



# Federal Register

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Wednesday,  
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## Part III

### **Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance; Final Common Rule**

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National Aeronautics and Space Administration  
Department of Commerce  
Tennessee Valley Authority  
Department of State  
Agency for International Development  
Department of Housing and Urban Development  
Department of Justice  
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National Archives and Records Administration  
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**DEPARTMENT OF TRANSPORTATION****49 CFR Part 25****Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance**

**AGENCIES:** Nuclear Regulatory Commission; Small Business Administration; National Aeronautics and Space Administration; Department of Commerce; Tennessee Valley Authority; Department of State; Agency for International Development; Department of Housing and Urban Development; Department of Justice; Department of Labor; Department of the Treasury; Department of Defense; National Archives and Records Administration; Department of Veterans Affairs; Environmental Protection Agency; General Services Administration; Department of the Interior; Federal Emergency Management Agency; National Science Foundation; Corporation for National and Community Service; Department of Transportation.

**ACTION:** Final common rule.

**SUMMARY:** This final common rule provides for the enforcement of Title IX of the Education Amendments of 1972, as amended ("Title IX"), by the agencies identified above. Title IX prohibits recipients of Federal financial assistance from discriminating on the basis of sex in education programs or activities. The promulgation of these Title IX regulations will provide guidance to recipients of Federal financial assistance who administer education programs or activities. The provisions of this common rule will also promote consistent and adequate enforcement of Title IX by the agencies identified above.

**EFFECTIVE DATE:** September 29, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Merrily A. Friedlander, Chief, Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 65960, Washington, D.C. 20035-6560. Telephone: (202) 307-2222 (voice), (202) 307-2687 (TTY). Facsimile: (202) 307-0595.

Copies of this common rule are available, upon request, in large print and electronic file on computer disk. Other formats will be considered upon request.

**SUPPLEMENTARY INFORMATION:****I. Background**

The purpose of this common rule is to provide for the enforcement of Title IX of the Education Amendments of

1972, as amended (20 U.S.C. 1681, *et seq.*) ("Title IX"), as it applies to educational programs or activities operated by recipients of Federal financial assistance from the participating agencies. These Title IX regulations are presented as a common rule because the standards established for the enforcement of Title IX are the same for all of the participating agencies. The procedures for how an agency will enforce Title IX, including the conduct of investigations and compliance reviews, also follow the same structure. All of the participating agencies except the Department of the Treasury ("Treasury") and the National Archives and Records Administration ("NARA") reference their respective procedures under Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, *et seq.*), because Title IX is modeled after Title VI and the statutes have the same statutory enforcement mechanisms. Although Treasury and NARA do not have Title VI regulations, both entities are establishing enforcement procedures, as set forth below, that are akin to other agencies' Title VI procedures for enforcement. The final rule adopted by each agency is codified in that agency's portion of the Code of Federal Regulations as indicated in this final common rule.

**II. Rulemaking History**

On October 29, 1999, the participating agencies published a Notice of Proposed Rulemaking to implement Title IX. See 64 FR 58567 (1999).<sup>1</sup> The 60-day notice and comment period during which comments were submitted to the Department of Justice (DOJ) ended on December 28, 1999. DOJ received a total of 22 comments, five of which were submitted by other Federal agencies. DOJ and the participating agencies have carefully reviewed these comments and made various revisions to the common rule as discussed below.<sup>2</sup>

<sup>1</sup> In 1979 and 1980, two of the participating agencies published notices of proposed rulemaking for Title IX, but the proposed rules were never issued as final rules. On April 25, 1979, the Veterans' Administration published a notice of proposed rulemaking. See 44 FR 24320 (1979). On June 17, 1980, the Department of Justice published a notice of proposed rulemaking. See 45 FR 41001 (1980). By participating in the October 29, 1999 Notice of Proposed Rulemaking, these agencies initiated new rulemaking proceedings.

<sup>2</sup> Three agencies that participated in the Notice of Proposed Rulemaking, the National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), and the Institute of Museum and Library Services (IMLS) have decided to promulgate separate Title IX regulations rather than participate in the final common rule. These agencies are working to develop Title IX regulations that will closely parallel the common rule but may include minimal changes to reflect their specific agency missions. These agencies are currently in the

### III. Overview of the Common Rule

As set forth in this common rule, the substantive nondiscrimination obligations of recipients, for the most part, are identical to those established by the Department of Education ("ED") under Title IX. See 34 CFR Part 106. ED's regulations are the model for these Title IX regulations for several reasons: the history of public participation in the development and congressional approval of ED's regulations, ED's leadership role in Title IX enforcement, judicial interpretations of ED's regulations, recipients' familiarity with the regulations, and an interest in maintaining consistency of interpretation of regulations enforcing Title IX. ED's regulations, initially issued by the former Department of Health, Education, and Welfare ("HEW") (and adopted by ED upon its establishment in 1980), are the result of an extensive public comment process and congressional review. HEW received and considered more than 9700 comments before drafting its final regulations. 40 FR 24128 (1975). Further, after the final regulations were issued, but before they became effective, Congress held six days of hearings to determine whether the regulations were consistent with the statute. Sex Discrimination Regulations: Hearings before the Subcomm. on Postsecondary Education of the House Comm. on Education and Labor, 94th Cong., 1st Sess. (1975).

In addition, under Executive Order 12250, the Department of Justice is responsible for the "consistent and effective implementation" of several civil rights laws, including Title IX. Using ED's regulations as the basis for this common rule promotes consistency and efficiency not only for agencies but for the recipient community. ED is the lead agency for enforcement of Title IX through its guidance, interpretations, technical assistance, investigative expertise, and resources committed. As the vast majority of recipients of Federal assistance from the identified agencies also receive assistance from ED, recipients should be subject to a single set of obligations with respect to Title IX.

Further, both Congress and the courts have interpreted Title IX based on ED's regulations. For example, in 1974, Congress amended the statute after holding hearings on provisions in ED's proposed rule. See 20 U.S.C. 1681(a)(6). In 1982, the Supreme Court upheld that portion of ED's regulations that

prohibits discrimination by a recipient on the basis of sex in its employment practices. See *North Haven Bd. of Educ. v. Bell*, 456 U.S. 512 (1982). Congress also passed the Civil Rights Restoration Act of 1987 ("CRRRA"), in large part, to overrule the Supreme Court's decision in *Grove City College v. Bell*, 465 U.S. 555 (1984), and thus to codify Title IX consistent with ED's pre-*Grove City* interpretation of the statute. See S. Rep. No. 100-64, at 2 (1987), reprinted in 1988 U.S.C.C.A.N. 3, 3-4. The recipient community, Federal agencies, and the courts should have the benefit of continued reliance on past interpretations of Title IX and its regulations, and using ED's regulations as the model for other agencies promotes that consistency.

As discussed in the Notice of Proposed Rulemaking, however, these Title IX regulations are not identical to ED's regulations. See 64 FR 58569-58572. For example, the common rule includes modifications to be consistent with Supreme Court precedent and statutory changes that are not yet reflected in the Department of Education's regulations. In addition, as discussed below, the participating agencies have made a few additional revisions to the common rule in response to public comments.

#### Summary of Regulations

Title IX prohibits recipients of Federal financial assistance from discriminating on the basis of sex in educational programs or activities. Specifically, the statute states 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 education program or activity receiving Federal financial assistance," with specific exceptions for various entities, programs, and activities. 20 U.S.C. 1681(a). This statute was modeled after Title VI, which prohibits discrimination on the basis of race, color, and national origin in all programs or activities that receive Federal financial assistance. The goal of Title IX is to ensure that Federal funds are not utilized for and do not support sex-based discrimination, and that individuals have equal opportunities, without regard to sex, to pursue, engage or participate in, and benefit from academic, extracurricular, research, occupational training, employment, or other educational programs or activities. For example (and without limitation), subject to exceptions described in these Title IX regulations, Title IX prohibits a recipient from discriminating on the basis of sex in: student admissions,

scholarship awards and tuition assistance, recruitment of students and employees, the provision of courses and other academic offerings, the provision of and participation in athletics and extracurricular activities, and all aspects of employment, including, but not limited to, selection, hiring, compensation, benefits, job assignments and classification, promotions, demotions, tenure, training, transfers, leave, layoffs, and termination. See *North Haven*, 456 U.S. at 521 (stating that Title IX "must [be] accord[ed] . . . a sweep as broad as its language" to realize goals of eliminating discrimination and promoting equal opportunity); *Cannon v. University of Chicago*, 441 U.S. 677, 709 (1979) (concluding that an implied private right of action was necessary for Title IX's full enforcement); *Franklin v. Gwinnett County Pub. Schs.*, 503 U.S. 60 (1992) (concluding that sexual harassment violates Title IX's proscription against sex discrimination).<sup>3</sup> Of course, Title IX prohibits discrimination on the basis of sex in the operation of, and the provision or denial of benefits by, education programs conducted by noneducational institutions, including, but not limited to, prisons, museums, job training institutes, and for profit and nonprofit organizations.

Thus, for example, these Title IX regulations will apply to such diverse activities as a forestry workshop run by a state park receiving funds from the Department of Interior; a boater education program sponsored by a county parks and recreation department receiving funding from the Coast Guard; a local course concerning how to start a small business, sponsored by the state department of labor that receives funding from the Small Business Administration; and state and local courses funded by the Federal Emergency Management Agency in planning how to deal with disasters. Vocational training for inmates in prisons receiving assistance from the Department of Justice is also covered by these Title IX regulations. In short, these Title IX regulations apply to the educational programs or activities of any entity receiving financial assistance from the participating agencies.

#### Summary of Subparts

Subpart A sets forth definitions as well as provisions concerning remedial action and affirmative action, required

<sup>3</sup> See Office for Civil Rights, Dep't of Educ., *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, www.ed.gov/offices/OCR/ocrprod.html.

process of drafting such regulations and will continue to enforce Title IX as the regulations are being developed.

assurances, adoption of grievance procedures, and notification of nondiscrimination policies. The effect of state and other laws and other requirements is also explained. Subpart B addresses the scope or coverage of Title IX, and Subpart C addresses nondiscrimination on the basis of sex in admission and recruitment practices with respect to students.

Subpart D addresses nondiscrimination on the basis of sex in education programs or activities. Specific areas covered in this subpart are housing, access to course offerings, access to schools operated by local education agencies, counseling, financial assistance, employment assistance to students, health and insurance benefits and services, consideration of marital and parental status, and athletics.

Subpart E covers the prohibitions of discrimination on the basis of sex in employment in educational programs or activities. Specific aspects of employment that are addressed include hiring and employment criteria, recruitment, compensation, job classification and structure, promotion and termination, fringe benefits, consideration of marital or parental status, leave practices, advertising, and preemployment inquiries as to parental and marital status. This subpart also includes a provision to exempt from Title IX coverage employment actions where sex is a bona fide occupational qualification.

Finally, Subpart F addresses the agencies' respective procedures for implementation and enforcement of Title IX. By October 30, 2000, each agency will publish a notice in the **Federal Register** that identifies its respective programs that are covered by these Title IX regulations. Each agency will supplement or modify its notice of covered programs, as appropriate, to reflect changes in coverage.

#### *Enforcement Procedures*

For those agencies that have regulations to enforce Title VI, such procedures are adopted and referenced. Titles VI and IX address discrimination in federally assisted programs and have identical statutory enforcement schemes. The administrative enforcement procedures in Title VI regulations are virtually identical among the participating agencies, and differences are minor. For the Department of the Treasury and NARA, the specific text is set forth herein since neither has a Title VI regulation. The Corporation for Community and National Service, which is the successor to ACTION, is subject to the Title VI

regulations promulgated by ACTION. See National and Community Service Trust Act of 1993, Public Law 103-82, section 203(c)(2), 107 Stat. 785, 892; 45 CFR Part 1203. It also should be noted that some agencies, based on other Federal laws, have already promulgated regulations under those statutes that similarly prohibit discrimination on the basis of sex in programs that receive Federal financial assistance. Such existing regulations remain in effect.

#### **IV. Analysis of Comments and Revisions**

The great majority of comments received expressed strong support for these regulations, and many noted that they represent a long overdue effort to provide an effective enforcement mechanism for Title IX. Many of these comments also urged prompt and final adoption of the common rule, emphasizing that the substance of the regulations should not be open to extensive debate or modification because it is almost identical to the Department of Education's longstanding Title IX regulations that were the subject of an extensive public comment process and congressional oversight and approval.

The participating agencies recognize the importance of ensuring that the recipient community has the benefit of continued reliance on past interpretations of Title IX and its regulations. Thus, the participating agencies have attempted to follow the recommendation of these commenters by endeavoring to minimize the extent to which these Title IX regulations differ from the Department of Education's Title IX rule.

The participating agencies have, however, carefully considered all of the comments submitted regarding these Title IX regulations. Responses to these comments, including specific clarifications and revisions, are set forth below.

#### *Other Federal Agencies With Title IX Regulations*

The participating agencies received one comment noting that the Supplementary Information Section of the proposed common rule cited only the Department of Education as previously having published a regulation to implement Title IX. This may have inadvertently given the impression that no other Federal agencies have adopted Title IX regulations.

The participating agencies therefore wish to clarify that, in fact, three other Federal agencies have previously published Title IX rules. The

Department of Agriculture published 7 CFR part 15a on April 11, 1979; the Department of Health and Human Services (HHS) published 45 CFR part 86 on June 4, 1975;<sup>4</sup> and the Department of Energy published 10 CFR part 1040 on June 13, 1980.

#### *Comments Regarding the Danforth Amendment*

Aside from comments expressing general support for the regulations, the issue most frequently commented upon pertained to section .235(d), which incorporates the Civil Rights Restoration Act's "abortion neutrality" provision, commonly known as the Danforth Amendment. More specifically, these comments concerned section

.235(d)(1), which provides that: "Nothing in these Title IX regulations shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Medical procedures, benefits, services, and the use of facilities necessary to save the life of a pregnant woman or to address complications related to an abortion are not subject to this section."

One comment argued that the exceptions set forth by this provision were too broad and should not include an exception to save the life of a pregnant woman. Eight comments, however, expressed concern that the exceptions delineated in section .235(d)(1) were too narrow and should be expanded to include an additional exception for those cases in which pregnancy is the result of rape or incest.

After carefully reviewing these comments, the text of the amendment, and the relevant legislative history, the participating agencies have concluded that the exceptions set forth in the proposed common rule are neither too broad nor too narrow and are consistent with Congressional intent in adopting the Danforth Amendment. Thus, this provision has not been changed in the final common rule.

#### *Comments Pertaining to the Presentation of Artistic Content*

The participating agencies received a number of comments requesting clarification regarding the potential application of the common rule to the presentation of artistic content. In response to these comments, the participating agencies wish to confirm that this common rule does not cover,

<sup>4</sup> HHS' Title IX regulations were originally published by HEW but, pursuant to HEW's redesignation as HHS, all regulations in effect on May 4, 1980 that refer to HEW were deemed to refer and apply to HHS. See 20 U.S.C. 3508.

and is not intended to infringe upon, the presentation of artistic content protected by the First Amendment's guarantee of freedom of expression.

Indeed, normal rules of statutory construction require Federal agencies, wherever possible, to interpret statutory language in such a way as to avoid potential conflicts with the Constitution. The participating agencies fully intend to enforce the common rule in a manner consistent with this principle.

#### *Comments Regarding Coverage*

The participating agencies also received several comments related to coverage of the common rule. A few of these comments expressed concern that the common rule expands the scope of Title IX. This concern, however, is unfounded. The educational programs or activities operated by recipients of Federal funding have been covered by Title IX since its enactment in 1972. The common rule is merely an implementing regulation and does not expand the scope of coverage mandated by Title IX.

In addressing this concern, it is of course important to note that Title IX was amended by the Civil Rights Restoration Act of 1987, which defined the terms "program" and "program or activity." Thus, the scope of coverage set forth by the common rule is based upon the mandate of Title IX as amended by the CRRA. The common rule incorporates the statutory definitions of "program" and "program or activity" but does not expand the scope of covered programs in any way.

One comment specifically questioned whether youth training programs conducted by the National Guard Bureau in conjunction with State Adjutant Generals would be covered by this rule. If such education or training programs are operated by recipients of Federal funding, they are covered by Title IX (and have been since 1972), and will be covered by these Title IX regulations.

A few comments also noted the need for additional guidance and clarification regarding what constitutes a covered education program or activity. In response to this concern, the participating agencies note that, pursuant to section .600, each Federal agency will be publishing a list of covered programs in the **Federal Register** by October 30, 2000. The participating agencies will also periodically republish such lists to reflect changes in covered programs. Individuals with questions about whether specific programs are covered may also raise them with the Federal

funding agency or with the Department of Justice.

#### *Comment Regarding the Definition of an "Educational Institution"*

One comment expressed concern that the definition of an "educational institution" covered by Title IX and set forth in the proposed common rule was too limited as it would not encompass certain entities outside the traditional school setting such as an orchestra. In response to this concern, the participating agencies note that this definition is the same as the definition of an "educational institution" set forth in the Department of Education's regulations and has not been modified in the final common rule. However, it is important to note that the key to coverage under Title IX and these Title IX regulations is an education program or activity operated by a recipient of Federal funding; while educational institutions are certainly one type of covered education program, clearly there are many others as well.

#### *Comment Regarding the Definition of "Recipient"*

One comment argued that the definition of "recipient" set forth in the common rule is inconsistent with the Supreme Court's decision in *NCAA v. Smith*, 525 U.S. 459 (1999). Noting that the definition of a recipient includes any person or entity "to whom Federal financial assistance is extended directly or through another recipient," this comment asserted that inclusion of the phrase "or through another recipient" would permit the government to argue that money received from a recipient by a third party makes that third party a recipient as well.

The concerns expressed in this comment are unfounded. Inclusion of the phrase "or through another recipient" merely ensures that sub-recipients (entities that receive Federal financial assistance through sub-grants from primary recipients) are covered by these Title IX regulations. Coverage of sub-recipients is in no way inconsistent with the NCAA decision or with the principle that indirect beneficiaries are not covered by Title IX. The definition of recipient set forth in the common rule in no way expands the scope of coverage of Title IX or these Title IX regulations and has, therefore, not been modified in the final common rule.

#### *Comments Regarding Single-sex Programs*

Several comments inquired about the viability of single-sex programs such as an educational science program targeted at young women and designed to

encourage their interest in a profession in which they are underrepresented. Such courses may, under appropriate circumstances, be permissible as part of a remedial or affirmative action program as provided for by section .110 of these Title IX regulations.

In addition, other single-sex programs may be permissible under the common rule. For example, these Title IX regulations do not apply to the membership practices of many voluntary youth service organizations or to the membership practices of the Young Men's Christian Association (YMCA), the Young Women's Christian Association (YWCA), the Girl Scouts, the Boy Scouts, and the Camp Fire Girls. See Section .215. Other examples of single-sex programs that are exempt from coverage under these Title IX regulations are programs or activities undertaken by the American Legion in connection with the organization or operation of a Boys State conference, a Boys Nation conference, a Girls State conference, or a Girls Nation conference. See Section .235(b).

It also should be noted that the U.S. Department of Education, in consultation with the Department of Justice, is reviewing provisions in ED's current Title IX regulations regarding single-sex programs to determine whether Title IX can and should be interpreted to permit certain sex-segregated educational programs or activities that are not based upon sex stereotyping, provided, of course, that equal educational opportunities and benefits are afforded to students of both sexes. Any proposed rule changes will be published in a proposed form for public comment, and conforming changes will be made in the regulations covered by this notice.

One comment also expressed concern that the regulations might preclude orchestras from establishing single-sex choirs necessary for the authentic presentation of certain artistic works. In response to this concern, the participating agencies note that these Title IX regulations specifically provide, consistent with the Department of Education's longstanding regulations, that recipients may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. See Section .415(b)(6).

Finally, individuals or entities with more specific questions regarding the viability of a particular program may of course seek further guidance from the Federal funding agency or the Department of Justice.

### *Application of the Common Rule Outside Educational Institutions*

Some comments raised concerns regarding the application of this common rule to educational programs or activities conducted outside traditional educational institutions. They noted that because this common rule is an extension of the Department of Education's Title IX regulations, which were designed to apply to schools, portions of the common rule may not always be a "perfect fit" for educational programs or activities operated by other entities. These comments therefore requested that agencies be given flexibility in applying these Title IX regulations to the wide variety of unique education programs or activities operated by recipients of Federal financial assistance.

In response to these comments, it should be noted that individual funding agencies may consider developing agency-specific guidance to address particular areas of concern. In addition, to further address these comments, the participating agencies have modified two provisions of the common rule to reflect its application to educational programs or activities outside traditional educational institutions. These modifications extend the exceptions in sections .235(b)(3) and .415(b)(5) to include education programs or activities other than those in a traditional educational institution. Thus, section .235(b)(3) now provides that these Title IX regulations do not preclude:

Father-son or mother-daughter activities at an educational institution or in an education program or activity, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided to students of the other sex; and section .415(b)(5) now reads:

portions of classes in elementary and secondary schools or portions of education programs or activities that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

### *Comments Regarding Collegiate Athletics*

Two comments raised concerns about the potential application of the common rule to collegiate athletic programs. These comments criticized the standards used to enforce Title IX in the collegiate athletic context and expressed concern that the participating agencies failed to fully take into account the likely costs of the common rule with regard to collegiate athletic programs and athletic scholarships. In response to

these concerns, the participating agencies wish to clarify that virtually all collegiate athletic programs are already covered by the Department of Education's Title IX regulations, and have been since 1975, and will not be affected by this common rule.

### *Comments Regarding Quotas*

A few comments expressed concerns about the possibility that the common rule might result in the application of gender-based quotas to academic programs. Such concerns are unfounded as the common rule neither permits nor imposes quotas.

These Title IX regulations do not permit or require the use of academic quotas. The Department of Education has had Title IX regulations for 25 years without once imposing a quota, and nothing in these Title IX regulations permits or requires the participating agencies to impose quotas.

The concerns about academic quotas expressed in these comments appear to stem from a number of misconceptions about the Department of Education's enforcement of Title IX in athletics, and the applicability of these enforcement standards to academic programs.

First, the Department of Education's Office for Civil Rights ("OCR") does not use quotas to enforce Title IX in athletics. In fact, the First Circuit has expressly rejected the notion that OCR uses an impermissible quota system when evaluating whether institutions are providing athletic opportunities to male and female students on a nondiscriminatory basis. *See Cohen v. Brown*, 101 F.3d 155, 170-71, 175-76 (1st Cir. 1996), *cert. denied*, 520 U.S. 1186 (1997).

Second, fears about academic quotas are unfounded because such fears are based on the further erroneous assumption that the same standards are used to evaluate athletic and academic programs. Athletics differ from academics in that institutions are permitted to provide many athletic opportunities on a sex-segregated basis. In other words, many athletic programs are sex-segregated by design, whereas Title IX requires that most academic programs be offered to all students regardless of sex. Thus, since most academic classes are not segregated by sex, different standards are used for assessing compliance with Title IX in academic programs.

In short, since OCR does not use a quota system when assessing whether male and female students have equal opportunities to participate in athletics, and since academic programs are not evaluated by the same standards as single-sex athletic programs, there is no

validity to claims that the common rule will result in quotas for academic programs.

Indeed, in the 28 years since its passage, Title IX has significantly advanced the goal of creating equal educational opportunities for both sexes. Title IX has never permitted or required quotas in classrooms, and nothing in the common rule will permit or require quotas in classrooms. These Title IX regulations are not designed to regulate the number of men and women in particular courses, and the common rule will not lead to decreased educational opportunities for either sex. Rather, the common rule is simply designed to ensure that the participating agencies have an effective means of enforcing the equal opportunity mandates of Title IX.

### *Comments Regarding Affirmative Action and Disparate Impact*

One of the comments raised a few additional concerns about quotas. One of these concerns dealt with the affirmative action provisions of the common rule. This comment criticized the inclusion of the phrase "consistent with law" in section .110(b), arguing that this fails to codify governing judicial decisions and encourages agencies to defer to interpretations of law advanced by political bureaucrats. The inclusion of this phrase, however, simply reflects the evolving nature of judicial decisions with respect to this issue and is merely designed to ensure that enforcement of these regulations is consistent with current judicial decisions. This entire common rule must, of course, always be interpreted consistent with governing law.

A second concern raised by this comment concerned the standard for disparate impact set forth in the regulations and the possibility that recipients might adopt quotas in order to avoid complaints. More specifically, this comment claimed that the disparate impact provisions in the common rule are contrary to existing Federal law regarding disparate impact under Title VII. This claim, however, is without merit as the disparate impact provisions of the common rule are consistent with Title VII and governing Supreme Court case law, as applied and interpreted by the Equal Employment Opportunity Commission.

### *Comments Questioning the Need for This Common Rule*

A few comments questioned the need for these Title IX regulations and urged that they be withdrawn. More specifically, one comment noted a lack of evidence of discrimination in

education and questioned whether the common rule would provide any benefit for Americans. Similarly, two comments expressed concern that the rule regulates in areas already covered by other statutes and regulations and, thus, would create confusion in enforcement. One comment also raised concerns about the possibility that the rule might have unintended consequences for the construction industry.

In response to these concerns, it is important to reiterate that the participating agencies are promulgating these regulations in order to comply with a congressional mandate. As originally enacted in 1972, Title IX directed all Federal agencies providing financial assistance to recipients that operate education programs or activities to adopt regulations to achieve the statute's objectives. See 20 U.S.C. 1682. These Title IX regulations are thus nothing more than a long overdue effort to provide a regulatory enforcement mechanism for those Federal agencies that failed to adopt their own Title IX regulations when the statute was originally enacted.

In short, the adoption of these Title IX regulations is mandated by law. As such, the participating agencies are required to promulgate these regulations regardless of whether there may be any overlap with other statutes or regulations.

#### *Comments Regarding Assurances*

Several comments expressed concern that the requirement that assurances be provided with each and every application for Federal financial assistance would hinder efforts to streamline the Federal grants process. The participating agencies appreciate the importance of simplifying the grants process and of ensuring that agencies are able to obtain assurances as efficiently as possible. As such, the participating agencies have modified section .115 of the final common rule to provide agencies with greater flexibility in dealing with this issue.

Specifically, the participating agencies have eliminated the requirement that every application for Federal financial assistance contain or be accompanied by an assurance. Instead, the final common rule requires only that all applications for Federal financial assistance, or awards of Federal financial assistance, "contain, be accompanied by, or be covered by" an assurance. What is important is that the grant recipient understand its responsibilities under Title IX. However, by giving agencies the flexibility to obtain assurances at either the application or the award stage of the

process, and by eliminating the need for grant-by-grant certifications, the final common rule establishes a less burdensome process for dealing with assurances. Thus, the first sentence of section .115(a) has been amended to read as follows:

Either at the application stage or the award stage, Federal agencies must ensure that applications for Federal financial assistance or awards of Federal financial assistance contain, be accompanied by, or be covered by a specifically identified assurance from the applicant or recipient, satisfactory to the designated agency official, that each education program or activity operated by the applicant or recipient and to which these Title IX regulations apply will be operated in compliance with these Title IX regulations.

In attempting to further ensure the existence of sufficient flexibility in dealing with assurances, the participating agencies have also modified section .115(c)(1) regarding the content and form of these assurances. The proposed common rule appeared to contain a requirement that agencies use exact language in their assurances. In response to a comment requesting permission to use equivalent language, the participating agencies have modified this provision so that it now reads as follows:

The assurances required \* \* \* shall include that the applicant or recipient will comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to: \*\*\* Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, 1685-1688).

#### *Comments Regarding Financial and Administrative Burdens*

A few comments also raised concerns about the potential financial and administrative burdens associated with these Title IX regulations. More specifically, one comment expressed concern about the broad powers of designated agency officials and noted that recipients might be burdened by having to respond to 25 differing agency interpretations of the common rule.

In response to this comment, the participating agencies wish to clarify a few points. First, this comment makes the unlikely assumptions that a recipient is funded by all of the participating agencies and that these agencies have significantly different interpretations of these regulations. Second, even in those cases in which a recipient is funded by more than one Federal agency, there are unlikely to be duplicative enforcement efforts.

Indeed, the participating agencies are working to develop a Delegation Agreement to share enforcement responsibilities and information. This

Delegation Agreement will ensure that Title IX is enforced in the most efficient and effective manner, while at the same time avoiding duplicative inquiries by the Federal government and any undue burden on recipients due to multiple inquiries.

Several comments also questioned whether the common rule properly complied with all regulatory and statutory requirements. More specifically, one comment raised concerns about the Paperwork Reduction Act provisions of these Title IX regulations.

In response to this comment, the participating agencies note that OMB has indeed reviewed this common rule and approved the Paperwork Reduction Act provisions. In addition, as discussed above, the participating agencies have modified the provisions regarding assurances, thus further reducing the information collection requirements associated with these regulations.

It is also worth noting that many of the concerns raised regarding the Paperwork Reduction Act estimates were based on the mistaken assumption that all entities covered by the common rule are subject to the self-evaluation requirements.<sup>5</sup> As explained in the preamble to the proposed rule, however, the participating agencies estimate that fewer than 10 entities are likely to be affected by these requirements.

The self-evaluation provisions were included in the common rule to allow for the possible but rare instance where this requirement might continue to be relevant for certain recipients. It is important to note that this requirement applies only to recipient educational institutions, and virtually all such recipients are already covered by the Department of Education's regulations and have previously complied with these provisions. Moreover, as explained in the preamble to the proposed rule, if a recipient educational institution already has conducted a self-evaluation under Title IX, it need not conduct a new self-evaluation as a result of receiving funds from a participating agency, unless the previously conducted self-evaluation is found to be incomplete or not in compliance with the regulations. Thus, concerns regarding the paperwork burdens associated with this provision are unfounded.

Other comments questioned whether the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the

<sup>5</sup> The provisions regarding self-evaluation require that recipient educational institutions evaluate their current services, policies, and practices and make any modifications necessary to ensure compliance with Title IX.

Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 609, and the Congressional Review Act, 5 U.S.C. 801–808, had been met.

As discussed in the Supplementary Information Section of the proposed rule, many of the requirements set forth in these statutes do not apply to these regulations since this common rule is not a “major rule.” In setting forth the factual basis for this determination, the participating agencies explained that this common rule is not a “major rule” in large part because these regulations do not impose any new substantive obligations on Federal funding recipients. More specifically, the participating agencies explained that:

All recipients of Federal funding that operate educational programs or activities have been bound by Title IX’s antidiscrimination provision since 1972. Individual participants in such programs have thus long had the right to be free from sex discrimination, and have enjoyed the corollary ability to file an administrative complaint and/or a private lawsuit when they believe their rights to have been violated. The common rule merely ensures that individuals receive notice of their rights under Title IX and outlines a process for handling administrative complaints for those agencies that do not yet have such a process in place for Title IX. Indeed, by identifying a coherent scheme for resolving complaints administratively, this proposal may help prevent costly private litigation.

Entities receiving funding from one of the four federal agencies that already have Title IX regulations will face no new requirements under the common rule. Those entities receiving funding from an agency that does not currently have Title IX regulations will now be required to notify their students and employees that sex discrimination is prohibited and to adopt and publish grievance procedures outlining the process for filing an administrative complaint.

To the extent that these requirements will be new for some entities, they are not burdensome. Indeed, Federal funding recipients are already required to have most of these procedures under other civil rights statutes, and would generally fulfill the requirements of the common rule by including Title IX within their existing processes.

Similarly, the common rule requires a covered recipient to designate an employee to coordinate Title IX compliance efforts. In many cases, if not most, that person would be the same person currently responsible for handling complaints under the other antidiscrimination laws. 64 FR 58573.

As such, the participating agencies have certified that this common rule is not a “major rule.” These statutes therefore require no further action by the participating agencies.

Nevertheless, upon careful consideration of these comments, the participating agencies have decided to delete one of the notice provisions in the common rule. Specifically, the participating agencies have modified section .140 of the common rule to delete the requirement that notice be published in local newspapers. This modification should further reduce any potential financial and administrative costs associated with these regulations.

#### *Minor Editorial Changes*

Finally, in addition to the modifications discussed above, the participating agencies have made a few minor editorial changes to the common rule. Most of these changes are simply designed to ensure that the terms “program” and “program or activity” are not used in any manner other than that contemplated by the CRRRA.

As discussed above, the participating agencies carefully considered all comments submitted in response to the Notice of Proposed Rulemaking, the majority of which expressed strong support for these Title IX regulations. Although the participating agencies have made several modifications in response to concerns raised during the notice and comment period, they have endeavored to minimize changes to the substantive nondiscrimination provisions of the rule to promote consistency with the Department of Education’s Title IX regulations. In doing so, the participating agencies hope to ensure that recipients and beneficiaries will have the benefit of continued reliance on past interpretations of Title IX and Title IX regulations, since the Department of Education’s regulations have been the subject of extensive public comment, congressional review, and judicial scrutiny.

#### **V. Applicable Executive Orders and Regulatory Certifications**

##### *Executive Order 12067*

These Title IX regulations have been reviewed by the Equal Employment Opportunity Commission pursuant to Executive Order 12067.

##### *Executive Order 12866*

These Title IX regulations have been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The participating agencies have determined

that this rule is a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review, yet it is not economically significant as defined in section 3(f)(1), and, therefore, the information enumerated in section 6(a)(3)(C) of the order is not required. Pursuant to Executive Order 12866, this rule has been reviewed by the Office of Management and Budget.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

The participating agencies have determined that these Title IX regulations are not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. All of the entities that are subject to these regulations are already covered by Title IX. While these regulations address standards of liability and require that recipients establish grievance procedures and take other action, a substantial number of entities already are subject to other agencies’ Title IX regulations that impose the same requirements. Accordingly, these regulations will not impose new obligations on many recipients.

##### *Unfunded Mandates Reform Act of 1995*

These Title IX regulations enforce a statutory prohibition on discrimination on the basis of sex and, therefore, the participating agencies certify that no actions were deemed necessary under the Unfunded Mandates Reform Act of 1995. Furthermore, these regulations will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and they will not significantly or uniquely affect small governments.

##### *The Regulatory Flexibility Act*

The participating agencies, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), have reviewed these Title IX regulations and by approving them certify that these regulations will not have a significant economic impact on a substantial number of small entities because all of the entities that are subject to these regulations are already subject to Title IX, and a substantial number of entities



already are subject to the Title IX regulations of other agencies.

As discussed above, this is not a "major rule," nor will it have a significant economic impact on a substantial number of small entities, in large part because these regulations do not impose any new substantive obligations on Federal funding recipients. All recipients of Federal funding that operate educational programs or activities have been bound by Title IX's antidiscrimination provision since 1972. Individual participants in such programs have thus long had the right to be free from sex discrimination, and have enjoyed the corollary ability to file an administrative complaint and/or a private lawsuit when they believe their rights to have been violated. The common rule merely ensures that such individuals receive notice regarding their rights under Title IX and outlines a process for handling administrative complaints for those agencies that do not yet have such a process in place for Title IX. Indeed, by identifying a coherent scheme for resolving complaints administratively, this proposal may help prevent costly private litigation.

Entities receiving funding from one of the four Federal agencies that already have Title IX regulations will face no new requirements under the common rule. Those entities receiving funding from an agency that does not currently have Title IX regulations will now be required to notify their students and employees that sex discrimination is prohibited and to adopt and publish grievance procedures outlining the process for filing an administrative complaint.

To the extent these requirements will be new for some entities, they are not burdensome. Indeed, Federal funding recipients are already required to have most of these procedures under other civil rights statutes, and would generally fulfill the requirements of the common rule by including Title IX within their existing processes. Similarly, the common rule also requires a covered recipient to designate an employee to coordinate Title IX compliance efforts. In many, if not most, cases, that person would be the same person currently responsible for handling complaints under the other antidiscrimination laws.

#### *Paperwork Reduction Act of 1995*

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), OMB has reviewed and approved the information collection requirements associated with this

common rule. OMB control number 1190-0016.

#### *Executive Order 13132*

These Title IX regulations will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. These Title IX regulations do not subject recipients of Federal funding to any new substantive obligations because all recipients of Federal funding that operate education programs or activities have been bound by Title IX's antidiscrimination provision since 1972. Moreover, these Title IX regulations are required by statute; Congress specifically directed Federal agencies to adopt implementing regulations when Title IX was enacted. Therefore, in accordance with section 6 of Executive Order 13132, the participating agencies have determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. No further action is required.

#### **Text of the Common Rule**

The text of this common rule appears below:

#### **[PART/Subpart] — NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

##### **Subpart A—Introduction**

Sec.

- .100 Purpose and effective date.
- .105 Definitions.
- .110 Remedial and affirmative action and self-evaluation.
- .115 Assurance required.
- .120 Transfers of property.
- .125 Effect of other requirements.
- .130 Effect of employment opportunities.
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##### **Subpart B—Coverage**

- .200 Application.
- .205 Educational institutions and other entities controlled by religious organizations.
- .210 Military and merchant marine educational institutions.
- .215 Membership practices of certain organizations.
- .220 Admissions.
- .225 Educational institutions eligible to submit transition plans.
- .230 Transition plans.
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##### **Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- .300 Admission.
- .305 Preference in admission.
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##### **Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- .400 Education programs or activities.
- .405 Housing.
- .410 Comparable facilities.
- .415 Access to course offerings.
- .420 Access to schools operated by LEAs.
- .425 Counseling and use of appraisal and counseling materials.
- .430 Financial assistance.
- .435 Employment assistance to students.
- .440 Health and insurance benefits and services.
- .445 Marital or parental status.
- .450 Athletics.
- .455 Textbooks and curricular material.

##### **Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- .500 Employment.
- .505 Employment criteria.
- .510 Recruitment.
- .515 Compensation.
- .520 Job classification and structure.
- .525 Fringe benefits.
- .530 Marital or parental status.
- .535 Effect of state or local law or other requirements.
- .540 Advertising.
- .545 Pre-employment inquiries.
- .550 Sex as a bona fide occupational qualification.

##### **Subpart F—Procedures**

- .600 Notice of covered programs.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

##### **Subpart A—Introduction**

#### **§ .100 Purpose and effective date.**

The purpose of these Title IX regulations is to effectuate Title IX of the Education Amendments of 1972, as amended (except sections 904 and 906 of those Amendments) (20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688), which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in these Title IX regulations. The effective date of these Title IX regulations shall be September 29, 2000.

#### **§ .105 Definitions.**

As used in these Title IX regulations, the term:

*Administratively separate unit* means a school, department, or college of an educational institution (other than a

local educational agency) admission to which is independent of admission to any other component of such institution.

*Admission* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

*Applicant* means one who submits an application, request, or plan required to be approved by an official of the Federal agency that awards Federal financial assistance, or by a recipient, as a condition to becoming a recipient.

*Designated agency official* means [to be inserted by agency].

*Educational institution* means a local educational agency (LEA) as defined by 20 U.S.C. 8801(18), a preschool, a private elementary or secondary school, or an applicant or recipient that is an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, as defined in this section.

*Federal financial assistance* means any of the following, when authorized or extended under a law administered by the Federal agency that awards such assistance:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages, or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement that has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

*Institution of graduate higher education* means an institution that:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences;

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

*Institution of professional education* means an institution (except any institution of undergraduate higher education) that offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the Secretary of Education.

*Institution of undergraduate higher education* means:

(1) An institution offering at least two but less than four years of college-level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body that certifies credentials or offers degrees, but that may or may not offer academic study.

*Institution of vocational education* means a school or institution (except an institution of professional or graduate or undergraduate higher education) that has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers full-time study.

*Recipient* means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial

assistance is extended directly or through another recipient and that operates an education program or activity that receives such assistance, including any subunit, successor, assignee, or transferee thereof.

*Student* means a person who has gained admission.

*Title IX* means Title IX of the Education Amendments of 1972, Public Law 92-318, 86 Stat. 235, 373 (codified as amended at 20 U.S.C. 1681-1688) (except sections 904 and 906 thereof), as amended by section 3 of Public Law 93-568, 88 Stat. 1855, by section 412 of the Education Amendments of 1976, Public Law 94-482, 90 Stat. 2234, and by Section 3 of Public Law 100-259, 102 Stat. 28, 28-29 (20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688).

*Title IX regulations* means the provisions set forth at [to be inserted by agency].

*Transition plan* means a plan subject to the approval of the Secretary of Education pursuant to section 901(a)(2) of the Education Amendments of 1972, 20 U.S.C. 1681(a)(2), under which an educational institution operates in making the transition from being an educational institution that admits only students of one sex to being one that admits students of both sexes without discrimination.

#### § .110 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the designated agency official finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the designated agency official deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action consistent with law to overcome the effects of conditions that resulted in limited participation therein by persons of a particular sex. Nothing in these Title IX regulations shall be interpreted to alter any affirmative action obligations that a recipient may have under Executive Order 11246, 3 CFR, 1964-1965 Comp., p. 339; as amended by Executive Order 11375, 3 CFR, 1966-1970 Comp., p. 684; as amended by Executive Order 11478, 3 CFR, 1966-1970 Comp., p. 803; as amended by Executive Order 12086, 3 CFR, 1978 Comp., p. 230; as amended by Executive Order 12107, 3 CFR, 1978 Comp., p. 264.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of September 29, 2000:

(1) Evaluate, in terms of the requirements of these Title IX regulations, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity;

(2) Modify any of these policies and practices that do not or may not meet the requirements of these Title IX regulations; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination that resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, and shall provide to the designated agency official upon request, a description of any modifications made pursuant to paragraph (c)(2) of this section and of any remedial steps taken pursuant to paragraph (c)(3) of this section.

#### § .115 Assurance required.

(a) *General.* Either at the application stage or the award stage, Federal agencies must ensure that applications for Federal financial assistance or awards of Federal financial assistance contain, be accompanied by, or be covered by a specifically identified assurance from the applicant or recipient, satisfactory to the designated agency official, that each education program or activity operated by the applicant or recipient and to which these Title IX regulations apply will be operated in compliance with these Title IX regulations. An assurance of compliance with these Title IX regulations shall not be satisfactory to the designated agency official if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § .110(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior to or subsequent to the submission to the designated agency official of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of

a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Form.* (1) The assurances required by paragraph (a) of this section, which may be included as part of a document that addresses other assurances or obligations, shall include that the applicant or recipient will comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to: Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, 1685–1688).

(2) The designated agency official will specify the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

#### § .120 Transfers of property.

If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee that operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government, both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of §§ .205 through .235(a).

#### § .125 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by these Title IX regulations are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, 3 CFR, 1964–1965 Comp., p. 339; as amended by Executive Order 11375, 3 CFR, 1966–1970 Comp., p. 684; as amended by Executive Order 11478, 3 CFR, 1966–1970 Comp., p. 803; as amended by Executive Order 12087, 3 CFR, 1978 Comp., p. 230; as amended by Executive Order 12107, 3 CFR, 1978 Comp., p. 264; sections 704 and 855 of the Public Health Service Act (42 U.S.C. 295m, 298b-2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act of 1963 (29 U.S.C. 206);

and any other Act of Congress or Federal regulation.

(b) *Effect of State or local law or other requirements.* The obligation to comply with these Title IX regulations is not obviated or alleviated by any State or local law or other requirement that would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with these Title IX regulations is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association that would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and that receives Federal financial assistance.

#### § .130 Effect of employment opportunities.

The obligation to comply with these Title IX regulations is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

#### § .135 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under these Title IX regulations, including any investigation of any complaint communicated to such recipient alleging its noncompliance with these Title IX regulations or alleging any actions that would be prohibited by these Title IX regulations. The recipient shall notify all its students and employees of the name, office address, and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by these Title IX regulations.

#### § .140 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees,

sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities that it operates, and that it is required by Title IX and these Title IX regulations not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the designated agency official finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and these Title IX regulations, but shall state at least that the requirement not to discriminate in education programs or activities extends to employment therein, and to admission thereto unless §§ .300 through .310 do not apply to the recipient, and that inquiries concerning the application of Title IX and these Title IX regulations to such recipient may be referred to the employee designated pursuant to § .135, or to the designated agency official.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of September 29, 2000 or of the date these Title IX regulations first apply to such recipient, whichever comes later, which notification shall include publication in:

(i) Newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and

(ii) Memoranda or other written communications distributed to every student and employee of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form that it makes available to any person of a type, described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in paragraph (b)(1) of this section that suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by these Title IX regulations.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b)(1) of this section, and

shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and shall require such representatives to adhere to such policy.

#### Subpart B—Coverage

##### § .200 Application.

Except as provided in §§ .205 through .235(a), these Title IX regulations apply to every recipient and to each education program or activity operated by such recipient that receives Federal financial assistance.

##### § .205 Educational institutions and other entities controlled by religious organizations.

(a) *Exemption.* These Title IX regulations do not apply to any operation of an educational institution or other entity that is controlled by a religious organization to the extent that application of these Title IX regulations would not be consistent with the religious tenets of such organization.

(b) *Exemption claims.* An educational institution or other entity that wishes to claim the exemption set forth in paragraph (a) of this section shall do so by submitting in writing to the designated agency official a statement by the highest-ranking official of the institution, identifying the provisions of these Title IX regulations that conflict with a specific tenet of the religious organization.

##### § .210 Military and merchant marine educational institutions.

These Title IX regulations do not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

##### § .215 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* These Title IX regulations do not apply to the membership practices of social fraternities and sororities that are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, 26 U.S.C. 501(a), the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts, and Camp Fire Girls.* These Title IX regulations do not apply to the membership practices of the Young Men's Christian Association (YMCA), the Young Women's Christian Association (YWCA), the Girl Scouts, the Boy Scouts, and Camp Fire Girls.

(c) *Voluntary youth service organizations.* These Title IX regulations do not apply to the membership practices of a voluntary youth service organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, 26 U.S.C. 501(a), and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

##### § .220 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by these Title IX regulations.

(b) *Administratively separate units.* For the purposes only of this section, §§ .225 and .230, and §§ .300 through .310, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of §§ .300 through .310.* Except as provided in paragraphs (d) and (e) of this section, §§ .300 through .310 apply to each recipient. A recipient to which §§ .300 through .310 apply shall not discriminate on the basis of sex in admission or recruitment in violation of §§ .300 through .310.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients that are educational institutions, §§ .300 through .310 apply only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* §§ .300 through .310 do not apply to any public institution of undergraduate higher education that traditionally and continually from its establishment has had a policy of admitting students of only one sex.

##### § .225 Educational institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which §§ .300 through .310 apply that:

(1) Admitted students of only one sex as regular students as of June 23, 1972; or

(2) Admitted students of only one sex as regular students as of June 23, 1965, but thereafter admitted, as regular students, students of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of §§ .300 through .310.

**§ .230 Transition plans.**

(a) *Submission of plans.* An institution to which § .225 applies and that is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the Secretary of Education, a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § .225 applies shall result in treatment of applicants to or students of such recipient in violation of §§ .300 through .310 unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § .225 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs that emphasize the institution's commitment

to enrolling students of the sex previously excluded.

**§ .235 Statutory amendments.**

(a) This section, which applies to all provisions of these Title IX regulations, addresses statutory amendments to Title IX.

(b) These Title IX regulations shall not apply to or preclude:

(1) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference;

(2) Any program or activity of a secondary school or educational institution specifically for:

(i) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) The selection of students to attend any such conference;

(3) Father-son or mother-daughter activities at an educational institution or in an education program or activity, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided to students of the other sex;

(4) Any scholarship or other financial assistance awarded by an institution of higher education to an individual because such individual has received such award in a single-sex pageant based upon a combination of factors related to the individual's personal appearance, poise, and talent. The pageant, however, must comply with other nondiscrimination provisions of Federal law.

(c) *Program or activity or program* means:

(1) All of the operations of any entity described in paragraphs (c)(1)(i) through (iv) of this section, any part of which is extended Federal financial assistance;

(i)(A) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(ii)(A) A college, university, or other postsecondary institution, or a public system of higher education; or

(B) A local educational agency (as defined in section 8801 of title 20), system of vocational education, or other school system;

(iii)(A) An entire corporation, partnership, or other private

organization, or an entire sole proprietorship—

(1) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(2) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(iv) Any other entity that is established by two or more of the entities described in paragraphs (c)(1)(i), (ii), or (iii) of this section.

(2)(i) *Program or activity* does not include any operation of an entity that is controlled by a religious organization if the application of 20 U.S.C. 1681 to such operation would not be consistent with the religious tenets of such organization.

(ii) For example, all of the operations of a college, university, or other postsecondary institution, including but not limited to traditional educational operations, faculty and student housing, campus shuttle bus service, campus restaurants, the bookstore, and other commercial activities are part of a "program or activity" subject to these Title IX regulations if the college, university, or other institution receives Federal financial assistance.

(d)(1) Nothing in these Title IX regulations shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Medical procedures, benefits, services, and the use of facilities, necessary to save the life of a pregnant woman or to address complications related to an abortion are not subject to this section.

(2) Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion. Accordingly, subject to paragraph (d)(1) of this section, no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, employment, or other educational program or activity operated by a recipient that receives Federal financial assistance because such individual has sought or received, or is seeking, a legal abortion, or any

benefit or service related to a legal abortion.

### Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

#### § .300 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which §§ .300 through §§ .310 apply, except as provided in §§ .225 and §§ .230.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ .300 through .310 apply shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission that has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria that do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ .300 through .310 apply:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant that treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice that so discriminates or excludes;

(3) Subject to § .235(d), shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including

whether such applicant is “Miss” or “Mrs.” A recipient may make pre-admission inquiry as to the sex of an applicant for admission, 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 these Title IX regulations.

#### § .305 Preference in admission.

A recipient to which §§ .300 through .310 apply shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity that admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of §§ .300 through .310.

#### § .310 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which §§ .300 through .310 apply shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § .110(a), and may choose to undertake such efforts as affirmative action pursuant to § .110(b).

(b) *Recruitment at certain institutions.* A recipient to which §§ .300 through .310 apply shall not recruit primarily or exclusively at educational institutions, schools, or entities that admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of §§ .300 through .310.

### Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

#### § .400 Education programs or activities.

(a) *General.* Except as provided elsewhere in these Title IX regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient that receives Federal financial assistance. Sections .400 through .455 do not apply to actions of a recipient in connection with admission of its students to an education program or activity of a recipient to which §§ .300 through .310 do not apply, or an entity, not a recipient, to which

§§ .300 through .310 would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in §§ .400 through .455, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students or employees;

(7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, that are designed to provide opportunities to study abroad, and that are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided*, that a recipient educational institution that administers or assists in the administration of such scholarships, fellowships, or other awards that are restricted to members of one sex provides, or otherwise makes available, reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Aids, benefits or services not provided by recipient.* (1) This paragraph (d) applies to any recipient that requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or that facilitates, permits, or considers such participation as part of or equivalent to an education program or

activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

(2) Such recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of such recipient that these Title IX regulations would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

#### § .405 Housing.

(a) *Generally.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than that provided by such recipient.

(2)(i) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole:

(A) Proportionate in quantity; and

(B) Comparable in quality and cost to the student.

(ii) A recipient may render such assistance to any agency, organization, or person that provides all or part of such housing to students of only one sex.

#### § .410 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be

comparable to such facilities provided for students of the other sex.

#### § .415 Access to course offerings.

(a) A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(b)(1) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from September 29, 2000. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from September 29, 2000.

(2) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(3) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(4) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards that do not have such effect.

(5) Portions of classes in elementary and secondary schools, or portions of education programs or activities, that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(6) Recipients may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

#### § .420 Access to schools operated by LEAs.

A recipient that is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes

available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

#### § .425 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient that uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials that permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

#### § .430 Financial assistance.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amounts or types of such assistance, limit eligibility for such assistance that is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities, or other services, assist any foundation, trust, agency, organization, or person that provides assistance to any of such recipient's students in a manner that discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance that treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government that require that awards be made to members of a particular sex specified therein; *Provided*, that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) A recipient may provide separate athletic scholarships or grants-in-aid for members of each sex as part of separate athletic teams for members of each sex to the extent consistent with this paragraph (c) and § .450.

#### § .435 Employment assistance to students.

(a) *Assistance by recipient in making available outside employment.* A recipient that assists any agency, organization, or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person that discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient that employs any of its students shall not do so in a manner that violates §§ .500 through .550.

#### § .440 Health and insurance benefits and services.

Subject to § .235(d), in providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner that would violate §§ .500 through .550 if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service that may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient that provides full coverage health service shall provide gynecological care.

#### § .445 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.*

(1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation as long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient that operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section, shall ensure that the separate

portion is comparable to that offered to non-pregnant students.

(4) Subject to § .235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan, or policy that such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient that does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence for as long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status that she held when the leave began.

#### § .450 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of these Title IX regulations, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal opportunity.* (1) A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the



designated agency official will consider, among other factors:

(i) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(ii) The provision of equipment and supplies;

(iii) Scheduling of games and practice time;

(iv) Travel and per diem allowance;

(v) Opportunity to receive coaching and academic tutoring;

(vi) Assignment and compensation of coaches and tutors;

(vii) Provision of locker rooms, practice, and competitive facilities;

(viii) Provision of medical and training facilities and services;

(ix) Provision of housing and dining facilities and services;

(x) Publicity.

(2) For purposes of paragraph (c)(1) of this section, unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the designated agency official may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from September 29, 2000. A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the secondary or postsecondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from September 29, 2000.

#### § .455 Textbooks and curricular material.

Nothing in these Title IX regulations shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

#### Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

#### § .500 Employment.

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor,

whether full-time or part-time, under any education program or activity operated by a recipient that receives Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way that could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by §§ .500 through .550, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity that admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of these Title IX regulations.

(b) *Application.* The provisions of §§ .500 through .550 apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications, and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

#### § .505 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity that has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

#### § .510 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have so discriminated in the past, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities that furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of §§ .500 through .550.

#### § .515 Compensation.

A recipient shall not make or enforce any policy or practice that, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and that are performed under similar working conditions.

#### § .520 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for

similar jobs, position descriptions, or job requirements that classify persons on the basis of sex, unless sex is a bona fide occupational qualification for the positions in question as set forth in § .550.

#### § .525 Fringe benefits.

(a) *“Fringe benefits” defined.* For purposes of these Title IX regulations, *fringe benefits* means: Any medical, hospital, accident, life insurance, or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment not subject to the provision of § .515.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan that does not provide for equal periodic benefits for members of each sex and for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan that establishes different optional or compulsory retirement ages based on sex or that otherwise discriminates in benefits on the basis of sex.

#### § .530 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment that treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* Subject to § 235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, recovery therefrom, and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration, and extensions of leave, payment of disability income, accrual of seniority

and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status that she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

#### § .535 Effect of state or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with §§ .500 through .550 is not obviated or alleviated by the existence of any State or local law or other requirement that imposes prohibitions or limits upon employment of members of one sex that are not imposed upon members of the other sex.

(b) *Benefits.* A recipient that provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

#### § .540 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job in question.

#### § .545 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 these Title IX regulations.

#### § .550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§ .500 through .550

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 that 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

#### § .600 Notice of covered programs.

Within 60 days of September 29, 2000, each Federal agency that awards Federal financial assistance shall publish in the **Federal Register** a notice of the programs covered by these Title IX regulations. Each such Federal agency shall periodically republish the notice of covered programs to reflect changes in covered programs. Copies of this notice also shall be made available upon request to the Federal agency's office that enforces Title IX.

#### Final Adoption of the Common Rule

The final adoption of the common rule by the participating agencies, as modified by agency-specific text, is set forth below:

### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 5

#### FOR FURTHER INFORMATION CONTACT:

Irene P. Little, Office of Small Business and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415-7380.

#### List of Subjects in 10 CFR Part 5

Administrative practice and procedure, Buildings and facilities, Civil rights, Colleges and universities, Education of individuals with disabilities, Education, Educational facilities, Educational research, Educational study programs, Equal educational opportunity, Equal employment opportunity, Graduate fellowship program, Grant programs—education, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements, Sex

discrimination, State agreement program, Student aid, Women.

**William D. Travers,**

*Executive Director for Operations, Nuclear Regulatory Commission.*

For the reasons stated in the preamble, the Nuclear Regulatory Commission amends 10 CFR chapter I, as follows:

1. Part 5 is added as set forth at the end of the common preamble to read as follows:

**PART 5—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 5.100 Purpose and effective date.
- 5.105 Definitions.
- 5.110 Remedial and affirmative action and self-evaluation.
- 5.115 Assurance required.
- 5.120 Transfers of property.
- 5.125 Effect of other requirements.
- 5.130 Effect of employment opportunities.
- 5.135 Designation of responsible employee and adoption of grievance procedures.
- 5.140 Dissemination of policy.

**Subpart B—Coverage**

- 5.200 Application.
- 5.205 Educational institutions and other entities controlled by religious organizations.
- 5.210 Military and merchant marine educational institutions.
- 5.215 Membership practices of certain organizations.
- 5.220 Admissions.
- 5.225 Educational institutions eligible to submit transition plans.
- 5.230 Transition plans.
- 5.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 5.300 Admission.
- 5.305 Preference in admission.
- 5.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 5.400 Education programs or activities.
- 5.405 Housing.
- 5.410 Comparable facilities.
- 5.415 Access to course offerings.
- 5.420 Access to schools operated by LEAs.
- 5.425 Counseling and use of appraisal and counseling materials.
- 5.430 Financial assistance.
- 5.435 Employment assistance to students.
- 5.440 Health and insurance benefits and services.
- 5.445 Marital or parental status.
- 5.450 Athletics.
- 5.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 5.500 Employment.
- 5.505 Employment criteria.
- 5.510 Recruitment.
- 5.515 Compensation.
- 5.520 Job classification and structure.
- 5.525 Fringe benefits.
- 5.530 Marital or parental status.
- 5.535 Effect of state or local law or other requirements.
- 5.540 Advertising.
- 5.545 Pre-employment inquiries.
- 5.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 5.600 Notice of covered programs.
- 5.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 5.105 [Amended]**

2. In § 5.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Program Manager, Civil Rights Program” is added in its place.

3. In § 5.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 5.100 through 5.605” is added in its place.

4. Section 5.605 is added to read as follows:

**§ 5.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 10 CFR 4.21 through 4.75.

**SMALL BUSINESS ADMINISTRATION**

**13 CFR Part 113**

**FOR FURTHER INFORMATION CONTACT:**

Assistant Administrator for Equal Employment Opportunity and Civil Rights Compliance, U.S. Small Business Administration, 409 3rd Street, S.W., Washington, D.C. 20416, (202) 205-6750.

**List of Subjects in 13 CFR Part 113**

Administrative practice and procedure, Civil rights, Colleges and universities, Educational facilities, Equal employment opportunity, Grant programs—education, Loan programs—education, Reporting and recordkeeping

requirements, Sex discrimination, Women.

**Aida Alvarez,**

*Administrator, Small Business Administration.*

For the reasons stated in the preamble, the Small Business Administration amends 13 CFR part 113 as follows:

**PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR**

1. The authority for part 113 is revised to read as follows:

**Authority:** 15 U.S.C. 633, 634, 687, 1691; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688; 29 U.S.C. 794; Sec. 5, Pub. L. 85-536, 72 Stat. 385, as amended; Sec. 308, Pub. L. 85-699, 72 Stat. 694, as amended.

2. Sections 113.1 through 113.8 are designated as subpart A and the subpart heading is added to read as follows:

**Subpart A—General Provisions**

3. Appendix A to part 113 is redesignated as Appendix A to subpart A of part 113 and the heading is revised to read as follows:

**Appendix A to Subpart A of Part 113**

4. Subpart B, consisting of §§ 113.100 through 113.605, is added to part 113 as set forth at the end of the common preamble to read as follows:

**Subpart B—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance**

Sec.

**Introduction**

- 113.100 Purpose and effective date.
- 113.105 Definitions.
- 113.110 Remedial and affirmative action and self-evaluation.
- 113.115 Assurance required.
- 113.120 Transfers of property.
- 113.125 Effect of other requirements.
- 113.130 Effect of employment opportunities.
- 113.135 Designation of responsible employee and adoption of grievance procedures.
- 113.140 Dissemination of policy.

**Coverage**

- 113.200 Application.
- 113.205 Educational institutions and other entities controlled by religious organizations.**
- 113.210 Military and merchant marine educational institutions.

- 113.215 Membership practices of certain organizations.  
 113.220 Admissions.  
 113.225 Educational institutions eligible to submit transition plans.  
 113.230 Transition plans.  
 113.235 Statutory amendments.

#### Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

- 113.300 Admission.  
 113.305 Preference in admission.  
 113.310 Recruitment.

#### Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

- 113.400 Education programs or activities.  
 113.405 Housing.  
 113.410 Comparable facilities.  
 113.415 Access to course offerings.  
 113.420 Access to schools operated by LEAs.  
 113.425 Counseling and use of appraisal and counseling materials.  
 113.430 Financial assistance.  
 113.435 Employment assistance to students.  
 113.440 Health and insurance benefits and services.  
 113.445 Marital or parental status.  
 113.450 Athletics.  
 113.455 Textbooks and curricular material.

#### Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

- 113.500 Employment.  
 113.505 Employment criteria.  
 113.510 Recruitment.  
 113.515 Compensation.  
 113.520 Job classification and structure.  
 113.525 Fringe benefits.  
 113.530 Marital or parental status.  
 113.535 Effect of state or local law or other requirements.  
 113.540 Advertising.  
 113.545 Pre-employment inquiries.  
 113.550 Sex as a bona fide occupational qualification.

#### Procedures

- 113.600 Notice of covered programs.  
 113.605 Enforcement procedures.

#### Subpart B—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

5. The designations for Subparts A through F as set forth in the common rule are removed.

#### § 113.105 [Amended]

6. In § 113.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Assistant Administrator for Equal Employment and Civil Rights Compliance” is added in its place.

7. In § 113.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 113.100 through 113.605” is added in its place.

8. Section 113.605 is added to read as follows:

#### § 113.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 13 CFR part 112.

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### 14 CFR Part 1253

**FOR FURTHER INFORMATION CONTACT:** Fred Dalton, Office of Equal Opportunity Programs, NASA Headquarters (Code EI), Washington, DC 20546, (202) 358-0941.

#### List of Subjects in 14 CFR Part 1253

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Education of individuals with disabilities, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Investigations, Marital status discrimination, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Dated: June 1, 2000.

**Daniel S. Goldin,**

*Administrator, National Aeronautics and Space Administration.*

For the reasons stated in the preamble, the National Aeronautics and Space Administration amends 14 CFR chapter V, as follows:

1. Part 1253 is added as set forth at the end of the common preamble to read as follows:

#### PART 1253—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

##### Subpart A—Introduction

Sec.

- 1253.100 Purpose and effective date.  
 1253.105 Definitions.  
 1253.110 Remedial and affirmative action and self-evaluation.  
 1253.115 Assurance required.  
 1253.120 Transfers of property.  
 1253.125 Effect of other requirements.  
 1253.130 Effect of employment opportunities.  
 1253.135 Designation of responsible employee and adoption of grievance procedures.  
 1253.140 Dissemination of policy.

##### Subpart B—Coverage

- 1253.200 Application.  
 1253.205 Educational institutions and other entities controlled by religious organizations.  
 1253.210 Military and merchant marine educational institutions.  
 1253.215 Membership practices of certain organizations.  
 1253.220 Admissions.  
 1253.225 Educational institutions eligible to submit transition plans.  
 1253.230 Transition plans.  
 1253.235 Statutory amendments.

##### Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

- 1253.300 Admission.  
 1253.305 Preference in admission.  
 1253.310 Recruitment.

##### Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

- 1253.400 Education programs or activities.  
 1253.405 Housing.  
 1253.410 Comparable facilities.  
 1253.415 Access to course offerings.  
 1253.420 Access to schools operated by LEAs.  
 1253.425 Counseling and use of appraisal and counseling materials.  
 1253.430 Financial assistance.  
 1253.435 Employment assistance to students.  
 1253.440 Health and insurance benefits and services.  
 1253.445 Marital or parental status.  
 1253.450 Athletics.  
 1253.455 Textbooks and curricular material.

##### Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

- 1253.500 Employment.  
 1253.505 Employment criteria.  
 1253.510 Recruitment.  
 1253.515 Compensation.  
 1253.520 Job classification and structure.  
 1253.525 Fringe benefits.  
 1253.530 Marital or parental status.  
 1253.535 Effect of state or local law or other requirements.  
 1253.540 Advertising.  
 1253.545 Pre-employment inquiries.  
 1253.550 Sex as a bona fide occupational qualification.

##### Subpart F—Procedures

- 1253.600 Notice of covered programs.  
 1253.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

#### § 1253.105 [Amended]

2. In § 1253.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Associate Administrator for Equal Opportunity Programs” is added in its place.

3. In § 1253.105 in the definition of “Title IX regulations,” the brackets and

text within brackets are removed and “§§ 1253.100 through 1253.605” is added in its place.

4. Section 1253.605 is added to read as follows:

**§ 1253.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 14 CFR 1250.105 through 1250.110.

**DEPARTMENT OF COMMERCE**

**15 CFR Part 8a**

**RIN 0690-AA28**

**FOR FURTHER INFORMATION CONTACT:**

Lawrence N. Self, Acting Director, Office of Civil Rights, Department of Commerce, Room 6010, Washington, DC 20230 (202) 482-0625.

**List of Subjects in 15 CFR Part 8a**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Reporting and recordkeeping requirements, Sex discrimination, Women.

**Lawrence N. Self,**

*Acting Director, Office of Civil Rights, Department of Commerce.*

For the reasons stated in the preamble, the Department of Commerce amends 15 CFR subtitle A, as follows:

1. Part 8a is added as set forth at the end of the common preamble to read as follows:

**PART 8a—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

**Sec.**

- 8a.100 Purpose and effective date.
- 8a.105 Definitions.
- 8a.110 Remedial and affirmative action and self-evaluation.
- 8a.115 Assurance required.
- 8a.120 Transfers of property.
- 8a.125 Effect of other requirements.
- 8a.130 Effect of employment opportunities.
- 8a.135 Designation of responsible employee and adoption of grievance procedures.
- 8a.140 Dissemination of policy.

**Subpart B—Coverage**

- 8a.200 Application.
- 8a.205 Educational institutions and other entities controlled by religious organizations.

- 8a.210 Military and merchant marine educational institutions.
- 8a.215 Membership practices of certain organizations.
- 8a.220 Admissions.
- 8a.225 Educational institutions eligible to submit transition plans.
- 8a.230 Transition plans.
- 8a.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 8a.300 Admission.
- 8a.305 Preference in admission.
- 8a.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 8a.400 Education programs or activities.
- 8a.405 Housing.
- 8a.410 Comparable facilities.
- 8a.415 Access to course offerings.
- 8a.420 Access to schools operated by LEAs.
- 8a.425 Counseling and use of appraisal and counseling materials.
- 8a.430 Financial assistance.
- 8a.435 Employment assistance to students.
- 8a.440 Health and insurance benefits and services.
- 8a.445 Marital or parental status.
- 8a.450 Athletics.
- 8a.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 8a.500 Employment.
- 8a.505 Employment criteria.
- 8a.510 Recruitment.
- 8a.515 Compensation.
- 8a.520 Job classification and structure.
- 8a.525 Fringe benefits.
- 8a.530 Marital or parental status.
- 8a.535 Effect of state or local law or other requirements.
- 8a.540 Advertising.
- 8a.545 Pre-employment inquiries.
- 8a.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 8a.600 Notice of covered programs.
- 8a.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 8a.105 [Amended]**

2. In § 8a.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and the following text is added in its place: “with respect to any program receiving Federal financial assistance, the Secretary or other official of the Department who by law or by delegation has the principal authority within the Department for the administration of a law extending such assistance. *Designated agency official* also means any officials so designated by due delegation of authority within the Department to act in such capacity

with regard to any program under these Title IX regulations’.

3. In § 8a.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 8a.100 through 8a.605” is added in its place.

4. Section 8a.605 is added to read as follows:

**§ 8a.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 15 CFR 8.7 through 8.15, and 13 CFR part 317.

**TENNESSEE VALLEY AUTHORITY**

**18 CFR Part 1317**

**FOR FURTHER INFORMATION CONTACT:**

Franklin E. Alford, Manager, Supplier and Diverse Business Relations, 1101 Market Street, WR 3J, Chattanooga, Tennessee 37402, (423) 751-7203.

**List of Subjects in 18 CFR Part 1317**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Equal educational opportunity, Equal employment opportunity, Marital status discrimination, Reporting and recordkeeping requirements, Sex discrimination, Women.

**Franklin E. Alford,**

*Manager, Supplier and Diverse Business Relations, Tennessee Valley Authority.*

For the reasons stated in the preamble, the Tennessee Valley Authority amends 18 CFR chapter XIII, as follows:

1. Part 1317 is added as set forth at the end of the common preamble to read as follows:

**PART 1317—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

**Sec.**

- 1317.100 Purpose and effective date.
- 1317.105 Definitions.
- 1317.110 Remedial and affirmative action and self-evaluation.
- 1317.115 Assurance required.
- 1317.120 Transfers of property.
- 1317.125 Effect of other requirements.
- 1317.130 Effect of employment opportunities.
- 1317.135 Designation of responsible employee and adoption of grievance procedures.
- 1317.140 Dissemination of policy.

**Subpart B—Coverage**

- 1317.200 Application.
- 1317.205 Educational institutions and other entities controlled by religious organizations.
- 1317.210 Military and merchant marine educational institutions.
- 1317.215 Membership practices of certain organizations.
- 1317.220 Admissions.
- 1317.225 Educational institutions eligible to submit transition plans.
- 1317.230 Transition plans.
- 1317.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited 1317.300 Admission.**

- 1317.305 Preference in admission.
- 1317.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 1317.400 Education programs or activities.
- 1317.405 Housing.
- 1317.410 Comparable facilities.
- 1317.415 Access to course offerings.
- 1317.420 Access to schools operated by LEAs.
- 1317.425 Counseling and use of appraisal and counseling materials.
- 1317.430 Financial assistance.
- 1317.435 Employment assistance to students.
- 1317.440 Health and insurance benefits and services.
- 1317.445 Marital or parental status.
- 1317.450 Athletics.
- 1317.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 1317.500 Employment.
- 1317.505 Employment criteria.
- 1317.510 Recruitment.
- 1317.515 Compensation.
- 1317.520 Job classification and structure.
- 1317.525 Fringe benefits.
- 1317.530 Marital or parental status.
- 1317.535 Effect of state or local law or other requirements.
- 1317.540 Advertising.
- 1317.545 Pre-employment inquiries.
- 1317.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 1317.600 Notice of covered programs.
- 1317.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 1317.105 [Amended]**

2. In § 1317.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Manager, Supplier and Diverse Business Relations” is added in its place.

3. In § 1317.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and

“§§ 1317.100 through 1317.605” is added in its place.

4. Section 1317.605 is added to read as follows:

**§ 1317.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 18 CFR part 1302.

**DEPARTMENT OF STATE****22 CFR Part 146**

**FOR FURTHER INFORMATION CONTACT:** Paul M. Coran, Attorney Advisor, Office of Equal Employment Opportunity and Civil Rights, Department of State, Room 4216, Washington, D.C. 20520, (202) 647–9295.

**List of Subjects in 22 CFR Part 146**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational research, Educational study programs, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Sex discrimination, Women.

**David G. Carpenter,**  
*Acting Under Secretary of State for Management.*

For the reasons stated in the preamble, the Department of State amends 22 CFR Chapter I, subchapter O, as follows:

1. Part 146 is added as set forth at the end of the common preamble to read as follows:

**PART 146—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE****Subpart A—Introduction**

- Sec.
- 146.100 Purpose and effective date.
- 146.105 Definitions.
- 146.110 Remedial and affirmative action and self-evaluation.
- 146.115 Assurance required.
- 146.120 Transfers of property.
- 146.125 Effect of other requirements.
- 146.130 Effect of employment opportunities.
- 146.135 Designation of responsible employee and adoption of grievance procedures.
- 146.140 Dissemination of policy.

**Subpart B—Coverage**

- 146.200 Application
- 146.205 Educational institutions and other entities controlled by religious organizations.

- 146.210 Military and merchant marine educational institutions.
- 146.215 Membership practices of certain organizations.
- 146.220 Admissions.
- 146.225 Educational institutions eligible to submit transition plans.
- 146.230 Transition plans.
- 146.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 146.300 Admission.
- 146.305 Preference in admission.
- 146.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 146.400 Education programs or activities.
- 146.405 Housing.
- 146.410 Comparable facilities.
- 146.415 Access to course offerings.
- 146.420 Access to schools operated by LEAs.
- 146.425 Counseling and use of appraisal and counseling materials.
- 146.430 Financial assistance.
- 146.435 Employment assistance to students.
- 146.440 Health and insurance benefits and services.
- 146.445 Marital or parental status.
- 146.450 Athletics.
- 146.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 146.500 Employment.
- 146.505 Employment criteria.
- 146.510 Recruitment.
- 146.515 Compensation.
- 146.520 Job classification and structure.
- 146.525 Fringe benefits.
- 146.530 Marital or parental status.
- 146.535 Effect of state or local law or other requirements.
- 146.540 Advertising.
- 146.545 Pre-employment inquiries.
- 146.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 146.600 Notice of covered programs.
- 146.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 146.105 [Amended]**

2. In § 146.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Deputy Assistant Secretary for the Office of Equal Employment Opportunity and Civil Rights” is added in its place.

3. In § 146.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 146.100 through 146.605” is added in its place.

4. Section 146.605 is added to read as follows:

**§ 146.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 22 CFR part 141.

**AGENCY FOR INTERNATIONAL DEVELOPMENT****22 CFR Part 229****FOR FURTHER INFORMATION CONTACT:**

Jessalyn L. Pendarvis, Director, Office of Equal Opportunity Programs, Agency for International Development, Washington, D.C. 20523, (202) 712-1110.

**List of Subjects in 22 CFR Part 229**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Investigations, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

**Jessalyn L. Pendarvis,**

*Director, Office of Equal Opportunity Programs, Agency for International Development.*

For the reasons stated in the preamble, the Agency for International Development amends 22 CFR chapter II, as follows:

1. Part 229 is added as set forth at the end of the common preamble to read as follows:

**PART 229—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

- Sec.
- 229.100 Purpose and effective date.
  - 229.105 Definitions.
  - 229.110 Remedial and affirmative action and self-evaluation.
  - 229.115 Assurance required.
  - 229.120 Transfers of property.
  - 229.125 Effect of other requirements.
  - 229.130 Effect of employment opportunities.
  - 229.135 Designation of responsible employee and adoption of grievance procedures.
  - 229.140 Dissemination of policy.

**Subpart B—Coverage**

- 229.200 Application.

- 229.205 Educational institutions and other entities controlled by religious organizations.
- 229.210 Military and merchant marine educational institutions.
- 229.215 Membership practices of certain organizations.
- 229.220 Admissions.
- 229.225 Educational institutions eligible to submit transition plans.
- 229.230 Transition plans.
- 229.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 229.300 Admission.
- 229.305 Preference in admission.
- 229.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 229.400 Education programs or activities.
- 229.405 Housing.
- 229.410 Comparable facilities.
- 229.415 Access to course offerings.
- 229.420 Access to schools operated by LEAs.
- 229.425 Counseling and use of appraisal and counseling materials.
- 229.430 Financial assistance.
- 229.435 Employment assistance to students.
- 229.440 Health and insurance benefits and services.
- 229.445 Marital or parental status.
- 229.450 Athletics.
- 229.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 229.500 Employment.
- 229.505 Employment criteria.
- 229.510 Recruitment.
- 229.515 Compensation.
- 229.520 Job classification and structure.
- 229.525 Fringe benefits.
- 229.530 Marital or parental status.
- 229.535 Effect of state or local law or other requirements.
- 229.540 Advertising.
- 229.545 Pre-employment inquiries.
- 229.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 229.600 Notice of covered programs.
- 229.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 229.105 [Amended]**

2. In § 229.105 in the definition of "Designated agency official," the brackets and text within brackets are removed and "Director, Office of Equal Opportunity Programs" is added in its place.

3. In § 229.105 in the definition of "Title IX regulations," the brackets and text within brackets are removed and "§§ 229.100 through 229.605" is added in its place.

4. Section 229.605 is added to read as follows:

**§ 229.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 22 CFR part 209.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Part 3**

[Agency Docket No. FR-4301-F-02]

RIN 2501-AC42

**FOR FURTHER INFORMATION CONTACT:**

David H. Enzel, Deputy Assistant Secretary for Enforcement and Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, Washington, D.C. 20410-0500, (202) 708-0836. (This telephone number is not toll-free.) Hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

**List of Subjects in 24 CFR Part 3**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Investigations, Loan programs—education, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

**Andrew Cuomo,**

*Secretary of Housing and Urban Development.*

For the reasons stated in the preamble, the Department of Housing and Urban Development amends 24 CFR subtitle A, as follows:

1. Part 3 is added as set forth at the end of the common preamble to read as follows:

**PART 3—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

- Sec.
- 3.100 Purpose and effective date.
  - 3.105 Definitions.
  - 3.110 Remedial and affirmative action and self-evaluation.
  - 3.115 Assurance required.

- 3.120 Transfers of property.
- 3.125 Effect of other requirements.
- 3.130 Effect of employment opportunities.
- 3.135 Designation of responsible employee and adoption of grievance procedures.
- 3.140 Dissemination of policy.

#### Subpart B—Coverage

- 3.200 Application.
- 3.205 Educational institutions and other entities controlled by religious organizations.
- 3.210 Military and merchant marine educational institutions.
- 3.215 Membership practices of certain organizations.
- 3.220 Admissions.
- 3.225 Educational institutions eligible to submit transition plans.
- 3.230 Transition plans.
- 3.235 Statutory amendments.

#### Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

- 3.300 Admission.
- 3.305 Preference in admission.
- 3.310 Recruitment.

#### Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

- 3.400 Education programs or activities.
- 3.405 Housing.
- 3.410 Comparable facilities.
- 3.415 Access to course offerings.
- 3.420 Access to schools operated by LEAs.
- 3.425 Counseling and use of appraisal and counseling materials.
- 3.430 Financial assistance.
- 3.435 Employment assistance to students.
- 3.440 Health and insurance benefits and services.
- 3.445 Marital or parental status.
- 3.450 Athletics.
- 3.455 Textbooks and curricular material.

#### Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

- 3.500 Employment.
- 3.505 Employment criteria.
- 3.510 Recruitment.
- 3.515 Compensation.
- 3.520 Job classification and structure.
- 3.525 Fringe benefits.
- 3.530 Marital or parental status.
- 3.535 Effect of state or local law or other requirements.
- 3.540 Advertising.
- 3.545 Pre-employment inquiries.
- 3.550 Sex as a bona fide occupational qualification.

#### Subpart F—Procedures

- 3.600 Notice of covered programs.
- 3.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

#### § 3.105 [Amended]

2. In § 3.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Assistant Secretary for

Fair Housing and Equal Opportunity” is added in its place.

3. In § 3.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 3.100 through 3.605” is added in its place.

4. Section 3.605 is added to read as follows:

#### § 3.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 24 CFR part 1.

### DEPARTMENT OF JUSTICE

#### 28 CFR Part 54

[AG Order No. 2320–2000]

RIN 1190–AA28

#### FOR FURTHER INFORMATION CONTACT:

Merrily A. Friedlander, Chief, Coordination and Review Section, Civil Rights Division, Department of Justice, P.O. Box 66560, Washington, D.C. 20036–6560, (202) 307–2222.

#### List of Subjects in 28 CFR Part 54

Administrative practice and procedure, Buildings and facilities, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Individuals with disabilities, Investigations, Loan programs—education, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Dated: August 10, 2000.

**Janet Reno,**

*Attorney General.*

For the reasons stated in the preamble, the Department of Justice amends 28 CFR chapter I, as follows:

1. Part 54 is added as set forth at the end of the common preamble to read as follows:

#### PART 54—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

##### Subpart A—Introduction

Sec.

- 54.100 Purpose and effective date.
- 54.105 Definitions.
- 54.110 Remedial and affirmative action and self-evaluation.

- 54.115 Assurance required.
- 54.120 Transfers of property.
- 54.125 Effect of other requirements.
- 54.130 Effect of employment opportunities.
- 54.135 Designation of responsible employee and adoption of grievance procedures.
- 54.140 Dissemination of policy.

#### Subpart B—Coverage

- 54.200 Application.
- 54.205 Educational institutions and other entities controlled by religious organizations.
- 54.210 Military and merchant marine educational institutions.
- 54.215 Membership practices of certain organizations.
- 54.220 Admissions.
- 54.225 Educational institutions eligible to submit transition plans.
- 54.230 Transition plans.
- 54.235 Statutory amendments.

#### Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

- 54.300 Admission.
- 54.305 Preference in admission.
- 54.310 Recruitment.

#### Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

- 54.400 Education programs or activities.
- 54.405 Housing.
- 54.410 Comparable facilities.
- 54.415 Access to course offerings.
- 54.420 Access to schools operated by LEAs.
- 54.425 Counseling and use of appraisal and counseling materials.
- 54.430 Financial assistance.
- 54.435 Employment assistance to students.
- 54.440 Health and insurance benefits and services.
- 54.445 Marital or parental status.
- 54.450 Athletics.
- 54.455 Textbooks and curricular material.

#### Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

- 54.500 Employment.
- 54.505 Employment criteria.
- 54.510 Recruitment.
- 54.515 Compensation.
- 54.520 Job classification and structure.
- 54.525 Fringe benefits.
- 54.530 Marital or parental status.
- 54.535 Effect of state or local law or other requirements.
- 54.540 Advertising.
- 54.545 Pre-employment inquiries.
- 54.550 Sex as a bona fide occupational qualification.

#### Subpart F—Procedures

- 54.600 Notice of covered programs.
- 54.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

#### § 54.105 [Amended]

2. In § 54.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “the Assistant Attorney



General, Civil Rights Division" is added in its place.

3. In § 54.105 in the definition of "Title IX regulations," the brackets and text within brackets are removed and "§§ 54.100 through 54.605" is added in its place.

4. Section 54.605 is added to read as follows:

**§ 54.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 28 CFR 42.106 through 42.111.

**DEPARTMENT OF LABOR**

**29 CFR Part 36**

**FOR FURTHER INFORMATION CONTACT:** Bud West, Senior Policy Advisor, Civil Rights Center, Department of Labor, 200 Constitution Avenue, N.W., Room N-4123, Washington, D.C. 20210, (202) 219-8927 (voice), (202) 219-6118, or (202) 326-2577 (TTY/TTD).

**List of Subjects in 29 CFR Part 36**

Administrative practice and procedure, Civil rights, Equal educational opportunity, Equal employment opportunity, Grant programs—labor, Investigations, Reporting and recordkeeping requirements, Sex discrimination, Women.

**Alexis M. Herman,**

*Secretary of Labor.*

For the reasons stated in the preamble, the Department of Labor amends 29 CFR subtitle A, as follows:

1. Part 36 is added as set forth at the end of the common preamble to read as follows:

**PART 36—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 36.100 Purpose and effective date.
- 36.105 Definitions.
- 36.110 Remedial and affirmative action and self-evaluation.
- 36.115 Assurance required.
- 36.120 Transfers of property.
- 36.125 Effect of other requirements.
- 36.130 Effect of employment opportunities.
- 36.135 Designation of responsible employee and adoption of grievance procedures.
- 36.140 Dissemination of policy.

**Subpart B—Coverage**

- 36.200 Application.

36.205 Educational institutions and other entities controlled by religious organizations.

36.210 Military and merchant marine educational institutions.

36.215 Membership practices of certain organizations.

36.220 Admissions.

36.225 Educational institutions eligible to submit transition plans.

36.230 Transition plans.

36.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

36.300 Admission.

36.305 Preference in admission.

36.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

36.400 Education programs or activities.

36.405 Housing.

36.410 Comparable facilities.

36.415 Access to course offerings.

36.420 Access to schools operated by LEAs.

36.425 Counseling and use of appraisal and counseling materials.

36.430 Financial assistance.

36.435 Employment assistance to students.

36.440 Health and insurance benefits and services.

36.445 Marital or parental status.

36.450 Athletics.

36.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

36.500 Employment.

36.505 Employment criteria.

36.510 Recruitment.

36.515 Compensation.

36.520 Job classification and structure.

36.525 Fringe benefits.

36.530 Marital or parental status.

36.535 Effect of state or local law or other requirements.

36.540 Advertising.

36.545 Pre-employment inquiries.

36.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

36.600 Notice of covered programs.

36.605 Enforcement procedures.

36.610 [Reserved]

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 36.105 [Amended]**

2. In § 36.105 in the definition of "Designated agency official," the brackets and text within brackets are removed and "Director, Civil Rights Center" is added in its place.

3. In § 36.105 in the definition of "Title IX regulations," the brackets and text within brackets are removed and "§§ 36.100 through 36.610" is added in its place.

4. Section 36.605 is added and § 36.610 is added and reserved to read as follows:

**§ 36.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 29 CFR 31.5, 31.7 through 31.11.

**§ 36.610 [Reserved]**

**DEPARTMENT OF THE TREASURY**

**31 CFR Part 28**

**FOR FURTHER INFORMATION CONTACT:**

Marcia H. Coates, Director, Office of Equal Opportunity Program, 1500 Pennsylvania Avenue, N.W., Room 6069 Metropolitan Square, Washington, D.C. 20220, (202) 622-1170.

**List of Subjects in 31 CFR Part 28**

Administrative practice and procedure, Age discrimination, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Individuals with disabilities, Investigations, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

**Lisa G. Ross,**

*Acting Assistant Secretary for Management and Chief Financial Officer, Department of the Treasury.*

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR subtitle A, as follows:

1. Part 28 is added as set forth at the end of the common preamble to read as follows:

**PART 28—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 28.100 Purpose and effective date.
- 28.105 Definitions.
- 28.110 Remedial and affirmative action and self-evaluation.
- 28.115 Assurance required.
- 28.120 Transfers of property.
- 28.125 Effect of other requirements.
- 28.130 Effect of employment opportunities.
- 28.135 Designation of responsible employee and adoption of grievance procedures.

28.140 Dissemination of policy.

**Subpart B—Coverage**

- 28.200 Application.
- 28.205 Educational institutions and other entities controlled by religious organizations.
- 28.210 Military and merchant marine educational institutions.
- 28.215 Membership practices of certain organizations.
- 28.220 Admissions.
- 28.225 Educational institutions eligible to submit transition plans.
- 28.230 Transition plans.
- 28.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 28.300 Admission.
- 28.305 Preference in admission.
- 28.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 28.400 Education programs or activities.
- 28.405 Housing.
- 28.410 Comparable facilities.
- 28.415 Access to course offerings.
- 28.420 Access to schools operated by LEAs.
- 28.425 Counseling and use of appraisal and counseling materials.
- 28.430 Financial assistance.
- 28.435 Employment assistance to students.
- 28.440 Health and insurance benefits and services.
- 28.445 Marital or parental status.
- 28.450 Athletics.
- 28.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 28.500 Employment.
- 28.505 Employment criteria.
- 28.510 Recruitment.
- 28.515 Compensation.
- 28.520 Job classification and structure.
- 28.525 Fringe benefits.
- 28.530 Marital or parental status.
- 28.535 Effect of state or local law or other requirements.
- 28.540 Advertising.
- 28.545 Pre-employment inquiries.
- 28.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 28.600 Notice of covered programs.
- 28.605 Compliance information.
- 28.610 Conduct of investigations.
- 28.615 Procedure for effecting compliance.
- 28.620 Hearings.
- 28.625 Decisions and notices.
- 28.630 Judicial review.
- 28.635 Forms and instructions; coordination.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 28.105 [Amended]**

2. In § 28.105 in the definition of “Designated agency official,” the brackets and text within brackets are

removed and “Assistant Secretary for Management and Chief Financial Officer” is added in its place.

3. In § 28.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 28.100 through 28.635” is added in its place.

4. In § 28.105 add new definitions in alphabetical order to read as follows:

**§ 28.105 Definitions.**

\* \* \* \* \*

*Department* means Department of the Treasury.

\* \* \* \* \*

*Reviewing authority* means that component of the Department delegated authority to review the decisions of hearing officers in cases arising under these Title IX regulations.

*Secretary* means Secretary of the Treasury.

\* \* \* \* \*

5. Sections 28.605, 28.610, 26.615, 28.620, 28.625, 28.630, and 28.635 are added to read as follows:

**§ 28.605 Compliance information.**

(a) *Cooperation and assistance.* The designated agency official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with these Title IX regulations and shall provide assistance and guidance to recipients to help them comply voluntarily with these Title IX regulations.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the designated agency official (or designee) timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the designated agency official (or designee) may determine to be necessary to enable the official to ascertain whether the recipient has complied or is complying with these Title IX regulations. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under these Title IX regulations.

(c) *Access to sources of information.* Each recipient shall permit access by the designated agency official (or designee) during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with these Title IX regulations. Where any information

required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with these Title IX regulations. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of these Title IX regulations and their applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the designated agency official finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and these Title IX regulations.

**§ 28.610 Conduct of investigations.**

(a) *Periodic compliance reviews.* The designated agency official (or designee) shall from time to time review the practices of recipients to determine whether they are complying with these Title IX regulations.

(b) *Complaints.* Any person who believes himself or herself or any specific class of individuals to be subjected to discrimination prohibited by these Title IX regulations may by himself or herself or by a representative file with the designated agency official (or designee) a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the designated agency official (or designee).

(c) *Investigations.* The designated agency official (or designee) will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with these Title IX regulations. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with these Title IX regulations occurred, and other factors relevant to a determination as to

whether the recipient has failed to comply with these Title IX regulations.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with these Title IX regulations, the designated agency official (or designee) will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 28.615.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section the designated agency official (or designee) will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or these Title IX regulations, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under these Title IX regulations. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of these Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under these Title IX regulations.

#### § 28.615 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with these Title IX regulations, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with these Title IX regulations may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to:

(1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, or any assurance or other contractual undertaking; and

(2) Any applicable proceeding under State or local law.

(b) *Noncompliance with § 28.115.* If an applicant fails or refuses to furnish an assurance or otherwise fails or refuses to comply with a requirement imposed by or pursuant to § 28.115, Federal financial assistance may be

refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under paragraph (c) of this section except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to September 29, 2000.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* (1) No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until:

(i) The designated agency official has advised the applicant or recipient of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(ii) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to these Title IX regulations; and

(iii) The expiration of 30 days after the Secretary has filed with the committee of the House, and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action.

(2) Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* (1) No action to effect compliance by any other means authorized by law shall be taken until:

(i) The designated agency official has determined that compliance cannot be secured by voluntary means;

(ii) The recipient has been notified of its failure to comply and of the action to be taken to effect compliance; and

(iii) The expiration of at least 10 days from the mailing of such notice to the recipient.

(2) During this period of at least 10 days additional efforts shall be made to persuade the recipient to comply with these Title IX regulations and to take such corrective action as may be appropriate.

#### § 28.620 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 28.615(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the designated agency official that the matter be scheduled for hearing; or

(2) Advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under 20 U.S.C. 1682 and § 28.615(c) and consent to the making of a decision on the basis of such information as may be filed as the record.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, DC, at a time fixed by the designated agency official unless the official determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before a hearing officer designated in accordance with 5 U.S.C. 556(b).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be

entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing officer at the outset of or during the hearing. Any person (other than a Government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a hearing provided for by these Title IX regulations, may be reimbursed for his or her travel and actual expenses of attendance in an amount not to exceed the amount payable under the standardized travel regulations to a Government employee traveling on official business.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to these Title IX regulations, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or Joint Hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with these Title IX regulations with respect to two or more programs to which these Title IX regulations apply, or noncompliance with these Title IX regulations and the regulations of one or more other Federal departments or agencies issued under Title IX, the designated agency official may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with these Title IX regulations. Final decisions in such cases, insofar as these Title IX regulations are concerned, shall be made in accordance with § 28.625.

#### § 28.625 Decisions and notices.

(a) *Decisions by hearing officers.* After a hearing is held by a hearing officer such hearing officer shall either make an initial decision, if so authorized, or

certify the entire record including recommended findings and proposed decision to the reviewing authority for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this paragraph or in paragraph (c) of this section is made by the hearing officer, the applicant or recipient or the counsel for the Department may, within the period provided for in the rules of procedure issued by the designated agency official, file with the reviewing authority exceptions to the initial decision, with the reasons therefor. Upon the filing of such exceptions the reviewing authority shall review the initial decision and issue its own decision thereof including the reasons therefor. In the absence of exceptions the initial decision shall constitute the final decision, subject to the provisions of paragraph (e) of this section.

(b) *Decisions on record or review by the reviewing authority.* Whenever a record is certified to the reviewing authority for decision or it reviews the decision of a hearing officer pursuant to paragraph (a) or (c) of this section, the applicant or recipient shall be given reasonable opportunity to file with it briefs or other written statements of its contentions, and a copy of the final decision of the reviewing authority shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 28.620, the reviewing authority shall make its final decision on the record or refer the matter to a hearing officer for an initial decision to be made on the record. A copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or reviewing authority shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to these Title IX regulations with which it is found that the applicant or recipient has failed to comply.

(e) *Review in certain cases by the Secretary of the Treasury.* If the Secretary has not personally made the final decision referred to in paragraph (a), (b), or (c) of this section, a recipient or applicant or the counsel for the Department may request the Secretary to review a decision of the reviewing authority in accordance with rules of procedure issued by the designated agency official. Such review is not a matter of right and shall be granted only

where the Secretary determines there are special and important reasons therefor. The Secretary may grant or deny such request, in whole or in part. The Secretary also may review such a decision upon his own motion in accordance with rules of procedure issued by the designated agency official. In the absence of a review under this paragraph (e), a final decision referred to in paragraph (a), (b), or (c) of this section shall become the final decision of the Department when the Secretary transmits it as such to congressional committees with the report required under 20 U.S.C. 1682. Failure of an applicant or recipient to file an exception with the reviewing authority or to request review under this paragraph (e) shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which these Title IX regulations apply, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of Title IX and these Title IX regulations, including provisions designed to assure that no Federal financial assistance to which these Title IX regulations apply will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to these Title IX regulations, or to have otherwise failed to comply with these Title IX regulations unless and until it corrects its noncompliance and satisfies the designated agency official that it will fully comply with these Title IX regulations.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with these Title IX regulations and provides reasonable assurance that it will fully comply with these Title IX regulations. An elementary or secondary school or school system that is unable to file an assurance of compliance shall be restored to full eligibility to receive Federal financial assistance if it files a court order or a plan for desegregation that meets the applicable requirements and provides reasonable assurance that

it will comply with the court order or plan.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the designated agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the designated agency official determines that those requirements have been satisfied, the official shall restore such eligibility.

(3) If the designated agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the designated agency official. The applicant or recipient will be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph (g) are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

#### **§ 28.630 Judicial review.**

Action taken pursuant to 20 U.S.C. 1682 is subject to judicial review as provided in 20 U.S.C. 1683.

#### **§ 28.635 Forms and instructions; coordination.**

(a) *Forms and instructions.* The designated agency official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating these Title IX regulations.

(b) *Supervision and coordination.* The designated agency official may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title IX and these Title IX regulations (other than responsibility for review as provided in § 28.625(e)), including the achievements of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of Title IX and these Title IX regulations to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another

department or agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the designated official of this Department.

### **DEPARTMENT OF DEFENSE**

#### **32 CFR Part 196**

##### **FOR FURTHER INFORMATION CONTACT:**

William E. Leftwich III, Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3A272, The Pentagon, Washington, D.C. 20301-4000, (703) 695-0105.

##### **List of Subjects in 32 CFR Part 196**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Grant programs—education, Investigations, Loan programs—education, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Dated: July 10, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

For the reasons stated in the preamble, the Department of Defense amends 32 CFR chapter I, subchapter M, as follows:

1. Part 196 is added as set forth at the end of the common preamble to read as follows:

#### **PART 196—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

##### **Subpart A—Introduction**

Sec.

- 196.100 Purpose and effective date.
- 196.105 Definitions.
- 196.110 Remedial and affirmative action and self-evaluation.
- 196.115 Assurance required.
- 196.120 Transfers of property.
- 196.125 Effect of other requirements.
- 196.130 Effect of employment opportunities.
- 196.135 Designation of responsible employee and adoption of grievance procedures.
- 196.140 Dissemination of policy.

##### **Subpart B—Coverage**

- 196.200 Application.
- 196.205 Educational institutions and other entities controlled by religious organizations.
- 196.210 Military and merchant marine educational institutions.

- 196.215 Membership practices of certain organizations.
- 196.220 Admissions.
- 196.225 Educational institutions eligible to submit transition plans.
- 196.230 Transition plans.
- 196.235 Statutory amendments.

##### **Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 196.300 Admission.
- 196.305 Preference in admission.
- 196.310 Recruitment.

##### **Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 196.400 Education programs or activities.
- 196.405 Housing.
- 196.410 Comparable facilities.
- 196.415 Access to course offerings.
- 196.420 Access to schools operated by LEAs.
- 196.425 Counseling and use of appraisal and counseling materials.
- 196.430 Financial assistance.
- 196.435 Employment assistance to students.
- 196.440 Health and insurance benefits and services.
- 196.445 Marital or parental status.
- 196.450 Athletics.
- 196.455 Textbooks and curricular material.

##### **Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 196.500 Employment.
- 196.505 Employment criteria.
- 196.510 Recruitment.
- 196.515 Compensation.
- 196.520 Job classification and structure.
- 196.525 Fringe benefits.
- 196.530 Marital or parental status.
- 196.535 Effect of state or local law or other requirements.
- 196.540 Advertising.
- 196.545 Pre-employment inquiries.
- 196.550 Sex as a bona fide occupational qualification.

##### **Subpart F—Procedures**

- 196.600 Notice of covered programs.
- 196.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

#### **§ 196.105 [Amended]**

2. In § 196.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Assistant Secretary of Defense (Force Management Policy)” is added in its place.

3. In § 196.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 196.100 through 196.605” is added in its place.

4. Section 196.605 is added to read as follows:

#### **§ 196.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 32 CFR 195.7 through 195.12.

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1211

#### FOR FURTHER INFORMATION CONTACT:

Nancy Allard, Policy and Planning Staff (NPLN), 8601 Adelphi Road, College Park, Maryland 20740-6001, (301) 713-7360, ext. 226.

#### List of Subjects in 36 CFR Part 1211

Administrative practice and procedure, Civil rights, Colleges and universities, Discrimination, Discrimination in Education, Education, Educational study programs, Employment, Equal educational opportunity, Equal employment opportunity, Grant programs—archives and records, Grant programs—education, Nondiscrimination, Reporting and recordkeeping requirements, Sex discrimination.

John W. Carlin,

*Archivist of the United States.*

For the reasons stated in the preamble, the National Archives and Records Administration amends 36 CFR chapter XII, subchapter A, as follows:

1. Part 1211 is added as set forth at the end of the common preamble to read as follows:

### PART 1211—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

#### Subpart A—Introduction

Sec.

- 1211.100 Purpose and effective date.
- 1211.105 Definitions.
- 1211.110 Remedial and affirmative action and self-evaluation.
- 1211.115 Assurance required.
- 1211.120 Transfers of property.
- 1211.125 Effect of other requirements.
- 1211.130 Effect of employment opportunities.
- 1211.135 Designation of responsible employee and adoption of grievance procedures.
- 1211.140 Dissemination of policy.

#### Subpart B—Coverage

- 1211.200 Application.
- 1211.205 Educational institutions and other entities controlled by religious organizations.
- 1211.210 Military and merchant marine educational institutions.
- 1211.215 Membership practices of certain organizations.
- 1211.220 Admissions.

- 1211.225 Educational institutions eligible to submit transition plans.
- 1211.230 Transition plans.
- 1211.235 Statutory amendments.

#### Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

- 1211.300 Admission.
- 1211.305 Preference in admission.
- 1211.310 Recruitment.

#### Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

- 1211.400 Education programs or activities.
- 1211.405 Housing.
- 1211.410 Comparable facilities.
- 1211.415 Access to course offerings.
- 1211.420 Access to schools operated by LEAs.
- 1211.425 Counseling and use of appraisal and counseling materials.
- 1211.430 Financial assistance.
- 1211.435 Employment assistance to students.
- 1211.440 Health and insurance benefits and services.
- 1211.445 Marital or parental status.
- 1211.450 Athletics.
- 1211.455 Textbooks and curricular material.

#### Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

- 1211.500 Employment.
- 1211.505 Employment criteria.
- 1211.510 Recruitment.
- 1211.515 Compensation.
- 1211.520 Job classification and structure.
- 1211.525 Fringe benefits.
- 1211.530 Marital or parental status.
- 1211.535 Effect of state or local law or other requirements.
- 1211.540 Advertising.
- 1211.545 Pre-employment inquiries.
- 1211.550 Sex as a bona fide occupational qualification.

#### Subpart F—Procedures

- 1211.600 Notice of covered programs.
- 1211.605 Compliance information.
- 1211.610 Conduct of investigations.
- 1211.615 Procedure for effecting compliance.
- 1211.620 Hearings.
- 1211.625 Decisions and notices.
- 1211.630 Judicial review.
- 1211.635 Forms and instructions; coordination.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

#### § 1211.105 [Amended]

2. In § 1211.105 in the definition of "Designated agency official," the brackets and text within brackets are removed and "Executive Director, National Historical Publications and Records Commission" is added in its place.

3. In § 1211.105 in the definition of "Title IX regulations," the brackets and text within brackets are removed and

"36 CFR 1211.100 through 1211.635" is added in its place.

4. Sections 1211.605, 1211.610, 1211.615, 1211.620, 1211.625, 1211.630 and 1211.635 are added to read as follows:

#### § 1211.605 Compliance information.

(a) *Cooperation and assistance.* The designated agency official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with these Title IX regulations and shall provide assistance and guidance to recipients to help them comply voluntarily with these Title IX regulations.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the designated agency official (or designee) timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the designated agency official (or designee) may determine to be necessary to enable the official to ascertain whether the recipient has complied or is complying with these Title IX regulations. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under these Title IX regulations.

(c) *Access to sources of information.* Each recipient shall permit access by the designated agency official (or designee) during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with these Title IX regulations. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

Asserted considerations of privacy or confidentiality may not operate to bar the agency from evaluating or seeking to enforce compliance with these Title IX regulations. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries,

and other interested persons such information regarding the provisions of these Title IX regulations and their applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the designated agency official finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and these Title IX regulations.

**§ 1211.610 Conduct of investigations.**

(a) *Periodic compliance reviews.* The designated agency official (or designee) shall from time to time review the practices of recipients to determine whether they are complying with these Title IX regulations.

(b) *Complaints.* Any person who believes himself or herself or any specific class of individuals to be subjected to discrimination prohibited by these Title IX regulations may by himself or herself or by a representative file with the designated agency official (or designee) a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the designated agency official (or designee).

(c) *Investigations.* The designated agency official (or designee) will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with these Title IX regulations. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with these Title IX regulations occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with these Title IX regulations.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with these Title IX regulations, the designated agency official (or designee) will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1211.615.

(2) If an investigation does not warrant action pursuant to paragraph (d) (1) of this section the designated agency official (or designee) will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person

shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or these Title IX regulations, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under these Title IX regulations. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of these Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under these Title IX regulations.

**§ 1211.615 Procedure for effecting compliance.**

(a) *General.* If there appears to be a failure or threatened failure to comply with these Title IX regulations, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with these Title IX regulations may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to:

(1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, or any assurance or other contractual undertaking; and

(2) Any applicable proceeding under State or local law.

(b) *Noncompliance with § 1211.115.* If an applicant fails or refuses to furnish an assurance or otherwise fails or refuses to comply with a requirement imposed by or pursuant to § 1211.115, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The agency shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under paragraph (c) of this section except that the agency shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to September 29, 2000.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* (1) No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until:

(i) The designated agency official has advised the applicant or recipient of its failure to comply and has determined

that compliance cannot be secured by voluntary means;

(ii) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to these Title IX regulations; and

(iii) The expiration of 30 days after the Archivist has filed with the committee of the House, and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action.

(2) Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.*

(1) No action to effect compliance by any other means authorized by law shall be taken until:

(i) The designated agency official has determined that compliance cannot be secured by voluntary means;

(ii) The recipient has been notified of its failure to comply and of the action to be taken to effect compliance; and

(iii) The expiration of at least 10 days from the mailing of such notice to the recipient.

(2) During this period of at least 10 days additional efforts shall be made to persuade the recipient to comply with these Title IX regulations and to take such corrective action as may be appropriate.

**§ 1211.620 Hearings.**

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1211.615(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the designated agency official that the matter be scheduled for hearing; or

(2) Advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall

be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under 20 U.S.C. 1682 and § 1211.615(c) and consent to the making of a decision on the basis of such information as may be filed as the record.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the agency in Washington, DC, at a time fixed by the designated agency official unless the official determines that the convenience of the applicant or recipient or of the agency requires that another place be selected. Hearings shall be held before a hearing officer designated in accordance with 5 U.S.C. 556(b).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the agency shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5 through 8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the agency and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing officer at the outset of or during the hearing. Any person (other than a Government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a hearing provided for by these Title IX regulations, may be reimbursed for his or her travel and actual expenses of attendance in an amount not to exceed the amount payable under the standardized travel regulations to a Government employee traveling on official business.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to these Title IX regulations, but rules or principles designed to assure production of the most credible

evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with these Title IX regulations with respect to two or more programs to which these Title IX regulations apply, or noncompliance with these Title IX regulations and the regulations of one or more other Federal departments or agencies issued under Title IX, the designated agency official may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with these Title IX regulations. Final decisions in such cases, insofar as these Title IX regulations are concerned, shall be made in accordance with § 1211.625.

#### § 1211.625 Decisions and notices.

(a) *Decisions by hearing officers.* After a hearing is held by a hearing officer such hearing officer shall either make an initial decision, if so authorized, or certify the entire record including recommended findings and proposed decision to the reviewing authority for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this paragraph or in paragraph (c) of this section is made by the hearing officer, the applicant or recipient or the counsel for the agency may, within the period provided for in the rules of procedure issued by the designated agency official, file with the reviewing authority exceptions to the initial decision, with the reasons therefor. Upon the filing of such exceptions the reviewing authority shall review the initial decision and issue its own decision thereof including the reasons therefor. In the absence of exceptions the initial decision shall constitute the final decision, subject to

the provisions of paragraph (e) of this section.

(b) *Decisions on record or review by the reviewing authority.* Whenever a record is certified to the reviewing authority for decision or it reviews the decision of a hearing officer pursuant to paragraph (a) or (c) of this section, the applicant or recipient shall be given reasonable opportunity to file with it briefs or other written statements of its contentions, and a copy of the final decision of the reviewing authority shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1211.620, the reviewing authority shall make its final decision on the record or refer the matter to a hearing officer for an initial decision to be made on the record. A copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or reviewing authority shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to these Title IX regulations with which it is found that the applicant or recipient has failed to comply.

(e) *Review in certain cases by the Archivist of the United States.* If the Archivist has not personally made the final decision referred to in paragraph (a), (b), or (c) of this section, a recipient or applicant or the counsel for the agency may request the Archivist to review a decision of the reviewing authority in accordance with rules of procedure issued by the designated agency official. Such review is not a matter of right and shall be granted only where the Archivist determines there are special and important reasons therefor. The Archivist may grant or deny such request, in whole or in part. The Archivist may also review such a decision upon his own motion in accordance with rules of procedure issued by the National Archives and Records Administration. In the absence of a review under this paragraph (e), a final decision referred to in paragraph (a), (b), or (c) of this section shall become the final decision of the agency when the Archivist transmits it as such to Congressional committees with the report required under 20 U.S.C. 1682. Failure of an applicant or recipient to file an exception with the reviewing authority or to request review under this paragraph (e) shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.



(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which these Title IX regulations apply, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of Title IX and these Title IX regulations, including provisions designed to assure that no Federal financial assistance to which these Title IX regulations apply will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to these Title IX regulations, or to have otherwise failed to comply with these Title IX regulations unless and until it corrects its noncompliance and satisfies the designated agency official that it will fully comply with these Title IX regulations.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with these Title IX regulations and provides reasonable assurance that it will fully comply with these Title IX regulations. An elementary or secondary school or school system that is unable to file an assurance of compliance shall be restored to full eligibility to receive Federal financial assistance if it files a court order or a plan for desegregation that meets the applicable requirements and provides reasonable assurance that it will comply with the court order or plan.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the designated agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the designated agency official determines that those requirements have been satisfied, the official shall restore such eligibility.

(3) If the designated agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of

procedure issued by the designated agency official. The applicant or recipient will be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph (g) are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

#### **§ 1211.630 Judicial review.**

Action taken pursuant to 20 U.S.C. 1682 is subject to judicial review as provided in 20 U.S.C. 1683.

#### **§ 1211.635 Forms and instructions; coordination.**

(a) *Forms and instructions.* The designated agency official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for implementing these Title IX regulations.

(b) *Supervision and coordination.* The Archivist or his designee may from time to time assign to officials of the agency, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title IX and these Title IX regulations (other than responsibility for review as provided in § 1211.625(e)), including the achievements of effective coordination and maximum uniformity within the agency and within the Executive Branch of the Government in the application of Title IX and these Title IX regulations to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the designated official of this agency.

### **DEPARTMENT OF VETERANS AFFAIRS**

#### **38 CFR Part 23**

##### **RIN 2900-AJ11**

#### **FOR FURTHER INFORMATION CONTACT:**

Ventris C. Gibson, Deputy Assistant Secretary for Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 273-9437.

#### **List of Subjects in 38 CFR Part 23**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary

and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Investigations, Loan programs—education, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Approved: August 3, 2000.

**Hershel W. Gober,**

*Acting Secretary of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR chapter I, as follows:

1. Part 23 is added as set forth at the end of the common preamble to read as follows:

### **PART 23—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

#### **Subpart A—Introduction**

Sec.

- 23.100 Purpose and effective date.
- 23.105 Definitions.
- 23.110 Remedial and affirmative action and self-evaluation.
- 23.115 Assurance required.
- 23.120 Transfers of property.
- 23.125 Effect of other requirements.
- 23.130 Effect of employment opportunities.
- 23.135 Designation of responsible employee and adoption of grievance procedures.
- 23.140 Dissemination of policy.

#### **Subpart B—Coverage**

- 23.200 Application.
- 23.205 Educational institutions and other entities controlled by religious organizations.
- 23.210 Military and merchant marine educational institutions.
- 23.215 Membership practices of certain organizations.
- 23.220 Admissions.
- 23.225 Educational institutions eligible to submit transition plans.
- 23.230 Transition plans.
- 23.235 Statutory amendments.

#### **Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 23.300 Admission.
- 23.305 Preference in admission.
- 23.310 Recruitment.

#### **Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 23.400 Education programs or activities.
- 23.405 Housing.
- 23.410 Comparable facilities.
- 23.415 Access to course offerings.
- 23.420 Access to schools operated by LEAs.
- 23.425 Counseling and use of appraisal and counseling materials.

- 23.430 Financial assistance.  
 23.435 Employment assistance to students.  
 23.440 Health and insurance benefits and services.  
 23.445 Marital or parental status.  
 23.450 Athletics.  
 23.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 23.500 Employment.  
 23.505 Employment criteria.  
 23.510 Recruitment.  
 23.515 Compensation.  
 23.520 Job classification and structure.  
 23.525 Fringe benefits.  
 23.530 Marital or parental status.  
 23.535 Effect of state or local law or other requirements.  
 23.540 Advertising.  
 23.545 Pre-employment inquiries.  
 23.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 23.600 Notice of covered programs.  
 23.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 23.105 [Amended]**

2. In § 23.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Deputy Assistant Secretary for Resolution Management” is added in its place.

3. In § 23.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 23.100 through 23.605” is added in its place.

4. Section 23.605 is added to read as follows:

**§ 23.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 38 CFR 18.6 through 18.11.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 5**

**FOR FURTHER INFORMATION CONTACT:** Ann Goode, Office of Civil Rights, Environmental Protection Agency, 1200 Pennsylvania Ave, N.W. (1201A), Washington, D.C. 20460, (202) 260–4575.

**List of Subjects in 40 CFR Part 5**

Administrative practice and procedure, Buildings and facilities, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study

programs, Elementary and secondary education, Environmental protection, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Dated: July 11, 2000.

**Carol M. Browner,**

*Administrator, Environmental Protection Agency.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR chapter I, subchapter A, as follows:

1. Part 5 is added as set forth at the end of the common preamble to read as follows:

**PART 5—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 5.100 Purpose and effective date.  
 5.105 Definitions.  
 5.110 Remedial and affirmative action and self-evaluation.  
 5.115 Assurance required.  
 5.120 Transfers of property.  
 5.125 Effect of other requirements.  
 5.130 Effect of employment opportunities.  
 5.135 Designation of responsible employee and adoption of grievance procedures.  
 5.140 Dissemination of policy.

**Subpart B—Coverage**

- 5.200 Application.  
 5.205 Educational institutions and other entities controlled by religious organizations.  
 5.210 Military and merchant marine educational institutions.  
 5.215 Membership practices of certain organizations.  
 5.220 Admissions.  
 5.225 Educational institutions eligible to submit transition plans.  
 5.230 Transition plans.  
 5.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 5.300 Admission.  
 5.305 Preference in admission.  
 5.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 5.400 Education programs or activities.  
 5.405 Housing.  
 5.410 Comparable facilities.  
 5.415 Access to course offerings.  
 5.420 Access to schools operated by LEAs.  
 5.425 Counseling and use of appraisal and counseling materials.

- 5.430 Financial assistance.  
 5.435 Employment assistance to students.  
 5.440 Health and insurance benefits and services.  
 5.445 Marital or parental status.  
 5.450 Athletics.  
 5.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 5.500 Employment.  
 5.505 Employment criteria.  
 5.510 Recruitment.  
 5.515 Compensation.  
 5.520 Job classification and structure.  
 5.525 Fringe benefits.  
 5.530 Marital or parental status.  
 5.535 Effect of state or local law or other requirements.  
 5.540 Advertising.  
 5.545 Pre-employment inquiries.  
 5.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 5.600 Notice of covered programs.  
 5.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 5.105 [Amended]**

2. In § 5.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “the Director, Office of Civil Rights” is added in its place.

3. In § 5.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 5.100 through 5.605” is added in its place.

4. Section 5.605 is added to read as follows:

**§ 5.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 40 CFR 7.105 through 7.135.

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 101–4**

**RIN 3090–AG58**

**FOR FURTHER INFORMATION CONTACT:** James M. Taylor, Director, Office of Civil Rights, General Services Administration, 1800 F Street, N.W., Room 5127, Washington, D.C. 20405, (202) 501–0767.

**List of Subjects in 41 CFR Part 101–4**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Elementary and secondary

education, Government property management, Reporting and recordkeeping requirements, Sex discrimination, Women.

**Thurman M. Davis, Sr.,**

*Deputy Administrator, General Services Administration.*

For the reasons stated in the preamble, the General Services Administration amends 41 CFR chapter 101, subchapter A, as follows:

1. Part 101-4 is added as set forth at the end of the common preamble to read as follows:

**PART 101-4—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 101-4.100 Purpose and effective date.
- 101-4.105 Definitions.
- 101-4.110 Remedial and affirmative action and self-evaluation.
- 101-4.115 Assurance required.
- 101-4.120 Transfers of property.
- 101-4.125 Effect of other requirements.
- 101-4.130 Effect of employment opportunities.
- 101-4.135 Designation of responsible employee and adoption of grievance procedures.
- 101-4.140 Dissemination of policy.

**Subpart B—Coverage**

- 101-4.200 Application.
- 101-4.205 Educational institutions and other entities controlled by religious organizations.
- 101-4.210 Military and merchant marine educational institutions.
- 101-4.215 Membership practices of certain organizations.
- 101-4.220 Admissions.
- 101-4.225 Educational institutions eligible to submit transition plans.
- 101-4.230 Transition plans.
- 101-4.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 101-4.300 Admission.
- 101-4.305 Preference in admission.
- 101-4.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 101-4.400 Education programs or activities.
- 101-4.405 Housing.
- 101-4.410 Comparable facilities.
- 101-4.415 Access to course offerings.
- 101-4.420 Access to schools operated by LEAs.
- 101-4.425 Counseling and use of appraisal and counseling materials.
- 101-4.430 Financial assistance.
- 101-4.435 Employment assistance to students.

- 101-4.440 Health and insurance benefits and services.
- 101-4.445 Marital or parental status.
- 101-4.450 Athletics.
- 101-4.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 101-4.500 Employment.
- 101-4.505 Employment criteria.
- 101-4.510 Recruitment.
- 101-4.515 Compensation.
- 101-4.520 Job classification and structure.
- 101-4.525 Fringe benefits.
- 101-4.530 Marital or parental status.
- 101-4.535 Effect of state or local law or other requirements.
- 101-4.540 Advertising.
- 101-4.545 Pre-employment inquiries.
- 101-4.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 101-4.600 Notice of covered programs.
- 101-4.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 101-4.105 [Amended]**

2. In § 101-4.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “the Associate Administrator for Civil Rights” is added in its place.

3. In § 101-4.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 101-4.100 through 101-4.605” is added in its place.

4. Section 101-4.605 is added to read as follows:

**§ 101-4.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 41 CFR part 101-6, subpart 101-6.2.

**DEPARTMENT OF THE INTERIOR**

**43 CFR Part 41**

**RIN 1090-AA64**

**FOR FURTHER INFORMATION CONTACT:** Melvin C. Fowler, Office for Equal Opportunity, MS 5221, U.S. Department of the Interior, Washington, D.C. 20240, (202) 208-3455.

**List of Subjects in 43 CFR Part 41**

Administrative practice and procedure, Adult education, Athletics, Civil rights, Colleges and universities, Counseling, Education, Educational facilities, Educational research, Educational study programs, Elementary

and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Investigations, Loan programs—education, Marital status discrimination, Religious discrimination, Reporting and recordkeeping requirements, Research, Sex discrimination, Scholarships, Student aid, Training, Vocational education, Vocational training, Women.

Dated: July 3, 2000.

**John Berry,**

*Assistant Secretary—Policy, Management, and Budget, Department of the Interior.*

For the reasons stated in the preamble, the Department of the Interior amends 43 CFR subtitle A, as follows:

1. Part 41 is added as set forth at the end of the common preamble to read as follows:

**PART 41—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 41.100 Purpose and effective date.
- 41.105 Definitions.
- 41.110 Remedial and affirmative action and self-evaluation.
- 41.115 Assurance required.
- 41.120 Transfers of property.
- 41.125 Effect of other requirements.
- 41.130 Effect of employment opportunities.
- 41.135 Designation of responsible employee and adoption of grievance procedures.
- 41.140 Dissemination of policy.

**Subpart B—Coverage**

- 41.200 Application.
- 41.205 Educational institutions and other entities controlled by religious organizations.
- 41.210 Military and merchant marine educational institutions.
- 41.215 Membership practices of certain organizations.
- 41.220 Admissions.
- 41.225 Educational institutions eligible to submit transition plans.
- 41.230 Transition plans.
- 41.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 41.300 Admission.
- 41.305 Preference in admission.
- 41.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 41.400 Education programs or activities.
- 41.405 Housing.
- 41.410 Comparable facilities.
- 41.415 Access to course offerings.

- 41.420 Access to schools operated by LEAs.  
 41.425 Counseling and use of appraisal and counseling materials.  
 41.430 Financial assistance.  
 41.435 Employment assistance to students.  
 41.440 Health and insurance benefits and services.  
 41.445 Marital or parental status.  
 41.450 Athletics.  
 41.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 41.500 Employment.  
 41.505 Employment criteria.  
 41.510 Recruitment.  
 41.515 Compensation.  
 41.520 Job classification and structure.  
 41.525 Fringe benefits.  
 41.530 Marital or parental status.  
 41.535 Effect of state or local law or other requirements.  
 41.540 Advertising.  
 41.545 Pre-employment inquiries.  
 41.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 41.600 Notice of covered programs.  
 41.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 41.105 [Amended]**

2. In § 41.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Deputy Assistant Secretary for Workforce Diversity” is added in its place.

3. In § 41.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 41.100 through 41.605” is added in its place.

4. Section 41.605 is added to read as follows:

**§ 41.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 43 CFR 17.5 through 17.11 and 43 CFR part 4, subpart I.

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 19**

**RIN 3067-AC71**

**FOR FURTHER INFORMATION CONTACT:**

Pauline C. Campbell, Federal Emergency Management Agency, 500 C Street, SW., Room 407, Washington, DC 20472, (202) 646-4122, (telefax) (202) 646-4320, or (email) [Pauline.Campbell@fema.gov](mailto:Pauline.Campbell@fema.gov).

**List of Subjects in 44 CFR Part 19**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Employment, Equal educational opportunity, Equal employment opportunity, Federal aid programs, Grant programs—education, Investigations, Marital status discrimination, Reporting and recordkeeping requirements, Schools, Secondary education, Sex discrimination, Student aid, Universities, Women.

Dated: June 30, 2000.

**Pauline C. Campbell,**

*Director, Office of Equal Rights, Federal Emergency Management Agency.*

For the reasons stated in the preamble, the Federal Emergency Management Agency amends 44 CFR chapter I, subchapter A, as follows:

1. Part 19 is added as set forth at the end of the common preamble to read as follows:

**PART 19—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 19.100 Purpose and effective date.  
 19.105 Definitions.  
 19.110 Remedial and affirmative action and self-evaluation.  
 19.115 Assurance required.  
 19.120 Transfers of property.  
 19.125 Effect of other requirements.  
 19.130 Effect of employment opportunities.  
 19.135 Designation of responsible employee and adoption of grievance procedures.  
 19.140 Dissemination of policy.

**Subpart B—Coverage**

- 19.200 Application.  
 19.205 Educational institutions and other entities controlled by religious organizations.  
 19.210 Military and merchant marine educational institutions.  
 19.215 Membership practices of certain organizations.  
 19.220 Admissions.  
 19.225 Educational institutions eligible to submit transition plans.  
 19.230 Transition plans.  
 19.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 19.300 Admission.  
 19.305 Preference in admission.  
 19.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 19.400 Education programs or activities.  
 19.405 Housing.  
 19.410 Comparable facilities.  
 19.415 Access to course offerings.  
 19.420 Access to schools operated by LEAs.  
 19.425 Counseling and use of appraisal and counseling materials.  
 19.430 Financial assistance.  
 19.435 Employment assistance to students.  
 19.440 Health and insurance benefits and services.  
 19.445 Marital or parental status.  
 19.450 Athletics.  
 19.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 19.500 Employment.  
 19.505 Employment criteria.  
 19.510 Recruitment.  
 19.515 Compensation.  
 19.520 Job classification and structure.  
 19.525 Fringe benefits.  
 19.530 Marital or parental status.  
 19.535 Effect of state or local law or other requirements.  
 19.540 Advertising.  
 19.545 Pre-employment inquiries.  
 19.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 19.600 Notice of covered programs.  
 19.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 19.105 [Amended]**

2. In § 19.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Director, Office of Equal Rights” is added in its place.

3. In § 19.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 19.100 through 19.605” is added in its place.

4. Section 19.605 is added to read as follows:

**§ 19.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 44 CFR 7.10 through 7.15.

**NATIONAL SCIENCE FOUNDATION  
 45 CFR Part 618**

**FOR FURTHER INFORMATION CONTACT:**

Anita Eisenstadt, Assistant General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230, (703) 306-1060.

**List of Subjects in 45 CFR Part 618**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Education of individuals with disabilities, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Individuals with disabilities, Reporting and recordkeeping requirements, Sex discrimination, Women.

**Lawrence Rudolph,**

*General Counsel, National Science Foundation.*

For the reasons stated in the preamble, the National Science Foundation amends 45 CFR chapter VI, as follows:

1. Part 618 is added as set forth at the end of the common preamble to read as follows:

**PART 618—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 618.100 Purpose and effective date.
- 618.105 Definitions.
- 618.110 Remedial and affirmative action and self-evaluation.
- 618.115 Assurance required.
- 618.120 Transfers of property.
- 618.125 Effect of other requirements.
- 618.130 Effect of employment opportunities.
- 618.135 Designation of responsible employee and adoption of grievance procedures.
- 618.140 Dissemination of policy.

**Subpart B—Coverage**

- 618.200 Application.
- 618.205 Educational institutions and other entities controlled by religious organizations.
- 618.210 Military and merchant marine educational institutions.
- 618.215 Membership practices of certain organizations.
- 618.220 Admissions.
- 618.225 Educational institutions eligible to submit transition plans.
- 618.230 Transition plans.
- 618.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 618.300 Admission.
- 618.305 Preference in admission.
- 618.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

- 618.400 Education programs or activities.
- 618.405 Housing.
- 618.410 Comparable facilities.
- 618.415 Access to course offerings.
- 618.420 Access to schools operated by LEAs.
- 618.425 Counseling and use of appraisal and counseling materials.
- 618.430 Financial assistance.
- 618.435 Employment assistance to students.
- 618.440 Health and insurance benefits and services.
- 618.445 Marital or parental status.
- 618.450 Athletics.
- 618.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

- 618.500 Employment.
- 618.505 Employment criteria.
- 618.510 Recruitment.
- 618.515 Compensation.
- 618.520 Job classification and structure.
- 618.525 Fringe benefits.
- 618.530 Marital or parental status.
- 618.535 Effect of state or local law or other requirements.
- 618.540 Advertising.
- 618.545 Pre-employment inquiries.
- 618.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

- 618.600 Notice of covered programs.
- 618.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 618.105 [Amended]**

2. In § 618.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “General Counsel and head of the policy office, Division of Contracts, Policy, and Oversight” is added in its place.

3. In § 618.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 618.100 through 618.605” is added in its place.

4. Section 618.605 is added to read as follows:

**§ 618.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 45 CFR part 611.

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE  
45 CFR Part 2555**

**FOR FURTHER INFORMATION CONTACT:**  
Nancy B. Voss, Director, Equal

Opportunity, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C. 20525, (202) 606–5000, extension 308.

**List of Subjects in 45 CFR Part 2555**

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Grant programs—education, Investigations, Loan programs—education, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

**Thomasenia P. Duncan,**

*General Counsel, Corporation for National and Community Service.*

For the reasons stated in the preamble, the Corporation for National and Community Service amends 45 CFR chapter XXV, as follows:

1. Part 2555 is added as set forth at the end of the common preamble to read as follows:

**PART 2555—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

- 2555.100 Purpose and effective date.
- 2555.105 Definitions.
- 2555.110 Remedial and affirmative action and self-evaluation.
- 2555.115 Assurance required.
- 2555.120 Transfers of property.
- 2555.125 Effect of other requirements.
- 2555.130 Effect of employment opportunities.
- 2555.135 Designation of responsible employee and adoption of grievance procedures.
- 2555.140 Dissemination of policy.

**Subpart B—Coverage**

- 2555.200 Application.
- 2555.205 Educational institutions and other entities controlled by religious organizations.
- 2555.210 Military and merchant marine educational institutions.
- 2555.215 Membership practices of certain organizations.
- 2555.220 Admission.
- 2555.225 Educational institutions eligible to submit transition plans.
- 2555.230 Transition plans.
- 2555.235 Statutory amendments.

**Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited**

- 2555.300 Admission.
- 2555.305 Preference in admission.

2555.310 Recruitment.

**Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited**

2555.400 Education programs or activities.  
 2555.405 Housing.  
 2555.410 Comparable facilities.  
 2555.415 Access to course offerings.  
 2555.420 Access to schools operated by LEAs.  
 2555.425 Counseling and use of appraisal and counseling materials.  
 2555.430 Financial assistance.  
 2555.435 Employment assistance to students.  
 2555.440 Health and insurance benefits and services.  
 2555.445 Marital or parental status.  
 2555.450 Athletics.  
 2555.455 Textbooks and curricular material.

**Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited**

2555.500 Employment.  
 2555.505 Employment criteria.  
 2555.510 Recruitment.  
 2555.515 Compensation.  
 2555.520 Job classification and structure.  
 2555.525 Fringe benefits.  
 2555.530 Marital or parental status.  
 2555.535 Effect of state or local law or other requirements.  
 2555.540 Advertising.  
 2555.545 Pre-employment inquiries.  
 2555.550 Sex as a bona fide occupational qualification.

**Subpart F—Procedures**

2555.600 Notice of covered programs.  
 2555.605 Enforcement procedures.

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 2555.105 [Amended]**

2. In § 2555.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Director, Equal Opportunity” is added in its place.

3. In § 2555.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 2555.100 through 2555.605” is added in its place.

4. Section 2555.605 is added to read as follows:

**§ 2555.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 45 CFR 1203.6 through 1203.12.

**DEPARTMENT OF TRANSPORTATION**  
**49 CFR Part 25**

**FOR FURTHER INFORMATION CONTACT:**

Marc Brenman, Department Office of Civil Rights, Room 10217, 400 7th Street, S.W., Washington, D.C. 20590, (202) 366–1119 voice, (202) 366–8538 TTY, email: marc.brenman@ost.dot.gov; or Nancy Dunham, Senior Attorney-Advisor; Civil Rights, Office of Environmental, Civil Rights, and General Law, Room 5432, 400 7th Street, S.W., Washington, D.C. 20590, (202) 366–8072 voice, (202) 366–8538 TTY, email: nancy.dunham@ost.dot.gov.

**List of Subjects in 49 CFR Part 25**

Administrative practice and procedure, Civil rights, Colleges and universities, Discrimination, Education of individuals with disabilities, Education, Educational facilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal employment opportunity, Equal opportunity, Gender discrimination, Grant programs—education, Individuals with disabilities, Investigations, Loan Programs—education, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Training, Women.

**Rodney E. Slater,**

*Secretary of Transportation.*

For the reasons stated in the preamble, the Department of Transportation amends 49 CFR subtitle A, as follows:

1. Part 25 is added as set forth at the end of the common preamble to read as follows:

**PART 25—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—Introduction**

Sec.

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**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

**§ 25.105 [Amended]**

2. In § 25.105 in the definition of “Designated agency official,” the brackets and text within brackets are removed and “Director, Departmental Office of Civil Rights” is added in its place.

3. In § 25.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 25.100 through 25.605” is added in its place.

4. Section 25.605 is added to read as follows:

**§ 25.605 Enforcement procedures.**

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 49 CFR part 21.

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