§ 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.

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APPENDIX A TO PART 106—GUIDELINES
FOR ELIMINATING DISCRIMINATION
AND DENIAL OF SERVICES ON THE
BASIS OF RACE, COLOR, NATIONAL
ORIGIN, SEX, AND HANDICAP IN VO-
CATIONAL EDUCATION PROGRAMS

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

PART 108EQUAL ACCESS TO PUB-
LIC SCHOOL FACILITIES FOR THE
BOY SCOUTS OF AMERICA AND
OTHER DESIGNATED YOUTH
GROUPS

Sec.
108.1 Purpose.
108.2 Applicability.
108.3 Definitions.
108.4 Effect of State or local law.
108.5 Compliance obligations.
108.6 Equal access.
108.7 Voluntary sponsorship.
108.8 Assurances.
108.9 Procedures.

AUTHORITY: 20 U.S.C. 7905, unless otherwise
noted.

SOURCE: 71 FR 15002, Mar. 24, 2006, unless
otherwise noted.

§ 108.1 Purpose.
The purpose of this part is to imple-
ment the Boy Scouts of America Equal
(Authority: 20 U.S.C. 7905)

§ 108.2 Applicability.
This part applies to any public ele-
mentary school, public secondary
school, local educational agency, or
State educational agency that has a
designated open forum or limited pub-
lic forum and that receives funds made
available through the Department.
(Authority: 20 U.S.C. 7905)

§ 108.3 Definitions.
The following definitions apply to
this part:

(a) Act means the Boy Scouts of
America Equal Access Act, section 9525
of the Elementary and Secondary Edu-
cation Act of 1965, as amended by sec-
tion 901 of the No Child Left Behind

(b) Boy Scouts means the organization
named “Boy Scouts of America,”
which has a Federal charter and which
is listed as an organization in title 36
of the United States Code (Patriotic
and National Observances, Ceremonies,
and Organizations) in Subtitle II (Pa-
triotic and National Organizations),
Part B (Organizations), Chapter 309
(Boy Scouts of America).

(c) Covered entity means any public
elementary school, public secondary
school, local educational agency, or
State educational agency that has a
designated open forum or limited pub-
lic forum and that receives funds made
available through the Department.

(d) Department means the Department
of Education.

(e) Designated open forum means that
an elementary school or secondary
school designates a time and place for
one or more outside youth or commu-
nity groups to meet on school premises
or in school facilities, including during
the hours in which attendance at the
school is compulsory, for reasons other
than to provide the school’s edu-
cational program.

(f) Elementary school means an ele-
mentary school as defined by section