Office for Civil Rights, Education

(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

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)

Effective Date, [3]
Employee responsible for Title IX, see "Designation of Responsible Employee"

Employment
Advertising, 106.59
Application, 106.51(b)
Compensation, [94, 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, 106.57
Pregnancy, [85, 93]; 106.57(b)
Pregnancy as a temporary disability, [85, 93]; 106.57(c)
Pregnancy Leave, [85, 93, 94]; 106.57(d)

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, 106.2(a)
Financial assistance to students, [46, 60, 61]; 106.37
Athletic Scholarships, [46, 64, 65]; 106.37(d)
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 for- 
domestic wills [46, 61, 62]; 106.37(b)

34 CFR Ch. I (7-1-04 Edition)

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, [47, 88, 89]; 106.56, 106.39
Part-time employees, [89]

G
Grievance Procedure, see "Designation of responsible employee", 106.8(a), (b)

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)

Job Classification and Structure, 106.55

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, [40]; 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(b)
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
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
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.
110.32 Mediation.
110.33 Investigation.
110.34 Prohibition against intimidation or retaliation.
110.35 Compliance procedure.
110.36 Hearings, decisions, and post-termination proceedings.
110.37 Procedure for disbursal of funds to an alternate recipient.
110.38 Remedial action by recipients.
110.39 Exhaustion of administrative remedies.

AUTHORITY: 42 U.S.C. 6101 et seq., unless otherwise noted.