, an established set of principles, that without
23 that clarity we wouldn't have had the progress that we
24 are all so proud of today.

25 So I want to start my remarks by urging you

1 all to think very carefully about your critical charge,
2 because what you represent is the beginning of a
3 process that has never happened since Title IX was
4 passed in 1972. And that's a public stated official
5 process of considering the possibility of changing
6 these long-standing policies, these long-standing
7 principles that have been fought out in the courts that
8 have been explicated, described, presented in detail,
9 so that there is as much as there can be the kind of
10 parameters and certainty that now schools are beginning
11 to depend upon, that women athletes can see that they
12 have a right to expect, and we are now beginning to see
13 the kind of real progress after so many of these
14 challenges.

15 So to suggest changing, to suggest new
16 principles, can carry with it enormous costs,
17 uncertainties, dislocations. Ms. Ledbetter very
18 properly talked about equitable, reasonable, rational,
19 and flexible. Those are the very ways that Congress,
20 when it has been approached to try to change these
21 Title IX policies, has said they are actually operating
22 in fact. These are the very ways that the courts have
23 said these regulations and policies are operating as a
24 matter of law and in fact. They are designed and do
25 give schools flexibility, they are reasonable and

1 rational, and they provide for equal opportunity.

2 Let me turn for a few minutes to a
3 description of some of the core aspects of the policies
4 that have been the subject of debate. One in
5 particular, the three-part test that was referenced,
6 that determines the ability of women to seek an
7 expansion of their right to be able to participate in
8 intercollegiate athletics.

9 And we've heard references certainly outside
10 this hearing and in it to the idea that Title IX is a
11 quota bill or has operated in a quota fashion. That's
12 a charge that has been rejected by all the courts that
13 have heard it, and these are all courts that have said
14 they would not tolerate quotas, that quotas are
15 illegal.

16 And let's talk a little bit about how
17 intercollegiate athletics and athletics at the high
18 school level and below really work. And it's not like
19 other areas of our society. It is the schools that
20 decide, and Title IX allows the schools to decide that
21 they're going to set up teams that only women can
22 participate in or only men can participate in.

23 So it's the schools that might have jobs.
24 We don't have jobs that are for mostly only women or
25 only men, but here we have basketball teams for women,

1 basketball teams for men, football only women, football
2 only men.

3 I must admit in a Title IX case at one point
4 a university claimed that actually their football team
5 was open to women, and the fact that it was descriptive
6 in their catalog as a male sport was just a description
7 that happened to come out for it, but it was really a
8 coed team. The judge did not accept that argument, I
9 must admit, softball for women, football for men.

10 So in the context that you're considering
11 here, the schools decide how many teams they are going
12 to offer that they will let women participate in, how
13 many slots that those teams will have. They are
14 picking the absolute numbers of how many women can
15 apply and how many men can apply and participate, and
16 therefore, that's very different than most areas.

17 It is really the schools that are setting
18 out those arbitrary limits, and what Title IX is saying
19 in participation terms is how do we decide whether or
20 not those schools' limits are fair and equitable?
21 Well, the first part of the test, the so-called
22 proportionality part, says a very common sense thing.
23 If a school has 50 percent of its students female and
24 it gives 50 percent of its participation opportunities
25 to women, it can be in compliance with Title IX.

1 Would anyone want to withhold the
2 flexibility of a school to be able to offer that
3 proportionality of opportunities for women?

4 The idea that that first prong of the test
5 should be eliminated goes against the very concept of
6 flexibility and the very concept of an expectation of
7 fairness. Why wouldn't it be okay for a school to give
8 the same number of opportunities for women to
9 participate as men as it has in the student body? And
10 for those who say that shouldn't be an option for the
11 schools, what they are really saying is it has to be
12 unfair because young women are not as interested in
13 playing athletics as young men and therefore --

14 (Fire alarm).

15 (Brief recess).

16 MR. TED LELAND: We're ready to resume.

17 MS. MARCIA GREENBERGER: I wanted to
18 discuss a little bit about the three-part test that I
19 had discussed before the bell went off and was
20 discussing the fact that many of those who have
21 attacked this first prong and really saying that
22 schools shouldn't, it seems to be allowed to provide
23 the same number of opportunities in proportion to the
24 student population that they have with women and men,
25 have to at the end of the day be saying that women

1 aren't as interested in playing and therefore they
2 don't deserve the same opportunity as the men.

3 Well, again, that's been a charge since
4 Title IX was passed. And it had been argued not only,
5 of course, that it was going to hurt women to play, but
6 also that the number of women who were playing in 1972
7 reflected their interests, and that women didn't want
8 to play any more than they were. And then when their
9 numbers went up 10 percent, 20 percent, 30 percent
10 participation in athletics at each junction, the
11 argument was, well, that's the natural stopping point,
12 that's as interested as women are in playing.

13 Now there are about 41 percent of student
14 athletes and schools are setting out slots for them to
15 compete in. It's the schools that are setting up those
16 opportunities at 41 percent. And it also is something
17 important to keep in mind with respect to this interest
18 that, as has been pointed out, with 2.7 million high
19 school girls playing sports and about 200,000
20 intercollegiate opportunities for women to play sports,
21 the idea that 2.7 plus million high school students,
22 female students, wouldn't in larger than 41 percent
23 numbers be interested in playing.

24 The 200,000 sports opportunities that
25 schools allow them to play is preposterous on its face,

1 and that's really what those courts, when they were
2 looking at these decisions, said.

3 And when they talked about school's
4 arguments that women aren't interested in playing, they
5 said the schools are engaging in the old stereotype,
6 the very stereotypes that Title IX was passed, as
7 Senator Bayh pointed out, to dispel that Title IX makes
8 illegal, and that this three-part test is not only a
9 reasonable way of interpreting Title IX, but it goes to
10 the essence, and the importance of the equality mandate
11 of Title IX to have these opportunities spelled out in
12 this way.

13 The second part of the test is the most
14 flexible part of a civil rights test that I must say I
15 have seen in looking at employment discrimination law
16 or any law that deals with discrimination. After that
17 part, a school can be in compliance with Title IX if it
18 shows that it's making progress, it has a history and
19 continuing practice of making progress towards reaching
20 -- imagine if a woman were coming in and if her
21 employer agreed that he was paying her less than her
22 male co-worker but said don't worry, every year I'm
23 going to increase your salary by a dollar an hour, and
24 in five years, maybe ten, in five years I'm going to
25 try to get you up to equal pay with your male

1 co-worker. I'm going to keep raising it year after
2 year until I get you to quality of pay. That employer
3 would be laughed out of court.

4 When we're talking about flexibility, this
5 three-part test and its second part allows schools to
6 say they are going to be phasing in equal opportunity
7 over time, and so young women are going to have to wait
8 over the years as these schools come into compliance;
9 that, to me, is the definition of flexibility.

10 And the third part of the test is that even
11 if a school isn't given a proportionate number of
12 opportunities to its female students as to its male
13 students to play, even if it isn't making progress
14 towards equality in a continuing way, it can still be
15 in compliance with Title IX if it can show that it is
16 fully and effectively meeting the interests and
17 abilities of its female students. That, too, is the
18 essence of flexibility.

19 So what that third part of the test is
20 saying is that it's really true that women aren't as
21 interested in playing and the school cannot provide an
22 equal number of opportunities in its student body with
23 respect to the female students that it has, then it can
24 be in compliance with Title IX nonetheless. That is
25 where the interest perspective comes in, to that third

1 prong of the test.

2 Well, the problem for opponents of Title IX
3 is that when schools have tried to argue and others
4 have tried to argue in many instances that women in
5 their campuses are not as interested in playing, they
6 haven't been able to convince people that that's the
7 case for obvious reasons. Even in Brown there were
8 obviously a number women to be playing to meet -- and
9 interested and meeting the proportionality test. And
10 Brown University had actually cut two women's teams
11 that were championship teams, in fact. So they were as
12 interested in playing.

13 Well, here we have this three-part test as
14 flexible on its face as it's possible to imagine a
15 civil rights statute to be. Is there something about
16 the way it's been enforced that somehow makes it less
17 flexible in fact than it appears on the face of it?
18 Again, the facts show that flexibility. In fact,
19 during the period of time in the late '90s when the
20 three-part test was clarified by the policy
21 clarification in 1996, the majority of schools whose
22 programs were reviewed by the Office For Civil Rights
23 were found in compliance not under the proportionality
24 prong, but under the interest prong, that they were
25 effectively meeting the interests and abilities of

1 their female students, even though they weren't
2 providing the same proportion of opportunities and even
3 though they weren't showing a history of continued
4 experience.

5 So schools whose programs have been reviewed
6 by the Office For Civil Rights most recently have been
7 most likely found in compliance under prong three, this
8 interest test. And I must say, not having had an
9 opportunity to look at the facts that those schools
10 provided, it would be important I think for this
11 commission to see whether or not there was actually too
12 much flexibility in the way the Office For Civil Rights
13 was interpreting and applying this three-part test and
14 what in fact was the real justification of these
15 schools for showing that their female students weren't
16 interested enough in playing that those schools did not
17 have to provide them a proportionate number of
18 opportunities to play.

19 I think it would be very important for this
20 commission to look at the showings actually made by
21 those schools, but on the face of it, the Office For
22 Civil Rights has been enforcing this three-part test in
23 an extraordinary flexible way.

24 I want to make one other comment with
25 respect to flexibility, and that is what happens when

1 schools have had a program as has obviously been the
2 case in the history of our country, an intercollegiate
3 athletics program or an athletics program at the high
4 school level or below, historically all male teams, or
5 virtually all male teams, that is the way life was pre
6 1972.

7 How does a country that wants to open up
8 opportunities for women do it? As Senator Bayh says,
9 everybody would like that to be done, but finding new
10 resources in order to expand and find new opportunities
11 for women and young girls and add those opportunities
12 to the ones that are existing for young men, and that
13 is the way it has happened for the last 30 years.

14 The General Accounting Office study shows
15 that, NCAA statistics shows that overall men's
16 participation has gone up. Of course, women's
17 participation has gone up more because it had been
18 closed out. So obviously it had to come out more.

19 But looking at that hallmark of flexibility,
20 those policies have said that schools have the
21 flexibility to come into compliance without only adding
22 women's opportunities. If they must, they have the
23 flexibility to cut back on some of the men's
24 opportunities. That is not flexibility that women's
25 rights advocates urged, that was the flexibility that

1 was urged by schools and that the development in its
2 test and policies responded to. And the courts in
3 reviewing this policy and deciding what the remedies
4 should be also said in the interest of flexibility, in
5 the interest of respecting schools' own decision making
6 authority, in the interest of trying to allow for some
7 kind of accommodation of this, this moral imperative or
8 this legal imperative for quality, obviously it isn't
9 acceptable to tell women just wait, accept third class
10 status until schools can decide they have enough money
11 to add programs for you. That can't be right, if
12 schools have limited funds, it could be that women just
13 have to wait in the corner quietly until schools decide
14 it's their turn for more of a chance to play.

15 Does a school have the flexibility to cut
16 some of the resources it's putting into men's teams if
17 that is necessary? The Department of Education's
18 policies has given the schools back flexibility. If
19 the Department of Education wants to review its
20 regulations, its policies, and say schools must add
21 resources to bring women up to men and take that
22 flexibility away from schools, to do some cutting if
23 they decide that that's necessary, I assure you that
24 advocates for women's athletic opportunities would be
25 supportive of that.

1 It is the schools themselves who have had
2 the ear of the Department of Education and insisted on
3 the flexibility to be able to cut resources going to
4 men's teams if that's what they choose to do. It is a
5 fortunate thing that most colleges and universities,
6 including Brown, have not chosen to do that. It is in
7 the interest of fairness, in the interest of what is
8 best for our country, that in fact colleges and
9 universities and schools below have tried and in fact
10 have succeeded largely in expanding male athletic
11 opportunities and women's athletic opportunities, and
12 so Title IX has been an extraordinary success story in
13 that respect.

14 I want to finally say that it's especially
15 wonderful to have this first hearing both in Atlanta
16 because I was reminded, of course, of the Olympics, and
17 one of the questions of the Commission is looking at
18 the effect of Title IX on other kinds of athletic
19 forums, including the Olympics. And because of Title
20 IX, as has been pointed out, women in this country have
21 been able to show the extraordinary skill and talent
22 demonstrated to the Commission members here before the
23 world at large.

24 And after all, in the Olympic games in 1996
25 in Atlanta Title IX was a hero for what it meant for

1 women's participation in gold medals in those team
2 sports.

3 It's also true that in Atlanta the newspaper
4 did a series of investigations of what was happening in
5 the high schools around the state just a few years ago
6 and found extraordinary discrimination in the resources
7 going into high school sports in favor of the male
8 sports, to the point that the Georgia legislature
9 passed a law specifically beefing up their state
10 protections against sex discrimination in high school
11 athletics and requiring serious disclosure of the kind
12 of support that is going into high school athletics in
13 Georgia, expose in Pittsburgh and other places around
14 the country show that the discrimination that was the
15 reason that Title IX was passed has not been fully
16 eradicated even at the 30th anniversary of Title IX.

17 The final reason that it seems too wonderful
18 to be in Atlanta right today is that, of course, over
19 this past weekend Atlanta hosted an important soccer
20 tournament. In coming from Washington, D.C., it's
21 often viewed as a seat of national power, of course,
22 but it's also a city where people live, and I couldn't
23 help but bring just as a final note our hometown
24 newspaper, the Washington Post, which on the front page
25 for the last three days in the top of the fold, the

1 lead story for three days in a row had to do with
2 women's sports.

3 The Washington Mystics and the Freedom bid
4 for titles on Saturday's paper. In Sunday's paper what
5 happened unfortunately to the Freedom, and on Monday's
6 paper what happened unfortunately after a fabulous
7 season to the Mystics in New York.

8 I assure you that not only when Title IX was
9 passed would people have never predicted that we would
10 see that kind of coverage of women's professional
11 sports, let alone any professional sports for women,
12 but people are still predicting, despite our 30 years
13 of history, that women can be as interested in playing,
14 people won't watch them as much, they can't benefit as
15 much from athletic opportunity as men, because the
16 facts are so much on our side now because the law as
17 written now is so flexible and has been upheld even
18 with this flexibility because it has made the
19 difference.

20 I urge you to encourage the Department of
21 Education to keep the policies that are now clarified,
22 interpreted, supported by the courts, in place. And
23 finally, I would urge that you urge the Department of
24 Education to enhance its enforcement. The Department
25 of Education has responded to complaints of

1 discrimination in athletics. It has rarely, if ever,
2 conducted its own compliance reviews based upon the
3 public available data to go out and look at the range
4 of problems across the country. Of course it should be
5 investigating those complaints, but with all of the
6 clear discrimination that is still going on, whether in
7 scholarships, whether in recruiting, whether in
8 budgets, which are still a small fraction of the
9 budgets going to men's sports, the Department of
10 Education's enforcement has been extremely limited.

11 The cases are the cases that have had to be
12 brought by individual athletes who are not in a
13 position generally to bear the cost of those lawsuits,
14 so what we need on the 30th anniversary of Title IX is
15 much more vigorous enforcement of Title IX at the
16 collegiate level, where as was found in Atlanta and as
17 was found across the country in many other cases. And
18 we have reports, and I would submit a report from the
19 National Law Center, for the purposes of the record.
20 We still see far too much discrimination and not enough
21 attention and not enough of a public spotlight on the
22 problems that still need to be addressed.

23 Thank you.

24 MS. CYNTHIA COOPER: Thank you, Marcia.
25 We're kind of running a little over, so we're going to

1 limit the question and answer sessions to 14 minutes.

2 So I want to open up for questions now.

3 MR. PERCY BATES: Ms. Ledbetter, would
4 you talk a little bit more about what you meant by
5 flexibility?

6 MS. BEVERLY LEDBETTER: Surely. I
7 don't have my notes in front of me, but by flexibility,
8 I mean that the institution must have -- and it also
9 relates to autonomy -- the institution must have the
10 flexibility of designing its own program in accordance
11 with its available resources, the resources that are
12 both fiscal and those that are facilities.

13 I think that that in and of itself brings
14 some institutions in conflict with prong three, or what
15 we call the third part of the test, which is the
16 accommodation of viable sports.

17 Some institutions really have limited fiscal
18 resources, and these are very, very difficult.
19 Sometimes they are dependent on outside financial
20 contributions, donations, alumni, or donor support, fan
21 participation. And one of the things that I said is
22 that an institution ought to be allowed to use those
23 resources to the maximum benefit of the institution,
24 which may mean that the resources that support one
25 sport may allow an institution to free up resources

1 that support other sports.

2 I also meant by flexibility the fact that
3 there shouldn't be a requirement that a school continue
4 to offer sports when it is in fact retrenching with
5 respect to academic programs. I think after all, we
6 have to recognize that the primary responsibility of an
7 institution is its academic core, not its athletic
8 core. And as important as that is, that is a part of
9 the learning opportunities just as not to offer any
10 sports or any extracurricular activities, it ought to
11 have the opportunity to explain those.

12 And so when I mean flexibility, I mean
13 flexibility across all three parts of the test.

14 Thank you.

15 MR. GENE DeFILIPPO: Thank you. Gene
16 Filippo from Boston College. Like so many of the
17 commissioners, our colleagues have called us, have
18 written us, communicated to us written questions,
19 concerns, issues that they have that they would like us
20 to ask questions about, that they would like us to seek
21 information about.

22 One of the questions that keeps coming up
23 continually for me from those of my colleagues and
24 others is -- this is for all three of you -- is there
25 the guidance necessary for institutions to show that

1 they are in compliance using parts two and three of the
2 test?

3 Examples, what does expanding opportunities
4 mean? Does it mean the addition of a sport per year,
5 over a three-year period, over a five-year period?
6 What does it mean? When is an institution meeting the
7 interests and abilities for participation?

8 There are many schools in the northeast, for
9 example, that are situated in ivy leagues. They have
10 between 30 and 40 sports programs. They are
11 nonscholarshipped. When do you have to have 40 sports
12 to be able to compete with the equestrians, the
13 fencing, the sailing, and skiing? At what point is
14 there the guidance necessary in prong three for us to
15 know that we're in compliance?

16 MS. MARCIA GREENBERGER: I'm happy to
17 at least begin. I think that certainly since Title IX
18 was enacted in 1972, schools have been asking for
19 guidance. And obviously that guidance has continued to
20 come with more and more specificity. But at the end of
21 the day there has to be as a matter of common sense
22 looking fact by fact at the specifics of a particular
23 school.

24 In response to the need for more guidance,
25 in 1996 the Department of Education issued more policy

1 clarification and responded to those very questions for
2 part two and part three of the test and gave some
3 specific examples of what it would accept and different
4 hypotheticals of what it would accept for part two and
5 part three.

6 So in answer to your specific question about
7 what does it mean to have a history of continuing
8 practice of expanding opportunities? Does it mean
9 having a team every year? That '96 policy
10 clarification says no, it does not mean that and gives
11 one example of a school that might have added teams
12 every few years after surveying the interests of high
13 school students, what other schools were providing, and
14 the like.

15 It gave an example of another school that
16 had actually cut a team, a women's team, by adding a
17 bigger women's team at the same time and then added
18 every few years other women's teams as yet a different
19 fact pattern, but one that could meet that second test.
20 And it provided other actual examples as well.

21 So there is a lot of guidance. It also
22 would be important, and I suspect if this commission
23 asked, it would find that the Office For Civil Rights
24 regional offices are available to answer questions.
25 That is the way it is with every enforcement agency,

1 with every law that has to be enforced, with everybody
2 who is wondering whether or not their practices may
3 fit.

4 So, too, with respect to meeting the
5 interests of the students in prong three. You said the
6 ivy league provides a lot of athletic opportunities.
7 Does another college that actually provides scholarships to its
8 athletes have to provide 40 teams? It isn't that they
9 have to provide 40 teams because the ivy league
10 provides 40 teams. Title IX doesn't say that at all.

11 What Title IX is saying, again, to go back,
12 and let that be your important point of flexibility, is
13 schools don't have to provide an athletic program at
14 all. Title IX doesn't say there has to be one.
15 Schools can decide the size of the athletic program.
16 They don't have to invest in a big athletic program.
17 If they want to invest more on the academic side of
18 things, Title IX doesn't say they can't do that.

19 However, if a college is providing a lot of
20 opportunities to its male athletes and fewer to its
21 female athletes and then claiming there isn't enough
22 interest among female athletes to give them the same
23 opportunities as it gives its now students, while
24 schools down the road are providing a lot of teams for
25 women and have no problems filling those teams, then

1 and only then would that school have to answer to why
2 it is in fact meeting the interests and abilities of
3 and fully accommodating the interests and abilities of
4 its female students when it's giving them less
5 opportunities to play than it's giving its male
6 students. It doesn't have to give them 40 teams. But
7 if it's giving men a lot of opportunities it isn't
8 giving the women and there are a lot of teams that it
9 could be fielding for its women students and it isn't,
10 then appropriately so, the school is going to have a
11 hard time claiming to be meeting the interests and
12 abilities of its female students.

13 MS. BEVERLY LEDBETTER: Very briefly, I
14 think that while the question begs entry into another
15 area, that is that if you have schools that already
16 have significant offerings in terms of women's teams,
17 perhaps even more teams than men's teams, and you are
18 now confronted and the focus is on you for compliance
19 and you are not proportional, where do you go on your
20 two and three and how do you set reasonable standards
21 for determining whether that school has expanded its
22 women's opportunities?

23 They are already there, so they may not have
24 happened in the last four, five, six, seven or even ten
25 years. Do you or are you penalized for having had an

1 early compliance program where you offered these
2 opportunities that are comparable to or greater than
3 other schools at a very early point in time? That
4 would be prong two. So I think that's why you've asked
5 for guidance under prong two, to clarify that guidance.

6 And under prong three, you're already at
7 that natural limit, some limit for your facilities for
8 your resources. How do you then continue to add teams
9 when you know that you cannot continue to do so without
10 growing that athletic pie at the same time that you may
11 be reducing the academic offerings?

12 And I think those are considerations that
13 are worthy of your attention.

14 MS. RITA SIMON: When schools indicate
15 that their women are not participating in high enough
16 numbers or in accordance with their percentages of
17 students on campus, are universities or colleges
18 expected to explain how they found out that women
19 students are not interested? Are colleges expected to
20 produce data, information to show that they have had a
21 program in which they have tried to interest women
22 students in athletics? Are they expected to show how
23 they measured the fact that women students are not as
24 interested? Or does one simply take the word of the
25 college that, well, only 25 percent of the women are

1 interested? Or do they show fully well that we've had
2 publicity programs, we've gone into the dorms and
3 talked with women students? What kinds of things are
4 colleges expected to show?

5 MS. BEVERLY LEDBETTER: Under no
6 circumstances should we simply take the word of a
7 college or a university.

8 MS. RITA SIMON: But do we?

9 MS. BEVERLY LEDBETTER: No, I don't
10 think we do. And part of the problem that we have,
11 which I think Ms. Greenberger correctly focused on, is
12 that we have a lot of the enforcement of Title IX in
13 courts. And I don't believe that it is necessarily
14 true that courts have found a proper measure of how you
15 determine interest.

16 Surveys would certainly be one of the ways
17 that universities would advocate, and the question is
18 do you survey the current student body or do you survey
19 the prospective student body? In fact, the SAT
20 provides a measure of surveying for the prospective
21 student body, and universities and colleges have
22 attempted to survey their current student bodies. But
23 remember that student body every four years changes and
24 so you have to look at that, and schools should be
25 required to show. But I don't think we should accept

1 that women are not interested. The question is do we
2 have enough interest in the competitive or
3 intercollegiate sports to reach a proportionality
4 standard; and if so, what proportionality standard
5 should we use as a measure?

6 We are advocating that the measure should be
7 with regard to the interest and abilities of the
8 student population that is interested in participating.

9 SENATOR BAYH: May I respond to a
10 question? I think you expressed very well the deep
11 quandary that we must face with Title IX. And here
12 again, I can only speak to what I believe in my heart
13 and mind of all of us that were involved in Title IX at
14 the time, and I think it's even more relevant today
15 than when we passed it.

16 When we passed it, we didn't expect Moses
17 striking the rod and turning it into water. We knew it
18 would take time. Social change does take time. And
19 thus, the flexibility I think is good. And I firmly
20 believe in institutional integrity, but I think
21 institutions in this country exist within a framework
22 of basic U.S. law, which equality of opportunity is a
23 fundamental part. And so I think it's up to each
24 institution to make that determination within its
25 resources, but those institutions that just sit there

1 and say, by darn, this is the way it's going to be,
2 it's always been that way and we're not going to
3 change, they are in trouble.

4 As long as they are making progress, it's
5 sort of like you will know it when you see it, and
6 you'll know it when you don't see it.

7 I want to say thank you for bringing those
8 public and press clippings because I've got to tell
9 you, I think there's been a whole sea of change in
10 public perception as far as the place of women in the
11 sports world.

12 At the time we passed Title IX, there was --
13 I think we were facing with that title, and I happened
14 to have been involved in the sponsor of the equal
15 rights amendment. We were faced with a situation where
16 women were treated more severely and punished more
17 severely for committing the same crime that a man
18 committed because a woman shouldn't do that kind of
19 thing.

20 Women weren't getting equal pay for equal
21 work. There were a whole litany of things, and Title
22 IX fell short because at that time I think the state
23 legislatures got the message and they changed a lot of
24 the state laws, and it wasn't necessary to come back
25 and make the same changes at the national level. But

1 in the area of education we thought in Congress there
2 needed to be a uniform national policy, because the
3 education of our boys and girls and young men and women
4 is the most important thing.

5 I couldn't argue at all. I thought the most
6 important gain of Title IX would be academic because a
7 large percentage of our student body is not qualified
8 to participate in athletics. And we've made enormous
9 progress there. And at the time it was just a stage.
10 Some of those law schools, by gosh, you couldn't get
11 in, or if you got in and got out, the law firms
12 wouldn't accept you.

13 And I realized I thought we had really
14 arrived, and I remember picking up the newspaper, the
15 Washington Post, and the headlines of the sports page
16 contained the headline University of Maryland beat the
17 University of Virginia, and I said that can't be the
18 case, they just played last week. And suddenly I
19 realized here was a headline on the Washington Post
20 sports page about a women's game.

21 So I think more and more the place of women,
22 varsity women, what women get out of it as well as what
23 society gets out of it, I see change as a part of it.
24 I think you on this commission will recognize it, and I
25 think you'll be wise enough to do the right thing or

1 not to do the wrong thing.

2 And forgive me, I can't help but think
3 philosophically as it affects people because I've been
4 fortunate to spend a lot of dealings with that kind of
5 thing.

6 Thank you. Excuse me if I've cut somebody
7 off.

8 MR. GRAHAM SPANIER: Senator Bayh, if I
9 could ask you for one further comment. You've spoken
10 very eloquently and persuasively about the
11 establishment of Title IX and the success that it has
12 had.

13 I suspect that most of the angst that exists
14 today is not about Title IX as it was when you
15 sponsored it. And we'll probably hear in subsequent
16 testimony that the angst centers more around the 1979
17 policy interpretation and the 1996 letter of
18 clarification.

19 And I'm wondering from your perspective, are
20 you entirely comfortable with how these policies and
21 regulations have evolved with the legislation or would
22 you believe that this commission should be looking at
23 the nuances of those interpretations and taking a fresh
24 look in 2002 about whether there might be some changes;
25 or conversely, whether maybe it's dangerous to get into

1 that zone and just follow from where we had been?

2 SENATOR BAYH: Well, President Spanier,
3 first of all, I assume that other people believe in
4 institutional control over some affairs, and I believe
5 in it as well. I think all of us agree that that has
6 to be within certain limits that are publicly accepted.
7 And within that institutional structure you have the
8 responsibility it seems to me to apportion resources in
9 a way that ultimately reaches equality.

10 I mean, it's been 31 years and the number is
11 41 percent. And it's a minuscule percent of people
12 that have been affected adversely. I mean, here you
13 got 72 percent of the institutions can read Title IX's
14 existent regulations and letter ruling. Why is it
15 impossible for them not to help devote creativity in
16 the minds of others in those small proportion of cases
17 that had to take a different course than just to
18 provide more opportunity for women?

19 I don't know if I answered your question or
20 not, but I think we're on pretty solid ground now. I
21 think if all the athletic directors (INAUDIBLE) seat of
22 their pants, but he sort of played that role at Indiana
23 State one time. But if all the athletic directors got
24 together in one room and figured out, okay, how do we
25 solve this problem, not how we can get around the

1 requirements, I think you would be amazed.

2 And I frankly believe that most athletic
3 directors, even those that had to face the tough choice
4 of doing what I would prefer them not to do, I think
5 that even they wanted to find a way to meet the
6 standard so that they can comply and continue toward
7 their own equality.

8 Maybe I'm wrong about that. It's dangerous
9 ground for me.

10 MS. MARCIA GREENBERGER: I wonder if I
11 could also respond to your question just for a minute
12 and talk again about this flexibility issue, because
13 it's very instructive that when cuts for men's teams
14 are made, there is an assumption amongst some that it
15 was because of Title IX that those cuts were made.

16 I heard the charges with some schools,
17 especially with respect to wrestling, and have been
18 told by administrators involved in the decision it
19 wasn't because of Title IX that particular teams were
20 cut, it was because of budget limitations. But when
21 decisions have to be made, and it isn't a question of
22 attacking football or disliking football, but when
23 decisions have to be made about where limited funds
24 should go, if a school decides it wants to build a new
25 or enhance its football stadium, at the same time that

1 it cuts a men's team and doesn't cut any women's teams,
2 is that because of Title IX? Is it Title IX's fault?
3 Or is it the school's decision to build the football
4 stadium or to pay an enhanced signing bonus for a coach
5 or to charter planes or pay for first class hotels for
6 football players the night before a home game?

7 We're not talking about pointing fingers of
8 blame or attacking football, but these budget
9 decisions, Title IX is giving the schools the
10 flexibility to make, and, as Ms. Ledbetter said, giving
11 schools the flexibility to decide which teams they want
12 to invest in and whether they want to invest heavily in
13 some teams as opposed to others for whatever their
14 reasons, for donor reasons because they hope some day
15 maybe they'll not only generate revenue but heaping
16 maybe a profit, but most teams don't; their donor
17 contributions, whatever their reasons are, Title IX
18 says schools have the flexibility to invest in those
19 teams.

20 There are the men's teams, there are the
21 football and basketball. In Division 1-A over 70
22 percent of male budgets are going to football and
23 basketball.

24 Why is the question posed that when women's
25 teams have 36 percent of the operating budgets, it's

1 Title IX's fault when a cut to a men's team takes
2 place? And why is the question never raised about the
3 fact that some women's teams are cut, too?

4 Women's gymnastics, for example, has
5 experienced cuts over the years, not because of Title
6 IX obviously, but because of changing priorities of
7 those schools as to which teams they are going to
8 invest in.

9 Title IX doesn't tell schools they have to
10 have teams, it doesn't tell schools which teams they
11 have to have, but as Senator Bayh says, it does tell
12 schools that they can't discriminate.

13 So I question the very pointing of a finger
14 when schools are balancing their fiscal needs and are
15 deciding to invest in some male teams in contrast to
16 others, why that decision becomes a Title IX problem.

17 MR. TED LELAND: Excuse me, I'm
18 certainly compelled by the eloquence and the passion
19 that we have, but we also have an agenda we've agreed
20 to and a certain time frame, so let Cynthia and I step
21 in now. Even though there are still some more
22 questions, I think we're going to have to pass on those
23 right now and move on to our next group of panelists.

24 I think on behalf of all of us here and all
25 constituents, we certainly want to thank you. It's

1 clear to us that the questioning could go on and on,
2 and I've committed to an agenda, and I think we need to
3 follow that time frame.

4 SENATOR BAYH: Mr. Chairman, you're
5 absolutely right, but may I make an offer on behalf of
6 all of us here, that if anybody has a question that's
7 going to keep you awake tonight, let us know. Send us
8 an e-mail or a letter, and you can find out. We'll be
9 glad to respond to the best of our ability.

10 MS. BEVERLY LEDBETTER: Thank you for
11 allowing us to be here.

12 MR. TED LELAND: If our next group of
13 panelists could come forward. If Leo, Christine and
14 Steve and Bob could come forward, please.

15 What we would like everybody to do is we
16 have one hour set aside for this series of short
17 presentations followed by quick and snappy questions
18 and quick and snappy answers.

19 We have so much ground to cover. We have so
20 many great people before us, but what I would like to
21 do is ask everyone to stay within the five to ten
22 minutes of their original presentation. And I know
23 that's going to be difficult to do and not necessarily
24 compatible with what we just went through. But I would
25 like to move this thing along quickly because I think

1 the commissioners have lots of questions.

2 What I will do is start making gestures at
3 about the 8 or 9 minute mark in your presentation to
4 see if we can't get you to wrap it up.

5 Again, I apologize for this. We've got
6 fabulous people that are presenting to us, and we want
7 to move as quickly as we can.

8 The first presenter will be Leo Kocher, who
9 for 21 years has been the wrestling coach at the
10 University of Chicago. He's coached numerous All
11 Americans and national champions. He's been active in
12 collegiate wrestling. He's been a member of the Rules
13 Committee for a number of years.

14 He's had a distinguished career as an
15 athlete himself at Northwestern University and competed
16 nationally and internationally. He earned his
17 Bachelor's Degree at Northwestern University, a
18 Master's Degree from Northwestern University, and an
19 MBA from the University of Chicago's fabulous School of
20 Business.

21 MR. LEO KOCHER: Thank you. I
22 appreciate the opportunity to talk to you today. I
23 don't think I can comment on all the testimony, but I'm
24 going to go through the most important things first.
25 This is important because it really shows the way

1 things are working today as far as Title IX
2 enforcement.

3 In a moment on the screen you're going to
4 see basically a composite athletic program that I've
5 created. I've created it out of 2001 data from the
6 NCAA Division 3 schools.

7 I've chosen Division 3 for my composite NCAA
8 athletic program for four reasons. Don't put it up
9 yet, please. Number one, Division 3, which used no
10 scholarships, no packed stadiums, no TV contracts, has
11 more schools in it than either Division 1 or Division
12 2. Number two, because their teams don't generate
13 profits, Division 3 schools are the hardest pressed
14 when it comes to the financial burden and
15 proportionality requirement.

16 60 percent of teams dropped in the 1990s
17 were Division 2 and Division 3 teams. I know that
18 people like to blame football, but the fact of the
19 matter is the highest profiled football schools account
20 for a very small percentage of teams dropped in the
21 last ten, twelve years.

22 The majority of NCAA athletes and all
23 Division 3 athletes do not have athletic scholarships
24 and play simply for love of the game. And these varied
25 non-scholarship athletes also represent the vast

1 majority of talented and dedicated people who have been
2 slashed from squad capping and dropped teams.

3 Okay, just cover the last two lines if you
4 will.

5 This hypothetical university is a school
6 with a perfect balance in its student body of 50
7 percent women and 50 percent men. In its quest for
8 equity between the sexes, the school has opted to have
9 only sports that are typically offered to both men and
10 women. Therefore, football, wrestling and other sports
11 that really have a high rate of male participation,
12 they just didn't need to bother with that. They
13 thought they would just start with these sports that
14 are basically offered to men and women and considered
15 dual sports.

16 It should be noted that the numbers of
17 participants on these teams reflect the NCAA Division 3
18 averages for 2000 and 2001. So it's a hypothetical
19 university, but its numbers up there are based on real
20 numbers.

21 It should be noted that the average size of
22 the NCAA Division 3 male teams have already been forced
23 down by the imposition of squad caps where you tell the
24 coach the limited number of student athletes he has for
25 gender quota purposes. So those numbers are already

1 forced down on the male side.

2 Some schools even impose two-to-one ratio
3 requirements. That's a requirement where, for example,
4 a coach is told you can only have half as many men's
5 swimmers as you have women swimmers, again, in order to
6 help with the gender quota because schools have
7 football or some other large sport.

8 So you see what the total is using those
9 NCAA figures, 190 males and 154 females. This
10 university offers the same amount of opportunities for
11 each male and female, and in these matching programs
12 more men come out for these teams. Is this difference
13 in the number of male and female athletes due to
14 discrimination by the school? No. This university,
15 like every other school, wants to get as many women out
16 as possible for their teams so they don't run afoul of
17 the proportionality standard.

18 And that's a dark contrast to the men's side
19 where these teams are being capped, where boys are
20 being told to clean out their lockers, they can't be on
21 the team because we have a gender quota problem.

22 Now, the President of this university gets
23 approached by a group of female students who tell him
24 they would like to start a women's tennis team. The
25 university's General Counsel explains to the President

1 that even though he offers identical opportunities to
2 his male and female students, what really matters is
3 proportionality. As long as the females are he
4 underrepresented gender, Title IX gives them a strong
5 legal basis for filing a lawsuit to force adding a
6 women's team.

7 Even though the President finds the hiring
8 of a coach and the addition of a team to be a financial
9 burden, he feels it best to add a women's tennis
10 program and avoid a legal battle.

11 The number of tennis players on the team
12 ends up being the average number of participants in the
13 NCAA Division 3 tennis team, which is 11. This brings
14 the ratio of men to women -- go ahead and put it up --
15 it brings it up to 165 women to 190 men.

16 The next year seven women that wish to begin
17 a golf team approach this President. He receives the
18 same assessment from his General Counsel that he
19 received regarding the starting of a women's tennis
20 program one year earlier. They are the
21 underrepresented gender.

22 Under the current policy, Title IX is a
23 strong claim for demanding a team. By now it's become
24 apparent to this President that he will have to keep
25 adding women's teams until they are 50 percent of the

1 athletes. He decides that he cannot afford this kind
2 of gender equity and asks his General Counsel what to
3 do. The General Counsel suggests that he reduce the
4 number of squad on the male teams. Will shrinking the
5 squad generate some revenue, asks the President? No,
6 says the General Counsel, but if you get rid of 25 male
7 athletes, you will be proportional and not subject to a
8 Title IX lawsuit which, due to the Department of
9 Education's interpretation, we cannot possibly win.

10 After looking carefully at the numbers, the
11 President decided to ask each men's coach to cut two
12 athletes and then he dropped men's cross country. So
13 after starting off on identical athletic opportunities
14 to its female and male students, this university
15 finally achieves equality by adding one women's team,
16 dropping one men's team, and telling the coaches to cut
17 12 deserving male athletes.

18 Now, this does not make sense, and I think
19 that it's addressed -- the Women's Sports Foundation
20 sent out a circular and an advisory, and they addressed
21 this. They say, Title IX requires that athletic
22 programs meet the respective and sometimes different
23 needs and interests of male and female athletes.

24 If the male athletes want university
25 participation opportunities and walk on as practice

1 only players and female athletes want sports that meet
2 their playing interests, both those needs should be met
3 and accommodated on a current Title IX interpretation.

4 I would say it a different way. If they
5 only have two track teams, a men and women's track
6 team, and 25 women come out for the women's track team
7 and 35 men come out for the men's track team, keeping
8 those ten men, they are not saying well, we can't find
9 more women, we don't want to punish these extra 10
10 fellows so we will, you know, allow those men to stay
11 on the team. That's not what happens.

12 Instead, what's happening, and this is what
13 the policy interpretation allows to happen, is they
14 say, if you want to keep those ten men, it's going to
15 cost you a lot more than ten pairs of spikes and some
16 sweats. It's going to cost you a new women's team. We
17 want a tennis team, we want you to hire a coach, we
18 want you to give us an operating budget, et cetera.

19 So when they are faced with this, it's
20 clear, I mean, it's an overwhelming incentive to cut
21 male athletes. And this is what's happening on a macro
22 level in our colleges.

23 And so here we are with the current Title IX
24 policy interpretation of high school athletics to
25 proportionality. What do we have? Well, after

1 dropping more than 350 male teams in the NCAA since
2 1992 and losing tens of thousands of male athletes with
3 the imposition of squad caps, even though there are 582
4 more women's teams than men's teams, men come out with
5 greater numbers. There are 209,000 male athletes and
6 151,000 female athletes.

7 When you throw in sports like football, when
8 you throw in the fact that males are projected to be 41
9 percent of college students by the year 2009, we have a
10 disaster in the making.

11 What is the future? As is often the case,
12 California represents the future. San Diego State
13 University passed six men's teams and 12 women's teams.

14 It's been pointed out that there are 1.1
15 million more boys playing high school athletics than
16 there are girls. I see this as a curse rather than
17 being a privilege because they graduate from these high
18 schools only to find their opportunities destroyed by
19 the proportionality problem.

20 I think that it's not what they are
21 experiencing in high school. I don't think it's really
22 equal opportunity.

23 MR. TED LELAND: Thank you.

24 MR. LEO KOCHER: I guess I'm done.

25 MR. TED LELAND: Yes. Christine Grant

1 is an Associate Professor in the Department of Health,
2 Leisure Studies and Sports Studies and a former
3 Athletic Director at the University of Iowa for women
4 and past President of the National Association of
5 Collegiate Women Athletic Administrators, past
6 President of the American Association for
7 intercollegiate Athletics for Women, the old AIAW.

8 She's testified before Congress on this, won
9 a number of service awards, and has been named the
10 national Administrator of the year in athletics by a
11 number of different groups. So we stand on Christine's
12 shoulders.

13 MS. CHRISTINE GRANT: Thank you very
14 much. I'm missing from my resume that, one, I am a
15 friend and colleague of Colin Goldsby, who is an ex
16 wrestler, and I am a friend and long-time colleague of
17 the legendary wrestling coach at the University of
18 Iowa, Dan Gable, who won 15 national championships and
19 21 consecutive Big Ten championships.

20 And the reason I mention that is I really
21 believe that Colin and Dan would both attest to the
22 fact that not only am I a very strong supporter of
23 women's athletics, I am also a very strong supporter of
24 men's athletics. That's important. And that's why the
25 paper that I submitted to this commission is an attempt

1 on my part to analyze the big picture and to suggest,
2 as Senator Bayh mentioned, how we can best resolve the
3 major issues that are facing us right now.

4 My paper is entitled An Attainable
5 Three-Pronged Goal. One, bringing Division 1 back into
6 perspective; two, achieving gender equity; and three,
7 retaining men's minor sports.

8 Let me immediately go to some facts. And
9 I'm going to run through these very quickly because of
10 time. Participation. Christina, if you would.

11 The increases in participation are being
12 documented by the NCAA and also by the General
13 Accounting Office. In the top half you will see that
14 that study showed that we are losing teams at the 1-A
15 level, 91 to be exact, in this particular study there
16 are 1-AA 61, but overall we had an increase in 18 years
17 of 74 men's teams.

18 According to the General Accounting Office,
19 in a 17 year study we had an increase of 36 men's
20 teams.

21 In the next one we can see that the NCAA
22 participation numbers generally have gone up for both
23 men and also for women.

24 In the next one we see the General
25 Accounting Office, which confirms that men's

1 participation rates have increased over the last 17
2 years by approximately 12,000. And in the next one we
3 see that the growth in participation is reflected not
4 only at the collegiate level, but also at the high
5 school level, where we see a phenomenal increase for
6 girls and also an increase for boys.

7 In the next one people say that at the
8 collegiate level we don't have enough women interested
9 in participating. Well, I urge you to look at the
10 pools through which we recruit. The high school pool
11 is almost 2.8 million, and look at the minuscule number
12 of opportunities for our women at the NCAA level,
13 roughly 152,000 slots. That's all. That's roughly 5
14 percent. That's all the young women who get a chance
15 at the NCAA to participate. The interest is there.

16 Next one. I tracked since 1981 what has
17 happened to football, that's the top graph. The middle
18 one is wrestling, and the bottom one is men's
19 gymnastics. What's really interesting about this is
20 that between 1980 and 1992 when Title IX was either not
21 in effect or not being enforced, we saw a decrease of
22 24 percent of our wrestling programs, this is when
23 Title IX is not in effect, and we saw a decrease of 50
24 percent of our men's gymnastic teams.

25 In the next one you will see that women's

1 gymnastics, which is the top graph, is on a more severe
2 decline than men's gymnastics. We lost in that same
3 period of time 83 women's teams and 39 men's teams.
4 Nothing to do with Title IX.

5 Next one. This is the General Accounting
6 study. On the left-hand side of the top you will see
7 yes, wrestling unfortunately has taken a hit. The
8 numbers are decreasing. So is men's tennis, so is
9 men's gymnastics. But look to the right and look at
10 the numbers that have been added, the number of soccer
11 teams, the number of baseball teams, the number of
12 basketball teams. That is reality.

13 Next one. We cannot discuss in my opinion
14 progress or gender equity or the retention of men's
15 minor sports unless we talk about the financial
16 situation in which we find ourselves today. This is
17 the financial situation.

18 1-A you will note that minority of schools
19 are bringing in more money than they spend, 46 percent.
20 That translates, by the way, to 48 institutions.

21 The majority of Division 1 are in deficit
22 spending, as are all the other segments in Division 1
23 and 2.

24 Next one. The average deficit, the red
25 represents 1-A, and in 1993 the average deficit for

1 those who were in deficit spending was 2.1 million. In
2 1999 that jumped 3.3 million, and Syd Demsey has
3 recently stated that that figure is now 3.8 million.
4 It has jumped a half million dollars in deficit in two
5 years. Thank you.

6 Next one. This goes back to 1972, and it
7 shows that the men's budget was 1.5 at that time and
8 nothing for the women's program.

9 Between then and 1993 for every dollar spent
10 on the women's program, three additional dollars were
11 spent on the men's program. That is a very, very
12 telling statistic. For every dollar on the women's
13 program, three new dollars was put into the men's
14 program.

15 Next one. The 20th anniversary of Title IX
16 in 1992. The 25th anniversary in 1997, participation,
17 34 percent women, 34 percent for athletic scholarships,
18 21 percent of the operating budget and 26 percent of
19 the recruiting budget.

20 And the next one. I want you to look at
21 this fairly carefully. It shows, if you look at the
22 top line, the men's budget between 1992 and 1997
23 increased by 1.38 million dollars. That was the
24 increase alone. And the increase alone was twice the
25 total budget to the women's sports program in its

1 entirety. 1.38 increase, and the total women's budget
2 was 663.

3 Thank you.

4 1985, these were the football budgets and
5 the men's basketball budgets. And in 1999 the football
6 budget had doubled and the basketball budget had
7 increased by 2.5.

8 Next one. In 1985 men's football and men's
9 basketball together consumed 49 percent of the men's
10 budget and, today it consumes that figure as well.
11 It's not 74, it's 72 percent of the men's budget.

12 Next one. This is a sad transparency, and
13 it's sad because in the third column you'll see that 20
14 percent of the men's budget goes to men's sports, and
15 these men's sports could constitute about 200 male
16 student athletes.

17 Basketball. Accommodates 15 basketball
18 players. The other men's sports could accommodate
19 200. And look at the difference in funding.

20 Next one. This is a Wall Street Journal on
21 an NBC news pole that was done in the year 2000, and it
22 said that the public approved of Title IX, 79 percent.
23 It approved of cutting back on men's athletics to
24 assure equivalent athletic opportunities for women, 76
25 percent. Believe me, that would not be the choice of

1 those of us in women's athletics to cut back on men's
2 athletics. That would not be the choice.

3 Our choice would be a preference to bring
4 Division 1 back into perspective, and we could do that
5 through pursuing national legislation in order to
6 eliminate the excesses in football and men's basketball
7 and still retain great teams.

8 I would hope that in the months ahead when
9 you are inundated, as I know you will be, with reports
10 and data and materials that you will remember the
11 bottom line. And here is the bottom line: After 30
12 years of Title IX, men's participation, 58 percent,
13 women, 42; athletic scholarships, 57, women's, 43.
14 That's 133 million dollars less for women every single
15 year. Operating budget, 46 percent.

16 I think what we need is a stronger
17 enforcement of Title IX in order to be fair to our
18 daughters and our granddaughters and our great
19 granddaughters, and I think that is our responsibility
20 today.

21 Thank you very much.

22 MR. TED LELAND: Thank you. Next up is
23 Steve Erber, who is Director of Athletics at Muhlenberg
24 College. He supervises 22 sports and runs the
25 intramural recreation program.

1 He's a graduate of Penn State University and
2 was for 14 years the Athletic Director at SUNY
3 Binghamton and received an award from the State
4 University of New York Athletic Conference for
5 Distinguished Service, that conference's highest award
6 for service.

7 Steve.

8 MR. STEPHEN ERBER: Thank you. I too
9 appreciate this opportunity to testify before this
10 commission.

11 My name is Stephen Erber. I'm the Director
12 of Athletics at Muhlenberg College, a small liberal
13 arts institution in Allentown, Pennsylvania.

14 I've been involved in the Title IX
15 discussion for at least ten years and have listened
16 carefully and thoughtfully to the arguments on both
17 sides.

18 In my professional role as an athletics
19 administrator at, as was stated, an NCAA Division 3
20 school, I have witnessed and experienced both
21 tremendous growth in athletic opportunities for young
22 women at the intercollegiate level during the past two
23 decades as well as the devastation and destruction of
24 similar opportunities for thousands of young men.

25 Both of these events, the growth and

1 destruction are in large measure, although not entirely
2 as some on both sides of this issue argue attributable
3 to the 1972 law known as Title IX.

4 One thing, however, is very clear to me
5 today and I believe should also be clear to anyone
6 willing to look at this issue objectively, and that is
7 that clearly, clearly something that was well intended
8 and has worked so well has also gone awry.

9 At my small private Division 3 college we
10 offer 22 sports, 11 for women, 11 for men, and our
11 situation is radically different from that of large
12 Division 1 schools. Our enrollment is approximately
13 2100 students, and of that number, 545 are varsity
14 athletes, only 26 percent of the student body.

15 It's a statistic of which we are very proud.
16 None of these student athletes receives any scholarship
17 funding. They are all what would be considered at a
18 Division 1 or 2 school as walk-ons. In fact, at the
19 Division 3 level of the NCAA it is not permissible to
20 even consider athletic ability or athletic talent in
21 the awarding of need-based financial aid.

22 These 545 students participate in athletics
23 simply and solely because they enjoy them and because
24 they love them. We could not bear a 22 sport program
25 with an operations budget for the college of \$400,000,

1 that's correct, \$400,000 for equipment, travel, meals,
2 game officials, training room supplies, and recruiting
3 for all 22 sports. We have no excesses.

4 We have recently added women's golf to the
5 curriculum, but we've also added men's LaCrosse. I am
6 confident that we treat the men's and women's programs
7 equitably. Meal allowance, mode of travel, practice
8 times, quality of equipment, publicity brochures, level
9 of coaching expertise and so forth are the same for
10 both genders.

11 I think if you asked the female athletes if
12 they would want to trade places with the male athletes
13 and vice-versa, they would both say no. I think they
14 would all say they are having a great experience and
15 they are treated equitably and fairly. But with an
16 enrollment that's 58 percent female and only 42 percent
17 female athletes, we are obviously way out of
18 proportion.

19 The only way we could possibly become
20 proportional would be to eliminate 125 male athletes,
21 and that would entail the football team plus maybe the
22 soccer team. Such an action would devastate our
23 athletics program as well as devastate our efforts to
24 maintain a reasonable female to male ratio within the
25 student body.

1 Even if we had the resources that are
2 available to some large Division 1 programs and we
3 could add 125 female athletes, for us that would
4 probably be about five teams. Or we could add a 100
5 member women's equestrian team, as I am told the
6 University of Georgia has just decided to do. In an
7 effort to become more proportional, we would still
8 devastate our college's efforts to maintain a
9 reasonable male/female balance in our overall student
10 body.

11 Additionally, without athletic scholarships
12 available to the Division 1 and 2 schools, we would
13 find it difficult to attract enough students to support
14 these newly added programs.

15 The fact of the matter is we are having a
16 difficult time filling the five to six person roster
17 for a newly added women's golf program. Our coaches
18 are recruiting but currently relies on some of the
19 women on his basketball team to fill the roster.

20 At our level we have coaches that coach more
21 than one sport. The same is true for other schools in
22 our league that have recently added women's golf.

23 The point of the above being that college
24 Presidents and athletic administrators, because the OCR
25 has labeled proportionality a safe harbor because no

1 one wants to be engaged in a costly and time consuming
2 lawsuit, because some states like California have
3 demanded it, and not because these athletic directors
4 and Presidents are chickens as they have been labeled,
5 have focused on the proportionality test to comply with
6 Title IX even though it is the weakest and least
7 productive of the three tests, even though it flies in
8 the face of logic, even though it denies inherent
9 differences between men and women, and even though it
10 has been to the detriment of their students, both male
11 and female.

12 My college is fully and effectively
13 accommodating the athletics interest of our student
14 body, but I am not certain that we could prove that to
15 the satisfaction of the OCR. I attended a
16 Congressional hearing a number of years ago in which I
17 urged the President of Brown University to plead with
18 Capital legislators to provide his school with a test
19 that would be acceptable to the OCR so that he could
20 demonstrate that Brown University was meeting the
21 interest of its students.

22 Brown surveyed the student body, gleaned
23 historical information regarding athletics interest
24 from years of SAT reports of students who had applied
25 to Brown and studied its female participation in

1 intramural sports. OCR deemed none of these measures
2 acceptable. So he was left with a government agency
3 telling him that one way his school could comply with
4 Title IX is by demonstrating that it meets the interest
5 of its students, but that same agency telling him he
6 cannot produce an acceptable instrument to measure that
7 interest.

8 Every business in this country uses interest
9 surveys to determine what people want, but in this
10 instance we cannot produce a test to measure athletics
11 interest.

12 Proportionality is a measure of outcomes,
13 not a measure of opportunity. Current logic applied to
14 proportionality and athletics, which reads that lack of
15 proportionality de facto indicates discrimination is
16 not or should be in my opinion applied to other arenas.
17 For example, the United States Service Academy has an
18 approximately 15 percent female enrollment. Given the
19 fact that 56 percent of all undergraduate students in
20 the United States are female, the current logic would
21 seem to indicate that closer to 56 percent of the
22 Service Academy enrollment should be female, and the
23 only reason it's not female is because the government
24 is discriminating against females in its admission to
25 the academies.

1 I would argue that the reason is that women
2 simply are not as interested in attending service
3 academies and not as interested in a career in the
4 military in the same numbers as men are. I'm not
5 saying that they are not interested, but I'm saying
6 that they are not interested in the same numbers. And
7 I would argue that that is some of the same reason that
8 athletics participation at most colleges does not
9 mirror the undergraduate enrollment.

10 Undergraduate demographics differ greatly
11 among colleges. Some colleges like mine are almost
12 exclusively comprised of traditional students, those
13 just graduated from high school, those that are legally
14 and financially dependent on their parents, and those
15 who do not have children of their own. But a recent
16 U.S. education Department report indicated that of 26
17 percent of undergraduate students who are 30 years or
18 older, 80 percent are employed, including 39 percent
19 full-time, and 13 percent for single parents.

20 How can we begin to think that we can
21 evenhandedly apply proportionality standards to
22 athletics participation when the demographics of one
23 school may vary dramatically from those of another
24 school?

25 In Peterson versus LSU, Judge Rebecca

1 Dougherty stated that the proportionality test is
2 inappropriate in determining Title IX compliance
3 because the test assumes that men and women on all
4 campuses are equally interested and able to participate
5 in athletics.

6 The fact that a disproportionate number of
7 people found on the above-mentioned nontraditional
8 schools are probably female is a societal problem and
9 not something that can be rectified by applying the
10 quota system to intercollegiate athletics.

11 MR. TED LELAND: One minute.

12 MR. STEPHEN ERBER: Yes, sir. Even if
13 there was evidence indicating little interest in
14 athletics among men or women in the general population,
15 and most evidence is quite to the contrary, the
16 interest would clearly not be equal on every campus in
17 this country.

18 Finally, the current proportionality
19 approach to compliance will not be sustainable to
20 parents with male and female athletes, witnessing
21 continued squad reductions and devastation of entire
22 male collegiate athletic teams in traditional sports.

23 At the same time, these same colleges add no
24 additional women's opportunities to replace the male
25 programs with sports that have small or no

1 constituencies in high schools from which they attract
2 applicants. Already it appears that our colleges are
3 pursuing a policy that lacks common sense and punishes
4 males for the simple fact that they show up for sports
5 in greater numbers than females.

6 This view will only harden and spread if
7 Title IX is not reformed into a more fair and humane
8 interpretation. Athletic Directors and other college
9 administrators will be increasingly seen as not having
10 the courage to stand against the entire male special
11 interests.

12 It is my hope that this commission will deal
13 with this issue honestly and objectively. Today the
14 mere suggestion that the current OCR interpretations of
15 Title IX and the test for compliance be examined
16 results in a media blitz of hyperbole, threats of
17 politicians interested in examining the issue, and
18 exaggerations intent on the status quo.

19 I have not heard anyone who is asking for a
20 review of the legislation speak of, quote, cutting
21 Title IX, dismantling Title IX, or setting women back
22 30 years.

23 If the issue here is Title IX as a means of
24 exacting revenge or getting even for past
25 discrimination in athletics, then we should get that

1 issue on the table. If the issue is applying
2 principles of equity and opportunity in athletics for
3 both men and women, then let's continue the dialogue
4 and adjust this good law.

5 Thank you.

6 MR. TED LELAND: Thank you. Bob
7 Groseth is next. Bob has been college coaching for 28
8 years. He's in his 13th season as the head coach of
9 Northwestern University's men's swimming and diving
10 team. He was named co-Big Ten coach of the year this
11 past year at his championships in February, and he was
12 given by the College Swim Coaches Association this past
13 year the Richard Stedman award, the award given
14 annually to a swimming or diving coach who in the
15 opinion of the international swimming hall of fame and
16 the college swimming association has done the most to
17 spread joy and happiness in Coach Stedman beloved
18 sports, swimming and diving.

19 Bob.

20 MR. ROBERT GROSETH: Thank you.
21 Chairman Cooper, Chairman Leland, members of the
22 Commission, thank you for the opportunity to speak this
23 morning.

24 While there are many issues before the
25 Commission over the next few months, I would like to

1 concentrate on roster management and capping of the
2 teams. I will not bore you with number statistics.
3 You have all, I'm sure, made yourself familiar with the
4 facts.

5 I will tell you some personal stories and
6 challenge the Commission to make recommendations that
7 will restore the public's trust in Title IX.

8 Like all swimming coaches, I don't consider
9 myself a men's swimming coach. I coach the men and
10 women's swimming team at the University of Cincinnati
11 and also at Tulane University, and every summer I coach
12 a team that is composed of men and women. I just you
13 got back from our national championships, where I took
14 11 athletes to the championships, five women and six
15 men.

16 I represent a support that treats genders
17 equally. We have the same rules, order of events,
18 seasons, et cetera. We train the same and in some
19 schools train together. And in fact, if you've watched
20 any swim meets lately, we even wear the same suits.

21 Swimming has benefited from Title IX as much
22 as any sport. If there are many in the swimming
23 community, there are a set number of college teams that
24 have been dropped due to Title IX. I know there has
25 been an effort to say that Title IX is not at fault,

1 but in fact the interpretation and enforcement of Title
2 IX has been a major factor in the loss of men's
3 swimming teams over the last 20 years.

4 The loss per team and corresponding loss of
5 opportunities have not gone unnoticed, and I submit a
6 USA swimming study showing percentages of male and
7 female athletes.

8 Over the past few years as the college teams
9 for men have gone down, the swimming communities have
10 started to express concern.

11 When wrestling coaches filed their suit, the
12 College Swim Coaches Association issued a statement and
13 later joined the suit. Later this year in June Chuck
14 Wielgus, who is a USA Executive Director, issued a memo
15 to the President of the USOC about the decline of
16 Olympic sports programs in college athletics.

17 Last week John Leonard, Executive Director
18 of the American Swim Coaches Association sent an open
19 letter to the USOC President about Title IX's
20 unintended consequences. And again, I submit these for
21 the record.

22 These statements from the leaderships of the
23 swimming community reflect a changing attitude toward
24 Title IX. Once revered the opportunities to provide
25 our women, it is now scorned for the denial of

1 opportunities to our men.

2 The current interpretation of enforcement of
3 Title IX has caused anger and divisiveness within the
4 swimming community and between swimming and other
5 sports. In addition, it has led to frustration because
6 of the up until now rapid response to organizations
7 that can effect change.

8 With the elimination of such programs as
9 Miami and 22 NCAA champions at UCLA with 22 Olympic
10 medals, the loss of swimming is qualitative as well as
11 quantitative. Swimming people will be watching the
12 Commission closely. They want Title IX to work and
13 look to you to help fix it.

14 I'm an advocate of athletic opportunities in
15 age group, high school and college coach. I've seen
16 the benefits of organized athletic training and
17 competition geared to young people. These benefits are
18 well documented, real, and worth protecting.

19 While there are people who will testify that
20 have political agenda, more government, less
21 government, women's rights, men's rights, let's not let
22 the political agenda dominate the dialogue.

23 When Title IX first started getting in
24 force, there were nay sayers that claimed college
25 athletics would be ruined. They were wrong, it got

1 better. Today there are those who claim correcting
2 Title IX will bring us back to the stone age. They are
3 just as wrong. There are boys and girls right now
4 learning to swim, run, play soccer and many other
5 sports.

6 In the process of developing their craft,,
7 they are becoming better people who will eventually
8 become better citizens.

9 It is for these future citizens the
10 Commission should be fighting for and for who I will
11 try to make my case.

12 This is a scene that is played out over and
13 over and over again on my campus. John and Mary Paxton
14 of Cincinnati, Ohio are taking their son Brad on a tour
15 of colleges over the summer. They stopped by the
16 swimming office to find out about the program.

17 After the initial set of questions, one of
18 the parents asked, do you have a spot for Brad on the
19 team? I know he's not an Olympic caliber swimmer, but
20 swimming has been such a big part of his life. We
21 don't expect a scholarship, we just want to make sure
22 he's got a chance to be on the team. It's going to be
23 a big part of Brad's decision. We love your school and
24 would like Brad to go here.

25 When the school's policy on squad size was

1 explained, you could see the family's shoulders sag.
2 They have heard this story before. The scene is played
3 out all across the country on many college campuses in
4 coach's offices of all men's sports. There is room in
5 the pool, on the court, track or field. You can share
6 lockers and equipment, but because each school has to
7 meet a numerical quota, there's no place on the roster
8 for their son. No Ruby's need apply here. His dream
9 is gone. When those parents and their son walk out the
10 door, I feel like a bag of dirt.

11 Parents with sons see the handwriting on the
12 wall. Larry Barbieri, a member of the 1968 Olympic
13 team and on three of Indiana University's NCAA
14 championship teams, has three children, two daughters
15 and a son. While their daughter is in swimming, their
16 son plays baseball, even though he's an excellent
17 swimmer.

18 When I asked Larry why he wouldn't let his
19 son swim, he said, college athletics was one of the
20 most exciting and dramatic experiences of my life. I
21 want my son to be part of a college team, and I'm
22 afraid that when it comes time for him to go to
23 college, swimming won't be a sport.

24 Larry's feelings about his college
25 experience are shared by many, and though his judgment

1 of swimming's future is, I hope, a little bleak, the
2 downturn in interest at the grassroots level in
3 swimming is directly tied to the opportunities at the
4 collegiate level.

5 There can be no reason, other than to reach
6 a quota, to cap or roster manage a men's swimming team.
7 Those who have been in coaching for a long time know
8 that their biggest boosters and your school's biggest
9 boosters are not the scholarship athletes, but the kids
10 that were given a chance to be part of a team, who
11 stuck it out, who made the starting line up, qualified
12 for the NCAA's, or won a college championship. A Rudy
13 story.

14 It is part of the spirit and magic of
15 college athletics. It's what keeps us in the business.
16 It is the soul of sport. Roster management and capping
17 have robbed us of that soul.

18 Joan Domitz was the swimming coach at the
19 University of Wisconsin at Whitewater. In the middle
20 of the 1998 season she was running her afternoon
21 practice when the Athletic Director entered the pool.
22 You have to cut three men from the team today.
23 Whitewater had worked hard to deal with gender equity.
24 In fact, Joan's husband was one of the Assistant
25 Athletic Directors there. Swimming had to keep the

1 number of and women and men equal. Unfortunately
2 halfway through the season three women quit. Three men
3 had to leave. I was crushed, he said. These guys
4 worked so hard. They didn't have scholarships, they
5 just wanted to swim.

6 Joan stopped the practice to tell the team.
7 When she announced that three men had to be cut, there
8 were many tears on both teams. They worked out a
9 solution, keep the other women on the team, lower the
10 practice and performance standards so they would stay
11 out for the team.

12 At first I was happy that the guys were able
13 to keep swimming, but over time I realized they were
14 sending the wrong message to the women.

15 The next year I attended an outing for
16 college swim coaches from the State of Illinois. I
17 asked each coach about his or her school's policy on
18 roster management. Every school's was different, but
19 all had some policy.

20 Some Division 3 schools had a two-to-one
21 policy. They had twice as many women on as men. Many
22 had the same experience as Joan Domitz, having to cut
23 men in the middle of the season.

24 Amazingly every coach said the same thing,
25 don't reveal where you got this information, I might be

1 in trouble. I know from my own experience and from
2 talking to other coaches that in my conference
3 discussing the capping of teams is a taboo subject.
4 Why? Because administrators know in their gut it is
5 wrong and they don't want to have to explain it to the
6 public.

7 The result of these policies is that guys
8 that want to swim in college can't because the numbers
9 don't match. A few years ago I was attending a banquet
10 for graduating seniors for their induction into
11 Northwestern's Letter Club. One of the speakers, Mike
12 McGraw, was a 3.5 economics major and member of the
13 school's Rose Bowl team.

14 After speaking about his experiences on the
15 Rose Bowl team, he addressed the subject of capping
16 teams. Turning to the President of the school and the
17 Athletic Director, he said, I started at Northwestern
18 as a walk-on for the baseball team. Coach Stevens gave
19 me a chance to play, and I made the team my freshman
20 year.

21 As a softmore I went out for football. I
22 made the team, earned a scholarship, and eventually a
23 starting position.

24 This year I was on a Big Ten championship
25 team and played in the Rose Bowl. When I saw the caps

1 being put on baseball and other teams, I realized I
2 would never have a chance if I was a freshman this
3 year.

4 I understand policies that increase women's
5 chances to play sports. What I don't understand is why
6 men have to suffer for them to gain. Just remember
7 when you cap men's teams, I'm the guy that's getting
8 capped. Capping and roster management does nothing to
9 increase the number of women participating in sports.
10 It only increases their percentage. Addition by
11 subtraction. Who gets left out? The good student
12 who's in the sport because he loves it, who goes on to
13 cherish his experience and contributes to the future
14 success of the school and the sport.

15 What it does do is increase the resentment
16 for a good law, Title IX. It is up to this commission
17 to advocate changes in the interpretation and
18 enforcement of regulations associated with Title IX
19 that will eliminate the capping of teams and restore
20 the public's trust.

21 Thank you.

22 MR. TED LELAND: Thank you. And we now
23 have 15 to 20 minutes for questions.

24 MS. JULIE FOU DY: I hear the repeated
25 theme of interest coming up, and I find it interesting

1 being a part of athletics for so long and having lived
2 and breathed it, this question of interest is still
3 around. And I read the statement from the Brown Versus
4 Cohen case, which says -- the U.S. Court of Appeals
5 says, to assert that Title IX permits institutions to
6 provide fewer athletic participation opportunities for
7 women than for men based upon the premise that women
8 are less interested in sports than are men, it is among
9 other things to ignore the fact that Title IX was
10 enacted in order to remedy discrimination that results
11 from stereotyped notions of women's athletic interests
12 and abilities are rarely developed in a vacuum. They
13 evolved as a function of opportunity and experience,
14 women's participation in athletics reflects a lack of
15 opportunities to participate in sports.

16 Moreover, the Supreme Court has repeatedly
17 condemned gender based discrimination based upon
18 archaic and over-broad generalizations about women.

19 My question is that I understand the issue
20 of numbers in terms of coming out to teams but, and
21 this will go to anyone on the panel, are we not placing
22 discrimination on top of discrimination, because, like
23 this says, interest and ability is rarely developed in
24 a vacuum. If the opportunities have not been there,
25 then how are they supposed to be there, for example,

1 with the golf team?

2 And secondly, when we look at the numbers
3 participating in high schools, we're at 2.7 million
4 over that. I think it was shown that when provided
5 opportunities, there's an interest that follows.

6 MR. TED LELAND: Panelists?

7 MR. LEO KOCHER: You know, arguing
8 interest seems to be a nonproductive area. People end
9 up really resenting anyone who suggests that there's
10 any difference between males and females regarding an
11 interest in athletics.

12 I guess we don't have a problem with women
13 being 85 percent of dance programs or 95 percent of
14 mercy programs, or males need the majority of
15 engineering. But for some reason we can't suggest that
16 there might be different interest and preferences
17 between populations of males and females.

18 All I know is Brown submitted an evidence
19 that the SAT student questionnaire for 1993 during
20 their court case, and I have it right here, 45 percent
21 of the males taking the test said their interest in
22 participating in intercollegiate athletics, 24 percent
23 of women do.

24 Now, let's nurture that interest. That's
25 fine. You're always going to want to bring up the

1 lower person. That's fine. But don't turn around and
2 level down men in order to fit some standard. That is
3 wrong.

4 I will never complain about women getting
5 more opportunities. I will complain about Marquette
6 University cutting their wrestling team that didn't
7 cost them one penny because it was funded by outside
8 sources simply so it would not fall afoul of the
9 proportionality standard, simply so they wouldn't get
10 dragged into court and lose.

11 So I'm not interested in arguing. Things
12 change from one campus to the other, but I do want some
13 common sense and fairness. If 25 women come out for
14 track and 35 men come out for track, don't tell those
15 guys they got to go.

16 MR. TED LELAND: Debbie.

17 MS. DEBORAH YOW: Thank you, Ted. For
18 anyone on the panel, but, Dr. Grant, especially for
19 you, I've been reading a number of suggestions that
20 you've made relative to perhaps a different approach
21 through the federal government for how to get our hands
22 around the situation. And as I was reading those, a
23 question came to mind that I wanted to ask you, because
24 when I was serving on the NCAA management council for
25 the Atlantic Coast Conference, I made a suggestion that

1 we take better care of what I would consider the
2 traditional women's sports, and by taking better care
3 of them, I was suggesting that we would add scholarship
4 opportunities for those sports.

5 For everyone in the room who understands the
6 difference between equivalency sports and head count
7 sports, you all understand what I mean.

8 At the University of Maryland as an example
9 in the last eight years we won eight national
10 championships in our women's sports program, and yet
11 one of those sports, like women's LaCrosse or like
12 field hockey, both of whom have won national
13 championships during that time, there would be carried
14 on their roster as many as 30 individuals, and yet only
15 had the opportunity to provide a total of equivalency,
16 if you will, of 12 or 13 scholarships.

17 Certainly there weren't in my mind more
18 financial support because of the level of excellence to
19 which they have risen. And it appears to also have
20 occurred to me as an Athletic Director with a 38
21 million dollar operating budget that it would serve
22 them well. It would also serve the institution well.

23 From a proportionality perspective, we would
24 then not have to add, perhaps, a nontraditional sport
25 like bowling. I hope no one takes offense. I'm not

1 interested in adding bowling at Maryland. And we would
2 do good in two separate ways.

3 We carried that forward through the NCAA
4 Management Council to the NCAA, and it was rejected out
5 of hand as an attempt to not be in compliance with
6 Title IX. And as a female who has her entire life
7 every opportunity that has ever been afforded to me in
8 athletics has been as a result of Title IX.

9 I was shocked to be viewed in that light.
10 Sorry for the long-winded explanation, but would you
11 support adding through the NCAA regulations additional
12 scholarships to existing and traditional women's sports
13 for those reasons?

14 MS. CHRISTINE GRANT: That's a very
15 good question, Debbie, and my short answer is I would
16 absolutely support that, absolutely.

17 In the early 1990s one of the NCAA
18 committees analyzed the number of scholarships offered
19 to each sport and came up with recommendations which in
20 many women's sports increased the numbers and made more
21 sense. And I think your LaCrosse team and field hockey
22 team are terrific examples where you may be carrying 30
23 people on each team and you've only got 12 scholarships
24 to divide up. It came to an abrupt halt when it got to
25 the NCAA council at that time.

1 I think it's probably ripe right now to put
2 that suggestion forward again because we could increase
3 numbers in our current sports like that, I believe, and
4 make it more competitive for the current students.

5 If you don't have 22 people to scrimmage in
6 field hockey, you're at a huge disadvantage. And
7 sometimes that has happened at the University of Iowa.
8 If we had just a few more scholarships, we could
9 increase our squad to 25 to 30 people. I would
10 absolutely advocate that.

11 MS. DEBORAH YOW: And also at the same
12 time not carry the burden of adding a new sport with a
13 new coach and all that comes with it.

14 MS. CHRISTINE GRANT: It's a very
15 expensive venture adding a brand new sport, and there
16 are less costly ways to achieve the same goal.

17 MR. STEPHEN ERBER: Both the question
18 and the response speak a lot to the concern I think
19 that I raised, and that is that at a Division 3
20 institution I don't even think about scholarships, and
21 we can attract or build or develop interest by using
22 scholarships. I mean, we happen to get students that
23 generally say, hey, I'd like to do this. I want to
24 come out for the team. I would like to be a part of
25 the team.

1 And I would also like to say in response,
2 Julie, to your question, I think the issue is not that,
3 you know, whether or not interest can be nurtured. I
4 think everybody understands and agrees that obviously
5 interest in many different things can be fostered and
6 nurtured, particularly in children. But the issue is,
7 you know, can a school like mine nurture that interest
8 to the extent that we have 58 percent of our
9 undergraduates participating in the athletic program?
10 And my answer to that is I don't think so.

11 And the only way we can get that percentage
12 of female athletes up to 58 percent is probably by
13 reducing the number of male athletes.

14 So I'm sure an interest is nurtured, it's
15 absolutely nurtured, but the question is to what extent
16 and how much can you nurture?

17 MR. TED LELAND: Okay. We have some
18 questions from Brian and Gerry.

19 MR. BRIAN JONES: I would actually like
20 to follow-up on Mr. Erber's point there and the point
21 that Julie raised because I do think that his question
22 of interest does seem to be, as far as I can tell
23 baffling institutions in the courts.

24 The issue isn't as you suggest. It isn't so
25 much about whether or not we're going to allow those

1 stereotype notions of interest to control, but rather
2 it seems to me that the question is one of how do we
3 measure the interest of it? What is sort of the
4 appropriate measure?

5 I would love to get your thoughts, Mr.
6 Erber, and yours, Ms. Grant, as people who have to
7 actually sort of implement this third prong of the test
8 in a practical way. I mean, what should we be thinking
9 about? What should we be looking at when we examine
10 this question of what's the right denominator as we
11 look at the interest of the question?

12 Ms. Grant, you had some statistics about,
13 for example, the vast disparity between the number of
14 women who are participating in athletics at the high
15 school level versus the number of opportunities that
16 are made available at least in the NCAA. And, you
17 know, a question arises, you know, for example, what is
18 the relative participation rate of men to women at the
19 high school level versus the rate of female to male
20 participation at the college level? I mean, is that
21 one statistic that we could use to begin to get a
22 better grip on how to measure interest?

23 Should we be looking at just sort of a
24 larger population of students who apply to college and
25 that sort of thing? Is that getting us closer to a

1 fair assessment of whether students are actually fully
2 and effectively meeting the needs and interests.

3 That really seems to me to be the big
4 question that seems to be bugging a lot of people is
5 what do we look at to figure out whether or not we're
6 actually fully and effectively meeting the needs and
7 interests?

8 MR. TED LELAND: Your response,
9 Christine.

10 MS. CHRISTINE GRANT: One of the great
11 advantages of having been around forever is that I was
12 here in 1972 when there was really no interest on the
13 part of girls to participate, and the high school
14 participation at that time was 8 percent. The schools
15 were forced to offer opportunity, and my goodness, it's
16 now up to 42 percent.

17 I don't know when we will satisfy the
18 interest at the high school level. I don't think it's
19 been satisfied yet. I don't think it's near being
20 satisfied. In fact, I will go so far as to say we will
21 never ever satisfy the interest of girls and boys to
22 participate. We have to cut it off. There are more
23 boys and there are more girls that want to participate,
24 that being the case at the high school level, I think
25 exactly the same as at the collegiate level.

1 With a pool of 2.7 million people, girls
2 participating in the high school level, we certainly
3 could keep adding opportunities at the collegiate
4 level. And as long as we keep offering them, the women
5 will keep participating.

6 We don't know what the interest is, we
7 really honestly don't, but I would guess it's as great
8 as the man's for every ounce. Really.

9 MR. TED LEDBETTER: Any response,
10 Steve?

11 MR. STEPHEN ERBER: Yes. I think that
12 we have the expertise and knowledge to develop an
13 instrument that will measure interest in athletics on
14 each and every campus in our country. And let's do
15 that so that the OCR can say, hey, here's the test,
16 apply it to your campus. If you come up short, then
17 you have to make some adjustments and make some
18 corrections.

19 But that, as far as I know, is not the case
20 right now. And, you know, the way to measure interest
21 is pretty amorphous right now as far as I'm concerned.

22 MR. BRIAN JONES: Is your suggestion,
23 though, that the pool that we ought to be looking to to
24 measure interest is the existing undergraduate
25 population? Is that what I'm hearing you say?

1 MR. STEPHEN ERBER: Yeah, I would
2 think. Isn't that the issue?

3 MR. TED LELAND: We only have about
4 three more minutes. Welcome Donna, by the way.

5 MS. DONNA de VARONA: I have a quick
6 technical question for Ms. Grant.

7 In calculating the respective proportionate
8 participation opportunities under the first prong, what
9 do you think about an adjustment taking into account
10 nontraditional students? In other words, if we can
11 agree that nontraditional students are highly unlikely
12 to participate in intercollegiate athletics, does it
13 make sense to count them in our calculation for the
14 first prong?

15 MS. CHRISTINE GRANT: How do you define
16 your nontraditional students?

17 MS. DONNA de VARONA: Say students over
18 30 years old. And that's an issue that could be worked
19 out and debated. And I'm sure that reasonable people
20 could establish a definition.

21 But let's assume that we have that
22 definition, that type of adjustment. Would it be
23 appropriate in your mind?

24 MS. CHRISTINE GRANT: Oh, I think
25 reasonable people would be willing to look at that and

1 then try to determine, you know, what would be the
2 consequences were there such a policy?

3 MS. DONNA de VARONA: Okay. Well, let
4 me ask it a different way. Let's assume that a school
5 has a high population of students over the age of 45.
6 Would it be reasonable not to count that population for
7 purposes of calculating numbers under the first prong?

8 MS. CHRISTINE GRANT: I think that's
9 something that should be considered, yes.

10 MS. DONNA de VARONA: Thank you.

11 MR. TED LELAND: Okay. We got another
12 minute and a half. Bob.

13 MR. BOB BOWLSBY: This really kind of
14 goes to the heart of the same issue. Ms. Ledbetter
15 mentioned earlier, or at least I think she intimated,
16 correct me if I'm wrong, that perhaps the comparison to
17 the undergraduate student population is a flawed entry
18 assumption.

19 In the case of major athletics programs on
20 our campus, we have 700 student athletes, and a very
21 small percentage of that 700 comes from the student
22 population. They are recruited to campus, invited to
23 be there and such.

24 There also is very wide ranging differences
25 among institutions. For instance, Senator Bayh's

1 institution, Perdue, and Georgia Tech here in Atlanta
2 both have technology engineering, some institutions
3 it's agricultural basis for their undergraduate
4 curriculum, and therefore they don't have the 55
5 percent female, 45 percent male that many of the major
6 universities around the country and liberal arts
7 institutions have, but instead, have a student
8 population that may be just the reverse of that, may be
9 60 percent male and 40 percent female.

10 My question is for all four of you. Should
11 those variances enter into this proposition, and in
12 your estimation, is the proportionality usage of
13 undergraduate student population a flawed entry
14 assumption? And if you believe it is, what is a better
15 population to utilize if some sort of comparison is
16 required?

17 MS. CHRISTINE GRANT: I'll take a shot
18 at it. I've thought about this quite a bit, as you can
19 imagine, and I've come to the conclusion that I truly
20 believe that the athletic ability is probably divided
21 in an equitable fashion between men and women, you
22 know. And if that's a fair assumption, then I think
23 the proportionality prong makes a lot of sense
24 nationwide.

25 I know that differences do exist between

1 Perdue's undergraduate population, which is very low
2 for women, and Iowa's, which is very high, but I think
3 as a nation as a whole we're being fair to our young
4 men and our young women if on our individual campuses
5 we use the undergraduate population as our test. And
6 I'm supportive of that because you have to have
7 something at which point you can say, okay, that's it,
8 we're in compliance with Title IX.

9 I see it as a very, very fair way to do the
10 cutoff point for both men and also for women.

11 MR. TED LELAND: We have a couple of
12 minutes for a response to this question. Anybody else?
13 Leo?

14 MR. LEO KOCHER: I do. I just want to
15 say that Beverly Ledbetter, I think she described a
16 pretty involved effort at ascertaining student interest
17 in both the population where they grew from and all the
18 rest. There are student administered surveys, there's
19 the SAT thing that I cited before, the SAT student
20 descriptive questionnaire. I mean, there's all sorts
21 of ways to do it if we want to do it.

22 Unfortunately, the people that designed this
23 three-prong test did want to do it. They just felt
24 let's just go with a flat out student enrollment
25 number, and that's the way they are going to go.

1 I don't think it's fair. We don't do it in
2 any other extracurricular activity. I'm just not sure
3 why we do it in sports.

4 MR. TED LELAND: Any other response?

5 MS. CHRISTINE GRANT: I would like to
6 say one more thing. The bottom line is men still have
7 58 percent of all participation opportunities.

8 MR. TED LELAND: Well, thank you. I
9 apologize for not -- we have more questions and the
10 discussion is fruitful, but I'll be a sticker on the
11 agenda, so we need to move to the next panel.

12 Thank you very much.

13 MS. CYNTHIA COOPER: Ron Galimore. Ron
14 Galimore is the Senior Director of the men's program at
15 USA Gymnastics since 1994. As the men's Program
16 Director, Ron oversees all fiduciary and programmatic
17 responsibilities for men's gymnastics in the United
18 States.

19 Ron was a member of the 1980 U.S. Olympic
20 gymnastics team, making history as the first African
21 American gymnast to achieve this accomplishment.

22 Ron is a graduate of Iowa State University.
23 He was also voted the 1991 Iowa State athlete of the
24 year and recently inducted into the Iowa State
25 University Athletic Hall of Fame.

1 MR. RON GALIMORE: Thank you. I would
2 like to thank you, the Commission, for giving me the
3 opportunity to discuss Title IX and its dramatic impact
4 on the sport of gymnastics.

5 This is an issue of great concern to the
6 entire Olympic community in the United States, and I'm
7 happy to be here to talk about some of the unintended
8 consequences of Title IX.

9 As mentioned, I was a member of the 1980
10 Olympic team. I became the first African American to
11 make the U.S. Olympic gymnastics team.

12 The following year I graduated from Iowa
13 State on an athletic scholarship and earned the athlete
14 of the year award.

15 After college I became a coach, a judge and
16 a gymnastic club owner, and today, as mentioned, I'm
17 the Senior Director for the men's program for USA
18 Gymnastics, which is the national governing body for
19 gymnastics in the USA.

20 I more than anyone understand the value of
21 collegiate athletics. I, like many other student
22 athletes, was able to fulfill a lifelong dream of
23 receiving an education at an NCAA member institution
24 while competing as an NCAA athlete.

25 I am saddened, however, by what is happening

1 to Olympic sports at NCAA institutions across America.
2 There is not a person that I talk to who does not
3 recognize the benefits of Title IX and the great
4 opportunities that have been afforded to women and
5 education in sport. But at the same time, Title IX has
6 devastated men's and women's collegiate gymnastics in
7 the United States.

8 The way in which Title IX is enforced and
9 factors used to determine compliance have created some
10 of these devastating consequences. And I would like to
11 note that there is a relation to a women's program
12 dropped shortly after the men's had been dropped.
13 There is a relation to that.

14 From 1980 to 2000, I think some of these
15 figures have been mentioned, we've lost a hundred
16 women's collegiate gymnastic programs and 83 men's
17 collegiate gymnastic programs.

18 There are fewer than 90 women's programs
19 remaining in the U.S. today, and men's programs have
20 gone from an all-time high point of 202 programs in the
21 1970s down to just 20 programs today.

22 The elimination of these gymnastic programs
23 as well as the elimination of other Olympic nonrevenue
24 producing sports continue to give the following
25 negative effects. It will continue to decrease the

1 number of American athletes eligible for world and
2 Olympic competition teams; it will continue to reduce
3 the number of athletes who will become coaches, thus
4 eliminating quality coaches in America's youth, and
5 many of these coaches in the men's program go on to
6 coach women's collegiate programs; and it will continue
7 to eliminate the opportunity for low income and
8 minority young people to receive quality education
9 through athletic scholarships in a number of Olympic
10 sports.

11 The interest level in gymnastics is growing,
12 but the NCAA member institutions are not meeting the
13 needs of students who want to participate in our sport.

14 USA Gymnastics records show that overall
15 participation has doubled from 1980 to 2000. Presently
16 over a half million boys participate in competitive and
17 recreational programs in private clubs across America.
18 And incidently, it's the private clubs in America that
19 are feeding our NCAA programs, not necessarily our high
20 school programs.

21 This year alone after state and regional
22 qualifying competitions 650 boys qualified to
23 participate in the 2002 Junior Olympic national
24 championships held in San Diego, California. Of those
25 650 competitors, 310 were college bound or within one

1 year of entering the college program, but with the
2 total number of athlete participation in men's
3 collegiate gymnastics going from 1,367 in the 1981 /82
4 season down to 367 in the 2000 /2001 season, it's
5 apparent that the needs of these boys are not being
6 met.

7 This situation is very much the same in
8 Olympic sports such as wrestling, diving, track and
9 field, tennis, and swimming. I've shown today that
10 this is a serious problem at the collegiate level, and
11 unless steps are taken by the Department of Education
12 with increased responsibility to NCAA institutions to
13 solve this problem, we will see more programs
14 eliminated to the point of extinction.

15 Many of you might remember Peter Vidmar, Tim
16 Daggett, and Mitch Gaylord, members of the 1984 Olympic
17 team winning a historic gold medal for the U.S. you
18 might also remember world champion Kurt Thomas. Fast
19 forward these moments in our sport to the year 2002.
20 The collegiate gymnastic programs that developed these
21 Olympians no longer exists.

22 As a matter of fact, half of our 2000
23 Olympic team was developed in collegiate programs. And
24 on a personal note, the program that gave me my
25 opportunity has also been eliminated.

1 You have a big job to review Title IX and
2 make recommendations to the Department of Education. I
3 don't think the intention was to provide a law to
4 motivate member institutions to drop men's sports or to
5 hide behind as they drop men's programs and have small
6 annual budgets while they take a portion of those
7 budgets and create a women's program. But this is what
8 happens from the proportionality prong of Title IX
9 compliance, decisions to drop programs being made in a
10 vacuum and no accountability for spending in place at
11 NCAA institutions.

12 I don't believe in complaining about some of
13 the problems without offering at least two solutions or
14 two comments. One is, and this is real out of the box
15 thinking so don't -- take endangered sports, and
16 endangered is the key word, like men's gymnastics out
17 of the formula of calculating Title IX compliance. I
18 know this is real out of the box thinking, but this is
19 desperate times, and I would encourage you to think a
20 little out of the box when looking at everything and
21 trying to come up with some solution to our problems.

22 Also consider another prong to measure
23 interest of participation in sports at an institution
24 instead of proportionality. Yes, there are two other
25 prongs, but they only got institutions back to

1 compliance based on proportionality, which does not
2 provide an accurate measure of who wants to play
3 sports.

4 Of course there are other possible solutions
5 that could be directed directly to the NCAA, such as
6 legislation to provide advance notice of elimination of
7 an Olympic sport. You know, many of my coaches have
8 told me that they learned about their program's
9 elimination when they picked up the morning paper. I
10 also believe different rules of eligibility and
11 existence should apply for sports like football and
12 basketball. It's illogical to apply blanket policies
13 for dominant sports like football and basketball to
14 Olympic sports like gymnastics. But I'll save those
15 thoughts for a later date.

16 Members of the Commission, I believe it's
17 time to take responsibility for the preservation of
18 men's Olympic sports at the collegiate level. It's
19 time to stop pointing the finger and asking about are
20 these male athletes any less important than those
21 participating in other sports? We are talking about
22 the development of our next generation of leaders,
23 aren't we?

24 The goal of Title IX was to create equal
25 opportunity without prejudice. Obviously this has not

1 occurred, and a review and modifications are in order.

2 Thank you.

3 MS. CYNTHIA COOPER: Judith Sweet
4 joined the NCAA as vice-president for Championships and
5 Senior Women Administrator in January of 2001. Prior
6 to that, Judith served as Director of Athletics at the
7 University of California, San Diego, from 1975 to 1999,
8 when she became one of the first women in the nation
9 selected to direct a combined men's and women's
10 intercollegiate athletics program.

11 Judith was elected to a two-year term as
12 President of the NCAA in January 1991 and was
13 Secretary-Treasurer of the NCAA from 1989 to 1991,
14 becoming the first woman to serve in each of those
15 positions.

16 Judith.

17 MS. JUDITH SWEET: Thank you, Madam
18 Co-Chair. If I may, I would just like to add one P.S.
19 to that very kind introduction.

20 I've loved sports all my life. As a young
21 girl I dreamt of representing my high school and
22 college on a sport team. I never had that opportunity
23 because there were no teams at either the high school
24 or college level.

25 While I would welcome the opportunity to

1 share my perspective based on those life and campus
2 experiences that Cynthia alluded to, my remarks today
3 will focus on the NCAA.

4 On behalf of the National Collegiate
5 Athletic Association and its more than 1200 member
6 colleges, universities, conferences, and affiliated
7 organizations, I'm pleased to have the opportunity to
8 provide the Commission with comments about the impact
9 of Title IX on intercollegiate athletics from the
10 Association's perspective.

11 For those of you who may not be as familiar
12 with the NCAA as others of you are, allow me to briefly
13 note that the NCAA is a membership driven association.
14 The NCAA derives its authority, including all national
15 policy, entirely from the will of the membership
16 through the vote of institutional or conference
17 representatives.

18 The vast majority of decisions regarding
19 athletics programs, including which sports to sponsor
20 or to cease sponsoring, are made at the campus level.
21 Member institutions have complete autonomy over their
22 programs except where the broader membership has set
23 standards through national policy.

24 Allow me also briefly to describe the role
25 of intercollegiate athletics for women 30 years ago

1 when Title IX was signed into law. There were no
2 college athletic scholarships to speak of for women, no
3 NCAA championships for women, and very few
4 opportunities for competition.

5 In 1971 /72 a survey of the NCAA member
6 institutions showed that only 29,977 women were
7 participating in sports and recreational programs
8 compared to over 170,000 men, more than five times as
9 many men as women.

10 The athletics opportunities for women were
11 few, and the prospects for growth were dismal. With
12 numbers like that, it might be fair to wonder what
13 college woman would show any interest at all in
14 athletics.

15 What a difference 30 years of legislative
16 impetus, opportunity and support make. Today nearly
17 150,000 women are competing in sports at NCAA member
18 schools.

19 While some individuals suggest that women do
20 not have a strong interest in sports participation, the
21 numbers prove otherwise. In the last ten years alone
22 female NCAA participants have increased by more than
23 55,000. The number of collegiate women's soccer teams
24 has grown from 80 in 1982 to 824 in 2002.

25 The number of girls participating in sports

1 at the high school level exceeds 2.7 million. As
2 opportunity has increased, interest has increased. Of
3 the 87 championships in 22 sports conducted by the
4 NCAA, 43 are exclusively for women, and bowling will be
5 added to the women's championship in 2003/04.

6 And, Debbie, the Committee on Women's
7 Athletics has also indicated that they will look at the
8 number of scholarships being provided in all of our
9 sports. The NCAA membership has demonstrated a
10 commitment to both men's and women's Olympic sports
11 through legislation that allows the continuation of
12 championships in Olympic sports even if the number of
13 sponsoring institutions does not meet minimum
14 requirements for championship events.

15 Clearly Title IX has promoted opportunities
16 for female athletes over the last 30 years, but there
17 is much more still to be done to ensure that men and
18 women who attend NCAA member schools have equitable
19 access to athletics participation.

20 Although women comprise 54 percent of the
21 undergraduate student population at NCAA member schools
22 on average, as you have heard, they account for only 40
23 percent of the athletics participants. They receive
24 only 40 percent of the scholarships, they receive only
25 36 percent of the operating dollars, and have only 32

1 percent for recruiting budgets.

2 Like any social legislation designed to
3 change the deeply imbedded status quo, Title IX has had
4 and still has its critics. Over the last 30 years the
5 voices of dissent have been less strident regarding the
6 law itself and have grown more concerned with the
7 standards used to measure compliance.

8 The Department of Education standards
9 consider an athletics program to be in compliance with
10 Title IX if its student athletes by gender are in
11 proportion to the make-up of the undergraduate student
12 body or if the program can demonstrate a history of
13 expanding its program to meet the needs of the
14 underrepresented gender or if the program can
15 demonstrate that it has fully and effectively
16 accommodated interests and abilities of the
17 underrepresented gender.

18 Critics argue that the focus of courts and
19 the Office of Civil Rights has been on a
20 proportionality test and that it has become the de
21 facto single test used to determine compliance. The
22 unintended consequence of Title IX they say has been
23 the cutting of the so-called nonrevenue men's sports in
24 order to get the number of athletics participants for
25 an institution more in line with the undergraduate

1 population by gender.

2 Others have claimed that increased expenses
3 in providing opportunities for women to comply with
4 Title IX have resulted in a reduction of spending for
5 men's sports. In fact, financial reports from 1972 to
6 1993 show that in Division 1-A for every new dollar
7 spent on women's sports, three new dollars were spent
8 on men's sports.

9 Before I discuss the findings of the report
10 on this issue from the United States GAO in March 2001,
11 allow me to share with you a message from the NCAA
12 executive committee, one of the primary decision making
13 bodies within the government structure and comprised of
14 university Presidents and Chancellors.

15 In a discussion about the work of the
16 Commission at their meetings earlier this month, the
17 President spoke strongly of the value of Title IX and
18 urged the Office of Civil Rights to apply consistent
19 Title IX enforcement and interpretations in all regions
20 of the country.

21 Regarding decisions by member institutions
22 to cut men's sports, this group of college and
23 university CEOs noted that institutions have dropped
24 sports for various reasons, such as institutional
25 philosophy, program priorities, finances, infractions,

1 safety, lack of conference opportunities, inadequate
2 facilities, insurance costs, and others, but the single
3 most important message that they wanted me to deliver
4 on their behalf was this: Don't blame Title IX for
5 institutional decisions to cut programs.

6 The President's position is supported by
7 findings of the GAO report. The United States Congress
8 included provisions in the higher education amendments
9 of 1998 that required the GAO to study participation in
10 athletics, including schools' decisions to add or
11 discontinue sports teams. They examined the membership
12 of both the NCAA and the NAIA. Among the GAO's
13 findings are these: Athletics participation for both
14 men and women have increased since 1981. The total
15 number of teams has increased for both men and women.

16 Since 1992963 schools added teams and 307
17 discontinued teams. Most were able to add teams,
18 usually women's teams, without discontinuing any teams.

19 The report found that the level of student
20 interest was the factor schools cited most often as
21 greatly or very greatly influencing their decisions to
22 add or discontinue both men's and women's teams.

23 The conclusions are clear. The decisions to
24 discontinue specific sports are made at the
25 institutional level for a variety of reasons.

1 If the decision is made to eliminate sports
2 for gender-equity reasons, it is because institutions
3 have chosen this path rather than pursuing other
4 options, not because Title IX dictates such action.

5 The task before the Commission is an
6 important one. In a perfect world Title IX would not
7 be necessary. There would be enough resources and the
8 will to do the right thing and thus meet everyone's
9 needs. Social legislation exists, of course, because
10 we do not live in that perfect world.

11 In the charge to this commission the
12 Department of Education acknowledges that extraordinary
13 progress has resulted from the passage of Title IX.

14 MS. CYNTHIA COOPER: One minute.

15 MS. JUDITH SWEET: While we like to
16 think that this progress would have taken place without
17 Title IX because it was the right thing to do, the fact
18 is that opportunities and support for girls and women
19 in athletics are still not equitable with those
20 provided for men, even though it was 30 years since the
21 law was passed.

22 Your charge appears to bear more on the
23 federal standards for measure of compliance than on the
24 necessity for the law. The degree to which the
25 Commission can give direction to colleges and

1 universities in achieving compliance with Title IX,
2 emphasizing application of any of the three prongs,
3 would remove the misunderstanding that proportionality
4 is the only way to comply. The law is clear, the
5 intent is to correct inequities.

6 The NCAA stands ready to assist the
7 Commission any way it can as you deliberate. The
8 ultimate test for compliance with Title IX may have
9 been summed up best by an NCAA gender-equity task force
10 in 1992. It defined gender equity in the following
11 manner: An athletics program can be considered gender
12 equitable when the participants in both men's and
13 women's programs would accept as fair and equitable the
14 overall program of the other gender. No individual
15 should be discriminated against on the basis of gender,
16 institutionally or nationally, in intercollegiate
17 athletics.

18 As I conclude my comments, I urge you to
19 consider the following: Would participants in both our
20 men's and women's programs accept as fair and equitable
21 40 percent of the participation opportunities, 36
22 percent of the operating dollars, and 32 percent of the
23 recruiting dollars? Would we expect that of them?

24 Thank you for the opportunity to meet with
25 you today.

1 MS. CYNTHIA COOPER: Thank you, Judith.

2 Christine Stolba is a Senior Fellow with the
3 Independent Women's Forum, where she writes about a
4 range of issues, including women and the economy,
5 feminism, and women's studies. She is also an adjunct
6 scholar at the American Enterprise Institute for Public
7 Policy Research and a Visiting Scholar at the Ethics
8 and Public Policy Center, where she has written about
9 bioethics and the history of genetics.

10 Christine has testified before Congress on
11 issues related to women's wages and workplace
12 advancement. Christine has been the recipient of
13 fellowships from Emory University and from the American
14 Philosophical Society. She holds a Ph.D. in history
15 from Emory University.

16 Christine.

17 MS. CHRISTINE STOLBA: Thank you,
18 Chairman Cooper and distinguished members of the
19 Commission. I'm honored to have the opportunity to
20 testify on the issue of Title IX and opportunity in
21 athletics.

22 I am Christine Stolba, Senior Fellow at the
23 Independent Women's Forum, which is a nonprofit,
24 nonpartisan organization dedicated to research and
25 public education on issues concerning women.

1 For the past ten years the Independent
2 Women's Forum has been tracking the enforcement of
3 Title IX, with special focus on its impact on gender
4 equity and college athletics through its "Play Fair"
5 project.

6 I was born in 1973, which was one year after
7 President Nixon signed Title IX into law. At that time
8 one in nine girls were playing high school sports.
9 Today that number is one in three. The expansion of
10 women's participation in athletics is a heartening sign
11 of social progress.

12 As a competitive high school softball
13 player, I guarded lifelong benefits from my
14 participation in team sports, but when Title IX became
15 law, women were 43 percent of the undergraduate college
16 population, and their minority status was invoked as
17 proof of the need for the statute.

18 Today women are the majority of college
19 graduates, and the Department of Education estimates
20 that by the year 2009 men will be 41 percent of
21 undergraduates; in other words, the underrepresented
22 sex on campus will no longer be women, but men.

23 Contrary to Title IX's original aim of equal
24 opportunity, the courts and the Office For Civil Rights
25 at the Department of Education have embraced equal

1 outcomes in the form of statistical proportionality as
2 their primary measure of compliance with the statute.

3 This proportionality principle, as you've
4 heard, posits that absent discrimination, men and women
5 would demonstrate identical levels of interest and
6 enthusiasm for all activities, whether it's the choice
7 of college majors or preferences for playing sports.

8 Such thinking, of course, ignores men's and
9 women's demonstrated preferences for certain
10 activities, and I think it leads inexorably to calls
11 for a sex quota system in higher education.

12 Now, as you've heard in theory, a school
13 need only meet one of the three prongs that the Office
14 for Civil Rights test determines, but in practice,
15 however, after the First Circuit's decision in the
16 Cohen V. Brown University case, the first prong has
17 become, this is the phrase used by the court, the safe
18 harbor for school's compliance with Title IX.

19 But because women today are the majority on
20 most college campuses, but still demonstrate lower
21 levels of interest in playing collegiate sports than
22 men, schools find themselves caught in a difficult
23 bind.

24 The solution many colleges have chosen has
25 been to cut men's team. In less than a decade, more

1 than 80,000 college female athletes on intercollegiate
2 teams disappeared from college campuses.

3 Between 1993 and 1999 alone 53 men's golf
4 teams, 39 men's track teams, 43 wrestling teams and 16
5 baseball teams have been eliminated. The University of
6 Miami's diving team, which has produced 15 Olympic
7 athletes, is gone.

8 Now, supporters of statistical
9 proportionality in college sports have argued, and many
10 of them have argued before you here today, that since
11 the inception of Title IX, women's demonstrated
12 interest in sports is not a true measure of equality
13 because it fails to consider female athletic potential.
14 If you build it, they will come.

15 Because society discriminated against women
16 athletes for so long, the argument goes, generations of
17 girls internalized the message that they didn't belong
18 on the soccer field or the basketball court.

19 The fact that women currently are not
20 turning out for sports in rates as high as men is a
21 legacy of that denial of opportunity the argument goes.

22 Now, this line of reasoning obviously has
23 truth. Culturally, the female athlete has been a role
24 model only in recent years. Displays of female
25 athleticism were rarely celebrated. And doubtless,

1 many girls never ventured to challenge the social norms
2 that saw men but not women as athletes, and they lost
3 out on athletic opportunities in the process.

4 A similar set of cultural assumptions
5 governed the labor market for generations. But once
6 women had achieved formal equality of opportunity, as
7 they did with the passage of Title IX, I think we have
8 to move to another question. The question is is the
9 government's role to enforce anti-discrimination
10 legislation or is the government's role to mandate a
11 certain level of interest in athletics to achieve
12 equality of outcome?

13 I believe the intent of Title IX is the
14 former. I think in practice we're seeing the
15 enforcement of the latter idea. Well, what do women
16 want?

17 Numerous contemporary studies demonstrate
18 that even 30 years after the passage of Title IX, on
19 average men and women still display different degrees
20 of enthusiasm for sports. This obviously never should
21 be used as an argument to prevent women from pursuing
22 athletics. But if you look at the data, for example,
23 this particular set of data, it's been raised a few
24 times this morning, the scholastic aptitude test data,
25 which shows that nearly twice as many men as women say

1 they want to play sports at a college level.

2 Now, there's some other more interesting
3 data which I have and a few people today have alluded
4 to comes from the National Federation of State High
5 School Associations. They do high school athletic
6 participation surveys and look at the rates of gender
7 breakdown, a range of extracurricular activities.

8 One survey done, this one was done about ten
9 years ago, similar numbers follow, shows that there is
10 one place where the girls are, and that's everywhere
11 but playing sports. They make up around 69 to 70
12 percent of the participants in band programs, choir
13 programs, debate teams, drama clubs, they dominate in
14 journalism, in speech, in yearbook, in student
15 government, and in service clubs. Boys dominate only
16 in sports.

17 So I would argue that this is women's choice
18 in action. Given a range of options of extracurricular
19 activities, many girls are choosing other things
20 besides sports. I think one of the commissioners or
21 testifiers this morning mentioned that the purpose of
22 collegiate education is indeed education, it's not
23 extracurricular activities. I think a lot of these
24 choices that women are making at the high school and
25 college level feed into future job opportunities.

1 Figures for little league activity confirm
2 that observation, particularly since youth leagues are
3 generally a matter of supply and demand; teams form
4 depending on the number of interested players who
5 register. Nationally, 2.4 million children, almost all
6 of them boys, participated in Little League baseball in
7 1999. Little League softball, which has the same
8 structure as Little League baseball, had only 384,000
9 players, almost all girls.

10 Now, I think that, as several people have
11 pointed out, and this is a serious problem, even when
12 universities present solid evidence of men's and
13 women's different preferences, they often end up
14 nevertheless having to cut men's teams and settle
15 lawsuits.

16 The University of Texas is an example. In
17 1993 it was the target of a Title IX lawsuit seeking
18 the creation of four new female varsity sports, soccer,
19 softball, gymnastics, and crew. The evidence that the
20 university marshaled from student surveys and
21 participation rates in intramural sports revealed that
22 women in Texas simply displayed less interest in sports
23 than their male counterparts.

24 Despite this evidence, the University of
25 Texas settled the case before it came to trial to avoid

1 a long and potentially costly court battle, and at a
2 cost of one million dollars agreed to raise the female
3 participation rates from 23 to 44 percent.

4 Attempts by the government to mandate
5 certain levels of interest and participation by women I
6 think leads to misguided standards and a denial of
7 opportunity to male athletes by assuming that all women
8 have the same degree of interest in sports as all men
9 without actually bothering to consider whether this is
10 in fact true.

11 Proportionality proponents reveal a
12 different purpose, and that's social engineering.
13 Proportionality is not equality. Now, proportionality
14 proponents would in essence reject the reality of
15 women's choices, but they would do well to remember
16 that proportionality could turn out to be a double-edge
17 sword.

18 In *Cohen V. Brown*, as several witnesses this
19 morning have shown, Brown University provided the court
20 with statistics that revealed that gender rations in
21 other programs were also skewed. Students'
22 enthusiastic about dance, music, and drama were 91, 66
23 and 56 percent women respectively.

24 Thus far, courts have not been sympathetic
25 to male athletes' claims of reverse discrimination.

1 But it is useful to remember that there's a logical
2 conclusion to the proportionality principle, and that's
3 quotas in every arena of higher education, including
4 the classroom.

5 Considering that men are the minority on
6 college campuses today, this is not an unheard of
7 proposition.

8 Now, I understand that the Title IX debate
9 has no simple solutions. Athletic directors,
10 administrators, and students will continue to quibble
11 over who gets what. No one is calling for the
12 elimination of Title IX, nor suggesting that its
13 underlying principle of equal opportunity is misguided,
14 but the past 30 years have shown that the practical
15 application of Title IX has led to the elimination of
16 equal opportunity for many male athletes.

17 I think we need to find a better way. With
18 the recognition by the courts and policy makers that
19 Title IX guarantees equal opportunity but doesn't
20 necessarily guarantee equal outcomes, we can return to
21 the original intent of Title IX.

22 I would urge this commission to consider
23 more accurate and innovative ways of measuring student
24 interest in college athletics, such as polling data and
25 student surveys, as well as counting sports things that

1 weren't sports 30 years ago, such as cheerleading
2 squads, which on many college campuses today are
3 actually athletic activities.

4 Young women should have, of course, every
5 opportunity to pursue sports, but we should be
6 enforcing equal opportunity, not ideology or quotas.
7 The proportionality principle ultimately is destructive
8 to free choice and to relations between the sexes. I
9 think it's debasing to women and is wasteful of our
10 nation's limited educational resources.

11 Thank you.

12 MS. CYNTHIA COOPER: Open up for
13 questions.

14 MS. RITA SIMON: This is a simple
15 question, and, Christine, you alluded to it just now.
16 Is there a consensus about what is a sport among all
17 colleges? For example, you mentioned that cheerleading
18 might be a sport. Is there a consensus about that?
19 What about the marshal arts, is there a consensus about
20 the definition of a sport?

21 MS. CHRISTINE STOLBA: One thing we
22 have seen is the emergence of emerging sports. We have
23 these massive equestrian teams, precision ice skating,
24 for example, is sweeping the nation. I am being
25 sarcastic because we know that some of these sports are

1 obviously being created in order to fill the
2 proportionality. But sports change just as cultures
3 change with regard to the kind of sports women play,
4 and I think the Commission could do a great service in
5 helping guide administrators by defining what is a
6 sport these day and what isn't.

7 MS. JUDITH SWEET: There is in
8 fact a definition that I would like to share with you.
9 The activity is sponsored with the primary purpose of
10 preparing for and engaging in athletic competition
11 against other similar teams. The team prepares for and
12 engages in competitions in the same way as other teams
13 in the athletic program, such as receiving coaching,
14 conducts tryouts, engages in regular practice sessions,
15 and has regularly scheduled athletic competitions.
16 Whether national and state conference championships
17 exist for the activity and whether the activity is
18 administered by the athletic department, if the purpose
19 of the activity is primarily to support and promote
20 other athletes, then the team would not be considered
21 to be engaged in a sport for the purpose of compliance
22 under Title IX.

23 MS. RITA SIMON: What does that do to
24 cheerleading?

25 MS. JUDITH SWEET: There are

1 programs such as cheerleading where the emphasis has
2 shifted to competition, and they do not exist to cheer
3 for other teams, but rather to compete based on
4 athletic ability.

5 DR. RITA SIMON: Thank you.

6 MS. JULIE FOU DY: I think we're all in
7 agreement. Of course, we're certainly in agreement
8 that we don't want to see any men's opportunities
9 eliminated, and I think some people disagree as to why
10 that's happening. And, Judy, I have a question for you
11 about that, because when you look at all the financial
12 figures and numbers, especially in light of what's
13 happening today in the corporate market and the talk of
14 fiscal responsibility, you look at the number and there
15 seems to be an arms' race happening with coaches'
16 salaries, with assistant coaches' salaries, and there's
17 a lot of expenses that are happening.

18 What are the consequences and what type of
19 limitations can we put in place to try to contain that,
20 or are there any?

21 MS. JUDITH SWEET: Thanks for that
22 question, Julie. I think that there are several
23 challenges that athletics administrators faced. I
24 spent 24 years as a Director of Athletics and went
25 through successive years of budget cuts when California

1 was in a severe financial circumstance.

2 We had to make hard decisions, and those
3 decisions were to try to generate additional resources
4 to maintain our broad-based program, but we had to
5 reallocate our resources to take care of our programs.

6 We never dropped a sport with the exception
7 of replacing women's field hockey with women's water
8 Polo because on the West Coast there weren't any teams
9 for us to compete against in field hockey and we saw
10 women's water Polo as a growing sport.

11 The question with regard to the arms' race
12 is one where institutions are constantly calling for a
13 level playing field, and if one institution determines
14 that they need to be competitive based on salaries that
15 are offered at another institution, then we continue to
16 escalate that competitive arms' race.

17 There is no such thing as a level playing
18 field, and I think we need to acknowledge that. There
19 are all kinds of things that enter into whether a
20 institution can be competitive. Certainly the
21 resources they put into a program are one factor, but I
22 believe the quality of an academic program that you
23 offer, your location, there are a number of other
24 things that determine whether you are going to be
25 competitive.

1 I think we need to be realistic. If we
2 continue to increase our expenses at the rate that we
3 are right now, we're going to go broke. We just can't
4 continue to do that. So we need to use good sense. We
5 need to be rational and reasonable as we look at what
6 we're doing within our athletics programs and make some
7 of those hard decisions, that the quality of
8 competition is really not going to be diminished if we
9 don't follow some of the practices that are currently
10 in place. And it takes everyone's best efforts. And I
11 would hope that the chief executive officers on our
12 campuses will play an important role in making that
13 happen.

14 MR. TED LELAND: I get to ask one. And
15 Christine mentioned this a little bit in terms of the
16 blame that Title IX gets for dollar problems and
17 athletic problems. But many times there are people
18 that have asserted that it's really the escalation in
19 the men's programs' costs per student athlete that
20 cause a financial burden.

21 Three dollars more are spent on men's for
22 every one dollar spent on women's during the period of
23 time as has been said. The NCAA is not a reasonable
24 ally if we're going to -- not an effective ally if
25 we're going to limit the escalation costs. The NCAA

1 has tried time after time to limit the escalation in
2 the cost of running an athletics program on any campus
3 and has been ineffective in being able to do that,
4 would you agree?

5 MS. JUDITH SWEET: I'll agree with
6 that. In fact, I'll date myself. My involvement with
7 the NCAA there has been at least three special
8 committees put together on cost containment or
9 something of that nature to propose legislation that
10 would in fact put caps on certain expenses for all
11 member institutions, and those pieces of legislation
12 have not been supported, and I believe it's because of
13 institutional autonomy. But I think if we are
14 individuals of good will, we need to look realistically
15 at what's happening as far as expenses in college
16 athletics, and we need to work cooperatively to find a
17 way to keep those expenses at a level that will allow
18 for us to support both our men's and women's programs.

19 MR. RON GALIMORE: I'd like to make a
20 comment on that. It's very true that some of those
21 concerns do exist, and I see that steps are being taken
22 in order to try and correct some of that.

23 The thing that concerns me is over the past
24 eight years in working with the USOC particularly in
25 offering conference grants to universities that have

1 men's gymnastic programs, we had at our access 1.5
2 million dollars and were turned down by many
3 conferences that wouldn't accept the money because they
4 didn't have the same amount of money to spend for a
5 women's program. They were still trying to meet the
6 proportionality issues.

7 And so there are concerns on that also. And
8 it saddens me that we can't give away money in order to
9 try and help certain programs.

10 MS. CARY GROTH: I appreciate you
11 bringing up that point because I think those monies are
12 very valuable to conferences and institutions, but
13 unfortunately it's also needed to support those sport
14 teams, and as an Athletic Director it's not just the
15 direct cost of the sport, that is a challenge for all
16 of us, it is the athletic support and training and so
17 on and so forth.

18 And, Judy, I want to acknowledge your
19 comment about the reason that sports were dropped.
20 Unfortunately our institution was in that position this
21 year, and it was strictly a financial decision, yet the
22 publicity really was around Title IX. And
23 unfortunately every time that happens, it's another
24 black mark against Title IX. And a very uneducated
25 society about Title IX then puts the blame on women's

1 sports. So I appreciate that point being brought up.

2 MS. DONNA de VARONA: Yeah, Judith, Ron
3 and Christine, both of us have been through this. I
4 was on two Olympic teams and never completed for a high
5 school team or a college team, never got a scholarship.
6 And I think it's a sorry place that we've come to that
7 this has been so politicized. And Title IX is always
8 blamed when a men's minor sport is cut when there are
9 resources and we are a very rich nation and we are very
10 creative.

11 And when you mentioned, Ron, thinking
12 outside the box, I would hope that you could give me
13 some more thinking outside the box. You did mention,
14 Ron, that when the men's sports teams were cut, women's
15 sports teams were cut, and it seems to me that your
16 sport is an endangered sport just like some men's
17 swimming programs and water polo programs. Both of
18 you, do you think there's -- or all three of you, could
19 you respond, do you think that there's any way the NCAA
20 could finally reach out to the independent sports
21 govern bodies in the Olympic committee and that this
22 commission could in any way direct those groups to come
23 together so we could think outside the box and help
24 facilitate, for instance, in gymnastics if they are
25 going to cut a program that there's a time announcement

1 that they are thinking of this so that those in
2 gymnastics can endow their like they did with water
3 polo at UCLA?

4 Is there a way in which, Judith, we could
5 really get the institutions to -- there are 40 men's
6 basketball coaches that make over a million dollars a
7 year. Is there any way we could stop this and help
8 people be more fiscally responsible and think outside
9 the box?

10 MR. RON GALIMORE: Well, USA gymnastics
11 has always been there as a resource for any institution
12 and would love the opportunity to try and work with any
13 institution on keeping sports.

14 You know, in talking a little bit about the
15 women's issue, women's gymnastics is not one of the
16 sports that people are adding, you know. They are
17 adding some of the other sports that have higher
18 numbers. And when you drop a men's program, as I
19 mentioned, a lot of the gymnasts that participate in
20 that program go on to be coaches.

21 So we have an interest not just from the
22 men's side, but also from the women's side. I would
23 like to do anything possible to do that.

24 So we would welcome the opportunity to sit
25 and visit and try to be creative on finding solutions.

1 MS. JUDITH SWEET: I'll try to
2 answer both of your questions. The first one in
3 regards to working with USOC, you may be aware that the
4 USOC sponsored a conference in Indianapolis to address
5 the declining Olympic sports in which several of us
6 from the NCAA participated, and at that meeting, it was
7 determined that we would work together to try to
8 identify ways that we can support Olympic sports and
9 maintain both our men's and women's broad-based
10 programs.

11 Your second question about salaries is one
12 that is an institutional decision at this point, and
13 until there is some means for institutions to do other
14 than what they are doing right now or there is some
15 mandate, I believe that the salaries will continue at
16 the level that they are and probably increase.

17 MS. CYNTHIA COOPER: Anymore questions?

18 MS. DEBORAH YOW: I have just a point
19 of clarification. I believe this is accurate, Judy.
20 When we talk in this venue about scholarship dollars, I
21 think it's important for our audience to understand
22 that we're not talking about annual aid dollars alone;
23 in other words, the NCAA maximum number of scholarships
24 that can be provided. We're talking about the annual
25 aid that's provided, plus summer school, plus fifth

1 year aid. And that is in my estimation a great part of
2 the disparity of the percentages.

3 I'm not sure how to delicately say this, but
4 at least on our campus our women don't need fifth year
5 aid as often as the men. So it is a nondiscriminatory
6 reason, nor do they need summer school aid as often as
7 our men.

8 Every September I meet with the coaches and
9 encourage our women to send their athletes to summer
10 school, and they look at my dumbfounded. They come
11 back to me individually and suggest they don't need
12 Debbie to go to summer school. They are on track to
13 graduate. We want a break from each other. We have
14 plans for our summer.

15 I can't say that about a number of our male
16 athletes. They in fact occasionally do need to be in
17 summer school and do need financial aid in the fifth
18 year. So I just think that we need to keep that in
19 mind that the statistics can be somewhat deceiving
20 without one acknowledging or recognizing that those
21 nondiscriminatory factors are part of those numbers.

22 MS. JUDITH SWEET: I think I
23 mentioned earlier the Committee on Women's Athletics
24 has indicated that they are going to look at the
25 scholarship provisions, and I would be happy to share

1 with them your comments. And this is an opportunity
2 for review of scholarships in the total picture.

3 MR. RON GALIMORE: I just wanted to say
4 in closing, and I know that we have said that we are
5 completely excited about all the opportunities that are
6 being afforded, but there is an issue here and there is
7 a problem and we do need to try and do something to
8 motivate institutions to do something different.

9 Right now, presently the way the things are
10 set up with the proportionality problem it's to
11 motivate to drop men's sports, and things do need to be
12 reviewed. We do have a problem that needs to be
13 addressed here as the NCAA decides whether or not they
14 want to work with NGB's on this situation.

15 So I hope that the Commission will take all
16 the information and look at everything and try and make
17 some good decisions so that we can all work together.
18 I'm just concerned as time goes by and we try to get
19 the right parties together that we continue to lose
20 sports, and we don't have very many left.

21 MR. TED LELAND: Thank you. The three
22 of you, plus all the presenters, to remind everybody up
23 front here and the presenters, you're all welcome to
24 attend lunch. We'd love the presenters to join us if
25 you would. And we will readjourn at 2:00. And the

1 room will be locked, and we will open it back up at
2 1:50, so if you want to leave some materials in here,
3 please feel comfortable.

4 Thank you.

5 (Lunch recess).

6

7 MR. TED LELAND: If you could bear with
8 me for a second. I thought we made great progress this
9 morning, and we made even better progress when we were
10 able to keep to our agenda and discipline both
11 ourselves and the presenters regarding the time
12 constraints that we've all agreed to.

13 So what we have planned for the next three
14 hours is we will adjourn at 5:00. Our intention is to
15 take as much public testimony as we can in the next
16 three hours.

17 We have asked people to register and then
18 also sign in today, so we will begin at the top of the
19 list the first person to register and sign in and go
20 through those people as quickly as we can.

21 We have almost 80 people who have asked to
22 speak, so we have a waiting list. So what we would
23 like you to do is limit yourself to three to five
24 minutes. At the end of four minutes either Cynthia or
25 I will say -- when you start, the green light is on.

1 At the end of four minutes -- that's this little thing
2 right here (indicating). Then the -- I'm learning this
3 as we go. At 4:30 the yellow light goes on and then
4 the red light goes on at five minutes.

5 So if everybody could just show respect for
6 one another and one another's opinions to make sure
7 that you abide by that time frame, it would be
8 appreciated by everyone.

9 Okay. And Debbie is telling me we will turn
10 the microphone off immediately following that.

11 And what I will ask people to do is Cynthia
12 and I will ask you to come up in sets of four and wait.
13 And Debbie Price here from the Department of Education
14 to my left, who's Executive Director of the Commission,
15 will sort of keep track of the light and the timing.
16 And hopefully we can have as much great dialogue this
17 afternoon as we had this morning. Certainly, as we
18 said earlier this morning, I see a lot of new people
19 here.

20 We are all proud to be on this commission.
21 We are committed to listening to not only experts in
22 the field, but the general public. People have a
23 concern about equal opportunity in athletics, and so
24 we're very excited to serve and very excited to hear
25 what you have to say.

1 So the first four people up. Again, a five
2 minute time limit. Clar Anderson, Sam Bell, David
3 Rodrigues, and Alan Fecteau, if they would come up, and
4 Clar would begin.

5 MR. CLAR ANDERSON: Thank you for
6 giving me the opportunity to speak to you and
7 greetings. Lord, I don't envy your job of trying to
8 figure out this dilemma.

9 My name is Clar Anderson, and I'm both a
10 proponent of Title IX and an advocate for it to be
11 revised to ensure that it fully enhances the
12 opportunity for both male and female athletes.

13 My experience may be made because I am a
14 proponent of Title IX and a victim of the unintended
15 consequences of Title IX. When I wrestled, wrestling
16 was dropped at Auburn University after my freshman
17 year. Also, I'm a wrestling coach at Duke University,
18 where they offer no athletic scholarships.

19 First I would like to give you some personal
20 history of why I'm a proponent of Title IX. My mom and
21 dad raised both my two brothers and sisters and I in
22 Upstate New York, and my mother was a P.E. instructor
23 and a coach.

24 I can remember vividly the difficulties my
25 mother faced while she attempted to provide the best

1 experience possible for her young female athletes. I
2 know she spent much of her own money to augment or
3 totally underwrite her female teams. She often had to
4 transport the young ladies in our family car to various
5 events as well as purchase balls, timers, et cetera.

6 She also had to arrange to use the
7 facilities after the male sports chose what time they'd
8 use the sports and when they wouldn't use the sports.
9 This was a travesty, and I'm glad that young ladies get
10 more opportunities to play and train for their sports
11 these days.

12 And I also greatly appreciate the
13 opportunity to participate in sports. Looking at me,
14 you can tell I was not predisposed to play basketball
15 or wrestle. I chose to wrestle, or you maybe could say
16 wrestling chose me. There are not many sports
17 available for those genetically determined to be
18 shorter, slower, et cetera, for wrestling is by design
19 intended to give opportunity to those of various
20 weights.

21 In high school wrestling there are 14 weight
22 classes and in collage they are 10 weight classes.
23 This guarantees just about anyone the opportunity to
24 participate. It attracts the most diverse range of
25 people of any sport, I believe.

1 The lighter weights have Asians, Hispanics,
2 African Americans, and Caucasians and have done very
3 well in the sport of wrestling while those of many
4 religious backgrounds and many different countries all
5 train and compete and share common experiences with
6 wrestling.

7 There are not many other sports where you
8 can have a six foot four and a five foot five wrestler
9 square off in a national finals match, and the sport of
10 wrestling is being disseminate by all the ill-intended
11 many consequences of what I believe to be the wrongful
12 implication of Title IX.

13 I wrestled my freshman year of college at
14 Auburn. It was a great school with a very strong
15 wrestling tradition. Tom Milkovich, the head wrestling
16 coach, had for three years promised to be in the top
17 ten.

18 In my freshman year we were ranked seventh,
19 placed ninth in the national tournament, and I was a
20 freshman All American when we found -- and we had two
21 other All Americans on the team, recruiting classes
22 ranked number one in the country, and we were all
23 excited about that potential and the dreams there.

24 But these dreams were all dashed when we
25 found out late in the summer that Auburn wasn't going

1 to sponsor wrestling anymore, but would honor the
2 scholarships offered. Obviously no true athlete
3 competes just for the scholarships. So the team was
4 left without any guidance or help to try to find
5 another wrestling home before the window of opportunity
6 was closed.

7 Ironically, the wrestling team was the most
8 successful athletic program on campus and most likely
9 the least expensive scholarship team. It made no
10 sense. Fortunately for me I was able to transfer that
11 year and pursue my dream of being a national champion,
12 but many of my teammates had to stay another year
13 before transferred or were shed or forced to forego
14 their dream.

15 Now for some general observations.

16 It seems ironic that in this public forum we
17 have two groups of people that are basically both for
18 Title IX, but many of my team -- I'm sorry, and is
19 fighting for more opportunity to participate in sports.
20 It is a shame that it has to be so adversarial.

21 I can't imagine that either group wants the
22 other side not to have a fair and equitable chance to
23 pursue athletic dreams at the university level, but I
24 do know that over 300 NCAA wrestling programs have been
25 dropped since the implementation of Title IX.

1 I don't blame the other side for this demise
2 of opportunities for so many young men, I just want you
3 to know that wrestling is a growing sports and it ranks
4 between probably the fifth and sixth most participated
5 sport at the high school level. However, supposedly
6 for 100 high school wrestlers there's only about one or
7 two opportunities to compete at the college level.
8 This isn't scholarships, but just a spot on the team.

9 I have witnessed the tears in a young man's
10 eye when he was told he could not even practice with a
11 team because roster limits that are implemented to
12 comply with Title IX.

13 If we look at the bigger picture, I think
14 our society as a whole would say there's no need to be
15 this conflict between men and women over opportunities.

16 MR. TED LELAND: That's time. Would
17 the speaker please repeat your name into this because
18 we are keeping a transcript of these testimonies.

19 MR. SAM BELL: My name is Sam Bell.
20 I'm President of the United States Track Coaches
21 Association. And to give you a little background, I
22 coached high school grade years at the university level
23 for 40. I'm still standing.

24 The first eight years as a high school coach
25 I coached football, basketball, track, and one year

1 coached wrestling. And my first job I taught American
2 and rural history of problems in democracy, freshman
3 English and, of all things, girl's P.E. so I had a
4 little experience at that.

5 The last 16 years of my coaching experience
6 was coaching a combined program of men and women. And
7 just as an aside, I will tell you that our budgets were
8 exactly the same with the exception of the fact that
9 men's equipment sometimes cost more. When you have a
10 heavier shot or a heavier javel or a heavier discus,
11 you pay more for it.

12 I want to quote from an article which
13 appeared in the Los Angeles Times. There are few
14 scenes more heartbreaking in sports than a college
15 coach having to tell his players that their team has
16 been eliminated so that the school can comply with
17 Title IX, the federal law applied to gender and
18 athletics.

19 It's a cheerless drama that is played out
20 each year as tens of thousands of young men have been
21 stripped of their programs, scholarships, and
22 competitive hopes. Even the fabled Mighty Casey has
23 nothing on these student athletes, who have lost not
24 simply a game, but their dreams.

25 There has long been an outcry to examine and

1 yes reform the dubious way Title IX is enforced.
2 Schools everywhere fear that only by adhering to quotas
3 making the roster proportional to their enrollment can
4 they be safe from the federal government and
5 plaintiffs' attorneys.

6 But until earlier this year those earnest
7 pleas were usually confined to the soon to be vacated
8 locker rooms of teams that had been cut. Now, a broad
9 group of coaches for many different sports is sticking
10 up for the male athletes. A lawsuit they filed in
11 Federal Court in January is bringing this long overdue
12 discussion to the national fore.

13 Eight major sports associations have signed
14 on to the reform effort and at a Senate hearing on
15 Title IX last month Secretary of Education, Rod Paige,
16 announced the formation of this commission to study how
17 the law is being enforced, sports and all.

18 Having open discussion is crucial. If the
19 Commission does its job fairly, it will hear from
20 people like Coach Sterling Martin at Bowling Green
21 State University, who saw his track team cut just weeks
22 ago replaced by a women's rowing team.

23 In that swift stroke, the school chopped
24 badly needed scholarships for minority athletes in
25 favor of a sport that has, safe to say, a scant

1 following in disadvantaged communities, or for that
2 matter, most communities.

3 Beverly Brandon's son, Barrett, lost out
4 when Nebraska eliminated its men's swim team last year,
5 and she too would like to say a few words. Turned away
6 by the school, she traveled to Washington a few weeks
7 ago with Barrett's sister, hoping in vain to tell law
8 makers face to face that here were two women who
9 thought Title IX should be in fairness for everyone.

10 Brandon has organized other moms too, women
11 like Deb Downey, whose son lost his track team, and
12 Gina Iamatteo, whose son was a quota casualty at
13 Oklahoma.

14 Their stories give witness to the wreckage
15 scattered at schools across the country. The UCLA swim
16 team, scores of Olympic medals gone. Howard
17 University's decade old baseball team cut at the end of
18 last semester. Kent State hockey, no more. U-Mass
19 gymnastics, good-bye. And no, those macho football
20 guys are not to blame.

21 The cuts take place just as frequently at
22 schools that don't even have football, like Marquette
23 University where the Athletic Director had the
24 integrity to admit to the wrestling team that he was
25 cutting their program to achieve proportionality.

1 At other schools like Bucknell and Yale
2 teams were axed even when alumni stepped forward,
3 offering to fund the entire program.

4 But Downey and Martin and the young men they
5 champion will never get the chance to tell their
6 stories if the National Women's Law Center gets its
7 way.

8 Marcia Greenberger, the head of an activist
9 group which helped the Department of Education pass the
10 quota provision, declared recently that the Title IX
11 commission was unwarranted and that this law and this
12 policy must not be changed and there's no reason even
13 to reopen them.

14 In the thinking of radical feminist groups,
15 the coaches, students, moms and alums are not concerned
16 or caring voices that merit attention. They are
17 misguided, or worse, trying to return women to a long
18 abandoned era of subservience. They are wrong. And
19 their condescension has only made a determined mother
20 and a fired up coach that much more focused.

21 I want to try to give you just a little bit
22 of a situation in men's track and field where we had a
23 student who would no longer be allowed to come out for
24 track with the quota system. Before he left college,
25 he was on a world record. Broke the one-mile relay

1 team.

2 He graduated in chemistry and went to --

3 MR. TED LELAND: Sam, that's time.

4 Thank you.

5 David.

6 MR. DAVID RODRIGUES: My name is David
7 Rodrigues. I'm just a parent here in Marietta, Georgia
8 who wants to talk a little bit about the effects of
9 Title IX here in my state.

10 I'm here today not to spout statistical
11 information, not to debate who's at fault for the
12 elimination of various men's sports. I'm here today to
13 talk about any views about what has happened here in
14 the State of Georgia and to challenge the Commission to
15 go out of their way in the pursuit of facts and come up
16 with a solution that is fair to every citizen of the
17 United States.

18 Please know that I did not say fair to women
19 or men, but fair to all citizens of our great country.
20 So as you listen to all the facts and figures being
21 thrown at you over the next few months, please remember
22 that we as citizens here have high expectations that
23 you will find a fair and equitable solution so that we
24 will meet the needs of both men and women.

25 As to the problem for which we're here today

1 -- let me back up. Let me just say this. I would like
2 to get a show of hands, how many people here are in
3 favor of killing Title IX? None. So I want to know
4 why do I constantly hear disinformation about how we're
5 trying to kill Title IX.

6 No one wants to kill it. I have two
7 daughters and a son. I want them to have every
8 opportunity, but it really upsets me that we as
9 Americans can't even get our own facts straight. Why
10 is it so important to have a winner or a loser here?
11 Why can't we just say, listen, what is the common sense
12 of Title IX? What was really intended?

13 What other society or what other area of
14 government do we have where we say, excuse me, there's
15 not enough blacks working for this company so let's
16 remove half the whites, or there's not enough Asians or
17 Puerto Ricans? We don't do that. It's based on the
18 merits of who is the most qualified for the position.

19 We give everybody in our country a fair
20 opportunity to excel at what they want or desire to do,
21 and yet here in collegiate sports we tell young men --
22 we have athletes in Georgia, wrestlers who will never
23 get an opportunity to wrestle because we don't have not
24 one Division 1, Division 2, Division 3. You name it,
25 we don't have one wrestling program in the whole state.

1 That's a shame. Why? So we can meet some kind of
2 quota? How do you tell a young man who's worked all
3 his life in high school to wrestle, I'm sorry, you
4 can't compete in college because we don't have enough
5 girls competing.

6 Now, I've heard about interest today, about
7 finances. I want to know how does a program like
8 Marquette get cut when it's not even related to
9 finances? They paid their own way, and yet they were
10 cut. Why?

11 I want you people to tell me why. To sit
12 there and tell me that well, we have these quotas out
13 there and we're not giving women enough opportunity, I
14 believe we are. The opportunity is out there. And we
15 need to make sure that Title IX is alive. But the way
16 we're enforcing it is so wrong. And I just don't
17 understand why as citizens of this great country, why
18 we can't get our acts together and say listen, there's
19 got to be a better approach to this.

20 I cannot believe that when we make a
21 statement as a country no child shall be left behind
22 that Bush only meant oh, we're going to make sure that
23 women get ahead, but you know what, because men have
24 been in dominant positions for so long, that you know
25 what, they got it coming. So let's leave the little

1 boys behind. Let's tell them, I'm sorry, you can't
2 compete. You can't follow your dream.

3 I don't understand that, and that's why I'm
4 challenging this commission to step forward and find
5 some solutions. I don't want to hear, I'm sorry, we've
6 got these quotas that have to be addressed here.
7 That's not the right answer. I need to have an
8 understanding as a parent. You know, what do I tell
9 the other boys at the school that are going up for a
10 sport and I'm sorry, but, you know, because-- you know,
11 I understand we have situations where there's 20 slots
12 open for a women's softball team, 16 girls show up, and
13 we're told that, you know what, you can only count that
14 16. You can't count the 20 that were available, you
15 can only count the 16 that show up. But there's
16 opportunity there, and yet we're penalizing the young
17 men for that.

18 So in closing, my challenge to you folks is
19 to come up with a solution that so help me God, come
20 January when you guys come out with your report and so
21 forth I hope you guys really do your homework and make
22 it a point to find out what is fair, what is common
23 sense. This is not about winners or losers, it's not
24 about women's rights or men's rights, this is about
25 what's in the best interest of our children, because

1 this rule, if it continues the way it's going in
2 proportionality, is going to somehow strike back
3 eventually because I don't hear anyone questioning
4 about the fact that there's 138 people in choir and 95
5 of them are girls. No one is saying, well, geez, how
6 come there's not enough boys in that?

7 Debate team. My daughter is President of
8 the drama club. She says, hey, out of the 20 people
9 there, 18 of them are young women. Now, is this rule
10 eventually going to happen to the point where we say
11 I'm sorry, but you're going to have to cut girls out
12 because there's not enough guys on the debate team or
13 the drama club? That's where this is eventually going
14 to end.

15 So get to it, folks. Let's find an answer
16 here.

17 MR. TED LELAND: ALAN.

18 MR. ALAN FECTEAU: Good afternoon. My
19 name is Alan Fecteau. I practice law in Habersham
20 County, Georgia. It's rural America. It's rural
21 Georgia. I represent a lot of drunk guys in jail and
22 pregnant women. I'm up for Juvenile Court judge. But
23 I wanted to show up today because there were six
24 players on a team, there was no dribbling allowed, and
25 the rules were a lot different.

1 Several decades before the passage of the
2 law that we call Title IX today my mother played high
3 school basketball in the 1930s in the rural Kansas
4 village of Muscotah, Kansas.

5 Now, at that time Muscotah maybe had a
6 population of about 500, and that's if you counted all
7 the goats and the cows, and there was no electricity in
8 Muscotah, Kansas in the 1930s. So given those arguably
9 austere conditions, I think it's safe to say therefore
10 that girls like my mother chose to play basketball for
11 reasons other than a desire to engage in some sort of
12 active left wing political defiance.

13 If you have political worries about my
14 mother, then you can stop worrying now. It just sort
15 of seemed like the thing to do at the time.

16 Now, my mother played ball back then because
17 she enjoyed competing, she enjoyed testing herself, she
18 wanted to be good at something. Now, there's no reason
19 to believe in my view that the same motivations do not
20 exist among young boys and young girls alike today.

21 Now, in any case, one may reasonably believe
22 that my mother did not need Title IX or help from
23 guardians of Title IX like the Women's Sports
24 Foundation to help her in terms of making her decision
25 to play ball, but she made her decision pretty much all

1 by herself.

2 I know she would have very much appreciated
3 a law like Title IX being on the books back then to
4 preserve any option she may have enjoyed to enhance her
5 education. My mother did not attend college despite
6 having been a national merit scholar in high school due
7 to the lack of family funds.

8 She had an older sister and a younger
9 sister, and back in those days the older sister went to
10 college and the two younger sisters didn't go the
11 college. That was the quota system back then. That
12 was the private sector quota system.

13 So in terms of all this chatter we hear
14 about Title IX being a system of quotas, I just am
15 somewhat puzzled by that sort of logic. There are two
16 other ways to comply with Title IX, as everybody here
17 knows, other than the proportionality standard.
18 Everybody talks about proportionality and quotas.
19 There are two other ways to comply, the history of
20 progress standard, and the interest and abilities
21 standard. They are not based upon numbers, they are
22 based upon words, and all you have to do is hit one out
23 of the three. The NBA used to have three to make two.
24 This is even better. This is three to make one. If
25 you can't hit one out of these three, then you don't

1 deserve to be in the business of college athletics in
2 my opinion.

3 Now, let's take a look at the criticism that
4 we see so far. We see talk about quotas on
5 proportionality. We also see the other two standards,
6 history of progress and interest and abilities. We
7 don't like those because they have got vague words in
8 them that we don't know what the meaning is. So we
9 feel like we're forced into numbers because we can't
10 interpret the words. So we seem to be against numbers
11 because they are numbers, and we seem to be against
12 words because they are words.

13 I don't know what we have other than numbers
14 and words. We can't write a law without some kind of
15 standard. It's going to be a numerical standard or
16 it's going to be a verbal standard, but it's going to
17 be some kind of standard. And it just seems to me that
18 if you say that you're for Title IX but you're against
19 all the regulations, that's kind of like saying I'm for
20 swimming but I'm against swimming pools, oceans,
21 rivers, lakes and everything that allows you to swim.

22 So I just have a hard time taking seriously
23 the opposition to this law and the standards that have
24 been adopted across this country. This is not one we
25 can blame on the Ninth Circuit in northern California.

1 The entire country has voted the same way coast to
2 coast on this law. It's a good law, it's a fair law,
3 it's a flexible law, and it doesn't hurt men.

4 Georgia and the SEC are the best in the
5 country in women's sports. I think with all due
6 respect, I know you're from all around America, but I
7 would argue that the SEC is the best in the country in
8 women's sports, and at the University of Georgia, I'm
9 most familiar with that place, we have not dropped a
10 men's sport in 20 years, not dropped a men's sport in
11 20 years. It was men's wrestling that we dropped with
12 all due respect to the wrestler that was up here
13 before, and this guy has wrestling, he's involved in
14 that.

15 I would point out that at the time that
16 Georgia dropped wrestling, it was the era of the Grove
17 City decision when the athletic associations were not
18 covered by Title IX, they had been divorced from Title
19 IX, and so they were not forced by Title IX to drop
20 men's wrestling at Georgia. I don't know about Auburn,
21 he can speak to Auburn better than me, but I know at
22 Georgia Title IX did not force the closure of men's
23 wrestling. And that's the last men's sports that's
24 been dropped. We've added women's soccer, we've added
25 women's softball and we've just added women's horse

1 jumping, equestrian.

2 My time is up. God bless you.

3 MR. TED LELAND: I was with you until
4 the SEC comment.

5 MS. CYNTHIA COOPER: If we could have
6 the next four people stand. And forgive me for ruining
7 the names. Dziejdzic, Brian Spradlin, Ti Timney, and
8 Beth Bass.

9 MR. STAN DZIEDZIC: My name is Stan
10 Dziejdzic. I'm the President of the U.S. Wrestling
11 Association. As a wrestler, I was an NCAA champion, an
12 Olympic medalist, a world champion. As a coach, I
13 coached at Michigan State University and later the U.S.
14 Olympic team in 1984.

15 Currently I manage the southeast region for
16 Littman Brothers. As a President of NGB whose women
17 will be added to the 2004 Olympic games, and as a
18 father of four, three of whom are women, I'm a
19 proponent of Title IX.

20 What I pose is using enrollment as a
21 measuring tool for determining whether there's
22 discrimination by gender. Enrollment measures the rate
23 of students attending college, but not necessarily
24 their interest in athletics.

25 In 2001 our research shows that there were

1 8,414 NCAA teams for women, 7,832 NCAA teams for men.
2 Despite that 582 advantage for women, according to our
3 statistics, there were approximately 209,000 men
4 athletes and 151,000 female athletes.

5 Looking at enrollment rates by gender, this
6 means that we either have to add 60 some thousand women
7 athletes or reduce the male athletes by 60 some
8 thousand. The Wall Street Journal did a similar
9 analysis in today's paper and calculated the number to
10 be 77,000. Whatever the number, it's a lot.

11 To put that in perspective, there are 59,958
12 male athletes competing in wrestling, swimming, track
13 and field, gymnastics, soccer, golf, and rifle
14 combined. The thought of losing that many positions is
15 frightening, not to mention what it would do to our
16 Olympic effort.

17 Another offshoot to meet the proportionality
18 is to create demand. The Wall Street Journal recently
19 investigated the trend and gave examples of how college
20 rowing coaches were recruiting female athletes who had
21 never participated in the sport, nor had shown interest
22 in the sport before.

23 In 2001 the National High School Wrestling
24 Federation figures showed that there were 2,539 female
25 high school rowers while the NCAA showed 611,000. That

1 means there are 2.41 spots for every female high school
2 rower.

3 In wrestling, for every 41 wrestlers there's
4 one spot in college. We ought to be able to do a
5 better job in balancing that ratio. In the last two
6 decades college wrestling programs have fallen from 363
7 to 250 for a variety of different reasons, not all
8 because of Title IX, but certainly for some.

9 Finally, I would like to urge the Commission
10 to broaden what activities are considered. I cannot
11 distinguish the athletic components of rifle, bowling,
12 archery, equestry and golf from cheerleading, dance and
13 band.

14 Thank you.

15 MS. CYNTHIA COOPER: Brian Spradlin.

16 MR. BRIAN SPRADLIN: Good afternoon.

17 My name is Brian Spradlin. I didn't originally plan to
18 speak, but after hearing some of the comments this
19 morning, I felt that my thoughts as a parent may have
20 some relevance.

21 I coach a wrestling club that caters to kids
22 from the age of 5 to 18. Last year I had five girls in
23 that club, and they participated. I have four children
24 currently living at home. The two youngest are boys,
25 and they are involved in a wrestling club with me.

1 They have achieved some amount of success in
2 Georgia and a little bit nationally, and both expressed
3 a desire to be able to wrestle in college.

4 Wrestling is something we do together as a
5 family, and we love it. My two daughters, who are 15
6 and 17, have played some soccer, and after watching
7 Ms. Foudy play on TV a couple of years ago, I have to
8 say as a family we were very inspired to see the
9 women's team and the success that you had.

10 As a result of that, they decided, hey, we
11 want to go to soccer camp. I sent them to camp, 350
12 bucks a head. Okay, being a coach, when they came
13 home, I was all charged up. I was like okay, we have
14 some skills, we've learned some drills, let's go do it.
15 Come on. It's summer now. By the time next spring
16 rolls around, you'll really have those down and will
17 put a hurting on the competition.

18 Basically after three or four instances of
19 me trying to get them to do it, they told me to quit
20 picking on them and leave them alone. I say that --
21 those are my two daughters. This is my personal
22 experience. Four kids, two of them, they kind of like
23 soccer, but to them soccer is more of a social
24 occasion, whereas my boys, they already have a goal.

25 In light of the discussion concerning level

1 of participation among females, my own family
2 experience, one man's experience came to mind, the
3 thought that my sons could be denied the opportunity.
4 And that's what I see on the wall here. I think that's
5 what we're talking about is opportunity.

6 We want all our kids to have the
7 opportunity. The ring is there. If they want to jump
8 up and get it, let them jump up and get it. If they
9 choose not to get it, let's don't say, you are not
10 allowed to have that opportunity because these over
11 here don't want to jump up and grab that ring. There's
12 something inherently wrong in that. I think we all
13 know that.

14 I love my girls. I want them to have every
15 opportunity, but I don't want my boys to be denied.

16 Thank you.

17 MS. CYNTHIA COOPER: Thank you very
18 much. Ti Timney.

19 MR. TI TIMNEY: Good afternoon. My
20 name is Ti Timney, and I'm addressing the council as
21 both a parent and an advocate of the sport of baseball
22 both at the high school and collegiate levels.

23 I'm from Camden County, Georgia, which is in
24 the southeast corner of the state, and I'm President of
25 the high school baseball booster club.

1 Now, as a parent of one boy and one girl who
2 equally participate in athletics, I'm a very strong
3 advocate of Title IX. However, the way in which the
4 law is being enforced not only impacted my personal
5 life, but also the sport which I've grown to love.

6 Now, my son started baseball at the age of
7 5, and you can all appreciate how much effort it takes
8 to take a kid from age 5 all the way up through high
9 school; you know, hundreds of miles of travel, hundreds
10 of pitches thrown in the batting cage, a lot of money
11 spent to get him through the high school level.

12 He grew up watching players like Roger
13 Clemons and Robin Ventura and the college world series
14 and dreamed of playing Division 1 baseball.

15 Well, on May 25th of this year his dream in
16 Division 1 baseball was shattered when Howard
17 University canceled their baseball program because he
18 was offered a full scholarship. This cancellation came
19 both swiftly and without warning.

20 Now, the university's position was a lack of
21 facilities was the reason for why the program was
22 canceled. However, at the same point in time that
23 baseball was canceled, men's wrestling was canceled and
24 a fast pitch softball team was started for women.

25 Now, the parents of the baseball team were

1 rather upset, as you can imagine, so they got together
2 with the City Parks and Recreation Department right
3 across from the university, and they set up a deal
4 where they would receive a baseball field with all its
5 amenities, press box, dugouts, the whole works.

6 When the university was addressed with this
7 potential solution, the response was, hey, that's all
8 well and good. We appreciate the effort you've gone
9 to, but we don't have a baseball program.

10 It was mentioned earlier this morning that
11 the law should be rational, responsible, flexible.
12 When I think of the way the law is being enforced, I
13 think of words like ambiguity, misinterpretation, and
14 inconsistency.

15 Now, schools are enforcing the laws in
16 different manners based upon their specific situation.
17 I was always under the impression that if we enacted a
18 law that they were supposed to be applied and
19 implemented equally to all.

20 One specific example that I can think of is
21 an earlier speaker addressed the investigation into the
22 Georgia high school athletics and that the GHSA was
23 going to tackle this, quote, disparity in athletics in
24 the State of Georgia. And to some extent this was very
25 true, there was a great disparity.

1 However, the way in which the schools are
2 beginning to deal with this situation are very
3 different. Some of them are attacking booster club
4 money. Now, can you picture yourself as parents
5 raising money for your specific sport and then being
6 told that you have to give half of your funds to a,
7 quote, equivalent women's fast pitch team, and they are
8 not going out and raising the money.

9 Now, that's a heck of a situation. All I
10 ask is that when you look at this entire situation, to
11 just be fair. That's all I ask.

12 Thank you.

13 MS. CYNTHIA COOPER: Thank you very
14 much. Beth Bass. You're not Beth.

15 MS. ERIN SPENCER: That's right. My
16 name is Erin Spencer. I'm speaking in lieu of Beth
17 Bass today and she's going to speak for me tomorrow.
18 Is that okay, because I cannot attend tomorrow?

19 MS. CYNTHIA COOPER: That's fine.

20 MS. ERIN SPENCER: Thank you, Madam
21 Chair.

22 My name is Erin Spencer. I'm with Spencer
23 Management Partners, and, interestingly enough, I used
24 to work with Stan Dziejic. And I'm an advocate of
25 Title IX as an athlete whose life has been changed by

1 athletics.

2 Last year I attended the opening ceremonies
3 for the Atlanta girls' school and the speaker was
4 Gennetta Cole from Spellman College. Her opening
5 statement was "I believe in women." And as I listened
6 to her, I realized that I believe in women too, which
7 is why I believe in Title IX.

8 I went to an all girls high school and
9 therefore was in an environment where girls were
10 President of the class, heads of the student council,
11 and captains of the sports teams, and I thought this
12 was the norm. I thought this happened everywhere.

13 When I went to college, I received a tennis
14 scholarship to Duke University as a nationally ranked
15 tennis player. Not only did tennis help me finance my
16 education, but it has helped me throughout my career in
17 business.

18 After business school, when I went to work
19 on Wall Street, I played tennis with John Goodfriend,
20 the Chairman of Solomon Brothers, as a first year
21 associate. I was nothing and I was getting recognized
22 by the Chairman of the firm.

23 When I worked at Bane and Company, I played
24 tennis with Bill Bane. Bane and Company is one of the
25 top strategic consulting firms in the country, maybe

1 even the world. I played tennis with Bill Bane as a
2 first year associate there.

3 I never would have been recognized by these
4 people had it not been for my tennis ability. At every
5 major firm where I have worked I have either played
6 with the Chairman of the firm or the head of the
7 office.

8 Playing in sports has made a difference in
9 my life. However, I experienced the world pre Title
10 IX. When I was at Duke, I was number two in the ACC, I
11 was runner up in the ACC tournament; however, because
12 we only funded one spot to the NCAAs, even though you
13 had to qualify for the NCAAs, and I qualified, I was
14 not allowed to go because Duke would not fund my way.

15 Interestingly enough, no man from the men's
16 tennis team qualified, but I still couldn't get the
17 funds from the men's team to attend the NCAAs.

18 The reason I think Title IX is so important
19 is that it gives women the opportunity to achieve the
20 goals that boys and men have enjoyed for decades. From
21 an academic standpoint, it allows women to have the
22 same educational background as men and therefore
23 compete on an equal footing in many lines of work.

24 From a sports standpoint, it allows women to
25 achieve the same extracurricular benefits as their male

1 counterparts. What are these? Higher self-esteem, the
2 chance for paid tuition to college, a leg up in life
3 because they have been given the opportunity to compete
4 in sports.

5 In 1995 Nike came out with a very poignant
6 ad campaign. It contained images of girls repeating
7 the following words: If you let me play, I will like
8 myself more, I will suffer less depression, I will be
9 60 percent less likely to get breast cancer, I will be
10 more likely to leave a man who beats me, I will be less
11 likely to get pregnant before I want to, I will learn
12 what it means to be strong, if you let me play sports.

13 The statistics dictate that those who play
14 sports are better off in life. Since sports are
15 beneficial to men and women for so many reasons, it is
16 critical that we maintain gender equality in the
17 opportunity to play and benefit from sports. If we
18 cannot do this, women will forever be playing catch-up
19 in a man's world.

20 There are some that oppose Title IX because
21 they feel that it takes opportunities away from boys.
22 How can girls be taking opportunities away from boys
23 when overall we're not even in parity. Some feel that
24 the football team should be exempt from Title IX
25 because so many scholarships are necessary to field a

1 football team, and football is where the money is.
2 Schools are afraid that if they limit football
3 scholarships, they will not be competitive.

4 I have two responses to that. One, is it
5 fair that 40 to 80 football players should have the
6 chance to have their educations paid for and receive
7 all the benefits of sports when girls don't?

8 And secondly, if all schools had to limit
9 the number of football scholarships, they would all be
10 on a level playing field.

11 Let's make sure that our daughters continue
12 to be given the same opportunity to succeed in this
13 world as our sons.

14 Thank you.

15 MS. CYNTHIA COOPER: Thank you.

16 MR. TED LELAND: The next four will be
17 Bob Hope, Keith Keller, Agnes Berenato, and Alan Leet.
18 If they could come forward. And we'll start off with
19 Bob. I'm not seeing him. Let's move on to Keith.

20 MR. KEITH KELLER: Good afternoon. I'm
21 here to address the Commission as a father of three
22 sports-minded girls and also a coach of a number of
23 their teams.

24 I'm currently a partner at Deloitte & Touche
25 here in Atlanta, but, as I said more importantly, I'm a

1 father of three girls. And I just want to talk about
2 -- I'm an advocate of Title IX, and I want to talk
3 about why it's important to me and more importantly,
4 why it's important to my three girls, although quite
5 frankly, the two younger ones may not realize it yet,
6 but they will because you can see some of the
7 attributes that they are already starting to express.

8 I have 15-year-old, 13-year-old, and
9 10-year-old girls, and the 15-year-old plays soccer,
10 and she has since she's been about 8. My 13-year-old
11 is the tennis player of the family, and she's been
12 playing almost exclusively tennis, a little bit of
13 soccer and basketball.

14 My youngest is the sports animal of the
15 family. She's a good little basketball player and
16 soccer, but also plays baseball and tennis. So she's
17 and all-sports person.

18 I coach the two younger ones' basketball
19 teams and also their soccer teams, and in coaching
20 those teams, that's where you really get to see the
21 benefits of what sports programs can do for the girls.

22 And there's equal benefits for the boys, but
23 I think something my 10-year-old said to me about a
24 year ago. You know, we were playing basketball and her
25 coach said, Dad, this is really more of a boy's sport.

1 And comments like that certainly frustrate me as a
2 father because I think she heard it from someone at her
3 school. And I told her, I said, you have a good
4 opportunity. You have talent, and you should have the
5 same opportunity as the boys to excel at sport and be
6 successful in your career no matter what you do. If
7 it's sports, that's great. If it's something else,
8 that's great too.

9 But she hears those types of comments. I
10 think going forward -- you know, she certainly doesn't
11 realize what Title IX is, but going forward as she gets
12 older she already wants to start to see role models.
13 She wants to start putting her skills where she can see
14 someone that's being successful. If she doesn't see
15 those role models, she's going to tell me again at some
16 point in time that this is a boy's sports, I don't want
17 to play it anymore. That's just not the right answer.

18 Also, I believe sports for the girls as well
19 as the boys have a lot of other things that are kind of
20 side benefits. Certainly there's team work. You know,
21 coaching fourth and fifth and even seventh and eighth
22 graders like I have been, the team work and the
23 camaraderie that's built when you play with a sports
24 team is great. The discipline just from learning the
25 sport, leadership, everyone has a different role on the

1 team and they have to learn their role, and that's
2 important. That sticks with them throughout their
3 business careers.

4 There's a lot of disciplines and good things
5 that come out of being involved in sports. And
6 certainly, it's something that is, not to play it down,
7 has the social skills and the physical activity. The
8 girls get to meet each other, they get to meet other
9 players on the team. So all that is important.

10 So overall, how does this all relate to me
11 to Title IX as they get older? I'm more involved in
12 being interested in Title IX and supporting it. And,
13 as I said, they don't really know it yet, but they do
14 look for role models already. They are looking for
15 someone that they can look up to that's a woman in
16 sports because that's what they want to do as they grow
17 up.

18 So I want them to be able to play any sport
19 they desire, and they need to see those sports
20 supported by the programs.

21 I've told all three of them that they have
22 great opportunities to do whatever they want in their
23 careers and that if they have the talent, they should
24 be able to play the sport that they want to play.

25 And finally, you know, I think that it's not

1 so much to me whether it's fair or not fair how the
2 funds get allocated, it's all the other qualitative
3 factors that the girls learn from playing sports. And
4 it really hits home when someone on your team, it
5 happened to be my daughter, tells me that it's a sport
6 that's a boy dominated sport, she can't play, or she
7 can't play as well as the boys. That's something that
8 I don't think any of us want our children to be raised
9 saying.

10 So I think as she gets older she'll
11 appreciate that she can go somewhere, go to a program
12 and see someone being supported by that program and
13 have someone that she can look up to to support that
14 sport.

15 Thanks.

16 MR. TED LELAND: Agnes.

17 MS. AGNES BERENATO: In 1975 I was an
18 All-State basketball player, on the student council,
19 President of campus ministry, held a job, and was from
20 a single mom family of ten children. In my high school
21 experience, I was a good student involved in student
22 government, pep club, various activities. I played
23 field hockey, basketball and softball. And I always
24 had to work since my dad had died.

25 I was good, or I think a very good

1 basketball player, and I have won several state
2 championships. I belong to the thousand point as well
3 as the thousand rebound club, and I have won several
4 major awards.

5 I had one problem. I was a poor female. I
6 could not go to college because of funds, so I went to
7 Europe and I played ball at 17 in France. And no, I
8 didn't speak French.

9 After several months I received calls from
10 Maryland, Old Dominion and UNC, and they talked to me
11 about college and basketball and scholarships and about
12 this law, Title IX.

13 I went to UNC on a scholarship, and I shared
14 the same opportunities as Phil Ford and Michael Jordan.
15 As a matter of fact, two of my sisters also went to
16 Carolina on a basketball scholarship due to Title IX.
17 We were all fairly good in basketball, but we were born
18 at the right time.

19 My two older sisters were very good, but
20 they didn't have that opportunity. My four brothers,
21 they all had the opportunity, and you know, it's funny,
22 we could kick their butts but they went on to school.

23 Title IX, it's not about men versus women or
24 boys versus girls. Title IX is not about canceling a
25 wrestling program to start a volleyball program. Title

1 IX is not about depriving boys to force a female to
2 drink. Title IX is about what is right, what is fair
3 and what is deserved.

4 Ladies and gentlemen of the Commission, I am
5 a full-time college coach, and I have a great job at a
6 great institution. I coach at Georgia Tech where women
7 are the minority; however, we are in compliance with
8 Title IX. We have an administration that believes in
9 team, men and women, and we have complied not because
10 we dropped a sport, not because we dropped wrestling,
11 but because our administrators worked on their budget.

12 While growing up, my mom always allowed us
13 to have friends over for dinner, but we always had the
14 same amount of food. No one was denied, we just
15 learned to share. We just learned how to give. We
16 learned how to be balanced.

17 Georgia Tech has done that. They have done
18 it because it's right, they have done it because it's
19 fair, and they have done it because it's what is
20 deserved.

21 You know, history repeats itself. I'm a
22 mother with five children. My son is a senior in
23 school. He loves basketball, track, he's on the
24 student government, he's in campus ministry. Well, you
25 kind of get the idea. He has the opportunity to go to

1 college on a scholarship. It's funny, I have a
2 daughter, a sophomore in college, but she also had the
3 opportunity. She didn't have to go to Europe.

4 My three younger children, they are all
5 little athletes. My 14-year-old son will tell you he's
6 going to Carolina to play ball. My daughter, she's 12,
7 she will tell you she's going to Weaver State and she's
8 going to play ball on a scholarship. And my youngest,
9 I just hope she can dream about what is right and fair
10 and what she deserves.

11 Basketball has given me everything in my
12 life with the exception of my husband and my five kids,
13 and Title IX has provided that.

14 Thank you.

15 MS. CYNTHIA COOPER: Alan.

16 MR. ALAN LEET: I'm Alan Leet, and I'm
17 offering these remarks on my own behalf and on behalf
18 of my wife, who is here today.

19 Like many of the speakers, I'm not an expert
20 on Title IX. I'm a parent of three teenagers who are
21 affected by this policy, two sons and a daughter.

22 We have witnessed firsthand the great
23 benefits competitive athletics have had on our kids and
24 are great supporters of it. We have two sons who are
25 both wrestlers. They both are serious wrestlers and

1 would like to wrestle at the collegiate level.

2 Our oldest just went through the experience
3 of applying to college a year and a half ago. He
4 graduated in 2001. We were faced with a dilemma. We
5 live here in Atlanta. He could either choose to quit
6 wrestling and go to school here in the state or he
7 could go out of state and pursue his dream in one of
8 the less than 100 Division 1 schools. But that
9 decision meant a huge difference financially.

10 You may know Georgia has adopted a Hope
11 Scholarship program, so not only is there the lesser
12 in-state tuition which we paid taxes for for years, the
13 Hope Scholarship program pays full ride for any Georgia
14 high school senior that has a B average.

15 So our choices were to stay in the state at
16 one of our great schools, such as Tech, or any of them,
17 or go out of state. Staying in state meant foregoing
18 wrestling, foregoing something that was a major part of
19 his life.

20 This is a frustrating dilemma. As David
21 Rodriguez has cited, for Georgia kids there is not a
22 single college wrestling program in Georgia. Of 105
23 colleges, not one. That hasn't always been the case.
24 There were three Division 1 programs in existence.
25 They have all dropped their programs I'm sure for

1 different reasons.

2 I've looked at the data to try and
3 understand this along with my sons. We have done a
4 little bit of research. Wrestling is the six most
5 popular boy's sport in the state, it is the tenth most
6 popular sport of all sports in the state; out of 32,
7 it's in the top 40. The interest is there.

8 We've looked at the issue of well, if it's
9 not lack of interest, then there must be another
10 reason. Maybe it's that the nonrevenue sports are
11 being cut. And so we've looked at well, what programs
12 are available, and in that regard looked at the
13 Division 1 schools, public universities that competed
14 at the Division 1 level. There are four; Georgia,
15 Georgia State, Georgia Tech and Georgia Southern. We
16 looked at what sports they offer. Those schools offer
17 programs that are totally aligned with the interest at
18 the Georgia high school level. The top ten boy sports
19 and the top ten girl sports are all available at the
20 intercollegiate level at those schools in Georgia, with
21 the exception of wrestling.

22 So it appears that wrestling has been
23 singled out. The last thing I looked at was it's got
24 to be money, it must be money. I'm not an expert on
25 this. I couldn't find data. But it's not very

1 expensive to run a wrestling program. These guys that
2 run clubs, it's a five thousand dollar mat, that's it.
3 The kids come and they wrestle.

4 And the University of Georgia announced this
5 year it's going to add an equestrian program. That's
6 got to be more expensive. So to me it's not just why
7 did they eliminate? Why isn't anybody offering a
8 wrestling program when we have all this interest in the
9 state, and I can tell you firsthand we know lots of
10 people of modest income, middle income, to turn down a
11 full ride for your kid to a Georgia university in order
12 to have your kid follow a dream which is very important
13 to them and frankly very important to those families,
14 as you all know, as being related to the whole athletic
15 experience. It's a family affair for parents, for
16 daughters and brothers who support the athletes who are
17 able to compete at that level.

18 So we have come to the sort of reluctant
19 conclusion what else could it be other than some
20 responsibility of this proportionality test? It
21 doesn't make sense otherwise. Of all the other
22 programs, other than football, wrestling is the only
23 program that's predominantly male. So as David
24 Rodriguez said, we're searching for answers.

25 I appreciate the opportunity for this open

1 debate. I've enjoyed the presentations this morning
2 and thank you all for listening.

3 MS. CYNTHIA COOPER: Mike Moyer, Sarah
4 Nobles, Collin Robertson, and Rob Sherrill. And we'll
5 start with Mike Moyer.

6 MR. MIKE MOYER: Hello, my name is Mike
7 Moyer. I'm Executive Director of the National
8 Wrestling Coaches Association. And on behalf of our
9 NCAA Board of Directors, we would like to thank you the
10 commissioners for allowing us the opportunity to share
11 some thoughts today.

12 First we would like to be very clear that we
13 completely embrace the original intent of Title IX and
14 the 1975 regulations, which are to provide equal
15 opportunity based on interest. We're simply contesting
16 the three-part test which in many instances requires
17 universities to apply a strict gender quota system to
18 comply with the current Title IX interpretation.

19 Further, we don't dispute for one moment
20 that women were seriously discriminated against with
21 regard to intercollegiate athletics 30 years ago. It
22 was absolutely wrong and it needed to be corrected.

23 With that said, a lot has changed over the
24 last 30 years, as evidenced by today there are over 600
25 more intercollegiate programs for women than there are

1 for men.

2 While we applaud the gains that women have
3 made in intercollegiate athletics, we're heartbroken to
4 see the wholesale elimination of traditional Olympic
5 men's programs as a result of this gender quota.

6 We have documentation indicating that over
7 355 men's intercollegiate programs have been eliminated
8 over the last decade. Moreover, we've seen our
9 opponents on national television citing recent NCAA and
10 GAO statistics that seemingly suggest men have actually
11 gained participatory opportunities since the early
12 1980s.

13 We would like the commissioners to be aware
14 that these statistics are very misleading. In many
15 instances new institutions that brought preexisting
16 athletic programs with them were added in the two
17 studies after the baseline reporting years and prior to
18 the end year of the reports.

19 For example, in the 2001 GAO report
20 approximately 134 institutions, many of which had
21 preexisting intercollegiate teams, were not part of the
22 baseline reporting year but were included in the 1998
23 /'99 end year report.

24 The truth of the situation is that the
25 percentages of male athletes per team and male teams

1 per institution have declined over the last two
2 decades. The NWCA is committed to protecting
3 opportunities for women without harming men. Our best
4 and brightest student athletes across the nation
5 deserve much better.

6 If students of either agenda experience
7 institutionalized discrimination during their college
8 years, then we have failed as educators. Our students'
9 civil rights and our own ideals of education are too
10 important to trust special interest groups, lobbying
11 firms, rival debating points and million dollar media
12 campaigns.

13 We thank you for your consideration of this
14 request. Thank you.

15 MS. CYNTHIA COOPER: Thank you. Sarah
16 Nobles. Is Sarah here? Collin Robertson.

17 MR. COLLIN ROBERTSON: Hi, my name is
18 Collin Robertson, and I came here today from Boise,
19 Idaho because I feel it's very important that I let my
20 voice be heard for myself and many others who have been
21 affected by the misinterpretation of Title IX.

22 I'm a wrestler and I come from a family of
23 six boys. It's kind of a tradition to wrestle in our
24 family. And I'm the youngest and I wrestle in Utah and
25 we were quite ecstatic when I was able to earn a

1 scholarship to BYU and wrestle there because it was
2 nearby, and a couple of my brothers had also wrestled
3 there. So we were really happy about that.

4 I was able to wrestle there for one year as
5 a freshman, and then I went to serve a mission for our
6 church, and while I was halfway through my mission, I
7 got the news that BYU would be dropping their program
8 and I would no longer be able to pursue my dream there
9 at BYU close to my family.

10 So I either had a choice to continue going
11 to school at BYU and abandon the sport which I love,
12 which I had done since I was 5, or transfer to another
13 university. And that's what I've done, I've moved on.
14 And I feel lucky to have been able to move on.

15 Only 6 out of the 30 wrestlers at BYU were
16 able to continue, and I'm just one of those lucky ones
17 who found another place.

18 Some might say it's not a Title IX issue
19 that the programs are dropped, but for BYU it was.
20 There was no budget problem, supporters of wrestlers
21 had actually raised up to close to two million dollars
22 to support the wrestling team, which was supported for
23 at least 20 years, and they still decided that they
24 needed to be in compliance with proportionality, and so
25 they dropped the program.

1 What hurts me the most is the fact that
2 Utah, which is known as one of the better states for
3 wrestling in high school, has no universities with the
4 support of wrestling in it anymore. The wrestlers
5 there have to go out of state to try and pursue their
6 dreams now, and that's a financial burden for many
7 people, myself included.

8 Like I said, I consider myself lucky that I
9 can still wrestle. Some of the others have had to hang
10 up their shoes prematurely due to this fact. And I
11 just don't think that Title IX was set up to hurt men,
12 and I don't think that that's what you guys want it to
13 do either, so why can't we just stop dropping the men's
14 programs and hurting the men?

15 I think that's what we need to do, and I
16 think we need to push for that, and also help the
17 women, because I know it's done a great job for them
18 and helped them out.

19 I just want to thank you for your time, and
20 that's it.

21 MS. CYNTHIA COOPER: Robert Sherrill.

22 MR. ROBERT SHERRILL: Thank you. My
23 name is Rob Sherrill, and my company, the RNL Media
24 Group, has been a publisher and disseminator of news
25 and information relating to high school wrestling and

1 college recruiting analysis for nearly 20 years at a
2 nationwide level, so my work kind of bridges the gap
3 between high school coaches and the college coaches.

4 As you have heard some of the Georgia
5 parents talk about here, wrestling has a great story to
6 tell here in the southeast. In most parts of the
7 region, particularly here in Georgia as well as
8 Florida, North Carolina, even Alabama, wrestling is
9 perhaps the fastest growing sport at the high school
10 level.

11 However, as you also heard them say, neither
12 Florida nor Georgia any longer has a college or
13 university with a varsity wrestling program and very
14 few exist in neighboring states.

15 What this means is that young men from our
16 region who wish to compete at the college level, as
17 you've heard, must leave the region and their families
18 and their friends behind usually to go to schools in
19 the north to compete.

20 Those who elect to stay close to home may
21 have the option to compete on a non-varsity club team
22 or most likely their wrestling careers will come to an
23 end entirely.

24 Just about 20 years ago nearly all of the
25 schools in the Southeastern Conference had wrestling

1 programs and competitive wrestling programs that
2 produced All-Americans year in and year out.

3 Today it's nearly 15 years since wrestling
4 was dropped by the last SEC school to hang on, the
5 university of Tennessee. Now, since my company is
6 based in Franklin, Tennessee, I spent a lot of time
7 helping Tennessee wrestlers getting placed in college.
8 And we've had some success in the last couple of years.
9 They are having success at the college level.

10 Unfortunately, it's taking place at places
11 like West Point, Oklahoma State, Michigan State, grant
12 it they are all prestigious universities with
13 prestigious wrestling programs. But those young men
14 went to those universities and broke up their families
15 and their friends because the universities of their
16 choice here in their home region were not serving their
17 athletic interests.

18 Nationwide wrestling continues to grow at
19 the high school level in record numbers. According to
20 statistics provided by the National Federation of State
21 High School Associations, during the 2000 and 2001
22 season, which is the most recent data available,
23 wrestling participation increased nationwide by nearly
24 3 percent over the previous year. Only outdoor track
25 and field, 11 man football, and LaCrosse showed bigger

1 gains among boys' sports. Only soccer and golf added
2 more boys' programs.

3 Wrestling, as you have heard, is number six
4 overall nationally in terms of participation and in
5 programs and has been for many years, yet today there's
6 one college wrestling program for about every 35 high
7 school programs.

8 The next highest ratio for any national
9 federation sponsored sport is 1 to 12. Clearly,
10 proportionality has trumped interest and history when
11 it comes to assessing the dilemma wrestling faces in
12 the Southeast as well as in other regions of the United
13 States.

14 If proportionality continues as a standard
15 for measuring Title IX compliance as the basis for
16 litigation brought against schools based upon Title IX
17 claims, it is logical to assert that no men's Olympic
18 sport in any university can be considered safe.

19 As the number of college wrestling programs
20 continues to decline, the number of high school
21 programs continues to increase. Something is wrong
22 with this picture. The direction of this increasing
23 disparity in wrestling and other Olympic sports is one
24 that future Title IX enforcement must permit.

25 Finally, let me say something. I want to

1 congratulate everybody that's a member of this
2 commission. The Athletic Directors, Administrators,
3 Presidents here are almost all at universities that
4 have continued their wrestling programs, and you are to
5 be congratulated for that. And I would hope that you
6 will counsel your colleagues to move in that similar
7 direction.

8 Thank you.

9 MS. CYNTHIA COOPER: Sarah Nobles.

10 MS. SARAH NOBLES: Good afternoon. My
11 name is Sarah Nobles, and I am currently a junior at
12 Columbia University in New York City. I'm also a
13 graduate of Henry W. Grady High School here in Atlanta
14 and a former captain of the varsity girls soccer team
15 at Grady High School.

16 I began playing soccer at age 5 and I worked
17 my way from church leagues to YMCA recreational teams
18 to club level play throughout my 13 years as a marking
19 back on my various teams.

20 I am no longer an official member of any
21 defense anymore, but the position came naturally to me,
22 and I find that I'm still a defender today in soccer.

23 Where once I use to shield my team's goal
24 from opposing players and balls, I now find that I am
25 having to defend Title IX and the work it's done for

1 women and girls in this country from imposing
2 misinterpretation of the bill and misimplementation of
3 its intents.

4 This commission is going to hear from
5 countless young women again and again saying that
6 athletics have changed their lives, shaped them, made
7 them the strong women that they are today. It's no
8 news to us that participation in sports increases
9 girls' confidence, increases their health and their
10 academic performance, and it decreases obesity, teen
11 pregnancy, and teen dropout rates.

12 You'll hear this testimony repeated from men
13 and women across the country in workshops like this one
14 because it is true. I see my positive experience in
15 sports as a common one among thousands of women and men
16 who have benefitted from Title IX.

17 Here I would like to share my personal view
18 of the effect of equal opportunity in athletics.

19 When I amass the most important lesson
20 imparted on me for my participation in athletics, I
21 immediately answer that sports more than any other
22 force in my life has taught me the true value and the
23 true meaning of respect.

24 My years playing soccer taught me to respect
25 deeply time management skills, leadership abilities,

1 friendly competition, healthy athleticism, and team
2 work, and yet even more than these essential values,
3 playing soccer taught me how to respect myself and how
4 to respect others.

5 As I participated in athletics with others,
6 I got to know them as team mates and as friends and
7 learned to rely on them both on the field and off. But
8 by team mates here, I do not limit myself to the ten
9 other girls on the field with me or the other women on
10 the sidelines who are part of my team, but in fact, the
11 entire squad of women and men who played soccer in my
12 high school.

13 For me the team meant all of the soccer
14 players in my high school, girls and boys, who worked
15 together, traveled together, cheered together
16 throughout the seasons. Were it not for Title IX and
17 the work my school system did to ensure its fair
18 implementation, I believe that relationship of trust
19 and respect between the men's and women's squads could
20 never have grown. Because we felt we were funded
21 equally and treated equally to our brothers across the
22 field, our women gained respect for men's athletics and
23 respect for our own talents and endeavors. The groups
24 learned from each other not just strategies and
25 practice drills, but determination and heart.

1 And so we came to see ourselves as members
2 of the same team, deserving equal encouragement and
3 support. Title IX provides us not only with the
4 uniforms, the equipment, the fields, the coaches to be
5 able to coexist and compete fairly, but also the
6 validation, the worth, and the respect to do so with
7 pride.

8 As a young woman looking ahead to a career
9 of teaching and mentoring others, I am in awe of the
10 lessons of self respect that I gathered each year
11 playing soccer. I learned that all athletes can do if
12 they work hard and work together, but I also learned
13 what women can achieve when they are allowed to play
14 equally and fairly with the respect that they deserve.

15 Now when I hear the words of that famous
16 poem Phenominal Woman, I allude not to a picture of
17 just any strong female figure, but an athletic one.
18 It's in the reach of my arms, the span of my hips, the
19 stride of my step, the curl of my lips, my Angelue
20 wrote.

21 Well, how can these images conjure anything
22 but a live young women throwing a ball inbounds, a
23 tenacious defender maneuvering her hips to block her
24 opponent, a long-legged forward hustling to the goal,
25 or a fiery spirited girl poised on the verge of

1 athletic competition, ready for a battle and a ball.

2 I now charge this commission to envision
3 these strong phenomenal women and support Title IX. We
4 must continue to expand the important work that it has
5 done for women and girls in this country in hopes that
6 we can add to Angelue's declaration, I am a woman
7 phenomenally. The words phenomenal athletic women,
8 that's we.

9 Thank you.

10 MR. TED LELAND: Our next four speakers
11 are S. Louise Davis, Debbie Corum, Matthew Case. And
12 apparently we made a clerical mistake. Sharon Loughron
13 I think was number nine on the list. We inadvertently
14 passed her up.

15 MS. SHARON LOUGHRON: I would like to
16 thank the Commission for this opportunity to speak
17 about the positive effect that Title IX has had on our
18 country at every level, and I mean that at young girls,
19 young boys, high school level, secondary educational
20 level, and our professional workplace.

21 My name is Sharon Loughron. I am a high
22 school coach and teacher, soccer coach. I've been
23 teaching and coaching in Georgia in Cobb County for 17
24 years. I've also been a football kicking coach, I've
25 been a softball coach, and I have also coached

1 swimming.

2 I attended Virginia Tech on a swimming
3 scholarship because there were more opportunities in
4 swimming in 1980 than there were in soccer. For us to
5 think that we have become equal, we are not there yet,
6 but without Title IX, we would not be as close as we
7 are at this time.

8 Many of the opportunities I have, and I have
9 seen at the grassroots level, I can speak to you more
10 now as a coach than I could as an athlete. At the time
11 I was grateful that I received a college scholarship in
12 swimming, but as a coach I now really see the effects
13 that Title IX has actually had.

14 A mere eight years ago my high school team
15 was to play another top level high school team in the
16 State of Georgia. We were thrown off the stadium field
17 and told to play on a back field because that's where
18 the girls played. And this was eight years ago.

19 I see the progress and I see what it has
20 done as far as for facilities and our opportunities,
21 but we aren't equal yet. It is getting there, and
22 without Title IX, we won't be there.

23 Without Title IX, there wouldn't have been
24 the Founder's Cup this past weekend in Atlanta, the
25 Women's Professional Soccer League. There would not be

1 a WNBA without Title IX. The intent of Title IX is to
2 stop discrimination on the premise of gender, and it is
3 moving in that direction, but it is not intended to cut
4 the other sports. And that's where it's an
5 accountability issue in my eyes. Universities are not
6 making decisions to -- I guess what I'm trying to say
7 is they are not making decisions to find ways to fund
8 these other programs besides using Title IX to say they
9 are cutting sports.

10 In the State of Georgia when the University
11 of Georgia cut their wrestling program, it was reported
12 that the very next day it was moved, there were weights
13 moved in there and it was made into a football weight
14 room. That is not the intent of Title IX.

15 The intent of Title IX is to provide these
16 opportunities and is to provide educational
17 professional opportunities, not to cut the other
18 sports. Universities need the burden of trying to find
19 other ways to fund these programs and to also have
20 women's programs.

21 I must please implore you to keep Title IX
22 moving forward, keep federally funded institutions
23 accountable, and keep Title IX intact. And I thank you
24 for your work and time for Title IX.

25 MR. TED LELAND: Louise Davis.

1 MS. LOUISE DAVIS: Hi, my name is
2 Louise Davis. I live in Middle Tennessee and I'm State
3 Chairman of the Tennessee Wrestling Federation. We are
4 an affiliate of USA wrestling, the national governing
5 body for the sport of wrestling. Our organization
6 serves an annual average of 3,600 varsity high school
7 wrestlers within our state, and my concern is for the
8 welfare of these kids.

9 My passion lies with the sport of high
10 school wrestling and the unique athletes who do
11 wrestle. What I know is merely a loose collection of
12 facts regarding the issues of Title IX. However, I do
13 know what it has cost our athletes here in the
14 Southeast and especially in my home state of Tennessee.

15 I have seen firsthand the many benefits of a
16 young man's involvement with wrestling and I have seen
17 the harm that the loss of opportunity has created for
18 tons of our young men. In Tennessee we have 140 high
19 school programs and only three surviving university
20 wrestling programs.

21 In the name of Title IX there have been many
22 casualties scattered along its misconceived path.
23 Chattanooga State, Maryville College, Middle Tennessee
24 State, the University of the South, Southwestern
25 University of Memphis, University of Tennessee,

1 Tennessee Tech, and Tennessee-Martin each dropped their
2 wrestling programs in the late '70s and early '80s,
3 kind of like a tornado that blew through town and
4 didn't care which homes it leveled and never looked
5 back at the damage it had done. Somehow somewhere
6 someone felt the end justified the means.

7 Wrestling was on a roll at the higher
8 education level at Tennessee because of those
9 prestigious programs that were up and running prior to
10 the time it started being eliminated. High schools had
11 picked it up and not only held their own, but with the
12 passing of time increased in numbers both programs and
13 kids while the numbers and opportunities on the higher
14 educational level decreased almost to the point of
15 elimination at Tennessee.

16 It is my understanding that Title IX, when
17 it passed, was a straightforward law to prohibit sexual
18 discrimination of any educational program or activity
19 within an institution receiving federal financial
20 assistance. We can easily point out the benefits women
21 have derived as a result.

22 I do know, however, that it was never
23 intended to result in fewer opportunities for men. A
24 reverse discrimination would better describe it. Our
25 programs were cut simply to equalize the number of men

1 and women playing the sport, scholarship or not,
2 federal money or not, self supporting or not.

3 Over the years the results of this law have,
4 and will continue to be, disastrous for our Tennessee
5 high school programs. Without a significant number of
6 Tennesseans graduating from state college wrestling
7 programs, we are now finding ourselves without a source
8 of experienced coaches to provide the coaching staff
9 for our area schools. Some schools have reluctantly
10 dropped their wrestling programs because they cannot
11 find qualified coaches.

12 According to the records supplied by the
13 National Federation of State High School Associations,
14 the number of participants in Tennessee high school
15 wrestling programs failed by 27 percent, with the loss
16 of nearly 1,000 kids in a single year from 2000 to
17 2001.

18 Many of our high schools struggle to survive
19 with inexperienced coaches and nonfaculty coaches. In
20 the national area alone 25 percent of the secondary
21 schools currently have coaching positions to be filled
22 for the upcoming high school season, which begins in
23 November. Give the college programs we have lost, it
24 is no surprise that our state's top coaches are now
25 advancing in age and there are few, if any, coming

1 along to take their places.

2 As you can see, the long-term consequences
3 have been disastrous. States with strong high school
4 programs have coaching pools that are restocked
5 regularly with graduates from their own state college
6 wrestling programs. Tennessee once had a college
7 graduate pool to draw from as well. It is really tough
8 to watch the sport that you love dying before your
9 eyes.

10 The final result is that less than 1 percent
11 of our graduating high school wrestlers have the
12 necessary preparation and ability to pursue college
13 wrestling careers, not because of a lack of passion for
14 the sport or even a lack of talent, but because of a
15 more painful truth, a lack of preparation and ability,
16 a lack of preparation and ability because of a lack of
17 coaching. This is another of the effects of lost
18 college opportunities within our state, opportunities
19 that used to but no longer do supply talented and
20 experienced coaches for our high schools and our young
21 athletes. The few select athletes who wish to advance
22 in the sport must leave their homes in Tennessee to
23 find opportunities in other states.

24 I will leave you with -- you cut me off.

25 MS. CYNTHIA COOPER: Thank you.

1 MR. TED LELAND: Debbie Corum.

2 MS. DEBBIE CORUM. Hi, I'm Debbie
3 Corum. I'm the Associate Commissioner for the SEC. And
4 I should probably state that my comments are not
5 official. I'm not officially representing the SEC
6 here, but they are more personal as someone who's been
7 in the trenches of athletics as a coach's daughter for
8 48 years, and for 35 years I've been either an athlete,
9 a coach, or an administrator. So I'm making this
10 statement personally.

11 I prepared a statement that I spent hours
12 writing, and you're probably going to receive a written
13 copy because I turned it in, but after this morning's
14 presentation, I threw it away and I've rewritten
15 something. I continued to rewrite it all morning as
16 presentations were being made. So when you get your
17 written statement, it won't exactly read like this.

18 We've heard today that Title IX should be
19 reasonable, rational and flexible. I would submit that
20 these three words already apply in the OCR policies and
21 procedures. The inflexibility and the unreasonableness
22 has occurred in the implementation and the
23 misinterpretation of those policies.

24 When the Office of Civil Rights developed
25 the three-part test, it was to allow institutions to

1 make a choice regarding compliance. Marcia Greenberger
2 questioned the validity of test three this morning
3 meeting the interests and abilities of the
4 underrepresented sex.

5 I would submit to you that this test has
6 already withstood the scrutiny of the courts in the
7 Peterson versus LSU Title IX lawsuit.

8 Gene, you asked this morning about
9 developing something that universities could use in
10 complying with test three, and you already really have
11 a good start by looking at LSU's written plan for
12 compliance by, meeting the interests and abilities,
13 which Federal District Court Judge Rebecca Doherty has
14 already approved.

15 Steve Erber referred to this plan in his
16 comments this morning. This plan is comprehensive and
17 includes monitoring developmental sports not
18 necessarily offered in the high schools, which meets
19 the point raised by Rod Galimore.

20 Senator Bayh stated that institutional
21 integrity exists, and I agreed with him. I don't know
22 of a single university President who would like to look
23 at a Title IX lawsuit, and I think everyone wants to
24 comply with Title IX, but the problem with university
25 Presidents is they really don't have a choice because

1 they have been convinced that the only safe harbor is
2 proportionality. So there's a perceived inflexibility
3 when talking about Title IX.

4 I have a suggestion, and it's really very
5 simple. Presently, the only public report that gauges
6 how a university is doing with Title IX is the EADA
7 report, which is the Equity in Athletics Disclosure
8 Act, which many of you on the Commission are familiar
9 with.

10 This report is flawed in that it only is
11 based on numbers, and what happens, when a university
12 President has to report, the only public report on how
13 his university is doing with Title IX is based on an
14 EADA report that only reports numbers. Then basically
15 you're taking the chase away from the university
16 President. In actuality, he doesn't have a choice.

17 An institution could be totally in
18 compliance with Title IX, yet this report suggests
19 otherwise. Because a President is worried about what
20 the public report is on his university, he really wants
21 to only let the numbers look good. So therefore we
22 have an emphasis on numbers instead of the three-part
23 test, and we take away the choice from the
24 universities.

25 The intention of Title IX was to increase

1 opportunities for the underrepresented sex, not
2 decrease opportunities for anyone. The common practice
3 on many campuses is to make the numbers look better for
4 the EADA report rather than to look honestly at
5 opportunities.

6 This report should emphasize that
7 proportionality is one of three ways to comply, as
8 Christine Stolba stated so eloquently earlier today.
9 Proportionality is a choice, and although effective for
10 many institutions, it does not work in every situation.

11 My recommendation is to allow Title IX to
12 work the way it was intended, give merit to all three
13 tests, the policies for Title IX should be continued,
14 change the EADA report and leave Title IX alone.

15 Thank you.

16 MR. TED LELAND: Matthew case.

17 MR. MATTHEW CASE: Hello, my name is
18 Matt Case, and I represent the wrestling community. I
19 wrestled at Northwestern University and have coached
20 kids, high school and college athletes. I'm not an
21 expert on Title IX, I'm just simply here to let my
22 voice be heard for a sport I dearly love.

23 There are many testimonies regarding the
24 opportunities that have been created for young women
25 via Title IX. These testimonies are good and

1 inspiring, and because of a push to provide equality,
2 many women have been exposed to possibilities or dreams
3 who may have thought these opportunities never existed.

4 I can relate to the possibilities of dreams
5 as I was once a student athlete in college, a walk-on
6 who had the dream of making my college wrestling team
7 and earning a scholarship. My hope was to get an
8 education while erasing my parents' financial burden.

9 It took me a couple of years, but eventually
10 I managed to earn a scholarship, and in ensuing years
11 we actually turned two seasons of losing records to two
12 All American finishes. I also completed my degree.

13 I accomplished this simply because I was
14 extended the opportunity to keep my dreams alive. I
15 note this not to boast, but to remark on how I
16 understand the critical need for opportunities in the
17 student athlete environment. Without opportunity,
18 dreams and hopes fade and potential is never realized.

19 I can empathize with the female student
20 athlete who wants the opportunity but has never been
21 afforded that. I know what it's like to hunger for an
22 opportunity and know that it might not materialize.

23 At the same time, I can also rejoice with
24 the female athletes who have tasted this hope. As of
25 recent, we have reason to celebrate because more and

1 more women are allowed the opportunities that Title IX
2 was designed to provide.

3 However, our celebrations can only go so
4 far. While Title IX has been providing opportunities
5 for women, its improper enforcement has systematically
6 been ripping away opportunities for male student
7 athletes, specifically those male athletes in Olympic
8 sports.

9 Designed to be a blessing of equality for
10 student athletes, Title IX has been missing its mark.
11 Despite success within the ranks of women, Title IX
12 should be labeled as both a blessing and a curse versus
13 simply a blessing.

14 While thousands of young women around the
15 United States are benefiting from Title IX, thousands
16 of young men are suffering. Men who are in the prime
17 of their college careers have literally had programs
18 ripped away from them while they were competing. In
19 other words, the same policy that's providing hope for
20 one group has been devastating another.

21 Former Senator Bayh, chief sponsor of the
22 Title IX bill, is quoted as saying our intention was
23 not to take opportunities away from men or boys but to
24 give them to women. But contrary to the Bill's
25 intention, the General Accounting Office has published

1 that between 1981 and 1991 171 wrestling programs were
2 cut, along with 84 in men's tennis, 55 in gymnastics,
3 27 in men's track, 25 in men's swimming. This is
4 obviously a dichotomy of equality.

5 Why is this happening? One may think that a
6 certain amount of trimming is necessary to make things
7 equitable and balanced. However, the manner in which
8 balance is being created currently does not make sense,
9 that is, if the desire is to promote and enforce
10 complete equality.

11 In order to balance and enforce Title IX, a
12 sincere look is needed at the method of proportionality
13 enforcement. Since the average enrollment in
14 universities is 55 percent female and 45 percent male,
15 adherence to this same proportionality percentage
16 doesn't make sense unless it can be proven that women's
17 interest in those sports are at the same percentage.

18 I challenge you to find the hard data that
19 defines or details enrollments both before and after an
20 individual sports season to account for potential
21 dropout rates. Therefore, I appeal to the
22 sensibilities of the blue ribbon panel to sincerely
23 consider how proportionality is currently being
24 enforced.

25 If you are true to your original intentions

1 of Title IX and true to your own consciences, I believe
2 that the people who called this meeting who have shown
3 sincere efforts for dialogue can find a way to balance
4 the scales and provide an opportunity as it should
5 exist for all those who want to keep their hopes and
6 dreams alive.

7 Thanks.

8 MS. CYNTHIA COOPER: Betty Jaynes, Page
9 Remillard, Jennifer Alley, and Tony Armas. And we'll
10 start with Betty Jaynes.

11 MS. BETTY JAYNES: Thank you very much.
12 I have a request. A lot of our Georgia citizens that
13 are sitting out here are out of school, especially some
14 of our young athletes. We have teachers that are out
15 taking the day off waiting to testify, so if I may,
16 Mr. Chairperson, and Madam Chairperson, I will go to
17 the next number and step aside, and I would look
18 forward to seeing you in Chicago.

19 Thank you.

20 MS. CYNTHIA COOPER: Thank you. Page
21 Remillard.

22 MS. PAGE REMILLARD: I first would like
23 to say that I speak with respect for all the speakers
24 and their convictions. They are much appreciated.

25 I'm the Director of Athletics at Agnes Scott

1 College, an all women's college here in Atlanta,
2 Georgia and a member of the NCAA Division 3.

3 My mom told me when I was young, and the
4 mere fact that I've retained this information suggests
5 how impressionable it was upon me, on how she had to
6 hide her basketball clothes under the front steps. It
7 wasn't to hide it from her friends, male or female, she
8 was hiding it from her parents because it wasn't
9 accepted, as we've already heard, in the 1930s of women
10 playing the sport. My we've come a long way.

11 I was a collegiate water polo player and a
12 collegiate swimmer. I've coached for 30 years. I've
13 been from Southern California to Virginia and now I
14 find myself a proud member or citizen of Georgia.

15 At the dinner table my teenage daughter
16 asked me a question, one that caused me to pause, and
17 due to the preemptive nudge of my wife, check my
18 emotions. She asked me why her coach and school
19 administrators forced her girl's basketball team after
20 an injury caused delay to forfeit their unfinished
21 game, a game they were losing by two points with the
22 potential of pulling the upset that she had anticipated
23 for weeks.

24 Her reasoning as was relayed to her by the
25 Athletic Director, her coach and administrative

1 principals in the stands was that they needed to stop
2 the women's game to ensure that the boys' team had
3 enough time to play because it was a weekday and
4 Georgia school associations have a rule that no game
5 can start or play after a certain time.

6 My daughter is 16 years old today. These
7 are happening now. We have not come as far as we need
8 to come.

9 The question I believe before the panel as
10 well as the many that have been articulated already,
11 not only before the panel, but to the caretakers of the
12 future of our athletic programs, is should the law be
13 changed or should the law merely be enforced?

14 The Wrestling Coaches Association claimed in
15 a recent lawsuit that the law should be changed so that
16 men may return to competition while supporters of the
17 existing law suggest that the law should merely be
18 enforced as it was intended.

19 Proportionality seems to be the main focus
20 of discussion. Opponents argue men's sports that don't
21 usually generate revenue such as wrestling, swimming
22 and gymnastics are the most vulnerable. Athletic
23 Directors charge that they have no option but to
24 initiate roster quotas or to consider eliminating men's
25 programs in order to fund the development of women's

1 sports.

2 As an Athletic Director at a women's
3 college, a college not subject to Title IX, some might
4 say why would I get into this debate? I enter this
5 debate as a professional, as a proponent of sport, and
6 as a father. My son benefitted from a scholarship at
7 Auburn University with the basketball program. My
8 daughter has dreams of competing in college.

9 As a career professional in collegiate
10 athletics for over 30 years and an advocate of women's
11 sports, I believe Title IX is the scapegoat in the
12 issue because some institutional administrators failed
13 to practice elusive principled financial management.

14 Both in my commission and in the game of
15 life the conclusions are the same, that until college
16 Presidents take charge of their programs, we're going
17 to experience poor management.

18 A wrestler should be able to choose a school
19 that offers a sport, but I beg that the wrestlers
20 choose schools that support Title IX. Then they will
21 know their sport is secure.

22 The other night at the dinner table I
23 explained to my daughter that she was the victim of
24 poor decision making and questionable goals and
25 objectives. I only hope that my granddaughter will

1 have the opportunity to finish her game.

2 MS. CYNTHIA COOPER: Thank you.

3 Jennifer Alley.

4 MS. JENNIFER ALLEY: I'm Jennifer
5 Alley, Executive Director of the National Association
6 of Collegiate Women Athletic Administrators. I'm not
7 here today to speak to you as the Executive Director of
8 NAPA, but as a coach, a teacher, an administrator for
9 the past 30 years.

10 My professional life has been involved in
11 athletics. I wanted to give back to the association
12 and to the profession. I wanted women to have the
13 opportunities that I did not have. I didn't get to
14 play. I didn't get to be an athlete. I was a Tomboy.
15 I got into athletics and into this profession because I
16 got to follow my brothers to practice because they did
17 get to play. But I learned to coach and I learned the
18 values of team work and I learned the values that I
19 believe in today that have directed my life.

20 From all of my years in athletics I've
21 learned that women want to play. They are interested
22 in playing. They want to opportunities to play.

23 I coached for a long time. I know that
24 women are just as proud to wear the university sports
25 uniforms as the men are. It doesn't matter that they

1 got to the game by riding in vans or driving in
2 personal cars while the guys got to go on chartered
3 buses or airlines. As the Executive Director of NAPA,
4 I'm very proud that 72 percent of our universities have
5 been able to build athletic programs without dropping
6 any sports.

7 We do have some out of control spending at
8 some of our schools. Some schools have allowed new
9 million dollar coaches, to renovate their office
10 complexes to the tune of ten million dollars so that
11 they could have Mahogany paneling and European leather
12 furniture and Italian marble. They even allow them to
13 put personal fitness centers into their offices. This
14 doesn't help our student athletes, it doesn't help our
15 athletic programs.

16 If we took that same ten million dollars and
17 invested it in programs, our students would have
18 excellent athletic facilities, excellent means of
19 transportation, opportunities that some of them don't
20 have today. We would never have to drop any sports.

21 What we need in some areas is control. But
22 most of us are controlling our destinies and we're
23 trying to do the right thing. We're here today to
24 share and understand and hear a lot of valuable
25 information that isn't always made public to the press,

1 and I hope we all learn from what's going on with this
2 commission. There's nothing wrong with Title IX. It's
3 fair and it's right. We just need to enforce it after
4 30 years.

5 Thank you.

6 MS. CYNTHIA COOPER: Thank you. Tony
7 Armas.

8 MR. TONY ARMAS: Hello, I'm Tony Armas.
9 I'm from Bremen, Georgia. It's about 50 miles down the
10 road west of here towards Alabama. I'm probably one of
11 few people here that's doing something pretty
12 sacrilegious. I'm missing football practice to be
13 here.

14 And speaking on that, you all have Coach and
15 I've been to a couple of clinics with him. He's a
16 fine, fine man I'll tell you. And you folks from
17 Washington D.C. take care of Steve Spourier because I
18 don't want him back in the SEC.

19 I coach golf. I'm sort of the director of
20 golf at my high school. We have boys and girls, and
21 the problem we have is I have a lot more boys that want
22 to play golf than I do girls.

23 We put up posters. You know, you got to
24 have a Tiger, you got to have Anika Sorenstam, Kari
25 Webb, Jack Nicklaus. You know, everything is pretty

1 equal, but we can't get enough girls to come out for
2 our golf team, and what ends up happening, you know, we
3 got a couple of boys out there they are just playing to
4 play and mess around, but we end up cutting about half.
5 We cut about eight, ten kids every year to get us down
6 to about eight or nine boys that can shoot under 90,
7 and then we just take all the girls that want to play.
8 Last week we finally had six of them. We even hired
9 their own coach. I send the boys with the pro and I
10 work with the girls themselves. Maybe it's the coach,
11 that's the problem.

12 That's the way it is all over our whole
13 region. We've hosted the region golf tournament the
14 last two years and we had 55 boys show up and for the
15 same number of schools we have 12 girls this year and
16 13 girls last year.

17 Now, granted there was a push by some folks
18 to have six girls on the golf team for each school and
19 count four scores just like they do the boys. The
20 problem that was at stake, we were having the number
21 two scores and some teams being 150, so you can imagine
22 what the number four, five and six scores would be at
23 the state golf tournament.

24 I thought about it and said that wasn't a
25 good idea to have that many girls until we could slowly

1 build them up to the point where they could be
2 competitive.

3 Basically, why aren't these girls playing,
4 they are involved in so many other things? One of the
5 panelists alluded to how many were in the drama
6 department. We had cheerleading tryouts at that time.
7 Basically, the point is that boys and girls are
8 different.

9 If we're going to use proportionality in
10 athletics, then let's do it. Let's do it over the
11 whole Department of Education. Let's make half our
12 kindergarten teachers be males. I've been in the
13 kindergarten classroom and you know, I can only keep up
14 with them for about 30 minutes. Then I got to head on
15 back to the high school.

16 I would ask the Commission to look at the
17 college campus intramural programs, how many men
18 participate and how many women participate in
19 intramurals where competition is completely voluntary.
20 How many men leagues are completely filled where women
21 leagues aren't, have vacant slots?

22 Title IX, I felt, was passed to get rid of a
23 glass ceiling that many women in education face. Today
24 in the State of Georgia we have Linda Schrenko. Not
25 only is she running for Governor, but she's the

1 Superintendent of schools for the whole state. We have
2 a lot of women who are in administration.

3 I think we've taken this thing and focused
4 it and narrowed the scope so much on athletics that it
5 just doesn't make much sense. I would like to see the
6 Commission return Title IX to its original intent by
7 eliminating proportionality and developing a more fair
8 method of compliance.

9 Another thing is there's been all this talk
10 about how there's a lot more girls on college campuses
11 than boys, and like Ms. Debbie pointed out, heck, girls
12 are a lot smarter than boys. The University of Georgia
13 was the best five or six years of my life.

14 That's really about it. In 1972 there was a
15 draft. Everybody was trying to stay in school. All
16 the boys were. They wanted that S-2 deferment, you
17 know, and -- does he have to type everything I say?
18 Jack Nicklaus could hit the ball 300 yards when the
19 ball was dead and the woods were wood.

20 MR. TED LELAND: Our next four
21 speakers, Marilyn Childress, again who I think we're
22 taking out of order, JoAnne Graf, Charles Huddleston,
23 and Athena Yiamouyiannis.

24 And first up is Marilyn Childress.

25 MS. MARILYN CHILDRESS: I want to thank

1 you all for coming to Georgia. I appreciate you all
2 being here.

3 I am the President of the Georgia Amateur
4 Soccer Association. I'm also currently on a number of
5 women's committees on U.S. soccer and have been an
6 advocate for women's sports for over the past 15 years.
7 I also was the one that led the international and the
8 national women to have women's soccer added to the '96
9 Olympics, and if it had not been for Title IX, the
10 women's soccer would not have been in the 1996
11 Olympics. It would not have been the Olympics of the
12 women as we embraced it here in Atlanta and they did
13 across the country.

14 And also, we would not have had the 1999
15 World Cup, which was seen by more people than the NBA
16 finals that year, nor would we have had the Founder's
17 Cup and the WSA that was held here.

18 Title IX is a tool that the colleges and
19 institutions have used to bring opportunity for women.
20 And it's not just the athletes, but it's for women in
21 many areas, such as engineering, medicine, law,
22 professorships, et cetera. And that's for not only
23 boys and girls, but that's because they all want to
24 have an interest in sports, and that's not where their
25 interest lies. But Title IX is to provide

1 opportunities in those areas as well.

2 But the most popular one known is the
3 opportunity in sport. And men and boys in sports have
4 had a century worth of development, and that's one of
5 the reasons why sometimes you don't see a lot of girls
6 participating in sport because they have only been
7 doing it, I'm not sure, but I think high school golf
8 has only been offered for the last few years in the
9 State of Georgia, and so they haven't had the
10 promotion, they haven't had a lot of the opportunities
11 like men have had. Only with the past decade have
12 women really been involved in sports at a national
13 level and to bring importance to it.

14 The current law was written to make sure
15 that opportunities were not affected, and it was to
16 give opportunities so that the schools could choose how
17 they were going to apply it to their own institution,
18 and as many as have stated today, it appears that a lot
19 of the problems at institution is budgetary and
20 proportionality.

21 But one of the ways the schools have been
22 trying to do that is this dropping schools' sports, and
23 currently if Title IX is changed in any way, what was
24 to prevent the schools from going ahead and not only
25 dropping men's sports, but then additionally dropping

1 more women's sports?

2 The three-test prong was written to give
3 them that opportunity to keep it going, and we need to
4 keep Title IX enforced the way it was written. And we
5 don't need to be dropping sports, but the schools have
6 this three prong opportunity to make sure that they are
7 in compliance.

8 In my fight to have women's soccer added to
9 the Olympics, I don't know if many of you all have ever
10 had to deal with the IOC or FEFA, but let me tell you,
11 they are very formidable, and not many people want to
12 take them on.

13 Had I not been participating in sports in my
14 younger days, I would not have had the perseverance,
15 the stamina or the team spirit initiative that was
16 instilled in me as a young woman to be able to fight
17 those groups to have women's soccer added to the
18 Olympics.

19 And thank you.

20 MR. TED LELAND: JoAnne.

21 MS. JOANNE GRAF: My name is JoAnne
22 Graf. I'm the head softball coach at Florida State
23 University, and I would like to congratulate the
24 Commission members for the task they taking on in
25 examining the effectiveness of Title IX in providing

1 equal opportunities for both men and women specifically
2 as it relates to athletic opportunity.

3 As someone who has been involved in
4 intercollegiate athletics during the entire Title IX
5 era, I do find it somewhat sad that 30 years after the
6 passage of Title IX we are still discussing its
7 implementation.

8 Colleges and universities have used every
9 method and excuse possible to delay treating men and
10 women equally. This is not a difficult task as it
11 seems, as mentioned by Senator Bayh this morning, yet,
12 we have seen terms used from equal to equitable to
13 comparable. Each term is being used to dilute the
14 resources allocated to the women.

15 The big question I hope this commission will
16 answer is how do we ensure that male and female
17 athletes, coaches and staffs are being treated equally
18 and what type of enforcement will make this happen
19 quickly so that in 30 years we're not still discussing
20 this issue?

21 While opportunities have increased, equal
22 opportunities have not.

23 As Christine Grant mentioned, while more
24 money is being spent on women's sports, the gaps
25 between men's and women's budgets remains the same if

1 not larger. Facilities which are sometimes sitting
2 side by side are still not equal. Role models for
3 women are disappearing as men now occupy the majority
4 of the head coaching positions for women's teams, yet
5 women only coach less than 2 percent of the men's
6 teams.

7 Women still are not treated as equal. This
8 commission was formed as a response to the outcry
9 raised by dropped men's sports, with Title IX being
10 blamed as the fall guy. Nothing could be farther from
11 the truth. No one wishes to address the real issue,
12 although I do think we heard it alluded to a little bit
13 this morning, that the lack of equal opportunity for
14 women and the choice of schools to drop men's sports,
15 that issue is the allocation of financial resources at
16 each institution.

17 The philosophy of intercollegiate athletics
18 has changed from educationally based to "must win"
19 based. The overcommercialization of intercollegiate
20 athletics has resulted in greater and greater
21 expenditures occurring not due to supplying
22 necessities, but to keep up with the Joneses. Jennifer
23 referred to that as well.

24 The arms' race is what I think must be
25 examined. Lavish locker rooms, huge weight rooms,

1 extravagant offices, more staffs than players on
2 benches, million dollar plus salaries have all caused
3 schools to make budget choices.

4 I could give you several examples of that,
5 but it would probably take much more than my five
6 minutes. But I think every coach at every institution
7 could give you examples of that. I know the University
8 of Oregon, for example, their booster group spent
9 \$200,000 putting up a billboard promoting Joey
10 Harrington for the Heisman trophy last year. Was that
11 really a good way to spend those resources?

12 Earlier today a panelist said that Texas was
13 forced to add a women's softball team to reach
14 proportionality. That softball team quickly became
15 nationally ranked. They have more players applying for
16 spots on those teams than they can accept, and they
17 have to turn players away. They are competing at the
18 top 20 Division 1 level. They have a player on their
19 team who is a sophomore who will probably represent the
20 United States in the Olympics. Forced to add that
21 team, maybe. Was that a bad thing? No, that was a
22 very good thing.

23 Football teams often have 120 plus players.
24 I think we can look at do they really need 121 players
25 when we're looking at proportionality? The wrestling

1 coaches can ask could they reduce that number to 120
2 and have those extra 20 people, then be on the
3 wrestling team?

4 One speaker mentioned that his sons were
5 able to watch pro baseball players on TV and have them
6 as role models. Isn't it now great that women can
7 watch Julie Foudy and Cynthia Cooper on TV and have
8 them as role models.

9 MR. TED LELAND: Thank you. Athena.

10 MS. ATHENA YIAMOUIYIANNIS: Good
11 afternoon. My name is Athena Yiamouyiannis, Executive
12 Director of the National Association for Girls and
13 Women in Sport. The National Association for Girls and
14 Women in Sport is one of six national associations
15 within the American Alliance of Health, Phys Ed,
16 Recreation and Dance which is based in Reston,
17 Virginia.

18 As Executive Director of the National
19 Association for Girls and Women in Sport, I am here
20 representing both NHEWS as well as the American
21 Alliance. Our combined membership consists of 24,000
22 physical education teachers and coaches at the K
23 through 12 grade levels as well as college professors.

24 Today I would like to comment on two items.
25 Number one would be Title IX issues at the grassroots

1 level, and number two would be the dropping of men's
2 teams at the collegiate level.

3 At the grassroots level certainly progress
4 has been made over the past 30 years. You've been
5 provided the statistics, but I want you to know that a
6 lot of progress is still yet to be made. When you're
7 in the trenches and you're conducting work shops for
8 school districts that have asked you to come in and
9 help them out to do the right thing, you see firsthand
10 some of the situations that schools are faced with.
11 You have no more land to build facilities on, you have
12 an existing baseball team, what do you do with the
13 girls' softball team? Well, they are required to track
14 halfway across town if they want an opportunity to
15 play.

16 Some of the schools have taken a proactive
17 approach to address some of the facility issues out
18 there. They are taking their baseball diamond and
19 making it part of a LaCrosse field in the outfield. It
20 kind of tears up the grass for your baseball players,
21 but they are trying to do some creative things to make
22 gender equitable opportunities for both the boys and
23 the girls.

24 The maintenance crew has to continually be
25 reminded to take care of the softball diamond just as

1 well as the baseball diamond. When we look at where do
2 we need to focus our intention on Title IX today, it's
3 on changing the mindframe of the individuals that are
4 implementing the law and its regulations. That is
5 where at least from the school districts that I'm being
6 told we need to focus our attention. They need some
7 additional guide and support to educate their
8 individuals.

9 The law is clear. They know what they need
10 to do. They are just having a challenge of convincing
11 the individuals that are implementing the policies that
12 this is the right thing to do.

13 The second thing I would like to speak on is
14 in regard to the dropping of men's sports teams such as
15 wrestling. In July and August I was invited to
16 participate in a Title IX debate with the Wrestling
17 Coaches Association and the Independent Women's Forum.
18 As part of my research, I discovered some very
19 interesting information, namely that Title IX was being
20 used as a scapegoat for the actions of certain
21 colleges. For example, Marquette University, which is
22 one of the premier colleges from which the Wrestling
23 Coaches Association basis its lawsuit, is a prime
24 example of a university telling the press and the
25 outside world one thing and then on the other hand

1 internally discussing the issues and finding that they
2 are something completely different.

3 Because I was asked to do this debate, I did
4 some homework and I dug up some information, and I
5 checked with some of the individuals on campus that
6 were the administrators, and this is what I found. But
7 then again, I should ask you what university would
8 publicly say the following: Sorry guys, but we're
9 cutting your sport. You've had a losing season for too
10 long. Too many wrestlers are getting hurt because your
11 competitors are light years ahead of you and there's
12 too much institutional liability involved here. Only
13 one college within our whole conference even offers the
14 sport at this time. We don't have enough interest to
15 field a full squad covering all weight classes. We
16 realize that the entire sport, coaches, scholarships
17 and all expenses only cost around \$50,000 per year, and
18 even those minimal funds used for that sport are paid
19 by outside donors, but we've made the decision to fish
20 or cut bait.

21 In this situation we are choosing to
22 eliminate your sport. We've had to make some tough
23 budgetary choices, and we know that having a viable
24 competitive wrestling team would take a lot of money,
25 and we would rather not spend our time and energy

1 there. Instead, we as a university would rather put
2 our efforts toward a capital campaign to raise 31
3 million dollars to build a new basketball arena for men
4 and women.

5 I ask you what university would say these
6 things? I don't think many out there would. Sometimes
7 it's easier to say Title IX made me do it. And it's
8 easier to say nothing when your college is lauded as
9 the prime example of Title IX's failure. It may be
10 easier to do, but it is certainly not the right thing
11 to do.

12 The decision on what sports to add and to
13 drop is an institutional decision. The institutional
14 decision makers need to review their programs and make
15 some choices that take into account all the necessary
16 pieces; the interests of wrestlers, the interests of
17 their male athletes, the interests of the female
18 athletes.

19 Thank you.

20 MR. TED LELAND: Our next four.

21 MS. CYNTHIA COOPER: Mary Catherine
22 Manning, Mike Burns, Maria Capriotti, Anne Harper.

23 MS. MARY CATHERINE MANNING: I wasn't
24 expecting to get up today. My name is Mary Catherine
25 Manning. I'm a senior at Clemson University where I'm

1 also a fourth year member on the women's varsity rowing
2 team.

3 America has long been seen as the land of
4 opportunity, providing an opportunity for every man and
5 woman to reach the American dream. To be the best they
6 can be has long been our ideal as a nation. But it's
7 not to say it's easy to reach, it takes work.

8 Equal opportunity is important, but just
9 saying we are committed to it isn't always enough.
10 Certainly equal opportunity in athletics was not there
11 before the introduction of Title IX.

12 Since its inception, Title IX has opened the
13 door of opportunity to young women like myself. I am
14 delighted that Title IX has given me the opportunity to
15 compete and I am proud of the way my university,
16 Clemson, has embraced Title IX.

17 I'm a fourth year rower in a program that is
18 only five years old. It's fair to say that women's
19 rowing would not be at Clemson without Title IX, but
20 it's also fair to say Clemson has done a great job
21 embracing Title IX and building a competitive
22 nationally ranked program right from the start.

23 We have the finest supplies and equipment,
24 including new pohock racing shells especially designed
25 for women, a brand new boat house, and a race course on

1 Lake Hartwell that is among the finest in the nation.

2 The facilities are world class.

3 We use medical and training facilities
4 alongside the football players and the university hired
5 top female coaches committed to building a nationally
6 ranked program. Of course I would like to stay in
7 nicer hotels like this one, and I'm sure the coaches
8 would like a raise too, but we're off to a pretty good
9 start.

10 I have a younger sister coming along behind
11 me, so it's important to me to keep the opportunities
12 available to her in the next generation of young women
13 athletes. I have no doubt that you and the
14 administration will do that. President Bush and
15 Secretary Paige have said Title IX is important.
16 Please be fair, but please understand that fair does
17 not necessarily mean just counting the number of
18 dollars or number of young women participating. It's
19 not that simple.

20 When these hearings finish, I will be
21 returning to Clemson where I will join my teammates in
22 working with almost 70 young women who have also been
23 given an opportunity thanks to Title IX, an opportunity
24 to try out for the Clemson women's varsity rowing team.
25 In the four years we have been a Division 1 varsity

1 program, all but six athletes have been walk-ons. 95
2 percent of collegiate rowers are all walk-ons.

3 I will be doing my part to encourage these
4 girls and support them along the way. Please don't
5 make the mistake of judging equity and opportunity with
6 a hard count on the number of dollars or positions
7 available, and don't make the mistake of thinking I can
8 say that because I'm in my last year of eligibility
9 because I'm not done yet. I'm studying sport
10 management and look forward to continuing my
11 involvement in athletics.

12 I'm also a certified U.S. dive coach. I can
13 tell you as I progress I am not interested in simply
14 replacing the male coach of a women's team. In the off
15 season I already regularly coach two dive teams where I
16 coach the girls and boys.

17 I would much rather follow in the footsteps
18 of Debbie Yow at the intercollegiate athletic program
19 as Athletic Director, or WNBA Commissioner Val Acromen
20 and lead a professional sports league.

21 Thanks to Title IX, the opportunities are
22 unlimited. Thank you for the opportunity through Title
23 IX and thank you for the opportunity to be heard today.

24 MS. CYNTHIA COOPER: Thank you. Mike
25 Burns.

1 MR. MIKE BURNS: How are you doing
2 today? My name is Mike Burns. I'm the assistant coach
3 of the men's gymnastic team at the University of
4 Michigan. I'm a former gymnast from Penn State
5 University. I was a walk-on athlete. Back in 1976 I
6 walked on. Unbeknownst to me -- well, I knew this, but
7 the year I decided to go to Penn State they had just
8 won the national championship, and I was not that good
9 of a gymnast. I've put on 30 pounds since then, so you
10 can tell I probably wasn't a great athlete.

11 I worked hard. I walked on and I made the
12 cut, and the coach saw something in me that he thought
13 would maybe turn into something. I became a NCAA
14 finalist on high bar my senior year. And I think if I
15 was a gymnast today on our team at the University of
16 Michigan, I would have been cut because I wouldn't have
17 been one of the top 15 gymnasts. We have a roster
18 limit of 15.

19 Since that time I went on to coach at the
20 university of Iowa for 11 years and I've been at
21 Michigan for five years. Between my time at Iowa and
22 Michigan I spent six years in the junior program. So
23 I'm starting my 23rd year of coaching.

24 If I was a graduating high school senior
25 now, those 23 years I would have been doing something

1 different because I wouldn't have been a gymnast at
2 Penn State, I wouldn't have gone on to coach at Iowa, I
3 wouldn't have gone on to coach at Michigan. And I was
4 a three time NCAA national assistant coach of the year.
5 I'm on the Board of Directors for USA gymnastics. I'm
6 on the finance committee for USA gymnastics.

7 And the reason I tell you these things is
8 because none of that stuff would have happened. And I
9 think what has happened since 1979 back when I was
10 competing, there was 107 programs. Now there's 20
11 programs. I'm a dying breed. I'm a dinosaur. I'm 44
12 years old. I would like to retire as a coach. I would
13 like to be a head coach some day, but those
14 opportunities are becoming much more rare, and I feel
15 lucky to have a job at the University of Michigan.
16 They have treated me well. They supported us well.
17 Again, it's a big football school, so we obviously have
18 the benefits of that.

19 And I wrote up some things like Debbie had
20 done earlier, and I'm not actually going off of that
21 because a lot of the facts and figures and information
22 have been covered through the panelists and through
23 various speakers today. But I feel like there is
24 obviously some issues with Title IX, and I don't think
25 any of us would be here today in Atlanta if that were

1 not the case. And this commission has a tough job. I
2 don't envy any one of you people sitting up here
3 because it's a tough job. This has become a political
4 hot potato issue. You know, for many years it was not
5 a front page issue, but now it is.

6 Since the Wrestling Coaches Association
7 lawsuit that was filed in January, there's been a lot
8 more media coverage on both sides of the story. So I
9 think the public has got a chance to see all the
10 benefits of Title IX, all the credible increases and
11 opportunities for women from 30,000 athletes to 150,000
12 athletes. These are incredible strides for women.

13 And again, you've heard this, but I'm going
14 to repeat it, nobody in this room is talking about
15 doing away with Title IX. We just want to look at ways
16 to possibly modify some of the enforcement policies so
17 athletes in gymnastics, athletes in wrestling and some
18 of the other sports that have been more negatively
19 impacted than others are still going to have those
20 opportunities, the opportunities that I had, the
21 opportunities that I had to compete and succeed and be
22 part of a team, a successful team.

23 And then, I love to coach. It's one of
24 those things that people who coach you understand it.
25 You have an impact on people's lives, young people's

1 lives. You can shape them. That's what we do as
2 coaches. We don't just teach a double back flip or
3 full twisting coback over the high bar, we teach
4 character traits, we teach the joy of competition. We
5 teach a lot of things that people learn to take with
6 them.

7 And I challenge the Commission to look at
8 ways to possibly modify the proportionality prong of
9 Title IX. And, you know, if we look at --
10 proportionality is based on student body population
11 percentages. 56 percent women is the national average
12 now. Is the athletic population similar to the general
13 student body population? I think that's a question
14 that Gerald Reynolds brought up today that was very,
15 very important. I think that's one that you need to
16 focus on. There's a lot of talk about traditional
17 versus nontraditional students at college universities,
18 college campuses. I think that's one of the first
19 places to look. And I want to thank you all for the
20 opportunity, and you're going to hear from a lot more
21 people over the next four months. Good luck.

22 MS. CYNTHIA COOPER: Thank you.

23 Marcia.

24 MS. MARCIA CAPRIOTTI: On behalf of the
25 150,000 members of the American Association of

1 University Women, I want to thank you for the
2 opportunity to speak today at this first town meeting
3 of the Commission on opportunity in athletics.

4 We are pleased to assist the Commission in
5 its efforts to collect information, analyze issues, and
6 obtain broad public input directed at improving the
7 application of current federal standards for measuring
8 equal opportunity for all to participate in athletics
9 under Title IX.

10 For 120 years AAUW as promoted equity for
11 all women and girls, lifelong education and positive
12 societal change. Implicit in our mission is the firm
13 belief that there shall be no barriers to full
14 participation in education or the workplace on the
15 basis of gender, race, creed, age, sexual orientation,
16 national origin, disability, or class.

17 For this reason, AAUW strongly supports
18 Title IX of the education amendments of 1972, the
19 statute that prohibits sex discrimination in
20 educational institutions that receive federal funds and
21 protects against discrimination in college and high
22 school athletics.

23 AAUW believes that since the law's enactment
24 30 years ago, girls and women's participation,
25 scholarships and share of athletics budgets have grown

1 substantially. In fact, since Title IX's enactment, by
2 2001 nearly 2.8 million girls participated in
3 athletics, representing 41.5 percent of varsity
4 athletes in U.S. high schools, an increase of more than
5 847 percent from 1971.

6 Progress on college campuses also has been
7 impressive. Today 150,916 women compete in
8 intercollegiate sports, accounting for 43 percent of
9 college varsity athletes, an increase of more than 403
10 percent from 1971. And contrary to media reports,
11 men's participation levels at both the high school and
12 college level have also increased. However, we still
13 have a long way to go.

14 Although Title IX has broken down barriers
15 to opportunity in education and athletics over the past
16 30 years, full equity has not yet been achieved.
17 Despite the gains women have made under Title IX,
18 resources for women's sports have never caught up to
19 resources for men's sports.

20 For example, according to the National
21 Women's Law Center, women in Division 1 colleges
22 represent more than half of the student body yet
23 receive only 41 percent of athletic scholarship
24 dollars, 30 percent of recruiting dollars and 33
25 percent of overall athletic budgets.

1 Female athletes are not receiving equal
2 treatment or opportunities to participate even 30 years
3 after the passage of Title IX. Although male and
4 female participation in athletics has steadily grown,
5 female students lack in participation opportunities,
6 receipt of scholarships, and allocation of operating
7 and recruitment budgets.

8 Contrary to what Title IX's adversaries
9 believe, discrepancies in participation rates are the
10 result of continuing discrimination and access to equal
11 athletic opportunities.

12 It is neither logical nor permissible to
13 suggest a lack of interest in college sport
14 participation on the part of female athletes when less
15 than 200,000 college participation opportunities exist
16 for females, yet 2.7 million high school girls are
17 participating.

18 There are no bolts of lightning that strike
19 these high school female athletes. What happens is
20 opportunity evaporates in budgetary meetings on the
21 college and university level. Thus, we have not yet
22 reached Title IX's goal of achieving equity for all.
23 For these and many other reasons, AAUW strongly
24 supports Title IX and opposes any efforts to weaken its
25 effectiveness, including undermining the three-prong

1 test used to determine athletic compliance.

2 AAUW believes that this test is reasonable
3 and fair. In fact, it has been upheld as
4 constitutional by eight Federal Circuit Courts. It is
5 the position of the American Association of University
6 Women that no changes to the Title IX standards as
7 apply to athletics are warranted or necessary.
8 Modifications to the standards that would limit future
9 opportunities for women in favor of expanded
10 opportunities would violate the goal of gender equity.
11 Any modification to the standard that is based on the
12 premise that women are less --

13 MS. CYNTHIA COOPER: Thank you. Sorry.
14 Anne Harper.

15 MS. ANNE HARPER: Good afternoon. My
16 name is Anne Harper, and I reside here in the City of
17 Atlanta, where I have served on the Atlanta Board of
18 Education for eight years, from 1994 to the year 2001.
19 I'm also the mother of two daughters, one of whom
20 played interscholastic soccer in high school for four
21 years, and you heard from her in fact earlier today.

22 I would like to let members of the
23 Commission know that the legislators in the State of
24 Georgia believe that Title IX is such an important law
25 that they decided two years ago in 2000 to pass a state

1 version of the law in order to ensure implementation of
2 its principles throughout the school systems in our
3 state.

4 Our state law, called The Equity and Sports
5 Act, provides for annual reporting of school system
6 statistics in the areas covered by the federal law,
7 things such as transportation, facilities, training,
8 academic support, uniforms and equipment.

9 Our first official reports will come in in
10 2003, and they will cover the past three years of
11 activity by our school systems.

12 Here in Georgia we are urging our public
13 school systems to begin strategic planning of their
14 athletic programs and facilities in order to implement
15 equal opportunity for boys and girls in a measured and
16 orderly way that enhances the experience of all
17 students.

18 We have had excellent cooperation from the
19 Georgia High School Association, which you will hear
20 tomorrow in Mr. Gary Phillip's testimony. They are
21 committed to working with coaches and administrators in
22 our state to provide the greatest opportunities
23 possible for all of our children.

24 We hope to avoid at the high school level in
25 Georgia the kinds of problems that you have seen

1 discussed here at the college and university level.

2 On behalf of the organization which I
3 founded to support these efforts, The Coalition for
4 Gender Equity in Sports, I ask you to proceed
5 cautiously in making changes to the letter or the
6 spirit of Title IX. At the high school level where I
7 have the most experience we need the federal standards
8 to guide state level efforts.

9 The Office of Civil Rights has provided
10 invaluable technical support to all of those working at
11 the grassroots level, and we need that kind of support
12 to continue. I believe that most of the hostility as
13 you've heard here today to the Title IX implementation
14 revolves around the proportionality test for providing
15 programs.

16 This test is often misunderstood and even
17 misused by universities. And you've heard a lot about
18 that today, and I hope that there will be some good
19 factual material produced by this commission that
20 really goes to the heart of examining what is going on
21 with colleges and universities and why they are cutting
22 the nonrevenue men's sports such as wrestling.

23 But here in Georgia we are trying to make
24 the three-prong test work well. We are working very
25 hard to make sure that we have an effective survey tool

1 that is used consistently, the same tool by all school
2 systems throughout the state.

3 We recognize that interest is a difficult
4 issue, that we have to work very hard to improve the
5 kind of encouragement we give students to participate,
6 but we are committed to the three-part test. And we
7 believe it can work in any educational institution that
8 really wants to make it work and that really
9 understands that Title IX is entirely about equal
10 educational opportunities throughout an entire
11 institution, not just on the athletic fields, but every
12 single endeavor, the academic, the arts, the
13 vocational, technical programs. Every aspect is
14 involved in Title IX.

15 This is not the time for a failure of
16 commitment to women's equality. I urge you to speak
17 out clearly on behalf of the women who have benefitted
18 and who will benefit from Title IX. You are all
19 prominent citizens with tremendous knowledge in the
20 world of sports. You have the potential to play a
21 significant role in helping the Bush administration to
22 understand the value of this landmark legislation and
23 the ongoing need for forceful implementation of its
24 provisions.

25 I challenge you to "remember the ladies", as

1 Abigail Adams so famously wrote to her husband in the
2 18th century regarding the principles of constitution.
3 We need your voices now in support of energetic
4 enforcement of Title IX.

5 Thank you all very much for taking the time
6 to serve on this commission and for taking the time to
7 take public input today.

8 MR. TED LELAND: Our next four speakers
9 are Nate Dotson, Jason Lewis, Cal Rimler, and Andrew
10 Davis.

11 MR. NATE DOTSON: I thank you for the
12 opportunity to be able to speak here. I just had a
13 long drive last night, so forgive me if my thoughts
14 wander a little bit.

15 To tell you a little bit about myself, I had
16 the privilege to be the captain of the men's gymnastic
17 team at Michigan State University for their final
18 season before we were discontinued in 2000/2001, and it
19 was just an experience that was just fabulous to be a
20 part of that team and to be part of something as great
21 as a college athletic program.

22 Growing up it was always my dream to be a
23 college athlete. In fact, my interest in gymnastics
24 started in 1984 during the Olympics. And it sure made
25 me think when the men's team won the gold for the team

1 competition, but that's not what made me want to get
2 into gymnastics. It was actually watching Mary Lou
3 Retton. When I was a kid, she was my hero. She was
4 the reason I started gymnastics. And ever since then,
5 I worked hard my whole life, trained for 15 years just
6 to be able to be part of a college team and to
7 participate in what I love to do.

8 I wasn't good enough to get that
9 scholarship, but I walked onto the team, worked hard.
10 After an injury my freshman year, I didn't know if I
11 would be able to go on, but I kept persevering and
12 trying, and I was able to do that. I was able to
13 become a competitive member of the men's gymnastic team
14 at Michigan State.

15 I'm not going to talk too much about Title
16 IX and what I think its problems are, but what I like
17 about being part of an athletic program and what I
18 think a lot of people are going to be missing out.

19 Being a part of the men's gymnastics team at
20 Michigan State, it wasn't just a sport, it was walking
21 in everyday no matter what my problems were, no matter
22 how bad school was, problems in my life, walking in
23 that gym knowing that I could keep everything in the
24 door, because when I walked in there, I was surrounded
25 by what I would consider my family.

1 It's just something that you really can't
2 put your hands on because it's amazing to have an
3 opportunity like that to be part of a team. And I
4 don't think men or women should be denied that, and
5 unfortunately, I think that's where things are headed.

6 At Michigan State University, for example,
7 there are numerous opportunities for female athletes,
8 plenty of spots on teams that are just not being met.
9 I don't know how it is across the country, but that's a
10 problem that needs to be addressed. Men's teams, we
11 actually went out and we recruited for women's teams,
12 handing out fliers, going to dorms, doing whatever we
13 could to try and bring the women in to participate in
14 those sports. And the interest just does seem to be
15 there when you have 20 openings on a female team and
16 ten women come to try out for that team.

17 When you have a spot; for example, on the
18 men's golf team a couple of years ago there was open
19 spot and we had 50 guys come out for that one open spot
20 for tryouts just to do that. And I think that's what
21 needs to be addressed is is the interest really there
22 at the collegiate level at big schools in particular
23 for women athletes? I don't know that when they get to
24 that level if they particularly want to move in that
25 direction or if their past where they want to be with

1 sports, if they have already done what they wanted to
2 do with it.

3 But I do feel my opportunity that I was able
4 to have was fantastic. I don't think anybody again
5 should be denied that opportunity, men or women. The
6 dropping of sports I think is wrong. I think something
7 needs to be done with the way Title IX is enforced so
8 that everyone can have a chance to be a part of what I
9 had to be a part of, which is something I wouldn't
10 trade for the world.

11 And I just thank you for this opportunity to
12 speak and tell you about what I had as a college
13 athlete. Thank you.

14 MR. TED LELAND: Jason.

15 MR. JASON LEWIS: Hi, my name is Jason
16 Lewis, and I was a gymnast at Michigan State. I
17 competed in gymnastics for 17 years, until our sport
18 was dropped my junior year, and we were given a whole
19 array of excuses why; Title IX, funding. Everything
20 came back to this big issue that we're arguing today.

21 You know, it was heartbreaking. I mean,
22 really, no one can feel what I felt that day. You
23 know, I was 19 years old calling my dad and I was
24 crying like I was 5 years old and just got spanked. It
25 hurt.

1 But anyway, to the point at hand. We
2 started up classes yesterday, and -- yeah, I'm skipping
3 some classes today, but it's okay, I'm a senior. And I
4 was reading our school newspaper, and it's called the
5 State News, and I was flipping through it reading the
6 opinion section and turned the page and I saw an ad in
7 here that said row for Michigan State, and then, you
8 know, in letters down here, no experience necessary,
9 referring to our women's crew team.

10 That was kind of disheartening to me. We
11 have a campus of 48,000 people. 54 percent of them are
12 female. So that's 26,000 girls that they can pull from
13 to fill up 25 to 30 spots, and they have to put ads in
14 the newspaper for it. We have 17 guys who dedicated
15 their lives, their bodies to doing the sport and, you
16 know, we can't do it anymore.

17 Michigan State is the epitome of everything
18 that's wrong with Title IX. Just recently the
19 facilities were updated. Women and men got new locker
20 rooms. The women got nice wood ones, the benches like
21 hockey player locker rooms, leather sitting chairs in
22 the middle, all for free, didn't come out of any of the
23 budgets. Men's teams, if they wanted that, they had to
24 raise \$10,000 for it, all in the name of equality under
25 Title IX. Kind of disheartening again.

1 The whole quota system, I mean, why don't we
2 apply it to education too. It wouldn't seem fair. We
3 go up and say, okay, Jimmy, you're coming in as a
4 freshman, you're really good at physics, you can do
5 calculus, you want to be an electrical engineer? I'm
6 sorry, not enough women applied that year, so maybe
7 you'll have to go be a nurse. That just sounds
8 ridiculous. I mean, why do we do it with athletics?

9 The other thing too is Michigan State, 54
10 percent of it is women. What happens if those numbers
11 change and 54 percent become men? The numbers are
12 imbalanced for sports. We're not going to add another
13 men's sport. Everybody who is an athletic director
14 knows that college campuses are so politically correct
15 right now they are afraid of a lawsuit. It will just
16 never happen, so why do we approach it that way with
17 this, with women? Why do we drop the men's sports?
18 Let's find a way to deal with it. It's really just
19 disheartening. And thanks for your time.

20 MR. TED LELAND: Cal.

21 MR. CAL RIMLER: Hi, I'm Cal Rimler.
22 I'm also a former Michigan State gymnast, and I'm going
23 into my senior year.

24 I have come before you today not so much as
25 an aggrieved party, but as an individual with an

1 abiding interest and concern about gymnastics as a
2 competitive sport in the United States.

3 All across the United States there are
4 gymnastics programs involving thousands of boys from
5 pre school to high school. The sad truth is that Title
6 IX has effectively created a dead end for aspiring boys
7 as there are barely 20 collegiate level men's
8 gymnastics programs across the country.

9 It was my goal and my dream to become a
10 collegiate gymnast and a dream that came true as I was
11 a walk-on at Michigan State University.

12 However, my time as a gymnast was abruptly
13 cut short, leaving me with three years unused of
14 eligibility. It will be years I will not be able to
15 get back and will regret not having for the rest of my
16 life as I graduate at the end of this year.

17 We gymnasts have tried very hard and
18 succeeded in being good students, hard working athletes
19 and competitors, but under the rules of Title IX, you
20 don't have to do anything wrong to get punished.

21 We work hard as athletes, as all athletes
22 do, to achieve a spot on a team at the collegiate level
23 only to get dropped. It is reprehensible that with
24 Michigan State's athletic history and tradition, it
25 eliminated our men's gymnastics team with the excuse

1 that equality could not be achieved.

2 Make no mistake about it, we support all
3 Michigan State athletic teams, but we are also gymnasts
4 and we want the opportunity to represent MSU in
5 competition.

6 It's important now that we should not lose
7 sight that gymnastics is an international sport, and
8 like all international policy and relationships, the
9 U.S. should not withdraw from benefits of friendly
10 athletic competition.

11 Thank you for the opportunity today.

12 MR. TED LELAND: Andrew.

13 MR. ANDREW DAVIS: Hello, my name is
14 Andrew Davis. Thank you for the opportunity to speak
15 today. I represent a former Division 1 gymnastics
16 team. Working so hard, becoming so successful as an
17 individual as well as a team, we put forth this effort
18 in order to fulfill our dreams.

19 With the decision of Michigan State to drop
20 the men's program, our dreams were shattered and our
21 collegiate experiences were severely tarnished.

22 I have been a gymnast for 18 years of my
23 life and found myself to be one of these students.
24 After Michigan State dropped their men's gymnastics
25 program, I was forced due to finances to stay at

1 Michigan State and abandon my lifelong dream of
2 competing as a collegiate athlete with hope of one day
3 competing above and beyond the collegiate level.

4 As a scholarship athlete, through gymnastics
5 I was able to follow my educational goals as well and
6 give back to society, or in the future give back to
7 society. But taking away these opportunities will
8 inhibit future young Americans to fulfill their future
9 dreams.

10 There are tens of thousands of young
11 athletes in gymnastics alone throughout the country.
12 If Title IX continues, many of these young Americans
13 will be denied their dreams.

14 I ask you to be the strong voice of wisdom
15 and insight which you were elected to be and provide
16 these young Americans whose hopes and dreams that will
17 have been severely clouded, but show them that they are
18 not completely destroyed.

19 Thank you.

20 MS. CYNTHIA COOPER: Dr. Charles Webb,
21 Brock Warder, Cynthia Doyle, and Aimee Boone. We'll
22 start with Dr. Charles Webb.

23 MR. CHARLES WEBB: Thank you. My name
24 is Charles Webb. I'm employed by the Bulloch County
25 schools in Statesboro, Georgia, about 55 miles west of

1 Savannah.

2 As a member of the central office staff, I'm
3 a certified master athletic administrator with the
4 NIAAA. I have a Doctorate of Education from Georgia
5 Southern University. I'm also a graduate from the U.S.
6 Army War College. And I'm a retired Brigadier General
7 in the Reserve of the United States Army.

8 I'm also the father of two daughters, both
9 of whom have benefitted from Title IX. So that one
10 sentence known today as Title IX has special meaning to
11 me personally, patriotically and professionally.

12 First, I'm proud that our President and the
13 Secretary of Education have both demonstrated a bold
14 initiative in publicly addressing this issue. For 30
15 years Title IX has been a hot potato, and now it's time
16 to shuck the corn as we say in south Georgia.

17 For more than a quarter of a century I
18 served as an educator and athletics administrator.
19 Among other duties, I've shared the responsibility of
20 implementing Title IX with coaches and other school
21 leaders.

22 I've also been a part of many school reform
23 measures. Misunderstanding of Title IX, fear of change
24 and just sheer arrogance needlessly restricted the
25 civil rights of more than half the population of this

1 country throughout the past three decades. We ought to
2 learn from higher education. Hopefully the leadership
3 and public education sees the importance of avoiding
4 the same type of confrontation that has plagued many
5 universities that you heard about today.

6 This law is about doing the right thing. It
7 is also about expanding what already is good by simply
8 teaching our children how to share with one another.

9 This commission on opportunity and athletics
10 should be praised for initiating public hearings and
11 seeking information from practitioners and those who
12 actually implemented this law in our schools. Such
13 feedback will hopefully be used to assist our
14 educational leaders, Mr. Hansen and Ms. Price and
15 others from the Department of Education here today, in
16 not only understanding and implementing the detailed
17 requirements of Title IX, but to also develop the
18 spirit of support and cooperation among our coaches,
19 students, sports boosters, each of whom has a vital
20 role in a school sports program.

21 Here in our own state of Georgia visionary
22 leaders like Representatives Kathy Ash and Stephanie
23 Stucky Benfield and other legislators as well, leaders
24 like Dr. Ann Harper and Charles Holston, have worked
25 diligently to pass the Equity and Sports Act of 2000.

1 It is a law that enables all of our enormous human
2 resources now in place to identify problems and
3 solutions.

4 In Georgia we've begun to do just that.
5 Recognizing the perceived intent of Title IX as well as
6 appreciating the quality of individuals on this
7 commission and within the U.S. department of Education,
8 I'm optimistic in briefly expressing three concerns
9 related to the question how do interscholastic sports
10 avoid the mistakes of intercollegiate compliance this
11 past decade?

12 These three concerns deal with education and
13 training, with field services and with funding. As far
14 as education and training goes, it's vital that our
15 students, coaches, school leaders and boosters be
16 educated on the purpose of this law and properly
17 trained in its implementation. It must not be
18 presented as a threat, although the law is forceful and
19 its intent is clear.

20 Most Americans will favorably support Title
21 IX if it is explained in the same positive way in which
22 the original legislation was intended. Whenever
23 possible we must avoid adversarial circumstances at the
24 interscholastic level. The U.S. Department of
25 Education should be the leader in helping states to

1 help their schools.

2 Secondly, field services. One of the
3 reasons that Title IX is difficult to implement is
4 because it is sometimes difficult to understand. We
5 need to provide more opportunities in the field for
6 practitioners to learn about Title IX and to receive
7 assistance from consultants to implement this important
8 law.

9 Third is the funding. Title IX is perceived
10 yet as another unfunded mandate from Washington. The
11 real problem here today is not about fairness, the real
12 problem is about money, where does the money come from
13 to pay for Title IX?

14 In conclusion, I ask you to reflect on what
15 Charles Darwin commented to others about the origin of
16 the species in 1859 when he said, it is not the
17 strongest of the species that survive, but rather the
18 most responsive to change.

19 Thank you.

20 MR. BROCK WARDER: Hi, I'm Brock
21 Warder. I traveled all the way from Sioux City, Iowa
22 to come talk to you guys.

23 My senior year at Marquette was cut short,
24 whether it be financial reasons or Title IX. There's a
25 couple of variables in there that I can't quite inform

1 you about, but I would like to comment that I do have
2 an 11-year-old sister who I want to participate in
3 every sport that I did, soccer and basketball.

4 She looks to you guys as role models,
5 Ms. Cooper and Ms. Foudy. I would also like to comment
6 on the gymnasts that are here from Michigan State. I
7 feel for you guys. Your senior year, it's going to be
8 different, but you'll get through it. I did.

9 In 1996 Marquette for Title IX reasons, not
10 financial, for Title IX reasons decided to cut the
11 program. The friends of Marquette, the alumni, got
12 together and decided that they will raise money every
13 year in order to keep the program going.

14 We had a banquet every year and we raised up
15 to \$50,000 a year in order to sponsor our team. Our
16 coach got paid \$9,000 a year. As was stated earlier,
17 we might not have been as competitive as the Big Ten
18 schools, but we competed, and that was taken away from
19 me my senior year.

20 I never got to end my wrestling career the
21 way I wanted to. I think that's sad. I think that the
22 people on this committee should realize that a lot of
23 athletes are affected either by Title IX or either
24 using Title IX as a cover for financial challenges or
25 mistakes by athletic administrations and universities

1 in our nation.

2 A lot of my teammates had to drop out of
3 school. From what little scholarships we received, it
4 was enough to keep them in school. They had to move,
5 transfer. It was my senior year, and I decided not to.
6 I decided to get my degree and go on to law school,
7 which is where I'm at now.

8 But I would just like to get everybody to
9 kind of see it from another perspective. I am the
10 poster child for Title IX. You're looking at him. I
11 had just been named senior captain two weeks before the
12 program had been dropped, my roommate and I. We both
13 stayed at school. None of our credits would really
14 transfer anywhere else, so we decided to finish it out.
15 But I can understand where the gymnasts are coming
16 from. Maybe it's something that you do from either 4
17 or 5 years old until when it's cut short until you
18 graduate unless you have Olympic aspirations, which I
19 didn't. I'll admit that I wasn't the best. I wasn't
20 the worst by any means either.

21 But again, I would like to elaborate on the
22 fact that teams are hurt, individuals are hurt because
23 of how this rule is being misinterpreted and being
24 enforced incorrectly.

25 I still have yet to hear from our Athletic

1 Director or our President. I have e-mailed both of
2 them numerous times, and I think that they are either
3 purposely not answering me or they don't want to face
4 the facts of what really happened. But hopefully with
5 this media exposure and the attempts of athletes like
6 from Michigan State and a colleague from former BYU
7 that all will change.

8 I thank you for your time. Good luck.

9 MS. CYNTHIA COOPER: Cynthia Doyle.

10 MS. CYNTHIA DOYLE: First of all, I
11 would like to congratulate each of you that accepted
12 the nomination to the Commission both publicly and
13 privately because we understand a lot of the things
14 that you wrestle with.

15 My name is Cynthia Doyle. I'm Assistant
16 Director of the National Federation of State High
17 School Associations. We're actually the ones that many
18 of you have used the statistics that we publish to
19 bring all the Title IX things kind of into perspective.

20 And when we say Title IX, we remove
21 ourselves from that, because Title IX itself are just
22 words on paper. What we have to do is put ourselves
23 into it and realize that we are Title IX, and the
24 things that we struggle with are both financial and
25 ethical dilemmas.

1 The National Federation is a rule making
2 body that represents 51 member state associations,
3 30,000 coaches, 17,000 high schools, 130,000 officials
4 and more than 6 and a half million student athletes.

5 From a numerical standpoint, high school is
6 very important because overwhelmingly, that's where
7 your Title IX issues are, and although we don't receive
8 all the publicity that the NCAA gets, thank goodness,
9 our proportion is about 20 to 1 for the number of
10 students that we represent.

11 We represent participation, and we think
12 that that's what your charge is, and overall Title IX
13 has been good for participation. And earlier today I
14 shared with you -- get that poster and I'll show it
15 right quick. Someone asked me about the statistics. I
16 wasn't trying to exclude anyone, but he had asked me
17 about the statistics for high school, and this is just
18 a quick graph of the participation in high schools
19 since Title IX.

20 This has to do with female participation.
21 And I think graphically that's exactly what you want to
22 happen. It shows a constant increase in participation
23 at the high school level. I'm not going to take a long
24 presentation because I do realize that the Chicago
25 meeting is going to concentrate on high school and

1 junior college participation.

2 So at this time I would just like to thank
3 you for your interest. I ask you to continue to ask us
4 for the things that you need to make the decisions that
5 we know are important decisions and let us support you
6 on behalf of our Board of Directors and the National
7 Federation staff.

8 Thank you.

9 MS. CYNTHIA COOPER: Thank you. Aimee
10 Boone.

11 MS. AIMEE BOONE: Good afternoon. My
12 name is Aimee Boone, and I'm a senior campus organizer
13 for the Feminist Majority Foundation in D.C., but I'm
14 here today to talk to you as an athlete and as an older
15 sister and as a friend to many athletes and as someone
16 who will probably one day have daughters.

17 Even though I'm only 23, I consider myself
18 somewhat of an expert on Title IX because I have been
19 playing sports since I was 6. I have competed in
20 equestrian events at a national level, I have been a
21 gymnast when I was much shorter, I have played
22 basketball and soccer, but most importantly, I have
23 played volleyball for the past 10 years, I have played
24 softball for the past 15 years, and I competed as an
25 NCAA Division 1 athlete on my crew team at the

1 University of Virginia.

2 So when you hear people say, as you have
3 today and as you will tomorrow and through the rest of
4 the hearings that you will hold, that women just don't
5 want to play sports, please remember me and think that
6 that is not true, because I am here to tell you that
7 when women and girls have the opportunity to play
8 sports, they will.

9 Sports has fundamentally changed my life.
10 As an athlete, sports have kept my grades up, they have
11 kept me away from drugs and alcohol, and they have
12 helped me to maintain a positive body image in an
13 environment that make it increasingly for women and
14 girls to do so.

15 I can't imagine what my life would have been
16 like without sports, but I know that I would not have
17 the job that I do today, I would not call myself a
18 feminist, and I would not come as far as I have.

19 All of this has been made possible for me
20 because of Title IX, and I am very grateful. But as
21 you have heard again and again today, we are not at
22 equality yet. We have come very far, but we still have
23 much further to go.

24 And so I would ask you to consider all the
25 women and girls who still have not had their chance to

1 play sports and to think of them and to save Title IX,
2 to leave it as it is, and to increase federal
3 enforcement to make it possible for more girls to have
4 the same opportunities that I have had to play sports.

5 I'm here fundamentally because I do not want
6 to raise daughters and sons in a world where the
7 abilities of my daughters are not valued in the same
8 way as those of my son's are.

9 I thank you very much for your time and good
10 luck with future hearings.

11 MR. TED LELAND: Sharon Krueger, Dan
12 Fulks, Burnadette McClade, and Agnes Greene.

13 Cynthia, my Co-Chair, and I have talked
14 about it, and there are on our list here at least four
15 people plus three others that are on what we would
16 consider our base list, people who registered and
17 signed up, and if we can maybe extend the 5:00 deadline
18 for a few minutes, we can accommodate all those people
19 who were requesting to speak.

20 We also have, by the way, a waiting list
21 outside, and we will ask those people to try to come
22 back tomorrow when there's an open forum.

23 But if it's okay with the commissioners, if
24 we could extend the deadline from 5:00 to a few minutes
25 after and accommodate all those people that have signed

1 up. I can see a lot of nodding heads, so I think we'll
2 move forward.

3 Okay, Sharon Krueger. Okay, Dan. You're
4 going to pass. Okay, Burnadete McClade.

5 MS. BURNADEE McCLADE: Thank you. My
6 name is Burnadette McClade, and I'm Associate
7 Commissioner at the Atlantic Coast Conference. I am,
8 as just about everyone in this room is, a product of
9 Title IX, and I commend each of you on the Commission
10 for your work, and I really just have three thoughts
11 that I would like to leave with you in this open
12 hearing today.

13 First off is just to encourage all of you on
14 the Commission to certainly uphold the tenants of Title
15 IX, that discrimination at any level must be deemed
16 unacceptable for males or females involved in athletics
17 or sports.

18 Secondly, that it's really critical to
19 recognize the effects of historical discrimination and
20 to accept the fact that time is needed to overcome the
21 effects of significant historical discrimination and
22 the effect that it has on the pool of athletes.

23 Golf has been used several times as an
24 example of a sport of noninterest or a sport that is in
25 existence, but there are females that are unable to

1 field a team, yet golf is probably one of the very
2 sports that has really been crippled by the historical
3 discrimination towards females in that sport. And it's
4 not only been an opportunity in the sport of golf, but
5 in the quality of experience, which is also compounded
6 when you have historical discrimination. Thus today
7 there's just simply not a strong enough or a large
8 enough skilled grassroots pool as far as the female
9 young golfers are concerned.

10 The interest is there, but you can't
11 accelerate the time and the clock, and it's one of the
12 factors of the by-products of a historical
13 discriminated sport.

14 The third thing is that the only reason that
15 this commission is in existence is because of certainly
16 the universal acknowledgment of the importance of
17 sports and athletics for everyone.

18 I encourage each of you to uphold that value
19 for women as well as upholding that value of importance
20 for men, to uphold it for revenue producing sports as
21 well as nonrevenue producing sports.

22 These are difficult times. They are
23 difficult times financially, politically, socially, and
24 educationally.

25 College Presidents, Athletic Directors and

1 leaders need to keep their institutional autonomy, but
2 at the same time each need to be held to a standard of
3 nondiscrimination.

4 The current three-pronged approach to
5 meeting Title IX is thorough and it is flexible, and it
6 needs to be applied universally until the opportunities
7 for women are truly implemented fairly across the
8 country.

9 Thank you.

10 MR. TED LELAND: Agnes.

11 MS. AGNES GREEN: My name is Agnes
12 Green and I'm a physician in the Atlanta area. My
13 interest in this is several-fold. For one, I play
14 sports, I have a daughter that's 12 years old, she's
15 involved in sports, and currently I'm involved as using
16 my oratorical skills as public address announcer for
17 Georgia Tech's women's basketball and for the past two
18 years the women's Final Four.

19 Young women today are facing a myriad of
20 issues and obstacles. And I'm going to talk briefly
21 about the medical and health benefits of Title IX.
22 Many of the things they face are teenage pregnancy,
23 drug use, school shootings, suicide, cigarette smoking,
24 vehicular risk taking, and obesity just to name a few.

25 As they mature, they will face another set

1 of issues, heart attacks, strokes, lung cancer, breast
2 cancer, diabetes, and arthritis.

3 For a young lady to lessen the likelihood of
4 the first-mentioned issues, one must make good choices,
5 and sports has a positive impact on the lives of girls
6 and young women and it allows them to make very good
7 choices.

8 There are many surveys, and I'm sure you're
9 aware of the facts, that show that athletes are less
10 likely to smoke. They are less likely to use illicit
11 drugs, they are less suicidal. Female athletes are
12 more likely to wear seat belts. Athletes are less
13 likely to get pregnant out of wedlock. Female athletes
14 are less likely to become obese, which is a major
15 health problem in America. There is a lower incidence
16 of breast cancer and cancer of the reproductive system
17 among former athletes as compared to nonathletes, and
18 there's a lower incidence of diabetes in athletes.

19 There are many other surveys, particularly
20 one that showed female corporate executives, over 75
21 percent of them at some point in time were involved in
22 organized sports. So the habits that these young
23 ladies form now will follow them into their middle
24 years and senior years, and, as you can see, these
25 habits have a direct correlation to lessen many events

1 and occurrences that are eating away at the moral fiber
2 of our community.

3 These young ladies will certainly have a
4 better chance of being less of a burden on the health
5 system, less of a burden on their families, and they
6 will be able to have a better quality of life
7 throughout their extended lifetime.

8 As a physician, I would hate for us to allow
9 this to happen. If we allow the limitation and/or
10 elimination of opportunities, this will have a
11 deleterious effect to our society and as well as the
12 health of our society in general.

13 Thus, you can see it is imperative that we
14 not cut the wings of Title IX, but instead we must
15 allow both men and women to soar to new heights.

16 Thank you.

17 MS. CYNTHIA COOPER: Thank you. Pete
18 Fritts, Angela Ryan, and Erin Spencer. Angela, we'll
19 start with you.

20 MS. ANGELA RYAN: Good afternoon
21 everyone. My name is Angela Ryan. I am the Vice
22 President of Services for Girls Incorporated of Greater
23 Atlanta. I am an advocate for the rights of girls and
24 women.

25 My daughter played LaCrosse at the

1 University of Georgia, and today she coaches girls'
2 LaCrosse in the Fulton County public high school.

3 I know how valuable athletics have been in
4 her life and in the development of the young women she
5 now coaches. I've seen it firsthand.

6 I am here today to defend Title IX and to
7 urge you not to weaken it. My position has everything
8 to do with gender equity and fairness. This 30 year
9 old civil rights legislation was created to level the
10 playing field and to support equal opportunity and
11 access for women in the workplace and in athletics.

12 What's at issue now is the enforcement of
13 Title IX. In 1972 when Title IX became law, young
14 women accounted for only 7 percent of high school
15 varsity athletes. Last year this percentage had grown
16 to 42 percent. But this number would be significantly
17 higher if female athletes received the equal treatment
18 and opportunities to participate that are guaranteed by
19 Title IX.

20 Also, for every new dollar going into
21 athletics in colleges that award athletic scholarships
22 female sports received 35 cents while male sports
23 received 65 cents.

24 Women still have fewer opportunities to play
25 sports than men and less money is spent on women's

1 athletic scholarships, operating budgets, and
2 recruitment.

3 If the intent of Title IX is to guarantee
4 equal education for women and girls, this goal has not
5 been achieved, and it is the responsibility of the
6 federal government to enforce Title IX and its current
7 standards and practices.

8 The Office of Civil Rights has not initiated
9 proceedings to remove federal funds at any noncompliant
10 school or college in the 30 years since Title IX was
11 adopted. While noncompliance occurs, the OCR
12 negotiates settlements that are often less than the law
13 requires. And it further extends the time institutions
14 are given to comply with federal law.

15 I stand on the side of parents who must file
16 Title IX complaints. I go to court to gain legal
17 rights for their daughters, the legal rights that are
18 guaranteed to them by this law. I believe that we can
19 elevate the quality of women's programs without
20 sacrificing the quality of men's programs.

21 The Department of Education must not weaken
22 Title IX. I respectfully request that you urge the
23 Secretary of Education and other administrative
24 officers to not make any changes to the law. Do not
25 settle for a lesser standard. Don't change Title IX,

1 wanted the opportunity to give back and create some
2 opportunities that I had for the up and comers in
3 women's athletics because I had such a wonderful
4 experience.

5 I hate that Secretary Bill Hansen could not
6 stay a little bit longer and hear this healthy debate,
7 but I think it shows his confidence and our collective
8 confidence in this commission. And I want just to tell
9 you just a couple of thoughts.

10 I hope you have careful consideration before
11 you tamper with Title IX, especially its mechanics and
12 its implementation. My former CEO, Phil Knight, who
13 you might know, he said, insanity is doing the same
14 thing over and over again, hoping for a different
15 result.

16 The insanity is not to beat up Title IX. No
17 one has more empathy or can feel the empathy of
18 wrestlers, of male and female swimmers and track and
19 field athletes to hear that their lifetime ambitions.
20 Any of us that's ever had a goal or aspired to be an
21 athlete can have that empathy. Don't beat up Title IX.
22 The insanity is on the campuses of the CEOs.

23 It starts with this commission to have an
24 insanity check of the overfunding and the mismanagement
25 at the top. It's the campus Presidents, it's the

1 athletic administrations, it's the conference
2 commissioners. You need to have a collective
3 integrative approach.

4 Shame on us to sit in this room and not be
5 able to come up with creative solutions like maybe the
6 redistribution of scholarships. We're smart people, I
7 believe in you all, I believe in this commission, and I
8 think you will come up with doing the right thing.

9 And I'll just leave you with this last
10 thought. As I look forward to the day that in this
11 country we will not have to have a law to do what is
12 right, what is fair, and what is just.

13 Thank you.

14 MS. CYNTHIA COOPER: Thank you.

15 MR. TED LELAND: Well, I speak on
16 behalf of Cynthia and I and maybe the whole commission.
17 I really am impressed with the kind of input that we
18 got today. As a matter of fact, it exceeded my
19 expectations in terms of the clarity and the passion
20 with which it was presented.

21 We'll adjourn again tomorrow morning. And
22 anybody who would like to have time at the mike to give
23 us their best thoughts, there's plenty of time open
24 tomorrow. Please sign up at the registration desk.

25 Thank you. We stand adjourned.

1 (Hearing adjourned, 5:05 p.m.)
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