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THE SECRETARY OF EDUCATION'S COMMISSION

ON

OPPORTUNITY IN ATHLETICS

SAN DIEGO TOWN HALL MEETING

WYNDHAM EMERALD PLAZA HOTEL

400 WEST BROADWAY

SAN DIEGO, CALIFORNIA 92101

WEDNESDAY, NOVEMBER 20, 2002

Reported By Lynne E. Woodward, CSR No. 10440, RPR
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1 SAN DIEGO, CALIFORNIA
2 WEDNESDAY, NOVEMBER 20, 2002
3 9:00 A.M.

4 MR. LELAND: If we could come to order
5 please.

6 Good morning everyone, and thanks for
7 coming to the fourth town hall meeting for the
8 Secretary of Education's Commission on Opportunity
9 in Athletics. My name is Ted Leland, I'm the
10 Director of Athletics and Recreation at Stanford
11 University, and I along with Cynthia Cooper
12 co-chair this commission.

13 We do, as a courtesy, have signed
14 translations available. We will sign translation
15 the opening statements this morning over here. If
16 anyone desires those services throughout today or
17 tomorrow, just please request it at the back desk.

18 In addition, I'd like everyone to
19 make sure that they speak directly into the
20 microphones. We transcribe all of these
21 proceedings here, and in order to give our court
22 reporters a chance to be accurate, we need you to
23 use the microphones if you possibly could.

24 We're very pleased to be in San Diego
25 today and tomorrow for these meetings. These

1 hearings mark important milestones for this
2 Commission. It is our final town hall meeting.
3 This hearing represents the final opportunity for
4 the Commission to directly hear from expert eye
5 witnesses and from the general public. Anyone
6 wishing to comment after today must do so in
7 writing, please, by November 29th, Friday.

8 Today's meeting also marks the end of
9 our listening phase. Tomorrow the Commission will
10 begin its deliberations phase, in which we will
11 formulate our findings, develop our
12 recommendations, and begin to assemble our report.

13 In our opening statements tomorrow
14 Cynthia and I will have more to say on the
15 Commission's activities and timelines for the next
16 ten weeks.

17 I will begin today the same way we
18 have started the other open meetings. First, each
19 commissioner will introduce themselves to the
20 audience, and then I will provide a brief
21 background on the Commission and its work. So if
22 we could begin over here to my right with the
23 commissioners identifying themselves.

24 MR. REYNOLDS: Good morning. My name is
25 Jerry Reynolds and I'm the Assistant Secretary of

1 Education at the Office of Civil Rights.

2 MR. JONES: I'm Brian Jones, the General
3 Counsel of the US Department of Education.

4 MR. BOWLSBY: Bob Bowsby, Director of
5 Athletics, University of Iowa.

6 MS. DE VARONA: Donna de Varona, co-chair of
7 the USOC Government Relations Committee, ABC
8 Broadcaster, and Vice-president of the Women's
9 Sports Foundation.

10 MR. GRIFFITH: Tom Griffith, General Counsel
11 of Brigham Young University.

12 MS. GROTH: Cary Groth, Director of
13 Athletics, Northern Illinois University.

14 MS. COOPER: Cynthia Cooper, formerly of the
15 WNBA.

16 MS. PRICE: I'm executive director of the
17 Commission.

18 MR. SLIVE: Mike Slive, Commissioner of the
19 Southeastern Conference.

20 MR. BATES: My name is Percy Bates. I'm the
21 Faculty Athletic Director of the University of
22 Michigan.

23 MS. KEEGAN: My name is Lisa Keegan, I'm CEO
24 for the Education Leaders Council.

25 MS. YOW: Good morning. I'm Debbie Yow,

1 Director of Athletics, University of Maryland.

2 MS. STROUP: And I'm Sally Stroup. I'm the
3 Assistant Secretary of Post Secondary Education.

4 MR. LELAND: Thank you.

5 The US Secretary of Education, Ron
6 Paige, appointed the Commission to examine ways to
7 strengthen enforcement and expand opportunities to
8 ensure fairness for all college and interscholastic
9 athletes. President Bush and Secretary Paige fully
10 support Title IX and the tremendous opportunity
11 that has followed since its passage. As Title IX
12 reaches the milestone of its 30th anniversary, it's
13 appropriate to celebrate its achievements and also
14 examine its effects.

15 The Commission's goals is to gather
16 facts, listen to what the American people have to
17 say, and find out how Title IX is serving our
18 citizens. Secretary Paige has charged the
19 Commission with reviewing seven specific areas.

20 One, are Title IX standards for
21 assessing equal opportunity in athletics working to
22 promote opportunities for male and female athletes?

23 Two, is there adequate Title IX
24 guidance that enables colleges and school districts
25 to know what is expected of them and to plan an

1 athletic program that effectively meets the needs
2 and interests of their students?

3 Three, is further guidance or other
4 steps needed at the junior or senior high school
5 levels where the availability or absence of
6 opportunities will critically affect the
7 prospective interests and abilities of student
8 athletes when they reach college age?

9 Question four, how should activities
10 such as cheerleading or bowling factor into the
11 analysis of equitable opportunities?

12 Five, how do revenue producing and
13 large roster teams affect athletic opportunities?

14 Six, in what way do opportunities in
15 other sports venues such as the Olympics,
16 professional leagues, and community recreation
17 programs interact with the obligations colleges and
18 school districts have to provide equal athletic
19 opportunity?

20 And last question, seven, apart from
21 Title IX enforcement, are there other efforts to
22 promote athletic opportunities for both male and
23 female students such as private/public partnerships
24 to support the efforts of school districts and
25 colleges in a local area?

1 In order to develop findings and
2 recommendations we have to listen to experts,
3 receive comments from the general public, and
4 analyze data from organizations around the country.
5 To date we have heard from 39 expert witnesses in
6 our previous meetings in Atlanta, Chicago, and
7 Colorado Springs. We have also heard from a large
8 number of people during the public comment period
9 at our three meetings. This afternoon we will hear
10 from dozens and dozens more.

11 In addition to the testimony and
12 public comments, the Commission has received
13 hundreds of letters, e-mails and phone calls
14 pointing to us information. We truly appreciate
15 this flow of information. This process has enabled
16 to us begin to fully understand the promise and the
17 achievements of Title IX.

18 I want to again thank you for being
19 here today. Now I turn to my co-chair, Cynthia
20 Cooper, who will describe this morning's panelists.

21 MS. COOPER: Good morning everyone. Thank
22 you, Ted. And as Ted mentioned moments ago, the
23 Commission has heard from hundreds of individuals.
24 Now that the listening phase of the Commission is
25 drawing to a close, I want to extend a few words of

1 thanks to the individuals who have made the
2 listening process possible. First I want to thank
3 the panelists who have traveled to our meetings to
4 provide us with expert testimony. Most of the
5 panelists have taken time away from their work and
6 traveled some distance to meet with us. To these
7 panelists I want to say thank you on behalf of this
8 Commission.

9 Second, I'd like to thank the members
10 of the public who have come forward to provide us
11 with comments. You too have taken time off from
12 work to tell us your comments and to tell us your
13 stories. Your input has definitely been valuable.

14 Third, I wish to thank the continuing
15 efforts of each and every commissioner to sift
16 through the comments and information we have
17 received. Ted and I appreciate your hard work and
18 your time.

19 Fourth, I want to thank -- I want to
20 thank our Commission staff. Debbie and her staff
21 are continuing to create and manage a process
22 through which this Commission can do its job.

23 Finally, I wish to thank those
24 companies who have helped sponsor the Commission
25 meetings. We especially appreciate Target and Jean

1 Knudsen, hopefully I pronounced that correctly, the
2 manager of Target's community relations program for
3 sponsoring this meeting.

4 We have three panels of witnesses
5 this morning. Our first panel will provide
6 testimony regarding statistics, statistics on the
7 increasing and decreasing -- I'm sorry.

8 Our first panel will provide
9 testimony regarding statistics on the increases and
10 decreases in intercollegiate athletic programs.
11 Also as a part of the first panel, WNBA President
12 Val Ackerman -- hey, Val -- will testify about the
13 impact of Title IX on the advancement of women --
14 of women in positions of leadership in American
15 business.

16 Our second panel will provide
17 perspectives on the financing of intercollegiate
18 athletic programs.

19 Our third and final panel will
20 explore the impact of Title IX on walk on athletes.

21 Following our three panels, we will
22 break for lunch. We will have a public comment
23 period from 2:00 to 5:00 p.m., and during that time
24 we'll explain how that process works. So from 2:00
25 to 5:00 we will give you information on that.

1 Are there any questions from the
2 Commission?

3 With that, let's now open the fourth
4 town hall hearing on the Secretary's Commission on
5 Opportunity in athletics.

6 Val Ackerman. Val is one of the
7 reasons why I'm up here. Val Ackerman is the
8 president of the Women's National Basketball
9 Association, the WNBA. The WNBA is affiliated with
10 the 29-team National Basketball Association, and
11 since its inaugural season in 1997 has become one
12 of the prominent women's professional sports
13 organizations in the world. The league features 16
14 teams.

15 Val joined the NBA in 1988 as a staff
16 attorney and served as Special Assistant to the
17 Commissioner from 1990 to 1992. She was named
18 Director of Business Affairs in 1992 and
19 Vice-president of Business Affairs in 1994.

20 As a member of the board of directors
21 of USA Basketball, Val helped create the '95/'96
22 USA Women's Basketball National Team program which
23 culminated with a gold medal performance in 1996,
24 summer Olympics in Atlanta.

25 Val currently serves on the USA

1 Basketball Executive Committee and is a member of
2 the Board of Trustees for the Naismith Memorial
3 Basketball Hall of Fame. Val?

4 MS. ACKERMAN: Thank you, Cynthia.

5 MR. LELAND: Val, before you begin, let's
6 make it clear, we've asked the presenters to make a
7 ten-minute presentation. They've also submitted
8 something in writing to us. At about nine minutes
9 or so I'll just say, "One minute to go." We'll try
10 to keep ourselves on that time frame. And at the
11 end of the four presentations we will have 20 or 25
12 questions from the Commission.

13 MS. ACKERMAN: Thank you. It's truly a
14 privilege for me to be here and I want to thank the
15 Commission and all of you for allowing me to be a
16 part of this very important dialogue. Like many
17 Americans, I've been following the Commission's
18 work over the course of the last couple of months
19 with great interest.

20 It's clear that Title IX has spawned
21 many real life issues for those in the
22 interscholastic and intercollegiate levels who are
23 responsible for bringing this legislation's mandate
24 to life.

25 I have to confess that I can't

1 profess the same day-to-day familiarity with these
2 issues that many of the panelists who have
3 previously come before you have, but it's my hope
4 that, in my role as president of the women's
5 professional sports league, I can offer some
6 perspective and some insight into Title IX's
7 broader reach and its effects on other aspects of
8 American life. As thereto, we have some very
9 important real life consequences and I believe
10 those should be factored into the Commission's
11 deliberations.

12 The WNBA was founded in 1996. It was
13 in the wake of the great successes of American
14 women at the Atlanta Olympics, particularly in team
15 sports. We completed our sixth season this past
16 summer, and I'm proud to say this in the period of
17 time that's elapsed since we opened our doors in
18 1997, we have attracted levels of fan, corporate
19 and network support that men's pro sports leagues,
20 including the NBA, took decades to acquire.

21 I have served as the president of the
22 WNBA since its inception. And I can tell you quite
23 bluntly that there would be no WNBA were it not for
24 Title IX. Whether intended by its authors or not,
25 this legislation has not only fostered the growth

1 of high school and college sports programs for
2 girls and women, but it has also spurred the advent
3 of women's professional team sports here in the US
4 with the WNBA and now the WUSA as the first
5 iterations of that. Title IX has given us our
6 player (inaudible), but probably more importantly,
7 it's helped engender a climate of receptivity to
8 women's sports that has allowed us to begin to
9 build a business, and that's vital, because as a
10 pro league, we trade on the interest of fans. And
11 the good news is just that, that women's
12 professional team sports now have fan followings.

13 So why does that matter? Well, the
14 WNBA matters for reasons that go beyond simply its
15 it's entertainment value to its fans. Number one
16 is the first step in the evolution of the
17 capability of women athletes in this country to
18 make a living from team sports. That's an
19 important privilege and it's one that male athletes
20 in this country have enjoyed for decades.

21 In addition, the WNBA has the ability
22 to and actually does impact young fans in a
23 profoundly important and positive way. Our league
24 has given and continues to give young girls female
25 role models to look up to, and equally importantly

1 it allows young boys to see that women can do what
2 men can do, at least in the sport of basketball.
3 And in both cases those are very important
4 messages. They're messages of tolerance, and I
5 believe they will eventually effect a full
6 incorporation of women into other institutions like
7 corporations and the political process that, in
8 turn, will only enrich our collective lives.

9 I hope and I expect that some day
10 additional women's pro sports leagues will emerge
11 and grow. Sports like softball, volleyball, ice
12 hockey, even football are among the candidates.
13 And when they do, I'm very certain that they are
14 going to bring the same sorts of concrete benefits
15 to players and fans that the WNBA has. If and when
16 that happens, I'm very sure that Title IX will be a
17 major part of the reason why.

18 While it may be tempting to say that
19 preserving this connection between college and pro
20 is somehow outside of the Commission's purview, I
21 would argue that the greater good represented by
22 this progression dictates otherwise, and if
23 anything, even more should be done at the colleges
24 and pro leagues jointly to strengthen these outlets
25 in this connection. And I can tell you that, in

1 the sport of basketball, working together with the
2 NCAA, we are now trying to do exactly that.

3 Another significant side effect of
4 Title IX, at least from my experience, has been its
5 contribution to the growth in number and influence
6 of women in a wide range of non-sports professions.
7 Obviously only a very small percentage of college
8 athletes, be they male or female, will go on to
9 make pro sports a career. There's simply too few
10 opportunities, and in women's team sports the
11 options are still very very scant.

12 But sports can be an extremely
13 effective training ground for real life careers.
14 And I can tell you from personal experience that
15 women who play sports in college, any sport, are
16 significantly enhancing their chances of maximizing
17 professional opportunities.

18 I myself came out of an
19 intercollegiate athletic program. I was among
20 the first scholarship players for the women's
21 basketball team at the University of Virginia back
22 in 1977. In my first year at Virginia, the women's
23 basketball program offered exactly one scholarship,
24 and I got half of it. I shared it with a teammate,
25 and I like to joke that I got the tuition and fees

1 and she got the room and board, so I got to go to
2 class and she got to eat.

3 (Laughter.)

4 Although I was very fortunate to be
5 an early Title IX beneficiary, it was impossible
6 not to notice just how much catching up there was
7 to do. A post collegiate career in basketball, at
8 least domestically, back in 1981 when I graduated
9 was simply not an option. So when my college
10 career ended, I went on to law school and then went
11 on to Wall Street, and I ended up in the front
12 offices of the NBA, or at least I call it the MNBA,
13 not to confuse the two, back in 1988.

14 I'm very certain that this path would
15 not have been open to me, or would not have opened
16 to me had I not played sports at Virginia, and in
17 that way distinguished myself to my prospective
18 employers.

19 As an executive today, I can attest
20 that when I see a resume that cites the applicant's
21 participation on a college athletic team,
22 regardless of the sport, it stands out. It tells
23 me this that candidate has been through certain
24 rigors not experienced by college students at
25 large, rigors like juggling, managing a certain

1 daily regimen and withstanding pressure of
2 performance. And I know that other companies share
3 that perception.

4 As an example, at the WNBA we
5 recently started an off court player intern program
6 with General Motors, one of our sponsors, at their
7 request, because they wanted to begin developing
8 our players as future General Motors executives.
9 Why? Because they're athletes, and GM assumes that
10 that will make them more effective employees once
11 their playing days are over.

12 Once in the door, the sports
13 experience can also give women the edge as they
14 look to advance. In my business, which is pro
15 sports, like many businesses women are being
16 underrepresented at the highest levels. And as it
17 turns out, women who do assume leadership roles
18 often have a sports background.

19 In a study that was recently
20 conducted earlier this year by Oppenheimer and Mass
21 Mutual, in fact, more than 80 percent of 400
22 business women surveyed said that they played
23 sports growing up, and the lessons that they
24 learned on the playing field directly contributed
25 to their success in business. The reality is that

1 sports are part of the culture of American
2 business, they're part of the language, and women
3 who have some tie to that culture are simply a step
4 ahead.

5 It is good for American business that
6 the competencies and the management styles and the
7 viewpoints of women are coming to the fore, and one
8 of the best ways to ensure that that continues is
9 to preserve and to expand the sports opportunities
10 that can and do help prepare women to later assume
11 executive leadership positions.

12 Because it's so relevant to our
13 business, my position has also allowed me to assess
14 our gains and related activities to observe the
15 overall levels of interests girls and women have in
16 sports. Simply put, they're growing. As the
17 mother of two daughters who play in organized
18 sports leagues, I've seen with my own eyes what's
19 happened to the youth, even in sports like girls
20 soccer and girls basketball. The participatory
21 numbers are significant and they're climbing.

22 There's a good deal of data here, and
23 in the interest of time I will say only that the
24 girls game of basketball today is the fastest
25 growing segment of the entire sport. Now more than

1 eight million girls annually play the sport of
2 basketball in the United States, and soccer
3 opportunities for girls have become equally
4 prevalent, another seven million there. So it can
5 increasingly be said that girls who play sports are
6 now the rule rather than the exception.

7 More girls and women than ever before
8 in this country are also experiencing sports as
9 spectators. A recent study conducted by
10 Scarborough Sports Marketing found that pro sports
11 avidity levels among females ages 18 and older have
12 doubled since 1988, with an estimated 50 million
13 women now avidly following pro sports of all kinds.

14 In the WNBA, 80 percent of our
15 stadium audience and half of our television
16 audience is female, with a fair portion of that
17 young females under the age of 18.

18 Young girls are enthusiastically
19 following the league and our players, perhaps as an
20 extension of their own experience as participants,
21 but it goes the other way too. We think that
22 watching sports will, in turn, inspire and
23 strengthen the desire of girls to play more, that
24 seeing will lead to imitation, that exposure will
25 breed interest. And with the increase in exposure

1 due to the proliferation of women's sports
2 programming on television, the number of girls who
3 are or will become interested in sports seems only
4 destined to grow, which in turn solidifies the need
5 to provide and protect the participatory outlets
6 that allow that interest to be expressed, whether
7 at youth, interscholastic or intercollegiate
8 levels.

9 I'd like to close with some thoughts
10 concerning implementation. Title IX in its current
11 form can be made to work, as many college athletic
12 departments have proven. As with other businesses
13 there may well be best practices related to the
14 administration of Title IX which can be shared by
15 and promoted to cover institutions so that the
16 incidences of discontinued programs, be they male
17 or female, can be reduced or hopefully even
18 prevented, practices ranging from budget management
19 to enhanced marketing efforts designed to drive
20 revenue, and more specifically, net revenue for
21 sports that historically have been non-revenue
22 producing. That's certainly been the case for both
23 professional and collegiate levels over the last
24 ten years.

25 MS. COOPER: Time is up.

1 MS. ACKERMAN: To expand -- am I done?

2 MS. COOPER: Time is up. I would let you
3 go.

4 (Laughter.)

5 MS. ACKERMAN: One last statement, one last
6 sentence.

7 MS. COOPER: Do it.

8 MS. ACKERMAN: I would just say that the
9 stakes have become high enough that nothing less
10 than a full exploration of these and other options
11 should be conducted and given the importance of
12 perpetuating Title IX's mandate for women in
13 general. I would tell you that it would not be
14 difficult to form a private coalition of many
15 business leaders to assist (inaudible), and if that
16 were ever to be done, I can tell you I would be
17 very happy to volunteer. Thank you.

18 MS. COOPER: Thank you.

19 (Applause.)

20 MS. COOPER: Put me on the spot.

21 Corey Bray is the Assistant Director
22 of Research in Education Services at the National
23 Collegiate Athletic Association, the NCAA. In this
24 position Corey manages the NCAA in-house research
25 projects covering all aspects of the association

1 business. He develops and refines surveys --
2 survey instruments, compiles data and manages
3 databases, establishes data validity, performs
4 statistical analysis and evaluates the results, and
5 creates statistical graphics. You have all that
6 today? Just kidding.

7 Additionally, Corey drafts and edits
8 abstracts, summary reports, and all study documents
9 and correspondence. He then presents and explains
10 the results to NCAA committees and staff. Corey?

11 MR. BRAY: I want to thank the Commission
12 for giving me the opportunity to make this
13 presentation this morning.

14 Although I have not attended any of
15 the three prior meetings of this Commission, I've
16 been informed that NCAA data on participation rates
17 have been used by many of the previous presenters.
18 At times there's evidently been some confusion and
19 disagreement regarding those data.

20 As the person responsible for
21 compiling the NCAA participation rates data for the
22 past four years, it is my hope this morning to
23 provide the Commission members with insight into
24 the collection methods and current uses of these
25 data, as well as highlight the limitations of the

1 data.

2 Specifically I would like to shed
3 light on the questions I was asked to address
4 regarding the type of participation and sponsorship
5 data that we collect, how those data are collected,
6 and the accuracy of the data. Then I will provide
7 the Commission with a few highlights of the data
8 before I discuss some of the limitations.

9 Before I discuss the specifics of
10 NCAA participation data, let me say a word about
11 the goals of NCAA research. It is our goal to
12 provide the highest quality data possible to the
13 decision makers within the NCAA structure. We
14 attempt to provide the facts in a way that can be
15 used by our government structure to make informed
16 decisions. It is not our intention to suggest or
17 create specific policies. Those decisions are left
18 to groups like yourselves. This is why you see so
19 much detailed information in our participation
20 rates before us.

21 We have attempted to present the data
22 in a way that will allow them to be analyzed fully
23 by any potential user in ways that have not been
24 yet considered. The NCAA has collected and
25 reported data on the number of sports sponsored and

1 participants since the 1981/'82 academic year.
2 These data are collected annually in mid August for
3 the previous academic year for each and every
4 institution using the sports sponsorship form.
5 Until 1999 this was a paper form. From 1999 to the
6 present, the data has been collected via the Web.

7 Since sports sponsorship data have
8 been required for NCAA membership, our response
9 rate on that aspect of the data has always been 100
10 percent. Before the electronic version of the form
11 was adopted, participation data response rate was
12 between 90 and 100 percent of our membership. For
13 the past three years the rate has been 100 percent.

14 The major change in our methodology
15 came in 1995/'96 when data from provisional NCAA
16 members was added to the report. This change is
17 noted in all of our reports. Because of these
18 exceedingly high response rates, we believe the
19 data collected are very accurate reflections of
20 overall participation within the NCAA.

21 Over time our major purpose for
22 providing these data has been simply to report the
23 number of participation opportunities by sport and
24 gender within the entire NCAA membership. To that
25 end, we have focused the report on the total number

1 of NCAA participants over time. However, we
2 realize that the charge of this Commission is
3 broader than that focus, and I would like to
4 highlight some of the factors that need to be taken
5 into account as you review the data for NCAA
6 membership.

7 These include the growth in NCAA
8 membership over time, the changes in divisional
9 classification among our members, for example,
10 schools moving from Division II to Division I,
11 schools adding and dropping sports teams, and
12 changes to the number of sports that have
13 championship status within our association.

14 Because of all these factors, we also
15 provide the data on a current institution basis.
16 This provides a different way of looking at this
17 information and may be useful in addressing some of
18 the questions that this Commission is facing.

19 In addition, I would point you to the
20 recent GAO studies that include both NCAA and NAIA
21 institutions and have used our data in ways to
22 address some different research questions.

23 As we turn to some of the specific
24 data, I want to highlight first the number of
25 sports sponsored by NCAA member institutions over

1 the past four years. As you can see from this
2 graphic, the number of women's teams within the
3 NCAA has grown dramatically over that time period,
4 and there are now more women's teams than men's.
5 However, the number of men's teams within our
6 association has also grown over that time period.

7 This same basic trend can be seen
8 within all divisional classifications, and you have
9 these data in the packet that was sent to you.

10 The next graphic display shows the
11 number of actual participants by gender over that
12 same time period. Again, the chart shows
13 significant gains in women's participation
14 opportunities within the NCAA, but also small gains
15 in overall opportunities for men. Men continue to
16 show about 50,000 more participants within the NCAA
17 than women. Again, this overall trend is seen
18 within each of our membership divisions.

19 I want to make it clear that these
20 previous two slides reflect the overall membership
21 and do not adjust the data for some of the factors
22 that have been mentioned earlier; for example, the
23 change in NCAA membership over time and the impact
24 on both men's and women's sports.

25 To take some of those factors into

1 account, we have also presented the data on a per
2 institution basis. This slide contains data
3 related to the number of sports sponsored by the
4 average institution within the NCAA. As you can
5 see, the number of women's sports sponsored has
6 increased from about six in 1981 to about eight in
7 2000. Conversely, the number of men's sports
8 sponsored on average has decreased from slightly
9 over eight in 1981 to just under eight in 2000.

10 Similarly, we have seen a strong
11 increase in the number of female participants on
12 campuses in that time period. In 1981 the average
13 NCAA member had about 100 female participants.
14 Most recent data showed increase to almost 150.
15 Male participation at the average campus has
16 decreased from around 250 to about 200. However,
17 as you can see, male participation is still
18 significantly higher than female participation on
19 our average campus.

20 In summation, let me present you with
21 a few facts that can be seen within these data.
22 Overall, male participation within the NCAA has
23 increased by 23.6 percent since 1981. Overall
24 female participation has increased by 131 percent
25 in that same time frame. The number of sports

1 sponsored has increased by 14.7 percent for males
2 and by 94.3 percent for females.

3 On a per school basis the number of
4 male athletes has decreased by 7.7 percent between
5 1981 and 2000. The number of female athletes have
6 increased over that time frame by 52.6 percent.

7 In terms of the number of sports
8 sponsored, the average number for men decreased by
9 13.7 percent while the average number for women
10 increased by 31.1 percent.

11 I want to make it clear that these
12 calculations came directly from our most recent
13 sports participation report, and could have been
14 done by anyone with access to the Web. This is an
15 example of how we believe our data can and should
16 be used.

17 GAO compiled the data contained in
18 this slide in 1999. The unique aspect of their
19 report was that it isolated this analysis to
20 identical group of schools in both 1985/'86 and
21 '96/'97. Each 725 schools were chosen because they
22 had not changed NCAA divisional affiliation within
23 that time frame.

24 As you can see from the data, the
25 results are very similar to previous results that

1 we have shown on a per institution basis. In other
2 words, the opportunities for females increased
3 slightly in that time and the opportunities for
4 males decreased slightly.

5 In the 2001 report, the GAO combined
6 NCAA and NAIA data in an attempt to, among other
7 goals, to determine if the number of men's and
8 women's intercollegiate sports participants and
9 teams at four-year colleges and universities
10 changed in the two decades since '81/'82 school
11 year. That then showed a substantial increase in
12 female participation and a modest increase in male
13 participation, which is similar to the NCAA overall
14 data.

15 These two GAO reports are just two
16 examples of how NCAA data can be used to answer
17 different questions.

18 Where does that leave us? I believe
19 that I have presented you with several relevant
20 facts from my data, and as John Adams liked to say,
21 facts are stubborn things. However, facts can only
22 take you so far in these types of policy debates.
23 What the facts mean and how they should guide us in
24 future decision making are questions that are left
25 up to your Commission and others who must wrestle

1 with these issues in a broader scope.

2 We hope that these facts will assist
3 you in the process and we stand ready to prepare
4 any other relevant data.

5 I believe that Cedrick Dempsey,
6 President of the NCAA will follow up with some of
7 these facts in his statement to the Commission
8 later today. He will offer his insights on these
9 issues based on the data and his 52 years of
10 experience within intercollegiate athletics. I'm
11 sure that he will offer the Commission some ideas
12 to consider in your deliberations.

13 Again, I want to thank the Commission
14 for this opportunity, and I would be happy to
15 answer any questions you have now or at sometime in
16 the future.

17 MS. COOPER: Thank you.

18 (Applause.)

19 MS. COOPER: Dr. Jerome Kravitz currently
20 holds two positions. Since 1965 he has been a
21 professor at Harvard University where he teaches
22 psychology. In addition, since 1975 he has been
23 employed part-time at the Department of Education
24 as a statistician.

25 Jerry has published ten scientific

1 research papers where statistical analysis was the
2 basic tool used to evaluate the numerical results.
3 Jerry also has published and edited an edited book
4 of readings and he holds two patents. That word.

5 Jerry received his undergraduate
6 degree in statistics from -- ah-oh, that school,
7 Baruch School City Colleges of New York City. He
8 received his masters degree in research methodology
9 and his doctorate degree in -- who writes these
10 things? And research in methodology from New York
11 School for Social Research.

12 Jerry will speak to us today in his
13 capacity as an employee of the Department of
14 Education. Dr. Kravitz.

15 MR. KRAVITZ: Thank you very much.

16 MS. COOPER: Did you write this? Just
17 joking.

18 MR. KRAVITZ: Can you hear me?

19 MS. DE VARONA: Actually, I do think people
20 are having a hard time hearing so if you could
21 speak up.

22 MR. KRAVITZ: I would like to thank the
23 Commission for this opportunity. Page 2 please.

24 Today I'm going to be presenting the
25 analysis, statistical analysis of data.

1 MS. COOPER: Those of you who forgot your
2 glasses, forget it.

3 MR. KRAVITZ: That was obtained from an NCAA
4 report entitled NCAA Year-by-Year Sports
5 Participation, 1982 to 2001, NCAA research report.

6 I'm glad to see that many of the
7 analyses that Corey has done agree with mine in
8 substance, but I have a slightly different
9 perspective on it that may be of interest. At the
10 bottom of the second column of this table, we can
11 see that between 1982 and 2001, NCAA added 262
12 institutions. On the line below that, to the right
13 we can see that the men's teams have increased by
14 989, and there's been an increase of 39,066 men
15 athletes. Over to the right further there has been
16 an increase of 3,638 women's teams and an increase
17 of 76,677 women's athletes for a yearly rate of
18 change of 4,035 athletes per year.

19 Now, these changes in teams, athletes
20 for the men and for the women I call the apparent
21 change, because these data contain in them a
22 contaminating effect. The contaminating effect is
23 due to the 262 institutions that joined the NCAA.
24 Each one of those institutions existed before they
25 joined the NCAA, and when they joined the NCAA

1 they, of necessity, brought with them a number of
2 teams. The number of teams that they had to bring
3 with them were 8, 10, 12, or 14, equally divided
4 between men and women, teams each, so that the
5 number of teams that are shown is inflated by these
6 numbers. These do not represent an increase in
7 athletic opportunities, but rather they represent a
8 change of location for the institution and the
9 teams themselves.

10 When the statistics are contaminated
11 by such a variable, one of the things the
12 statisticians do is convert the data into rates,
13 and Corey, in fact, did that. There are, from
14 these data, three possible rates that can be
15 calculated. One is the number of teams per
16 institution, the second rate that can be calculated
17 is the number of men per team, and the third rate
18 that can be calculated is the number of athletes
19 per institution. Of course this can be done for
20 the women athletes also.

21 Page 3 please. Based on the analysis
22 of these rates and the comparison of the changes of
23 the rates over these years, a number of findings
24 have emerged. Number one, men athletes have, in
25 fact, lost 1,434 teams. Between 1985 and 2001 men

1 athletes have lost 57,700 athletes.

2 Next finding is that the women have
3 not gained 3,638 teams, but rather have gained
4 approximately 2,111 teams. In addition, women
5 athletes have gained a real rate of 51,967 athletes
6 over the course of this period of time. That's a
7 rate of gain of 2,735 women athletes per year.

8 The next finding requires a little
9 explanation, and that is that women athletes --
10 excuse me, women have been, since 1860, have been
11 increasing their presence in colleges and
12 universities, and in 1972 they were 43 percent of
13 the enrollment in colleges and universities. In
14 the year 1979, women achieved 50 percent enrollment
15 in the colleges and universities, and in 1999 there
16 were, according to NCES statistics, 1,809,000 more
17 women in four-year and two-year institutions than
18 men. That represents women's presence in higher
19 education at a rate of 56.12 percent of the total.

20 If you convert that to a base of 100,
21 there are 127 percent more women in the colleges
22 and universities today than men. For every 100
23 men, there are 127 women.

24 The projections for the year
25 2000/2001, NCES projections, increase that rate to

1 57 percent, and by the year 2011 the rate will
2 stand somewhere between 59 and 62 percent of women
3 greater enrollment than men. For 1999, that means
4 that, for every 100 students, men students on
5 campus, there is 127 women. For the year 2001,
6 according to the projections, for every 100 men on
7 campus there is 133 women. By the time we get to
8 2011, if those projections hold up, for every 100
9 men on campus there will be 150 women.

10 This is relevant in the current
11 discussions, because test number one of the
12 three-part test requires that women's athletic
13 participation be proportionate to enrollment, and
14 so, based on the 1999 figures, right now there
15 should be 127 women athletes on every campus for
16 every 100 male athletes. Obviously this is not the
17 case. And according to the 2001 figures, if they
18 hold up, there should be 133 women athletes on
19 every campus for every 100 men, male athletes. And
20 by the year 2001, 2011, it should be 150 women
21 athletes for every 100 men athletes.

22 Obviously this is not the case, and
23 what would be needed to bring the proportionality
24 that the test number one of the three-part test
25 requires? What would it take to make women 56

1 percent of the athletes on campus? What it would
2 require is the addition of 116,000 women athletes.

3 This is relevant to, and it should be
4 viewed in the context of the previous finding, that
5 is, in the last 19 years, 51,967 women athletes
6 have increased -- increased their participation in
7 the NCAA, and so the 116,000 is 2 1/4 times the
8 achievement that's been managed in the last 19
9 years, and if current rates hold, it indicates that
10 it would take an additional 42 years for that
11 proportionality to be achieved.

12 Another way that the proportionality
13 could be achieved is if the women present, as they
14 are presently constituted as 150,000, page number
15 3, 4, please, if that number remains the same,
16 then -- and that number is taken as 56 percent,
17 then the men would have to be reduced to 44
18 percent, and that reduction would require the
19 elimination of 90,865 men athletes.

20 Next finding that -- of the analysis
21 is based on data obtained from the National
22 Federation of High Schools.

23 MS. COOPER: One minute.

24 MR. KRAVITZ: One minute?

25 And based on that data I was able to

1 calculate participation rates between, excuse me,
2 recruitment rates to the NCAA of men and women
3 athletes, and the data indicates that the
4 recruitment rates for men are 5.38 percent and the
5 recruitment rates for women are 5.39 percent.

6 One of the facts from the National
7 Federation of High Schools is that, in the year
8 2000 there were 2,784,000 female athletes in high
9 school. And some have asked, is that pool not
10 adequate for the needs of the women's programs on
11 the collegiate level?

12 The last finding indicates that that
13 total pool has to be reduced in some significant
14 ways. First way is the fact that not all high
15 school, women high school students go on to
16 college. 64 percent do, but that indicates that 36
17 percent do not. Of those that go on to college,
18 only 62 percent go to four-year colleges, the
19 colleges in the NCAA, and of those that do go to
20 the four-year colleges, not all are full-time
21 students. 77 percent are full-time students and,
22 of course, 23 percent are not.

23 And then lastly, of the 2,784,000
24 high school athletes, they don't all graduate in
25 any given year. Only 25 percent of them graduate

1 in a year. Taking all these factors into account,
2 the real effective -- real effective pool of
3 athletes available for college participation is
4 216,000 in a particular year.

5 MS. COOPER: Time is up.

6 MR. KRAVITZ: Thank you very much.

7 (Applause.)

8 MS. COOPER: Thank you.

9 Jon Vegosen is one of four founding
10 members of the firm Funkhouser Vegosen Liebman &
11 Dunn in Chicago. He grew up in New Jersey. In
12 1973 Jon received his undergraduate degree in
13 political science from Northwestern University,
14 graduating Phi Beta Kappa. That was really
15 important to put in this, with departmental, that
16 word, honors.

17 At Northwestern Jon was on the
18 varsity tennis team and was captain his junior and
19 senior years. He was selected to the All Big Ten
20 Conference Tennis Team in 1973. In 1976 Jon
21 received his law degree from Northwestern
22 University School of Law. Jon?

23 MR. VEGOSEN: Thank you very much.

24 Before you turn that on, I just want
25 to make sure everybody has a booklet, that they got

1 those ahead of time.

2 Thank you very much for this
3 opportunity. I'm here as a representative of the
4 United States Tennis Association, the governing
5 body of tennis for the US, and the Intercollegiate
6 Tennis Association, the governing body of college
7 tennis.

8 These associations have a unique
9 perspective on American tennis. For well over 100
10 years, the United States has provided opportunities
11 for both men and women. Tennis was one of the
12 first women's sports in the Olympics, and women and
13 men have played mixed doubles together since the
14 19th century. There has been equal prize money at
15 the US Open for 25 years.

16 The ITA has been equally supportive
17 of women and men ever since its membership was
18 expanded in 1982 to include women's tennis. It is
19 one of the few collegiate sports associations with
20 a coed membership base. The ITA has nearly 1500
21 women's and men's coaches representing over 1200
22 institutions and serving over 15,000 college
23 varsity student athletes.

24 The USTA and the ITA have been
25 working together to safeguard American college

1 tennis, most recently through the Collegiate
2 Committee of the USTA Subcommittee Preserving
3 American Collegiate Tennis.

4 We support the tremendous strides
5 that women have made through Title IX, and we want
6 to preserve those gains. We are also concerned
7 about its unintended consequences for both men and
8 women, not only with regard to collegiate tennis
9 programs, but also concerning the adverse impact
10 that Title IX can have on minorities and grassroots
11 tennis programs.

12 The authors of Title IX did not
13 intend to take away opportunities for young men.
14 Their goal was to provide more opportunities for
15 young women. Some of the unintended consequences,
16 however, are that men are being excluded from
17 programs or are being denied benefits on the basis
18 of their sex. This is contrary to the intent and
19 spirit of Title IX -- openness and opportunity for
20 all.

21 The data is sobering. ITA research,
22 spearheaded by Executive Director David Benjamin,
23 shows that during the 50-year time frame from 1930
24 until 1980, only four varsity college tennis
25 programs in the US were cut. In the succeeding

1 decades from '81 to '91, the elimination rate
2 increased more than seven times, with 31 known
3 programs being dropped. In the last decade the
4 program cuts have more than quadrupled, with a
5 staggering 141 tennis programs being dropped
6 between 1992 and 2002. In addition to these
7 fatalities, over the past two decades 42 other
8 programs were eliminated, the precise years
9 unknown. In the past two decades, 214 varsity
10 tennis college programs have been dropped, and 69
11 of those have been terminated within the past three
12 years.

13 The USTA and ITA recoil whenever a
14 program is eliminated, whether it be a men's or
15 women's program. In the past two decades programs
16 have been cut in every division. Of the 214 cut
17 programs, 153 have been men's and 61 have been
18 women's programs.

19 Men's varsity tennis programs have
20 been dropped 2 1/2 times more frequently than
21 women's. A major factor in this reduction has been
22 the efforts of colleges to bring their head counts
23 into compliance with Title IX, and its unfortunate
24 interpretation that there must be equal outcomes
25 rather than equal opportunity.

1 A troubling irony of these cuts is
2 that, although men's college tennis programs are
3 being dropped 2 1/2 times more often than women's,
4 there are more boys playing USTA sanctioned junior
5 tournaments in the US than girls.

6 Although men's programs have borne
7 the brunt of elimination, women's programs have
8 also been affected. The USTA and the ITA recognize
9 that additional factors, particularly a lack of
10 financial resources, have contributed to these
11 cuts. Title IX and budget limitations are
12 unwittingly intertwining to undermine both men's
13 and women's tennis programs. It's not just men's
14 tennis programs versus women's. We have
15 non-revenue generating programs such as tennis
16 being sacrificed at the expense of revenue
17 generating sports, or so-called revenue generating
18 sports.

19 Tennis is truly a gender blind sport.
20 At the college level there are dual meet matches
21 for both men and women varsity players, with an
22 equal number of tournaments and draw sizes. The
23 ITA has extensive program awards that are given
24 equally to men and women. On the professional
25 scene, prime time coverage is equivalent for major

1 events like the US Open. The message is clear,
2 there are no differences between the sexes.

3 There is, however, a profound
4 difference in the gender message at the collegiate
5 level in terms of scholarships and participation.
6 For example, the men's varsity tennis team in a
7 fully-funded Division I school has only 4 1/2
8 scholarships, the women's team has 8.

9 Most of the men's varsity rosters
10 have a squad limit of 8 players, and the women's
11 roster can have 12. And imbalances like this exist
12 at other schools or even worse.

13 Most colleges have far more
14 scholarships to offer women than men. In fact,
15 there are a number of Division I programs that
16 cannot fill all of their scholarship spots, and the
17 opposite is true for men's programs.

18 The inequities in scholarships are
19 causing many parents to hesitate about investing in
20 their children's futures. It can cost 10 to 30,000
21 dollars a year for a family to cover the expenses
22 involved in a child's development. With the
23 growing demise of men's tennis scholarships, more
24 parents are likely to abandon tennis in part
25 because of dwindling scholarship opportunities for

1 boys.

2 Another disturbing consequence of
3 Title IX has been the adverse impact on walk ons.
4 Jerry Noyce, Chairman of the USTA Collegiate
5 Committee and former men's tennis coach at the
6 University of Minnesota reports that half of his
7 team captains were walk ons. I was a walk on at
8 Northwestern and became captain my junior and
9 senior year, and I was the first player to be
10 selected at Northwestern to the All Big Ten Team.

11 I experienced valuable life lessons,
12 including goal-setting, time management, teamwork
13 and travel. Today that wouldn't happen. Jerry's
14 players and I would be told, "Thanks for your
15 interest, but there's no room for you," and that's
16 what thousands of males athletes in tennis and
17 other sports are told every year. They are turned
18 away, while women's tennis teams struggle to fill
19 their rosters, and that hurts the athletes and it
20 hurts the schools.

21 Tennis is the sport for a lifetime,
22 with college tennis the, quote unquote, way station
23 that serves as a competitive high point of this
24 great tradition. The culminating varsity tennis
25 experience at colleges is the reward for all of the

1 junior training and competition. The opportunities
2 should be expanding in the 21st century for both
3 men and women, not diminishing. If Title IX is
4 supposed to be open to all, these glaring
5 inequities in tennis shouldn't exist. We shouldn't
6 be telling young men that their dreams of trying
7 out for college tennis are illusory.

8 It is critical to appreciate the
9 long-term impact of the unintended consequences of
10 Title IX for tennis. If these trends continue,
11 men's collegiate tennis will be jeopardized. If
12 that occurs, we will see a devastating effect for
13 minorities and at the grassroots level for girls as
14 well as boys.

15 The USTA has been devoting enormous
16 resources to promote tennis for minorities.
17 Multi-cultural participation is a level one
18 priority, and the results have been terrific.
19 After playing for college tennis, MaliVai
20 Washington and James Blake have enjoyed illustrious
21 professional careers, as did Lori McNeil on the
22 women's side. Many of our top juniors today are
23 African-Americans, Hispanics, and members of other
24 minority groups.

25 More important, programs and

1 scholarships that the USTA has established have
2 provided pathways up for the disadvantaged and the
3 disabled. We have minority girls and boys and
4 individuals with disabilities picking up racquets
5 in programs throughout this country like they've
6 never done before. If the unintended consequences
7 of Title IX persist and severely reduce the
8 opportunities for talented young American
9 minorities, the effect will be to choke up pathways
10 and undermine tennis opportunities at the
11 grassroots.

12 Now, while it is essential to
13 identify issues, it's also important to provide
14 some suggestions for consideration, and we have it
15 here. First, we suggest that the Commission
16 recognize that Title IX needs a more flexible
17 interpretation. Second, we also suggest that the
18 Commission recognize that differences in numbers of
19 participants do not necessarily mean that there is
20 discrimination. And finally, we suggest that
21 Title IX be interpreted to correlate equal
22 opportunity on a sport-by-sport basis rather than
23 on an across-the-board basis. For sports such as
24 tennis, swimming, golf, gymnastics, where both men
25 and women play, opportunities for men and women

1 should be equal.

2 This approach would provide the same
3 opportunities for men and women in each sport. It
4 would also help to eradicate the inequities that
5 currently exist for men without compromising
6 women's opportunities and programs.

7 MS. COOPER: One minute.

8 MR. VEGOSEN: The USTA and the ITA thank the
9 Commission for its time and its concern. We will
10 be glad to discuss these important issues and
11 suggestions in further dialogues. We leave the
12 ultimate decision in your capable hands. Thank
13 you.

14 MS. COOPER: Thank you.

15 (Applause.)

16 MR. LELAND: Thank you for your comments.
17 That was very enlightening. We now have 20 minutes
18 for questions, and also I want to comment to the
19 commissioners that Corey Bray's background
20 statement was inadvertently put in Jerry's section
21 of your binder, so if you're looking for the backup
22 materials for him, you'll find them both under, I
23 believe it was section D.

24 So let's open up for questions.

25 Anybody --

1 MR. REYNOLDS: Okay, this question is for
2 Corey. You state that 7.7 -- participation by
3 school for males has declined by 7.7 percent, and
4 I'm just curious whether you have any data that can
5 shed some light on whether that decline was caused
6 by declining interest on the part of male athletes
7 or whether roster management is the causal agent.

8 MR. BRAY: The NCAA has not collected any
9 data on reasons why these changes have occurred, we
10 only know that changes have occurred and note them
11 by sport where appropriate. We don't know any
12 reasons why.

13 I may point you a 2001 report that I
14 mentioned in my presentation that the GAO did that
15 attempted to answer those questions of why, why
16 schools decide to add or not add a sport and why
17 schools decide to drop or not drop a sport. And so
18 that's the type of study that can be done to try
19 and answer your question, but to date the NCAA has
20 not done such a study.

21 MR. REYNOLDS: Thank you.

22 MR. LELAND: Donna?

23 MS. DE VARONA: Corey, can you tell me, has
24 there been a decline in the average size of the
25 football squad and has participation in football

1 increased or decreased?

2 MR. BRAY: I can tell you that. Overall in
3 1981/'82 the average squad size for a football team
4 was 82. In 2000/2001 the average squad size was
5 94.2. That's all three divisions combined. In
6 '81/'82 the number of participants in football was
7 40,733, and in 2000/2001 the number of participants
8 was 56,804.

9 MS. DE VARONA: Also, can I --

10 MR. BRAY: That also includes an increase in
11 the number of teams and institutions into the NCAA.

12 MR. LELAND: Go ahead.

13 MR. GRIFFITH: Is that in our materials that
14 you're reading from?

15 MS. DE VARONA: Is that in our materials?

16 MR. BRAY: I don't believe it is, but it is
17 on our Website and I provided that Web address to
18 everyone so you can look at it.

19 MS. GROTH: Corey, does that include all
20 sports so we can look at men's and women's teams?

21 MR. BRAY: This includes every sport that
22 the NCAA collects data on, it's considered a
23 championship sport, at that level, and emerging
24 sports, and some selected non-championship sports
25 for men from '81/'82 to 2000/2001.

1 MR. LELAND: Donna?

2 MS. DE VARONA: But you are familiar with
3 the GAO report on athletic participation and
4 discontinued teams, so does this report eliminate
5 concerns which we have, and everybody is confused
6 about, about double counting NAIA and NCAA schools
7 that (inaudible) members?

8 MR. BRAY: That would be a question for the
9 office of the GAO report.

10 MS. DE VARONA: You cannot answer that
11 question?

12 MR. BRAY: I cannot. I was not a part of
13 that study. We provided the data, the same data
14 that's in this book, but they did the study so they
15 should answer those questions.

16 MS. GROTH: Corey, the information that you
17 provided, the statistics, does that include the new
18 institutions that have joined the NCAA, the 200
19 some institutions that have joined since '81 or
20 '82?

21 MR. BRAY: Yes. As I stated in my
22 presentation, we do an overall count, so however
23 many members we had in whatever year is what we use
24 to calculate the participation and the sports
25 sponsorship data.

1 MR. LELAND: Yes.

2 MS. DOW: Corey, I don't know if you have
3 this information, but in terms of minority male
4 participation opportunities in collegiate sports,
5 where would football rank, do you have any idea?
6 That's an area of concern that I have, and watching
7 that, and I anecdotally feel as though it's
8 significant, but I don't really have the
9 statistics.

10 MR. BRAY: The NCAA has begun a study called
11 The Student Athlete Ethnicity Report, we've done it
12 for the last two years, and we're collecting data
13 on the ethnicity of all students within the NCAA.
14 And since we only have two years of data it's kind
15 of hard to give you -- we can't give you any trends
16 on any changes in the minority population of
17 football. The next closest thing is to look at the
18 proportions that are given within the graduation
19 rates reports, and those go back to, I believe
20 '91/'92 was the first report, but it's -- and of
21 course I don't have those reports with me, but
22 that's something we could definitely get to you at
23 a later date.

24 MS. YOW: I appreciate that. I don't think
25 anybody would want to do anything to inadvertently

1 or unintentionally damage the opportunities for
2 minority males to secure college degrees through
3 athletic participation.

4 MR. LELAND: Let me -- Corey, I have a
5 feeling that the migration of schools into the
6 NCAA, it sort of confounded their statistics. It
7 seems to me that those schools tended, and this is
8 just my perception, tended to be smaller schools
9 with less athletes when they came in, so it seems
10 to me the per athlete number is skewed because of
11 the schools migrating into the NCAA that now are
12 part of our statistics that weren't part of our
13 statistics in '81/'82 are the smaller type, many
14 times non-football playing programs.

15 Is that borne out in the data?
16 Because I look at the drop in the average number of
17 male participants, and I see a lot of new, smaller
18 athletic programs moving into the NCAA to capture
19 the championship opportunities the NCAA offers. Is
20 there any way we could look at that or have you
21 already told us the answer to that?

22 MR. BRAY: I have a slide here that wasn't
23 part of my presentation that shows by division
24 the average number of males and females per
25 institution. What I presented to you before was

1 overall. And I can show you that, if you wish.

2 It's also in the participation book.

3 MR. LELAND: I'd like to see that, but I
4 think there's also been a confounding within the
5 NCAA because a lot of smaller schools have moved --
6 and by small schools, I mean schools that have
7 smaller athletic programs, the minimum, eight for
8 men, eight for women or whatever the present rules
9 require, have moved from II to I and III to II over
10 a period of time.

11 There's been a migration. A
12 significant increase in the number of Division I
13 schools to take advantage of the men's basketball
14 tournament money, that's my perception at least,
15 and many times they bring smaller programs, so if
16 we see a slide that says there's less male athletes
17 in Division I, per school that's not going to
18 really surprise me, because I think a lot of the
19 smaller programs have migrated from II to I.

20 So maybe you can answer that question
21 while you're still on this slide.

22 MR. BRAY: I don't have the answer on the
23 number of schools that have changed division. It's
24 something we could get, but I don't have the answer
25 on the number of NAIA schools that have come into

1 the NCAA but that's also something we can try and
2 track down. I don't believe that, as part of the
3 process, we find out where they're coming from, we
4 just know they want to get into the NCAA.

5 MR. LELAND: And I'm sorry, I didn't make
6 myself clear. I don't think coming from the NAIA
7 is the issue for me, it's just getting into the
8 NCAA, and I thought most of them were probably NAIA
9 schools. And -- but there's also been a migration
10 within that, and I think many of the commissioners
11 are interested, at least they have indicated to me
12 that they are, in knowing what has happened to
13 those participation opportunities that were there
14 in '81 and '82 for NCAA male athletes. What's
15 happened to them, those people, or to those
16 opportunities, I guess is the way to say it.

17 MR. BRAY: I think as a starting point it's
18 appropriate to look at the 1999 GAO report, which I
19 provided a slide on, and that report specifically
20 looked at a core group of 725 NCAA member
21 institutions that were members in 1985/'86 and in
22 1996/'97, and during that time did not change
23 division status.

24 MR. LELAND: Okay.

25 MR. BRAY: So that's a core group that they

1 looked at. And I think from the slide, which I'm
2 not hooked up on that any more, but if you
3 remember, the slide shows increases for women and
4 decreases for men.

5 MR. LELAND: Small decreases for men.

6 MR. BRAY: Yes. Is that something you want
7 me to put up on the screen again?

8 MR. LELAND: I think -- Cynthia has found it
9 here in the book for me, so if nobody else has that
10 question, I'll answer it at another time. Are
11 there other -- yes, Lisa.

12 MS. KEEGAN: I have a question about
13 scholarships. In the data, Corey, that you keep,
14 or Jerry, you commented on point number eight about
15 the real pool, the actual pool of women athletes
16 attrition from high school into college. Number
17 one, it would be fascinating for me to also see if
18 that's for young men, the attrition response to the
19 same kind of pressures, and I'm wondering what
20 scholarships have to do with that.

21 I mean, it's an interesting number to
22 me, very interesting how many continue from high
23 school on into collegiate sport, and where is the
24 desire, and if that's going to be driven by
25 scholarships. I was just wondering, do either one

1 of you keep that data or know where you can find
2 it?

3 MR. BRAY: I'm not quite sure what specific
4 piece of data you're looking for.

5 MS. KEEGAN: Scholarships.

6 MR. BRAY: You're talking about
7 scholarships?

8 MS. KEEGAN: Scholarships offer in
9 particular team sports. And also Jerry, do you
10 have these figures, that number eight question,
11 which I think is a great one, is it calculated for
12 young men as well? Is it in my --

13 MR. KRAVITZ: In Appendix C are a number of
14 NCAA tables for -- excuse me, NCES tables --

15 MS. KEEGAN: Okay.

16 MR. KRAVITZ: -- of enrollment and part-time
17 status and information of that sort, so yes, it is
18 part of the packet.

19 MR. LELAND: Jerry, that's Appendix C of
20 your submitted statement?

21 MR. KRAVITZ: Yes.

22 MR. BRAY: And on the scholarships topic,
23 the NCAA produces a report called the Gender Equity
24 Report every other year, and in that report by
25 division we provide averages for the number of

1 scholarships awarded, the number of student
2 athletes receiving athletic aid, and a total dollar
3 amount by sport, by division. That report is on
4 our Website and you can download it any time you
5 want.

6 MS. KEEGAN: Thank you.

7 MR. BRAY: We do not have a total number of
8 scholarships that were given. This data comes from
9 the Equity in Athletics Disclosure Act Form. We
10 get the vast majority of our schools submitting
11 that form to us, but we don't have a 100 percent
12 response rate so we cannot give you totals. We
13 produce averages.

14 MS. KEEGAN: All right.

15 MR. LELAND: Are there other questions? I
16 feel a little bit like I just got a Stat 60 lecture
17 and I need to go home and think about it.

18 (Laughter.)

19 I think the hope of the commissioners
20 is that there would be some clarity and unanimity
21 regarding some of these numbers, because it is a
22 concern for us, the trends that we have observed,
23 but it's difficult to grasp the real impact of
24 these trends until we get a better feel for the
25 statistics, and I really do appreciate you two guys

1 coming, but I'm going to need a little bit of time
2 to try to think this through.

3 MS. GROTH: Corey, I know some of the
4 athletic directors have that information provided
5 by NCAA, but perhaps distributing that information
6 to the other commissioners would be very helpful.

7 MR. BRAY: Yeah. As I mentioned, all the
8 reports that the NCAA staff does is on our Website,
9 so if you want to get those at any time, you can
10 download them, and you don't need to wait for the
11 snail mail to deliver it, you can just grab it
12 whenever you want.

13 MR. LELAND: Okay. Any more questions?

14 Well, thank you. Again, we really
15 appreciate your time and your effort, and your
16 articulance. Thank you very much.

17 (Applause.)

18 Okay. Let's try to move into the
19 next without taking a break, if we can. My
20 popularity just went down with all the
21 commissioners. But if we could move Andrew and
22 Chuck and Rick and Rosa and President Welty up, it
23 would be appreciated.

24 We'll hold for just a second and get
25 the name tags up here.

1 Okay, let's reconvene and begin
2 again.

3 This particular panel has five
4 presenters, which will make the accustomed ten-
5 minute statement and then we'll open it up for
6 questions. For the first time in history the
7 Commission is actually three minutes ahead of
8 schedule.

9 So the First panelist is Andrew
10 Zimbalist. He received his bachelor's degree from
11 the University of Wisconsin, Madison in 1969 and
12 his M.A. and Ph.D. from Harvard University in 1972
13 and '74 respectively. He has been with the
14 Department of Economics at Smith College since 1974
15 and he has been a visiting research fellow at
16 Harvard University.

17 He is presently the Robert A. Woods
18 Endowed Professor of Economics at Smith College and
19 a member of the five college graduate faculty.
20 Dr. Zimbalist has published 13 books and several
21 dozen articles primarily in the areas of
22 comparative economic systems, economic development,
23 and sports economics. He recently published
24 Economics of Sport I and II and was a guest editor
25 and contributor to the May 2002 special issue of

1 the Journal of Sports Economics, which was on
2 competitive balance. Dr. Zimbalist, thank you.

3 MR. ZIMBALIST: Thank you very much for
4 having me here.

5 The athletics arms race is alive and
6 well, but it has little to show for itself on the
7 bottom line. The 2002 NCAA revenue and expenses
8 study finds that, of the 114 reporting DIA schools,
9 the average athletic department deficit was 600,000
10 dollars in 2001. If one adds to this the average
11 of 1.425 million dollars in student fees going to
12 athletics, and the 4.625 million in donations going
13 to athletics, a standalone athletic department
14 operating deficit averages 6.05 million dollars.
15 Even this number substantially understates the
16 average subsidy going to athletics for Division I-A
17 schools.

18 The problem is that the one-sided
19 incentives in DIA lead most schools to choose the
20 holy grail of financial -- chase the holy grail of
21 financial gain. But like the NCAA itself, athletic
22 departments are run by ADs, coaches and conference
23 commissioners who do not have to answer to
24 stockholders and do not face the financial
25 discipline of the marketplace. The consequence is

1 endemic waste. For example, DIA football does not
2 need 85 scholarships, 60 would do fine. NFL teams
3 have 45 roster plus seven reserve players. The
4 average DIA team has 32 walk ons, plus 85
5 scholarship players.

6 If football scholarships were cut to
7 60, the average college would save approximately
8 750,000 dollars annually, enough to finance more
9 than -- enough to finance more than two wrestling
10 teams whose average cost is 330,000 dollars per
11 team.

12 College coaches have protested that
13 college football teams cannot be properly compared
14 to professional teams. The latter, they say, can
15 always call up reserves when players get injured,
16 but college teams must have players on their
17 rosters. This is a red herring. The NCAA Injury
18 Surveillance Systems Summary reports that for the
19 2000/2001 season the serious injury rate during
20 games in football was 14.1 per thousand athlete
21 exposures, while the rate in football practices was
22 1.6 per thousand. If we assume that 60 players
23 enter a game and the team plays 13 games during the
24 year, then the average total number of serious
25 injuries, where a player is out seven days or more

1 from games, is 11 per year. If on average each
2 such player misses two games, then the average
3 number of game-injured players is 1.6 players per
4 game.

5 Performing a similar computation for
6 practice-injured players, assuming 80 exposures per
7 practice, five practices per week and 15 weeks of
8 practice yields 9.6 injured players during the
9 year. If each misses two games on average and the
10 average number of practice-injured players is 1.48
11 per game, and the total number of injured players
12 per game is 3.17, to be cautious, one can even
13 double or triple this estimate and there would
14 still be fewer than seven, or fewer than ten
15 injured players per game. There is no
16 justification here for having 85 grants-in-aid in
17 Division I-A football, even if the average team did
18 not have 32 walk ons.

19 But why stop here? The NCAA should
20 seek a congressional antitrust exemption with
21 regard to coaches' salaries. Currently there are
22 dozens of Division I men's basketball coaches who
23 make one million dollars or more, and dozens more
24 football coaches in this category. Knock them down
25 to 200,000, which would still put them above 99

1 percent of the faculty, and colleges would be able
2 to add another three to six sports teams, or heaven
3 forbid, reduce their large athletic deficits.

4 Lest anyone think that these
5 stratospheric coaches' salaries are justified
6 economically, let me remind you that economic
7 theory predicts a coach will be paid a salary up to
8 his or her marginal revenue product in a
9 competitive labor market.

10 That said, how can it be that the top
11 paid coaches in college football and men's
12 basketball get comparable compensation packages to
13 each other when the average DIA football team has
14 fully three times the revenues as the average DIA
15 basketball team? And how could it be that the top
16 dozen or so DIA football coaches get paid salaries
17 similar to NFL coaches, when the average NFL team
18 has revenues of more than ten times the size of the
19 average DIA football team?

20 These coaches compensation packages
21 have more in common with reported stock option
22 plans in Enron, World Com, and other corporations

23 --

24 (Applause.)

25 -- than they do in the competitive

1 marketplace. Coaches are reaping the value of what
2 their unpaid athletes produce. If unpaid athletes
3 are subject to restrained trade because they're
4 amateurs, then Congress should be willing to allow
5 coaches salaries also to be restrained.

6 Other savings are also available to
7 athletic programs. Colleges going to bowl games
8 might also consider reducing the size of the
9 traveling entourage, eliminating the practice of
10 putting the men's basketball and football teams up
11 at a local hotel before home games, diminishing the
12 size of their coaching staff, cutting the length of
13 the playing seasons in many sports and so on.

14 Let me conclude with a final comment
15 about DIA football. One often hears that gender
16 equity is fine, but football should be taken out of
17 the equation; that is, remove football's 85
18 scholarships and its operating budget before
19 judging parity between men's and women's sports.
20 There is no justification for such a policy. One
21 might just well argue that women's crew should be
22 taken out before the gender participation numbers
23 are compared. Title IX does not state that there
24 shall be no gender discrimination where team
25 revenue generation is equal. It simply states that

1 there shall be no gender discrimination, period.

2 A sport's presumed profitability is
3 plainly not a relevant criteria. As stated in
4 Article 1 of the NCAA Constitution, college sports
5 are based on the principle of amateurism and the
6 subordination of athletic to academic goals. As
7 such, Division I and II schools benefit mightly
8 from not directly paying their athletes from tax
9 exemptions on facility bonds and from special tax
10 treatment of UBIT income.

11 Further, in 1984 the Supreme Court
12 determined that the NCAA may legitimately restrain
13 trade in many areas because, due to its amateur
14 branding, college sports increase output and
15 enhancements over welfare. If college sports were
16 to professionalize and separate out their football
17 programs using non matriculated athletes and paying
18 them salaries and benefits, then there would be a
19 case to eliminate football from gender equity
20 reckonings. As long as football benefits from the
21 umbrellas of amateurism and the academy, however,
22 the only rational course is to treat it the same as
23 all sports programs for Title IX purposes.

24 In sum, the financial problem with
25 college sports today is not Title IX or its

1 implementation guidelines. The problem is waste.

2 Thank you for your attention.

3 (Applause.)

4 MR. LELAND: Our next invited presenter is
5 Charles M. Neinas. Chuck Neinas is president of
6 Neinas Sports Services, a company designed to
7 provide consulting services in sports, especially
8 in intercollegiate athletics. He is currently
9 retained as an advisor to the American Football
10 Coaches Association and a consultant to Host
11 Communications in the development of NCAA football.

12 Chuck was Executive Director of the
13 College Football Association from 1980 to 1997, the
14 first and only executive director of that
15 organization. He's also been actively involved in
16 many NCAA committees throughout his career. Chuck
17 is also the recipient of the Amos Alonzo Stagg
18 Award, the highest award presented by the American
19 Football Coaches Association, and additionally, the
20 James J. Corbett Award, the highest award presented
21 by the National Association of Collegiate Directors
22 of Athletics. He is one of only two individuals
23 ever to receive both of these prestigious honors.
24 Chuck Neinas, thank you.

25 MR. NEINAS: Thank you, Mr. Chair. Can you

1 hear me all right?

2 MR. LELAND: Yes.

3 MR. NEINAS: I'm glad I get to follow my new
4 best friend, Andy.

5 (Laughter.)

6 The one thing we have in common is
7 we're both University of Wisconsin graduates.

8 I do have a copy of my prepared text.
9 I'm going to obviously deviate from that somewhat,
10 but the title of it is "What's Fair?"

11 I probably go back longer than some
12 of you, because I was involved way back in the
13 '60s, and I can remember when the division of girls
14 and women's sports was really the so-called
15 governing body for women's athletics, and at that
16 time they turned down a development grant from the
17 United States Olympic Committee to try to help
18 promote women's sports. And their agenda was more
19 in the operation of recreational activities, not
20 competitive activities.

21 Well, the world has turned many times
22 since that's happened, and largely because of
23 Title IX, plus a change in philosophy, we see more
24 activity in terms of women's sports. Now, no one
25 is here designing to inhibit the development of

1 women's sports, but I have to say what's fair? As
2 women's sports have developed over the last three
3 decades, you have heard about the unintended
4 consequences, and by the way, I think all of you
5 should be wearing black and white striped shirts
6 because you're like an official, and no matter
7 which side you come down on the call, somebody is
8 going to object.

9 I learned long ago there's two things
10 anybody can do in this country, and that's boil
11 water and tell you how to run sports. But the
12 passiveness of DGWS has given way to the energetic
13 Women's Sports Foundation led by Donna Lopiano, and
14 some institutions have embraced Title IX more
15 actively than others, but I don't think there's
16 been any doubt that there's been an increase in
17 women's participation and opportunities.

18 Now, one thing that is a concern that
19 you've heard before is proportionality and its
20 impact on the unintended consequences for men to
21 have the opportunity to participate in sports.

22 Walk ons, you've heard about walk
23 ons. Well, the College Football Association did
24 innumerable number of surveys in a wide variety of
25 areas. One of them was the compass issue of

1 athletic squads. 36 percent, now this admittedly
2 -- let me explain, the College Football Association
3 at that time was comprised of some 60 major
4 football playing institutions, and we found that
5 36 percent of those who participated in
6 intercollegiate athletics did not receive aid, so
7 they could be considered walk ons. As a matter of
8 fact, the number of unaided athletes ranged from 51
9 percent of the wrestlers to 27 percent of the
10 football players.

11 Now, why walk ons? Well, there are
12 surveys which indicate that males are more anxious
13 to participate in athletics without receiving aid
14 than females, so if we are going to get involved in
15 the idea of proportionality, we have to find a way
16 to allow people to at least have the opportunity to
17 walk on.

18 MR. LELAND: Excuse me, Chuck. Could you
19 speak more directly into the mike?

20 MR. NEINAS: Yes, sir.

21 MR. LELAND: Thank you.

22 MR. NEINAS: The question was asked about
23 ethnicity in terms of college athletics. The
24 College Football Association did an extensive
25 survey of the members' entire athletic program. We

1 had 9300 students involved in their database, 3500
2 were football players, the remaining were men and
3 women involved in other sports. We compiled this
4 information and shared it with Ursula Walsh, who
5 was then the Director of Research for the NCAA.

6 Interestingly enough, we found that
7 if you remove the sports of football, men's and
8 women's basketball, and men's and women's track,
9 you had 91 to 92 percent white, three to four
10 percent African-American, and five percent other
11 involved in the intercollegiate athletic program.
12 When you put in the ethnicity and included all
13 sports, 68 percent of the student athletes were
14 white, 24 percent were African-American, and the
15 remainder were Hispanic, Oriental or some other.
16 So there's one idea that shows the different
17 composition of sports.

18 Now, we also did a football player
19 survey, we did about three of those and I'm in the
20 process of doing one now for the American Football
21 Coaches Association. The last football player
22 survey we had showed that there was approximately
23 48 to 49 percent of the football players were
24 African-American.

25 Now, there's a considerable

1 difference between sports as to where your athletes
2 come from. This may surprise you. But there are
3 almost 60 percent of college football players come
4 from communities of 100,000 or less. When you turn
5 that around in the sport of basketball, an
6 overwhelming number come from larger cities.

7 Now, what does this have to do with
8 opportunities? Well, we're talking about the
9 equivalency grant sports, where the number of
10 grants and aid are limited. You have to have
11 unaided players to participate and fulfill the
12 team.

13 Let's talk about dollars. The
14 Athletic Directors Association conducted a
15 financial survey in 1995/'96. There were 87
16 Division I-A institutions that participated. Now,
17 the figures that were obtained at that time did not
18 include revenue which has now been generated by the
19 ECS Bowl Association, by the increased amount of
20 money that's derived from the NCAA basketball
21 tournament, and some of the more profitable
22 television contracts which have been developed
23 through the conferences. The total amount of money
24 generated by those institutions was just about one
25 and a half billion dollars, 1.5 billion. Of that

1 amount, 85 percent was generated revenue, which
2 almost could be completely attributed to football,
3 men's basketball, and gifts and donations to the
4 university.

5 All women's sports and all men's
6 sports except football and basketball generated
7 less than one percent of the revenue.

8 Now, the grants-in-aid in women's
9 sports average 892,000 per member institution while
10 the average grants for men's sports, including
11 basketball but excluding football, amounted to
12 721,000 dollars. The women's sports program
13 expense was 183 million dollars, the sports expense
14 for other men's programs was 126 million, excluding
15 football and men's basketball.

16 Now, what was interesting also is
17 that three hundred million dollars of that revenue
18 was used to service sponsorship of other sports
19 that was developed in connection with that program.

20 There is a major misconception which
21 is obviously existing here today in some minds
22 about the size of football squads. I have
23 personally done retention rate surveys every other
24 year since 1978. Now, this is Division I-A only.
25 The size of Division I-A football squads has been

1 reduced through the years, partially because of a
2 reduction in the number of grants, and secondly
3 because more institutions are now capping the size
4 of the number of athletes that try out for
5 football.

6 Four years ago there was less than
7 ten percent of the Division I-A institutions that
8 limited the number of players that could try out
9 for the sport of football. The most recent survey
10 we did showed that there's more than 40 percent
11 that now limit the number of people who can try out
12 for football. Why is that important? Well, by
13 golly, kids like to try out and be a member of the
14 team. Are on walk ons any good? (Inaudible) a
15 former Iowa coach, told me he had nine walk ons
16 that were either all conference or captains of the
17 walk on football team.

18 Pro football is a different element.
19 Number one, they have four mini camps. Number two,
20 they play four to five exhibition games. Number
21 three, they have 58 under contract but can only
22 dress 47, but the information which I've obtained
23 from the National Football League, and this is
24 what's most important, they are involved in more
25 than 90 player transactions a year per team.

1 I talked to Bill Pullion when he was
2 with the Charlotte football team, the Carolina
3 Panthers. They had 138 different players practice
4 that year with Carolina.

5 My conclusion is very simple.

6 MR. LELAND: One minute.

7 MR. NEINAS: Thank you. You're going to
8 hear today that you would not treat your daughter
9 any differently than you would treat your son. I
10 agree with that. But if my daughter chooses not to
11 play volleyball, it should not prohibit my son from
12 playing football. College students, male or
13 female, should have a chance to be a part of the
14 team. Thank you.

15 (Applause.)

16 MR. LELAND: Thank you, Chuck.

17 Our next invited speaker is Rick Bay.
18 Rick is a graduate of the University of Michigan.
19 He's now Executive Director of Athletics and
20 Special Assistant to the President at San Diego
21 State University, a position to which he was
22 promoted in January of 2000 after having served as
23 Director of Athletics for San Diego State since
24 1995. Rick was formerly the Athletic Director of
25 the University of Minnesota for Men, University of

1 Oregon, and Ohio State University plus Chief
2 Operating Officer for two major league baseball
3 teams. Rick is the first athletic director in
4 San Diego history to sit on the president's cabinet
5 and is an integral part of the university's
6 administrative management team.

7 Under Rick's leadership the San Diego
8 State athletics has achieved compliance with gender
9 equity requirements mandated by the CAL NOW Consent
10 Decree. This lawsuit settlement required San Diego
11 State to mirror male and female student enrollment
12 ratios in reaching proportionality and limits male
13 and female students, and also grant-in-aid
14 expenditures and overall expenditures. San Diego
15 State now offers six men's sports, eleven women's
16 sports, having added women's crew three years ago.

17 Rick Bay, thank you.

18 MR. BAY: Thank you, Mr. Chair. Before I
19 begin, my presentation is exactly ten minutes and
20 45 seconds long, so I would ask for the Val
21 Ackerman forgiveness factor.

22 MR. LELAND: We call it the Ackerman factor.

23 MR. BAY: My hero in life was my father. He
24 died when he was only 48, but he was my high school
25 football and wrestling coach, and he enlightened me

1 about everything from sportsmanship to social
2 justice to race relations. He was a real life
3 Atticus Finch from Harper Lee's Pulitzer Prize
4 winning novel, To Kill A Mockingbird. Atticus is a
5 white lawyer who defends a black man accused of
6 raping a white woman in Alabama in the 1930s. We
7 see the story through the eyes of Atticus'
8 six-year-old daughter, Scout, as the trial awakens
9 her to the racism and prejudice in the adult world.

10 Like Atticus Finch, my dad was a wise
11 man and inscrutably honest and fair. And if he
12 were here today, he would be applauding Title IX
13 and asking why he hadn't thought of it and why it
14 hadn't happened long before it did, some 30 years
15 ago. Compared to civil rights issues, gender
16 equity controversies are relatively new, but we are
17 still arguing the same principle -- the rights of
18 each other regardless of race, creed or gender.
19 When it comes to gender, possibly no piece of
20 federal legislation outside of women's suffrage has
21 made more of an impact on society than Title IX.

22 In looking back on it, from the days
23 of the good ol' boy coaches to the current Bowl
24 Championship Series, I am embarrassed as a member
25 of the male species to admit that were it not for

1 Title IX legislation, women in American would not
2 have nearly the opportunities in sports that they
3 do today.

4 That said, however, Title IX is not
5 perfect and it needs a pinch of common sense and
6 more dialogue characterized by civility rather than
7 rancor. Title IX's more serious flaw by far is in
8 allowing or, in some cases, requiring the standard
9 of proportionality to determine whether or not a
10 university has complied with the spirit of the law.

11 While compliance with Title IX can be
12 achieved by an institution demonstrating that it is
13 accommodating the athletic interests of women on
14 its campus or by showing that it has a history of
15 adding women's sports, it is the remaining prong
16 known as proportionality that is problematic and,
17 in my opinion, an unfair and unacceptable
18 alternative method of meeting the standard.

19 Proportionality is simply a
20 mathematical formula that requires that
21 participation rates of men and women in varsity
22 sports mirror the gender makeup of the campus
23 enrollment. Thus if the school has a 45 percent
24 male enrollment, men cannot claim more than about
25 45 percent of varsity roster slots, even if many

1 more men want to participate, and even if women's
2 interests have already been fully accommodated.
3 This approach, I think, is wrong-headed and serves
4 only to exacerbate the dispute. It is ironic that
5 that while the motivation for the genesis of
6 Title IX was to eliminate discrimination against
7 women, Title IX must now depend on a discriminatory
8 benchmark of its own to validate its desired
9 results.

10 Some will argue, of course, that
11 proportionality is but one of three prongs, all of
12 which can satisfy Title IX's compliance, and that
13 the proportionality prong is for those institutions
14 that want to be absolutely certain that they are
15 within the law. Unfortunately, however, while many
16 schools have been found in compliance on the basis
17 of meeting women's interests or increased
18 opportunities for women, many others have felt
19 bullied into proportionality as the only means of
20 achieving compliance, the only so-called safe
21 harbor.

22 Such is the case at my school,
23 San Diego State University. We're one of 23
24 campuses that make up the California State
25 University System, and as a system, because of the

1 court ordered consent decree, we find ourselves
2 with only one satisfactory benchmark when it comes
3 to Title IX compliance, and only one --
4 proportionality.

5 About nine years ago, before I
6 arrived at San Diego State, the California Chapter
7 of the National Organization for Women sued the
8 California State University, charging that women in
9 the CSU did not have an equal opportunity in
10 intercollegiate sports. What came out of that
11 lawsuit was an out-of-court settlement called the
12 CAL NOW Consent Decree, in which the CSU agreed
13 that each campus must meet the proportionality test
14 in three areas, not simply participation, but also
15 in scholarship expenditures and total expenditures
16 to be considered in compliance with the decree,
17 Title IX aside.

18 The CAL NOW proportionality formula
19 applies to fund raising as well, which means that
20 if women are 55 percent of the student body, and
21 the men's soccer team earns 40,000 dollars in a
22 fund raising effort, they must give about half that
23 money to the women. This caveat is a shocking
24 revelation to most potential donors, and it
25 dramatizes that in the California State University,

1 proportionality is not an alternative safe harbor,
2 but it is the law of the land for the entire system
3 across many categories. For San Diego State, the
4 claim that we've met the interests of our women on
5 campus in terms of varsity athletics means nothing.
6 For San Diego State to demonstrate that we have a
7 history of increasing women's opportunities is an
8 equally hollow argument. Of course, our case is
9 the extreme, but extremism is the problem in this
10 ongoing controversy.

11 I'm not here today to argue that
12 Title IX has been the sole culprit for the demise
13 of many men's intercollegiate sports programs
14 across the country, and I'm not going to rehash the
15 many old football arguments rather. Rather, I want
16 to stay focused on the unintended consequences of
17 Title IX, when the proportionality prong of the
18 legislation is applied. Whether we'd like to admit
19 it or not, proportionality is a quota system. I
20 think most of us, even more liberal thinkers who
21 are hard-line Title IX advocates, would agree that
22 we should not tolerate quotas in any endeavor. We
23 don't have quotas in any other area within the
24 university of which I'm aware, and if we did, the
25 free speech steps of our campus would suddenly

1 become very active. The by-product of this system
2 is that we have reached a point where women's
3 interest in sports are dictating men's
4 opportunities.

5 To illustrate this point even more
6 vividly, as someone who serves on the president's
7 cabinet at San Diego State, I was once in a meeting
8 that included not only the rest of the cabinet, but
9 the deans of the various colleges on our campus.
10 At one point during our discussion the dean of our
11 College of Engineering was very concerned over the
12 fact that in the last class of admitted freshmen to
13 the college, only 10 of the 100 students were
14 women, despite a concerted effort to encourage more
15 women to enroll. He made the remark that he would
16 like to do something to raise the percentage of
17 women who want a degree in engineering.

18 As the athletic director I don't say
19 too much in these high-brow cabinet meetings that
20 include the deans, but that comment struck a chord.
21 Tongue in cheek, I told him that if he wanted to
22 raise the percentage of women who were students in
23 the College of Engineering, he simply needed to do
24 what we do in athletics, that is, reduce the number
25 of men the college admits. After all, if 10

1 percent of the freshmen engineering class already
2 are women, and if you're not successful in
3 recruiting more than that, you can raise that
4 number to 20 percent by cutting the number of men
5 who are admitted from 100 to 50. Thus, even if no
6 more than those original ten women want to attend,
7 you can still double your percentage of female
8 enrollment. Well, obviously that solution is
9 absurd, but it's exactly what we're doing in
10 athletics when we are tied to the proportionality
11 standard.

12 Having said all this, I want to
13 reiterate what I stated at the beginning. Title IX
14 has been badly needed and extremely effective
15 legislation overall. Not only are women better off
16 because of it, but we as a society are better off
17 as well. Clearly we need some way of measuring
18 whether institutions are living up to the spirit of
19 Title IX, but I believe that gauge must be more
20 subjective and fair than what proportionality
21 offers.

22 As stated by Steve Erber at the
23 Atlanta town hall meeting last August, quote,
24 proportionality is a measure of outcome, not a
25 measure of opportunity, end quote. And as Judge

1 Rebecca Doherty stated in Peterson vs. LSU, quote,
2 the proportionality prong is inappropriate in
3 determining Title IX compliance, because the test
4 assumes that men and women are on all campuses are
5 equally interested and able to participate in
6 athletics, end quote.

7 Simply put, proportionality should
8 not be a safe harbor for anyone on any side of this
9 question. San Diego State should not be able to
10 use the proportionality test to convince skeptics
11 that we have met women's interests, and likewise
12 CAL NOW champions should not be able to cite the
13 lack of proportionality as evidence that San Diego
14 State has not met women's interests.

15 I would hate to think that the US
16 Naval Academy, which has only 15 percent female
17 enrollment, would ever seek refuge in the safe
18 harbor of proportionality, when over one-third of
19 its 1000 participants in varsity sports are women
20 currently. Technically, under proportionality,
21 Navy could eliminate nearly 200 participation
22 opportunities for women tomorrow and still argue
23 that it is in compliance. But what sense would
24 that make?

25 MR. LELAND: One minute.

1 MR. NEINAS: In closing, as always, I'm
2 better at finding a problem than I am in solving
3 it. But there must be some intuitive way of
4 measuring whether or not we are being fair to women
5 in athletics without substituting one form of
6 discrimination for another. Despite our
7 ideological differences, I think we can do it. As
8 Eric Brady wrote of Title IX in USA Today earlier
9 this year, and I quote, conventional wisdom says
10 liberal Democrats love the law and conservative
11 Republicans loathe it, but the more complex truth
12 is how you feel about Title IX is not determined by
13 ideology alone. Some Republicans are soccer moms
14 and some Democrats are wrestling dads, end quote.

15 Thus, we are in this together.
16 Together we must solve the problem. I believe that
17 as a society we are creative and smart enough to
18 come up with something that both my father and
19 Atticus Finch would be proud of. Thank you.

20 (Appause.)

21 MR. LELAND: Thank you.

22 We would appreciate the courtesy if
23 people would just take a second and either turn
24 your cell phone off or check to make sure it is
25 off.

1 Our next invited presenter is
2 President Rosa Perez. Prior to becoming President
3 at Canada College in Redwood City, California, Rosa
4 Perez served as a Vice President in three other
5 California community colleges; City College of San
6 Francisco, Canyon College, and Chabot College. She
7 was also Vice Chancellor in the San Francisco
8 Community College District.

9 President Perez's commitment to
10 athletics is evident in her previous appointments
11 as varsity softball coach at City College of
12 San Francisco, as an athletic advisor at West
13 Valley College, and in her own competitive
14 experience while attending some university,
15 Stanford University and in numerous leagues over
16 the years. She also has the acronym --

17 Throughout her career President Perez
18 has received many honors. She was recently honored
19 as one of the outstanding female Hispanics in the
20 Bay Area, and in 2001 she was named Woman of the
21 Year in the 11th Senatorial District in California.

22 President Perez, thank you.

23 MS. PEREZ: Thank you very much.

24 Good morning, and welcome to the
25 great state of California. I don't know that

1 anybody has done that for you yet. I just want to
2 tell you it's great to have you here, and to
3 Cynthia Cooper, I just want to let you know that
4 you are a hero for both my daughter and my son, and
5 it's wonderful to be before you this morning.

6 I am with you this morning as the
7 representative of the world's largest statewide
8 system of higher education. It's a thrill to be
9 able to say that. Each year the California
10 community colleges educate nearly 20 percent of the
11 nation's population of college students. Each year
12 our colleges provide unprecedented high quality
13 educational opportunities at low cost to nearly
14 three million California residents of all ages.
15 Our system encompasses 108 colleges, employs nearly
16 60,000 faculty and staff, and has an annual state
17 budget of nearly five billion dollars.

18 The California Community Colleges
19 Commission on Athletics is a legislatively mandated
20 entity responsible for the administration of
21 intercollegiate athletics. The system is large
22 enough to merit its own oversight agency separate
23 from the NJCAA, and we've been in business since
24 1902. We just completed a year long celebration
25 honoring 25 years of women's intercollegiate

1 athletics at community colleges in California.

2 Nearly 25,000 full-time community
3 college student athletes compete in 23 sports
4 sanctioned by the COA. None received scholarships,
5 and all must maintain a 2.0 grade point average in
6 NCAA transferable courses in order to participate.

7 COA sports teams within our nine
8 all-sport conferences are dotted with the unique
9 and unusual. Here are some examples of current
10 athletes in our system; a 57-year-old grandmother
11 completing in cross country, a father-son tandem
12 competing together on the same basketball team, a
13 71-year-old granddad competing in men's golf, a
14 20-year-old amputee playing basketball, and many
15 women in their 40s returning to compete on women's
16 golf teams, women's badminton teams and selected
17 other sports.

18 We are a system that takes great
19 pride in being the true people's colleges and of
20 our open access, open door policies. In our
21 opinion it is unfathomable to think that athletic
22 administrators would not provide opportunities
23 equitably to men and women, and at the same time,
24 we see that the work of equity continues to require
25 the attention of institutional leaders guided by

1 the law in its regulation.

2 The vision of Title IX has yet to be
3 realized. Although I speak to you today as a
4 college president on behalf of the COA, I also want
5 you to know that I am a former athlete and a
6 varsity softball coach. When I played softball at
7 Stanford University, it was a club sport, and now
8 thanks to Title IX, it is one of the many excellent
9 varsity sports that are available to both women and
10 men at that university.

11 About ten years ago the university
12 sent all of the women that had played in club
13 sports over the years a certificate acknowledging
14 our participation in what should have been varsity
15 level play. The university recognized how Title IX
16 had raised its awareness and consciousness and now
17 is inducting us into its formal sports family.

18 That certificate meant so much to me,
19 because team play was such an important part of my
20 own development. It developed my character, my
21 leadership, my drive to succeed and to contribute.
22 I'm a Hispanic female who is the first in my family
23 to go to college, and sports developed me and gave
24 me the confidence to lead. I am a college
25 president today because I was a team captain first.

1 As a varsity coach I remember, even
2 after Title IX, what it was like to have to go to
3 the men to borrow equipment, beg for field time,
4 and to work with inner city high schools to recruit
5 potential players where there was not adequate
6 support for girls to play, especially in the Latino
7 community. So my work has always included
8 inspiring girls, who really would not, if just
9 given a survey today, indicate interest, because I
10 saw that I needed to, and we continue to need to
11 work with parents and families and communities to
12 develop that interest and to develop the trust in
13 our institutions in the work that we do.

14 If you look at the participation of
15 young Latinas in athletics in California, and I
16 would say throughout the United States, you would
17 see that we still have a long way to go.

18 I am very proud to be a member of the
19 board of the Commission on athletics because of its
20 conscious commitment to equity. The COA has
21 systematically increased the number of sport
22 opportunities for women and provided critically
23 important leadership on gender equity to our member
24 colleges. To us, Title IX is not social activism
25 that favors the minority. To us, it's a law

1 designed to ensure that fully one-half of the
2 American population gets basic rights in the
3 classroom and on the playing field. Our reason for
4 that belief is just as clear. It is the right
5 thing to do.

6 California Governor Gray Davis is
7 convinced of that, as well as is our legislature,
8 having recently signed and funded Assembly Bill
9 2295, a law that will require all educational
10 entities in our state, from K-12 to higher
11 education, to gather data about Title IX. The
12 intent of this bill is to ensure that Title IX
13 guidelines are being followed in California. A
14 report is due back to the assembly in January of
15 2004.

16 Earlier I pointed out just how unique
17 our system of colleges continues to be. However,
18 that uniqueness does pose problematic issues for
19 our open door system. Consider the following:
20 nearly 57 percent of our 2.9 students are women.
21 Our average age is 27. We do not offer athletic
22 scholarships, as I've already said. Most of our
23 students live on their own and maintain jobs while
24 attending college, oftentimes going to classes in
25 the evening after feeding their kids their evening

1 meal.

2 Our colleges do not have anything
3 remotely close to the huge budgets of four-year
4 universities, and our colleges have more than
5 500,000 adults ages 40 years or older, and nearly
6 300,000 adults between 30 and 39 years of age.
7 Thousands of our students enter specific short-term
8 occupational certificate programs to learn new
9 skills for job upgrades and aren't interested in
10 transferring to universities.

11 These points illustrate our
12 uniqueness, which we fully embrace. That
13 uniqueness is the very reason why a large majority
14 of our colleges must have the flexibility of the
15 three-prong test, and are best served by using
16 prong three to demonstrate the non-discriminatory
17 reasons why disproportional participation is
18 justifiable.

19 Our focal point of our concern
20 centers not on the proportionality criteria or the
21 three-prong test, but on the failure of the Office
22 of Civil Rights, sorry about that, guys, to provide
23 educational materials and workshops on the use of
24 prong three and how it does permit departures in
25 proportionality when there's differences in the

1 availability of males and females to participate
2 because of work and family responsibilities.

3 We need for the OCR to emphasize that
4 the safe harbor terminology used to characterize
5 prong one as a term of legal art rather than the
6 only way to comply. We need to have OCR reinforce
7 the acceptability of less than proportional
8 participation in institutions like our community
9 colleges, when the cause of such imbalance is our
10 unique student population.

11 When Title IX was passed, there was a
12 heavy emphasis placed on training by the Office of
13 Civil Rights. I remember that because I was a
14 Title IX compliance officer at the time, and the
15 OCR spent a lot of time helping us understand the
16 law and interpret it. The confusion today is
17 simply as a result of the years of neglect and
18 continued training that has kept up to date with
19 the evolution of the law and its options of the
20 three-prong test.

21 There are inherent differences at
22 each level of education. We all cannot be painted
23 with the same brush. Equity at the K-12 level and
24 in many four-year institutions with traditional
25 student populations and athletic scholarships may

1 be proportionate, but proportionality may not
2 reflect the needs and interests of a community
3 college population across the country. At the
4 community colleges we need educational assistance
5 that shows us how to use prong three to justify
6 non-discriminatory athletic programs that may not
7 be proportional to the numbers of males and females
8 in our student bodies.

9 The second solution is that the
10 Commission must focus on enforcement. There has
11 been no proactive sustained movement in this area.
12 We need to develop the personnel, training
13 programs, and enforcement teams to ensure
14 implementation of the law.

15 The COA and the State of California
16 believe that the passage of Title IX was one of the
17 most significant and far reaching events in the
18 history of athletics. Like the widespread
19 integration of the late 1960s, it transformed the
20 culture of athletics and, in turn, fundamentally
21 influenced American lives. It needs to continue to
22 do so. The law is just fine. Don't fix what's not
23 broken. Thank you.

24 (Applause.)

25 MR. LELAND: Thank you.

1 Our next presenter is Dr. John Welty.
2 Dr. Welty has been president of California State
3 University Fresno since 1991 where he is also a
4 professor in the School of Education and Human
5 Development. Recently President Welty chaired a
6 group of seven California State University
7 presidents, who were responsible for overseeing
8 agreement reached for CAL NOW to increase
9 opportunities for women, particularly in athletics.

10 Dr. Welty received his Bachelor's
11 degree from Western Illinois University, his
12 Master's degree from Michigan State University, and
13 his Doctorate in Administration of Higher Education
14 from the Indiana University in Bloomington.

15 He has had numerous publications, sat
16 on dozens of committees and advisory committees,
17 he's been involved in all kinds of academic
18 enterprises, won numerous awards, and as recently
19 as 2001 he was recognized by the California State
20 Student Association as University President of the
21 Year. John Welty, thank you.

22 MR. WELTY: Thank you, and thank you for
23 this opportunity to be with you on behalf of the 23
24 campuses in the California State University, which
25 currently enrolls over 400,000 students.

1 Over the last ten years the
2 California State University has made enormous
3 progress in the area of gender equity in athletics,
4 and today I want to focus my comments on the
5 achievements that have been made during this
6 period.

7 In 1993, as has been mentioned, the
8 California National Organization for Women filed a
9 lawsuit against the CSU alleging that the system
10 failed to comply with Article 5 of the California
11 Education Code, which is state legislation passed
12 in 1976 that mirrors Title IX legislation. Rather
13 than pursue a lengthy and costly litigation
14 process, the CSU made the choice to enter into a
15 five-year consent decree with CAL NOW, and the CSU
16 presidents made a commitment to achieve equity for
17 women in intercollegiate athletics within a
18 five-year period.

19 Equity was to be achieved by meeting
20 the following criteria: First, the percentage of
21 female student athletes on a campus would be within
22 five percent of the percentage of NCAA eligible
23 women.

24 Second, funding for women's athletics
25 programs would be within ten percent of the

1 percentage of NCAA eligible women enrolled on a
2 campus, and that in some cases the decree allowed
3 allowances that were made for non-comparable
4 expenses, for example, expenses that applied to the
5 more costly sports such as football.

6 And third, out of the total grants
7 and aids available, grants given to women would be
8 within five percent of the percentage of NCAA
9 eligible women.

10 In order to implement this
11 commitment, the CSU established a system-wide
12 monitoring committee of seven presidents and over
13 the last eight years I've served as chair.

14 Let me share with you the dramatic
15 results of this massive effort on the part of our
16 campuses. First, in the area of participation, the
17 percentage of women participating in
18 intercollegiate athletics within the CSU increased
19 from 35 percent in '92/'93 to 52 percent in
20 2000/2001. Within an eight-year period, an
21 additional 1499 women participated on an annual
22 basis in intercollegiate athletics. During this
23 same period, male participation decreased from 65
24 percent to 48 percent, a decrease of 647 male
25 students.

1 The CSU's achievement of raising the
2 ratio of female student participation in athletics
3 is even more dramatic when considered in context.
4 Most CSU students attend a California high school
5 and/or community college, and last year the
6 statewide participation rate of female athletes was
7 41 percent in California's high schools, and 36
8 percent in the state's community colleges.

9 This places the participation rate of
10 female student athletes in the CSU at 11 percentage
11 points higher than high school, 16 percentage
12 points higher than the community colleges. But to
13 accomplish this dramatic increase over the last ten
14 years, campuses added 59 sports for women and 15
15 sports for men and eliminated 19 female sports and
16 32 male sports.

17 These changes were all made for
18 programmatic, financial and equity reasons. For
19 example, CSU Northridge recently dropped football
20 after a deliberative process which considered the
21 financial, programmatic and equity issues it faced
22 in its program.

23 Secondly, the percentage of
24 expenditures devoted to women's intercollegiate
25 athletics increased from 25 percent in '92/'93 to

1 48 percent in 2000/2001. This represents an
2 increase of 30.2 million dollars, or a 313 percent
3 increase. The increase for men's programs during
4 this period was 16 1/2 million, or 50 percent.

5 Third, the percentage of
6 grants-in-aids allocated to women's intercollegiate
7 athletics increased from 35 percent in '92/'93 to
8 51 percent in 2000/2001. This represents an
9 increase of 5.8 million dollars or 227 percent.
10 This increase for grants-in-aids to male students
11 in the same period was 3.4 million dollars or 75
12 percent.

13 In addition to the above
14 achievements, over 40 million dollars was spent in
15 the six-year period from '92 on to build new
16 facilities or renovate existing facilities for
17 women's intercollegiate athletics. We're proud of
18 the progress that's been made over this eight-year
19 period, and in the spring of 1999, in a joint press
20 conference with CAL NOW, we announced that we had
21 satisfied the, largely satisfied the terms of the
22 consent decree, but more importantly, in my view,
23 we had created equitable athletic programs on our
24 campus.

25 In order to maintain our

1 achievements, however, and to continue to make
2 progress, the CSU chancellor and presidents made
3 the decision to implement a system-wide program of
4 voluntary self-monitoring, and to continue to hold
5 campuses accountable for meeting the benchmarks
6 that had been established in the consent decree.
7 We're now in the fourth year of this voluntary
8 self-monitoring, and I continue to chair the
9 monitoring committee.

10 Each year we continue to obtain data
11 from the campuses, and in cases where compliance
12 has not occurred, we expect campuses to submit a
13 program in which they outline how they will
14 continue that compliance.

15 What have we learned during this
16 period of time? First, we've learned that
17 presidential, chancellor, and board leadership is
18 essential in order to create change.

19 Secondly, we also learned that
20 interest in intercollegiate athletics follows
21 opportunity. Opportunity, however, can outstrip
22 interest. In some instances, for example, we have
23 experienced the following: Some female teams have
24 experienced difficulty in recruiting enough women
25 to compete. Secondly, in an effort to meet

1 expenditures targets, we had trouble spending money
2 allocated to women's programs. And third, in order
3 to meet grant-in-aid targets, some women's programs
4 were told to recruit out-of-state athletes, a
5 solution that's contrary to our commitment to the
6 residents of the state of California.

7 Third, the increase in female student
8 enrollment within the CSU system makes it difficult
9 to continue to meet participation targets. In the
10 fall of 2001 within the CSU, female students made
11 up 57.8 percent of our undergraduate enrollment.
12 This percentage is growing by approximately one
13 percent per year.

14 Fourth, the NCAA regulations that
15 established scholarship limits and determined the
16 maximum number of scholarships can be provided and
17 specifics sports are also a problem. In some cases
18 campuses within the system are not able to meet
19 equitable standards in the area of grants-in-aid
20 because they are already giving the maximum number
21 of scholarships under NCAA rules, in spite of their
22 meeting the proportionality standard.

23 In closing let me offer this
24 recommendation to the Commission on behalf of my
25 presidential colleagues. We suggest that standards

1 rather than rigid numbers be established for
2 universities in order to comply with Title IX.
3 Every university should be required to meet these
4 standards within a reasonable period of time.
5 Perhaps the NCAA would adopt these standards as
6 requirements for universities to be certified, but
7 higher education community has a history of
8 voluntary accreditation processes to assure
9 quality. These standards would allow for a program
10 to be looked at in its entirety rather than
11 focusing on rigid numbers that might not fit an
12 individual institution's circumstances.

13 This approach would allow
14 institutions to measure outcomes related to its
15 programs and assess how equitable programs are
16 viewed from the view of student athletes. The
17 number of male and female student athletes
18 available in an institution service area might be
19 assessed. An institution would be expected to
20 offer more outreach programs to high schools to
21 encourage more female interest, and there are many
22 more examples which could be given. The continued
23 focus on rigid numbers will only exacerbate the
24 polarization of athletic departments and lead to
25 thicker books of regulations.

1 Finally, let me suggest one other
2 idea for consideration. Perhaps those institutions
3 which are able to demonstrate that they have met
4 the standards that are established to comply with
5 Title IX would be given extra points when
6 competitive grants are submitted to the Department
7 of Education and other federal agencies. Let me
8 assure you that that change alone would get every
9 institution's attention.

10 Thank you for this opportunity to be
11 with you this morning.

12 (Applause.)

13 MR. LELAND: Thank you. We'll now open it
14 up for questions from the commissioners. We have
15 about 20 minutes for questions and then we'll take
16 a break.

17 So let me start off with one.
18 President Welty, you were fairly clear in saying
19 that the proportionality required under CAL NOW was
20 based on the number of NCAA eligible women. Could
21 you explain that and could you also maybe tell me
22 whether that was a difference, what the differences
23 between that and what the OCR standards are?

24 MR. WELTY: Well, specifically, and this got
25 to be fairly complicated, we used the NCAA

1 definition of eligibility to calculate the men and
2 women in our student populations when we calculated
3 that percentage. So that did exclude, for example,
4 students that were over certain ages and part-time
5 students, etc.

6 We have, in fact, though, as you run
7 the numbers on our total student population, they
8 mirror very closely what our eligible population is
9 to what our actual population.

10 MR. LELAND: Other questions from -- Debbie?

11 MS. YOW: You knew I would be the first one.

12 MR. LELAND: I knew, I knew.

13 MS. YOW: I'd like to ask a question of
14 Mr. Zimbalist and Dr. Perez about proportionality.
15 You know, so much of our discussions are really,
16 this is really a trust issue, and given my
17 background I understand that, but nonetheless, I'm
18 very interested, if you could just make yourself
19 think about it in this way. Do you find that the
20 standard of prong one, the proportionality
21 standard, do you find that to have a logic flow?

22 In other words, the people that I've
23 talked to who don't agree with that seem to not
24 agree with it because they don't see a logic flow
25 between a comparison of the undergraduate

1 enrollment, male to female, to participation rates
2 in athletics. And I just want to focus on that and
3 get your thoughts on that and whether or not you
4 think it's appropriate. If you do, why, and if you
5 don't, any idea you might have for something that
6 could be used that would be better?

7 MR. ZIMBALIST: First let me say that I
8 think it's important, in talking about prong one,
9 to recognize always that there are two other
10 prongs, and prong one --

11 MS. YOW: Wait, wait, wait. I'm sorry, I'm
12 sorry. This is my question. Prong one only. No
13 prong two discussion, no prong three. Prong one.
14 Because --

15 MR. ZIMBALIST: Yes, ma'am.

16 MS. YOW: Thank you.

17 MR. ZIMBALIST: I think there's a logic
18 flow, and this is what I think it is. To me,
19 what's important about the proportionality prong is
20 that it sets a standard and it pushes the system
21 forward, you know. If we were to ask 20 years ago
22 or 1972 when Title IX was passed, what are the
23 inherent interests of women to participate in
24 sports, we would have seen a much lower level.
25 Just about everybody in this room would agree that

1 in 1972, I'm quite sure, that women were not as
2 interested in sports as men. And one of the
3 reasons why women continue to be less interested in
4 the aggregate than men, even today, is because
5 society has taught them to be less interested and
6 because the level of resources that are devoted to
7 women's sports is less and that makes it less
8 attractive.

9 And I think the idea of getting to a
10 place sometime in the future where there's no
11 discrimination means pushing the system, and I
12 think that that's what the proportionality prong is
13 all about. It pushes the system, it sets some kind
14 of a standard.

15 (Applause.)

16 Now, let me also say that, whenever
17 you have social change, whenever you have social
18 change in any area, there are going to be tensions
19 and there are going to be anomalies and there are
20 going to be people who get hurt by it. And what --
21 I think that should not lead you to abandon the
22 social change. It should lead you to try to deal
23 with some of the people who are getting hurt by it,
24 it should lead you to make modifications, but you
25 know, the fact that in the California system,

1 sometimes that has to go out of the state to meet
2 the women's participation level is an example of
3 that kind of tension. It's going to happen. It
4 should not lead you to abandon the system that has
5 brought us to where we are today.

6 (Applause.)

7 MS. PEREZ: You mentioned the very key word
8 at the very beginning, which is trust, and I would
9 say there's no reason why women should trust that,
10 just on the basis of the other two prongs, things
11 will be just fine. You know, the prong one -- what
12 prong one does give us is very clearly a logic
13 flow, it does have enough flexibility within it, it
14 is not a rigid prong, but it does give us, I think,
15 some pretty simple thinking, focused sometimes on
16 our dialogue around this business whose hearts we
17 still have to open up and whose minds we are still
18 working on. It gives us the hammer we
19 unfortunately still have to yield in order to make
20 the change we're looking for.

21 It helps us get more aggressive in
22 the areas of developing interest in recruitment, in
23 doing the right thing, and prong one gives us a
24 term, it gives us a goal that we absolutely have to
25 turn to in order to achieve equity. And you know,

1 I just don't know how else to state it. I can't
2 imagine that we could do our work without having
3 the capacity provided to us through prong one.

4 MS. YOW: I appreciate the responses, which
5 is what I asked for. Just a comment, though, I
6 apologize. Mr. Zimbalist, I just want to let you
7 know that a lot of us as athletic directors do not
8 lack financial discipline, we're doing the best we
9 can under some very challenging circumstances. I
10 referred to it earlier, if we used classic
11 counseling terminology, one would suggest that we
12 find ourselves in what would be called a double
13 bind. If we use colloquialisms it would be damned
14 if we do and damned if we don't, would be how you
15 would say that.

16 And if there's an antitrust movement,
17 unfortunately my women's basketball coach would
18 lose money, so let's not do that too soon. She
19 would lose 75,000 dollars in this scenario, and I
20 would hate for her to lose that money.

21 And then last thing, the athletes are
22 not unpaid. The last time I checked they're
23 getting five years of full scholarships, free
24 medical support and opportunity for millions of
25 people to see them, quote, do their thing, and I

1 feel pretty good about that. But I do very much
2 appreciate both your perspectives on the
3 proportionality prong.

4 MR. LELAND: Okay. Jerry?

5 MR. REYNOLDS: Mr. Zimbalist, I just want to
6 make sure that I understand where you're coming
7 from. It seems to me there are two obvious ways to
8 view Title IX. One way is to view it as an
9 anti-discrimination statute, a law that's intended
10 to ensure that men and women aren't harmed on the
11 basis of their sex.

12 Another way to view it is that the
13 law is a vehicle for social change, for
14 transforming the landscape of society with respect
15 to participation in athletics by women. Looking at
16 those two approaches, which one -- which one do you
17 embrace?

18 MR. ZIMBALIST: I hope you won't be as rigid
19 with me as Ms. Yow was a moment ago.

20 I'd like to say that it's both. It's
21 written as a statute for non-discrimination, but it
22 was written at a time when there was
23 discrimination, so it's both a statute that
24 promotes social change and a statute that promotes
25 non-discrimination.

1 MR. LELAND: I was going to say, what you
2 could have said is her question could be your
3 answer. Donna?

4 MS. DE VARONA: Andy, let's suppose that
5 proportionality is taken out of the law and the law
6 states that you cannot discriminate on the basis of
7 sex in any institution that receives government
8 funding, and suppose that these programs were
9 slowed down. This is a two-part question. How do
10 you then define what isn't discrimination if we got
11 rid of proportionality? And if we did, because
12 we've heard from a lot of wrestling advocates and
13 tennis advocates and swimming and gymnastics, do
14 you think if we slowed this down, that these
15 programs would indeed be put back into schools?

16 I'm not asking you to look into the
17 future, but I think it's an important question,
18 given the dynamics of what the debate is, whether
19 it's the problem of revenue-producing sports that
20 demand good coaches' salaries or whether it's
21 capping teams and cutting teams to meet the
22 mandates of Title IX.

23 MR. ZIMBALIST: Let me say that I don't
24 view my own expertise to be in the area of
25 implementation of Title IX. I was asked what I

1 thought about the proportionality prong, and I've
2 told you what I thought the value of it was, so I'm
3 not sure I'm in the position to tell you what would
4 happen if prong one weren't there.

5 It does seem to me that, in general
6 if it weren't there, you would want some other
7 mechanism to drive the system, and some of the
8 incentives that the president spoke about, you
9 know, might serve that function.

10 In terms of whether or not, if you
11 took away prong one, would the wrestling team come
12 back and would the male gymnastics team come back
13 and so on, I disagree, not with Ms. Yow in
14 particular with regard to her administration at
15 Maryland, but I do disagree as a general
16 proposition with regard to the operation and
17 function of athletics budgets in athletic
18 departments.

19 I think there's an enormous amount of
20 endemic waste, and that one of the reasons for it
21 is that these departments are separated out from
22 the rigors of budgetary discipline at the
23 university, but more importantly the, rigors of
24 budgetary discipline that comes from a marketplace
25 and comes from having to answer to shareholders who

1 care about getting a dividend or a capital gain
2 while they're holding their stock. And it's a very
3 self-contained mechanism that reinforces itself.

4 I happen to believe that if you
5 eliminated prong one therefore, there's absolutely
6 no guarantee, not to say it wouldn't happen in a
7 particular case, but absolutely no guarantee that
8 this system that doesn't have its own internal
9 discipline mechanism would then take that money
10 rationally that they were saving from spending less
11 on women's sports and give it back to the male
12 wrestling team.

13 MS. DE VARONA: In respect to that, what is
14 your opinion or where do you think Jerry Kravitz
15 was going with his interpretation of his own
16 statistics as it related to proportionality and
17 interest in providing opportunities to women
18 athletics?

19 MR. ZIMBALIST: Where Kravitz seems to be
20 going is the elimination of the first prong. I
21 find that some of his statistics are quite
22 baffling. He uses a recruitment rate that seems to
23 be the number of female participating athletes
24 divided by the number of high school athletes
25 reduced by the 77 percent and the 64 percent, and

1 then he takes that number and he reapplies it to
2 say how many there ought to be, so it was
3 topological.

4 It seems to me that you can play the
5 statistics game in all sorts of different ways.
6 What we all seem to be about, even those of us on
7 the panel who disagree with each other, is that we
8 think Title IX has been productive and that it
9 ought to march forward, and I'm not sure that
10 Mr. Kravitz's remarks would lead us in that
11 direction.

12 MR. LELAND: Cary?

13 MS. GROTH: I would like to talk about the
14 other two prongs if we can for just a minute, and
15 Dr. Perez, you addressed this in your comments.
16 First of all, a comment. I reread the 1996
17 interpretation that was distributed by -- sent out
18 by Norma Cantu last night, and I find it
19 interesting that it clearly states that all -- you
20 can meet just one of those three prongs, yet we
21 keep arguing prong one.

22 Perhaps, and I guess I'm going to --
23 this is a question to the panelists, if we were to
24 strengthen prongs two and three, go back to the
25 1996 interpretation, and work with the member

1 institutions in finding ways to meet prongs two or
2 three, taking away the stigma of the safe harbor
3 only for one of those prongs, would that help?

4 MS. PEREZ: I'd like to comment on that. I
5 don't think it would help at all. I think it would
6 set us backward. I think we need all three. It's
7 the whole context.

8 MS. GROTH: I'm not suggesting take away
9 prong one, just strengthening prongs two and three.
10 I'm not suggesting --

11 MS. PEREZ: I think they're written fine.
12 My comments were that we need the education. We
13 need OCR to be working with us. The language is
14 very very clear, I think -- and in them, I don't
15 know what you would do to strengthen them. Again,
16 the training was important. It was important in
17 the beginning of Title IX, it's important now.

18 MR. LELAND: Percy?

19 MR. BATES: My question is somewhere between
20 Andy and Chuck. I heard 60 football scholarships,
21 I think maybe, Chuck, you were arguing for holding
22 it at 65. What's the basis -- I guess I'm trying
23 to understand how we arrive at those numbers. Can
24 you help us with that?

25 MR. NEINAS: I would be glad to. And first

1 of all, I'd like to say to Mr. Zimbalist, there are
2 a lot of athletic directors sitting up here who
3 realize that they have hundreds of thousands of
4 shareholders who voice their opinion every
5 Saturday.

6 (Laughter.)

7 And basically, you got to remember
8 there's an evolution -- or a system that at one
9 time conferences themselves established
10 (inaudible). There were no (inaudible) reports.
11 We started out at 105 and that never even was
12 implemented, then it went to 95, 92, 88, 85.

13 As I indicated earlier, I've done
14 surveys since 1978 every other year, and the number
15 of aid is always five to seven below the total
16 number of the limit, because there's no (inaudible)
17 enough. Know who is going to get hurt, who is
18 going to quit, who is going to transfer, or who is
19 going to flunk out. So you basically are going to
20 operate with less than that.

21 The thing that is interesting, and
22 this is a little bit not to your question, but for
23 example, probably the healthiest college football
24 today is Division III nonscholarship football. For
25 example, Mt. Union College has 180 football players

1 that plays nine junior varsity games. Now, any of
2 us who were involved in the philosophical basis
3 that college athletics is good for everyone would
4 say, we need to applaud that program. I can
5 remember when we used to have freshman football
6 programs, I was opposed to freshman eligibility,
7 and that was a great day.

8 So what you have is, because of
9 economics, we have actually reduced the number of
10 grants-in-aid, unrelated to Title IX. People fail
11 to recognize that in the NCAA you can be I-A with
12 85, you can be I-AA with 63, you can be Division II
13 with 36, or you can be Division III and unaided.

14 I would be interested in what Cedric
15 Dempsey has to say, because a lot of people rush
16 into Division I to get some of that basketball
17 money, and if they have a football program they
18 then have to put it into Division I.

19 Let me just say one thing and I'll be
20 quiet. I have shared with Division I-A athletics
21 directors, as some of you have heard, and I've
22 shared with American football coaches, and there's
23 no one here who represents that group, I'm
24 concerned about the future of college football. I
25 have some real concerns, and we need to get a

1 better handle on some things, because I want to see
2 as many colleges as possible play this sport, and
3 that is unrelated to Title IX. But I think college
4 football has become a whipping boy in some areas
5 and it's unfair, because there is not a recognition
6 as the totality of college football within the NCAA
7 as well as the NAIA.

8 MR. BATES: Okay.

9 MR. LELAND: I'd like to -- oh, I'm sorry.

10 MR. ZIMBALIST: I'm happy to concede to
11 Chuck that the 85 scholarships doesn't become 85
12 scholarship players in a particular year, it might
13 become 80 or 78. According to the NCAA there are
14 32 walk ons on average for DIA teams. Still brings
15 you over 110 people on the football team. You
16 don't need that many. I think it's plain and
17 simple. And we can argue about whether NFL teams
18 have 55 or 58 people on their contract, and it's
19 true, they have mini camps, they each recruit 50
20 people in the amateur drafts, and they have people
21 beyond the amateur draft every year that come into
22 these mini camps.

23 But the fact of the matter is they
24 put somewhere in the mid 50s, that number of people
25 on their contract. One could make the argument

1 that, because they don't have a minor league system
2 and because they don't have mini camps and because
3 they don't have the Canadian Football League to
4 draw from, that NCAA teams need to have more than
5 the NFL teams. Fine. If you had 60 scholarships
6 and you had 32 people, walk ons, you probably have
7 more walk ons if you limited the number of
8 scholarships to 60, you still have 90 or 100 people
9 on the football team. That's more than enough. I
10 think plain common sense would tell you that.

11 MR. BATES: Thank you.

12 MR. NEINAS: Let me say that anybody up here
13 who is a coach realizes, of the 32 walk ons, half
14 of them will cut themselves within the first month,
15 and that's a fact of life.

16 MR. JONES: This is a question for Mr. Bay.

17 You know, having now sat through four
18 of these, you know, public meetings, you know,
19 there are a lot of common themes that I think we're
20 beginning to see coming out of these, and one of
21 these themes, or two of those themes really, you
22 know, are continuing to play out today as we look
23 at the three-part test. And you know, one of them
24 is the suggestion that look, we have three very
25 independent tests here, and part of the problem

1 is that the Department of Education and the OCR in
2 particular isn't doing a good enough job of
3 explaining how parts two and three work, or letting
4 people know that there are three independent tests.

5 And at the same time, on the other
6 hand, I've heard Debbie and others who have sat
7 here and said no, no. As a practical matter, you
8 know, proportionality is the sum of the game here,
9 you know, either because there's a lack of clarity
10 in the law about how the parts two and three are
11 interpreted and applied, or just the way we've come
12 to define parts two and three functionally.
13 There's a proportionality element even built into
14 those two tests.

15 So I'm just curious, from your
16 perspective as an athletic director in a large
17 program and having experience in several other
18 large athletic programs, what your sense of this
19 question and these themes really is. I mean, do
20 you -- from your perspective are you getting a
21 sense that you just don't have a good sense of how
22 parts two and three operate or how OCR views them
23 or is it, you know, something else? Is it that
24 parts two and three, do just, you know, ultimately
25 do take you right back into a proportionality

1 analysis? What's your sense?

2 MR. BAY: Well, I'd like to have the luxury
3 of being able to use prongs two or three. In the
4 California State System we don't. We are just tied
5 to proportionality alone. That is the only
6 measure. Now, we are an exception, I know, around
7 the country, but I would like to think that, as a
8 fair-minded manager of the athletic department,
9 that I could provide gender equity using prongs two
10 or three given the opportunity to do so.

11 But I think while proportionality,
12 Mr. Zimbalist says it pushes the system, I
13 certainly agree with that, it does push the system,
14 but I don't know how far we want to go down that
15 road. I mean, if we get into proportionality based
16 on race as well as gender, that brings about some
17 other kinds of issues, and certainly
18 proportionality based on race would push the system
19 as well, but I'm not sure how comfortable people
20 would be with that.

21 So I think we have to be a little bit
22 careful with proportionality, but I don't think
23 that a quota system in this country ought to be, in
24 any sense, a safe harbor for those who want to use
25 it to say they met the requirement, nor should it

1 be a safe harbor for those who are critical of
2 those who have not met it. I just don't think it
3 is a fair test, that that is acceptable given my
4 own value system.

5 MR. LELAND: I've got a question that some
6 of the commissioners asked this previously. You're
7 currently a thoughtful, experienced athletic
8 administrator forced into the difficult situation
9 recently of dropping some men's programs. I think
10 the commissioners would be interested in getting a
11 short answer on what force is pushed on you at
12 San Diego State University to make that decision to
13 drop those men's sports. What role did
14 proportionality play, Title IX, CAL NOW? Could you
15 give us a feeling for that? The commissioners have
16 asked to talk to someone who had made that
17 difficult decision who was supportive of Title IX.

18 MR. BAY: Well, in my career at four
19 schools, I've only dropped one sport and that was
20 here at San Diego State. When I arrived, we had
21 the situation -- for example, we have the women's
22 swimming, we don't have men's swimming. We have
23 women's track, we don't have men's track.
24 Ironically our women's track team would be much
25 better if we had men's track because of the culture

1 of the sport, the two genders working together in a
2 single program. The sport that I ended up dropping
3 was men's volleyball. I hated to do that, because
4 if there was any place in the country where
5 volleyball has a life, it's here in California,
6 particularly on the men's side.

7 I didn't drop men's volleyball to --
8 specifically to comply with Title IX. I was faced
9 with a budget situation, however, where I had to
10 save -- I had to save 300,000 dollars. I had to
11 find and cut 300,000 dollars out of my budget.
12 Men's volleyball is about -- was about a 150,000
13 dollar item for me, all things considered.

14 Given CAL NOW and proportionality as
15 it relates to overall expenses, the only way I
16 could trim some money from both the men and women
17 was first to trim the men's budget, so by cutting
18 150,000 dollars relative to men's volleyball, it
19 allowed me in a less dramatic way to trim 150,000
20 dollars of expenses out of the women's side for a
21 total of 300,000. So I wouldn't blame the cutting
22 of men's volleyball on Title IX or CAL NOW. It was
23 a budgetary decision.

24 MR. LELAND: Okay.

25 MS. COOPER: I have a question for anyone on

1 the panel, and I just want to be very clear about
2 this. Without the proportionality prong, just say
3 it never existed, would women's participation in
4 sports have grown the way it has at this point?
5 And then the second part of the question is,
6 without the proportionality prong, just say it
7 never existed, would men's participation have
8 dropped anyway? Like would wrestling because of
9 budget issues, etc., etc., have still been dropped
10 or gymnastics or etc.?

11 MR. LELAND: We've got this one more
12 question and then we'll have to --

13 MR. WELTY: I'd like to say that the higher
14 education community would have complied, but I
15 think the reality is, the proportionality standard
16 has been necessary and made it possible for
17 opportunities to be increased.

18 I think the question we now face,
19 though, is how do we go forward, having gone
20 through a period of change, and to develop a set of
21 standards that we expect all institutions to adhere
22 to, that, in fact, assures equity?

23 The second part of your question is,
24 I think, and I speak from the president's
25 viewpoint, the reality is that in the coming years

1 there will be a shift in the change in how many
2 sports we can offer because of the economics that
3 we're facing. Athletic directors have a very
4 difficult time, and I can assure you that
5 presidents are going to require them to make
6 changes that are probably not going to be pleasant
7 in all cases.

8 MS. PEREZ: I can speak as a college
9 president on this. Absolutely without
10 proportionality we would not have had the increase
11 we've experienced in women's sports in respect to
12 participation. And I think it's still needed.

13 I think in terms of your second
14 question, which is the cutting of men's sports, I
15 don't think it's about Title IX, I absolutely think
16 it's about budget, and I think frequently we hear
17 Title IX used as an excuse by CEOs to say this is
18 because of women, rather than to face some of the
19 politics around budget cuts of male sports or in
20 other areas of the institution. Unfortunately I
21 think it's a -- it's just -- it really is a budget
22 situation that institutions face, which is why I do
23 not think that you will see men's sports
24 reintroduced should this be changed.

25 (Applause.)

1 MR. LELAND: Muffet and then --

2 MS. MCGRAW: I have two really quick yes or
3 no questions. First Rick Bay. Back in '93 the
4 reason that you were forced to go to prong one, was
5 it because a lot of the schools were not in
6 compliance with prongs two and three?

7 MR. BAY: I'm sorry, I didn't hear the first
8 part of your question.

9 MS. MCGRAW: Back in '93 when the whole
10 thing came about and you were forced to use prong
11 one in your solution, was it because a number of
12 schools were not in compliance with prongs two and
13 three?

14 MR. BAY: I can't really answer that. John
15 Welty would be better served to answer that, I
16 think. I wasn't here when the CAL NOW Consent
17 Decree came down. My guess is that it was just a
18 surefire way mathematically to make sure that women
19 were going to be given a fair share of
20 opportunities in intercollegiate sports. And as a
21 result, as I said, it was an out-of-court
22 settlement, CSU agreed with CAL NOW to make that
23 the one and only standard relative to guaranteeing
24 equity on the campuses.

25 MS. MCGRAW: Do you concur with that?

1 MR. WELTY: Yeah, I think it is accurate to
2 say, if you look across all of our campuses, not
3 all campuses would have complied with one of those
4 prongs. It is important to point out that what we
5 reached in the consent decree was a negotiated
6 settlement. It, in fact, does not meet the
7 proportionality standard that is -- was placed
8 under Title IX at this point, so this is a way in
9 which we thought we could demonstrate equity using
10 this particular approach.

11 MR. LELAND: Okay, Donna, last question.

12 MS. DE VARONA: I just want to get back
13 to -- you decided to drop volleyball for budget
14 reasons and you say it's not Title IX reasons.

15 MR. BAY: Not directly Title IX. We had to
16 find 300,000 dollars and men's volleyball was a
17 sport that was -- had a budget of about 150,000
18 dollars. There was no way -- I had to choose
19 really between dropping one sport and taking a
20 little money, comparable money out of the women's
21 side across the board or trying to find that
22 300,000 dollars in weakening all of our sports by
23 taking money across the board, significant amount
24 of money.

25 MS. DE VARONA: I've done a little research

1 and it was reported that one year ago the Union
2 Tribune questioned the San Diego State University
3 Athletic Department accumulated debt of 1 point
4 million, despite questionable program expenditures
5 such as 4,383 dollars for helmet decals, 40,720 for
6 600 pairs of Nikes, and 37,796 for hotel rooms and
7 buses on nights before football home games. The
8 Tribune reported that the 2001/2002 athletic budget
9 would be 17.9 million, 16.4 million, or 36 percent
10 of which comes from the university's general fund.
11 Faced with this deficit, San Diego State did what
12 you said you did, you cut the volleyball team
13 rather than reduce the five million dollar football
14 budget, which the Tribune reported was one million
15 more than the twelve-sport women's sport program
16 budget. With 36 percent of your budget coming from
17 the university, did San Diego ever consider that it
18 might not be a Division I school, or did you
19 consider that maybe you could look at these
20 expenditures and fund volleyball, bring back men's
21 volleyball for the next season?

22 (Applause.)

23 MR. BAY: Well, football is the one sport,
24 when you take into account all the revenues that
25 you attribute to football, that actually generates

1 more money than is spent, and as a result it helps
2 fund all the other sports, including women's
3 sports. To say that we could cut football, if
4 that's what someone is suggesting, or drop football
5 and therefore save money, it wouldn't be the case.

6 MS. DE VARONA: I'm not suggesting dropping
7 football, you know. I'm a UCLA graduate and we
8 went to the Rose Bowl that year and I happen to
9 love attending football games. I'm just -- it
10 seems you inherited a situation where you had to do
11 something drastic, and I think a lot of schools
12 that haven't met certain criteria or have
13 difficulty trying to compete in this escalating
14 work, and competing against schools to stay
15 competitive so they can bring in the revenue --

16 MR. BAY: Right.

17 MS. DE VARONA: -- find themselves in your
18 situation.

19 When we talk about due diligence and
20 dropping these men's sports, is there a best
21 practices where you could have found a way to save
22 the volleyball team?

23 MR. BAY: I could have found a way to save
24 the volleyball team if I had cut a significant
25 amount of money from every sport budget across the

1 board, which I think then would weaken our entire
2 program. And I felt that in order to keep the rest
3 of the program strong, the best way to go about
4 that would be to eliminate one sport. It was a
5 difficult choice. I've been at four schools for 18
6 years and I've never been in a situation where I
7 have had to cut a sport. If there would have been
8 any way, or a better way in my judgment to have met
9 our budget criteria by not cutting volleyball, I
10 would have done it.

11 You mentioned the expenditures that
12 we spend in football. Our football budget is
13 pretty modest by competitive standards, and so
14 we're trying to keep our revenue sports relatively
15 strong so that they can generate revenue. So yes,
16 we could have -- to answer your question, Donna, I
17 wish we could have gone in and sliced 150,000
18 dollars out of the football budget that you
19 mentioned, but it would have reduced our capability
20 to be competitive in football, which would have in
21 turn reduced our capability to generate revenue to
22 help support all the sports, including the women's
23 programs.

24 MS. DE VARONA: Thank you.

25 MR. LELAND: Okay, thank you. Those were

1 great presentations, great questions, and we will
2 now take a ten-minute break and we will readjournal
3 at 11:48 and take our next panel. Thank you again.

4 (Recess.)

5 MR. LELAND: If people could begin to take
6 their seats please.

7 We now have our next three invited
8 speakers. We will again follow the same format,
9 which is three ten-minute presentations, followed
10 by a question and answer period of approximately 15
11 minutes long.

12 I'd like to announce now that Deborah
13 (Debbie) Corum, Associate Commissioner at the
14 Southeast Conference, was -- had some difficulty
15 getting here today. We are hoping that she will be
16 able to be an invited presenter tomorrow morning at
17 our forum. We're hoping she can make plane
18 arrangements here.

19 Again, welcome to our presenters.
20 The first up is Sam Bell.

21 Sam is completing his sixth year as
22 the President of the National Track and Field
23 Coaches Association. Sam was the first president
24 of the NCAA Division I Track and Field Coaches
25 Association. Sam was also the first Olympic

1 Development Chairman of the Athletics Congress,
2 predecessor to USA Track and Field, and he
3 organized the first two Olympic festivals in track
4 and field.

5 Sam Bell coached track and field as
6 well as cross country at three different
7 universities over a 40-year span, Indiana
8 University, Bloomington, Oregon State University,
9 Corvallis, and University of California, Berkeley.

10 Mr. Bell was inducted into the
11 National Track and Field Hall of Fame in 1992 for
12 his contributions to the world of track and field.

13 Sam, thank you for coming.

14 MR. BELL: Thank you for the opportunity to
15 speak to you. Is this on?

16 MR. LELAND: Yes, sir.

17 MR. BELL: I'd like to speak to you on
18 several fronts, but to start with I want to talk
19 about the issue of the non-scholarship athlete who
20 goes out for sports at the collegiate level. I
21 want to tell you five stories.

22 The first is of a young man named
23 Norman Hoffman, who came to Oregon State University
24 when I was there in the fall of 1958. It was my
25 first year of collegiate coaching. Norm was a

1 so-so high school runner. He had run 2:03 in the
2 880 yards in high school and had run a 4:31 mile.
3 His academic credentials were even more ordinary
4 than his track performance.

5 (Laughter.)

6 Those were not credentials that would
7 have caused to us recruit him, but he showed up
8 with a great deal of enthusiasm. In his senior
9 year, he competed on the 4 by 880 yard relay team
10 which set a world record for that distance. He
11 also ran 1:48 while in college and the next year
12 ran 1:47:3 when the world record was 1:46. He
13 finished fourth in the Olympic trials in 1964.
14 This is a young man who walked on with what
15 appeared to be no talent if we went by today's
16 standards of what you could keep on a team due to
17 artificial quotas. He graduated, came back and got
18 a Masters, became a professor of Health Education
19 at Bakersfield College in Bakersfield, California,
20 and was the author of at least four textbooks.

21 The second person I'd like to mention
22 is Dan Hayes, who was from Shelbyville, Indiana and
23 came to Indiana University without very good
24 running credentials. He competed in the NCAA
25 Championships in cross country and ran on a world

1 record 4 by 1 mile relay team indoors while he was
2 here. He ran 4:26 in high school and ran 4:05 in
3 college and went on to med school. He went to Dana
4 Farber Cancer Institute in Harvard after his
5 residency, then to Georgetown University, still
6 working in cancer research, and he is now at the
7 University of Michigan still doing cancer research.
8 He is an example of the fact that there are people
9 out there who aren't going to attract notice in
10 high school, but who can go on and do great things.
11 Dan has told me his most meaningful experiences in
12 college took place in track and field and cross
13 country.

14 The third person that I would like to
15 mention is a young woman named Judy Bogenschutz-
16 Wilson who graduated from Indiana University in
17 1989 and got a masters degree from Indiana
18 University in 1995. She was the head girls track
19 and cross country coach at Bloomington High School
20 South in 1988 to 1990. In 1990 to 1991 an
21 assistant men's and women's coach at the University
22 of South Florida. In 1992 to 1996 director/head
23 coach for men's and women's track and cross country
24 at DePaul University in Greencastle, Indiana. In
25 1986 to 1989 the assistant coach of women's track

1 and cross country at the University of Connecticut.
2 In 1998 she came back to Indiana University as the
3 head women's cross country coach and the assistant
4 track coach. She progressed while she was there
5 from 5:26 miler in high school to where she was
6 fifth in the 10K at the big ten championships and
7 third in the 5K at the big ten meet as a senior.
8 She was a member of the 1988 indoor big ten
9 championship team being the first one for IU's
10 women in track and field. She participated in the
11 Olympic trials in 1988 and in 1989 was the Olympic
12 Festival half marathon champion and record holder.
13 She became a new mother this past Sunday.

14 The fourth person I would like to
15 mention is a young woman named Rosanne
16 Barnhill-Wilson. She ran 2:22 for the 880 yards in
17 high school and did not run cross country. In
18 college she ran a 2:13 800 meters, a 4:30 1500
19 meters, and she competed in the NCAA cross country
20 championships in 1981 and was a graduate assistant
21 at IU from 1984 to 1986. She left here to be the
22 head women's coach at the University of Connecticut
23 in 1986 to 1989, and in 1989 came back to Indiana
24 University as head women's coach in a combined
25 program and coached here from 1989 to 1998. She

1 left because her husband had taken a professor's
2 job at the University of Evansville at Evansville,
3 Indiana. She is now teaching elementary school in
4 Evansville.

5 Both of these young women are
6 examples of people who were not good enough in high
7 school to attract the attention of the coaching
8 staff, but came to Indiana and made great progress
9 and broadened their education and created life
10 paths by what they did.

11 The last person I want to speak about
12 in depth is Robert Cannon, who came to Indiana
13 University from a high school in Columbus, Ohio as
14 a non-scholarship athlete. He triple jumped 45
15 feet in high school, not the kind of a mark that
16 would attract the attention of college coaches.
17 While in college he triple jumped 55 four, which is
18 a fairly dramatic improvement, and he long jumped
19 over 25 feet. He continued to compete after
20 finishing his degree and took a job with the Toyota
21 Corporation at Long Beach, California through the
22 Olympic job development program. He made the
23 Olympic team in 1988 and ended up with a best jump
24 of 56 eight. He's a kid that under today's
25 limitations of the politically correct term of

1 roster management would probably not have been on
2 our team. The squad limitations in order to
3 satisfy someone's bean counting in Washington or
4 somewhere else is an illustration of a good law
5 gone wrong by interpretation.

6 I have told you the stories of five
7 people and I could talk with you about 30 or 40
8 more who had their lives influenced by being able
9 to come out for track or field and going far beyond
10 what they ever envisioned when they started out or
11 what seemed possible when they enrolled in college.

12 We will lose a lot of this type of
13 student athlete if we stay with quotas, with a
14 quota mentality and a roster management. I will
15 list a few more, but will not dwell on each one.
16 Laura Brad walked on at Oregon State with a 10:6
17 high school pole vaulter in high school who was the
18 first NCAA indoor pole vault championship.

19 Bob Price, 4:43 high school miler,
20 (inaudible) California, California Academy. At the
21 University of California he ran 4:04 for the mile
22 and ran 8:34 for the 3,000 meter steeple chase.
23 The altitude at Echo's Summit, California in the
24 1968 Olympic trials did him in and he finished
25 fourth, just missing the team.

1 John McNichols, injured in high
2 school in Indiana who stayed out for four years and
3 never lettered, but grew. He coached at three high
4 schools and is now the head men's coach and
5 director of track and field at Indiana State
6 University. He also has served on the USAPF
7 Development (inaudible) the best pieces of
8 (inaudible) in the US. On Monday his school hosts
9 the NCAA Division I cross country championships.

10 Mark Harsy, a very average distance
11 runner from Long Island, New York stayed with the
12 program for four years, coached in high school in
13 Indiana, and is now a very successful coach for men
14 and women at Finlay University in Ohio.

15 These stories could be duplicated in
16 any university, in any sport where the leadership
17 is willing to teach and lead. Athletics is a part
18 of the educational system, and this is true even of
19 football. A view stated by one advocate of no
20 change in Title IX interpretation was, the
21 (inaudible) presidents and athletic directors is
22 the problem, not Title IX. The advocates of no
23 change remind me of Chicken Little going around
24 proclaiming the sky is falling.

25 The quota system imposed by the

1 proportionality ruling of Title IX is an area
2 that's going to affect a lot of people in a
3 negative way if it continues, and it certainly
4 needs to be completely disregarded in order that we
5 don't take opportunities away from young people. I
6 have heard people say those darn walk ons in
7 football shouldn't be there because they never
8 play. Well, some of those darn walk ons do play
9 and eventually some of them become scholarship
10 athletes. Sports that have such limited financial
11 aid as track and field, wrestling, baseball, and I
12 could go on and on, couldn't survive without the
13 walk on athlete. I wonder if anyone who is
14 proposing that we eliminate the walk ons would also
15 suggest that we only allow people who are on
16 scholarship to go into the school of business or
17 any other school on campus. I also wonder if we
18 should do the same thing in music.

19 I read the note to the discussion
20 that the Commission had in Colorado Springs where
21 someone brought up the fact that maybe they should
22 count cheerleaders and pom squads and dance teams,
23 and the comment was made, well, the Office of Civil
24 Rights of the Department of Education said you
25 couldn't do that. Since this Commission is

1 advising the Office of Civil Rights and the
2 Department of Education about what to do, I would
3 suggest to you that you consider the possibility
4 that these young women who are on dance teams and
5 pom squads do that because they choose to do it.
6 I've watched those people perform, and many of them
7 could be athletes on our track and field team, but
8 they choose to do the other thing because it's what
9 they want to do. They get to perform in front of
10 big crowds, and I can tell you that they work just
11 as hard as people who are in athletics. They have
12 coaches, they train daily, they do weight training,
13 our athletic department supplies trainers for them,
14 coaches for them, uniforms for them, travel
15 expenses for them, and they go and compete at a
16 national level. They are athletes a lot more than
17 those involved in some of the so-called emerging
18 sports that are being pushed on us by the NCAA.
19 Some schools even scholarship them. Everyone
20 doesn't, but it would be a thing to look at as a
21 possibility to broaden the opportunity for women to
22 compete.

23 I know this Commission has at least
24 two members who are going on talk shows on TV and
25 saying that there should be no change in the

1 interpretation of Title IX. I am wondering why
2 Commission members who are supposed to be impartial
3 to be studying the issue would be doing that, but
4 that's a thing for the Commission itself to discuss
5 and maybe the Department of Education to look at.

6 Before my retirement in 1998 I had
7 coached women in track and field from 1980 until
8 that time in a combined program. Those women
9 received the same opportunities that our men did in
10 every aspect of the program, except they had more
11 scholarship funding.

12 When Indiana added women's track and
13 field in 1978, they hired a young man who had been
14 a graduate assistant of ours, and he was the only
15 coach. After two years I went to our director of
16 athletics and asked him to combine the programs
17 where we have adequate coaching for our women and
18 where they could have adequate scholarship to build
19 a program. At that time that was done and our
20 women's program grew as a result of it.

21 I think that what I've talked about
22 is true at basically every school in the country
23 who had men's and woman's programs. There is no
24 way that the women are --

25 MR. LELAND: One minute.

1 MR. BELL: -- going to take a backward step
2 by eliminating the proportionality ruling. I hope
3 the Commission will see its way clear that there
4 needs to be some changes made to Title IX in their
5 recommendations to the Department of Education.

6 At Indiana University our
7 undergraduate student body is 51.7 percent women
8 and 48.3 percent men. At Indiana University we
9 have 29,630 undergraduate students. 8,735 are
10 enrolled in the school of education. 6,455 are
11 those are women, 73.9 percent, and 2,280, 26.1
12 percent are men. Would anyone dare suggest that we
13 enforce proportionality there? These figures seem
14 to indicate interest, the figures of men's and
15 women's --

16 MR. LELAND: Time.

17 MR. BELL: -- participation in athletics
18 would seem to do the same thing. It defies logic
19 that someone would advocate proportionality in
20 athletics but not in education. I have found a
21 large number of illogical athletes in favor of
22 quotas.

23 MR. LELAND: Thank you. We can read the
24 rest of it, thank you.

25 MR. BELL: I'm done.

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(Applause.)

MR. LELAND: I notice you picked up the pace
in the last minute.

MR. BELL: Oh, yeah.

MR. LELAND: Donna Lopiano is currently
Executive Director of the Women's Sports
Foundation. Donna received her bachelor's degree
from Southern Connecticut State University and both
her masters and doctoral degrees from the
University of Southern California. She has been a
college coach in men's and women's volleyball,
women's basketball and softball. She was a
collegiate program athletic administrator for over
23 years, most notably at the University of Texas,
Austin, where, for an eight-year period she was
director of women's athletics and ran one of the
top Division I programs in the country.

As an athlete, Donna participated in
26 national championships in four sports and was a
nine-time All American in four different positions
in softball, a sport on which she played on six
national championship teams. She is a member of
the National Sports Hall of Fame, the National
Softball Hall of Fame, and the Texas Women's Hall
of Fame. And to show you what a small world this

1 is, Donna and I co-hosted in 1979 in Texas one of
2 the first Title IX seminars when I was working at
3 the University of Houston and she was at Austin.
4 So we're pleased to have you here, Donna. Thank
5 you.

6 MS. LOPIANO: Thanks, Ted. I've said this
7 to Ted and to everybody here that I know that I do
8 not envy your task. Faced with the flood of
9 information, the stacks of paper, the competing
10 statistics, I didn't even understand the statistics
11 this morning and I have a Ph.D., and the passion of
12 those who really champion walk ons and those
13 fellows who have lost their opportunity to play, it
14 seems to be a very difficult place for you guys to
15 be in, but I'm here to suggest that the task may
16 not be as difficult as it seems, and forgive me for
17 over simplifying, but this is way I keep my head
18 straight on this issue.

19 We live education, we live in
20 athletics. As Debbie Yow said, we live in an
21 environment of finite resources. And when you look
22 at, prior to Title IX, if you had a hundred dollars
23 and you gave hundred dollars to a hundred young
24 athletes, they had all the resources and they were
25 all participation opportunities, you kick in Title

1 IX and now we're faced with resources having to be
2 shared. Very few schools, very few schools were
3 able to go out and raise 100 percent more
4 resources, to raise another hundred dollars to make
5 sure men stayed exactly where they were and women
6 were given exactly the same opportunity with nobody
7 losing. Very few schools.

8 At almost every school male athletes
9 lost something. They might have lost access to the
10 weight room at the time they wanted it. Maybe they
11 lost the biggest gym. Maybe they lost numbers of
12 scholarships. Maybe, maybe they kept their
13 participation opportunities but some walk ons lost
14 the chance to play. Maybe they just got lower
15 budgets. And then at some schools decisions were
16 made that, instead of cutting budgets from all of
17 those sports, just like Rick Bay had to make that
18 decision, that guess what? We're going to cut some
19 men's sports opportunities.

20 Schools under Title IX have made
21 different decisions about the use of their
22 financial resources, and in most cases, at best,
23 previously advantaged male athletes were, are not
24 now, and will continue to not be happy at losing
25 their advantaged status. And at worst, there are

1 going to be disadvantaged male athletes, previously
2 advantaged, to lose their chance to play. And
3 they're going to be really unhappy.

4 They want you to fix it, and that's
5 the rub. They want you to make their schools go
6 back and change their decisions. Instead of
7 cutting their sport, let's reduce everybody's
8 budget. But you know and I know, and this is where
9 you are caught between the rock and a hard place,
10 just like Debbie is on a more frequent basis, that
11 it's not possible for any of us on the outside, for
12 the Commission or otherwise, to intercede in those
13 institutional decisions. You can't go in and say
14 guess what? This is what I would do in your
15 circumstance.

16 The only other thing you can do is
17 look at that wrong and weaken it. And I would
18 suggest to you that to do so would be to place this
19 advantaged, previously advantaged population in the
20 position of continuing to be advantaged, that the
21 one thing this Commission shouldn't do is weaken
22 Title IX.

23 Three points. It's okay to have
24 sympathy for that walk on. It's okay to have
25 sympathy for every male who loses his opportunity

1 to play, but you must have unbiased sympathy. You
2 have to feel just as sorry for every woman who
3 didn't have the chance to play, for women who
4 still, at the institutional level, are not getting
5 chances to play, who are not getting benefits, and
6 you simply can't discriminate on the basis of sex
7 in your empathy.

8 Second, as hard as it might seem, it
9 is inevitable that the previously advantaged class
10 will be unhappy. In all civil rights laws, be it
11 race or gender, the advantaged class perceives a
12 loss when they must give up generations of
13 privilege and advantage. These feelings and
14 circumstances are real and they cannot be fixed.

15 As a life lesson, sharing the sandbox
16 is one of the most difficult lessons that we will
17 ever have to teach our children. And let's not kid
18 ourselves. If you change the law, you will be
19 changing the rules of the sandbox for the last 30
20 years, rules that have served us well.

21 Last point. The proposed use of
22 interest surveys to replace the proportionality
23 standard is preposterous, and it will not stand up
24 in the courts. The use of the results of
25 administering a culturally biased attitude

1 assessment instrument to reduce the basic
2 obligations of educational institutions to provide
3 equal opportunity is simply invalid. Such uses
4 have been attempted and unequivocally been rejected
5 by the courts. You cannot in good conscience
6 consider such a use of interest surveys. There is
7 currently an appropriate place for interest
8 surveys, it's in prong three, it's used in
9 conjunction with prong (inaudible) and appropriate
10 other measures. That has been upheld by the
11 courts. To use it alone is simply not the thing to
12 do.

13 Last, I'd like to really think about
14 even using the term or the belief that boys are
15 more interested in sports than girls. This is not
16 about interests. This is about a gold ring. There
17 are six million boys and girls out there playing
18 high school sports. Six million. And they're all
19 looking up at this gold ring. Their parents are
20 looking at it and they're looking at it too.
21 There's a billion dollars in college athletic
22 scholarships out there for that. There's billions
23 of dollars more for the benefits and opportunities,
24 there are privileges in terms of getting into the
25 best schools, even if you don't get an athletic

1 scholarship. That is what athletics is all about.
2 To say that a girl isn't interested, equally as
3 interested in boys in that gold ring is
4 preposterous. It's as bad as saying that a person
5 of color isn't interested in a medical degree or
6 law school or as interested as his or her white
7 counterpart.

8 In closing, I respectfully urge the
9 Commission to take four positions. One, to
10 reaffirm your commitment to the law as it is
11 currently written. It has withstood the test of
12 time and repeated reviews in our courts. It's a
13 good law that has created steady progress toward
14 equal opportunity for women in sports.

15 Second, to recognize better
16 enforcement of the law. We are still not there. I
17 don't understand the statistics. You look at every
18 single institution and you look at those numbers,
19 and we aren't even close to equal opportunity yet.
20 I don't care whether they're budget numbers or
21 participation numbers. There are still too many
22 schools dragging their feet and out of compliance.

23 Three, we recommend that the
24 Department of Education, the Office of Civil Rights
25 better educate colleges and universities about

1 prongs two and three especially, and I love Rick
2 Bay, Rick and I have known each other for years and
3 years, this is a terrific document, the '96
4 clarification. If you don't read this and say my
5 God, look at the flexibility that these schools
6 have. Why isn't somebody reading it? Why aren't
7 you looking at it and saying (inaudible), that's
8 ridiculous.

9 And last, to recommend to national
10 government organizations to do one thing that they
11 really can do to truly save opportunities for male
12 and female gymnasts and wrestlers and walk ons,
13 when we have a finite or declining revenue source
14 to make it less likely that schools will opt to cut
15 teams instead of budgets, you have to recommend
16 that every possible examination be done toward the
17 end of capping athletic expenditures in as many
18 ways as possible, even if it means the use of
19 limited antitrust exemptions. No one, no athletic
20 director in their right mind is going to
21 unilaterally cap expenditures. If the NCAA or the
22 national governing organization doesn't do it,
23 nobody is going to do it. And that's the answer to
24 solving some of the problems that are before you.

25 Thank you for this opportunity.

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(Applause.)

MR. LELAND: Our next invited presenter is Kimberly Schuld. Ms. Schuld is a Special Assistant to the Commissioner at the United States Commission on Civil Rights. Prior to this position Kimberly was the Director of External Relations at the Independent Woman's Forum where she was Director of, quote, Fair Play, a Project on Gender Equality, closed quote.

Kimberly graduated from California State University Fullerton with a degree in physical education and exercise physiology. While at Calstate Fullerton she served two terms on the university's Athletics Council and also served on the Title IX Compliance Subcommittee.

In her professional career she has written extensively on issues relating to Title IX, she has supervised a Title IX project for graduate students at Harvard's Kennedy School of Government during the 1998/'99 term. She has assisted Linda Chavez, President of the Center for Equal Opportunity in the preparation for the Congressional testimony on Title IX athletics in June of 2000 in the hearing before the House Education Subcommittee on Oversight.

1 Kimberly, thank you.

2 MS. SCHULD: Thank you very much for
3 inviting me. I do want to underscore that I am
4 here today not in my role as a Special Assistant to
5 the Commission on Civil Rights, but rather as the
6 former director of the Play Fair project of the
7 Independent Women's Forum, which I directed for
8 more than four years.

9 I have a lot of statistics also and I
10 have a prepared statement, which I quite frankly am
11 just going to ask you to read and I'm going to set
12 aside, because I have some things that have been
13 brought up today that I would rather address.

14 I think one of the things missing in
15 all the testimony and everything that I read in the
16 transcripts from previous town hall meetings is an
17 understanding of what we mean when we say Title IX
18 this, Title IX that. I see stickers, I see
19 T-shirts, I see placards saying don't cut Title IX.
20 Nobody, in my four and a half years working on the
21 Commission, nobody that I have seen coming through
22 this Commission has suggested cutting Title IX.

23 What I want to be clear on for the
24 sake of the audience is that the Title IX statute,
25 very clear document, very reasonable document, very

1 necessary document, the law passed 30 years ago, is
2 good and is not what's under scrutiny here.

3 23 years ago, seven years after the
4 statute was passed, the policy interpretation was
5 written by government bureaucrats with the input of
6 some outside groups under a political deadline
7 under a political hook. There was not a great deal
8 of thoughtful analysis put into how it would be
9 interpreted into the future. They had to pass this
10 thing by December of '79 to make the deadline for
11 the new Department of Education being formed in
12 1980.

13 To address problems that have arisen
14 based on the changes in our culture and society out
15 of that 1979 policy interpretation is not you all
16 touching the holy grail. We will not go backwards
17 because of the cultural changes. I want to be very
18 clear that it is a policy written by bureaucrats,
19 not a statute, not anything the courts rule on, it
20 is a policy that you are being asked to make
21 recommendations on.

22 I see the role of this Commission in
23 one place; to make recommendations that will focus
24 that Title IX policy and the implementation of that
25 policy on the overall availability of opportunities

1 to accommodate demonstrated interests in an effort
2 to provide the best possible experience for student
3 athletes at the high school and collegiate level
4 regardless of their sex. I want to focus on the
5 best possible experience for the student athlete.

6 We've all been talking as though
7 Title IX, or women athletics exists in a vacuum, as
8 though it has no bearing on the relationship to the
9 outside world, to the outside marketplace. And
10 Commissioner Cooper, you asked the question, if
11 prong one had not been in place, would there have
12 been growth in women's sports. The answer is yes.
13 The answer is yes, because after 1979 policy
14 interpretation with the three-prongs was passed, it
15 wasn't implemented for ten years, and yeah, women's
16 sports grew. Would they have grown at the
17 astonishing rate they have during the '90s?
18 Probably not, but they would have grown.

19 You also asked the question, without
20 prong one would men's sports have seen the decline
21 that they have seen. The answer is some, but not
22 as much as we have seen.

23 When you think about what
24 recommendations you are going to make, I certainly
25 hope you will take two people into consideration.

1 The first is the athletic director who is on the
2 ground and has to implement this policy. Having
3 worked as an athletic director at Calstate
4 Fullerton, which at the time was a Division I
5 football school operating on a very limited budget
6 in an urban area where we competed against UCLA and
7 USC, we competed against two pro football teams for
8 revenues, for the dollar coming from our students,
9 for the dollar coming from our community. I know
10 the pressures of being an athletic director and I
11 don't see anything in the policy that gives them a
12 whole lot of flexibility or allows them to be
13 creative, because the policy does not require that
14 you do anything to increase the number of
15 opportunities for women, or the (inaudible) of
16 opportunities. It does not require -- it does not
17 offer, excuse me, any incentives to enhance the
18 resources of your existing teams if you still
19 haven't met the proportionality goal. You don't
20 get credit for that. And it leads schools to a
21 place where they are artificially manufacturing
22 interests which use up the scant resources that
23 should go to the existing teams to bolster their
24 competitive advantage.

25 Take, for example, Arizona State

1 University developing a women's crew team in the
2 middle of the desert. They developed this team to
3 add to their proportionality numbers. However, in
4 the middle of the desert, how many of their feeder
5 schools have a crew team? Where do they get their
6 qualified athletes from? More importantly, I ask
7 you, what message does it send to the other female
8 athletes that the school would spend 300,000 to
9 500,000 dollars to bring a rowing team in the
10 desert rather than giving them more resources to be
11 more competitive, to travel to more meets, to add
12 more equipment, to build perhaps a new locker room.

13 These are the kids, and I do say
14 kids, who weren't even born when this policy was
15 written. And we're telling them, you're only about
16 numbers, you're only about body parts.

17 I would also like to think our
18 culture has changed dramatically. Because of that,
19 I disagree with Professor Zimbalist that we need to
20 keep prong one because it addresses a societal -- I
21 can't think of his exact word here. I can't find
22 it and I don't want to waste time, but essentially
23 that society won't do this on its own so we have to
24 force them to do it. That may have been true 30
25 years ago, but we have enough female athletes

1 playing, we have enough fathers coaching their
2 daughters, we have enough coaches who will never
3 let that happen again.

4 I think the job of this Commission is
5 not to look at the past and say yahoo, Title IX
6 worked great, the policy has worked great up to
7 this point and therefore don't touch it, but to
8 look to the future.

9 I think the current implementation of
10 Title IX depresses the marketability and growth of
11 women's sports. (Inaudible) have already said that
12 there are no requirements to add to the women's
13 side and there are no rewards for enhancing the
14 competitive ability of a women's team, but more
15 importantly, everything that has been written in
16 the policy interpretation in '96, and I do not
17 agree that it's -- it (inaudible) on the
18 flexibility, was designed to bring men down to the
19 level that we currently are at. That is the
20 easiest way for an athletic director to get around
21 the whole issue of proportionality.

22 The pressure on the athletic director
23 from the university president not to get involved
24 in a lawsuit or drag him into a lawsuit, the
25 pressure from an academic senate that says why are

1 we spending a single darn penny on sports, this is
2 an academic institution, the pressure from the
3 student organization who says why are our student
4 fees going to pay for athletes when we haven't even
5 been at the games, these are real pressures. None
6 of them are addressed in the Title IX
7 implementation. None of them give athletic
8 directors any flexibility to be creative and get
9 around these things.

10 It's not that I want to get around
11 having girls play sports. No one is suggesting
12 that. But you have to understand that the
13 pressures on the athletic director are not just
14 about participation rates and dollars going into
15 the women's programs.

16 Secondly, OCR policy leaves too much
17 in the hands of NCAA for interpretation. The NCAA
18 has misrepresented what the safe harbor should be,
19 what the safe harbor is. Schools are responding to
20 that. Athletic directors are not lawyers. I
21 wouldn't want them to be. But you practically have
22 to have a law degree to say to the NCAA, wait a
23 second, that policy does not make sense.

24 I guess I'm turning lights out here.

25 Thirdly, OCR policy does not require

1 that injured party to file a complaint. We talk
2 about the third prong, it won't be accepted in
3 courts, the third prong this, lots of schools are
4 surviving, they're complying with the third prong.
5 The third prong does not protect a school. If I
6 sit in my office in Washington, DC and read an
7 article in the Chronicle of Higher Ed and decide,
8 I'm going to file a complaint with the OCR against
9 University X because they're not in proportion, and
10 that is exactly what political groups have done.

11 The politicization of Title IX, the
12 politicization of women's sports shortchanges
13 female athletes. There are a lot of problems that
14 needed to be fixed. Those battles have been won,
15 and we need to move forward now, beyond 1972,
16 beyond 1979, even beyond 1992 when Amy Prouser sued
17 Brown University.

18 We need to take into account that
19 there are differences in interest levels in the
20 aggregate between boys and girls and men and women.
21 Those interest levels are not driven because
22 society tells girls they can't play sports.
23 There's too much information out there for girls to
24 ignore that girls should play sports, that there
25 are benefits to that. Every teen and pre-teen

1 magazine encourages girls to play sports, and yet
2 they don't. Society is not telling them not to,
3 they simply don't have the interest. That doesn't
4 mean that a single female does not have more or
5 as much interest as a single boy. It means in the
6 aggregate, girls overall do not have the same
7 interest level as boys overall.

8 Is the federal government responsible
9 for creating that interest, or are the advocates of
10 sports responsible for creating that interest? I
11 would contend that it is not the proper role of the
12 federal government to create interest levels, but
13 rather to provide a framework where anybody who is
14 interested in playing a sport, and it is a
15 legitimate opportunity that is offered fairly and
16 that they are offered the resources they need.

17 Finally, looking forward in your
18 policy, understand, participation opportunities are
19 out there and they're not being used by women.
20 What women really need now, after 30 years of the
21 law, after 23 years of policy interpretation, and
22 after 12 years of lawsuits, is a change in the
23 resources structure, and that's where prong two and
24 prong three are more valuable to the future of
25 Title IX implementation than prong one is.

1 As an athletic director, I could put
2 all my eggs in one basket, give every single penny
3 of my women's program to the women's basketball
4 team and leave my other teams completely unfunded.
5 That's not a practical thing to do, but I could do
6 it legally, under OCR policy, because the OCR
7 policy only looks at the top line numbers. It
8 tells us nothing about what might be happening to
9 those student athletes. So I would urge you to
10 ignore the group thing and look at the individual.
11 Thank you.

12 MR. LELAND: Thank you.

13 (Applause.)

14 MR. LELAND: We have about 15 minutes for
15 questions. Tom?

16 MR. GRIFFITH: Thank you very much.

17 Ms. Lopiano, thank you very much for
18 the encouragement you've given to the Commission
19 today about recognizing that we have a tough job
20 and encouraging us to do so. That tenor is
21 strikingly different from some comments that you
22 were reported to have made in yesterday's Baltimore
23 Sun. I'd like to read this to you.

24 In yesterday's Baltimore Sun it was
25 reported that you said about this Commission, "This

1 is a fiasco. I think the Commission is a setup.
2 If I were on the Commission, I would quit. I would
3 worry about my integrity."

4 First of all, Ms. Lopiano, did you
5 say those things?

6 MS. LOPIANO: I did, and they're not
7 inconsistent with what I just told you.

8 MR. GRIFFITH: And then if I may ask you, in
9 what way is this Commission a setup?

10 MS. LOPIANO: I believe that, if you look at
11 the record in terms of you have two-thirds of this
12 Commission who are representing Division I-A, you
13 have a vested interest and a conflict of interest
14 in weakening the law to make it less necessary for
15 you to do the budget, the tough budget decisioning
16 that has to be done to comply with Title IX. I
17 think the composition of the Commission, therefore,
18 puts in question its integrity.

19 Secondly, I think the Commission has
20 rightfully, on any number of occasions, asked the
21 DOE staff for certain experts to be before you.
22 You submit those names to DOE staff, it goes up the
23 line to the White House, and what comes out is not
24 what you've asked for, but what the DOE staff
25 wants. And you're left with dealing with limited

1 expertise to apply to the problem and obfuscation
2 of data, you still haven't seen the GAO's expert
3 report, you refuse to call Marty Shaw.

4 I mean, I could keep going on, but I
5 don't think what's happened so far has had the kind
6 of integrity that you should be proud of. And I'm
7 not saying it's your fault, I'm saying the
8 appointment process is flawed and I'm saying you're
9 trying to do the right thing and DOE staff is
10 obstructing you.

11 (Applause.)

12 MR. GRIFFITH: Let me respond to that if I
13 may. I do worry about my integrity a great deal.
14 I have a public life, I have a private life, and my
15 integrity means more to me than anything else in my
16 career. I bitterly resent your suggestion that my
17 integrity or the integrity of my fellow
18 commissioners is in some way compromised by this
19 service.

20 I don't know about others, but I'll
21 tell you about myself. I did not seek out this
22 opportunity to serve. The Secretary of Education
23 asked me to do so, and I presume it was the same
24 for everyone else as well. We all are busy people,
25 we have plenty to do. My observations is that the

1 only reason people are serving here is because they
2 care about the issue and they want to do the right
3 thing.

4 Now, reasonable and good people,
5 Ms. Lopiano, can differ on this issue. Reasonable
6 and good people can differ. Your comments about
7 our integrity are not helpful to the process.
8 Would you publicly disavow your comments now?

9 MS. LOPIANO: No, I would not.

10 (Applause.)

11 I'm not questioning your personal
12 integrity, I am questioning the integrity of
13 process, and I'm suggesting to you that, faced with
14 this process, that people of integrity should
15 complain about it, that you should get --

16 MR. GRIFFITH: And we should quit. Right?
17 Isn't that what you suggested to the --

18 MS. LOPIANO: No, I didn't say to quit.
19 I --

20 MS. COOPER: Okay. In the interest of the
21 process, let's move on with other questions.

22 MR. GRIFFITH: Well --

23 MS. COOPER: Let's move on with other
24 questions.

25 MS. SIMON: My question is for Donna, but it

1 doesn't go to integrity.

2 I'm a social scientist, I'm not an
3 athletic director, and I believe very strongly in
4 looking at data. I teach courses in public policy
5 in which I say let's look at the data to see how we
6 could influence public policy, and I know the
7 difference between junk data and valid and reliable
8 data.

9 What I'm troubled about, Donna, is
10 you say, well, these interest surveys, that's soft
11 mushy data. I think you could get good interest
12 surveys. I think social scientists now know how to
13 get good surveys on a great many topics. But more
14 than that, we have, as I understand it, ten years
15 of data not on interest, but on actual
16 participation between boys and girls in high
17 schools. And as I understand it, those
18 participation data show that 58 percent of boys in
19 high school are interested, and playing, sports,
20 compared to 42 percent of girls who actually
21 participate in sports.

22 Now, why wouldn't you think that we
23 should use the experience of the past 30 years to
24 say what can we do to strengthen Title IX, to make
25 it as fair as possible and so on? Why would you

1 not want to use data that, in fact, shows, not
2 differences in interest, which you say may be
3 mushy, but actual differences in participation?
4 Why shouldn't that come into effect?

5 MS. LOPIANO: Let me answer your questions
6 backwards. One, what you see in terms of high
7 school are participation opportunities, not
8 interests, participation opportunities. And the
9 opportunity is determined when I, as an athletic
10 director, say I will start this sport. And it's
11 that simple.

12 So what you're seeing is the decision
13 on the part of the athletic directors to set
14 participation numbers at this level, and every time
15 they set them at that level, then girls fill them.

16 The second part is soft data. You
17 know, as a social scientist you know that interest
18 surveys are measures of attitudes. No boy in this
19 country would ever answer an interest survey that
20 says "Are you interested in sports?" with the
21 answer, "No." He has been taught culturally, in
22 order to be considered a male, he really should be
23 interested in sports. And a female that's asked
24 the same question is going to respond in a very
25 different way than a male who has been taught

1 otherwise in terms of what is expected of him.

2 To base a limitation of opportunity
3 on that kind of culturally influenced attitude data
4 is as soft as you can get, and is not -- it's never
5 been upheld by the courts, and I think if you do
6 it, it will be struck by the courts.

7 MS. SIMON: Can I make just one more
8 comment?

9 But Donna, I'm talking about actual
10 participation, and that is hard data, not
11 attitudinal data. And secondly, (inaudible) Julian
12 Simon won a very famous bet for betting the planet.
13 I would like to make a bet with you that if we did
14 a really good survey, we would find a significant
15 minority of young boys who would say, "I'm not
16 interested in sports."

17 MS. LOPIANO: Let me see if I can --

18 MS. SIMON: I think American society has
19 changed quite a lot. But anyway --

20 MS. LOPIANO: That's fine. Let me see if I
21 can explain it a different way.

22 I know of no coach -- if I hire a
23 coach tomorrow in any of these programs and I give
24 them a recruiting budget and I give them an
25 operating budget and some scholarships, I know of

1 no coach who would ever come back to me and hand me
2 back their paycheck and say, "Sorry, I couldn't
3 find any girl not interested in playing my sport."
4 So that as soon as we say, "You have a team, here
5 is your budget," that is the opportunity to play,
6 and that is the proof of pudding, not an interest
7 survey.

8 MS. SIMON: But what about a participation
9 survey? You keep talking interest surveys and I'm
10 saying there --

11 MS. LOPIANO: Oh, let's talk about
12 participations surveys.

13 MS. SIMON: Well, that's the only thing I
14 have been talking about.

15 MS. LOPIANO: Participation is the
16 opportunity to play. My decision is --

17 MS. SIMON: And the actual playing.

18 MS. LOPIANO: -- to hire a coach, and every
19 time I've done that, every time you say I'm going
20 to start this sport, girls fill that opportunity.
21 It is not interest, it is the opportunity to play.

22 MR. LELAND: Let's try to move on to the
23 next --

24 MS. SCHULD: Could I just make a comment?

25 MS. DE VARONA: Do you want me to go?

1 MR. LELAND: Yeah.

2 MS. DE VARONA: This is a two-part question,
3 one for Kimberly and one for Donna.

4 Donna, as we have debated these
5 issues of dropping men's sports as an unintended
6 consequence of Title IX, and that's the rhetoric we
7 have been dealing with, if you look at the
8 collegiate environment, and since you were an
9 athletic director and had to balance opportunities
10 and resources, how can we how can we create a
11 better environment for the student athlete? And
12 I'm not just talking about the scholarship athlete,
13 I'm talking about the athlete that just wants to
14 participate, doesn't care if they're on
15 scholarship, they just want to go to a school and
16 say I represented my school in a sport. Because I
17 think when this all falls through the cracks, we
18 are talking about -- and we've been, I think, too
19 focused on Division I and not high school, and
20 there's reasons why women aren't, you know, getting
21 those opportunities, but what would your
22 recommendation be? Because I hope we can focus on
23 solutions here.

24 MS. LOPIANO: Yeah. It all comes down to
25 resources. To the extent that we can make

1 recommendations, to encourage governing
2 organizations to create rules that control costs,
3 you will self solve the problem, because the more
4 resources you have, the more opportunities you can
5 provide. Right now no one can expect an individual
6 institution to do the right thing, to not drop
7 men's sports, to not reduce or, you know, constrict
8 the program because they can't act unilaterally
9 without making themselves less competitive
10 vis-a-vis each other. There's -- you would lose
11 your job. You would lose your job tomorrow if you
12 said, "I'm cutting back to 60 football
13 scholarships." You can't do it. But if everybody
14 did it and if you could not be blamed for voting on
15 it, you would really be in better shape.

16 And that's where it's hard. I think
17 it's hard for a Division I-A group like this, you
18 know, the majority of you, to come out in favor of
19 doing things like cutting football scholarships.
20 And you have to go home and answer to the money
21 people.

22 MS. DE VARONA: And Kimberly, you said that
23 you were supportive of Title IX and all the things
24 that it's done and it's necessary, but you object
25 to the implementations in the policy. How would

1 you -- what would you suggest in changes of policy
2 and what do you see the end result being?

3 MS. SCHULD: My suggestion for changing the
4 policy would be to focus more on prong two and
5 prong three, primarily on prong two, the
6 distribution of resources. I think that the
7 opportunities, despite what Ms. Lopiano says, are
8 there. Participation in those opportunities is
9 driven by interests, and our society does not tell
10 males what they should and shouldn't say about
11 sports. Their own biology tells them that. And I
12 can refer --

13 (Laughter.)

14 -- to -- excuse me. I can refer the
15 Commission to some very substantial sociological
16 and anthropological studies, things that --

17 MR. LELAND: Excuse me. Can we have order
18 please?

19 MS. SCHULD: Where I would like to see this
20 Commission go is to take the onus off of the
21 proportionality test completely. Stop counting
22 athletes by their body parts. It is not true that
23 males and females are interchangeable beings. We
24 cannot have the same strict scrutiny that we do
25 under race, because a black male is the same as the

1 Asian male, same as a white male, but a white
2 female is not the same as a white male. That is
3 something that you have no control over, and
4 athletic directors have no control over.

5 I would also like to suggest that you
6 offer a lot more incentives into the implementation
7 for athletic directors, provide more guidance so
8 that the NCAA doesn't have the whole shebang of
9 what those policies should be.

10 As far as micromanaging costs and
11 resources, one of the things the 1996 policy
12 interpretation took away from minor men's sports
13 was the ability to raise their own money. We have
14 numerous stories of male athletes whose teams were
15 being cut for, quote unquote, budgetary reasons,
16 who went out and got endowments in the millions of
17 dollars so that the school would never have to pay
18 a penny for that team, and they were still you
19 can't be here because if you are we're not in
20 proportionality. We took away the opportunity for
21 men to raise their own money, which is the way
22 minor men's sports have always survived.

23 We constantly go back to playing
24 football. I wonder how would you explain to the
25 baseball players at Southwest College that football

1 was to blame for their team being cut, when the
2 school has never had a football team? Yes, there
3 are issues within football spending that need to be
4 addressed. They are separate from the policy
5 interpretation under scrutiny today.

6 MR. LELAND: Okay.

7 (Applause.)

8 MS. YOW: Going back to our favorite topic,
9 proportionality, I think, you know, it's
10 interesting, I'm going to ask this question of
11 Donna, I think you're getting the lion's share of
12 the questions this morning. By the way, if you
13 didn't see Donna play softball, you missed it. She
14 was extraordinary as an athlete.

15 I think the case -- we can make a
16 stronger case about scholarship interests. Who
17 wouldn't be interested in going to college on an
18 athletic scholarship? I'm not going there right
19 now because I'm going to overload if I do.

20 I just want to talk for a minute,
21 just ask the question about the concept of the walk
22 on again. It's a prevailing issue, it's a baseline
23 issue, it's there every day, and one of the things
24 that's troubling me about it as a female who, you
25 know, I love athletics like I love breathing.

1 Everything I have, everything that is dear to me
2 came through my opportunities through athletics,
3 so, you know, I'm pretty much in favor of Title IX
4 in general. But I have a problem with the walk on
5 issue for this reason. I'm going to give you a
6 specific example and then I guess I'm making the
7 assumption that, if it's happening with Maryland,
8 it might be happening at other institutions as
9 well. Our women's lacrosse team has won seven
10 consecutive national championships in that sport in
11 the '90s. We're very good at that sport.

12 We have a men's wrestling team that's
13 average. They're average in part because they're
14 only partially scholarshiped. I'm saying that for
15 the benefit of my coach because this is going to
16 get transcribed, and I'm not suggesting he's
17 average.

18 But what happens every single year
19 and why I feel such pain on this issue, is that we
20 do cap his sport in terms of participation numbers,
21 and so there are between ten and 15 young men every
22 year who aren't on scholarship but want to walk on
23 to the team who do get cut, and it is such a
24 challenge when you're standing there with them and
25 there are tears in their eyes, and we know they

1 just want a uniform, they want to come to practice,
2 they're probably never even going to get into a
3 meet, but they just want to be able to say they are
4 a member of the team.

5 At the same time, and this is true,
6 you can ask Cindy (inaudible), our coach, we are
7 over on her side of the world saying you have to
8 carry this number of women, and it's not an
9 extraordinary number by standards in lacrosse, and
10 what we continually get back is she can't. And she
11 gets frustrated, I get frustrated, and the reason
12 she said is, once she has used her scholarship
13 dollars, she can't find very many women who want
14 to just play that sport at our institution, even
15 though we won seven national championships in the
16 '90s, because they choose other activities in
17 school, whatever that might be, debate team, the
18 band, whatever it is.

19 The reason it's problematic for me is
20 I see that, know it to be the case, see her
21 struggle with it, and see the wrestling guys get
22 turned away. Is there room, in your estimation,
23 and just I am asking for your opinion, is there
24 room at least for the walk on possibility, a way to
25 take care of guys that want to compete so that they

1 can, as always, there's not a detrimental impact on
2 women, and in my case if you're just using those
3 two sports there would not be a detrimental impact
4 because we're trying to pull women to us.

5 How do you feel about proportionality
6 just as related to the walk on issue?

7 MR. LELAND: Donna, before you answer that,
8 we need a little change in style. We need a quick
9 answer on this one. That was the longest question
10 I've ever heard.

11 (Laughter.)

12 MR. LELAND: It was a good one.

13 MS. DE VARONA: I thought I asked that
14 question.

15 MS. YOW: I did not want to be
16 misunderstood.

17 MR. LELAND: And you weren't. So if you
18 could go ahead and answer, then we have one more
19 question and we'll be done.

20 MS. LOPIANO: I wish I had a really short
21 answer. One, the last thing I would do as an
22 administrator is cut a sport or say nobody walk on.
23 I think it really requires a careful look at all
24 the possibilities under Title IX. Maybe it
25 requires a look at whether or not I want to tier my

1 athletic program in terms of funding. I want to
2 create a certain level of opportunity that comes in
3 at this level, a certain level of opportunity
4 that's not as clearly funded, and then a level of
5 opportunity that is minimally funded.

6 And maybe that depends on revenue
7 producing sports up here, and maybe under that
8 circumstance I can look at a walk on in any sport
9 as being at a different level, and maybe I can make
10 that possible. But I can do it under prong two and
11 three, and I would be dishonest with you if I said
12 I could do it here in front of this committee.

13 I would have to look at your program
14 and say, let's look at this before I cut a single
15 opportunity. And that's what athletic directors
16 aren't doing and that's why --

17 MS. YOW: 30 seconds, Ted. Less than 30
18 seconds.

19 We are tiered, we have been for
20 years, twelve men sports, four fully scholarshipped
21 sports, and our attorneys say prong one. Forget
22 two, forget three.

23 MR. LELAND: How many national championships
24 was that again? Percy?

25 MR. BATES: My question is for Sam. Sam, in

1 listening to you, you obviously have a great deal
2 of sensitivity to both men and women athletes, but
3 short of modifying prong one, given the experience
4 that you've had, do you have any thoughts other
5 than modifying prong one, that might be some advice
6 to us?

7 MR. BELL: Well, the thing I would say that
8 I heard in Atlanta where I was that the safe harbor
9 is prong one, and that's said by some of the
10 radicals in the women's movement, so it was pretty
11 obvious that that's where they were coming from.
12 And Donna loved it.

13 (Laughter.)

14 She and I disagree violently on this
15 issue.

16 I happen to believe that when you go
17 out with chalk and inscribe chalk on a sidewalk in
18 the fraternity/sorority area and say come out for
19 crew, no experience necessary, for a varsity sport
20 at a major university, it's a joke. And I think
21 the sports that we're adding for women that have no
22 following, no lead up to have people have
23 experience to come and say these are major sports,
24 decries the issue of what athletics is about.

25 I think that the proportionality

1 prong, and I know that people on the women's side
2 who are adamant about this think that the glass
3 ceiling, if you take that away all controls are
4 gone, there is no way women are going to go back to
5 where they were when Title IX was passed.

6 And I would remind all of you that
7 Title IX was not passed for athletics. That wasn't
8 what it was passed about. But I've been in Ted
9 Stevens' office and talked to him about it and he
10 says, "What's happened is not at all what I
11 imagined would happen when the law was passed,"
12 and he was one of the co-authors.

13 So things get out of hand, and
14 sometimes the pendulum has to swing before it can
15 come back to center, and it has swung. It needs to
16 come back to center where we use some common sense
17 about what we're doing instead of radical emotions
18 that say, oh, the women are going to be abused
19 again if we get rid of proportionality. I just
20 can't buy that.

21 MS. COOPER: Just a question, I know we're
22 supposed to finish. Sorry.

23 Okay. Are you saying that, would you
24 agree that you would -- would you still have to use
25 chalk to promote that women's team if you cut some

1 of the football budget to help with the marketing
2 of that program?

3 MR. BELL: I don't think the size of a
4 football team or a track team or a baseball team --

5 MS. COOPER: No, no, no. Hold on. We don't
6 have a lot of time, so we're just going to be very
7 specific.

8 If you took one dollar, a hundred
9 dollars, a thousand dollars from your football
10 budget, not yours, but a football budget, to help
11 with marketing and promoting that woman's sport,
12 would you have to use chalk?

13 MR. BELL: Yeah, you would.

14 MS. COOPER: Okay, thank you. And then over
15 here, sorry. Hi, Kimberly.

16 MS. SCHULD: Hello.

17 MS. COOPER: Are you saying that if you took
18 the proportionality prong out, that -- and you
19 would have to leave it up to the different
20 universities and it would be the trust issue, that
21 women's sports, we would have a WNBA right now,
22 that women's sports would have made the advances
23 that it has made, or you're just saying that we
24 would have -- they would have crawled along just
25 because of societal differences and in 30 years we

1 would have grown some but, you know, hey, maybe not
2 as much?

3 MS. SCHULD: I separate the two issues.
4 First, in terms of the prong, the proportionality
5 test, yes, it created opportunities and opened
6 doors, and in addition to that there was explosive
7 growth in women's sports, even when the prong,
8 proportionality test was not being enforced.

9 I separate the women's NBA, I
10 separate women's professional sports from Title IX
11 for this reason: The success of women's sports in
12 the professional setting is a market issue, and
13 it's a market that has been built because we have
14 now an experienced pool of athletes that have aged
15 into it. Looking forward, looking forward is what
16 this Commission has to do. Not looking back, but
17 looking forward, the proportionality test is
18 actually going to depress your available pool of
19 talented athletes for those professional sports,
20 and isn't the proper role of a school or a
21 government to build that market for you versus
22 letting the marketplace build that with, for
23 example, the WNBA with the help of the NBA?

24 The soccer women's championships, and
25 Donna de Varona and I debated this this morning, a

1 year-long marketing program, stellar marketing
2 program, filled those seats to capacity, bursting
3 at the seams. That was beautiful. What it did not
4 tell us, though, was whether or not there was a
5 market for women's professional soccer to fill
6 those same stadiums. What it told us was there was
7 a market for women's professional sports, and they
8 can't fill the stadiums, and that doesn't mean they
9 shut done, and it doesn't mean they shouldn't be
10 marketing, it does mean that the schools and the
11 government can't control it.

12 MS. COOPER: Okay. I could go on but we
13 have to eat.

14 MR. LELAND: Thank you for coming, and we
15 will stand adjourned and reconvene promptly at two
16 o'clock. Thank you.

17
18 (Lunch recess.)

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1 SAN DIEGO, CALIFORNIA
2 WEDNESDAY, NOVEMBER 20, 2002
3 2:00 P.M.

4 MR. LELAND: Welcome to this afternoon's
5 session in which the Commission will elicit public
6 comment, and we have had a process that's worked
7 for us very well in the past, where we ask that we
8 vacate the front rows, ask the four or five next
9 speakers to come and sit in the front row, and then
10 we handle a group of four or five speakers and then
11 we change it over. So if we could do that.

12 We limit everyone to five minutes,
13 and at the end of four minutes the lights here will
14 change, Cynthia or myself will say, "One minute,"
15 and then exactly at five minutes, in the issue of
16 fairness, we'll turn the microphone off so we can
17 move through.

18 The reason we're doing this in such a
19 draconian style is because we have not only filled
20 up this afternoon with five-minute segments, but we
21 have almost 80 people on the waiting list who asked
22 to testify today that we can't handle. So in
23 fairness to giving everyone a chance to state their
24 opinion, we need to move this thing along as
25 quickly as we possibly can.

1 Remember to be respectful of cell
2 phones. Please take a second to turn them off.

3 Another thing, we enjoy running a fun
4 and interesting meeting. I think that, try to
5 eliminate, as much as we can, applause and booing,
6 etc., from the audience. Cynthia and I might get
7 booed, but we would like to create an atmosphere
8 where all opinions are equally respected, and I
9 think that's the best way to do business here.

10 So we do have, I think I can fairly
11 classify them as three special speakers to start
12 off, and again, in the issue of fairness, we're
13 going to ask these three people to limit their
14 comments to five minutes. Then we will begin the
15 three-hour session of the commissioners, so the
16 fact that we have some special guests to start off
17 today will not in any way discriminate against
18 those people who signed up on the Website and
19 signed up at the registration desk. So let's jump
20 forward to, first, Geena Davis.

21 MS. DAVIS: Thank you. Good afternoon.

22 I am an actor, mother, and amateur
23 athlete, and my interest in Title IX stems from
24 personal experience. When I accepted the role in A
25 League of Their Own, I had to learn how to play

1 baseball. My various coaches, who were all pros,
2 told me that I was a natural. Up until then I
3 really had no idea that I could excel at sports.
4 Let's just say that my limited childhood experience
5 did not convince me to pursue a basketball career,
6 no matter how tall I was.

7 Subsequently I trained in fencing and
8 horseback riding, ice skating, pistol shooting,
9 tae kwon do, all for other films, and all of which
10 I learned well enough to make my characters at
11 least look proficient in them, so clearly I had
12 some untapped athletic ability. At the age of 41 I
13 decided to try my hand at archery. With intensive
14 training I got good enough to eventually win the
15 California Gold Cup and qualified to compete in the
16 Olympic trials for the 2000 team, placing 24th.

17 Becoming an athlete has changed my
18 life utterly. The personal rewards have been so
19 profound that I can only wonder what my life would
20 have been like had I played sports as a girl. Yet
21 so many women and girls never experience anything
22 like it. 30 years after the law was enacted, they
23 still have not received the promise of Title IX.
24 And one of my personal goals is to see that girls
25 know their rights and get to play.

1 Now, I'm not here to encourage the
2 Office of Civil Rights to enforce the law. This is
3 your responsibility, and to do otherwise is to fail
4 your duty to the public. You know that, you don't
5 need me to remind you.

6 I'm not here to ask you to remember
7 that Title IX does not require athletic programs to
8 eliminate men's sports to fund women's teams. You
9 know that, you don't need me to remind you.

10 I'm not here to point out that
11 millions more girls are playing sports since
12 Title IX was enacted, and thousands more boys as
13 well. You also know that and don't need me to
14 remind you.

15 I am here to take you for a short
16 ride in Thelma and Louise's car.

17 (Laughter.)

18 If you think it's fair and just and
19 right to limit a girl's opportunity to play sports
20 based on her response to an interest survey. You
21 don't have to be an academic researcher to know
22 that, if faced with the question, "Are you
23 interested in participating in sports?" that most
24 boys in our society would feel compelled to say,
25 "Yes." They've been raised with the idea that real

1 men play sports. It's perceived as a component of
2 manhood, they've been encouraged from the first
3 time they saw a ball.

4 Some girls will respond with the same
5 level of interest as boys. They grew up in
6 families able to pay for their participation in
7 youth sports, they were encouraged to play. On the
8 other hand, many girls, when asked about their
9 interest in sports, will respond with little or no
10 enthusiasm. Maybe their mothers didn't play
11 sports, they may not have had an athletic female
12 role model, maybe their families didn't encourage
13 them to play or couldn't afford to pay for it.
14 Maybe these girls fear that they will be labeled
15 masculine or at least not real women. These girls
16 know the answer they're supposed to give, and it's
17 not, "I'd like to be a baseball player."

18 Interest surveys are simply mirrors
19 of what we have taught our children. They reflect
20 our stereotypes and all of our fears. But picture
21 this: You administer an interest survey to all the
22 girls in any school. The next day, Julie Foudy and
23 Cynthia Cooper come and tell the girls how much fun
24 it is to play. They tell them how it's affected
25 their self-confidence, their health and success.

1 Then Julie and Cynthia assure these girls that they
2 will be offered the same chances to excel in sports
3 as the boys they know. You administer your
4 interest survey again, the results will be
5 different, I promise you.

6 As the mother of a seven-month-old
7 daughter, and Stuart Little, I might add --

8 (Laughter.)

9 -- let me assure you that every
10 father and mother is watching what you do. We want
11 our daughters to be treated with the same fairness,
12 concern, respect and encouragement as our sons,
13 whether it's in the classroom or on the playing
14 field. The benefits to society of girls saying yes
15 to sports are too great to take a step backwards
16 now. We want them to have the undisputed positive
17 effects of playing, like better body image and self
18 regard, like diminished drug use and teen
19 pregnancy. You know that and you don't need me to
20 remind you. But that's what I came here to do, all
21 the same.

22 Now, how did I get the courage to
23 stand up and share my convictions and belief? From
24 sports, but you know that.

25 (Applause.)

1 MS. COOPER: You made a great parent of
2 Stuart Little, by the way. My kids love you.

3 MR. LELAND: Next up, Cedric Dempsey please.

4 MR. DEMPSEY: Can I raise this and not count
5 against my five minutes?

6 (Laughter.)

7 MS. COOPER: Four minutes.

8 MR. DEMPSEY: I'm Cedric Dempsey, President
9 of the NCAA. And after this morning I wish I had
10 about 15 minutes to respond, but I will go quickly
11 through seven minutes of presentation in five, so
12 pay attention please.

13 You've heard from Assistant Director
14 on Research, Corey Bray, on his participation
15 statistics, and you heard in your first session
16 from Judy Sweet, vice-president of championships of
17 the NCAA. And I would like to draw on both of
18 those presentations with my remarks.

19 First of all, I would like to say I'm
20 a strong supporter of Title IX. No but.

21 (Applause.)

22 Looking at Corey's numbers makes
23 clear that the laws had a significant effect on the
24 number of opportunities for females to participate
25 in athletics at all levels. Within the NCAA we

1 have seen the number of women participants more
2 than double in the past 20 years. Our membership
3 is very proud of that accomplishment, and as an
4 organization we have also seen an increase in men's
5 participation during that same period.

6 It is true that, at an institutional
7 level, there are slightly fewer participation
8 opportunities for men than there were two decades
9 ago. However, I would like to propose a reason
10 other than Title IX that may have led to some of
11 those changes.

12 As many of you remember, in 1978 the
13 membership in Division I agreed that departments of
14 athletics should strive to be financially self
15 supporting. To meet that goal, many institutions
16 were forced to reduce spending and increase
17 revenue. Since men's sports were absolutely
18 dominant in those days, it was from the men's side
19 that cuts needed to come. It was also true that
20 resources from non-revenue sports were moved to
21 revenue sports in an effort to create even more
22 revenue for the athletics departments.

23 All of this probably led to
24 reductions in the non-revenue men's sports. The
25 data shows that the early '80s was a time when many

1 men's sports were being cut. It seems this drive
2 for self-sufficiency is at least in part to blame
3 for many of those cuts.

4 Having noted that, the decrease on a
5 per school basis on men's sports, I want to bring
6 to the Committee's attention a couple of other
7 statistics that indicate that we still have a ways
8 to go in terms of gender equity.

9 As Corey's data clearly illustrates,
10 there is a sizable discrepancy in overall
11 participation numbers between men and women. In
12 addition, the NCAA's recently released report on
13 revenues and expenses in intercollegiate athletics
14 shows continuing financial discrepancy between the
15 men's and women's programs.

16 For example, the average athletics
17 program for Division I-A level spends 10.9 million
18 on men's programs and 4.6 million on women's
19 programs. That works out to be 34,000 dollars per
20 male student athlete and 20,000 dollars per female
21 student athlete. These are numbers that we need to
22 continue to monitor and assure that progress is
23 being made.

24 One complaint that has come to my
25 attention through our membership is that they

1 cannot get a consistent, clear assessment of what
2 it takes to be in compliance with Title IX. From a
3 national perspective, it would assist our
4 membership if this Commission would define some
5 standards for compliance within each of the three
6 prongs, and then ensure that the standards are
7 enforced consistently from region to region.

8 I would also suggest that the
9 Commission take a look at the definition of
10 "participant" in the data. Currently anyone who is
11 on the roster on the first day of competition is
12 counted as a participant, whether or not they ever
13 actually compete. I've heard of bowling teams that
14 count 100 women as participants under the
15 definition, but really only have 20 to 25 who
16 compete.

17 NCAA bylaws currently call for a
18 separate calculation that is based on whether a
19 student athlete actually competes in a given year.

20 And finally, I would like to share
21 with you recommendations from the NCAA Committee on
22 Women's Athletics that were supported by the
23 President and Executive Subcommittee on Gender and
24 Diversity Issues. The committee supported the
25 CWA's following recommendations: One, more

1 education about the law at all levels; two,
2 consistent interpretations of the law by the Office
3 of Civil Rights regional offices; three, stronger
4 enforcement of the law; four, greater understanding
5 of the flexibility of prong three, of the
6 three-prong test; and five, greater awareness and
7 understanding that each prong of the three-prong
8 test stands alone as a valuable compliance tool.

9 The presidents on the executive
10 committee in their recent meetings had discussions
11 extensively on these issues and gave full support.

12 I want to assure you that the NCAA
13 stands ready to assist the Commission in any way as
14 you may find possible in moving forward with this
15 very important issue. And we want to thank you
16 very much for the opportunity to speak with you
17 today. And do I still have some time?

18 MR. LELAND: No.

19 (Laughter.)

20 MR. DEMPSEY: No. I would like to say this
21 to you. It's extremely important, you've heard a
22 lot of data thrown at you today, a lot of
23 statistics, and your chair took a course from me
24 called test of measurements at one time, and one
25 thing I had our students read was how statistics

1 lie. And I think it's very important to recognize,
2 as you've heard today the same set of statistics
3 being analyzed by different people saying different
4 things. I encourage all of you to do the right
5 thing, that you can build whatever case you want to
6 build based upon the data that's available, but the
7 hearings are certainly providing the opportunity.

8 In closing I would also say this to
9 you, that the problem is not Title IX. We are
10 trying to take a perfect law and put it into an
11 imperfect mission of what we're trying to
12 accomplish in intercollegiate athletics. If we
13 would abide by the educational mission, we would
14 not be standing here today or sitting here today
15 trying to decide what's in the best interests of
16 men and women in this country. They will all have
17 the opportunity to participate. And so the real
18 problem we have is how to regain the educational
19 mission of what we're all about. Because if we
20 can't justify the educational mission of what we
21 are doing in intercollegiate sports, we shouldn't
22 be having it for men or for women.

23 Thank you.

24 (Applause.)

25 MR. LELAND: Hannah-Beth Jackson. We won't

1 move you to four minutes either. You've got five
2 minutes.

3 MS. JACKSON: See, I always find myself in
4 that position, but as someone who has participated
5 in sports virtually my entire life I know what to
6 do when the microphone is too high is you grab it
7 and you bring it to the level which makes you most
8 comfortable to speak.

9 My name is Hannah-Beth Jackson. I'm
10 an Assembly member, I represent 450,000
11 Californians in the California legislature. I
12 represent the areas of Santa Barbara and Ventura
13 Counties. Contrary to what the people in San Diego
14 think, I think I represent the most beautiful part
15 of the world, but I'm willing to share it. I'm
16 willing to share it.

17 (Laughter.)

18 I'm also a lifelong athlete. At the
19 age of eight I was the best baseball player on my
20 team, but I am a pre Title IX kid and girls were
21 not allowed to play little league when I was a
22 little girl growing up. I didn't understand it. I
23 could throw the ball farther, I could hit it
24 farther, and I ran faster and I was a lot smarter
25 than most of the kids I played with, because I knew

1 when the ball was coming to the shortstop, you put
2 your mitt down to the ground and didn't let the
3 ball fly between your legs.

4 (Laughter.)

5 Be that as it may, because I couldn't
6 play baseball I took up tennis. I became the New
7 England junior tennis champion as a young woman,
8 started my high school tennis team. We won all
9 four years, the championship. It was limited then
10 because there weren't that many other schools to
11 play. I personally corralled enough women to get
12 out there and make a team, and personally made sure
13 that we had practices every day. I wasn't the most
14 popular kid in school, but we did well.

15 I went on to college and started my
16 own college team, because again, that was still pre
17 Title IX and girls weren't supposed to sweat, we
18 could only glow.

19 (Laughter.)

20 So we glowed. And because of the
21 experiences that I had as an athlete when I was not
22 limited by what I could do, when I had the
23 opportunity to go out and to achieve, I had the
24 opportunity to go out and compete, and when I won I
25 could take all the glory and when I lost I couldn't

1 blame anybody else for the loss. I think those are
2 life lessons and I think they're critical for every
3 young woman to learn.

4 And so I then became a lawyer, again
5 before that was common to do, and then because I
6 was too foolish to listen to people telling me that
7 I shouldn't run for public office, I did anyway and
8 I won. And I'm now in my third term of the
9 California Legislature, I'm the Co-chair of the
10 Select Committee on Title IX and the In-coming
11 Chair of the Women's Legislative Caucus.

12 Nobody said I couldn't. Well, they
13 may have said it, but I didn't listen. And I'm
14 here to say today that the discussion that I think
15 you should be having, with all due respect, is why
16 all this is (inaudible) boys, but why haven't we
17 reached greater parity for girls --

18 (Applause.)

19 -- because we are half the
20 population, and these young women sitting out here
21 have every right to expect the same opportunities
22 in life, every right to expect the same chance to
23 succeed, to go out there, to glow as much as they
24 want to glow, to learn what sports have to offer.
25 Sports are an outstanding teacher. Sports give

1 people the opportunity to go out and to do the best
2 they can, to reach levels of expectations that they
3 may not otherwise have had, and 80 percent of the
4 women in the California Legislature today, most of
5 whom will reluctantly admit that they are pre
6 Title IX people themselves, because of the age
7 factor, of course, but 80 percent of them
8 participated in sports as children growing up. I
9 think that sends a tremendous message about the
10 impact of sports.

11 Now, my remarks are not written and
12 I'm not accustomed to standing and working off of
13 this and I know my time is running out, but as I
14 said, I'm a lawyer by profession and it's hard to
15 limit anything I say to five minutes.

16 I just want to focus if I can on the
17 fact that our prior speaker whose comments I
18 greatly respect and admire, not only Geena Davis,
19 who is a hero, is that we spend 34,000 dollars per
20 male student and 20,000 per female student in
21 sports, and people are saying we have to cut back?
22 The problem is we haven't come far enough, and I
23 would urge the recommendations we have heard from
24 so many people here today that what we need to do
25 is make Title IX work better. That means, OCR,

1 you've got to go out there and you've got to
2 educate people better on what those expectations
3 are. You've got to make them consistent. You've
4 got to make them clear.

5 The goals that we have under the
6 three-prong test I think are reasonable, because
7 along with the subjectivity of prongs two and
8 three, we need some level of objectivity. I think
9 it's important to note that the California State
10 University which was sued in order to get
11 compliance with Title IX came into, entered into a
12 consent decree, but that consent decree,
13 interestingly enough, did not require equal parity,
14 it simply required that they do better than they
15 had. And you heard the testimony that there were
16 levels where they were allowed a five percent and
17 ten percent differential. We did not say you've
18 got to go 50/50 across the board. What we said is
19 that you've got to do better.

20 And we have made improvements. You
21 can't argue with the statistic that, pre Title IX,
22 one out of every 27 young women in high school
23 participated in sports, and today it's one in every
24 two and a half. Something has happened, and what
25 it is that's happened is we say to girls, we want

1 you to compete. We want you to have this
2 experience. Sports was never intended to be just
3 for boys alone. I don't see anywhere, written
4 anywhere that athletics are for boys only.

5 In fact, what we've seen is when
6 girls compete, there is greater respect between the
7 sexes. We have greater role modeling. Girls
8 understand and appreciate what they can accomplish
9 and so do boys.

10 I think I'm out of time, but I want
11 to thank you very much for this opportunity to
12 speak. We in California are going to continue to
13 push Title IX forward, to get greater compliance.
14 I greatly respect all of you, the positions you're
15 in with finances the way they are today. Remember,
16 that sandbox is only so big, but when you say boys
17 and girls, we want you to play here together when
18 the sandbox has only been for boys, they got to
19 understand they're going to have to give up a
20 little bit in order to make it an equal playing
21 ground for everyone.

22 I look forward to the results that
23 you come up with here. We in California are going
24 to continue moving forward. I hope we can work
25 together. I wish you the best of luck, and I just

1 want to say to you as I put the microphone back,
2 one of the lessons I learned through sports is that
3 it's not the size of the dog in the fight, it's the
4 size of the fight in the dog. Thank you.

5 (Applause.)

6 MR. LELAND: Is Assemblyman Carol Liu here?

7 Okay. Now, these next five people
8 we'll call, if you'd like to come up and sit in the
9 front row and then we'll call you in order. Pam
10 Gill-Fisher, Diane Milutinovich, Marie Ishida,
11 Elaine Hagin, and Steve Butcher, if they could come
12 forward please. Pam Gill-Fisher will be first.

13 MS. GILL-FISHER: Thank you for this
14 opportunity to address the Commission. I have
15 worked at the University of California Davis for 30
16 years as a coach, teacher and athletic
17 administrator. I have served on a variety of ARAW
18 and NCAA committees, and currently serve on the
19 NCAA Division II Management Council. I am also
20 currently the President Elect of the National
21 Association for Collegiate Women Athletic
22 Administrators.

23 On my own campus I chaired a Title IX
24 review for the first time in 1978. Yes, I am that
25 old. And again in 1988. Compliance with Title IX

1 at UC Davis has been achieved through the
2 leadership of our chancellor and a diligent group
3 of campus administrators who believe that gender
4 equity is not a choice, but a requirement. This
5 has been a campus-wide effort, not just an athletic
6 effort. We now have a standing committee in our
7 campus, the Title IX Work Group, that is chaired by
8 our Vice-chancellor of Student Affairs and includes
9 a Title IX officer for the campus, Vice-chancellor
10 of Academic Affairs, Athletic Director, Senior
11 Women's Administrator, and Faculty Athletic
12 Representative.

13 UC Davis believes that it is in
14 compliance with Title IX. We have reached that
15 point with a successful football program,
16 approximately 800 student athletes, 25 varsity
17 sports, and 32 club sports. We also have athletic
18 aid that is equally distributed between men and
19 women.

20 We have been named the top women's
21 program in Division II by Sports Illustrated twice,
22 have won five Sears Cups for the top overall
23 program in Division II, and have done this while
24 meeting Title IX requirements.

25 We are in the process of moving to

1 NCAA Division I and will not, will not drop or tier
2 sports, which is in a Memorandum of Understanding
3 with our students, and we will fully fund all
4 sports at the maximum level of Division I in 2007
5 and 2008 in our referendum this past week just
6 funded there.

7 I did not come here today to speak of
8 my own personal experiences with Title IX, as
9 anyone associated with intercollegiate athletics
10 over the past 30 years has benefitted in some way.
11 I am no different and would not be in the position
12 I am today without the benefit of Title IX.

13 I came today to reinforce what many
14 people have already stated. You, the Commission,
15 have the opportunity and responsibility to bring a
16 recommendation that sifts through the emotion and
17 false accusations and get to the heart
18 of the issue.

19 Is Title IX unfair in the way that it
20 is enforced or the way that it is interpreted? I
21 would encourage you to look at the facts
22 surrounding the drop in men's sports and what has
23 happened to program expansion in those programs.
24 Statistically and factually we know that those
25 dollars saved by dropping men's sports are not

1 spent adding opportunities for women. Rather,
2 those dollars are being spent to increase the
3 budgets of already existing programs in football
4 and men's basketball.

5 You as a Commission have the
6 credibility to challenge the status quo. You as a
7 Commission have the potential to advise college
8 presidents about the possibilities of meeting
9 Title IX without dropping sports. You have the
10 potential to renew the efforts to stop the arms
11 race in football and men's basketball that has
12 sacrificed many men's sports in the name of
13 Title IX.

14 In reality, the elephant in the
15 living room, the emperor with no clothes is really
16 Division I-A football and men's basketball, not
17 Title IX. Title IX, as it is written and enforced,
18 allows three means of complying. For those who
19 have not complied, I believe that Marshall
20 Greenberger said it best, you have chosen not to
21 comply. You do have choices, more choices for
22 compliance than any other federal legislation.

23 Title IX is used as an excuse by
24 those who have the greatest ability to pay, the
25 Division I-A football programs. It is, in fact,

1 those schools that cut sports most often with the
2 other 900 members of the NCAA -- while the other
3 900 members of the NCAA are working to comply with
4 your resources.

5 MR. LELAND: One minute.

6 MS. GILL-FISHER: I fully agree with
7 Christine Grant's statement that we cannot really
8 address gender equity until we address the arms
9 race. My hope is that you will find what is really
10 needed is not a change in the guidelines of Title
11 IX, but what is really needed is one, greater
12 education, greater support of the Office of Civil
13 Rights, encourage the NCAA President's Commission
14 to review the numbers of grants-in-aid per sport
15 and establish appropriate criteria for the
16 assignment of those numbers, encourage the NCAA
17 President's Commission to create what essentially
18 will discourage the arms race as an example of
19 supporting legislation that would make off-campus
20 housing the night before a home game illegal; five,
21 encourage and explore the number of full-time
22 assistant coaches when looking at the data
23 presented by athletic directors and college
24 presidents who bemoan the lack of female
25 participants. I believe you will find that it then

1 is a direct correlation, that the percent of female
2 student athletes receiving full-time coaching
3 and --

4 MR. LELAND: Time.

5 MS. GILL-FISHER: -- is scarring and
6 severely disproportionate, which leads to a
7 difference in recruited women.

8 MR. LELAND: Thank you. Diane?

9 MS. MILUTINOVICH: My name is Diane
10 Milutinovich. I was the Associate Athletics
11 Director at Fresno State for 22 years. I am not
12 here as a representative of Fresno State, I'm here
13 to tell you what I've seen and observed.

14 Much progress has been made. I'm not
15 going to repeat those facts and figures. Many more
16 girls and women are participating today because of
17 the law called Title IX. Without laws like Title
18 IX, nothing would change. Those who have benefits
19 and opportunities don't willingly give them up.
20 People do not like change, nor do they want to
21 share. There are many girls and women who have
22 an interest in participating but do not have the
23 opportunity to play or participate in
24 intercollegiate athletics.

25 First we heard that women aren't

1 interested in sports, but when women are given
2 opportunities, they came in droves. Then we heard
3 there isn't enough money, but budgets continue to
4 grow astronomically.

5 The ideal way for schools and
6 universities to comply with the law would have been
7 to share the money and increase women's sports
8 until equity was achieved. However, some schools,
9 for a variety of reasons, have chosen to drop men's
10 sports and blame Title IX. Title IX is an easy
11 whipping girl. It's an easy excuse. Nothing can
12 be -- nothing had to be explained. It's
13 self-explanatory. Boys and men who had played
14 sports that were eliminated blamed girls and women
15 who had not had the opportunities to participate
16 and compete, and of course they blamed Title IX.

17 Title IX is no more a quota law than
18 the programmatic limits set on the chemistry class,
19 an engineering class, or a graduate class. Blaming
20 Title IX took the monkey off the back of
21 institutions and their administrators. Now they
22 don't have to explain where they're spending those
23 huge, astronomical amounts of money.

24 Most of the time this eliminated any
25 critical analysis of budgets and redirected the

1 attention from where the money was being spent to a
2 battle between the men's so-called minor sports and
3 women's sports. Very rarely did anyone ask how
4 much money was going to be saved or where those
5 savings were going to be spent.

6 Title IX has accomplished a lot.
7 More women are participating, more women have
8 received athletic aid, more women have better
9 equipment, travel facilities, etc., but equity has
10 not been accomplished. At my institution there are
11 ten women's teams, but there is more interest. We
12 have women's club teams in water polo, bowling, and
13 we have community colleges and high schools who
14 participate in golf, but we have no golf team at my
15 university.

16 Earlier today you heard how well the
17 CSU system is doing. That is not the whole story.
18 While significant progress has been made at the two
19 universities represented today, and the
20 participation numbers have dramatically increased,
21 spending has leveled off. According to the most
22 recent EADA reports, both universities have
23 participation rates of over 52 percent, but for
24 women they spend 42 percent or less on operating
25 budgets for those teams. The total operating

1 expense is less than 42 percent, and the total
2 scholarship dollars for women is less than 48
3 percent.

4 Those two universities are no
5 different than most universities in the country.
6 Women do not want to see men's sports dropped,
7 women's sports are dropped so -- when sports are
8 dropped, institutions do so for a variety of
9 reasons. Women should not be blamed. We have the
10 right to equitable benefits, treatment and
11 services.

12 Title IX was passed to ensure equity
13 and it must be maintained. Who doesn't want their
14 daughters, granddaughters, sisters, nieces and
15 friends to get those same lifelong advantages and
16 benefits that participating in intercollegiate
17 athletics provides?

18 Those who want Title IX to change,
19 meaning they don't want it enforced, please do not
20 change Title IX, weaken the regulations and
21 guidelines that it provided more equitable benefits
22 and opportunities to women in sports. If it is an
23 everyday struggle to get near Title IX equity, now
24 is not the time to back away from Title IX or its
25 enforcement. Thank you.

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(Applause.)

MR. LELAND: Thank you. Steve?

MR. BUTCHER: I better just take it in my hand anyway. Is that how this works?

Anyway, my name is Steve Butcher and I represent USA Gymnastics. I'm on the board of directors, and also I'm an employee here in San Diego County for the YMCA.

I've listened to all the speakers today and I'm very impressed with all the comments made. It really surprised me when I drove up this morning to see people protesting outside. The reason why is I never considered this forum to be an attack on women and their opportunities in sports.

This Commission has been given the opportunity to review all of the comments made today and then eventually make a recommendation on the opportunities that exist for men and women in sports, particularly at the collegiate level. This is why I'm here today, and I'm here to support opportunities for both men and women.

It is clear that there's no simple answer for Title IX and this complex subject. I currently spend a large amount of time on two

1 collegiate campuses here in San Diego County, and
2 it's very interesting, when you mention the word
3 Title IX to men's minor sport athletes, the first
4 thing they say is, "It's got to go." But I say to
5 all of these gentlemen, "Hey, Title IX is not the
6 real problem, the problem begins with enforcement,
7 and it would take implementation of Title IX, but
8 the real problem comes down to dollars and cents
9 and the money."

10 Every day I work with two male -- two
11 or three male gymnasts that are aspiring to be
12 collegiate gymnasts next year. And one of them
13 asked me a few days ago, "Steve, if you have a son,
14 would you have him do gymnastics?" And I reminded
15 these two guys, these three guys, actually, that,
16 "You're going to be collegiate gymnasts next year,
17 but probably if I had a son, he would do gymnastics
18 in the beginning, but I would only have him do
19 gymnastics in preparation for another sport." They
20 wanted to know why. I said because the way things
21 are going, it's likely they're going to have to
22 play another sport to have an opportunity at the
23 collegiate level. This really surprised these
24 gentlemen, but at the rate things are going, that
25 possibility does exist. It hurt me to say that as

1 well.

2 Trust me, no one is more excited to
3 see our women's world cup and women's soccer teams
4 win the gold medal. I realize that Title IX is the
5 driving force behind these accomplishments, and I
6 take great pride in being from this country that is
7 so progressive. However, I want to see equal
8 opportunities for both men and women without
9 diminishing any women's opportunities.

10 However, I now worry about the
11 decrease in opportunities for men, especially since
12 interest is so high. Presently the USA Men's
13 Gymnastics Team is number two in the world, and
14 this is based on the results of last years world
15 championships.

16 Two of the five members of our
17 current world championship team have ties to the
18 NCAA. However, every one of the gymnasts on our
19 men's gymnastics team, every single member began
20 and continued in gymnastics aspiring to be a
21 collegiate gymnast. So I worry about what will
22 possibly happen in the future if this opportunity
23 doesn't exist.

24 I have to say that, again, I'm happy
25 for the achievements of the women's national soccer

1 team and all the women's sports because of Title
2 IX, but more than ever before I'm worried about
3 what's going to happen with the future of our
4 Olympic program for men, and also what's going to
5 happen with our society for lack of these
6 opportunities for men.

7 I've witnessed in our USA Men's
8 Junior Olympic Program incredibly high numbers and
9 a great rapid increase in the amount of men
10 participating over the last 20 years. However, the
11 amount of collegiate programs are going down.

12 So I urge this Commission to review
13 all of the information presented today, and I
14 shouldn't say just today, but also at your past
15 meetings, but to make a recommendation for
16 equitable enforcement of Title IX. I think that
17 everyone is in favor of current opportunities for
18 women and to continue with those opportunities, but
19 also let's try not to eliminate current and future
20 opportunities for men. Thank you.

21 (Applause.)

22 MR. LELAND: Elaine?

23 MS. HAGIN: Good afternoon. My name is
24 Elaine Hagin. I serve as the first vice-president
25 of the Women's International Bowling Conference and

1 I'm also very proud to be an advisory board member
2 of the Women's Sports Foundation.

3 WIBC is the world's oldest and the
4 largest women's sports organization and so I'm here
5 speaking for our nearly 1.3 million members. Our
6 mission is to identify and fulfill the needs of
7 women bowlers. And this afternoon I will be
8 addressing your priority area number four, which
9 was how should activities such as cheerleading or
10 bowling factor into the analysis of equitable
11 opportunities. And before I do this, I'd like to
12 take this opportunity to introduce some of the
13 ladies that are accompanying me today. These
14 ladies are all in the lovely pink. Would you
15 please stand up? San Diego Women's Bowlers
16 Association.

17 (Applause.)

18 We have the president (inaudible),
19 and the secretary, Lynn Graves, who also happens to
20 be a director of the California Women's Bowling
21 Association.

22 Anyway, it's the belief of the WIBC
23 that the provisions of Title IX should be
24 strengthened to encourage further equity for
25 women's athletics. The WIBC further believes that

1 men's sports should not be cut to ensure equity,
2 but rather that additional opportunities should be
3 added for women.

4 The high school and collegiate
5 efforts supported and promoted by our bowling
6 industry have opened many many opportunities for
7 both men and women competing in the sport of
8 bowling. Title IX has provided additional avenues
9 for not only the females in athletics, but for male
10 athletes as well. It has assisted in allowing
11 youth bowlers nationwide to represent their high
12 schools and colleges in the sport of bowling.

13 High school bowling itself has grown
14 immensely in recent years. There are currently ten
15 state athletic associations that recognize bowling
16 as a varsity letter sport, and according to
17 feedback from the field, more than 60 percent of
18 the student athletes participating in these
19 programs were not previously involved in other
20 school extracurricular activities prior to the
21 implementation of high school varsity bowling
22 programs.

23 Now, let me tell you a little bit
24 about college bowling, because it's also
25 experiencing significant growth. There are

1 currently 42 four-year institutions that sponsor
2 bowling as a national collegiate athletic
3 association women's sport. The bowling industry is
4 currently working with the NCAA to move the sport
5 of bowling from emerging sport status to
6 championship sports status, and this should occur
7 in the very very near future.

8 The NCAA initiative has been well
9 received by historically African-American
10 institutions in particular. During the 2001/2002
11 season, more than 70 percent of the student
12 athletes competing in bowling for NCAA institutions
13 were minorities. Due in part to the implementation
14 of Title IX, the sport of bowling has been able to
15 provide youth with additional opportunities to
16 represent their institutions on a high school and
17 on a collegiate level.

18 MR. LELAND: One minute.

19 MS. HAGIN: As reported in many studies, the
20 benefits received by participants in high school
21 and collegiate athletics are overwhelming.
22 Students participating in extracurricular
23 activities develop leadership skills and
24 communication skills through their involvement in
25 these programs. Their participation in athletic

1 programs provide them with a very very strong
2 foundation to become leaders who contribute a great
3 deal to society.

4 Further clarification of the current
5 criteria utilized to demonstrate compliance is
6 really necessary to the growth of opportunities for
7 both men and women in athletics, and it's our
8 belief that the Office of Civil Rights should
9 regulate schools that drop men's athletic
10 programs --

11 MR. LELAND: Time.

12 MS. HAGIN: -- in an attempt to meet
13 compliance standards. Thank you for the
14 opportunity to speak to the Commission.

15 MR. LELAND: Thank you.

16 (Applause.)

17 MR. LELAND: Marie Ishida?

18 MS. ISHIDA: Good afternoon. My name is
19 Marie Ishida. I'm the Executive Director of the
20 California Interscholastic Federation, which is the
21 governing body for 1322 public and private high
22 schools in the state of California, and we
23 represent almost approximately 662,000 student
24 athletes.

25 After a series of these town hall

1 meetings, I'm sure the Commission has heard
2 everything you've ever wanted to hear and probably
3 more than you've ever wanted to hear. However,
4 other than the meeting in Illinois, most of the
5 focus has been on the collegiate level. In one
6 respect maybe that's good, it keeps the high
7 schools under the radar and maybe out of the
8 spotlight. But I must admit I'm somewhat a little
9 disappointed by that. I believe we in the high
10 school community are as responsible and accountable
11 as well as our counterparts at the collegiate
12 level.

13 I'm not here to argue the validity of
14 the interpretation of how Title IX should be
15 applied. I am here to verify as a witness to the
16 positive effects that the implementation of
17 Title IX has had on the emergence of girls involved
18 in high school sports in California.

19 As you have already heard all the
20 statistical data in your previous forums and again
21 today, the Title IX has definitely increased the
22 numbers of young women participating in high school
23 athletics. In California we have experienced these
24 same ratios and these same increases. At the same
25 time, boys participation has increased as well,

1 although not at the same rate.

2 Is CIF satisfied with where we are?

3 Absolutely not. We have a long way to go. As
4 evidenced by a recently passed bill that someone
5 referenced earlier, AB 1295, it's going to do a
6 study of athletics in the state of California from
7 the seventh grade through the collegiate level.
8 They're going to be surveying our programs based on
9 facilities, scheduling, prime time scheduling,
10 uniforms, etc., etc.

11 I have an idea of how that survey is
12 going to come out, and it will be interesting to
13 see exactly if that survey supports what I think is
14 already happening. Honestly I believe our
15 governing body of the CIF made up of educators are
16 really good people, just as you are, but having
17 been part of the change process of CIF in the early
18 '90s, I can tell you, it took pressure from outside
19 forces to really face -- for this organization to
20 really face the inequities within our own
21 organization as well as in our schools.

22 It has been mentioned several times
23 already today, and I totally agree that this really
24 has a lot to do about revenues and funding, or the
25 lack thereof. I think until such time this issue

1 is faced, institutions will be facing the terrible
2 decisions that have been talked about today. The
3 CIF does not agree that opportunities for boys and
4 men be eliminated, rather that adequate funding be
5 provided for more opportunities for both genders.

6 I would ask the Commission to
7 recommend that at this time that Title IX laws and
8 interpretations be left alone and be currently
9 applied to athletics as it is now, until such time
10 the issue of the lack of funding be addressed.
11 Thank you very much for your time.

12 MR. LELAND: Thank you.

13 (Applause.)

14 MS. COOPER: Linda Joplin, Michael Messner,
15 Amy Dempster, Joe Kelly, Nancy Soloman, and we'll
16 start with Linda.

17 MS. JOPLIN: Good afternoon.

18 MS. COOPER: I just want to remind you guys
19 to say your name into the microphone for the
20 transcriber, please.

21 MS. JOPLIN: That's the next word I was
22 getting to.

23 My name is Linda Joplin. I am here
24 today representing California National Organization
25 for Women's 80,000 members and donors.

1 I was president of California NOW
2 when we sued the 19-campus state university system
3 that you heard so much about earlier this morning.
4 Since then we have filed six Title IX complaints
5 against other institutions at the high school and
6 college level. We're also reviewing Title IX
7 compliance at the 104 community colleges, and with
8 the help of CIF we have sent out a Title IX booklet
9 to every high school in the state.

10 My attempt is to contribute something
11 that has not been said 50 times already to you, so
12 here goes.

13 Number one, why is it that over 50
14 colleges and universities dropped men's wrestling
15 between '94 and '98 when Title IX was (inaudible).
16 I have never seen an adequate explanation as to why
17 this happened, so there must be more going on here.

18 Between 1977 and 1990 the 19 campuses
19 of the state university system dealt with budget
20 cuts by eliminating 800 female athletes and only
21 400 male athletes. Women's percentage of
22 participation dropped by -- from 36 percent to 30
23 percent. This is why California NOW felt it
24 necessary to file suit.

25 Dr. Welty spoke this morning about

1 the significant progress they have made since '93.
2 So let's recognize that athletic administrators are
3 willing to cut both men's and women's teams. It's
4 just that lawsuits such as ours have taken the
5 women's teams off the table for the most part in
6 recent years.

7 It's my understanding that when the
8 three-prong test was being negotiated in the late
9 '70s, women were 42 percent of college students.
10 It's interesting to note that now they are 42
11 percent of athletes. So over 30 years we have
12 reached sort of what the goal was at that point.
13 But now women are 55 percent of students, so the
14 measurements have changed.

15 There are two basic philosophical
16 camps; those that believe strongly in providing
17 broad based athletic programs with whatever funding
18 they have available, and those whose main priority
19 is having winning football and men's basketball
20 programs.

21 When it comes to money there are the
22 haves and the have-nots. The haves are in the BCS
23 football conferences and get millions of dollars,
24 even if their school was not selected for a bowl
25 game. They also get a piece of the major TV

1 revenues. The have-nots are the rest of the
2 schools that have a very slim chance of getting
3 into a bowl game and significantly less access to
4 TV money.

5 The haves continue to find creative
6 new ways of spending large amounts of money. We've
7 heard about the hotel rooms before home games,
8 that's my favorite. I've already recently read
9 that some schools are now spending up to 225,000
10 dollars on 300-page football media guides. Now,
11 where are the priorities? The results is that
12 other schools feel that they have to do likewise to
13 maintain a level of recruiting and competitive
14 advantage. Thus the costs keep skyrocketing.

15 The have-nots are trying to compete
16 at the same level without the same access to
17 resources. They have the option of trying to spend
18 more in the hopes that it will fill the stadium,
19 but the most consistent result is that they run up
20 deficits and have to cut the budget. Those that
21 don't have a strong commitment to a broad based
22 athletic program cut minor men's sports because
23 they know they have a good chance of being sued if
24 they try to cut any women's teams. The have-nots
25 don't even complain much because they hope that

1 some day they might be invited into the club.

2 So what is going to rectify the
3 situation? There is the very slim chance that the
4 presidents that control the NCAA will crack down on
5 the ballooning budgets, but I wouldn't hold my
6 breath. It's not a pretty picture and I'm not sure
7 what the federal government can do to fix it. If
8 you do decide to propose eliminating prong one of
9 the three-prong test, I am convinced that you will
10 see cuts on both the men's and women's sides when
11 athletic directors find that they need more money.

12 As long as the have-nots are trying
13 to keep up with the less successful haves, let
14 alone the very successful haves, the pressure to
15 cut minor men's sports will continue as strong as
16 ever. Changing the rules so that there is even
17 less pressure to increase opportunities for women
18 is going to solve nothing. Thank you.

19 MS. COOPER: Thank you.

20 (Applause.)

21 MS. COOPER: Mr. Messner?

22 MR. MESSNER: My name is Michael Messner and
23 I'm a sociologist at the University of Southern
24 California. For the past 20 years or so my
25 research has focused primarily on issues related to

1 gender and sports in the United States.

2 Nearly a century ago there was a
3 surge of athletic feminism in this country. The
4 subsequent backlash did not eliminate, but did
5 manage to ghetto-ize women's sports for several
6 decades. With the revival of feminism in the '60s,
7 this ghetto-ization was challenged on many fronts.

8 You and I have lived through a
9 revolutionary social transformation. However, this
10 is still an incomplete revolution. Today female
11 athletes too often do not receive equal
12 opportunities, facilities, shares of scholarship
13 funds, coaching salary budgets, recruiting and
14 operating budgets, or media coverage. I doubt that
15 the tide of female athleticism will ever return to
16 its pre 1970s state. However, I do think that we
17 are at a key historical juncture. Without continued
18 vigilance at many levels, including rigorous
19 enforcement of Title IX, we are in danger of moving
20 toward new forms of ghetto-ization and
21 marginalization of girls and women's sports.

22 Some have recently suggested that
23 there is a greater interest among male athletes
24 than among female athletes. Some have suggested
25 that this is centered in our plumbing --

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(Laughter.)

-- and that this can be seen in larger numbers in males who join teams as walk ons. When I heard this claim, I pitched it out to several hundred scholars on the listserve of the North American Society for the Sociology of Sport. Every reply I have received said that, to their knowledge, there was no research that supported this claim, but several scholars challenged the idea that it makes any sense at all to try to include an assessment of interest in deciding whether to offer equitable opportunities in sports.

Our recent experiences from peewee sports to NCAA athletics should tell us that there is a reciprocal relationship between interest and opportunity, between supply and demand. Our job as educators is to supply equitable opportunities. When we do that, the girls and women come, they play and they reap the benefits of sports.

It's now a well documented fact that athletic participation is good for the physical and social well being of girls and women. I want to suggest something further. Equity for girls and women in sports is also good for boys and men. For me, this is a fundamental point. As a scholar of

1 gender in sports, as a former athlete and
2 especially as a father of two young boys, one of
3 the most unfortunate aspects of recent discussions
4 about Title IX is the way that the debate is
5 framed as pitting the interests of boys and men
6 against those of girls and women. I don't think we
7 should see it this way.

8 My sons are growing up in a world in
9 which they can expect to work alongside women as
10 colleagues. There's a good chance that they will
11 have women as bosses. How well are our schools
12 preparing them for this? Despite the feminist
13 movement, my sons experience, often daily, a sea of
14 cultural images, institutional contexts and peer
15 interactions that encourage them to see women
16 narrowly, as sexual objects, as support objects, as
17 weak, subordinate, and second class citizens. Too
18 often these kinds of views are reinforced through
19 boys' experiences in sports.

20 Sexist attitudes, of course, hurt
21 girls and impede their hopes of equal treatment as
22 adults. But sexism also dehumanizes boys and men
23 and it will make it difficult for them to function
24 effectively as adults in a world where gender
25 equity is the rule. If these boys and men are to

1 grow up to respect women as colleagues and leaders,
2 it's crucial early on that they see and experience
3 girls' and women's full range of strength, skill
4 and assertiveness. The physical realm of athletics
5 is an essential dimension of this.

6 MS. COOPER: One minute.

7 MR. MESSNER: Schools that deny girls and
8 women equal opportunities in sports are also
9 denying boys and men access to the range of
10 experiences that they need to rise above the
11 lingering misogyny that still discolors the daily
12 experiences of so many of us.

13 For the good of our daughters and our
14 sons, I urge you to support the continued
15 enforcement of Title IX. Thank you very much.

16 (Applause.)

17 MS. COOPER: Thank you. Amy?

18 MS. DEMPSTER: Good afternoon. My name is
19 Amy Dempster and I represent several students from
20 the Women's Studies Association at California State
21 University of Fullerton.

22 In 1999 a woman by the name of
23 Leilani Rios was offered a scholarship awarded to
24 her because of the Title IX legislation for her
25 track and field ability to attend California State

1 University of Fullerton. She was a 19-year-old
2 woman, a mother, and a wife. She worked as an
3 exotic dancer at a club down the street to earn
4 money so that she could pay for the cost of living
5 while going to school. Because of her job she was
6 kicked off of the track team, which resulted in the
7 loss of her scholarship, which was pivotal for her
8 to attend California State University of Fullerton.

9 Because of our society's engrained
10 gender roles, women as mothers are valued less, so
11 Ms. Rios's only option to be valued in the work
12 force was to seek a degree in a higher level of
13 education.

14 Since the enactment of the Title IX
15 legislation in 1972 which covers three major areas
16 of high school and college athletics, athletic
17 financial assistance, effective accommodations of
18 students' interests and abilities, and other
19 program components, women have been able to utilize
20 their competitive skills the same way that men have
21 for centuries to attempt to level the playing
22 field.

23 An explanation of what the Title IX
24 legislation has done and can do for the equality of
25 women and men includes increasing the number of

1 women in higher levels of education, which fosters
2 a competitive field for both men and women to
3 achieve their best, it increases the numbers of
4 women in specialized job fields as well as allowing
5 women to be valued the same as men in the work
6 force.

7 Since the passage of Title IX, women
8 have been able to take advantage of monetary
9 benefits necessary to attend levels of education
10 after high school. These benefits come in the form
11 of scholarship and financial aid. For example,
12 Ms. Rios had the opportunity to attend California
13 State University at Fullerton because of the
14 scholarship she had received as a result of the
15 Title IX legislation. Her ability on the track
16 field enabled her to attend an institution of
17 higher learning, which will give her the skills she
18 needs to be able to provide for her family so that
19 she does not have to rely on welfare to help her
20 and her family.

21 Higher levels of education are
22 necessary for women to be able to become
23 independent and self sufficient so that we can
24 achieve higher levels of satisfaction outside of
25 the domestic sphere. It allows women to attempt to

1 have the same benefits as men have had, such as
2 higher pay and specialized job fields like science
3 and math.

4 According to the Women's Sports
5 Foundation, male athletes at college level receive
6 179 million dollars more than female athletes in
7 scholarships each year. Many use this argument to
8 justify the gunning of Title IX. However, it is
9 important to recognize that there is no mandate
10 that requires a college to eliminate men's teams to
11 achieve compliance. A false dichotomy is presented
12 when we begin to frame the Title IX debate as a
13 zero (inaudible).

14 The work force continues to value
15 traditional male behavior whereas assertiveness,
16 egocentrism, and individualism is valued over
17 collaboration and relational bonds. If women are
18 to be valued equally with their male counterparts
19 in the public arena, they must learn these skills
20 needed to comply with traditional masculine norms.
21 The way in which women learn these skills of
22 communication are by attending colleges and
23 universities after high school, while also learning
24 to compete and work with others through organized
25 sports.

1 MS. COOPER: One minute.

2 MS. DEMPSTER: However, the only way that
3 women will be able to learn the skills of
4 competition and group communication is if they have
5 the opportunity to do so.

6 Since the enactment of Title IX, an
7 explosion of opportunities for girls and women on
8 and off the playing field has been presented.
9 Women have jumped at the opportunity and still are
10 increasing in numbers in higher levels of education
11 and organized sports. Should this committee
12 recommend dropping proportionality for meeting
13 Title IX requirements, untold numbers of women and
14 girls will drop out of sports all together. What a
15 shame, what a shame. Thank you.

16 (Applause.)

17 MS. COOPER: Thank you. Joe Kelly?

18 MR. KELLY: I am Joe Kelly, Duluth,
19 Minnesota. I have twin daughters, college seniors,
20 and I'm Executive Director of Dads and Daughters, a
21 national education advocacy nonprofit that works on
22 strengthening father/daughter relationships, and
23 I'm here to tell you that Title IX is one of the
24 best things that ever happened to fathers.

25 (Applause.)

1 Why? Because Title IX has begun to
2 make it unremarkable for girls to play sports,
3 unlike in generations past. Because most men grow
4 up seeped in sports and, as sports fans, thanks to
5 Title IX, fathers and daughters now have a whole
6 new playing field on which to connect. A
7 father/daughter relationship can thrive on playing
8 catch or on a jump shot or cheering on a team.

9 We live in a culture where girls and
10 women are still valued, frankly, more for the size
11 of their cleavage than for the size of their heart,
12 skill and talent. Put your daughter's face in that
13 picture, and you quickly see how horrible those
14 attitudes are to girls. But it's not only girls
15 who are bombarded with these corrosive messages.
16 Boys are too, and boys that grow up believing that
17 cleavage is more important than heart are headed
18 for disaster in relationships.

19 But as the first man in our
20 children's lives, we fathers and stepfathers can
21 blast this lie to smithereens. But since we grew
22 up as boys, getting close to our daughters is often
23 problematic, even though statistics show that girls
24 who are close to their dads do better in school,
25 they delay sexual activity and substance abuse, and

1 they're very likely to get involved in sports if
2 they're close to their dads. I think that's in
3 part because sports is a natural comfort zone for
4 men, and Title IX makes it a bridge to their
5 daughters.

6 Texas banker Dave Chapman volunteered
7 to coach his son's rec league basketball team and
8 he loved it, and when his younger daughter was old
9 enough he volunteered to coach her too. But he was
10 appalled that the girls team had to use a
11 different, older gym than the boys used. So he
12 fought to open the so-called boys gym and he
13 succeeded.

14 I run into guys like Dave Chapman all
15 the time. These guys are not radical feminists.
16 They simply know that athletics are goods for girls
17 and boys, and they know when their girls are being
18 treated unfairly, and most important, these dads
19 don't want their daughters or their sons to think
20 such inequities are acceptable.

21 In high school I participated in a
22 minor sport, cross country. There was nothing
23 minor about what it did for my well being. I was
24 troubled then as a student and remain troubled now
25 as a parent and citizen at the attitudes that often

1 keep school sports hierarchies entrenched, to the
2 detriment of all student athletes.

3 You've heard expert testimony that
4 educational institutions continue to wrongly blame
5 Title IX for cutting or curtailing minor men's
6 sports. In the 1960s, before Title IX, my minor
7 cross country team struggled for a scrap of
8 attention and resources compared to that lavished
9 on the other autumn sport, football, at my high
10 school, and this was at an all boys high school, a
11 Catholic high school committed to social justice.

12 If you're a man who has played a
13 minor sport, you'll recognize this still too common
14 method of allocating support for sports. It's a
15 dynamic that long predates the emergence of girls'
16 sports, although Title IX is slowly changing that.

17 I volunteer at a local high school
18 and I've seen the way that girls' sports enrich
19 boys' lives. I challenge you, as I have done, to
20 go and watch teen boys cheer on their high school
21 girls basketball team, or hear a grade school boy
22 saying he wants to play soccer like (inaudible) or
23 run the offense like Cynthia Cooper.

24 MS. COOPER: One minute.

25 MR. KELLY: Then explain to me how that is

1 bad for boys. Title IX opens doors for boys, and
2 one of the most important ways it does is when our
3 sons grow up to be fathers. The field of sports
4 has long been fertile ground for strengthening
5 fathers connected with sons, whether or not you
6 play an organized sport, and Title IX now welcomes
7 daughters onto that field, helping father and child
8 share the fun and physicality and the joy of
9 watching scholastic and pro teams play, regardless
10 of the child's gender. Don't let future fathers
11 and daughters and sons lose this precious field of
12 play. Don't force fathers into the limited world
13 where sons and daughters are valued differently
14 just because of their gender. Fathers need a
15 strongly enforced Title IX.

16 MS. COOPER: Thank you.

17 (Applause.)

18 MS. SOLOMON: Good afternoon. I'm Nancy
19 Soloman. I'm a Senior Staff Attorney at the
20 California Women's Law Center for the focus on sex
21 discrimination.

22 I submitted a statement to the
23 Commission this morning, but I want to highlight a
24 few of the legal issues that the Commission is
25 asked to look at.

1 First of all, the Commission was
2 asked, has Title IX worked to increase
3 opportunities for both boys and girls? And I would
4 suggest to you commissioners, that itself is a
5 loaded question, because Title IX was never meant
6 to increase opportunities for both boys and girls.
7 Title IX is an anti-discrimination statute that was
8 meant to increase opportunities and to ensure
9 equity for the underrepresented sex, and because of
10 the historical discrimination against girls in
11 athletics, that has been females, and that
12 continues to be females.

13 So what this Commission should be
14 asking itself, really, is has Title IX achieved
15 gender equity, has Title IX eliminated sex
16 discrimination, and has there been regulations
17 sought and achieved anti sex discrimination
18 policies in our schools.

19 I want to address three of the issues
20 addressed here today. One is proportionality, the
21 other is revenue, and finally the idea of interest
22 surveys.

23 As to proportionality, we all know
24 there's nothing in Title IX or the federal
25 regulations and policies that would require schools

1 to cut male teams. Right? The schools asked for
2 that. In litigation the schools ask for
3 flexibility in the face of limited athletic budgets
4 to be able to cut male teams in order to achieve
5 proportionality. The fact is that a school has a
6 limited athletic budget that is a finite athletic
7 budget, and they can choose to do whatever they
8 want with that athletic budget, but what they
9 cannot do is discriminate against females.

10 Now, imagine if you had a corporation
11 that was sued for paying its similarly situated
12 male employees less than its female employees.
13 Now, suppose that corporation goes to court and
14 says, "Well, you know, in order to increase the pay
15 for my female employees, I'm going to have to
16 decrease the pay for my male employees. I have a
17 limited budget." Would anyone suggest that that
18 was a viable argument or that the female employees
19 should sit it out in the hopes that one day will
20 corporation will increase revenue? Certainly not.
21 And that same argument has no place in the Title IX
22 debate. Women deserve gender equity now.

23 We've also heard about reverse
24 discrimination and ADF quotas. These legal
25 concepts have no place in the Title IX debate.

1 Those are the concepts that are in the employment
2 law context and the admissions context, but they're
3 not transferable to the Title IX debate because we
4 are not dealing with similarly situated individuals
5 competing for limited spots.

6 The beauty of Title IX is that it
7 allows schools to create sex segregated teams.
8 Schools have sex segregated teams, by very nature.
9 Right? So how do we determine if there's continued
10 discrimination? Well, one way is to look at
11 proportionality, that's one of three ways. That's
12 a very workable way of determining whether girls
13 are achieving equity. It's not the same thing as
14 when you're applying for a job. Any man or woman
15 who is similarly situated and it's similar criteria
16 and there is one position. By its very nature,
17 sports and the sex of the athlete is a relevant
18 characteristic when you're looking at sex equity in
19 sports.

20 Now, I was going to say today that a
21 subtext throughout all these hearings and what I've
22 heard from a lot of people today is that girls
23 aren't interested in sports and girls are being
24 forced to create opportunities in commencement with
25 girls' interests and abilities to play, but I don't

1 have to say it's a subtext because someone
2 testified today and said exactly that.

3 We sued the City and the Department
4 of Recreation in Los Angeles, and you know what was
5 testified in the pretrial litigation? They said,
6 "Girls aren't interested in playing sports, and
7 that accounts for the low numbers. It's not sex
8 discrimination." And after they instituted the
9 Raise the Bar program, they have had a 115
10 increased percent in girls playing.

11 Very quickly, as to revenue, I would
12 urge the Commission to remember that there's a
13 distinction between revenue generating and profit
14 generating, and NCAA statistics state, and I have
15 that in my statement, that most schools do not --
16 most football teams do not pay for themselves, let
17 alone their other programs. Regardless, the
18 educational resources, and athletics is one of
19 them, should not be divvied up as if our schools
20 are some type of private corporation that only
21 allocates resources to revenue generating products.
22 These are educational resources.

23 Finally, the interest surveys, the
24 idea that a girl has to take an interest survey to
25 get gender equity, I don't remember boys ever

1 taking interest surveys when schools decided to
2 allocate more than half of their athletic budget to
3 the male sports teams. And if I'm missing
4 something, let me know, but I don't remember that.
5 These ideas are based on gender stereotypes about
6 girls' interests in sports.

7 MS. COOPER: Time.

8 MS. SOLOMON: And I urge the Commission not
9 to change the regulations based on these type of
10 stereotypes. Thank you.

11 MS. COOPER: Thank you.

12 (Applause.)

13 MR. LELAND: Our next five speakers are Jed
14 Clark, Gene Dermody, Valerie Bonnette, Barbara
15 Zeitz, and J. Robinson, if they would move forward
16 please. Jed will be first.

17 MR. CLARK: Thank you for the opportunity to
18 speak today. My name is Jed Clark. I'm the
19 Assistant Wrestling Coach at CalState University of
20 Fullerton. I am the Orange County representative
21 for the Southern California Wrestlers Association,
22 and I am the president of the Orange County
23 Wrestling Club.

24 I come here today on behalf of the
25 Olympic sport of wrestling as well as all other

1 sports. I would like to start by saying that I
2 support Title IX in its original interpretation and
3 I support women in athletics. However, I do not
4 support roster management or proportionality. It's
5 turned into a quota.

6 I don't have some big speech
7 prepared, but I want to talk from the heart about
8 what wrestling did for me and just have the
9 opportunity.

10 I was blessed with the opportunity in
11 high school to wrestle, wrestle under a coach who
12 was an Olympian, and he taught me that I could go
13 to college. People in my family don't go to
14 college. That was a -- wow, that was pretty
15 awesome, just to go for wrestling and getting good
16 grades.

17 I went to college and I screwed up
18 and I got kicked out and my life wasn't doing too
19 well pretty much for about four years. Kind of
20 drifted away from wrestling and was about ready to
21 give up on life. And in January 2000 I was leaving
22 my mother's house and I was driving when a car ran
23 a red light going 65 miles an hour and hit me head
24 on, and I don't remember too much from the
25 accident, I just remember being in the hospital and

1 I couldn't move. I was thinking this was it. But
2 I just remember I was a wrestler and wrestlers
3 don't give up. That man right there, J. Robinson,
4 when I was in high I went to his wrestling camp.
5 And what J. Robinson taught me is you never give
6 up. If you believe in something, you keep fighting
7 and you fight. And it took me 15 months to
8 recover. Only by the grace of God am I standing
9 here alive today. I lost everything, but I'm here
10 and I'm thankful for my life.

11 And after my accident and getting
12 healthy after 15 months I decided I wanted to get
13 back into wrestling. All my friends were wrestlers
14 and I kind of lost contact with them. I started
15 getting involved and I started seeing kids that
16 were kind of on the wrong path of life like I was.
17 I wanted to speak with them, I started helping the
18 kids. And some of these kids, you know, if I could
19 just make a difference with their lives, it would
20 really mean a lot to me.

21 Today, as I said, I'm the coach at
22 Calstate Fullerton. Our roster cap is 30. That
23 means if a male wants to come walk on our team,
24 paid full tuition, we can't have any more than 30.
25 He's denied the opportunity. The days of Rudy are

1 over. People come here and say it's about money.
2 Marquette University was self-supportive. No money
3 from the university. They cut them. Bucknell
4 University was cut. They raised half a million
5 dollars, university turned it down. University of
6 Southern Colorado was cut, they raised the money to
7 support the program, money was turned down.
8 Brigham Young University, program was cut, they
9 raised the money to support it, the money was
10 turned down. Again and again in the wrestling
11 community this happened. Wrestling community never
12 asked for anything, we just asked for the
13 opportunity to raise the money ourselves. Right
14 now we're not allowed that opportunity. Wrestlers
15 aren't allowed the opportunity to walk on as well
16 as all athletes.

17 So I ask you today when you go back
18 to Washington, D.C., get rid of the current quota
19 system that is for proportionality. Thank you very
20 much.

21 (Applause.)

22 MR. LELAND: Gene?

23 MR. DERMODY: Good afternoon. My name is
24 Gene Dermody, and I will summarize my research,
25 which is supported by my own professional

1 experience.

2 I have had 35 years with the sport of
3 wrestling, 15 years as a New Jersey High School
4 chemistry teacher, head wrestling coach, and a
5 freestyle club coach. I've had ten years as a
6 policymaker and executive with the Federation of
7 Gay Games, 20 years as an organized competitor and
8 coach at all six Gay Games, and one year as a board
9 member with the Bay Area Sports Organizing
10 Committee, a group which recently promoted
11 San Francisco to the USOC as one of the American
12 bid cities for the 2012 Olympics.

13 My purpose here today is to
14 articulate a different consequence of
15 proportionality. The Gay Games have always been
16 more sensitive to the inclusion of women and have
17 gone to great lengths in terms of research and
18 expenditures to increase female participation since
19 1982. However, after six Gay Games we have yet to
20 break the 40 percent barrier of female
21 participation in athletics. And in frustration, I
22 have come to question the very premise of gender
23 proportionality. Not that I would recommend a
24 rollback of commitment, resources and effort, but
25 it is inconceivable for the Gay Games to consider

1 restricting men's participation in order to achieve
2 proportionality. There is just too much at stake
3 for us.

4 Young males are at a greater social
5 risk than young females. The risks include
6 academic failure, violence, mental disorders,
7 learning disabilities, drug addiction, alcoholism,
8 incarceration, suicide, HIV, and general mortality
9 rates. Some of the risks are congenital, but some
10 are social.

11 The cause of many of the social
12 problems is self-esteem, and it manifests itself in
13 the extreme in young males as an anti social
14 syndrome with two paradoxically opposite behaviors.
15 The aggressive male, often the bully, who
16 persecutes his peers is consequently isolated by
17 them. The passive male, often the sissy, who is
18 persecuted by his peers consequently isolates
19 himself.

20 Regardless of whether there's too
21 much or too little self esteem, the isolation
22 compounds the antisocial behaviors. The condition
23 cuts across all demographics. Bullies and sissies
24 can be big and little, jocks and geeks, straight
25 and gay. But despite the persistent stereotypes,

1 there is little correlation with any one factor,
2 save the lack of persistent, healthy interaction
3 with traditional male institutions of
4 socialization, sports.

5 Team sports like baseball, football
6 and basketball work well with many externally
7 directed young males. These males respond well to
8 traditional discipline, peer pressure and the group
9 ethos, the military group dynamics approach.
10 Baseball requires exceptional hand/eye
11 coordination, football and basketball limit
12 participation by gross size. Sadly, in all three
13 sports, it is genetics that is the excluding
14 factor, but proportionality is not threatening
15 these sports.

16 Threatened by proportionality are the
17 individual sports that appeal to the other
18 demographic of male athletes, gymnastics, diving
19 and wrestling, for example, which have an element
20 of art to them. These sports have an important
21 place in an enlightened society, because they have
22 a rich tradition for being more inclusive,
23 especially for the more introspective, inner
24 directed young males who do not fit the
25 morphological group dynamic and kinematic

1 requirements of the baseball/football/basketball
2 paradigm.

3 If the objective of our educational
4 system is to enhance the level of fairness through
5 diversity and equal access to opportunity, then the
6 contribution that gymnastics, diving, and wrestling
7 have made to the self-esteem of young gay males is
8 an asset that is of value to a pluralistic society.
9 The leadership provided by just two of our gold
10 medal Olympic athletes, Bruce Hayes and David
11 Pickler, as role models to young gay males, has
12 been inspirational and noteworthy. However, the
13 university athletic programs that produced these
14 and other gay Olympic athletes are either
15 threatened by or already a victim of
16 proportionality.

17 MR. LELAND: One minute.

18 MR. DERMODY: This example is not anecdotal.
19 It could be easily replicated in other sports, not
20 only by Olympic athletes but the vast network of
21 university coaches and competitors known to us
22 within the Gay Games movement.

23 I know what it is like to be
24 different, to not be able to catch or throw a
25 baseball, to be too little for football and too

1 short for basketball. I know what it feels like to
2 be the runt, to be violent, aggressive and angry
3 that I could not play because there was no game for
4 me. I can only shudder to think where I would be
5 today if I had never wandered into my first
6 wrestling practice at NYU as a walk on. One need
7 only look at the tragedy of my generation, HIV, to
8 comprehend how that program saved my life. I would
9 not have had that chance if proportionality was
10 practiced back in 1966. Thank you.

11 MR. LELAND: Thank you.

12 (Applause.)

13 MR. LELAND: Valerie?

14 MS. BONNETTE: My name is Valerie Bonnette.
15 I should say that I'm not an athletics professional
16 or an education administrator who has tried to do a
17 lot of reading on Title IX in my spare time. I am
18 a civil rights professional. Title IX is a civil
19 rights law, and Title IX athletics has been my
20 career for 23 years.

21 I've read the transcripts from the
22 Atlanta, Chicago and Colorado Springs meetings. It
23 has all been said dozens of times before. We're
24 having this debate again because the same people
25 who have repeatedly lost in our courts in the

1 judicial branch of our government, the same people
2 who called for the 1995 Congressional hearing on
3 the three-part test proclaiming it a quota system
4 and who did not get the result they wanted from the
5 legislative branch of our government, are the same
6 people behind the creation of this Commission, and
7 who are hoping for this Commission's endorsement to
8 make changes via the political appointees in the
9 executive branch of our government.

10 The only Title IX policy in question
11 is the three-part test. It follows standard civil
12 rights analyses. If groups as they occur in the
13 larger population are represented to the same
14 extent as the smaller population, then compliance
15 is presumed. The proportionality test simply
16 incorporates this initial analytical approach and
17 is used for sex and race discrimination cases. If
18 you do not meet it, then institution officials have
19 two ways to show that their actions have not caused
20 the underrepresentation. Of the twelve US Courts
21 of Appeals nationwide, eight have heard cases
22 involving the three-part test, none have found it
23 invalid.

24 There's been a decade-long campaign
25 slogan of quotas, quotas, quotas, which follows a

1 time honored political approach of starting with a
2 statement that is factually incorrect and saying it
3 enough times so that people who do not have the
4 time to do the research buy what you're selling.

5 The General Accounting Office has
6 done two studies of OCR's cases during the 1990s
7 involving the three-part test. I have analyzed
8 those cases since 1998 in our reviews for our
9 clients. Both the GAO studies and my two reviews
10 reveal the same pattern, nearly three-quarters of
11 the cases are resolved by institutions complying
12 with test three or test two, not proportionality.

13 These results do not surprise me or
14 any of the career civil rights professionals at
15 OCR. The campaign slogan of quotas is false. The
16 evidence proves that it is false. The Secretary's
17 charge to this Commission is to strengthen Title
18 IX. The only way you can strengthen Title IX for
19 women is to make proportionality the only
20 compliance option, and that would be illegal. If
21 you wish to weaken Title IX for women, then you
22 will recommend actions that fundamentally alter the
23 legally validated three-part test, or fundamentally
24 alter the approach regarding counting participants
25 and enrollments that would have the same effect as

1 altering the three-part test.

2 The three-part test says exactly what
3 it needs to say, and is supremely fair when
4 properly interpreted. This Commission has heard
5 very little about its proper interpretation.

6 There are reasons why our Congress
7 wrote our civil rights laws, why eight US Courts of
8 Appeals have validated the three-part test, and
9 why Congress has not ordered that this policy be
10 revised. And these are the same reasons why this
11 Commission should recommend strongly that this
12 policy be retained. What needs changing is
13 people's level of education. When someone is
14 ignorant of the law, you change their level of
15 knowledge, you don't change the law. The main
16 concern for the three-part test is that institution
17 officials do not have clear guidance on how each
18 test works.

19 I have five recommendations. Test
20 one, establish specific percentage point
21 differences that constitute substantial
22 proportionality. Permissible differences would
23 range from five to two percentage points based on
24 total participation numbers. Test two, the
25 addition of a women's team in the last three years

1 or a 25 percent increase in women's participation
2 in the last five years would create a strong
3 presumption of compliance. Test three, explain the
4 analysis in English.

5 (Laughter.)

6 Recommendation four, put OCR's
7 closure letters and corrective action plans on
8 their Website. Recommendation five, fix the EADA
9 report. I've elaborated on each of these
10 recommendations in writing. Thank you.

11 (Applause.)

12 MR. LELAND: For the commissioners'
13 information, (inaudible) have been in contact with
14 Valerie a couple of times and she has submitted a
15 significant piece of work to us that she has worked
16 hard on. We have copies for the commissioners in
17 the back or we can send them to your homes as we've
18 done in the past. Thank you, Val. Barbara?

19 MS. ZEITZ: Gentlemen and ladies, thank you
20 for this opportunity to speak. I am Barbara J.
21 Zeitz, I hold a Masters in Women's Studies from the
22 (inaudible) in Chicago.

23 I direct my remarks to gender
24 discrimination and federal funding. Michael
25 Kimmell, author, professor -- professor and author

1 of Manhood in America writes that we remain unaware
2 of the (inaudible) of gender in our lives only
3 helps to perpetuate gender inequality. Gender
4 inequality bears a history of political acceptance
5 as gender reality unless the end quality manifests
6 itself in the male gender. Historically it is
7 addressed politically. Establishment of this
8 Commission, landmark gender legislation, and
9 multiple gender decisions in our courts document
10 this pattern. The 1976 Supreme Court case of
11 (inaudible) recognized sex discrimination for the
12 first time applying the intermediate standard of
13 judicial review that gender-based differential
14 treatment does constitute the (inaudible) of equal
15 protection of the law, in violation of the 14th
16 amendment. But it was a reverse sex discrimination
17 decision. An 18-year-old male could not buy hard
18 liquor, an 18-year-old female could. The Supreme
19 Court saw it as a gender injustice and ruled in his
20 favor.

21 In (inaudible) discussion at the town
22 meeting in Chicago, another gender injustice was
23 voiced about an athlete who returned to his
24 university to find his sport canceled, but the
25 injustice to an athletic female peer, who would

1 have had neither the opportunity to participate in
2 a university sport, nor the experience to see it
3 canceled, was not voiced. If keeping sort, he is
4 actually ahead of her. He has one positive and one
5 negative. She has two negatives.

6 Another concerned voice in
7 subcommittee in Chicago voiced being damned in the
8 30-year process of Title IX, does not observe that
9 girls were being damned in the 155-year process
10 prior to Title IX. Politically this damning
11 process to girls was accepted as gender reality.
12 Sisters deferred to brothers.

13 Please consider the female
14 perspective of gender injustices and damning
15 processes experienced by girls as well as by boys,
16 because historically legislation affecting both
17 genders lend themselves to be addressed from a male
18 perspective. In the 107th Congress, only 13 of 100
19 US senators are women, and only 59 of 434 US
20 representatives. Policy advisors for Attorney
21 General John Ashcroft stated that President Bush
22 does not support quotas that hurt boys, but to the
23 quota of girls hurt, there was no mention of
24 support by President Bush.

25 Speaker Hasteur is quoted as

1 believing strongly in human equality, but wrestling
2 with the issue of women's equality he's expected to
3 play a significant role in any reshaping of Title
4 IX. Hasteur complains that the law is undercutting
5 men's sports, such as wrestling. Title IX is not
6 about wrestling. Its legal language is not even
7 about sports. Sports, however, is the arena where
8 this legislation has received an exponential amount
9 of scrutiny. Sports is also the arena which
10 embodies exponential gender disparity.

11 However, if sports is to be the
12 evaluating arena, 30 years must not be evaluated in
13 isolation without evaluating all 185 years since
14 1817 when phys ed first appeared in the American
15 educational system at the all-male US Military
16 Academy and established the need for legislation
17 such as a Title IX.

18 Gentlemen and ladies, Title IX is
19 about gender discrimination and federal funding.
20 Title IX is about revenues collected from tax
21 dollars of both genders, and the non sex
22 discriminatory judicial manner in which those tax
23 dollars are to be allocated for both the sex
24 genders in public educational programs.

25 The sex discrimination of federal

1 funding this law is about has not yet been
2 expunged. Currently through the United States
3 system of taxation and allocation of revenue,
4 girls' and women's tax dollars fund the exact
5 sports programs that keep them off the playing
6 field.

7 MR. LELAND: One minute.

8 MS. ZEITZ: Reversing this gender injustice
9 is not the legal intent of Title IX. The intent of
10 this law is gender justice of allocated federal
11 funds, nothing more. Thank you.

12 (Applause.)

13 MR. LELAND: J. Robinson?

14 MR. ROBINSON: My name is J. Robinson and
15 I'm the parent of a son and a daughter, former
16 Olympian and head wrestling coach at the University
17 of Minnesota, which is the defending NCAA
18 champions.

19 When informed of these meetings being
20 held around the country, I chose San Diego for two
21 specific reasons. One, I was born and raised here
22 and began my journey both in athletics and life.
23 Number two, the San Diego area is a great example
24 as to the negative effects of proportionality that
25 is had on my sport.

1 When I graduated from Mt. Miguel High
2 School in San Diego, I had the opportunity to
3 wrestle at many college programs throughout the
4 state. Over nine junior colleges had programs
5 schools besides most four-year colleges, schools
6 like San Diego State and UCLA. Currently there are
7 less than 30 junior colleges that have wrestling
8 programs. San Diego State, plus most four-year
9 programs are gone. Only a few remain. This
10 elimination of college programs is in contrast to
11 the fact that wrestling is growing at every other
12 level in this state.

13 It is important to state, I am not
14 against Title IX nor have never been against Title
15 IX. What I'm against is the quota system that has
16 developed eliminating men's teams and
17 opportunities. Over 400 college programs at all
18 levels have been eliminated. This equates out to
19 200 college coaching jobs and 12,000 opportunities
20 for boys in college.

21 When things are confusing and there's
22 not a clear choice, we need to return to our
23 fundamentals. In this case, what was the original
24 intent of Title IX? It was meant to increase
25 women's opportunities. It was never intended to

1 eliminate all men's programs. Title IX was meant
2 to provide equal opportunity for all. Listen to
3 the words. No person shall on the basis of sex be
4 excluded from participation in, be denied the
5 benefit of. These words denote equal treatment for
6 both genders.

7 The problem is not Title IX, the law,
8 but its misinterpretation. This misapplication of
9 the interpretation proportionality, if left
10 unchecked, will be the demise of men's athletic
11 programs and all the values they provide to young
12 men.

13 In college we do not provide equal
14 opportunity for those that want to participate.
15 What we do is generate numbers constantly to
16 fulfill the proportionality quota system that has
17 developed. Decisions, whether marketing, travel,
18 scholarships, salaries, fund raising, equipment,
19 are not made on what the needs, where the resources
20 best should be spent to increase the opportunities
21 for all. No. The decisions are driven by numbers
22 and numbers alone.

23 Every decision, no matter how
24 small, is based on what the other side has. When
25 my team comes back from the Christmas break, they

1 will get no per diem to provide a place where they
2 sleep. They will stay with their friends, sleep on
3 their couches, sleep on the floor, unlike the
4 women's gymnastics teams which will be housed in a
5 hotel because the budgets must reflect differences.

6 This number system has driven a wedge
7 between men and women and it needs to stop. A
8 system needs to be developed that allows all that
9 want to participate the same chance, whether men or
10 women. We must stop artificially creating a number
11 game and concentrate on meeting the needs of the
12 students.

13 Let us not confuse opportunity with
14 participation. When you meet the needs of those
15 interested, you are fulfilling opportunity.
16 Creating an interest is not the same as providing
17 opportunity. As you fulfill the immediate
18 interest, others will become interested and then
19 there will become a need to prevent more
20 opportunity.

21 There is a correlation between
22 interest and growth. Opportunity means that you
23 are given a chance at the entry level.

24 MR. LELAND: One minute.

25 MR. ROBINSON: And then you have to prove

1 yourself in order to move up the ladder. When I
2 started in wrestling there were part-time coaches,
3 no travel budgets, limited equipment budgets,
4 limited scholarships, the list goes on and on. How
5 do you fix this situation? You use the market and
6 interest. We already have two of the components in
7 our current evaluation, whether schools are in
8 compliance. You then combine the two present
9 components with two of the most important
10 ingredients in our society, the market and
11 interest. Number one, you meet the needs that
12 there is now. You find out what the real interest
13 is. Number two, you continue to improve men and
14 women's programs as they grow at the high school
15 and club level, developing criteria for adding
16 them. And number three, the most important, you
17 add an amendment to Title IX that says you cannot
18 drop a men's sport to come into compliance. This
19 shifts the burden of the decision making from
20 cutting teams to finding other solutions. It will
21 force administrations that currently hide --

22 MR. LELAND: Time.

23 MR. ROBINSON: -- behind proportionality to
24 find workable solutions.

25 (Applause.)

1 MS. COOPER: Thank you. Chris Davis, Ron
2 Neugent, Mark Gumble, and Sharon Hillidge. Is
3 Sharon here?

4 MS. HILLIDGE: Yes, I am.

5 MS. COOPER: And Cheryl Doebbler?

6 MS. DOEBBLER: I'm here.

7 MS. COOPER: Okay. And we'll start with
8 Chris.

9 MR. DAVIS: Hello. My name is Chris Davis.
10 I'm a father of a son and a daughter. I am the
11 head wrestling coach at Vista High School just
12 north of here. I have come today to speak but also
13 to listen and to learn. And I've been impressed
14 with what I've heard from both sides actually. I
15 first got involved with this because I felt that it
16 was something that was intellectually unfair.

17 When I celebrated the increase in
18 women's opportunities provided by Title IX, I
19 thought somehow by default we are shortchanging
20 them because we are allowing the elimination of
21 men's sports in order to come into compliance,
22 which by default, being the math person that I am,
23 means less opportunity overall. So I became kind
24 of openminded and wanted to look at it and educate
25 myself independent of my affiliations.

1 I have celebrated opportunities for
2 both my female students and athletes that I've been
3 around as well as my male students and athletes.
4 I've witnessed, though, a change and I've witnessed
5 an interesting slope that's taken place.

6 When I first asked around about this
7 I was concerned about fairness, and I remember
8 talking to a friend of mine who is a football coach
9 at Eastern Illinois University and they were
10 audited, I believe, in 1995, and he was asked by
11 the auditor, "Can you tell me why the women's
12 basketball team averages \$16.53 per day on meals
13 while the men's basketball team averages \$17.86 per
14 day on meals?" His response was, "I would assume
15 that a 230 pound male eats a little bit more than a
16 160 pound female." And her response to him was,
17 "That shouldn't matter. It should be equal."

18 And I believe there's some things
19 there that do matter. And I became concerned about
20 the fairness. I became concerned that this was an
21 issue of winning. I listened to the 150 years
22 versus the 30 years that was spoken about earlier,
23 and somehow -- even what I got from that is there's
24 an injustice here, but there's a greater injustice
25 that's been there, so we shouldn't be concerned

1 about it. Injustice is injustice.

2 I have a female athlete who played
3 junior college basketball, was a star at our
4 school. She received four scholarship offers,
5 three scholarship offers to smaller schools and
6 chose not to play there because she didn't like the
7 towns that they were in. And I celebrate that
8 opportunity for her to be able to do that and make
9 that choice.

10 On the other hand, I have a former
11 athlete who wrestles at a school north of here,
12 probably wouldn't be in school if it weren't for
13 wrestling and the structure that it provided and
14 the care that was given to him by a coach. Their
15 program -- the athletic director has been there
16 twice to drop it. When he sees the kids, he can't
17 do it. The new coach there has said, "Hey, we need
18 new wrestling mats," and the guy said, "Don't ask
19 for any more money because you'll get dropped."

20 At that school it happens to be 61
21 percent female. On their soccer team, women's
22 soccer team there's 33 spots available and last
23 year they filled it with 26. Just seems to be some
24 inequities there and lack of fairness.

25 I cannot emphasize enough for you how

1 much I celebrate the spirit of Title IX. I have my
2 daughter. I recollect back to the men who talked
3 about the connection between a father and daughter.
4 I look forward to that ability to maybe connecting
5 with her on an athletic level, and I believe in
6 every single thing that they say that athletics
7 does for young women, and especially in our culture
8 that's been referred to today.

9 By the same token, I see that men are
10 the evil ones, from some of the words I've heard.
11 And it just -- when you look at my son, he's not
12 evil. He's not a bad person. Neither is my
13 daughter. And they both deserve equal opportunity
14 to pursue dreams as is written here.

15 I had another student who received a
16 letter from a school in Georgia that said we have
17 space available on a women's golf team, women's
18 crew team, women's lacrosse team, scholarships
19 available, no experience necessary. She actually
20 chose to go to the University of San Diego and pay
21 her way.

22 Another student of mine played
23 softball. Was a dancer, gave up softball after her
24 sophomore year to pursue dance. But where she
25 wanted to go to school she found that there wasn't

1 a lot of dance opportunity and the school said,
2 "Hey, we'll give you a scholarship for the softball
3 and you can dance for us, and that's how you'll pay
4 your way," so she did. And that's fantastic,
5 that's fantastic that she has that opportunity, but
6 yet I have several athletes that come through my
7 program that when they are done they have no
8 opportunity to pursue, to pursue what they have
9 worked for and dreamed for because, as I heard the
10 lady speak earlier, the president of our California
11 Chapter of NOW, it somewhat becomes a race between
12 football and basketball. I would ask that this
13 Commission really look at a way to defend both. If
14 you want to be equal and pursue that, defend,
15 defend the sports opportunities that are out there
16 against universities that place a higher emphasis
17 on winning, on the money generated from football --

18 MS. COOPER: Time.

19 MR. DAVIS: -- because in the end you're
20 shortchanging girls when you allow them to
21 eliminate men's sports. I firmly believe that.
22 Thank you.

23 MS. COOPER: Thank you.

24 (Applause.)

25 MS. COOPER: Ron Neugent.

1 MR. NEUGENT: My name is Ron Neugent. I was
2 a member of the 1980 US Olympic Swimming Team and I
3 swam at the University of Kansas in the early
4 1980s. I've also served on the US Olympic
5 Committee's Board of Directors and their Athletes
6 Advisory Counsel. I'm an orthodontist in Wichita,
7 Kansas and I teach at Wichita State University four
8 hours a week.

9 In a three-week period in March of
10 2001, three Big Twelve Conference schools, the
11 University of Kansas, the University of Nebraska,
12 and Iowa State University discontinued their men's
13 swimming and diving programs. In addition, Kansas
14 dropped their men's tennis program and Iowa State
15 dropped men's baseball. No women's sports were
16 affected.

17 Our men's swimming and diving task
18 force was told by the chancellor and athletic
19 director at the University of Kansas that men's
20 swimming and diving could be reinstated if we
21 raised 12.1 million dollars to endow the program
22 fully. We were given three months to produce 2.1
23 million dollars in cash as a down payment to
24 preserve the program.

25 The men's tennis task force was told

1 to raise six million dollars. No help was provided
2 by the athletic department or the university.
3 Alumni groups that offered financial support to the
4 university were simply turned away.

5 Approximately 35 to 40 male student
6 athletes were told they needed to leave the
7 University of Kansas if they wanted to continue
8 their sports at the collegiate level.

9 Discontinuing the men's sports may
10 not be a violation of Title IX, but to require one
11 gender to fully fund their programs to continue the
12 collegiate sports when the other gender is not
13 required to fund their own programs is
14 discrimination in its purest form.

15 We now have no collegiate men's
16 swimming and diving programs in Kansas. Zero. We
17 have no NCAA Division I men's swimming and diving
18 programs in Kansas, Colorado, Nebraska and
19 Oklahoma, yet according to last year's United
20 States swimming membership figures, we have nearly
21 4,100 male swimmers age 18 and under in those four
22 states. These figures do not include high school
23 boys who swim high school only.

24 Is it fair to tell our male swimmers
25 and divers they must leave the Midwest if they want

1 to swim at the collegiate level when their female
2 teammates and friends can stay?

3 We hear these are tough economic
4 times for collegiate athletic departments. We are
5 told there is not enough money in the budget to
6 support men's Olympic sport athletic educational
7 opportunities. Men's swimming at the University of
8 Kansas, University of Nebraska and Iowa State
9 University had survived the Great Depression and a
10 world war, and had provided more than 75 years of
11 athletic educational opportunities, and now
12 suddenly they're gone.

13 As a 12-year-old, my heroes were the
14 swimmers on the University of Kansas men's swimming
15 team. We don't have those heroes in our state now.

16 In Colorado Springs Dr. Leland asked
17 about schools that have dropped men's sports due to
18 cost allocation and whether universities might be
19 hiding behind Title IX as a way to move dollars
20 into their revenue sports budgets. At Kansas the
21 combined budget of men's swimming and diving and
22 men's tennis was approximately 650,000 dollars
23 during the 2000/2001 school year. Eliminating
24 these programs increased the football program
25 budget from 5.4 million to six million dollars in

1 2001/2002.

2 I am concerned that university
3 athletic departments are eliminating programs and
4 moving towards the minimum number of sports
5 required for Division I membership. Athletic
6 education -- oh. Eventually women's sports will be
7 affected.

8 Athletic educational opportunities
9 are being eliminated.

10 MS. COOPER: One minute.

11 MR. NEUGENT: With fewer sports it becomes
12 much easier to continue to fund the arms race in
13 revenue sports. As a health care provider I am
14 concerned about the health effects of reduced
15 athletic opportunities. We are already hearing
16 reports of increased incidence of diabetes and
17 childhood obesity.

18 As the Commission prepares its
19 report, I would ask that you consider two
20 recommendations. First, limiting roster size or
21 roster management has no place in collegiate
22 athletics. Roster size should be determined by the
23 coach, the number of student athletes interested in
24 participating, and the budget of the program,
25 period. Roster size based on proportionality

1 eliminates educational opportunities for males and
2 females. Don't deny non-scholarshipped athletes
3 the benefits learned from collegiate sports.

4 Second, I would ask that you ask
5 Secretary Paige to strongly recommend to the NCAA
6 to increase its minimum number of sports required
7 for Division I membership. We must have NCAA
8 requirements that raise the bar. Individual
9 athletic departments will not do this on their own.

10 MS. COOPER: Time.

11 MR. NEUGENT: Thank you.

12 MS. COOPER: Thank you.

13 (Applause.)

14 MS. COOPER: Mark Gumble?

15 MR. GUMBLE: Hello. My name is Mark Gumble
16 and I'm the Director of the Athletic Advisement
17 Center at San Diego State University. I must tip
18 my hat to all of you. I work with student
19 athletes, tried to get them to sit as long as you.

20 (Laughter.)

21 Since I will not have the opportunity
22 to make the decisions that will determine the fate
23 of this daunting and perplexing issue, I hope to
24 offer a voice of the common man to those who will.
25 If I've learned anything from today's testimony, it

1 is that common ground will not be found without
2 common sense.

3 I became aware of Title IX in 1979
4 when, as a high school freshman I learned of Susan
5 Girard's victory to save the women's indoor track
6 team at (inaudible) High School. Our high school
7 decided to drop its indoor track team due to lack
8 of interest, inadequate training facility, and
9 budget problems. She lobbied the school board to
10 be allowed to train as an individual and represent
11 the school in the state qualifying championships.
12 She won her argument without a lawsuit and went on
13 to win the state championship and later was named
14 athlete of the year by a local newspaper. Title IX
15 served its mission on that day in 1979. It also
16 set a precedent for more opportunities for women at
17 our high school.

18 For the past 23 years I've seen
19 countless student athletes benefit from this one
20 piece of legislation. Unfortunately, I have also
21 seen nearly as many suffer from the proportionality
22 test which has been used to determine its
23 effectiveness.

24 I am a middle child of five who
25 followed my two older brothers in the sport of

1 wrestling in the same year that Title IX was
2 passed. Along with my two brothers I have two
3 younger sisters. They may have become the best
4 wrestlers in the household if wrestling was
5 available to them back in those days. Nonetheless,
6 they filled their competitive drives in other ways,
7 by succeeding in track, softball, volleyball and
8 soccer throughout high school. Although my
9 brothers and I continued to wrestle throughout
10 college as a walk on, my sisters did not
11 participate beyond the high school level.

12 My family represents a microcosm of
13 one of the central issues of Title IX enforcement.
14 Since women are less likely than their brothers to
15 walk on as college athletes, men's opportunities to
16 do the same are being eliminated to balance the
17 books of proportionality.

18 The impact of Title IX today is far
19 different than its intended impact 30 years ago.
20 Today Title IX is more associated with finding
21 equality in numbers than it is with doing what is
22 right for people. It is well documented that
23 athletic administrators across the countries have
24 been forced to find creative ways to meet
25 proportionality by managing roster sizes.

1 Sometimes this is done by inflating women's
2 representation with ghost athletes, more often by
3 eliminating men's sports where there is a
4 demonstrated interest, and at its worse it means
5 cutting successful men's programs.

6 One of the most disturbing arguments
7 in this whole debate is that walk on male athletes
8 are expendable because many of them are willing to
9 go through the rigors of practicing long hours with
10 no real opportunities to ever compete in order to
11 reap the perks associated with being a male varsity
12 team member. To argue that walk ons are expendable
13 is to argue that non-revenue male sports are
14 expendable too, because the vast majority of these
15 sports could not exist without walk ons
16 contributing on a regular basis.

17 I submitted to the Commission a very
18 incomplete list of athletes who have walked on to
19 the college sports teams and have achieved amazing
20 heights in athletics. Some of these people include
21 Division I All Americans, Olympians, record holders
22 and professional athletes. Leading this list is
23 the University of Florida (inaudible) the star
24 shortstop and a World Series champion, Anaheim
25 Angels.

1 MS. COOPER: One minute.

2 MR. GUMBLE: Another notable on this list is
3 Auburn's three-time Olympic gold medalist Ron
4 Gaines, and finally there's Brian Greasy, a walk on
5 quarterback at the University of Michigan who is
6 now playing for the Denver Broncos.

7 As a former wrestler, many victims
8 have lost opportunities as a result of the illegal
9 quota systems which have been enforced to prove
10 compliance with Title IX. I'm also a brother to
11 sisters who have learned a great many lessons
12 firsthand because of the many opportunities Title
13 IX provided them that our mothers and aunts never
14 had.

15 I urge you to use common sense in
16 finding balance to the numbers you will use to
17 determine what is equitable. Let common sense
18 guide you as it has the leaders and experts before
19 you who have struggled with social issues. They
20 have heard the voice of common sense by those who
21 fought for equality in the past, they hear the
22 voice now and know that Title IX is good for our
23 society.

24 MS. COOPER: Time.

25 MR. GUMBLE: Now is also the time to listen

1 to the voice of common sense, which says no more
2 opportunities for men should be lost along the way.

3 MS. COOPER: Thank you.

4 MR. GUMBLE: Thank you.

5 (Applause.)

6 MS. COOPER: Sharon Hillidge?

7 MS. HILLIDGE: Ladies and gentlemen, my name
8 is Sharon Hillidge, and I have a very unique job.
9 I have been a teacher in the Chula Vista Elementary
10 School District for the past 24 years, and for the
11 last seven and a half years I have served as a
12 resource teacher for my district at the United
13 States Olympic Training Center in Chula Vista. My
14 program is called Exercise a Dream, and in the past
15 seven and a half years, over 67,000 children from
16 my school district have participated in educational
17 tours, sport clinics, and special events at the
18 training center.

19 Ironically, Exercise a Dream owes its
20 beginnings to our first ever National Girls and
21 Women's Sports Day. It began with 1200 sixth grade
22 girls held in February of 1995 before the Olympic
23 Training Center was even open. Sixth grade girls
24 were bused in from 24 elementary schools and took
25 part in five different sports.

1 This event was also significant
2 because our district superintendent and board of
3 education allowed it to be held during school time,
4 and even more importantly, supported it as a girls
5 only event. This year we will be celebrating our
6 ninth annual Girls and Women's Sports Day drawing
7 girls from 39 other district elementary schools.

8 The success of this event set the
9 wheels in motion to design a program where both
10 girls and boys could benefit from the experience of
11 working with Olympians and future hopefuls as well
12 as having access to an amazing facility in our back
13 yard. Exercise a Dream was created and a
14 partnership for the Olympic Training Center was
15 realized.

16 Why is a program like Exercise a
17 Dream important? It dispels many of the myths that
18 seem to be fostered at the early ages, that boys
19 are better at sports than girls, that girls don't
20 like team sports, that girls don't like
21 competition, to name a few. What better age to
22 teach children about equal opportunity, physical
23 excellence and achievement, and respect for skill
24 and abilities, no matter what the gender, than at
25 the elementary school level? It provides

1 opportunities for boys and girls learning and
2 excelling together instead of separately. It uses
3 male and female athletes serving as role models for
4 boys and girls. To see the admiration and respect
5 from a sixth grade boy learning a soccer skill from
6 a female professional athlete sends a message that
7 women can experience high levels of sports success
8 just like men.

9 In my work we see young boys admire
10 girls for their sports skills and competitiveness
11 and not for just how they look or what they wear.
12 And most importantly, the everyday acceptance that
13 girls have a right to compete in sport and games as
14 they do. What better age to provide equal
15 opportunity and recognize the achievements of all
16 athletes.

17 Why is this important to me? I
18 remember moments when I was in elementary school,
19 in third grade being the only girl picked to play
20 baseball with the boys during recess because I
21 could field and hit the ball. Memories in fourth
22 grade at being the best wall ball player, boy or
23 girl. Good memories for me, but not considered
24 acceptable achievements by my parents and other
25 adults. Torn and dirty dresses, skinned and

1 scraped knees were not considered very ladylike
2 pursuits.

3 I continued to participate in sports
4 throughout high school, to the complete puzzlement
5 of my mother. I can still hear her say, "Why don't
6 you want to be a cheerleader? Think how popular
7 you would be." In high school we competed in
8 school versus school competitions. They were
9 considered play dates, with no official outcome or
10 championship.

11 MS. COOPER: One minute.

12 MS. HILLIDGE: But I knew -- I graduated
13 high school in '73, but I knew of no one receiving
14 a Title IX scholarship. I went on to San Diego
15 State to finish my teaching credential. One
16 personal statistics I will always regret, and that
17 is that during my six years of competition my
18 parents did not attend any of my events. My three
19 brothers competed in various sports like little
20 league and football, and they attended almost all
21 of these activities.

22 Title IX has given today's young
23 girls a chance to participate, to achieve, to
24 experience winning, and to reach for any athletic
25 dream they might aspire to. Title IX has given

1 today's young girls female role models in sports to
2 emulate and admire. For me, Title IX is not just
3 about the money, it's about the opportunity for all
4 children, boys and girls, to have an equal chance
5 at having a dream. My expectation is that what
6 Title IX has set in motion 30 years ago will not be
7 diminished or go away. My wish for today and into
8 the future will be that no little girl will be left
9 to wonder what if. Thank you.

10 MS. COOPER: Thank you.

11 (Applause.)

12 MS. COOPER: Cheryl?

13 MS. DOEBBLER: My name is Cheryl Doebbler
14 and I'm a parent of a gymnast. My daughter has
15 been a gymnast for 18 years. For 16 of those years
16 she was a gymnast before she ever set foot on a
17 college campus. She is now currently a member of
18 the Southeast Missouri State University Women's
19 Gymnastics Team.

20 The NFHS survey would have never
21 counted her in its stats. She never competed in a
22 junior high school nor a high school. Yet she has
23 been a competitive gymnast since the age of seven.
24 The National Federation of High School survey omits
25 thousands of athletes in private clubs which makes

1 this document irrelevant regarding key information
2 proving interest in gymnastics. USA Gymnastics is
3 the governing body for the sport of gymnastics in
4 the United States. They estimate there are three
5 million children participating in gymnastics in our
6 country.

7 Membership has increased to 54
8 percent over the last ten years, and the number of
9 private clubs has increased by 37.5 percent in the
10 last five years. Top competitors represent their
11 region in national competitions. They also
12 represent our country in the World Games and in the
13 Olympics. College recruiters seek these very
14 athletes to put on their teams to support their
15 universities. Historically speaking, these top
16 athletes come from private clubs, and they would
17 have never been included in an NFH survey.

18 If the statistics provided by USA
19 Gymnastics were used, universities, athletic
20 directors, and this Commission would be seeking
21 ways of adding more programs in colleges across our
22 nation as the numbers, interest, participation, and
23 long-term commitment of these athletes is
24 documented.

25 Please understand the resolve of the

1 gymnast, the parents, and the families who have
2 supported our children in their devotion to their
3 sport. Thank you.

4 MS. COOPER: Thank you.

5 (Applause.)

6 MR. LELAND: Thank you very much. Our next
7 five speakers are Dolores Grayson, Heather
8 Kirchof, Donna Lilly, Erin Uyeshima, and Colleen
9 Hazlett. Come forward please and we will begin
10 with Dr. Grayson.

11 MS. GRAYSON: Thank you. My name is Dolores
12 Grayson and I'm an educational equity consultant
13 and researcher and current chair of the Association
14 for Gender Equity and Leadership in Education. My
15 background includes teaching, coaching, school
16 administration, and several years as a gender
17 equity specialist. I worked with the first grant
18 fund in the state of California to provide training
19 and technical assistance for school districts,
20 which, by the way, was at Calstate University
21 Fullerton. I was a local Title IX coordinator at
22 the (inaudible) Unified School District, a Title IX
23 Stat Specialist at the Midwest Equity Assistance
24 Center at Kansas State University, a former Title
25 IX consultant for the California Department of Ed,

1 and my last bureaucratic position was as the
2 Director of the Educational Equity Center at the
3 Los Angeles County Office of Education. In that
4 capacity I provided technical assistance and
5 training for 95 school districts, including 81 K-12
6 school districts and 14 community college school
7 districts with 28 colleges. We serve 1.8 million
8 students.

9 For the last several years my work
10 has focused on perception and expectation theory
11 and specifically gender (inaudible) and
12 expectations and student achievement.

13 For me, Title IX is so much more
14 than athletics. Part of what I've seen change in
15 schools as I've gone around this country, and one
16 area that hasn't been mentioned too much here is
17 the fact that Title IX has provided us with a
18 vehicle to use to provide safer schools, safer
19 learning environments and playing fields for all
20 students. Title IX has spawned policies at the
21 state level. 15 states have passed state laws
22 patterned after Title IX against harassment of all
23 forms, name calling and bullying.

24 This morning as I listened to the
25 conversation about lack of interest of students, I

1 can tell you that one of the main reasons that
2 young women across this country hesitated playing
3 sports for years and getting involved in sports had
4 nothing to do with not wanting to be in sports but
5 had everything to do with how hard it was to be a
6 female interested in sport or in science and the
7 kinds of derisive remarks that one got subjected to
8 for participating in that, the same kind of remarks
9 that males interested in dance or cheerleading or
10 helping professions were subjected to.

11 It's important to continue to provide
12 training and technical assistance to districts,
13 colleges and universities. Virtually all training
14 and technical assistant moneys have been eliminated
15 at the state and local levels. This is something
16 that also fails to get mentioned. Literally all of
17 the state Department of Education assisted
18 positions, everything except the ten regional
19 centers of which Dr. Bates represents one, are the
20 only sources for any kind of training or technical
21 assistance, but nothing at the state or local
22 levels.

23 It's important to continue to develop
24 a society and schools in which little girls and
25 little boys can explore and develop their own

1 interests based on their own skills and abilities,
2 not limited by gender perceptions and expectations.
3 The reality is, we don't know what people are
4 capable of becoming.

5 I heard some discussion about
6 biology. One thing I do know is that I grew up in
7 a time -- up the coast here there's a community
8 named Tarzana. It was named after Tarzan, you
9 know, the Edgar Rice Burroughs places. And when I
10 was growing up there were movies about Tarzan and
11 guys like Johnny Wismo and Buster Crab, and some of
12 those names, and some of you know those names, some
13 don't. They were former Olympians. That's where
14 they got them as actors. They were Olympic
15 swimmers. I can tell you that those guys never
16 expected 14 and 15 year old females to break their
17 swimming records, but Donna, am I correct? That's
18 happened. We don't know what people are capable of
19 doing.

20 (Applause.)

21 I also saw some charts up here. All
22 over the country right now this administration is
23 challenging school districts to close academic
24 performance gaps, and we're getting a lot of
25 pressure to do that. The biggest fear that

1 everyone has is that students who are achieving
2 will start losing as students who traditionally
3 haven't achieved start gaining. This morning I saw
4 a sport chart that looked like that fear. I saw
5 that we all need to work on a chart that has all
6 students continuing to participate and gain, and
7 those who have traditionally been underserved to
8 start gaining and participating at a more rapid
9 pace so we close the gaps academically and
10 athletically. In the south where I grew up, they
11 used to say we'll treat people either equally well
12 or equally shabby. If everybody has to swim, we'll
13 close the swimming pools. Well, some of the
14 solutions I've heard around here today sound to me
15 like people are willing to treat people equally
16 shabby.

17 I suggest that we know what we can do
18 and what we can't do with this piece. Let's not
19 keep our focus so limited that we lose the bigger
20 picture of just how important this piece of
21 legislation has been to all of us. Keep it intact.

22 MR. LELAND: Thank you.

23 (Applause.)

24 MR. LELAND: Heather?

25 MS. KIRCHHOF: Hello. Thank you for having

1 me here today. My name is Heather Kirchhof and I'm
2 11 years old and I go to the Vista Academy of
3 Visual and Performing Arts. I have been a member
4 of Girls, Inc. since I was six. Girls, Inc. is
5 about being strong, smart and bold. Today I am
6 being bold.

7 In 1972 Congress passed Title IX
8 which guarantees girls access to federally funded
9 athletic school programs. Now 30 years later I
10 have come to speak to you about how sports have
11 affected my life.

12 Some of the sports offered at my
13 school are volleyball, basketball and cross
14 country. I devote a lot of my time to soccer. I
15 also like community sports because I have a chance
16 to meet different people from other schools and
17 communities.

18 I like sports because they are fun to
19 do. Because of sports I have made many friends. I
20 have played sports for five years; four years of
21 soccer and one year of softball. My teammates and
22 I laugh a lot and have water bottle and water
23 balloon fights after practice.

24 Sports also keep me in shape. My
25 last season I spent about six to seven hours a week

1 devoting my time to sports. I like the
2 competition. Sports are good for me emotionally,
3 and unless I have a lot of homework, it's a good
4 way to spend my time. When I win I feel so good,
5 but when I lose I feel bad. Either way, I know I
6 tried my hardest.

7 In the future I would like to play
8 basketball, tennis, swimming, ice skating, in-line
9 skating and field hockey. Sports benefit me in a
10 lot of ways. They help me with my social skills
11 and communication. While being on a team sport I
12 have learned to be accountable for brushing up on
13 time to practice and games.

14 The movie A League of Their Own
15 inspired me a lot. It taught me that boys and
16 girls are equal. When I play sports, my mom says I
17 have to keep my grades up. If not, I will have to
18 be taken out and learn that responsibility. I am
19 planning on playing sports in high school. I feel
20 school sponsored sports are important. One thing,
21 I would like to get a sports scholarship to
22 college. I come from a single parent family. I
23 feel these programs are important to families who
24 sometimes do not have the right resources to send
25 their children to college.

1 Thank you for your time in listening
2 to what I had to say. I think anything that helps
3 me and my peers keep our minds focused on sports is
4 worth talking about. Please don't drop the ball on
5 girls.

6 (Applause.)

7 MR. LELAND: Thank you, Heather. Donna?

8 MS. LILLY: What an act to follow.

9 (Laughter.)

10 MS. LILLY: I'm Donna Lilly. I represent
11 the American Association of University Women here
12 in California.

13 On behalf of the 26,000 members of
14 AAUW in California, I want to thank you for the
15 opportunity to speak today. We are 120 years old
16 and we've promoted equity for women and girls'
17 lifelong education and positive societal change
18 during those 120 years. Our members strongly
19 support Title IX and advocate for its vigorous
20 enforcement.

21 I have joined our members in working
22 with women and men across the country to support
23 Title IX and to promote the firm belief that there
24 shall be no barriers to full participation in
25 education or the workplace on the basis of gender,

1 race, creed, age, sexual orientation, national
2 origin, disability or class.

3 Although Title IX has broken down
4 barriers to opportunities in education and
5 athletics, equity for all has not been achieved.
6 While male and female participation in athletics
7 has steadily grown, female students continue to lag
8 in participation opportunities, receipt of
9 scholarships, and allocation of operating and
10 recruitment budgets. Contrary to what Title IX's
11 adversaries believe, discrepancies in participation
12 rates are the result of continuing discrimination
13 and access to equal athletic opportunities.

14 As the National Coalition for Women
15 and Girls in Education has made very clear, it is
16 neither logical nor permissible to consider a lack
17 of interest in college sport participation on the
18 part of female students when less than 200,000
19 college participation opportunities exist for the
20 seven and a half million high school girls
21 participating in sports today. In actuality,
22 resources allocated to women's sports have never
23 caught up to the resources allocated for men's
24 sports.

25 It's the position of AAUW that no

1 changes to Title IX standards as applied to
2 athletics are warranted or necessary. Any
3 modification to the standards to limit future
4 opportunities for women would violate the goal of
5 gender equity. Any modification to the standard
6 that is based on the premise that women are less
7 interested than men in sports is both factually
8 inaccurate and legally invalid. What is necessary
9 to ensure an equal opportunity is vigorous
10 enforcement of Title IX at all levels of education
11 and a softening of our commitment to civil rights
12 should not be precipitated by institutional
13 finances and management decisions to emphasize big
14 ticket sports programs, and we have heard that here
15 today from many, many different points of view.

16 AAUW supports the three-prong test
17 used to determine athletic compliance. You've
18 heard this over and over. This test is reasonable,
19 fair, and has been upheld as a constitutional by
20 eight federal circuit courts.

21 The three prongs are, as you know,
22 proportional percentage which provides
23 opportunities for both genders in proportion to the
24 numbers within the student body, needs assessment
25 by student body surveys to measure unmet needs for

1 athletic participation, and a history of increasing
2 athletic opportunities for women.

3 Oftentimes institutions have
4 difficulty reaching this compliance because of
5 misrepresentation of the three-prong test. The
6 most difficult prong of this test is
7 proportionality. If it has not been met, the
8 institution can reach compliance by surveying the
9 athletic needs of the students and using the
10 resulting data to increase opportunities for
11 underrepresented groups.

12 MR. LELAND: One minute.

13 MS. LILLY: While proportionality is the
14 ultimate goal, the three-prong test gives
15 institutions flexibility to demonstrate a history
16 of movement toward that goal.

17 Title IX has broken down barriers to
18 opportunity in education over the last 30 years.
19 However, the equity for all has not been achieved.
20 We applaud what you have done, we urge you to
21 protect and advance the progress made over the last
22 30 years, and please, do not tamper with the
23 promise of this landmark law. Thank you.

24 MS. COOPER: Thank you.

25 MR. LELAND: Is Erin here, Erin Uyeshima?

1 Okay. Colleen?

2 MS. HAZLETT: My name is Colleen Hazlett and
3 I'm an educator at Northern California (inaudible)
4 from Stanford University. First I'd like to
5 commend our 11-year-old speaker, and I think she's
6 a perfect result of Title IX. Without sports I
7 doubt she would have had the self-esteem and the
8 courage to come up here and speak in front of all
9 these adults, so I think she is an example of why
10 this needs to continue.

11 Okay. I consider myself a product of
12 Title IX. In 1979 I learned to play water polo.
13 Since there were no high school girls teams in my
14 area, I had to play on my high school's boys team.
15 I was fortunate to have a coach who supported me
16 and saw that I was good at the game. This was the
17 first time I had ever heard of Title IX and have
18 never forgotten what it has provided for me. If
19 not for water polo I would not have gone on to
20 college, earning a degree and later a teaching
21 credential. For me it wasn't about scholarships
22 and money, but rather the love of the game and the
23 people involved.

24 Because I wanted to continue with
25 water polo, I also continued swimming and went on

1 to swim two years in junior college and two more
2 years in a four-year school while completing my
3 degree.

4 During my collegiate years there were
5 no scholarships available for women, and colleges
6 only had club teams. At that time women who wanted
7 to play at the college level did so for the pure
8 joy of the game and not for the free education.
9 Admittedly we were a pretty rough group, with
10 sometimes only 20 dollars for food at weekend
11 tournaments, cramming eight people into small cars,
12 and often showing up not knowing where we would
13 sleep that night, and were sleeping on the floors
14 at friends of friends' dorms and apartments.

15 I'm sharing this with the committee
16 because I want you to understand how far athletics
17 for women in many of the non-traditional sports
18 have come. Now women playing at the college level
19 don't have to worry about having enough money to
20 eat over the three-day tournament, how they're
21 going to get there or where they will stay when
22 they do get there. Progress has changed the game
23 and the women who play it, but it is a good change.

24 Until the mid '90s only a few
25 universities had water polo as a varsity sport. At

1 the same time the schools were forced to examine
2 Title IX's interpretation and within a few years
3 the number of women's college teams playing at the
4 varsity level increased so rapidly that it became
5 an official NCAA sport a year prior to the
6 predicted. Many different club teams have
7 benefitted from these new interpretations of
8 Title IX and became varsity sports instead of club
9 teams.

10 At the high school level it is a
11 different story. I sent the Commission a copy of
12 the civil rights complaint I filed in July of 2002.
13 Even though the school district has had over a year
14 to change, remedy, rectify and progress toward a
15 more equitable athletic program, they still
16 continue to sit on their thumbs about it.

17 Yesterday the agenda for the district
18 school board meeting it was made public in
19 co-curricular services for winter sports,
20 coaches are listed for approval. For the girls
21 basketball head coach it is listed at five percent
22 stipend, but two assistants are listed at two
23 percent or one percent and to be paid by a booster
24 stipend. The boys basketball coaches are listed at
25 the head coach, five percent, two assistant coaches

1 at four percent, and one at four percent booster
2 stipend. This indicates that the district was
3 paying the boys two assistant coaches at the normal
4 four percent each, while the girls' team has to
5 find funding for its two assistant coaches totaling
6 less than four percent. Is this equitable?

7 This is not the first issue regarding
8 inequities in coaching and pay that have come
9 before the school board. I've communicated many
10 times within the school board on the inequities
11 within the athletic department, but they continue
12 to sit on their thumbs about it. It is almost the
13 more they get away with, the more they do. They've
14 shown no interest in changing and I believe it will
15 not until they are forced to by the Office of Civil
16 Rights.

17 This district hired two 20-year-old
18 males to be the head coaches for the boys and girls
19 water polo programs. This is the first year
20 they've separated the positions. In the past they
21 hired only a head coach for the boys, and then told
22 that person they were to coach both. For the
23 previous five years there has never been an
24 official girls head water polo coach, even though
25 they are two separate programs that run

1 simultaneously. Neither one of these two young men
2 are qualified to be head coaches. I applied and
3 was told I didn't meet the qualifications, even
4 though I have more years experience than these two
5 have been alive. I've traveled with the national,
6 played on teams that won numerous first, second,
7 and third places at US water polo nationals.

8 MR. LELAND: Time. Or one minute, excuse
9 me.

10 MS. HAZLETT: The consequences of this was
11 detrimental for the girls team. For the first time
12 ever we placed less than third in league play and
13 were outscored by league opponents 86 to 31 in ten
14 games. Water polo points are scored one point at a
15 time, unlike some other sports.

16 I hope the information I've provided
17 in my complaint demonstrate that things are not
18 equitable yet in athletics, and I believe the high
19 schools are grossly out of compliance, ignorant and
20 arrogant about Title IX. Removing or revamping or
21 doing anything other than aggressively demanding
22 compliance would be devastating to female athletes.
23 Coming so close but yet still being so far is not
24 how this should end. Thank you.

25 MS. COOPER: Thank you.

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(Applause.)

MS. COOPER: Mary Wiberg, Betsy Stevenson,
Richard Aronson, Laurie Turner, and Julie Gelfat.
And we will start with Mary Wiberg.

MS. WIBERG: Good afternoon. I'm Mary
Wiberg. I'm the Executive Director of the
California Commission on the Status of Women for
the past year.

Given the fact that California has
more than 17 million women and girls, the issues
concerning Title IX are very important to us and
we're particularly pleased that the California
Legislature has established a select committee on
Title IX to help us in this state look at that more
closely. For the purposes of this town meeting
however, my 17 plus years working in gender equity
at the State of Iowa Department of Education seem
more relevant.

I'd like briefly to address the first
three questions that you all are debating as you
come up with recommendations. Title IX
regulations, question 1, Title IX regulations are
working to promote opportunities for both men and
women in situations where either group is the
underrepresented sex. Clearly, as legislation

1 written to address the strong bias against women in
2 education, including athletics, the law has
3 primarily benefitted women; however, it is a gender
4 equity law, not a women's equity law, and it
5 doesn't need to be revamped.

6 In Iowa, one of my responsibilities
7 was to participate in equity reviews of K through
8 12 and community college districts to assure that
9 the requirements of federal OCR regulations on
10 Title IX as well as Title VI and Section 504 were
11 met. The federal requirement that states -- state
12 departments of education conduct such visits is
13 specifically related to Title IX and the history of
14 sex bias in career and technical education.

15 In Iowa, visits were expanded to
16 address all state and federal requirements related
17 to equity, race, disability, and general. Because
18 sex bias in vocational education also applied to
19 boys -- do you remember, some of you, when boys
20 could not take home economics classes or prepare to
21 be nurses? -- careful attention was paid to all
22 issues affecting gender equity, including
23 athletics, and research shows that girls who
24 participate in athletics are more likely to pursue
25 non-traditional careers in technology, the

1 professions and the trades resulting in higher wage
2 jobs. Other panelists today have addressed this.

3 From those experiences in Iowa, I
4 know that most schools and community colleges have
5 been making some good faith efforts to be in
6 compliance with Title IX, but still have more to do
7 within the context of the law. The manner in which
8 these state department OCR reviews are conducted
9 varies greatly from state to state, and I know that
10 from the visits in Iowa, while each district or
11 college was to have a Title IX coordinator, these
12 positions were primarily met with paper compliance,
13 someone was given the title and very little was
14 done with it.

15 As you look at what you might say
16 about Title IX in athletics, you might wish to
17 address the role of someone on campus addressing
18 Title IX.

19 You've talked about the elimination
20 of men's -- Title IX as being causal in eliminating
21 men's sports, but clearly, as one of you said in
22 Colorado Springs, if finances weren't an issue, we
23 wouldn't be here. We would just have solved the
24 problem and we would have done it proudly by adding
25 more women's sports. It's a combination of finance

1 and gender equity issues.

2 In your conclusions I hope the impact
3 of finances will be clear and that quality data
4 will be included that supports any conclusions. If
5 adequate data is not available, you could recommend
6 a better process for collecting and assessing data.

7 MS. COOPER: One minute.

8 MS. WIBERG: Two things. I'd like to say
9 that training for implementation of Title IX
10 clearly is not adequate. Dee Grayson addressed the
11 issue of funding at the state level. You might
12 like to consider in your recommendations funding so
13 that OCR and the Department of Education could
14 provide greater technical assistance across the
15 states, and that technical assistance be provided
16 through more than just OCR. And if OCR's
17 implementation of Title IX monitoring is not
18 consistent, then that calls for staff development
19 at the Department of Education as well. Am I out
20 of time?

21 MS. COOPER: No.

22 MS. WIBERG: Okay. One last thing that I'd
23 like to say is, you raised in your last meeting the
24 question of whether or not you should do something
25 to encourage physical education and health at the K

1 through 12 level. I think that would be a
2 wonderful recommendation for you to come forward
3 with. When you look at youth obesity and you look
4 at the interest in developing a core group that's a
5 feeder to athletic programs and that builds strong
6 youth, that would be a fine recommendation. Thank
7 you for your time.

8 (Applause.)

9 MS. COOPER: Thank you. Betsy Stevenson?

10 MS. STEVENSON: Good afternoon. I'm the
11 Associate Athletic Director of the University of
12 California at Los Angeles.

13 We have done it all in Westwood. We
14 have won 80 plus national championships in men's
15 and women's sports, we have dropped men's sports,
16 we've added women's sports without pressure, we've
17 added women's sports with pressure, we've generated
18 more money in football than we spend, we roster
19 manage, we have chosen not to pay our football and
20 men's basketball coach a million dollars, we are
21 the first school to publicly turn down a bid for a
22 football bowl game because it wasn't financially a
23 sound decision for our program.

24 (Applause.)

25 In 1997 we hired Valerie Bonnette,

1 who you heard from today. I am not going to waste
2 your time. Use her solutions in your deliberation.
3 She knows what's fair, she's been in the trenches,
4 and I strongly urge your support of her solutions.

5 I have personally worked with OCR
6 staff on two complaint resolutions at two different
7 universities. My experience is that the OCR staff
8 takes several approaches that the Commission should
9 scrutinize. They work only to satisfy the specific
10 complaint, and if participation opportunities are
11 the focus of the complaint, proportionality seems
12 to be forwarded as the choice for resolution.

13 They employ methods or attitudes that
14 do not measure culture, only dollars. They focus
15 on bureaucratic procedures and timetables more than
16 on reasonable timely resolution. Proportionality
17 seems to be the easiest way to close cases. In
18 summary, lack of consistency in interpretation from
19 one OCR region to the next exists and should be
20 addressed.

21 In my opinion and experience, schools
22 are not adding men's Olympic sports programs
23 because they are not in a position to add women's
24 opportunities at the same time.

25 At the University of California at

1 Los Angeles we've been offered millions and
2 millions of dollars to reinstate the sport of men's
3 swimming. At this point in our program for a
4 variety of reasons we have added a new sport
5 recently, financially we don't want to go into
6 debt, we're trying to figure out how we could do
7 that and still be in compliance with Title IX and
8 be a financially -- a program that's financially in
9 the black.

10 The law is good, the OCR staff
11 approach on working to resolve complaints needs
12 work. Improving this aspect will only improve
13 compliance with the law.

14 MS. COOPER: Thank you.

15 (Applause.)

16 MS. COOPER: Richard?

17 MR. ARONSON: Everyone relax, it's going to
18 be an easy speech. Less than five minutes.

19 Dick Aronson, Executive Director of
20 the College Gymnastics Association and a professor
21 emeritus at the University of Massachusetts,
22 Lowell.

23 I've been involved in this sport for
24 years and years as an athlete, a coach, a judge, an
25 administrator, and for the past nine years I've

1 been trying to figure out what the hell has
2 happened to men's gymnastics.

3 Because this is the last open
4 meeting, I will not touch anything that we've
5 talked about and you've been through for the last
6 three meetings, but will address several other
7 areas that may have an effect when you come down to
8 your final decisions for you, Department of
9 Education, and the NCAA.

10 Incidentally, everyone has talked
11 about their children, I have four grandchildren and
12 all in sports, and the women and the girls, about
13 this big now, I run to their soccer matches,
14 tennis, and of course, gymnastics.

15 In a related matter, this is not the
16 first time these meetings have been, I'm sorry,
17 held. There have been about twelve of them, with
18 the first one held in Chicago in August of '93. A
19 year later in August of '94 in a meeting in
20 Washington that was attended by a highly visible
21 Olympian that, and I quote, the NCAA is the
22 greatest training ground in America for sports.
23 Apparently, everyone, we've lost sight.

24 Also at this point it's ironic you've
25 had these meetings. Why? Because they possibly,

1 possibly I say, could have been avoided if various
2 members of the NCAA administration, including
3 institutional officers and athletics responded to
4 years of correspondence that I personally wrote to
5 discuss various methods to stop the elimination of
6 sports, men and women. However, with few
7 exceptions these efforts were ignored and we
8 continue to lose programs.

9 Finally, to initiate after this year
10 the Coaches Association of Wrestling supported by
11 the College Sports, I'm sorry, Council sued the
12 Department of Education and that's why you're all
13 here, bringing attention to this national serious
14 collegiate problem, the examination of effects of
15 the elimination of sports on -- I'm sorry --
16 institutions.

17 To that end, university
18 administrators are aware that Title IX, coupled
19 with escalating costs to operate programs are the
20 two most important reasons why sports are being
21 eliminated.

22 Having said this, I suggest the
23 Commission move to enforce the purposes and
24 policies of the NCAA stated in the manuals of
25 operation. If this is accomplished, it

1 will remind the membership that dropping sports
2 reflects a failure to support the welfare of
3 student athletes, disrupts the lives of those, lost
4 their jobs, and can be detrimental to the image of
5 the institution.

6 Next, the Commission should revisit
7 the prong in Title IX entitled proportionality by
8 either recommending revisions, not getting rid of
9 it now, creating an amendment, or creating a
10 balanced program of percentages that would equally
11 represent equality for men and women.

12 Finally, the Commission must send a
13 clear and powerful message to the NCAA that the
14 business of athletics must be revisited by
15 university presidents and athletic administrators
16 that seek avenues such as a redistribution of funds
17 in order to maintain sports for all interested
18 students.

19 These are desperate times in
20 collegiate athletics, so we must turn to desperate
21 measures to ensure the viability and credibility of
22 collegiate programs. Remember, not everyone can
23 play football or basketball. Some of us five feet
24 six are gymnasts. There must be room for other
25 sports --

1 MS. COOPER: Time.

2 MR. ARONSON: -- specifically Olympic sports
3 whose collegiate --

4 MS. COOPER: (Inaudible) no, just kidding.
5 It's time.

6 (Laughter.)

7 MR. ARONSON: I got so excited.

8 MS. COOPER: Sorry.

9 MR. ARONSON: Thank you, and you got the
10 message.

11 (Applause.)

12 MS. COOPER: Thank you. Laurie Turner. Is
13 Laurie Turner here?

14 MS. TURNER: Yes, I am.

15 MS. COOPER: Well, hustle it up, girl.

16 MS. TURNER: I was -- I was on the wait list
17 and --

18 MS. COOPER: Well, you're not waiting any
19 more.

20 MS. TURNER: I was number 115 so I wasn't
21 really prepared.

22 I want to thank everybody for the
23 opportunity to just make a couple of specific
24 comments relative to my own experience. I'm the
25 Associate Athletic Director at University of

1 California San Diego, school right here in
2 San Diego. I am a product of Title IX. I
3 participated at Washington State University as an
4 athlete during the time where Title IX had not been
5 instilled. I was there in the late '70s, and at
6 that opportunity I was on an athletic scholarship,
7 so scholarships became prevalent during the time I
8 was there, and if it wasn't for athletics I know I
9 would not have the opportunity to stay and continue
10 in a four-year institution, and it was the
11 experiences that I had at that time that allowed me
12 to realize that it was something that I wanted to
13 do as far as a career.

14 Much like some of the individuals,
15 I'm not sure there's much I can say to you today.
16 I really see the board and your expertise as doing
17 the right thing. I think that you, over the last
18 four town meetings, probably have had your fill of
19 personal stories, but I think it's important to
20 recognize that some of the comments stated today, I
21 just want to reinforce, because I was one of those
22 girls that was perceived as a tomboy when I was
23 growing up. I can recall very vividly not being
24 supported as far as my experiences in athletics at
25 any time. In elementary school I can remember

1 being pulled aside, missing my recess because I
2 could throw the ball further than all the boys, run
3 faster than all the boys, and making my friends
4 that were boys look bad, and there were times where
5 I had to sit in and write sentences in the
6 elementary room saying I would not hit or throw the
7 ball further than the boys.

8 So how I grew through that. What I
9 did was I participated in high school
10 opportunities, all on rec teams. There was not any
11 in my high school and I grew up in the state of
12 Washington, the Seattle area, which at that point
13 in time in the late '70s had some opportunities for
14 some programs, but certainly not for all of the
15 different areas, and I certainly today think back
16 to those days and look at all the opportunities
17 that women have, girls have, and I wish at some
18 times that I would have to do it over again, the
19 camp opportunities, the scholarship opportunities,
20 but on the other hand I'm glad to have been a
21 coach, a college coach for 14 years, administrator
22 for ten years, and actively involved in women's
23 athletics.

24 As an administrator I do think it's
25 important to recognize that the whole issue of

1 Title IX and the three-prong approach, the emphasis
2 today on prong two and prong three, I think is very
3 relevant to look at that and say how can we get
4 beyond subjective, but objective benefits to those
5 two prongs. I'm fighting situations constantly as
6 administrators, much like many of you dealing with
7 roster management, and it is very difficult to sit
8 in there and tell the male athlete that is on one
9 of the programs that they cannot participate,
10 because it hits very close to my own self about the
11 opportunity that I did not have and the fact that I
12 would want those boys to have the opportunity.

13 And I think that all of us know that
14 it comes back to the institutions, it comes back to
15 the decisions that we make in regards to Title IX
16 does not dictate that you must drop programs, it
17 does not dictate that you must drop male
18 opportunities, it all becomes issues and decisions
19 making in regards to what we as administrators are
20 doing the right thing and making sure that we
21 recognize the importance. Thank you.

22 MS. COOPER: Thank you.

23 (Applause.)

24 MS. COOPER: Is Julie here? Julie Gelfat,
25 G-e-l-f-a-t. Are you here? You're not here.

1 Okay, let's move on.

2 MR. LELAND: Okay. Next five. Alexandra
3 Hart, Donald B. Apodaca, Wendy Taylor May, Dr. Joy
4 Griffin, and Dr. Kay Morgan, if they could come to
5 the front. Looks like there's only three of our
6 five. Is Alexandra, are you on the -- Donald?

7 MR. APODACA: My name is Donald Apodaca.
8 I'm an optometrist at Kaiser Permanente. I'm a
9 walk on coach at a high school in Santa Ana,
10 California. And I did want -- Donna De Varona, oh,
11 there she is. I remember seeing pictures of her
12 winning all those medals at the Olympics three or
13 four years ago.

14 (Laughter.)

15 And Cynthia Cooper, I'm honored to be
16 in your presence.

17 I just want to say a few things.
18 Personally in the ninth grade I didn't go out for
19 any sports. In the tenth grade, a coach,
20 Mr. Serani, asked me to go out for cross country
21 and it changed my life. 100 percent changed my
22 life. But in the ninth grade I did have
23 activities. I found out how to buy alcohol without
24 being 21, it's pretty easy. I found out how to get
25 in fights, I was in fights a lot. I was in the

1 counselor's office. And it all turned around when
2 I went out for sports. I think intrinsically I
3 knew that those things were not what I wanted to
4 do, but that's what I was doing, and the influence
5 of a coach I'm grateful for.

6 I want to say that I'm grateful also,
7 some people are saying they're so happy that sports
8 made them what they are. I'm happy that they kept
9 me from being what I might have been. The guy that
10 I used to go drinking with is in prison, and I
11 won't go into all that.

12 And then people are talking about
13 equity and equal over and over again here. Now, I
14 know that my daughter is in drama and she went to a
15 university up north, and she claims that seven out
16 of ten, in other words, it was a ratio of seven to
17 three in the dramatic productions were women. The
18 dance program was more biased towards women.
19 Journalism I guess was pretty close to 50/50, and
20 choir was biased towards women. And these are all
21 college supported activities.

22 And I know that there is some fear
23 amongst some people that support Title IX as it is
24 written with all the exactitudes that are
25 apparently required by some people that we do not

1 want to include those other activities, but sports
2 for me was an outlet and an activity that helped me
3 greatly, and I think there's other things, I don't
4 know why people are afraid of including those.

5 There is another question about
6 equality. If you go to a prison, the ratio is not
7 equal. If you go to juvenile hall, the ratio is
8 not equal. And unfortunately the ratios favor men
9 in that situation too. The Trouble with Boys by
10 (inaudible) says that boys are labeled as
11 behaviorally and emotionally disturbed four to one
12 over women. They need an outlet. We all need an
13 outlet, whether it's sports or whether it's
14 journalism or whether it's choir, we need an
15 outlet. And for some reason boys, I don't know if
16 it's testosterone, I don't know what it is.

17 As far as money, equal distribution
18 of money, that's fine with me. I get paid so
19 little, I'll do exactly what I can, because I feel
20 in my heart that it's important, or no money,
21 distributing scholarships equally. But roster
22 limits seems to me similar to the situation where
23 there was a wise king and two women were arguing
24 over the baby that both claimed to be the mother
25 of, and they went to the wise king and he said, "We

1 will make it equal. We will cut the baby equally
2 in half." And it seems like when you have roster
3 limits, where you limit and you say no, you can't
4 come out, and I've heard a few people indirectly
5 sort of support roster limits, and I see the
6 argument, but it seems like it's making equality
7 the same way as that king proposed. And of course
8 some of you know the rest of that story.

9 So in conclusion, we cannot go back
10 to the bad old days. I know that women's sports
11 was underrepresented and I so greatly admire the
12 women who are involved and are involved in
13 athletics.

14 MR. LELAND: One minute.

15 MR. APODACA: Fine. But I just think that
16 there's some way that intelligent people, and I'm
17 sure all of you are, can figure out a way to
18 prevent roster limits and to prevent the cutting of
19 programs that are so vital to keep our young men
20 otherwise occupied so they don't end up in the
21 places that my friend who I used to go drinking
22 with is. Thank you.

23 (Applause.)

24 MS. COOPER: Thank you.

25 MR. LELAND: Is Wendy Taylor May here?

1 Okay, Dr. Griffin.

2 MS. GRIFFIN: Good afternoon. I am Dr. Joy
3 Griffin, President of the National Association for
4 Girls and Women in Sport, NHEWS.

5 For over 100 years NHEWS has been
6 advocating for equitable and quality sport/fitness
7 opportunities for all girls and women in a manner
8 that promotes social justice and change. I am an
9 Associate Professor at the University of New Mexico
10 with specializations in moral and ethical issues,
11 sports psychology, sports sociology, and gender and
12 multi culture issues.

13 So why is sports so important? Let
14 me tell you a story. Let me tell you about a young
15 Native American girl who lived way out on the rural
16 prairies. There wasn't a lot to do, the nearest
17 traffic light being 25 miles away, and the nearest
18 place with two traffic lights being 45 miles away.
19 There was a lot of temptation to find things to do
20 like take drugs or just hang out. However, the
21 young Blackfoot woman stayed in high school because
22 of the many sports that she thrived at. She loved
23 basketball the most, and was surprised to be able
24 to go to college to play. She played through
25 college and then, because of her love of and belief

1 in sports, she even went on to graduate school.

2 Yes, as you probably already guessed
3 by now, that young woman was me. Sports have
4 opened up the way for me to be able to serve and
5 help so many other people.

6 Research indeed shows that,
7 especially for young women of color, sports
8 participation is important. So why is sport
9 participation so important? My best answer comes
10 from my own personal experience. For as long as I
11 can remember I've loved all kinds of sports. I
12 loved finding my limits, competition,
13 companionship, belonging, skill development, me
14 development, and just the sheer exhilaration of
15 movement. I am passionate in my belief that sport
16 can provide opportunities for physical, mental,
17 social, moral, and spiritual development.

18 These sport benefits, of course,
19 should be open to every person. We need to provide
20 quality programs and equal chances for sport
21 participation for girls and women. We need to
22 educate girls and women for success in sport
23 leadership roles and advocate publicly for
24 increased career opportunities in sport for women.
25 Sport can promote personal awareness, development

1 and strength.

2 Title IX is important because of all
3 the educational benefits the sport provides. If
4 sport is important for the development of our boys
5 and men, why is it not equally important for the
6 development of our girls and women? Sport
7 interests and abilities evolve as a function of
8 opportunity and experience. It is amazing how fast
9 sport interests and abilities have grown for women
10 since Title IX. From 1972 to 2001 there has been
11 an 847 percent increase in young women involved in
12 high school varsity sports, and a 403 percent
13 increase of women who participate in collegiate
14 sport. Yet 30 years after Title IX, female
15 athletes are not receiving equal treatment or
16 opportunities to participate, and opportunities for
17 women in sport leadership have declined
18 drastically.

19 Modification to Title IX that would
20 limit future opportunities for women in sport would
21 violate the goal of gender equity. The essence of
22 Title IX is to provide educational opportunities
23 for sport for all people.

24 Why is sport participation so
25 important? Your best answer comes from your own

1 personal sport experiences. For many of you on
2 this panel, sport has been central to your own
3 personal development and thus your increased
4 capacity to serve and to help others. Consider
5 what your life may have been like without sport.
6 Why is sport participation so important? Because
7 it has improved your life and the lives of others
8 around you. It is a good thing, and access to good
9 things should be open to all.

10 I'm also a researcher and empirical
11 evidence is important. Therefore I have summarized
12 and cited findings from studies that I believe
13 provide important information as you make your
14 decisions on Title IX.

15 MR. LELAND: One minute.

16 MS. GRIFFIN: They are in point form because
17 I know you're doing a lot of reading. I've tried
18 to make them as clear and concise as possible.

19 Let us all remember that Title IX is
20 a civil rights law and is a statement of our own
21 social justice values. We should have sport
22 available for all because of what it can do for us.
23 Thank you.

24 (Applause.)

25 MR. LELAND: Thank you. Dr. Morgan?

1 MS. MORGAN: I am Dr. Kay Morgan from
2 Albuquerque, New Mexico.

3 Throughout my 34 years of teaching
4 and coaching, I have seen just how much girls and
5 young women enjoyed sports and wanted to
6 participate. I also know what a struggle it has
7 been to provide the opportunities that they
8 rightfully and legally were entitled. Even after
9 Title IX was passed, we faced unequal treatment.
10 Our high school girls teams were locked out of the
11 weight rooms by some of the boys coaches. Three
12 teams had to share 15 uniforms and the track
13 athletes had to exchange clothes during meets so
14 the relay teams were dressed the same.

15 Even with these inequitable
16 situations, we persisted. We believed Title IX
17 requirements would not be met locally if the
18 administration and male coaches were not
19 supportive, but we finally had a law behind us.

20 I currently teach physical education
21 at Kirtland Elementary School in Albuquerque, Peter
22 Espinoza, principal. It is an ethnically diverse
23 school with a very high poverty base. Title IX, as
24 it is written, is of great importance to the sport
25 opportunities my students receive. Most of our

1 families cannot financially afford club type
2 sports. For them to realize the educational
3 benefits of sport participation, it must come in
4 the schools.

5 My students and I have been
6 discussing the importance of sport. We do this all
7 the time, much because of that. Many of your
8 comments echo what research has continuously shown
9 about sport participation. I'm certain you have
10 been provided many of these research findings.

11 When asked why they wanted to play
12 sports in middle and high school, an equal number
13 of boys in the second, fourth, and fifth grades
14 gave the same reasons. Have fun, play with
15 friends, get to know other people, and make new
16 friends, feel happy, exercise your bones, muscles,
17 and heart, stay healthy and fit and not be lazy.
18 Much of their answers focused on teamwork, work
19 together for success and to accomplish goals, stick
20 together, learn good sportsmanship, learn how to
21 share the ball, how to get along, and how to learn
22 to respect others.

23 All girls and boys should have the
24 same opportunities to achieve these benefits
25 through sport participation for themselves as well

1 as for our country's future well being.

2 Two of my Hispanic fourth grade girls
3 recognize benefits of sport participation. One
4 said playing sports would help her keep her grades
5 up. The other said she would be more responsible
6 and not get in trouble. Again, these comments
7 correlate with research that has shown that teenage
8 female athletes are less likely to get pregnant as
9 non-athletes, and female student athletes,
10 including those of color, graduate from high
11 school at a much higher rate than the general
12 female student body.

13 Another fourth grade girl said, "It
14 could help me pay for college." This possibility
15 was also reflected at our school's recent fall
16 fiesta. A first grade African-American girl kept
17 making basketball shots. As she sank each shot,
18 her father proudly yelled, "That's my girl. Next,
19 college scholarship, then the WNBA."

20 (Laughter.)

21 My class has also talked about the
22 importance of Title IX to sport and school classes
23 and why we have it. Sometimes I believe answers
24 lie in the innocence and justice of children. When
25 asked how they would feel if they did not have a

1 chance to play on a team in school, the responses
2 included sad, terrible, angry, left out. A second
3 grade boy said that if boys only got to play, girls
4 can't keep their muscles strong. All were adamant
5 about fairness so no one is left out. Everyone
6 should have a chance to get a scholarship.
7 Everyone should be treated equally.

8 I think it is important that so many
9 of these comments about gender equity and fairness
10 came from the boys. These children also understand
11 that social justice issues span across every aspect
12 of our lives.

13 MR. LELAND: One minute.

14 MS. MORGAN: One fourth grade boy said that
15 if we did not have Title IX, we might start the
16 times again like when they separated black and
17 white. Another fourth grade boy seemed confused
18 that there was even a question about changing any
19 of Title IX. He said, "I don't understand. Boys
20 and girls use the same water fountain."

21 (Laughter.)

22 I close with one of the fourth grade
23 boys, his very strong opinion. Keep Title IX for
24 eternity. Thank you.

25 (Applause.)

1 MR. LELAND: Our next five --

2 MS. GRIFFIN: Sorry to break the protocol.

3 I had one more thing to say that I forgot to say.

4 What do I expect from this

5 Commission? I expect you to do your best. When I

6 evaluate students, I know it will change their

7 lives. I do my best to understand everything.

8 There's a lot to read and there's a lot to know,

9 but I expect you to do your best.

10 (Applause.)

11 MR. LELAND: Our next five speakers, or our

12 last five speakers will be Mary VanderWeele, Bob

13 Steele, Susan Beers, Claire Williams, and Mary

14 Gallet, if they would come forward if they're still

15 here. We've been able to get a little bit into the

16 wait list. Are either of you Mary?

17 MS. VANDERWEELE: Mary VanderWeele?

18 MR. LELAND: Yes.

19 MS. VANDERWEELE: I'm Mary VanderWeele. I

20 promise to be brief.

21 Like many women and girls here, I

22 embody Title IX. As an eighth grader in 1974 I

23 played on my school's first ever girls' team

24 wearing a boys' basketball uniform. I went on to

25 play three varsity sports in high school and two

1 varsity sports as a non-scholarship athlete at a
2 Division III school, and while a University of
3 Michigan law student, played on that school's club
4 soccer team. I am now a proud mother of two little
5 athletes, soccer coach of many little boys and
6 girls, and a practicing lawyer who can communicate
7 in sports parlance and succeed in a large corporate
8 environment because I played sports.

9 Why remove prong one when it provides
10 another option for compliance? We heard many
11 people here today complain about proportionality,
12 but not one of those persons has really explained
13 why prongs two and three are not viable
14 alternatives. I find it disturbing and confusing
15 to hear that Commissioner Yow's attorneys are
16 telling her that proportionality is the only
17 realistic option, when 75 percent of those programs
18 complying with Title IX achieve compliance through
19 prongs two or three.

20 The stories we've heard about having
21 to recruit women with no prior experience in
22 sports, create crew teams in the desert, and turn
23 away enthusiastic and talented walk ons, these are
24 situations addressed by prong three. If it's not
25 clear or if it's not working, let's address prong

1 three, not prong one.

2 I agree with Rosa Perez and many
3 others here today who have stated that clear
4 standards, education and training on prongs two and
5 three are the solution. Thank you very much.

6 MR. LELAND: Susan Beers?

7 MS. BEERS: I think you probably have heard
8 everything that there is to hear.

9 My name is Dr. Susan Beers. I'm the
10 Athletic Director of the Fortune College Community
11 College. I also was the chair of the Gender Equity
12 Committee for the State of California.

13 The significant contributions of
14 Title IX have been many. Athletics has opened a
15 path to participation for many women, which
16 enriches the college experience for all. I
17 personally would not have my job if it had not been
18 for Title IX, which opened up a door of opportunity
19 for me. As opportunities for women's participation
20 in sports grow, they benefit women of experiences,
21 performances which are mirrored in our professional
22 lives, which maximizes opportunities. The addition
23 of women's sports opportunities continues to create
24 additional interests for other girls and women
25 which would not be possible without Title IX.

1 I call on you to continue expanding
2 opportunities for women to reflect institutions'
3 enrollments so women, too, can achieve their
4 greatest potential, and to refocus on this civil
5 rights law. The law is designed to ensure equal
6 opportunity. It's been 30 years and we continue to
7 debate the law, rather than put in resources
8 towards enforcement. Because of this lack of
9 enforcement, our organizations in our own state
10 have used the state laws, not federal enforcement
11 to ensure equity. Thank you.

12 MR. LELAND: Thank you, Dr. Beers. Claire
13 Williams?

14 MS. WILLIAMS: Hi. My name is Claire
15 Williams. I'm a senior at Smith, an all women's
16 liberal arts college. I am a three-year collegiate
17 soccer captain and have attended the NCAA
18 leadership conference, and am currently the co head
19 of captains board. This is my 16th year of playing
20 organized soccer and my eighth year running track.

21 As a current student athlete and
22 future leader in women's sports, I would like to
23 argue today to keep Title IX standards as they are.
24 First, the opportunity for women to play sports at
25 the collegiate level is not yet equal to that for

1 men, and second, the potential to reach female
2 athletes traditionally held on the margins of
3 society and bring them to emerging sports has not
4 yet been realized.

5 Although only 28 percent of schools
6 reviewed by the Office of Civil Rights between 1994
7 and 1998 use the first prong as compliance,
8 qualification of Title IX is necessary to keep in
9 place a system to help expedite the goal of
10 achieving a equality for women. If the
11 proportionality prong is lessened in strength, the
12 future for women and minorities in sport is bleak.
13 With tight budget, athletic departments will no
14 longer look to expand opportunities for women and
15 will continue to favor revenue sports that rarely
16 produce profits.

17 Adding a team can be very difficult
18 for institutions that have tight budgets. However,
19 with more cooperation and sharing of resources,
20 money can be saved and reallocated toward the
21 reality of equality. Collaboration is often
22 interpreted as a female style of leadership and may
23 be difficult to adopt within the tightly structured
24 male model that dominates sports and views on women
25 as athletes and prevents women from becoming

1 administrators.

2 The question of whether Title IX has
3 helped minorities to increase their level of
4 athletic participation is up for debate. Some
5 argue that white athletes dominate women's sports
6 identified as emerging by the NCAA, such as golf,
7 lacrosse and crew. Others argue that practicing
8 budget management by cutting football scholarships,
9 which traditionally has a high percentage of black
10 male athletes, will only hurt chances that
11 minorities have to attend college. I can say that
12 Title IX can and does and have significant
13 implications for minorities, immigrants, and
14 refugees. Self-confident, successful, fit women
15 can help to serve as positive role models for
16 generations to come. To increase the number of
17 minority women in colleges, programs in urban
18 schools to promote participation in sports are
19 necessary. In addition to track and basketball,
20 both traditionally popular with African-Americans,
21 soccer is another sport whose popularity continues
22 to grow in the United States and has a history of
23 being played by our Hispanic neighbors to the
24 south.

25 Once in the college arena, minorities

1 can be targeted for coaching and administrative
2 positions, and will increase their visibility as
3 role models for younger generations of athletes.

4 With this hearing today we recognize
5 that we are at a crossroads with Title IX, and have
6 an opportunity to affirm the standards and
7 encourage proactive programming that can positively
8 influence minority populations in sports. Let's
9 make sure that what comes out of these hearings is
10 a better understanding of the disenfranchised
11 groups, such as minority men and women, and support
12 your efforts to do justice to the purpose of Title
13 IX and to those who are currently at the margins of
14 sport participation. I therefore respectfully
15 request that Title IX be upheld as it stands today
16 and suggest stricter enforcement of the law to
17 ensure compliance by all institutions. Thank you.

18 MR. LELAND: Thank you.

19 (Applause.)

20 MR. LELAND: Mary Gallet?

21 MS. GALLET: Good afternoon. My name is
22 Dr. Mary Gallet. I am an educational equity
23 coordinator, compliance coordinator for the
24 California Department of Education.

25 And today you've heard a lot about

1 Title IX and the benefits and disadvantages of
2 implementing Title IX in college and university
3 levels. I'm here to talk a little bit about K-12
4 education, and I will briefly read a portion of
5 the -- of California's statement on our position on
6 Title IX, but I would like to talk a little bit
7 about what I have seen as a compliance coordinator
8 in the field.

9 The California Department of
10 Education strongly supports Title IX as it is
11 written, including the regulations that support it.
12 Title IX is an important piece of our overall
13 commitment to ensure that every student has equal
14 access to a quality education. Athletics and all
15 extracurricular activities are an integral part of
16 the educational experience of our students.

17 In 1982 California enacted
18 legislation very similar to Title IX, but went a
19 step further, explicitly prohibiting sexual
20 harassment. Recently California added a
21 prohibition against discrimination, harassment
22 based on sexual orientation and perceived gender.
23 To implement both state and federal
24 non-discrimination law, we have developed
25 administrative regulations to guide school

1 districts. We have also incorporated these
2 administrations, these regulations in our
3 coordinated compliance review process, and that's
4 what I'd like to talk to you about today.

5 The coordinated compliance review
6 process in the state of California addresses
7 educational equity and not just gender equity, and
8 we made this change this year. What we found as we
9 visited schools and districts across the state is
10 that, where Title IX is being enforced and where
11 regulations and the law was understood, there were
12 gains. However, Title IX goes beyond athletics.

13 When you take a look at science,
14 non-trad courses, math, when you take a look at all
15 of those courses in our system in K-12, we have to
16 also ask the question what do our daughters, what
17 do the girls in our system have access to, while
18 taking a look at the boys, where they are, and if
19 they're not making gains, ask the question why.

20 So within the state of California one
21 of the things that we are doing at the moment is
22 we're working collaboratively with our school
23 districts to take a closer look at how we can
24 implement all of civil rights and Title IX to
25 address educational equity in the system. It's a

1 tremendous challenge, and to me at times it feels
2 like a daunting task, but it has to be done.

3 And it's very difficult. I've heard
4 the comments about OCR and all of the slams you've
5 taken today, and I empathize. Being in the field
6 and working on compliance is very challenging,
7 because we (inaudible) and we have to trust that
8 the districts and the boards would care enough to
9 do what is best for their community. Board members
10 are voted in for that reason, that our communities,
11 we hope that they do what is best for their
12 children.

13 So when we're looking at the issue
14 of compliance, it has to be approached in a
15 collaborative manner, because we can say, okay, you
16 know what? If you're not complying for a certain
17 number of days, we're going to take X amount of
18 dollars away from you, but who does that really
19 hurt? It hurts our children, because then more
20 programs are going to be cut with the justification
21 that there are no dollars to implement them.

22 MR. LELAND: One minute.

23 MS. GALLET: So I ask you, when you are
24 considering your recommendations, to take into
25 account what you think would work for our students

1 and for our districts, because K-12 feeds into our
2 universities and our colleges, and if we can do a
3 good job at that level, maybe we can resolve some
4 of the problems that were expressed to you today.
5 Thank you.

6 MR. LELAND: Thank you.

7 (Applause.)

8 MR. LELAND: Just a couple of comments.
9 First of all, on behalf of the entire Commission,
10 we want to thank all of you who persevered today
11 and all of you who spoke. I think we're all
12 uniformly impressed with the passion and the
13 knowledge that you bring to the issues and the
14 clarity of the presentations were compelling.

15 Tomorrow morning we will meet at
16 nine o'clock. We will have the one postponed
17 invited presentation by Debbie Corum, and then
18 assuming that nobody quits tonight, we'll start
19 tomorrow our public debate. Thank you.

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21 (Proceedings concluded at 5:05 p.m.)

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REPORTER'S CERTIFICATE

I, Lynne E. Woodward, CSR No. 10440, hereby
certify that I reported in shorthand the above
proceedings on Wednesday, November 20, 2002,
beginning at 9:00 a.m., at Wyndham Emerald Plaza
Hotel, 400 West Broadway, San Diego, California;
and I do further certify that the above and
foregoing pages contain a true and correct
transcript of all said proceedings of said
transcript.

Lynne E. Woodward, CSR No. 10440