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Feminists Target High School Sports

The Obama administration and its feminist allies are on a crusade to subject high school athletic programs to the same gender quotas that colleges face. So far, hundreds of schools in Idaho, Oregon and Washington State have been named in Title IX complaints submitted to the Education Department's Office for Civil Rights (OCR) this year. Enacted in 1972, Title IX prohibits gender-based discrimination in any educational programs that receive federal funding.

The administration signaled its intent to enforce rigid gender quotas in April of 2010 when the OCR rejected a recommendation from the independent U.S. Commission on Civil Rights regarding college athletic programs. The USCCR found that "the best method available" to satisfy the intent of Title IX is responding to student interests as indicated by surveys, instead of using mechanical calculations to force male/female sports participation rates to match student enrollment figures.

Obama's Office for Civil Rights rejected the USCCR report and furthermore sent colleges a clear message that they must not follow the advice of the USCCR. The administration sent a "Dear Colleague" letter to colleges nationwide withdrawing the "model survey" option as sufficient evidence of compliance with Title IX. The effectual message was that colleges must comply with gender-based quotas or expect trouble from the OCR.

No doubt emboldened by these events, the feminist National Women's

Law Center (NWLC) launched a campaign to push for gender-based quotas where they have never been enforced before — at the high school level. In November 2010, the NWLC filed administrative complaints against one school district in each of the OCR's 12 regions across the country as a sign of their future intentions.

"These 12 school districts are the tip of the iceberg," said NWLC Co-President Marcia Greenberger. "Nationwide, only 41% of all high school athletes are girls, even though they make up half of the population. That means schools are giving girls 1.3 million fewer opportunities than boys to play sports nationwide."

In the feminist mindset, it is unthinkable that girls could be even slightly less

interested in competitive sports than testosterone-fueled boys, despite participation data and surveys conducted by various sources finding that roughly

60% of students indicating an interest in sports are male. Indeed, Jocelyn Samuels, Vice President for Education and Employment at the NWLC, testified during the USCCR hearings that to believe that males and females could have different interest levels in sports was "a stereotype" and even "impermissible" under the law.

But crying "stereotype" doesn't change the reality that males and females aren't exactly alike in their pursuits and priorities. Rick Serns is the Title IX officer and director of employment services for one of the Washington State schools

included in the complaint. He said that all four schools in the Federal Way District have offered ten boys' sports and ten girls-only sports for a number of years. "Boys participate more in athletics, even though we offer the same amount of sports. The complaint doesn't allege that there is any failure in the facilities, teams, fields or practice space," he said. "We just don't have the participation levels up as high [for girls] as some people would like."

Charges against 12 school districts in 2010 have now mushroomed to charges against hundreds of school districts. There are so many charges against districts in Washington State, Idaho and Oregon that the OCR is either already conducting or considering conducting state-wide investigations.

Since Title IX (unlike other sex discrimination policies) does not require an injured party to come forward, that leaves interest groups like the NWLC and lawyers seeking financial gain free to sue schools even if no students complain. Department of Education officials have refused to say who filed the recent accusations against Washington State, Idaho and Oregon, but the 600-page complaints suggest the organized campaigns of special interest groups rather than individual stu-



dents or student groups who have a complaint against their schools.

Efforts to force gender quotas in high school athletic programs have not gone entirely unchallenged, however. In July, the Pacific Legal Foundation (PLF) filed a lawsuit against the Department of Education on behalf of the recently renamed American Sports Council (ASC) arguing that Title IX is not a quota mandate for high school sports programs. As part of the rollout of its lawsuit, the ASC also announced its name change from College Sports Council to American Sports Council. "Title IX enforcement's next battlefield will be American high schools, and we need to change our name to reflect a broader mandate," said Eric Pearson, Chairman of the ASC.

The ASC believes that some school

(See *High School Sports*, page 4)



No Intolerance Tolerated?

The Illinois Family Institute (IFI) was up in arms in June over yet another infringement of parental rights by the public school system. Hawthorn Middle School North in Vernon Hills invited six speakers to address students at a May program called "CHOICES" (Create Hopeful Opportunities in Children's Everyday Situations). According to Laurie Higgins, Director of the Division for School Advocacy for IFI, two of the speakers on bullying and drugs announced that they are homosexual and that they have always known they are homosexual.

The school sent a notification letter/permission slip to parents before the event informing them of the topics and speakers, but gave no indication that certain speakers would mention their homosexuality.

After the event, each student had an opportunity to write a thank-you note. One seventh-grader wrote to one of the homosexual speakers and included a statement recommending that, if the speaker or his boyfriend were ever tempted to use drugs again, they should ask themselves, "What would Jesus do?" Seventh-grade science teacher Tommie Arens criticized the reference to possible future drug use, so the student threw the note away. Later,

Arens retrieved the note from the trash and called a meeting with other teachers to question the boy about what he wrote.

Another teacher at the meeting, Erin Brickman, apparently suspected the student of intolerance against homosexuals. She asked him what he believed about homosexuality and what his church taught about it.

When she seemed to be getting nowhere with her questions, an exasperated Brickman said, "Cut the crap. I'm not going to take any more of this crap." She then marched out of the room.

Later, Brickman questioned the student's mother about homosexuality in the same way she had questioned the student. The tenor and tone of her questions seemed to address the students' religious and moral convictions more so than his actual conduct.

In a subsequent meeting with Principal Tom Springborn, the mother asked

(See *Intolerance*, page 4)



Guilty Until Proven Innocent

Yet another Title IX directive issued by the Education Department's Office for Civil Rights (OCR) has colleges scrambling to revamp their sexual harassment and assault policies before the beginning of the fall semester. Russlynn Ali, assistant secretary for the OCR, sent the "Dear Colleague" letter to all colleges and universities that receive federal aid — all but two in the U.S. — essentially directing them to scrap basic rules of fairness in disciplinary procedures for alleged sexual harassment or sexual assault.

Though the directive doesn't have the force of law, it does carry the threat of losing federal money for noncompliance. Both public and private higher ed institutions have become heavily dependent on federal funds, to the tune of \$41.3 billion during the 2009-2010 academic year. Yale alone received more than \$510 million for research and training initiatives during that timeframe, and the University of California at Berkeley received a comparable amount. That kind of money tends to encourage ready compliance rather than principled defiance.

The most troubling aspect of the directive, say critics, is a requirement that schools adopt a "preponderance of the evidence" standard in sexual harassment and sexual assault cases, replacing the traditionally accepted "clear and convinc-

ing" standard employed by many campus judiciaries. The "preponderance of evidence" is the lowest possible evidentiary standard, requiring only that a disciplinary committee

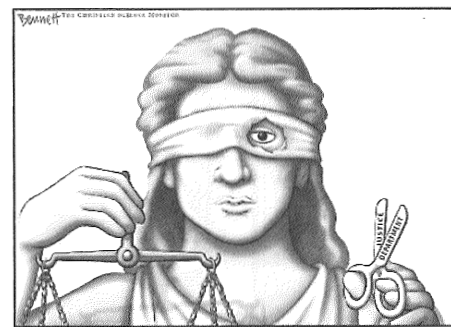
believe the defendant is "more likely than not" to be guilty of the charges, *i.e.* there is a 50.01% likelihood of guilt. The OCR letter explicitly ruled out the use of higher standards of proof,

claiming that they are "not equitable under Title IX."

Greg Lukianoff, President of the Foundation for Individual Rights in Education, is among those who believe the new OCR regulations are unjust. "Students accused of serious crimes like rape should not be tried under the same standard of proof used for a parking ticket," he said. "This is a dangerous and wrongheaded idea that will undermine the accuracy and reliability of the findings of campus courts."

Former Education Department lawyer Hans Bader also disputes the OCR's assertion that the "prompt and equitable resolution" of student sexual harassment or assault complaints require use of the minimal "preponderance of evidence" standard. Bader says that absolutely nothing in Title IX justifies denying an accused person's right to the presumption of innocence and the requirement of clear and

(See *Guilty*, page 4)



EDUCATION BRIEFS

Dozens of Pennsylvania schools face charges of cheating on state assessment tests. A study was prepared for the Pennsylvania Department of Education (PDE) in 2009 showing statistical irregularities, including large numbers of erasures on answer sheets and suspicious jumps in student achievement. The PDE decided not to investigate any further at that time. Now that further investigation is underway, the Philadelphia School District claims it never saw the original study. (www.thenotebook.org, 7-8-11 and 7-9-11)

The AFT boasted at its convention this year that it kept Connecticut from passing "parent trigger" legislation that would allow parents to use petition drives to make positive changes in their schools. The AFT explained that it successfully pressured union-sympathizing legislators to strip the reform of its power by requiring parents to appeal to school governance councils, which, despite the name, are only advisory bodies with no real authority. (*The Wall Street Journal*, 8-4-11)

Taxpayers are unwilling to dish out more money for education, as President Obama suggests, after considering the cost. A recent survey suggested that 65% of Americans want to spend more on education. However, after being informed that the government already spends \$12,922 per student, per year, on education, and that an increase in funding would necessitate an increase in taxes, 65% said that spending should decrease or stay the same. (*The Wall Street Journal*, 8-5-11)

The nation's 2nd largest school system squanders 25% of its teacher payroll on an ineffective measure of teacher quality, according to the National Council on Teacher Quality. The Los Angeles Unified School District, like many around the country, gives automatic raises to teachers who complete graduate coursework, yet such training does not improve student performance. Council president Kate Walsh said the money would be better spent on paying teachers who deliver real results. (edweek.org, 6-8-11)

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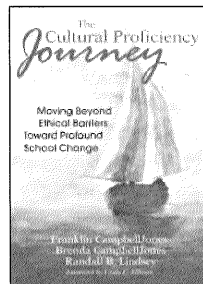
Stimulating 'Social Justice'

With the recent onslaught of budget cuts, you would think that schools would be spending money only on absolute necessities. But recently the school board in Omaha, Nebraska unanimously voted to spend taxpayer funds on teacher training that was not only unnecessary, but downright detrimental.

In April, Omaha Public Schools spent \$130,000 in federal stimulus money to buy 8,000 copies of a book called *The Cultural Proficiency Journey: Moving Beyond Ethical Barriers Toward Pro-found School Change*, which was distributed to every school employee, including janitors.

The book comes with a worksheet that teachers can use to find their cultural sensitivity score. The highest score goes to teachers who believe that "white privilege" exists in America and that a person's race defines their social and economic status. The book, which was written by Virginia education consultants, will be used in conjunction with a study guide produced by the school district. Study groups will meet each quarter to discuss the material.

In the book, homosexuality is treated as equivalent to race. Teachers are encouraged to embrace diversity wholeheartedly, whether sexual or racial. The "social justice" advocated in this book encourages teachers not to treat all children the same.



Instead of being "color-blind," teachers are instructed to recognize and esteem each student according to differences.

"The purpose of providing this resource is to help staff see that people come from a multitude of different backgrounds which cause them to respond differently to the same set of facts, depending on their personal perspectives," said school board president Sandra Jensen. "Recognition that one might have a certain perspective is critical to treating all people equally."

The book asserts that "white supremacy" is promulgated by our government, and that wealth, power, and special privileges are still being given exclusively to white people. The authors of the book encourage teachers to "unshackle themselves from tradition and become facilitators for reconciliation of historical injustices."

The book study is part of an overall goal to decrease the difference in educational achievement between white and minority students. But becoming "culturally sensitive" will not fix those problems. Children should be treated equally no matter their background and be given true justice according to the rules of the school. This book is another example of how teachers and students are being indoctrinated in politically correct thinking. Apparently, the school board believes force-feeding an ideology of resentment is a better way to spend stimulus money than improving reading, writing, and arithmetic skills. (*Omaha World-Herald*, 7-10-11)

Book of the Month



Choosing the Right College, editor John Zmirak, ISI Books 2011, 1047 pages, \$29.95.

The eighth edition of **Choosing the Right College** continues its tradition of providing in-depth, independently funded research on 140 Ivy League institutions, state universities, liberal arts colleges, Christian (and ex-Christian) schools, military academies and small schools devoted to the Great Books.

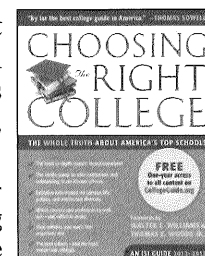
While *U.S. News and World Report* ranks schools on subjective prestige and mixes useful statistics with those of dubious value (such as faculty salaries), the ISI guide takes a decidedly different approach. The organizing principle behind the academic evaluation of each school is how well (or poorly) it provides students with a classic liberal arts education — that is, a chance to explore the riches of Western and other cultures and become a well-rounded, responsible citizen of a free society. For schools lacking such a core curriculum, the guide suggests eight classes drawn from the school's catalog.

Other aspects of academic life are also addressed, including the rigor of various academic departments, names of the best professors, courses that ought to be avoided, student-faculty ratio, and the percentage of classes taught by graduate students (when available). Readers also get the inside scoop from current students, professors and graduates on whether the school encourages intellectual freedom, or is stifling in its aversion to Christianity and its commitment to politically correct speech.

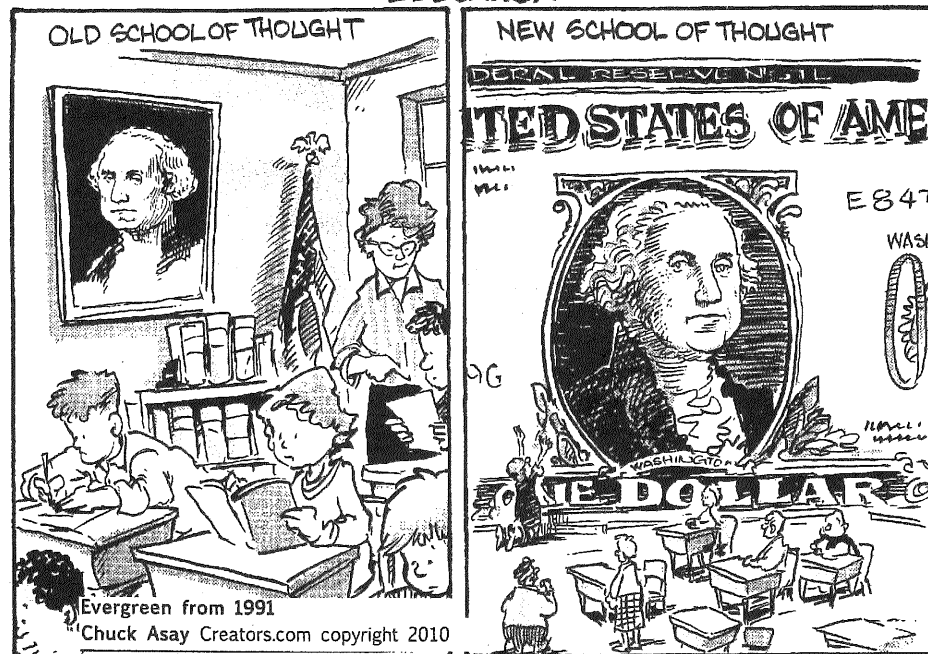
The editors also give the gritty truth about student life outside of class, considering things like whether a school is known for its party atmosphere or "hookup" culture; the prevalence of alcohol and drugs; whether dorm floors, bathrooms, and even dorm rooms are coed; and the frequency of serious crimes on campus. Student clubs, athletics programs, Greek life, and cultural opportunities in the surrounding communities are also given attention.

Quirky details like the Naked Quad Run at Tufts and the group "primal scream" during finals at Grove City provide readers with a sense of each school's personality and what it might be like to attend. Parents and prospective students will also find information on tuition and expenses, how generous schools are with financial aid, and the average debt-load of each school's graduates.

The appendix provides a list of questions to ask during campus visits that will prove useful for evaluating schools not listed in the guide. Additionally, ISI offers a free one-year subscription to its companion website, CollegeGuide.org, with the purchase of the book. The website profiles dozens more schools, offers tips on the admissions process, and more.



EDUCATION



'Brain Breaks' Replace Recess

Even though most teachers believe that recess is vitally important to students' development, many schools do not set aside time for it, even in elementary school. Over the past decade, many schools have decreased or even eliminated recess time.

In one recent instance, kindergarten teachers in Wichita, Kansas were informed that the new school schedule would allow only one 20-minute recess at lunch. Under the revised schedule, students will devote three hours to reading and language, and one and a half hours to math. Kindergarten teachers are allowed to give "brain breaks" totaling up to 15 minutes per day as needed, but these only last two-to-five minutes each, and do not achieve the same effect as a longer outdoor re-

cess. In total, the five- and six-year-old students will only get up to 35 minutes of recess in their seven-hour school day.

One kindergarten teacher who received the schedule said, "They say we can take breaks, but I look at this schedule and think, 'When?' If we do everything we're supposed to do, there's very little time — no time, really — to get them outside to play and run around."

Although some of these young children could benefit from a nap as well as recess, the state has different priorities for them. In an attempt to raise standardized test scores, Wichita schools are implementing a new reading curriculum called *Read Well* that will increase academic pressure on kids not yet in the first grade. (*Associated Press*, 8-5-11)



FOCUS: Less Academics, More Narcissism

By Heather Mac Donald

California's budget crisis has reduced the University of California to near-penury, claim its spokesmen. "Our campuses and the UC Office of the President already have cut to the bone," the university system's vice president for budget and capital resources warned in advance of a July meeting of the university's regents. Well, not *exactly* to the bone. Even as UC campuses jettison entire degree programs and lose faculty to competing universities, one fiefdom has remained virtually sacrosanct: the diversity machine.

Not only have diversity sinecures been protected from budget cuts, their numbers are actually growing. The University of California at San Diego, for example, is creating a new full-time "vice chancellor for equity, diversity, and inclusion." This position would augment UC San Diego's already massive diversity apparatus, which includes the Chancellor's Diversity Office, the associate vice chancellor for faculty equity, the assistant vice chancellor for diversity, the faculty equity advisors, the graduate diversity coordinators, the staff diversity liaison, the undergraduate student diversity liaison, the graduate student diversity liaison, the chief diversity officer, the director of development for diversity initiatives, the Office of Academic Diversity and Equal Opportunity, the Committee on Gender Identity and Sexual Orientation Issues, the Committee on the Status of Women, the Campus Council on Climate, Culture and Inclusion, the Diversity Council, and the directors of the Cross-Cultural Center, the Lesbian Gay Bisexual Transgender Resource Center, and the Women's Center.

It's not surprising that the new vice chancellor's mission is rather opaque, given its superfluity. According to outgoing UCSD chancellor Marye Anne Fox, the new VC for EDI "will be responsible for building on existing diversity plans to develop and implement a campus-wide strategy on equity, diversity and inclusion." UCSD has been churning out such diversity strategies for years. The "campus-wide strategy on equity, diversity and inclusion" that the new

hire will supposedly produce differs from its predecessors only in being self-referential: it will define the very scope of the VC's duties and the number of underlings he will command. "The strategic plan," says Fox, "will inform the final organizational structure for the office of the VC EDI, will propose metrics to gauge progress, and will identify potential additional areas of responsibility."

What a boon for a taxpayer-funded bureaucrat, to be able to define his own portfolio and determine how many staff lines he will control! UC Berkeley's own vice chancellor for equity and inclusion shows how voracious a diversity apparatchik's appetite for power can be. Gibor Basri has 17 people working for him in his immediate office, including a

"chief of staff," two "project/policy analysts," and a "director of special projects." The funding propping up Basri's vast office could support many an English or history professor. According to state databases, Basri's base pay in 2009 was \$194,000, which does not include a variety of possible add-ons, including summer salary and administrative stipends. By comparison, the official salary for assistant professors at UC starts at around \$53,000. Add to Basri's salary those of his minions, and you're looking at more than \$1 million a year.

UC San Diego is adding diversity fat even as it snuffs out substantive academic programs. In March, the Academic Senate decided that the school would no longer offer a master's degree in electrical and computer engineering; it also eliminated a master's program in comparative literature and courses in French, German, Spanish, and English literature. At the same time, the body mandated a new campus-wide diversity requirement for graduation. The cultivation of "a student's understanding of her or his identity," as the diversity requirement proposal put it, would focus on "African Americans, Asian Americans, Pacific Islanders, Hispanics, Chicanos, Latinos, Native Americans, or other groups" through the "framework" of "race, ethnicity, gender, religion, sexuality, language, ability/disability, class or age." Training computer scientists to compete with the growing technical prowess of China and India, apparently, can wait. More pressing is guaranteeing that students graduate from UCSD having fully explored their "identity." Why study Cervantes, Voltaire, or Goethe when you can contemplate yourself? "Diversity," it turns out, is simply a code word for narcissism.

UC San Diego just lost a trio of prestigious cancer researchers to Rice University. Rice offered them 40% pay raises over their total compensation packages, which at UCSD ranged from \$187,000 to \$330,000 a year. They take with them many times that amount in government grants. Scrapping the new Vice Chancellorship for Equity, Diversity, and Inclusion could have saved at least one, if not two, of those biologists' positions, depending on how greedily the new VC for EDI defines his realm. UCSD is not disclosing how much the VC for EDI will pull in or how large his staff will be: "We expect that [budget/staffing] will be part of the negotiation with the successful candidate at the end of our search process," says Senior Director of Marketing and Communications Judy Piercey. Since the new UCSD vice chancellor will be responsible for equity, inclusion, and diversity — unlike the Berkeley vice chancellor, who is responsible only for equity and inclusion — the salary at UCSD will presumably reflect that infinitely greater mandate.

UCSD is by no means the only campus bullish on the diversity business, despite budgetary shortfalls hitting the UC system everywhere else. In 2010, Berke-

ley announced the UC Berkeley Initiative for Equity, Diversity and Inclusion, funded in part by a \$16 million gift from the Evelyn and Walter Haas, Jr. Fund. The "new" initiative duplicates existing "equity" projects, not least the Berkeley Diversity Research Initiative, established by Berkeley chancellor Robert Birgeneau in 2006. This latest initiative boasts five new faculty chairs in "diversity-related research" — one of which will be "focused on equity rights affecting the lesbian, gay, bisexual and transgender community," according to the press release, and "will be one of the first endowed chairs on this subject in the United States." (Sorry, Berkeley, Yale got there first.)

The main purpose of the UC Berkeley Initiative for Equity, Diversity and Inclusion seems to be to buy for the academic identity racket the respectability that no amount of campus mau-mauing has yet been able to achieve. "Area studies such as ethnic studies, queer studies and gender studies tend to be marginalized and viewed as less essential to the university than such fields as engineering, law or biology," glumly noted the press release. (The use of the term "area studies" to refer to the solipsist's curriculum is a novel appropriation of a phrase originally referring to geopolitical specialization.) According to a campus administrator on the Berkeley Diversity Research Initiative's executive committee, the new initiative will change the character of Berkeley's area studies by "asserting [*sic*] them squarely into the main life and importance of the campus."

Conferring academic legitimacy on narcissism studies is apparently a superhuman task deserving of superhuman remuneration. The salary and expense account of the likely new director of the UC Berkeley Initiative for Equity, Diversity and Inclusion, John Powell — who is currently the executive director of the Kirwan Institute for the Study of Race and Ethnicity at Ohio State University's law school — will likely dwarf anything seen so far among diversocrats, according to inside sources.

UCLA's diversity infrastructure has likewise been spared the budgetary ax. In the pre-recession 2005–2006 academic year, UCLA's associate vice chancellor for faculty diversity reported up the bureaucratic ladder to a vice chancellor for academic personnel, herself reporting to an executive vice chancellor and provost, who in turn reported to the university chancellor. Today, that associate vice chancellor for faculty diversity has been transformed into a vice provost position, while the vice chancellor for academic personnel above her has been eliminated. The new vice provost for faculty diversity will not be lonely; she can pal around with UCLA's associate director for diversity research and analysis, its associate vice provost for student diversity, its associate dean for academic diversity, its direc-

tor of diversity outreach, and its director of staff affirmative action.

The one observable activity performed by these lavishly funded diversity bureaucrats is to pressure academic departments to hire more women and minorities. (Even that activity is superfluous, given the abundant pressure for race and gender quotas already exerted by campus groups, every accrediting agency, and external political bodies.) Should a department fail to satisfy — as it inevitably will in every field with low minority participation — only one explanation is possible: a departmental or campus "climate" hostile to diversity, which then requires more intercessions from the diversity bureaucracy. The fact that every other college and university in the country is scouring the horizon for

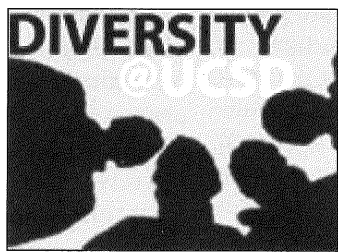
the identical elusive cache of qualified female and minority hires is not allowed into the discourse. Even less acceptable is any recognition of the academic achievement gap between black and Hispanic students, on the one hand, and white and Asian students, on the other, which affects the pool of qualified faculty candidates in fields with remotely traditional scholarly prerequisites. Student admissions offices are under the same pressure, which in California results in the constant generation of new schemes for "holistic" admissions procedures designed to evade the ban on racial and gender preferences that California voters enacted in 1996.

UC San Diego's lunge toward an even more costly diversity apparatus was inspired in part by one of those periodic outbreaks of tasteless adolescent humor that every diversity bureaucrat lives for (and whose significance is trivial compared with the overwhelmingly supportive environment that today's universities provide all of their students). But it was hardly out of character on a campus presided over by a chancellor fond of "social justice" rhetoric. And UC's other campuses are equally committed to bureaucratic diversity aggrandizement, even without a pretext for accelerating those efforts.

Meanwhile, in light of a \$650 million cut in state financing, the University of California's regents increased tuition rates to \$12,192 at their July meeting. Though tuition at UC remains a bargain compared with what you would pay at private colleges, the regents failed to meet their responsibility to California's taxpayers by passing over in silence the useless diversity infrastructure that sucks money away from the university's real function: teaching students about the world outside their own limited selves.

California's budget crisis could have had a silver lining if it had resulted in the dismantling of that infrastructure — but the power of the diversity complex makes such an outcome unthinkable.

Heather Mac Donald is a contributing editor of City Journal and the John M. Olin Fellow at the Manhattan Institute. This piece is reprinted with permission of the author and City Journal.



CAMPUS DIVERSITY»

High School Sports (Continued from page 1)

districts have already been intimidated into curbing certain boys' sports to comply with the gender-based quota interpretation of the law. Colorado parent Dwight Johnson said he has been trying to get boys' volleyball recognized as a sanctioned high school sport, but the Colorado High School Activities Association cited Title IX as a deterrent. Johnson also said that while 30 Colorado schools recognize ice

hockey as a sanctioned sport, roughly 20 more only recognize it at the club level because they fear falling out of compliance with Title IX if they add more boys to their sports rosters.

The legal arguments of the lawsuit center around the so-called "three-part test" devised by federal regulators in 1979. The OCR ruling ostensibly offers schools three options for proving compliance with Title IX:

1. A quota whereby female sports participation is proportionate to female enrollment
2. Progress towards reaching such a quota
3. Fully accommodating the underrepresented gender's interest in athletics

Unfortunately, the effect of the three-part test has been to encourage quotas at the college level because that standard is the easiest to demonstrate and is therefore considered a "safe harbor" to avoid lawsuits. Pacific Legal Foundation attorney Joshua Thompson argues that the three-part test has no relevance to high schools, however.

Thompson noted that the title of the 1979 policy includes the word "intercolle-

giate," and not "interscholastic" athletics. "No federal regulation or interpretation has ever said that high schools must abide by the three-part test and the sex-based quota system it fosters," he said.

But Russlynn Ali, the assistant secretary for civil rights in the Department of Education, disagreed. "The law is really clear, and has been since 1979, and it has been applied uniformly to K-12 and colleges and universities across Democratic and Republican administrations," she told the *New York Times*.

Attorney Thompson called Ali's assertion that the strict requirements of the three-part test have always applied to high schools "astounding." Furthermore, he said, such a position violates the Equal Protection Clause of the Constitution and would certainly invite many lawsuits against the Department.

In the meantime, the latest High School Athletics Participation Survey found that the number of high school students playing sports reached an all-time high this past year. The report also notes that during the past 20 years, the increase in girls participation in sports has more than doubled that of boys — 63% to 31%. In Oklahoma, there were actually more girls than boys participating in sports last year — 44,112 versus 42,694.

The good news about increased participation of school-age girls in sports is unlikely to deter feminist activists though. They've made it clear time and time again that their real goal is not equal opportunities for women, but equal outcomes, regardless of whether most women desire that equal outcome or not. (blogs.edweek.org, 8-23-11 and 7-21-11; *The New York Times*, 2-8-11; federalwaymirror.com, 4-19-11)

Intolerance (Continued from page 1)

why parental notification neither referenced the speakers' open homosexuality, nor notified parents that homosexuality would be mentioned. The principal told her that homosexuality was not a speech topic and the speakers did not talk about it very long. Yet in the short time that it was mentioned, homosexuality was presented in a positive light by the speakers as something that you *are* and not something that you *do*, an assertion many parents disagree with and would not appreciate their children being taught.

Laurie Higgins was also present during that meeting between the principal and the parent, and she asked Springborn if a speaker would still be invited to address students if the principal knew he was going to mention that he was in an incestuous relationship with his sister. Springborn responded that that would be fine, implying that he is among those educators who are persuaded that sexual deviancy is amoral and that a person's sexual preferences are equivalent to their skin color.

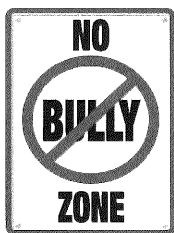
Springborn did admit that some of the teachers have strong beliefs in favor of homosexuality, that the personal beliefs of teachers should be left at home,

and that Brickman's interrogation of the student was inappropriate; however, teachers' subjective opinions have been brought into his school's classrooms in more ways than one.

Another teacher told Springborn that she questioned a student because he was staring at another student in a "bullying fashion." One teacher expressed concern about a student's "tone of voice" in questioning one of the CHOICES program speakers.

"How minimally unpleasant does a student action have to be and how draconian will the school anti-bullying measures have to become before parents say 'no more'?" asked Higgins. "Every civilized adult opposes bullying, but not every unpleasant student action constitutes bullying. Once teachers start inquiring about students' feelings or religious beliefs, they have gone too far," she wrote in an email alert distributed by IFI.

The take-away lesson for parents is that even when schools comply with parental notification laws, they don't always give the full story. It is ultimately up to parents to remain vigilant and hold schools accountable to protect their children from unwanted influences. (www.illinoisfamily.org, 6-21-11)



Guilty (Continued from page 1)

convincing evidence to support his conviction. He suggests that Ali and her colleagues are "legislating through administrative fiat, in a way that is arbitrary and capricious."

The OCR's new interpretation of Title IX also "strongly discourages" other basic elements of due process for the accused, including permitting the defendant to question or cross-examine his accuser during the hearing. In addition, if the school provides an appeals process for the defendant, it must also allow the accuser to appeal, subjecting the defendant to double jeopardy.

Although being found guilty of rape by a campus tribunal won't land a man in jail the way being found guilty in a criminal court would, the consequences are still quite serious. A student convicted of sexual assault is likely to be expelled, and will have trouble gaining admittance to another college. He may also be barred from graduate or professional school and from employment in certain government agencies. Added to these career-destroying consequences are a loss of reputation and possible criminal prosecution.

Getting at the truth of he-said, she-said cases is tricky business even for police and attorneys trained in fact gathering and evidence analysis, particularly when alcohol and hazy memories are involved. But the OCR now requires campus tribunals originally designed to decide accusations of plagiarism and campus drug violations to adjudicate the equivalent of felony criminal charges. These panels are typically composed of professors, administrators, and possibly a student or two — none of whom has the training and resources to investigate and adjudicate felonies. "We've been lured into doing something in a criminal justice model that the criminal justice system itself hasn't been able to deal with," said Peter F. Lake, director of the Center for Excellence in Higher Education Law and Policy at Stetson University.

According to Peter Berkowitz, a senior fellow at Stanford University's Hoover Institution, the training campus tribunal members do receive often instructs them to presume men are guilty. "The materials," he said, "are likely to include dubious statistics about the incidence of sexual assault; vulgar generalizations that men are controlling, angry and deceitful; and assurances that women neither lie nor make errors in alleging that they have been sexually assaulted."

OCR secretary Ali justifies implementing such draconian measures against the accused by citing the statistic that "one in five women are victims of completed or attempted sexual assault." Title IX guarantees students a right to an education free of discrimination based on sex, she says, and sexual assault and harassment violate that right.

But are 20% of college women really victims of sexual violence on campus? If so, notes Heather MacDonald of the Manhattan Institute, then college campuses are more dangerous for women than some of America's most violent cities. By way of comparison, there were 36.8 rapes per 100,000 inhabitants in Detroit in 2009, a rate of 0.037%.

A 2003 Bureau of Justice special report, "Violent Victimization of College Stu-

dents" from 1995-2002, found that there were six rapes or sexual assaults per 1,000 female students per year. That works out to one victim in 40 female students during four years of college. While still far too many, that number is a far cry from the one in five Ali claims.

As it turns out, the study Ali cited was an online survey conducted by the Justice Department, in which 5,446 college women responded to questions about their sexual experiences, both on campus and off. The major problem with this study is that the researchers — not the women — decided whether the women had been assaulted, using an expansive definition of assault that included "forced kissing" and "attempted forced kissing."

The researchers also automatically counted as assault incidents where the women said they had sexual contact with someone when they were unable to give consent because they were drunk, because according to the researchers, "an intoxicated person cannot legally consent to sexual contact." Significantly, when the researchers asked the young women if they considered what happened to them "rape," three-quarters of the incapacitated didn't. Half of those said they themselves were partially or fully responsible for what had happened.

According to Christina Hoff Sommers of the American Enterprise Institute, the Justice Department itself stamped a disclaimer on every page of the report asserting that it is not a publication of the Department, and did not necessarily reflect the positions or policies of the Department. "Ali, however, treats it as an official government finding and ignores the controversies and ambiguities surrounding her 'one in five' figure," wrote Sommers in a piece for *The Chronicle of Higher Education*.

Nonetheless, deans at Yale, Brandeis University, Cornell, and the Universities of Georgia and Oklahoma rushed to change their disciplinary procedures to comply with the OCR's decree. Stanford University lowered its evidentiary burden from "clear and convincing" to "preponderance of evidence" in the middle of one student's sexual misconduct hearing. Attorney and author Harvey Silverglate reports that the student was promptly found guilty and suspended for two years.

Faced with the choice of adopting the OCR decree or losing federal funding, most other schools are sure to follow suit. But that doesn't mean we shouldn't call a spade a spade, asserts Sommers. The new regulations "are not enlightened new procedures for protecting students from crime," she said. "They are a declaration of martial law against men, justified by an imaginary emergency, and a betrayal of the Title IX equity law." (*The Chronicle of Higher Education*, 4-4-11 and 6-5-11; *The Wall Street Journal*, 8-20-11 wsj.com, 7-15-11; nationalreview.com, 4-5-11; *Philadelphia* magazine, September 2011)

