Office for Civil Rights, Education

is a bona-fide occupational qualification for the particular job in question.

§ 106.60 Pre-employment inquiries.
(a) Marital status. A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."
(b) Sex. A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

§ 106.61 Sex as a bona-fide occupational qualification.
A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures [Interim]

§ 106.71 Procedures.
The procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 34 CFR 100.6-100.11 and 34 CFR, part 101.

Subject Index to Title IX Preamble and Regulation

A
Access to Course Offerings [43, 55, 56, 57, 58]; 106.34
Access to Schools Operated by LEA's. [44]; 106.35
Admissions, [5, 6, 30]; 106.15, 106.21
Affirmative and remedial action, [16, 17, 24]; 106.3(a); (b)
Administratively separate units, [30]; 106.15(b) 106.2(a)
Educational Institutions, [30], 106.15(d), 106.2(n)
General, 106.21(a), 106.2(p)
Prohibitions relating to marital and parental status, [32, 36]; 106.21(c)
Professional schools, [30], 106.2(m)
Public institutions of undergraduate higher education, 106.15(e)
Recruitment, [34, 35]; 106.23
Specific prohibitions, 106.21(b)
Tests, [31]; 106.21(b) (2)
Preference in admission, [35]; 106.22
Advertising, 106.59
Affirmative Action, see "Remedial and Affirmative Actions"
Assistance to "outside" discriminatory organizations, [40, 53]; 106.31(b) (7), (c)
Assurances, [18]; 106.4
Duration of obligation, 106.4(b)
Form, 106.4(c)
Athletics, [69 to 78]; 106.41
Adjustment period, [78]; 106.41(d)
Contact sport defined, 106.41(d)
Equal opportunity, [76, 77]; 106.41(d)
Determining factors, 106.41(c) (i) to (x)
Equipment, 106.41(c)
Expenditures, 106.41(c)
Facilities, 106.41(c)
Travel, 106.41(c)
Scholarships, [64, 65]; 106.37(d)
General, [69, 70, 71, 72, 73, 74, 75]; 106.41(a)
Separate teams, [75]; 106.42(b)

B
BF OQ, [96]; 106.61

C
Comparable facilities
Housing, [42, 54]; 106.32
Other, 106.33, 106.35(b)
Compensation, [84, 87, 92]; 106.54
Counseling

1Preamble paragraph numbers are in brackets [].
Subject Index

Disproportionate classes, [45, 59]; 106.36(c)
General, [45, 59]; 106.36(a)
Materials, [45, 59]; 106.36(b)
Course Offerings
Adjustment period, [55]; 106.34(a) (i)
General, [7, 43]; 106.34
Music classes, [43]; 106.34(f)
Physical education, [43, 56, 58];
Sex education, [43, 57]; 106.34(e)
Coverage, [5]; 106.11 to 106.17
Exemptions
Curricular materials, [52]; 106.42(a)
Definitions, [14, 15]; 106.2 (a) to (r)
Designation of responsible employee, [20, 22];
106.8(a), (b)
Dissemination of policy, [21]; 106.9
Distribution, 106.9(c)
Notification of policy, [21]; 106.9(a)
Publications, 106.9(b)
Dress codes 106.31(b) (4)
E
Education Institutions
Controlled by religious organizations, 106.12
Application, [28, 29]; 106.12(a)
Exemption, [26]; 106.12(b)
Education Program and Activities
Benefiting from Federal financial assistance, [10, 11]; 106.11
General, [10, 11, 53]; 106.31(a)
Programs not operated by recipient, [41, 54]; 106.31(c)
Specific prohibitions, [38, 39, 40, 53]; 106.31(b)
(b)
Effective Date, [3]
Employee responsible for Title IX, see
“Designation of Responsible Employee”
Employment
Advertising, 106.59
Application, 106.51(b)
Compensation, [84, 92]; 106.54
Employment criteria, 106.52
Fringe benefits, [88, 89]; 106.56
General, [81, 82, 87]; 106.51
Job Classification and Structure, 106.55
Marital and Parental Status
Pregnancy, [85, 93]; 106.57
Pregnancy as Temporary Disability, [85, 93]; 106.57(b)
Pregnancy Leave, [85, 93, 94]; 106.57(c)
Pre-Employment Inquiry
Recruitment, [83, 90, 91, 95]
Sex as a BFOQ, [96]; 106.61
Student Employment, [66]; 106.38
Tenure, 106.51(b) (2)
Exemptions, [5, 27, 28, 29, 30, 53]; 106.12(b),
106.13, 106.14, 106.15(a), 106.15(d), 106.16
F
Federal Financial Assistance, 106.21a
Financial Assistance to students, [46, 60, 61];
106.37
Athletic Scholarships, [46, 64, 65]; 106.37(d)
34 CFR Ch. I (7–1–03 Edition)
Foreign institutions, study at [63]; 106.31(c)
General, 106.37
Non-need scholarships, [62]; 106.37(b)
Pooling of sex-restrictive, [46, 61, 62];
106.37(b)
Sex-restrictive assistance through foreign
or domestic wills [46, 61, 62]; 106.37(b)
Foreign Scholarships, see “Financial Assistance” 106.37 and “Assistance to ‘outside’
discriminatory organizations”, 106.31(c)
Fraternities/Sororities
Social, [53, 27, 28]; 106.14(a)
Business/professional, [40, 53, 27, 28]; 106.31
(b) (7)
Honor societies, [40, 53]; 106.31(b) (7)
Fringe benefits, [67, 88, 89]; 106.56, 106.39
Part-time employees, [19]
G
Grievance Procedure, see “Designation of re-
sponsible employee”, 106.8(a), (b)
H
Health and Insurance Benefits and Services,
[67, 88, 93]; 106.39, 106.56
Honor societies, [40, 53]; 106.31(b) (7)
Housing, 106.32
Generally, [42]; 106.32(b)
Provided by recipient, 106.32(b)
Other housing, [54]; 106.32(c)
J
Job Classification and Structure, 106.55
K
L
LEA’s, [44]; 106.35
M
Marital and Parental Status
Employment
General, [85, 93, 94]; 106.57
Pregnancy, [85, 93, 94]; 106.57(b)
Pregnancy as a temporary disability, [85, 93, 94]; 106.57(c)
Pregnancy Leave, [85, 93, 94]; 106.57(d)
Students
General, [49]; 106.40(a), (b)
Pregnancy and related conditions, [50];
106.40(b) (1) (2) (3) (4) (5)
Class participation, [50]; 106.40(b) (1)
Physician certification, [50]; 106.40(b) (2)
Special classes, [50]; 106.40(b) (3)
Temporary leave, [50]; 106.40(b) (4), (5)
Membership Practices of Social fraternities
and sororities, [27, 28, 53]; 106.14(a)
Voluntary youth service organizations, [27, 28, 53]; 106.14(c)
YMCA, YWCA and others, [27, 28, 53];
106.14(b)
Military and Merchant Marine Educational
Institutions, [29]; 106.13
P
Pooling, see “Financial Assistance”, 106.37
Pre-employment Inquiries
Office for Civil Rights, Education

Marital status, [86, 95]; 106.60(a)
Sex, 106.60(b)
Preference in Admissions, [35]; 106.22
See also “Remedial and Affirmative Action”

Pregnancy, Employment
General, [85, 93, 94]; 106.57
Pregnancy, [85, 93, 94]; 106.57(b)
Pregnancy as temporary disability, [85, 93, 94]; 106.57(c)
Pregnancy leave, [85, 93, 94]; 106.57(d)

Students
General, [49, 50]; 106.40(a) and (b)
Pregnancy and related conditions; [50]; 106.40(b) (1)
Physical certification, [50]; 106.40(b) (2)
Special class, [50]; 106.40(b) (3)
Temporary leave, [50]; 106.40(b) (4), (5)

Private Undergraduate Professional Schools, [30]; 106.15(d)

Purpose of Regulation, [13]; 106.1

R

Real Property, 106.2(g)

Recruitment
Employment
Nondiscrimination, [83, 91]; 106.53(a)
Patterns, 106.53(b)

Student
Nondiscrimination, [34, 35]; 106.23(a)
Recruitment at certain institutions, 106.23(b)

Religious Organizations
Application, [29, 28]; 106.12(a)
Exemption, [26]; 106.12(b)

Remedial and Affirmative Actions, [16, 17, 24]; 106.3

S

Scholarships, see “Financial Assistance”, 106.37
Self-evaluation, [16, 22; 106.3(c), (d)
Surplus Property (see Transfer of Property 106.5)
Duration of obligation 106.6(b)
Real Property 106.4(b) (1)

T

Textbooks and curricular materials, [52, 79, 80]; 106.42
Termination of funds, [10, 11]
Transfer of property, 106.5

Transition Plans
Content of plans, 106.17(b)
Different from Adjustment period, [78]; 106.4(d)
Submission of plans, 106.17(a)

APPENDIX A—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF AGE, RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS

EDITORIAL NOTE: For the text of these guidelines, see 34 CFR part 100, appendix B. [44 FR 17168, Mar. 21, 1979]

PART 110—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General
Sec.
110.1 What is the purpose of ED’s age discrimination regulations?
110.2 To what programs or activities do these regulations apply?
110.3 What definitions apply?

Subpart B—Standards for Determining Age Discrimination
110.10 Rules against age discrimination.
110.11 Definitions of “normal operation” and “statutory objective.”
110.12 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.
110.13 Exceptions to the rules against age discrimination: Reasonable factors other than age.
110.14 Burden of proof.
110.15 Affirmative action by recipients.
110.16 Special benefits for children and the elderly.
110.17 Age distinctions contained in ED’s regulations.

Subpart C—Duties of ED Recipients
110.20 General responsibilities.
110.21 Notice to subrecipients.
110.22 Information requirements.
110.23 Assurances required.
110.24 Recipient assessment of age distinctions.
110.25 Designation of responsible employee, notice, and grievance procedures.

Subpart D—Investigation, Conciliation, and Enforcement Procedures
110.30 Compliance reviews.
110.31 Complaints.