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BETH LIEF: PANEL ONE - EAST HARLEM GIRLS SCHOOL

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Part One

A Symposium on Finding A Path to Gender Equality: Legal and Policy Issues Raised by All-Female Public Education

Panel I: East Harlem Girls School

*Beth Lief**

BETH LIEF: The focus of this panel discussion is the Young Women's Leadership School ("YWLS") a new, small school that is part of the

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largest public school system in the country.¹ The real issue, of course, is not just this one school but the much broader topic of all female public education.² Nevertheless, it appears to me that the context in which this school began and now operates is very relevant to the issue.³

Perhaps this context is not relevant if one takes the absolutist position that any all-girls public school is unconstitutional, illegal and contrary to public policy.⁴ But I have been in the business of public education reform for fifteen years, and I must say that the business of nurturing the minds, spirits, intellects and souls of young people is a very complicated, messy business.⁵ Children all have special characteristics,

¹ See Jacques Steinberg, *Where the Boys Aren't, Schoolgirls Both Eager and Not So*, N.Y. TIMES, Aug. 19, 1996, at B1 [hereinafter Steinberg, *Schoolgirls*]. The Young Women's Leadership School is located in a leased space on the top 3 floors of a commercial building in East Harlem. It is the first of its kind, in New York City, in over a decade, and one of only three in the nation. *Id.* See also Valorie K. Vojdik, *Girls Schools After VMI: Do they Make the Grade?* 4 DUKE J. GENDER L. & POL'Y 69, 69 (1997). The Young Women's Leadership School is a new public school for girls, proposed and developed by Ann Rubenstein Tisch with the help of the Manhattan Institute of Educational Innovation. *Id.*

² See Rene Sanchez, *In East Harlem, A School Without Boys; Experiment with All-girl Classes Taps New Mood in Public Education*, WASH. POST, Sept. 22, 1996, at A1. Nationwide public educators are reevaluating whether segregating the sexes leads to increased academic achievement, reduced sexual pressures, and improved self-esteem. *Id.*

³ See Diane Ravitch, *Things Go Better in Single-Sex Schools*, WASH. POST, Aug. 31, 1995, at A23. For example, results from Great Britain in 1994 showed that single-sex schools consistently outperformed coeducational schools. In fact, girls schools outperformed boys schools in Britain, as evidenced by the fact that 18 of the top 20 schools turned out to be girls schools. *Id.*

⁴ See Jacques Steinberg, *All-Girls School Opens to Muffins and Media*, N.Y. TIMES, Sept. 5, 1996, at B6 [hereinafter Steinberg, *Muffins and Media*]. "Several civil rights advocates contend that it violates Federal law by discriminating against boys. . . . the executive director of the New York Civil Liberties Union, said he would meet . . . with officials [from] the Federal Education Department to discuss a complaint that he and other advocates filed with the department's office . . ." *Id.*

⁵ See generally Bruce C. Hafen, *Developing Student Expression through Institutional Authority: Public Schools as Mediating Structures*, 48 OHIO ST. L.J. 663, 671 (1987) (stating that schools have been responsible for nurturing children intellectually and socially which is a very complex process).

strengths, interests, and challenges.⁶ What is the best approach for one is invariably not the best for all.⁷ Thus, from a policy perspective, a discussion of what is best for children requires flexibility, and not rigidity.⁸

Turning to the school for the moment, YWLS is one of a growing group of small schools of choice in New York City.⁹ I have visited the school and know the principal quite well.¹⁰ At present, the school has 50 seventh graders and expects to grow ultimately to 350 students.¹¹ There are

⁶ See Jacques Steinberg, *Plan for Harlem Girls School Faces Concern Over Sex Bias*, N.Y. TIMES, July 16, 1996, at A1. Seymour Fliegel, the Center for Educational Innovation's senior fellow, and the individual who brought the ideas of the founders of the YWLS to District 4, characterized the reasoning for the school as one that was very simplistic; "studies often show that girls, particularly from poor neighborhoods, learn better when boys are not in the classroom." Mr. Fliegel stated that "[w]hat we are trying to do [here] is create an environment where girls can flourish." See also *Single-Sex Classes; Our View*, USA TODAY, Apr. 25, 1996, at 12A. Furthermore, a study conducted by the American Association of University Women in 1992 concluded that on average, at the end of high school, girls finished "far back" in the subjects of math and science. *Id.*

⁷ See *New Lessons on Equal Rights Many Parents Steer Daughters to Single-Sex Schools*, CHI. TRIB., Mar. 31, 1996, at 8. More and more professional women are concluding when it comes to their own daughters that girls "have everything to lose in a coeducational setting, while boys have everything to gain." *Id.*

⁸ The Constitutional and statutory issues are addressed by others on this panel. I will focus on the policy issues surrounding all-girl public schools. See also Sanchez, *supra* note 2, at A1 (noting that schools nationwide are reconsidering "the one-size-fits-all, fully integrated model of public schooling and [are] experiment[ing] with same-sex classes, either for disadvantaged minorities or for girls in subjects such as math or science that traditionally have been dominated by males.").

⁹ See Sanchez, *supra* note 2, at A1. "This fall, the school only has space for 50 seventh-graders. The city intends to add a grade each year until it is a high school for several hundred girls. But already the Young Women's Leadership School has scores of girls on its waiting list. Parents of girls who are years away from being eligible to attend the school call every day hoping to get an early jump on future openings." *Id.*

¹⁰ *Id.* Celenia Chevere, who grew up in Harlem, is the principal of the Young Woman's Leadership School. *Id.*

¹¹ See Jacques Steinberg, *Just Girls, and That's Fine With Them; At a New School, No Boys, Less Fussing, and a Freer Spirit*, N.Y. TIMES, Feb. 1, 1997, at A21. "Eventually, there are plans to have 330 students, in grades 7 through 12." The YWLS has been opened for five months, yet already the school is adopting new policies to accommodate their all-female student body. Among the changes, a switch to cotton and wool uniforms since the students complained of the itchiness of the polyester ones. Also, the students have persuaded school

approximately one million students in the New York City public schools,¹² and nearly 1200 schools, with that number growing as large schools break down into smaller schools.¹³ Thus, something like three ten-thousandth (3/10,000th) of the student population of the New York City public schools attend YWLS.¹⁴ In addition, it is important to know that this school is entirely a school of choice. No one is forced or zoned to go there. Males can apply.¹⁵ The school was created in a context of emerging numbers of small schools of choice in the city.¹⁶ Over the past five years, about one hundred such schools have been created,¹⁷ and my organization, New Visions for Public Schools,¹⁸ has participated in

officials to hold a co-ed Valentine's Day social, and to create a basketball team. *Id.*

¹² See Laura Williams, *Crunch Time Board of Ed Can't Solve 1 Problem: More Kids Than Space*, DAILY NEWS, Aug. 17, 1997, at 6 (stating that there are over 910,000 students in the New York City school system).

¹³ See *One Choice Won't Suffice*, STUART NEWS/PORT ST. LUCIE NEWS, Sept. 10, 1996, at A6. "Of the 1,100 New York City Schools, precisely one is single-sex." *Id.* See also Daniel Jones, *New Visions for Public Schools* (visited Nov. 15, 1997) <<http://www.newvisions.org/pronew.html>>. New Visions for Public Schools' primary goal is to establish schools with a small population; since 1992 they have established approximately thirty such schools. *Id.*

¹⁴ See Ted Rueter, *Girls-Only is OK Single-Sex Schools are a Form of Diversity*, CHRISTIAN SCIENCE MONITOR, Oct. 23, 1997, at 19 (stating that YWLS currently has 165 girls enrolled). See also Steinberg, *Schoolgirls*, *supra* note 1, at B1. "Using a formula set by District 4, the school has drawn 80 percent of its students from the neighborhood, which is predominantly black and Hispanic." *Id.*

¹⁵ See Vojdik, *supra* note 1, at 97 (noting that YWLS will accept applications from males, but as of yet it has not decided to grant males admission). *But see* Jacques Steinberg, *Central Board Backs All-Girls School*, N.Y. TIMES, Aug. 22, 1996, at B3 (noting that no boys will be admitted to YWLS in the next year and YWLS has made no effort to attract boys).

¹⁶ See Daniel Jones, *New Visions for Public Schools* (visited Nov. 15, 1997) <<http://www.newvisions.org/profram3.html>>.

¹⁷ See generally *Taking on Teacher Turnovers; Program Aims to Add Experience, Stability*, BALTIMORE SUN, June 4, 1997, at 1A (explaining that New York City has "created more than 100 small, redesigned schools that provide more personal relationships").

¹⁸ See Jones, *supra* note 16.

New Visions for Public Schools is a private, not-for-profit organization that aims to improve the quality of education children receive in New York City's public schools. Founded in 1989, New Visions mobilizes

creating about fifty of these.¹⁹ These schools are created to have special character and many have special themes, so that the students who attend them, the teachers who teach there, and the parents who choose to send their children there, feel special and, therefore, have a stake in the quality of their own school.²⁰ Turning to YWLS, there is no question that the school's theme or focus is on the needs of female adolescents.²¹ As Carol Gilligan, Mary Piper and many others have shown, there is something dramatic and negative that happens to many girls in early adolescence.²²

private and public support for quality schooling and works with educators, parents, students, city leaders and community partners to develop programs that lead to better instruction, higher student achievement and greater school accountability.

Id.

¹⁹ *Id.* (noting that since 1992 New Visions has helped establish approximately thirty schools).

²⁰ See George Will, *Demand For Good Schools Heard and Heeded in Non-Traditional Ways*, TIMES UNION, Sept. 15, 1996, at B5 (noting that if you give a school autonomy in exchange for accountability and allow it to have a single vision embraced by pupils, parents and teachers, the school will be successful). See also Steinberg, *Schoolgirls*, *supra* note 1, at B1 (stating that YWLS is filling its library with books the students requested).

²¹ See Carrie Corcoran, *Single-Sex Education After VMI: Equal Protection and East Harlem's Young Women's Leadership School*, 45 U. PA. L. REV. 987, 989 (1997) (claiming YWLS focuses on improving girls' science, math and leadership skills). But see Vojdik, *supra* note 1, at 98 (discussing the document *The Young Women's Leadership School in Community District 4*, which details the goals of YWLS, which was to "address the complexities of modern life"). The document does not contend that the goal of YWLS was to "improve the girls academic performance or to rectify past discrimination against young women in co-ed schools." *Id.*

²² See generally Stephanie Gutman, *Class Conflict, Reactions to Opening of Young Women's Leadership School Of East Harlem*, NEW YORK, NEW REPUBLIC, Oct. 7, 1996, at 12 (discussing how it is better to be in a single-sex school because during puberty girls feel extra self-conscious). See also AMERICAN ASSOCIATION OF UNIVERSITY WOMEN EDUCATIONAL FOUNDATION, HOW SCHOOLS SHORTCHANGE GIRLS - THE AAUW REPORT 43-44 (1992) [hereinafter AAUW REPORT]. The National Science Board found that 7.6% of boys took calculus while only 4.7% of girls did. In addition, 25.3% of males took physics, whereas only 15% of females took physics. *Id.* The National Science Foundation found in 1987 that high school boys enrolled in .11 more math credits and .12 more science credits than girls. *Id.* at 42. The Council of Chief State School Officers in 1991 reported that males made up 60% of the first-year high school physics classes and 70% of the second-year physics classes. *Id.* at 44.

It shows up in psychological studies,²³ but also is reflected in the girls' academic performances in elementary school and throughout their junior high school and high school education.²⁴ For example, their math and science scores drop.²⁵ I am not a big believer in IQ tests, but to the extent one does believe in them, studies show that their IQ scores drop.²⁶ The 1992 study of the American Association of University Woman entitled "How Schools Shortchange Girls"²⁷ also found that the ways in which girls are treated in junior high schools and high schools negatively impact their academic growth,²⁸ their intellectual achievement,²⁹ and their sense of self as students.³⁰ The report found that girls tend to be called on by teachers less often, and that the classroom activities and curricular approaches tend to steer them away from pursuing mathematics and science.³¹

²³ AAUW REPORT, *supra* note 22, at 20 (discussing Carol Gilligan, among others, at the Harvard Project on the *Psychology of Women and The Development of Girls* which reports that as girls grow up they become "more tentative and conflicted"). Research also suggests that as girls go through school their self-esteem drops. *Id.* at 117.

²⁴ *Id.* at 39 (noting research that reported there was no gender difference in math at the elementary level, but at the high school level there is a gender difference which favors males). *But see* Cynthia Fuchs Epstein, *The Myths and Justifications of Sex Segregation in Higher Education: VMI and the Citadel*, 4 DUKE J. GENDER LAW & POL'Y 101, 110 (1997) (stating that in the end, most males and females usually test the same).

²⁵ AAUW REPORT, *supra* note 22, at 42. The Educational Testing Service reported in 1988 that males scored .29 points higher than females on biology achievement tests. *Id.*

²⁶ Anne Roiphe, *Raising Daughters (Improving Girls' Self-Esteem)*, WORKING WOMAN, Apr. 1, 1994 (stating that "adolescent girls suffer a 13-point drop in IQ while adolescent boys lose only three points. . . the National Assessment of Educational Progress, a kind of national report card rating school children at ages 9, 13, and 17, finds girls equal to or ahead of boys in the early grades. But by middle school, the assessment finds, girls begin to fall back, and by high school there is a severe gap, especially in science and math.").

²⁷ AAUW REPORT, *supra* note 22.

²⁸ *See supra* notes 24-27 and accompanying text.

²⁹ AAUW REPORT, *supra* note 22, at 45 (stating that "differential treatment on the basis of sex contributes to the student [career] choices").

³⁰ *Id.*, at 46-47 (discussing how females "doubt their confidence in math" and that "females are more apt to attribute failure to lack of ability").

³¹ *Id.*, at 46 (stating that "[g]ender differences in confidence are strongly correlated with continuation in math and science classes"). Many females drop out of math and science even though they can do the work. *Id.*

About seven years ago, my organization, then called The Fund for New York City Public Education,³² did a series of reports about New York City's Public School System.³³ At that time, we found that when one held race constant, girls in the New York City's public schools took far fewer advanced courses in math and science than male students.³⁴ At that time, unlike now, students were not required to take four years of math and science.³⁵

The school attempts to address these disturbing trends.³⁶ I think about the benefits of YWLS and I think about it in the context of having

³² See Maisie McAdoo, *Benevolence as a Mixed Blessing: Reformers, Chancellor Lock Horns Over Largesse*, VILLAGE VOICE, Apr. 1, 1997, at 52 (noting that The Fund for New York City Public Education is now called New Visions).

³³ See 1992 A REP. FROM THE CHANCELLOR'S WORKING GROUP ON SCI. EDUC., SCIENCE IS FOR ALL CHILDREN [hereinafter WORKING GROUP ON SCI. EDUC.] (reporting on science education in New York City's Public School System); see also 1990 REP. OF CHANCELLOR'S WORKING GROUP ON MATHEMATICS EDUC., MATHEMATICS EDUCATION IN NEW YORK CITY - WHAT IT IS AND WHAT IT SHOULD BE [WORKING GROUP ON MATHEMATICS EDUC.] (reporting on Mathematics education in New York City's Public School System).

³⁴ See WORKING GROUP ON SCI. EDUC., *supra* note 33, at 4-5 (finding that girls took significantly fewer courses in physics, but not significantly less in biology and chemistry and also noting that this participation gap increased for advanced study classes); see also WORKING GROUP ON MATHEMATICS EDUC., *supra* note 33; AAUW REPORT, *supra* note 22, at 42-44 (noting that high school girls earn less credits in mathematics and science than high school boys).

³⁵ See Philip K. Porter & Michael L. Davis, *The Value of Private Property in Education: Innovation, Production, and Employment*, 14 HARV. J.L. & PUB. POL'Y 397, 423 (1991) (stating that math and science requirements have recently been increased in many states). But see Jeff Simmons, *Budget Cuts Subtract Math & Science*, DAILY NEWS (N.Y.), "Because of budget cuts, students are being shut out of math and science courses, making it harder for them to graduate, . . . City Controller Alan Hevesi said 5% fewer students are enrolling in math classes, and 4.6% fewer in science courses despite a city push to raise standards and require a tougher course load." *Id.*

³⁶ See Margaret Adler, *Single-Sex Education*, NAT'L PUB. RADIO, Nov. 10, 1997. "The basic argument has been that teachers tend to pay more attention to boys in class, that girls lose confidence during puberty, and that they are also discouraged from choosing math or science or computing, the courses that would most prepare them for the job market." *Id.*

visited and spent some time there.³⁷ You walk into the school's library, and you see a library that is very different.³⁸ My organization has had programs in more than 700 schools³⁹ and I visit schools all the time. YWLS library is very different from other middle school libraries. You see the works and portraits of Zora Neale Hurston,⁴⁰ Maxine Hong Kingston,⁴¹ Charlotte Bronte,⁴² Maya Angelou,⁴³ Jane Austen⁴⁴ and others

³⁷ See *All-Girls School: Give It A Try*, NEWSDAY (Nassau/Suffolk), Aug. 25, 1996, at A33 (explaining that the founders of YWLS promise to "improve the proficiency of adolescent girls in math and science while molding them into confident women").

³⁸ See *infra* notes 40-46 and accompanying text.

³⁹ See Daniel Jones, *New Visions for Public Schools* (visited Nov. 15, 1997) <<http://www.newvisions.org/profram3.html>>.

New Visions' programs have helped children in more than 700 of New York City's public schools. By helping to create new schools, renovating school libraries, bringing technology to classrooms, training teachers in innovative instruction, and much more, New Visions does what it takes to improve learning and create opportunities for students in the nation's largest school system.

Id. See also Raphael Sugarman, *4 New Visions Schools OKD*, DAILY NEWS (N.Y.), Apr. 24, 1997, at 2. New Visions for Public Schools is an organization that "channels private funds into planning and opening small, often theme-based, schools." *Id.* It has assisted in opening 22 schools in the city since 1993 and plans to open four other schools in the city in the fall of 1997. *Id.*

⁴⁰ NEW ENCYCLOPEDIA BRITANNICA, VOL. 6, at 168 (15th ed. 1993). Zora Neale Hurston (1903 - 1960), U.S. Black author whose Harlem renaissance and celebration of black culture has influenced authors such as Ralph Ellison and Toni Morrison. *Id.*

⁴¹ Neil Gotanda, *Chen The Chosen: Reflections On Unloving*, IOWA L. REV. 1585, 1607 n.43 (1996) (noting that Maxine Hong Kingston is a best-selling Asian-American novelist). See also Paula C. Johnson, *The Social Construction Of Identity In Criminal Cases: Cinema Verite and the Pedagogy of Vincent Chin*, 1 MICH. J. RACE & L. 347, 489 n. 132 (1996) (discussing Maxine Hong Kingston's *THE WOMAN WARRIOR: MEMOIRS OF A GIRLHOOD AMONG GHOSTS* (1975)).

⁴² See NEW ENCYCLOPEDIA BRITANNICA, VOL. 2, at 545 (15th ed. 1993). Charlotte Bronte (1816 - 1855), English novelist best known for her work *JANE EYRE*. *Id.* See also Linda R. Hirshman, *Essay: Bronte, Bloom, and Bork; An Essay On The Moral Education of Judges*, 137 U. PA. L. REV. 177 n. 238 (noting that Charlotte Bronte is a famous writer of fiction).

⁴³ See WEBSTER'S NEW WORLD ENCYCLOPEDIA 44 (1992). Maya Angelou (1928 -), born Marguerite Johnson, U.S. Novelist, Playwright, Poet and Short story writer best known for her autobiography *I KNOW WHY THE CAGED BIRD SINGS* and her three sequels.

prominently displayed.⁴⁵ Now, I am not saying that those works are not in other middle school libraries, but the emphasis is noticeably different.⁴⁶ The clear emphasis at the library of YWLS is to proclaim that, yes, women can be great authors and can be great leaders.⁴⁷ When I attended junior and senior high school in the 1960's we used to read all the history books and the other text books and wonder what were the women doing, besides being wives.⁴⁸ There is no question that the emphasis at YWLS is to nurture girls as leaders and to let those girls know about the achievements of women.⁴⁹

Nor would it be good policy to force students, or, indeed, even a single student, to attend this school.⁵⁰ It would not be good public policy to position single-sex education as a primary method for educating girls.⁵¹

⁴⁴ WORLD BOOK ENCYCLOPEDIA, VOL. 1, at 864 (1982). Jane Austen is considered a great woman novelist whose novels have become better known as "classics," they include, *SENSE AND SENSIBILITY* (1811), *PRIDE AND PREJUDICE* (1813), *MANSFIELD PARK* (1814), *EMMA* (1816), *NORTHANGER ABBEY* (1818), and *PERSUASION* (1818). *Id.*

⁴⁵ See Anemona Hartocollis, *The Women Will Lead at New Harlem School*, DAILY NEWS (N.Y.), Sept. 2, 1996, at 9 (noting that Young Women's Leadership School has started collecting literature written by women and portraits of female role models).

⁴⁶ See Liz Willen, *Student Briefing Page On The News*, NEWSDAY (Nassau/Suffolk), Nov. 6, 1996, at A68 (noting conversation with a seventh-grade YWLS student, Nubia Scott Bennett, who states that the YWLS library is "very different from every other school where I've been").

⁴⁷ See *supra* notes 40-46 and accompanying text.

⁴⁸ See *First Lady has Toughest Unpaid Job in Land*, RICHMOND TIMES DISPATCH, Nov. 5, 1996, at D3 (noting that the 1960 presidential election was the first election in which "both presidential candidates' wives had college degrees and had worked"); Felice J. Freyer, *A Place of Their Own: Schools for Women, Girls Make a Comeback*, MILWAUKEE J. SENTINEL, Apr. 23, 1997, at 2 (noting that in the late 1960's all of the men's colleges started accepting women).

⁴⁹ See Sanchez, *supra* note 2, at A1 (noting that Celenia Chevere, the school's principal stated that the school had a mission, "to help these girls learn and become leaders"); see also Hartocollis, *supra* note 45, at 9.

⁵⁰ Stephen Chapman, *Reality and Single-Sex Schools*, CHI. TRIB., Aug. 3, 1997, at 15C (noting that no one is compelled to attend the Young Women's Leadership School).

⁵¹ See Stephen Chapman, *Reality and the Trend Towards Single-Sex Schools*, LAS VEGAS REV. J., Aug. 11, 1997, at 7B [hereinafter Chapman, *Reality*] (noting, for example, that single-sex schools evade the needs of males and females because kids in single-sex

Nonetheless, in light of the very real threats to the healthy development of adolescent girls,⁵² the hurdles faced by girls of color,⁵³ and especially poor girls of color,⁵⁴ it is exciting to see what is happening in YWLS to promote success for students.⁵⁵

Some argue that having a school such as this deflects attention from the broader systemic gender discrimination that exists both in schools and in society as a whole.⁵⁶ When I observe what has occurred since the school opened, it appears that the opposite is true.⁵⁷ The very establishment of this school has started a conversation and raised a

schools will not learn how to deal with members of the opposite sex as equals).

⁵² Sheryl McCarthy, *Let This All-Girls School be All Girls*, NEWSDAY (Nassau/Suffolk), July 18, 1996, at A44. Harvard Professor Carol Gilligan's studies indicated that when girls reach their mid-teens, they become shy, insecure and virtually unable to have strong opinions about anything. *Id.*

⁵³ Scott Baldauf, *Merits, Demerits Of Single-Sex Ed Raised in Harlem*, CHRISTIAN SCI. MONITOR, Sept. 4, 1996, at 1 (noting the need to overcome the negative experience that minority females have in the current school system).

⁵⁴ See Debra J. Saunders, *Civil Rights: A Two-Way Street For Both Boys and Girls*, CHATTANOOGA TIMES, Aug. 6, 1996, at A5 (quoting Seymour Fliegel of the Manhattan Institute's Center for Education Innovation as stating that "a school that helps poor girls become high achievers . . . can't be a bad thing."). *Id.*

⁵⁵ Steinberg, *Schoolgirls*, *supra* note 1, at B1 (noting that the school is offering the girls longer chemistry laboratory periods, a women's studies class, and internships which have been arranged "to introduce the girls to women working in [different professions]").

⁵⁶ See, e.g., Chapman, *Reality*, *supra* note 51, at 7B (stating that "[kids in such settings won't learn how to deal as equals with the opposite sex.]; but see Susan Estrich, *Sometimes, Single-Sex Schools Educate Best*, DENVER POST, Sept. 24, 1997, at B7 (stating that "feminism doesn't have to be . . . a struggle in which a suspicion of underhanded motives and unseen horrors limit the freedom of girls and boys to learn and grow as much as they possibly can.").

⁵⁷ One could argue that since the opening of The Leadership School, the debate over gender discrimination and inequality in education has been brought to the national forefront. See, e.g., Joanne Wasserman, *Girls' School Illegal: But Feds May Offer a Remedy*, DAILY NEWS (N.Y.), Sept. 18, 1997, at 2 (stating that "[f]ederal officials have summoned [Schools Chancellor] Crew to Washington for a negotiation session about the school.").

consciousness that was not previously evident.⁵⁸ This is not to say that the existence of this one school can, or is meant to, solve the systemic issues.⁵⁹ It is not.⁶⁰ I agree with those who contend that close attention has to be given to this problem from many different perspectives,⁶¹ this includes the training of teachers,⁶² reviewing of the performance of teachers and principals,⁶³ reviewing of the curriculum and texts,⁶⁴ reviewing the

⁵⁸ See Baldauf, *supra* note 53, at 1 (noting that efforts to push single-sex education have been launched across the country, including such cities as Detroit and Milwaukee). "The school in Harlem is part of a scattered but decided comeback for single-sex education that extends from the potato fields of Maine to the palm-lined streets of California." *Id.* See generally Mary B.W. Tabor, *Planners of a New Public School for Girls Look to Two Other Cities*, N.Y. TIMES, July 22, 1996, at B1; Tamar Lewin, *In California, Wider Test of Same-Sex Schools*, N.Y. TIMES, Oct. 9, 1997, at A1.

⁵⁹ See Baldauf, *supra* note 53, at 1. "Some people who support same-gender schools argue that it is harder to reform the nation's entire school system than it is to tinker with a few models that address specific problems." *Id.*

⁶⁰ See DeWayne Wickham, *New York's Single-Sex Schools a Laudable Idea*, GANNETT NEWS SERVICE, Dec. 14, 1996. "No one on the left or right opposes the goals of New York's single-sex schools. The fight now under way is over the way to reach them." *Id.* The Young Women's Leadership School has embroiled both the liberal and conservative factions of New York politics in a battle over the virtues of single-sex education versus the ills of gender discrimination. *Id.*

⁶¹ One concern is that single-sex schools will take the focus away from the real problem which is how to improve the public school system as a whole, and for girls in particular. With the goal of bettering education, another approach may be to improve the education of girls within the coeducational setting. See Peggy Orenstein, *All-Girl Schools Duck the Issue*, N.Y. TIMES, July 20, 1996, at A19.

⁶² *Id.* (discussing lessons teachers could learn from single-sex institutions that would help make the coeducational classroom work for both girls and boys, such as "lessons about class participation, role models and teacher-student interaction"). "Some educators are already exploring the possibilities [of creative training for teachers by] studying how to improve science education, [and] taking sexual inequality into account." *Id.* See also Liz Willen, *Girls Learn Together: In Harlem School, Young Women Find Everything But the Boys—and Like it*, NEWSDAY (Queens), Sept. 9, 1996, at A28 (quoting one young woman as saying that "the teachers aren't like teachers' . . . [t]hey are like our mothers, our sisters, our aunts, you know, real good friends. It's not like I'm your teacher, you're my student, you listen to me. It's not that kind of atmosphere. It's real friendly'").

⁶³ See generally *supra* note 63 and accompanying text. See also Steinberg, *Schoolgirls*, *supra* note 1, at B1. Ann Rubenstein Tisch conceived of the school as an alternative to public school teachers and curricula that favor boys over girls, and do not

participation of girls in extra-curricular activities and advanced courses,⁶⁵ and an examination of the available resources for girls' athletics.⁶⁶ However, because YWLS has considered these issues does not mean that the school should not exist, or that its existence precludes such attention.⁶⁷ I wish there was a magic bullet that could ensure that children of all colors, all genders, and all levels of ability could attend top quality schools and succeed to the best of their abilities.⁶⁸ But, frankly, if such magic existed, those of us engaged in educational reform would have used it

allow for the special needs of girls in such areas as math and science. *Id.*

⁶⁴ A particular focus will be on a curriculum that fosters a free exchange regarding such issues as women's studies, in addition a special emphasis will be placed on chemistry and math, with "[c]hemistry laboratory periods [that] will last as long as 80 minutes, twice as long as in many other schools, with lab tables arrayed at angles, rather than straight lines, to allow the teacher to move around the room more freely." Steinberg, *Schoolgirls*, *supra* note 1, at B1.

⁶⁵ The fact is that girls at YWLS will be given such enhanced opportunities in all areas of extra-curricular activities, "[t]he class president will be a girl, the school athlete will be a girl, and debate groups will involve only girls, . . . '[t]hey will be free to express themselves and gain more confidence'." (quoting Seymour Fliegel an analyst at the Center for Educational Innovation). Fredric Bichon, *First Girls-Only Public School a Success in New York*, AGENCE FRANCE PRESSE, Oct. 4, 1996.

⁶⁶ Resources for women's athletic programs have constantly come under fire for lack of funding on a par with male athletic programs. "The National Women's Law Center said female athletes were cheated out of more than \$5 million in scholarship money during the 1995-1996 academic year." Tanyanika Samuels, *Title IX Complaints Filed on 25 Schools*, NEWSDAY (Nassau/Suffolk), June 3, 1997, at A55.

⁶⁷ As has been suggested girls may need time away from boys to learn effectively during their teen years. See Baldauf, *supra* note 53, at 1. "But these results don't necessarily mean that all schools should switch to a single-sex format. In fact, such schools may be more effective when they are atypical, says Cornelius Riordan . . . 'The more that these schools remain rare and special, the more effective they will be' for that minority of students who select them . . ." *Id.*

⁶⁸ See *Prepared Testimony of Dr. Judith Denton Jones Before the House Education and the Workforce Committee Oversight and Investigations Subcommittee - Status of D.C. Public Schools - What is And is Not Working in the D.C. Public Schools*, FED. NEWS SERVICE, May 1, 1997, [hereinafter *Testimony of Dr. Judith Denton Jones*]. "Even what choice parents now have is flawed by lack of timely information and by the secretive admissions practices of many principals . . . only the most active parents will exercise choice and that children from dysfunctional families will continue to go to the worst schools." *Id.*

years ago.⁶⁹ Creating and sustaining successful public schools for all children is a very complicated, under-funded, constantly evolving business.⁷⁰ In this context, the creation of one school among 1100 or 1200 that focuses on the development of adolescent girls is a good thing, not a bad thing.⁷¹

I said at the outset that I would focus my remarks on the policy issues surrounding the school and not the legal ones. I have read the opinion in *United States v. Virginia*⁷² carefully, though, and it appears to me that the issue of whether YWLS would pass constitutional muster is still open.⁷³ There are several points in the Supreme Court opinion that distinguish *United States v. Virginia*⁷⁴ from the situation before us.⁷⁵ Unlike Virginia Military Institute, YWLS was not set up in the 1800's.⁷⁶

⁶⁹ See Bill Scheel, *Throwing learning a Curve; Free-Market Push, Capital Fix Don't Address the Real Issue*, ARIZONA REPUBLIC, July 16, 1997, at B6 (finding that an attempt to redistribute funding for public schools through tax breaks is another example of a bureaucratic nightmare than a magic fix-all).

⁷⁰ *Id.* at B6 (stating that funding is only the beginning of the solution which should entail other efforts, such as educational reform with clear expectations of student achievement, and intensive teacher training with tested results).

⁷¹ Proponents of the Young Women's Leadership School are "confident that civil libertarians and lawyers will sort out the legal issues and keep the nation from returning to the days of Jim Crow. In the meantime, . . . '[o]ne small girls school in Harlem is not going to separate the whole nation'." See Baldauf, *supra* note 53, at 1.

⁷² 116 S. Ct. 2264 (1996).

⁷³ See Robyn E. Blumner, *Single-Gender Schools Make for Bad Policy*, ST. PETERSBURG TIMES, Aug. 18, 1996, at 4D (noting that the YWLS will probably not pass constitutional muster, she concedes that the "majority opinion in the VMI case left the door open a small crack for single-gender education that was genuinely remedial . . ."); Judy Mann, *Boys and Girls Apart: Single-Sex Education Is One School Choice We Need*, WASH. POST, Oct. 20, 1996, at C1 (stating that "[t]he courts few rulings in this area seem to permit separate public schools for boys and girls - as long as the schools serve a compelling state interest, offer instruction of equal quality and are based on voluntary admissions").

⁷⁴ 116 S. Ct. 2264 (1996).

⁷⁵ See *infra* notes 76-85 and accompanying text.

⁷⁶ Compare *United States v. Virginia*, 116 S. Ct. at 2269 (stating that VMI was "[f]ounded in 1839, [and] is today the sole single-sex school among Virginia's 15 public institutions of higher learning"), with *Dead Tax Still Bites*, DAILY NEWS (NY), Feb. 9, 1997, at 48 ("[t]he Young Women's Leadership School opened in East Harlem in September

It was not set up to promote a class of people who historically have been in favor, or enjoyed privilege as people in power.⁷⁷ And it is not an institution of higher education, but rather a middle school.⁷⁸ The *United States v. Virginia*⁷⁹ opinion contains language that supports a states right to support diverse educational opportunities.⁸⁰ The New York City Public School we are discussing is not about the exclusion of a disenfranchised class from a unique opportunity.⁸¹ This is about an attempt in one way to try to get at the kinds of educational opportunities that really will help girls overcome the threats to their educational,⁸² social,⁸³ psychological⁸⁴ and

[1996] . . .”).

⁷⁷ Compare *United States v. Virginia*, 116 S. Ct. at 2269 (discussing that “VMI’s distinctive mission is to produce ‘citizen-soldiers,’ men prepared for leadership in civilian life and in military service. . . . [and that] Virginia has elected to preserve exclusively for men the advantages and opportunities a VMI education affords”) (emphasis added), with *Is All-Girl School Educationally Valid? Find Out*, *NEWSDAY* (N.Y.), Sept. 30, 1997, at A40 [hereinafter *All Girls School*] (noting that the Young Women’s Leadership School was “founded to overcome the social pressures that cause too many adolescent girls to fall behind in math and science”).

⁷⁸ Compare *United States v. Virginia*, 116 S. Ct. at 2269 (stating that VMI was “establish[ed] in 1839 as one of the Nation’s first state military colleges”), with John Leo, *Girls Only: School Makes Sense, But Challenge Looms*, *DALLAS MORNING NEWS*, Aug. 3, 1996, at 29A [hereinafter *Girls Only*] (noting that “the school will start with 50 seventh-graders and later expand into a full middle school”).

⁷⁹ 116 S. Ct. 2264 (1996).

⁸⁰ See *United States v. Virginia*, 116 S. Ct. at 2276-77 (finding that “[s]ingle-sex education affords pedagogical benefits to at least some students, Virginia emphasizes, and that reality is uncontested in this litigation. Similarly, it is not disputed that diversity among public educational institutions can serve the public good.”).

⁸¹ See Mann, *supra* note 73, at C1 (noting that “[t]he motivation [of the single-sex school movement] is to enhance opportunities for girls and for boys to excel . . .” unlike our “sordid history of . . . racially segregated schools, which systematically deprived generations of black children of a decent education . . .”). The author puts forth the notion that when motivation is positive, “. . . the results are much more likely to be equal and fair than when the motivation was to systematically hold a group of people down.” *Id.*

⁸² See Dan Thomasson, *The Old Wisdom Is Right About Single-Sex Schools*, *ROCKY MTN NEWS*, Sept. 25, 1996, at 36A (noting that “[g]irls do better in most cases in the early years but later become intimidated by boys in math and science”).

emotional success as leaders.⁸⁵ The attempt is one worth making.⁸⁶ Thank you.

⁸³ See *All-Girl School*, *supra* note 77, at A40 (stating that the Young Women's Leadership School was "founded to overcome the social pressures that cause too many adolescent girls to fall behind in math and science").

⁸⁴ See Mann, *supra* note 73, at C1 (discussing how "girls at all girls schools showed a consistent and positive attitude toward school, [and] tended to associate with academically minded friends").

⁸⁵ See Blunner, *supra* note 75, at 4D (stating that "sociologists claim sex-segregated education enhances opportunities for girls to develop leadership abilities").

⁸⁶ See Leo, *supra* note 78, at 29A. "If we want to study gender equity away from the political arena, let's consider the East Harlem school as an experiment toward that goal. New York City has 1,045 schools integrated by gender. Surely, it can afford to set up one school just for girls." *Id.* See also Thomasson, *supra* note 82, at 36A (generally arguing in favor of single-sex choice).

