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NORMAN SIEGEL: PANEL ONE - EAST HARLEM GIRLS SCHOOL

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NORMAN SIEGEL: First, I would like to thank the students of New York Law School, members of the Journal of Human Rights and the Bar Association of the City of New York for cosponsoring this symposium. Of course, I should not forget thanking Nadine Strossen, the president of the ACLU, because she was also instrumental in putting this symposium together. No matter where any of us stand on this issue, I think it is important to come together periodically to talk about it. If there is anything that we can learn from this experience it is that, even when issues are controversial, it is important for leaders and educators to open doors and allow people to agree or disagree.

On August 26, 1996, the New York Civil Liberties Union with the National Organization of Woman, New York City Chapter, and the New York Civil Rights Coalition filed an administrative complaint with the United States Department of Education, Office of Civil Rights, challenging the establishment by officials of the New York City Board of Education of a school in District 4 that seeks to exclude all boys from admission to the school because of their gender.¹ What the New York Civil Liberties Union objects to, and what we believe the law prohibits, is a school that

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¹ See Christine B. Whelan, *NOW Isn't Pro-Choice on Education*, WALL ST. J., Aug. 19, 1997, at A18. As of late August, 1997, the complaint was not ruled on, but the U.S. Department of Education was expected to rule within a few weeks. *Id.*; see also *Fairness And Single-Sex Schools*, N.Y. TIMES, Sept. 27, 1997, at A14. "Dr. Crew's rejection of any equity formula offered by the Department of Education leaves Federal officials little alternative but to oppose him, in court if necessary, since they are bound by the principle of equal access to public facilities." *Cf. Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 731 (1982) (holding that a nursing school denying enrollment to qualified males violated the Equal Protection Clause because "[T]he State has fallen far short of establishing the 'exceedingly persuasive justification' needed to sustain the gender-based classification.") *Id.*

denies admission based solely on gender.² As a society, we have rejected segregation in favor of integration.³ Whether in a restaurant, on a bus, or in the classroom, we have decided, as a society, that people should not be separated by virtue of immutable traits, such as race, gender, and national origin.⁴ Our societal consensus on this point is grounded in a recognition that immutable group characteristics, such as gender and race, cannot serve as a proxy for individual qualities, such as behavior and intelligence.⁵ We now understand the fallacy of stereotypical views, which hold, that every person in a group has certain attributes simply because she or he is

² See *Mississippi Univ. for Women*, 458 U.S. at 724-25. ("Although the test for determining the validity of a gender-based classification is straightforward, it must be applied free of fixed notions concerning the roles and abilities of males and females." The test is whether "the classification serve 'important governmental objectives and that the discriminatory means employe' are 'substantially related to the achievement of those objectives.'" (quoting *Wengler v. Druggists Mutual Ins. Co.*, 446 U.S. 142, 150 (1980)).

³ See *Brown v. Board of Educ.*, 347 U.S. 483, 495 (1953) (holding that racial segregation in public schools violates the Equal Protection Clause of the Fourteenth Amendment).

⁴ See *Christian v. Jemison*, 303 F.2d 52, 54 (5th Cir. 1962) (reinforcing that "[t]he Supreme Court has settled beyond question that no State may require racial segregation of interstate or intrastate transportation facilities."); see also *Alexander v. City of Philadelphia*, 1990 WL 42246 (E.D. Pa.) (holding that "[s]ex, like race and national origin, is an immutable characteristic," and "[t]he principle that individuals should not be discriminated against on the basis of traits for which they bear no responsibility makes discrimination against individuals on the basis of immutable characteristics repugnant to our system."). See *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 171 (1970) (stating that a restaurant's refusal to serve a white teacher who was accompanied by black children, violated the Civil Rights Act. "[W]e conclude that petitioner would show an abridgement of her equal protection right, if she could prove that Kress refused her service because of a state enforced custom of segregating the races in public restaurants."). *Id.*

⁵ See *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127, 139-140 (1994) ("Respondent offers virtually no support for the conclusion that gender alone is an accurate predictor of juror's attitudes; yet it urges this Court to condone the same stereotypes that justified the wholesale exclusion of women from juries and the ballot box. Respondent seems to assume that gross generalizations that would be deemed impermissible if made on the basis of race are somehow permissible when made on the basis of gender."); see also *Powers v. Ohio*, 499 U.S. 400, 410 (1991) (stating that discriminating racially in the jury selection process has no relevance to a person's fitness as a juror).

a member of that group.⁶

Educational equity is an issue of paramount concern.⁷ While this debate goes on, we should never lose sight of that. Public schools often fail to provide equal educational opportunities for girls.⁸ To the extent that our educational system does shortchange girls, and we believe that it does, it perpetuates the already pervasive gender discrimination that characterizes our society and so profoundly disadvantages girls and women.⁹

Attempts to create programs that will be responsive to students needs, especially girls and racial minorities, should and must be encouraged.¹⁰ Nonetheless, regardless of the good intentions, school boards may not, as a general rule, segregate by sex or race in the name of

⁶ See John E. Morrison, *Color-blindness, Individuality, And Merit: An Analysis Of The Rhetoric Against Affirmative Action*, 70 IOWA L. REV. 313, 329 (1994) (mentioning that some view stereotypical thinking as "the logical fallacy of assuming particular members of a group possess the characteristics generally associated with group members.").

⁷ See Deborah L. Rhode, *Single-Sex Schools Can Only Be Way Stations*, NAT'L L.J., Aug. 18, 1997, at A19. (commenting on the trend of separate public school programs for girls and boys in an article regarding the constitutional controversy surrounding the establishment of New York's Young Women's Leadership School which does not accept applications from boys).

⁸ *Id.* (alotting for "well-documented problems in coeducational schools, such as teachers' willingness to give boys more attention and support; the shortage of female role models in leadership, math and science positions; and the distraction, ridicule and harassing behavior of male classmates" which lead to the disadvantages in educational opportunities for girls).

⁹ *Id.* (finding that proponents of single-sex schools like the Young Women's Leadership School base their theory on the relative benefits of single-sex education on a broad range of studies that have shown a decline in math and science performance by girls upon junior high school, as well as a poorer 'problem-solving' skills demonstrated on national testing).

¹⁰ See generally Richard Lee Colvin, *Single-Sex Classes, a First for State's Schools Education: Seven Public Campuses Will Experiment with the Concept, Using an Approach Designed to Meet Legal Tests*, L.A. TIMES, Aug. 29, 1997, at A1 (reporting on the inauguration of the Mary Bethune Academy for Girls and the Horace Mann Academy for Boys, two schools that are part of a pilot program in California which allocates identical state funding in identically designed single-sex programs for students. Although students do not attend classes together, they do mingle during lunch, recess, and extracurricular school programs).

laudable educational goals.¹¹ In our opinion, District 4 in East Harlem appears to be violating the federal constitution, as well as federal and local laws, by proposing to create a school that would admit students solely on the basis of gender, specifically denying admission to boys.¹²

We will hear this afternoon from experts, with regard to the Constitutional analysis, and with regard to Title IX, so I will not spend very much time on that. With regard to the local law, applicable here, it is the New York City Human Rights Law.¹³ The New York City Human Rights Law specifically prohibits single-sex schools in the City of New York when it is public education.¹⁴ More than four decades ago, in *Brown*, recognizing that *Brown* referred to racial segregation, the U.S. Supreme Court said that separate is inherently unequal.¹⁵ Schools, in our opinion, that are all female, or all black, still offend that doctrine. For example, in the Supreme Court decision with regard to the exclusively

¹¹ See, e.g., *United States v. Virginia*, 116 S.Ct. 2264 (1996) (holding that the Commonwealth of Virginia did not have 'exceedingly persuasive justification' to prevent females from attending an exclusively male military university); See also *Mississippi Univ. for Women*, 458 U.S. at 73 (holding that a state supported university that denied male enrollment based on gender violates the Equal Protection Clause).

¹² See U.S. CONST. amend. XIV, § 1 (providing in part that "[n]o state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws"); see also 20 U.S.C.A. §1681(a) (1990) (providing that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance . . .").

¹³ NEW YORK ADMIN. CODE, COMM'N ON HUMAN RIGHTS § 8-107 (4) (d) ("Nothing in this subdivision shall be construed to preclude an educational institution- other than a publicly-operated educational institution- which establishes or maintains a policy of educating persons of one gender exclusively from limiting admissions to students of that gender.").

¹⁴ *Id.* See also N.Y. EDUC. LAW § 3201-a (McKinney 1996) ("Notwithstanding any general, special, local law or rule or regulation of the education department to the contrary, no person shall be refused admission into or be excluded from any course of instruction offered in the state public and high school systems by reason of that person's sex.").

¹⁵ See *Brown*, 347 U.S. at 495 ("We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.").

male institution, the Virginia Military Academy ("VMI"), Justice Ginsburg wrote in footnote seven, which is operative, "[T]hus we are faced with the question of whether states can provide, 'separate but equal' undergraduate institutions for males and females."¹⁶ So at least Justice Ginsburg did not think that issue had to be decided in the VMI case.¹⁷

To the extent that behavior causes problems regarding educational equity, an appropriate educational response would begin with the teachers.¹⁸ Rather than excluding all boys from a classroom, school boards must train and monitor teachers to assure that girls and boys are treated equally in a classroom.¹⁹ Very simply, the focus should be and must be on substantially improving the integrated model and not on institutionalizing a segregated model.²⁰

District 4 has neither defined the problem of gender inequity as it exists in District 4, nor has it articulated why a separate school is the best, or even a good solution for girls.²¹ We cannot support a school for girls

¹⁶ United States v. Virginia, 116 S.Ct. 2264, 2276 (1996).

¹⁷ *Id.* at 2276 ("The court does not question the State's prerogative even handedly to support diverse educational opportunities. The court addresses specifically and only an educational opportunity recognized by the District Court and the Court of Appeals as 'unique', an opportunity available only at Virginia's premier military institute.").

¹⁸ Valorie K. Vojdik, *Girls' Schools After VMI: Do They Make The Grade?*, 4 DUKE J. GENDER L. & POL'Y 69, 94 (1997) ("In addition to special interventions, simple teaching techniques can dramatically improve gender equity in the classroom. Education experts have developed a range of recommendations and techniques that teachers can employ to treat boys and girls more equally in the classroom . . .").

¹⁹ *Id.* (discussing various techniques that may be used such as pausing before calling on students and advising students to consider a question before responding).

²⁰ *Id.* ("Given the availability of successful alternatives to single-sex schools, it is difficult to argue persuasively that the state must resort to segregating girls in order to offer them an education free of discrimination. The problem is not with the girls; the problem is with the classroom and the school system. As argued below, to segregate girls is to give up on them and to send the message that the responsible adults in society are unable (or unwilling) to prevent discrimination in our public schools.").

²¹ See *Single-Sex Public Schools To Open Amid Protests*, BUFF. NEWS, Aug. 15, 1996, at A9 (stating that the founders of the school "championed the idea because several studies have shown that girls do better in single-sex schools."); See also *Is All-Girl School Educationally Valid? Find Out*, NEWSDAY, Sept. 30, 1997, at A40 (noting that the school was "founded to overcome the social pressures that cause too many adolescent girls to fall

when District 4 has not told us what the educational problems are for girls and boys in the district. Are girls performing disproportionately worse than boys in math, for example?²² Who has the highest dropout rates?²³ Have teachers been trained to identify and combat overt and subtle sexism in the classroom?²⁴ With what results? Can the district show that this program will encourage and empower young women rather than perpetuate the stereotypes that girls need special protection?²⁵

behind in math and science.”). *But see* Vojdik, *supra* note 18, at 96-99 (arguing that it is not clear if the school was created to “redress past discrimination in public education” because initially the founders of the school did not disclose the purpose or reasons for forming the school and only after faced with threatened litigation did officials claim the school’s purpose was to improve the performance of girls in math and science. Vojdik supports this argument by noting that “the mission and curriculum of the school is also not consistent with an attempt to provide disadvantaged girls remedial education in math or science.”).

²² *See All-Girls School: Give It A Try*, *NEWSDAY*, Aug. 25, 1996, at A33 (citing that studies show that girls lose their skill in math and science at the onset of adolescence); *See also* Carrie Corcoran, Comment, *Single-Sex Education after VMI: Equal Protection and East Harlem’s Young Women’s Leadership School*, 45 U. PA. L. REV. 987 (1997) (noting that girls have consistently under-performed in math and science); *See also* Vojdik *supra* note 18, at 97 (noting that school officials claim girls “perform better in math and science if boys are not in the same classroom” and cited some general research as support for this claim).

²³ *See* Tracy E. Higgins, *Democracy And Feminism*, 110 HARV. L. REV. 1657, 1703 n.218 (1997) (noting that the dropout rates for girls in East Harlem is two percent lower than the rate for boys, seventeen percent as compared to nineteen percent for boys).

²⁴ *See* Vojdik, *supra* note 18, at 94-97 (asserting that “simple teaching techniques can dramatically improve gender equity in the classroom” and that education experts suggest techniques that will help teachers treat girls and boys more equally such as “pausing before calling on students, which encourages girls to volunteer, or advising students to take a minute to consider a question before responding, which similarly increases girls participation”). Vojdik later noted that the Board of Education never asked for the advice of the Chancellor of Education’s Task Force on Sex Equity in New York Schools which recommends that teachers receive training in “pedagogical methods... to promote girls’ participation and achievement” but does not recommend single-sex education). *Id.* at 98.

²⁵ *See* Linda L. Peter, Note, *What Remains Of Public Choice And Parental Rights: Does The VMI Decision Preclude Exclusive Schools Or Classes Based On Gender*, 33 CAL. W. L. REV. 249, 278 (stating “Only after these programs have been operating for a sufficient time can statistics be compiled from which to form valid conclusions.”); *See also* Vojdik, *supra* note 18, at 94 (noting “Whether YWLS, or any single-sex school for girls, can demonstrate that

Unfortunately, it is really shocking, we have received no answers over the course of the six-month debate, either privately or publicly, to these and other viable questions. We have not received answers from the advocates, not from the lawyers, not from District 4, not from the mayor of the City of New York, not from the Chancellor of the Board of Education, and not from members of the Board of Education of the City of New York. Consequently, the issue of whether Title IX or the U.S. Constitution would allow for a single sex school as a compensatory program to remedy discrimination against girls is not, repeat, not an issue in the East Harlem Young Women's Leadership School because no showing has been made, as of today, that this school was formulated or implemented to remedy discrimination against girls in District 4, or the New York City school system generally.²⁶

What do we want? Everybody says, what do you want, what is this about? First, we want the elimination of the prohibition against boys. The most that the people from the district and the school have said, subsequent to the filing of the complaint, is that boys can apply, but what they have said is that they are not sure what will happen if a boy did apply. We also want a gender neutral name for the school, such as the Susan B. Anthony

it is likely to enhance girls' performance as compared to coeducational schools remains to be seen.").

²⁶ See *District In Harlem To Get All-Boys School*, BUFF. NEWS, Dec. 11, 1996, at A11 (stating that "Title IX provides that no one should be subject to discrimination on the basis of sex under programs receiving federal funds"); See also *Christopher H. Pyle, Women's Colleges: Is Segregation By Sex Still Justifiable After United States v. Virginia?*, 77 B.U.L.REV. 209, 260-261 (1997) (noting that the Supreme Court held that single-sex schooling was justified "insofar as it was established to 'compensate for discriminatory barriers faced by women' and where 'the gender-based classification is substantially and directly related to its proposed compensatory objective.'"); See also *Vojdik, supra* note 18, at 96-97 (noting that the Supreme Court held that "the 'mere recitation of a benign [or] compensatory purpose' or other governmental objective will not be accepted at face value" and the courts will examine the facts to determine if it is indeed the actual purpose of the single-sex program. *Id.* (citing to *United States v. Virginia*, 116 S.Ct. at 2277 and *Mississippi Univ. for Women*, 458 U.S. at 728 quoting *Weinberger v. Wiesenfeld* 420 U.S. 636,648 (1975)). *Vojdik* also noted that it is unclear if YWLS was created to redress past discrimination.); *But see Corcoran, supra* note 22 (stating that "school officials also argue that the school is designed to combat the discrimination to which co-ed schools subject female students.").

School, rather than what we have now.²⁷ We also need a good faith effort on the part of the district regarding the recruitment of boys, because, for a long period of time, they were telling people in East Harlem and the City that, in fact, this school was only for girls. They have refused to do that. Even when we suggested that they send a letter to the parents or the parents association, saying that they will accept applications for boys, they told us they will not do that.

What have we gotten? We have gotten nothing. We need today to publicly express our concerns about the lack of progress of the investigation into the complaint we filed against the Young Women's Leadership School.²⁸ This is indicative of the problem in upholding civil rights laws in the nineties.²⁹ We were told at the beginning it would take four to six months to complete this investigation. We objected. We did not understand why it would take that long. It is now more than five months since we filed our complaint, and it appears that the investigation is stalled, if it ever began.³⁰ Most of the documents requested by the

²⁷ See Sandra Day O'Connor, Essay, *The History Of The Women's Suffrage Movement*, 49 VAND. L. REV. 657, 662-668 (1996). The school is presently named the East Harlem Young Women's Leadership School. Susan B. Anthony was a leader in the Women's Suffrage Movement of the late Eighteenth Century and early Nineteenth Century. Susan B. Anthony voted in the presidential election of 1872 claiming the right of women to vote under the Fourteenth Amendment and was later arrested and convicted for that action. The publicity she gained was key to the women's movement leading to the eventual passage of the Nineteenth Amendment in 1920 giving women the explicit right to vote.

²⁸ See Rose Kim, *Not Making The Grade? / All-Girl School's Foes Fault U.S. Probe*, NEWSDAY, Feb. 3, 1997, at A20 (stating that "the agency has failed to act expeditiously on their complaint" which "makes a mockery of Title IX enforcement" and that "the government was engaging in a 'functional suspension, if not repeal of Title IX enforcement' by allowing the Board of Education to ignore the investigation's own deadlines"). See also *No Boys, No Deal*, CONN. L. TRIB., Sept. 9, 1996, available in LEXIS News Library, U.S. News File (stating that the complaint alleged that the "school was created without the intent of addressing the overall discrimination against female students in the NYC school system.").

²⁹ *Id.*

³⁰ See Jacques Steinberg, *All-Girls School May Violate Rights of Boys, Officials Say*, N.Y. TIMES, Sept. 18, 1997, at B1. On September 17, 1997 the Department of Education's Office of Civil Rights delivered preliminary findings via telephone to the school boards lawyers. The department stated that "the school appeared to violate the law, but that a remedy was possible."

Office of Civil Rights of the New York City Board of Education have not been submitted. On September 17th, a letter requesting information was sent saying that within 30 days we wanted certain documents. On November 19th, we sent another document from OCR to the Board of Education, City of New York stating: "On September 19, OCR sent a data request letter to the Board that indicated documents should be provided by October 17. To date, OCR has not received the documents. If the Board fails to provide the requested documents, OCR will refer this case for enforcement action based upon the Board's failure to provide OCR with access to materials." OCR gave the Board fifteen days to comply. Now, two months later, few documents have been submitted and there has been no enforcement.³¹

Where the Board stands on the merits is not the point. The point is that this makes a mockery of Title IX enforcement. This lack of compliance is simply an outrage, regardless of where you stand on the merits. It is unacceptable, and, perhaps, it is by design. To delay undermines our complaint. Perhaps it gives time to the New York City Board of Education to develop comparability under Title IX, and the possibility of the creation of an all boys' school to remedy the Title IX violation.³² The New York City Board of Education refuses to comply with the demands by the federal government, and at least process-wise it is very similar to when I was a young lawyer starting out with the ACLU in the south, when states like Mississippi and Alabama refused to cooperate with the federal government with regarding civil rights

³¹ *Id.* ("[T]he Education Department could issue a written finding that the Board is in violation of the law, and set a period of time in which the board must come into compliance. The board could then appeal the ruling to a federal judge, but, should that effort fail, the Education Department holds the ultimate clout: it has the authority to withhold the hundreds of millions of dollars that the city receives in Federal education aid each year.")

³² See *The Girls Single-Sex Schools: Testing Legal Grounds in California*, *American Political Network*, Oct. 10, 1997, available in WESTLAW, All News File, (reporting that "New York City Schools Chancellor Rudy Crew said he will not create a boys' school 'to balance' the city's all girls East Harlem School.").

enforcement.³³ Regardless of where you stand on the merits of the issue, all of us should be very concerned and troubled over the fact that our Board of Education is refusing to cooperate and submit documents. If the arguments are as clear as the proponents make them out to be, submit the documents, let the Department of Education say that the school is okay, and we will move on. So, very clearly, we must take immediate steps to get this investigation on schedule, because this issue is important. Second, the integrity of the administrative complaint process, and of the Department of Education, is in question now.³⁴ Furthermore, the New York City Board of Education's conduct is also in question.

On a personal note, I have for the last eight years been co-teaching a class on "Civil Rights and Race Relations" at New Utrecht High School in Bensonhurst where I graduated in 1961. We have experienced in our classroom some of the problems that some of the people talk about with regard to educational equity. But we have worked hard in our classroom to create a climate where all the students, girls and boys, are treated equally. There are ways to do it, and there are ways to assist teachers, so that a classroom is an equal educational opportunity for all of the students.³⁵ In January of 1994, the Chancellor's Task Force on Sex Equity

³³ See generally, *Cooper v. Aaron* 358 U.S. 1, 18. (The benchmark case where the Supreme Courts responded to a state refusing to enforce the ruling in *Brown v. Board of Education*, 347 U.S. 483 (1954), stating "[i]t follows that the interpretation of the Fourteenth Amendment enunciated by this Court in the *Brown* case is the supreme law of the land, and Art. VI of the Constitution makes it of binding effect on the states 'any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.'").

³⁴ See Marjorie A. Silver, *The Uses and Abuses of Informal Procedures in Federal Civil Rights Enforcement*, 55 GEO. WASH. L. REV. 482, 501-02 (1987) (describing the OCR's complaint process: agency must first acknowledge receipt of complaint within fifteen days; it must investigate the complaint within ninety days; if agency uncovers discrimination, it must make an attempt to "obtain voluntary compliance from the recipient within another ninety days. If these efforts to achieve voluntary compliance fail, the [agency] has thirty days within which to commence administrative enforcement proceedings by issuing to the recipient a notice of opportunity for a hearing before an administrative law judge, or to refer the case to [the Department of Justice] to commence suit in federal district court.").

³⁵ See AMERICAN ASSOCIATION OF UNIVERSITY WOMEN: HOW SCHOOLS SHORTCHANGE GIRLS, THE AAUW REPORT at 148-49 (1992) (exploring ways in which to assist teachers such as, requiring teachers to perform "course work on gender issues" and

published a report, a very good report, and it made a dozen recommendations about how we should proceed with the issue of educational equity in the City of New York.³⁶ We are talking about half a million girls. We are not just talking about fifty girls. We need to do better, and we must do better, in order to meet the obligations that we have. In conclusion, this issue of single sex education will not go away. It is also interesting that when some of us opposed the creation of an all black boys school in 1991, most people supported our opposition.³⁷ Here it is not the same reaction, even though I think the issue is very similar.³⁸ So I think we need more forums to discuss and analyze this crucial issue. We need to develop mutual principles to apply to these situations, and we need to explain them more clearly and more persuasively to the public. Otherwise, I will predict, as has already happened around these issues, cynicism and alienation will continue to increase, especially with our young people, because people do not understand the arguments that are being made, and it is important for leaders and educators to get out and have town hall meetings.³⁹ There has been no town hall meeting on this

developing a "national teacher examination," which would include a focus on different ways to "[achieve] gender equity in the classroom and in curricula").

³⁶ See REPORT FROM THE CHANCELLOR'S TASK FORCE ON SEX EQUITY, THE GENDER GAP IN NEW YORK CITY PUBLIC HIGH SCHOOLS: SIGNIFICANT DIFFERENCES ON THE BASIS OF SEX IN ENROLLMENTS, MATH AND SCIENCE ACHIEVEMENT, AND STAFFING 1 (1994).

³⁷ See generally Isabel Wilkerson, *Detroit's Boys-Only Schools Facing Bias Lawsuit*, N.Y. TIMES, Aug. 14, 1991 at A1 (The opponents called the school, Ujaama Institute, "a discriminatory throwback." *Id.*; Opponents also felt that by denying girls access to the school ignored the problems of inner-city girls. *Id.*; cf. Mireya Navarro, *Civil Liberties Union Likens Minority-School Plan to Segregation*, N.Y. TIMES, Jan. 13, 1991 at 20 (stating that the proposed all-boys school was supported by "Schools Chancellor Joseph A. Fernandez and six of the Board of Education's seven member board . . ." while others, such as New York Civil Liberties Union criticized plans for the school).

³⁸ See generally Corcoran, *supra* note 22, at 991 (stating that the school had no trouble "in attracting applicants," but it was confronted with much opposition from several New York civil and human rights groups).

³⁹ Cf. Charles R. Calleros, *Conflict, Apology and Reconciliation at Arizona State University: A Second Case Study in Hateful Speech*, 27 CUMB. L. REV. 91, 100-01 (1996-1997) (discussing the success of a town hall meeting held at Arizona State University in that, the

issue. There has been no public discussion of this issue, other than a forum like this. It is interesting that forums like this, that is when we find out and get our discovery with regard to what's happening at the school. I asked if I could be invited to the school. I would go to the school in a minute. I have never been invited to the school. I hear proponents get up at forums and say they have been to the school. Well, if the school is as good as they say it is, and the school is consistent with the law and the constitution, why are people who are running the school not allowing some of the critics to come in and have a look. We need to try to continue to try to bring people together despite their differences, their immutable traits, such as race and gender. We cannot go down the road of further polarization and divisiveness based on these immutable traits. We had too much of that already, not only in this country, but in the City of New York.⁴⁰ We can not give up on integrated coeducational education. I know it is not easy, but we can not throw the towel in. I repeat, the focus must be on substantially improving the integrated model, and not institutionalizing the segregated models. Thank you.

meeting was useful in "providing valuable information and [in] drawing groups together in common goals").

⁴⁰ See Victor A. Bolden, *Where Does New York City Go from Here: Chaos or Community?*, 23 *FORDHAM URB. L.J.* 1031, 1037 (1995) (noting that certain New York City communities have intentionally excluded African-Americans by "invoking class rather than race" as the grounds for exclusion); see generally Felicia R. Lee, *Cutting Chains that Still Bind Girls in School*, *N.Y. TIMES*, Apr. 10, 1994 at 37 (reporting on a New York City project to teach girls-only math and science classes as a result of lower expectations of girls in these areas).