

REGISTRATION

Friday
October 29, 1999

Part III

**Nondiscrimination on the
Basis of Sex in Education
Programs and Activities
Receiving Federal Financial
Assistance; Proposed 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
Department of Labor
Department of the Treasury
Department of Defense
National Archives and Records Administration
Department of Veterans Affairs
Environmental Protection Agency
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Federal Emergency Management Agency
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National Foundation on the Arts and the Humanities
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DEPARTMENT OF TRANSPORTATION

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Nondiscrimination on the Basis of Sex in Education Programs and 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; National Endowment for the Arts, National Endowment for the Humanities, Institute for Museum and Library Services, National Foundation on the Arts and the Humanities; Corporation for National and Community Service; Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation, presented as a 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 discrimination on the basis of sex in education programs or activities that receive Federal financial assistance. The promulgation of this proposed regulation will provide guidance to recipients of Federal financial assistance who administer education programs or activities. The provisions of this proposed regulation will also promote

consistent and adequate enforcement of Title IX by the agencies identified above.

DATES: Comments must be received on or before December 28, 1999.

ADDRESSES: Interested parties should submit written comments on this notice of proposed rulemaking to Merrily A. Friedlander, Chief, Coordination and Review Section, P.O. Box 65960, Washington, D.C. 20035-6560, facsimile (202) 307-0595. See Supplementary Information section for comments regarding the availability of this document in alternative formats.

FOR FURTHER INFORMATION CONTACT: Merrily A. Friedlander, Chief, Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, (202) 307-2222.

SUPPLEMENTARY INFORMATION:**Background**

The purpose of this proposed 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 and activities that receive Federal financial assistance from the agencies participating in this notice. Because the proposed standards to be established for the enforcement of Title IX are the same for all of the participating agencies, they are publishing this notice of proposed rulemaking jointly. The procedures for how an agency will enforce Title IX, including the conduct of investigations and compliance reviews, also follow the same structure; all agencies except the Department of the Treasury ("Treasury") and the National Archives and Records Administration ("NARA") are referencing their respective procedures under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*), which are virtually identical among the agencies. 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 will be codified in that agency's portion of the Code of Federal Regulations as indicated in this notice of proposed rulemaking.

In 1979 and 1980, two agencies published notices of proposed rulemaking for Title IX, but the proposed rules were never issued as final rules. On April 25, 1979, the Veteran's 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 this notice of proposed rulemaking, these agencies are initiating a new rulemaking proceeding.

Additional Comment Information

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

Overview

As set forth in this proposed 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 this notice of proposed rulemaking 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. The 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 the ED regulation 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). As discussed below, 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 make 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 the ED regulation as the model for other agencies promotes that consistency.

As mentioned, the proposed regulations are not identical to ED's regulations. This proposal addresses several statutory changes that are not reflected in the existing (but soon to be modified) ED regulation, one modification in order to be consistent with Supreme Court precedent, and a few minor changes. A detailed discussion of these changes is set forth below.

Upon the issuance of final regulations by the participating agencies, beneficiaries and affected parties will have more opportunities to file complaints or seek information regarding Title IX enforcement from various agencies. The agencies intend to develop a means of sharing enforcement responsibilities and information to ensure that the most effective action is pursued, at the same time avoiding both duplication of inquiries by the Federal government and any undue burden on recipients due to multiple inquiries.

Summary of Regulation

As stated, Title IX prohibits discrimination on the basis of sex in educational programs or activities that receive Federal financial assistance. 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 and 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).¹ Of course, Title IX prohibits discrimination on the basis of sex in the operation of, and the provision or exclusion of benefits by, education and training 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 proposed 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

¹ See Office for Civil Rights, Dep't of Educ., *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, 62 FR 12034 (1997).

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. It will also apply to a museum lecture series when the museum receives a grant from the Institute for Museum and Library Services, or a lecture series on the history of dance given at a local school of ballet receiving funding from the National Endowment for the Arts. Vocational training for inmates in prisons receiving assistance from the Department of Justice is another example of the type of program this proposed regulation will cover. In short, these proposed regulations will apply to the educational programs or activities of any entity receiving financial assistance from the agencies promulgating this proposed regulation.

It should be noted that we have retained sections from the ED regulation that impose deadlines for action by recipients. For example, section _____.110 includes a deadline for educational institutions to conduct a self-evaluation and section _____.225 includes a timetable for completion of transitions by an educational institution eliminating its single-sex status. We have included these and other provisions to allow for the possible but rare instance where such sections may continue to be relevant for certain recipients. If a recipient of assistance from a participating agency also receives funding from ED or another agency with an existing Title IX regulation, however, the deadlines, as interpreted by ED or the other agency's regulation, as applicable, continue to govern. Further, to the extent a recipient has conducted an evaluation or established procedures to conform to the ED or another agency's Title IX regulation, the recipient need not repeat such action in order to conform to the regulations adopted by the participating agencies. For example, if a recipient has established grievance procedures, it need not modify such procedures or establish other procedures to comply with these regulations in the absence of guidance or instructions from a participating agency that modification or other action is necessary. Similarly, if a recipient 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, but need only take action if such evaluation or implementation is found to be incomplete or not in compliance with the regulations.

Subpart A sets forth definitions as well as provisions concerning remedial action and affirmative action, required assurances, adoption of grievance procedures, and notification of nondiscrimination policies. The effect of State and other laws and other requirements is also explained.

The definition of "educational institution" refers to a "local educational agency." The term "local educational agency" has been recodified at 20 U.S.C. 8801(18), and this change has been made to the definition of "educational institution."

The reference in the definition of "Federal financial assistance" to "agreements" includes "cooperative agreements" by agencies.

Section _____.110, entitled "Remedial and affirmative action and self-evaluation," is modified slightly by adding the phrase "consistent with law." This entire regulation, of course, should be interpreted consistent with governing legal decisions. Given recent, numerous decisions by the Supreme Court and lower courts concerning affirmative action, agencies should consult with the Department of Justice regarding interpretations of this section.

A few matters should be noted with respect to assurances. First, the method or practice of awarding Federal financial assistance varies among the participating agencies. Some, but not all, agencies require a formal application for Federal assistance prior to any award, and such applications will contain the assurances required by section _____.115 of the proposed regulation. Other agencies award assistance through instruments where the formal agreement or contract of assistance is the only document executed by the recipient. In the latter instance, the agreement or contract will include, *as a condition of the award*, the required assurances of .115. The presence of an assurance in a contract, agreement, or document other than "application," wherein the execution of such document includes the assurance of compliance as a condition of the award, satisfies _____.115. Second, _____.115(b)'s reference to Federal financial assistance "extended to provide real property or structures thereon, * * * or to provide personal property," should be understood to include the provision of assistance to aid in the acquisition and/or improvement of such property. Finally, in order to maintain consistency among agencies regarding the text of the

assurance for compliance with Title IX, we modified _____.115(c) to include the uniform text of the assurance. This text may be modified at the discretion of the Office of Management and Budget ("OMB"), or upon application by an agency and approval by OMB. In addition, the actual text may be included in, as mentioned, a final contract or agreement, or in a standard form that includes assurances relating to other obligations.

Subpart B addresses the scope or coverage of Title IX. Subject to specific exceptions for institutions or activities, any educational program or activity, any part of which receives Federal financial assistance, is subject to Title IX.

Modifications of ED's existing regulations to conform to the statutory amendments to Title IX are addressed in this subpart. Section _____.205 is amended to incorporate the expanded exemption for entities controlled by religious institutions. Under the CRRRA, the exemption is no longer limited to educational institutions that are controlled by religious organizations with tenets contrary to Title IX. Instead, any educational operation of an entity may be exempt from Title IX due to control by a religious organization with tenets that are not consistent with the provisions of Title IX. See 20 U.S.C. 1687. Further, the exemption would apply to a particular education program operated by a recipient if this separate program is subject to religious tenets that are not consistent with Title IX. If a recipient has obtained an exemption from ED, such exemption also may be submitted to another funding agency as a basis for an exemption from the second funding agency.

While it is not expected that many educational institutions will have a transition plan, we have retained the text of sections _____.225 and _____.230. In addition, the text of _____.225 has been slightly modified to require that any transition plans be submitted solely to the Department of Education.

A new section, _____.235, addresses all other statutory amendments. See 20 U.S.C. 1681(a)(7)-(9), 1687, 1688. Three exemptions to Title IX's coverage are identified in _____.235(b) based on amendments passed in 1976. 20 U.S.C. 1681(a)(7)-(9). Congress exempts activities undertaken by the American Legion to operate Boys State, Girls State, Boys Nation, and Girls Nation, and any promotional activity or selection of participants for such programs by educational institutions. 20 U.S.C. 1681(a)(7). In addition, father-son and mother-daughter activities that are sponsored by educational institutions are similarly exempt from coverage,

with the condition that if such activities are conducted, reasonably comparable activities must be provided for students of the opposite sex. 20 U.S.C. 1681(a)(8). Third, educational institutions may provide scholarships or other benefits to persons who participate in single-sex contests where personal appearance is a basis for reward, commonly referred to as "beauty pageants." 20 U.S.C. 1681(a)(9).

As part of the CRRA, Congress also added a definition of "program or activity." See 20 U.S.C. 1687. Congress took this action in order to reverse the meaning and consequences of the Supreme Court's decision in *Grove City College*, which defined "program or activity" in restrictive terms. 465 U.S. at 572-74; S. Rep. No. 100-64, at 11-16, reprinted in 1988 U.S.C.C.A.N. at 13-18. The Court concluded in *Grove City College* that Federal student financial assistance provided to a college established Title IX jurisdiction only over the college's financial aid program, not the entire college. *Ibid.* This interpretation significantly narrowed the prohibitions of Title IX and its counterparts, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.*, the Age Discrimination Act of 1975, 42 U.S.C. 6101, *et seq.*, and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794. See S. Rep. No. 100-64, at 2-3, 11-16, reprinted in 1988 U.S.C.C.A.N. at 3-4, 13-18.

By statutory amendment, and as set forth in _____.235(c), Congress restored the broad interpretation accorded the phrase "program or activity" prior to *Grove City College*. The provision addresses the scope of coverage for four broad categories of recipients: State or local entities, educational institutions, private entities, and entities that are a combination of any of those groups. The scope of coverage is no longer limited to the exact purpose or nature of the Federal funding. If, for example, a State or local agency receives Federal assistance for one of many functions of the agency, all of the operations of the entire agency are subject to the nondiscrimination provisions of Title IX. 20 U.S.C. 1687(1)(A). Further, if the aid is distributed to an entity or unit of government that subsequently distributes the assistance to a second agency, the entire agency to which the assistance was initially allocated is subject to Title IX. See 20 U.S.C. 1687(1)(B); S. Rep. No. 100-64, at 16, reprinted in 1988 U.S.C.C.A.N. at 18. With respect to educational institutions, it is critical to remember that all of the operations of the institution, whether or not an operation is educational or

academic in nature, are subject to Title IX's prohibition on discrimination. Thus, for example, housing programs, a shuttle service, food service, and other commercial operations are covered by Title IX if any part of the entity is a recipient of Federal funds. The degree of coverage of private entities, such as private corporations and partnerships, will vary depending on how the funding is provided, the principal purpose or objective of the entity, and/or how the entity is structured (e.g., physically separate offices or plants). All of the operations of private businesses that are principally engaged in education, health care, housing, social services, or parks and recreation are considered a "program or activity" for purposes of Title IX. 20 U.S.C. 1687(3)(A)(ii). S. Rep. No. 100-64 provides numerous other examples of the scope of coverage with regard to each category of recipient, and readers are referred to this material. S. Rep. No. 100-64, at 16-20, reprinted in 1988 U.S.C.C.A.N. at 18-22.

Moreover, regulatory language made superfluous by the enactment of the CRRA has been omitted in the proposed rule. The Department of Education's Title IX regulations, promulgated in 1975, defined "recipient" as an entity "to whom Federal financial assistance is extended directly or through another recipient and that operates an education program or activity that receives or benefits from such assistance." At that time, the words "or benefits from" were necessary to clarify that *all* of the operations of a university or other educational institution that receives Federal funds—not just the particular programs receiving financial assistance—are covered by Title IX's nondiscrimination requirements. As noted above, this interpretation was rejected by the Supreme Court in 1984 in *Grove City College v. Bell*, which held that Federal student aid established Title IX jurisdiction only over the financial aid program, and not the entire institution. However, Congress' 1988 enactment of the CRRA counteracted this decision by defining "program or activity" to provide expressly that Title IX covers all educational programs of a recipient institution. Because of this statutory change, the words "or benefits from" are no longer necessary as a regulatory matter and have thus been omitted in the proposed common rule as superfluous. This deletion does not affect the reach of Title IX.

Finally, it is important to note that the restored, broad interpretation of "program or activity" does not in any way alter the requirement of 20 U.S.C. 1682 that a proposed or effectuated fund termination be limited to the particular

program(s) "or part thereof" that discriminate(s), or, as appropriate, to all of the programs that are infected by the discriminatory practices. See S. Rep. No. 100-64, at 20, reprinted in 1988 U.S.C.C.A.N. at 22 ("The bill defines 'program' in the same manner as 'program or activity,' and leaves intact the 'or part thereof' pinpointing language.").

Section _____.235(d) reflects the "abortion neutrality" provision in the CRRA, commonly referred to as the Danforth amendment, which provides: "Nothing in this chapter 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. 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." 20 U.S.C. 1688.

The first sentence of the Danforth amendment is incorporated in subsection _____.235(d)(1), which states that recipients are not required to provide or pay for any benefit or service related to an abortion. Consistent with congressional intent,² however, this provision does *not* allow recipients of Federal assistance to deny medical procedures, benefits, services, or the use of facilities if necessary to save the life of a pregnant woman, or for medical complications arising from or related to an abortion.

The second sentence of the Danforth amendment is incorporated in _____.235(d)(2). In addition, this subsection makes it clear that, consistent with the Danforth amendment, the regulations prohibit discrimination against, exclusion of, or denial of benefits to, a person because that person has obtained, sought, or will

² See 134 Cong. Rec. 353 (1988) (In response to Sen. Metzenbaum's charge that discriminatory treatment would follow adoption of the Danforth amendment, and criticism that the amendment failed to account for abortions that are necessary to save the life of the woman, Sen. Danforth replied that Sen. Metzenbaum's characterizations were "completely erroneous and totally without foundation at all."); 134 Cong. Rec. 2931 (1988) (statement of Rep. Hawkins); *id.* at 2935 (statement of Rep. Jeffords); *id.* at 2945 (statement of Rep. AuCoin) ("Equally important is the fact that the bill clearly prohibits denial of provision of services related to complications arising from abortion under the terms of title IX."); *id.* at 2948 (statement of Rep. Edwards) ("Under its provisions, a covered institution does not have to include the costs of an abortion procedure in insurance for its students or employees. But [it] does not mean that it can exclude, for example, medical complications related to an abortion. Under the Danforth Amendment, Title IX still requires those complications to be covered.").

seek an abortion. This prohibition applies to any service or benefit for an applicant (for enrollment or employment), student, or employee.³

Finally, in order to conform ED's existing text to that aspect of the Danforth amendment that does not require or prohibit a recipient from providing services or payment for an abortion, a specific reference to .235(d) is added to the following provisions: _____,300(c)(3), _____,440, _____,445(b)(4), and _____,530(c).

Subpart C addresses nondiscrimination on the basis of sex in admission and recruitment practices with respect to students. For example, recipients may not impose numerical limits on the number or proportion of persons of either sex who may be admitted. In addition, a recipient may not give preference to one sex by separately ranking applicants on the basis of sex, or otherwise treat individuals differently because of their

³This provision is consistent with the Danforth amendment and congressional intent. Statements of numerous senators and representatives, including Sen. Danforth and other sponsors, reiterate the plain meaning of the prohibition, and treat the imposition of penalties as one form of discriminatory treatment against women who have sought or will seek an abortion. See 134 Cong. Rec. 242 (1988) (statement of Sen. Danforth) ("In fact, it is prohibited—hospitals, colleges, universities—from discriminating against people who have had abortions or who are seeking abortions. So it does not intend to authorize, in fact, it prohibits, penalties against people who have made their own choice for abortion.") (emphasis added); *id.* at 353 (statement of Sen. Wilson) ("The second sentence of the Danforth amendment) was language which I and others insisted be in there, precisely to ensure that there could not be discrimination against women who either are seeking or have received abortion-related services.") (emphasis added).

Other members of Congress agreed with the Danforth amendment because of the specific inclusion of language prohibiting discrimination. *E.g.*, 134 Cong. Rec. 2945 (1988) (statement of Rep. AuCoin) ("And with their statements [by Sen. Danforth and Wilson, as quoted above] clarifying that this legislation before us today expressly prohibits, and does not in any way permit, discrimination against women who have had or are seeking abortions, I can support this bill."); *id.* at 2948 (statement of Rep. Edwards). See also *id.* at 2935 (statement of Rep. Jeffords) ("The second sentence of the amendment will ensure that a woman is not denied scholarships, promotions, extracurricular activities, student employment or any other benefits because she has received or is seeking an abortion."); *id.* at 2945 (statement of Rep. AuCoin) ("With assurances from the authors of the Danforth amendment, and with the clarification provided by the floor leaders today, it is now clear that this legislation prohibits discrimination based on a person's decision regarding abortion—in scholarships, in housing, in extracurricular activities, in student or faculty hire and tenure, and in other benefits offered to students or employees under title IX."); *id.* at 2948 (statement of Rep. Edwards) ("Whether it be scholarships, promotions, extracurricular activities, student employment or any other benefits offered to students or employees, under title IX benefits cannot be withheld from a student or employees because she received or is seeking an abortion.").

sex. Additional prohibitions of discrimination on the basis of parental and marital status are also identified.

Subpart D addresses nondiscrimination on the basis of sex in education programs and 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. The proposed regulations do not cover a recipient's use of particular textbooks or curricular materials. The time frames identified in section _____,450(d), which address athletic programs, apply only if the recipient also does not receive funding from the Department of Education; otherwise, such recipient is expected to have complied within the time frames established by the ED regulation.

Subpart E covers the prohibitions of discrimination on the basis of sex in employment in educational programs and 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. The subpart also includes a provision to exempt actions where sex is a bona fide occupational qualification. Section _____,525(b)(2), which concerns the provision of fringe benefits, is modified slightly in order to conform to principles established by the Supreme Court under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.* The Supreme Court has held that fringe benefit plans may not require higher contributions from women than from men to receive the same benefits. See *City of Los Angeles Dept. of Water and Power v. Manhart*, 435 U.S. 702 (1978). Further, benefit plans may not provide lower benefits to women who made the same contributions as men. See *Arizona Governing Comm. v. Norris*, 463 U.S. 1073 (1983).

Subpart F addresses the agencies' respective procedures for implementation and enforcement of Title IX. Within 60 days of the publication of these Title IX regulations as a final rule, 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.

For those agencies that have regulations to enforce Title VI, such procedures will be 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 promulgated regulations that similarly prohibit discrimination on the basis of sex in programs that receive Federal financial assistance. In the absence of a specific agency adoption, it should be understood that such existing regulations remain in force and are unaffected by this proposed regulation.

Applicable Executive Orders and Regulatory Certifications

This proposed Title IX regulation has been reviewed by the Equal Employment Opportunity Commission pursuant to Executive Order 12067.

This proposed Title IX regulation has 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 OMB.

The participating agencies have determined that this Title IX regulation is 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.

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 it will not significantly or uniquely affect small governments.

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 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.

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

Sections _____, 110, _____, 115, and _____, 230 contain information collection requirements. As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), the Department of Justice, on behalf of the participating agencies, has submitted a copy of these sections to OMB for its review.

Collection of Information: Self-Evaluations

A recipient educational institution is required within one year of the effective date of these regulations to evaluate its current services, policies, and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel in connection with the recipient's education program or activity to determine whether they meet the requirements of Title IX, and to the extent the requirements are not met, to make the required modifications. In addition, recipients are to maintain this self-evaluation on file for at least three years following completion of the evaluation, and to provide to the designated agency official upon request, a description of any modifications and remedial steps made under the self-evaluation requirements. These requirements are the most efficient means of self-evaluation and recordkeeping.

Nearly all educational institutions affected by this provision have already complied or are required to comply with

this provision under Title IX regulations promulgated by the U.S. Department of Education. The number of recipient educational institutions that have not previously complied or are required to comply is estimated as fewer than ten. The public reporting and recordkeeping burden for this collection of information for those remaining recipients is estimated to be thirty hours in order to conduct self-evaluations. This burden is incurred when a recipient is required to evaluate their current services, policies, and practices for compliance with Title IX. It should be noted that this calculation does not include the number of recipients which are already required to do self-evaluations under Title IX regulations promulgated by the U.S. Department of Education.

Based on data provided by all participating agencies, the estimated burden for reading and completing this form was calculated as follows:

Respondents	5
Responses (times)	1
Hours per respondent (times)	6
Annual reporting burden (hours)	30

Collection of Information: Assurances of Compliance

These regulations require applications for Federal financial assistance for an education program or activity to be accompanied by an assurance from the applicant or recipient 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 regulations. Completing this form is the clearest, most effective, and least burdensome means of placing a recipient on notice of its obligations to comply with Title IX.

The public reporting and recordkeeping burden for this collection of information for all participating agencies is estimated to be 22,738 hours in order to read and complete the assurance form. This burden is incurred when an applicant or recipient completes an application for Federal financial assistance from a participating agency for the first time or if there is a break in continuity of assistance from such agency. It is estimated that approximately 25% of recipients seek assistance from more than one Federal agency; thus, the Department of Justice estimates that assurances would be required an average of 1.25 times rather than once, per recipient. It should be noted that this calculation does not include the number of recipients at agencies, including the Departments of Commerce, Interior, and Labor, which

already use OMB assurance forms or other assurance forms previously approved by OMB that include text regarding compliance with Title IX.

Based on data provided by all participating agencies, the estimated burden for reading and completing this form was calculated as follows:

Respondents	107,000
Responses (times)	1.25
Hours per respondent (times 10 minutes)17
Annual reporting burden (hours) ...	22,738

Collection of Information: Transition Plans

A recipient educational institution is required to submit a transition plan if it has admitted students of only one sex as regular students as of June 23, 1972, or 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. The transition plan requirements listed in this rule are the most efficient means of preparing transition plans and related recordkeeping.

All educational institutions affected by this provision have already complied or are required to comply with this provision under Title IX regulations promulgated by the U.S. Department of Education. There are no new educational institutions anticipated that would fall into this category. The public reporting and recordkeeping burden for this collection of information for recipient educational institutions is therefore estimated to be zero hours in order to develop transition plans. This burden is incurred when a recipient is required to develop and implement a transition plan. It should be noted that this calculation does not include the number of recipients which are already required to do transition plans under Title IX regulations promulgated by the U.S. Department of Education.

Based on data provided by all participating agencies, the estimated burden for reading and completing this form was calculated as follows:

Respondents	0
Responses (times)	1
Hours per respondent (times)	8
Annual reporting burden (times hour)	0

Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for U.S. Department of Justice.

The Department of Justice will consider comments by the public on

these proposed collections of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the participating agencies, including whether the information will have a practical use;
- Evaluating the accuracy of the participating agencies' collective estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department of Justice or participating agencies on the proposed regulation.

Text of the Proposed Common Rule

The text of this common rule as proposed in this document appears below:

[PART/Subpart] _____ —
NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND 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
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Subpart B—Coverage

- ____.200 Application
- ____.205 Educational institutions and other entities controlled by religious organizations
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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 and Activities Prohibited

- ____.400 Education programs and activities
- ____.405 Housing
- ____.410 Comparable facilities
- ____.415 Access to course offerings
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- ____.425 Counseling and use of appraisal and counseling materials
- ____.430 Financial assistance
- ____.435 Employment assistance to students
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- ____.445 Marital or parental status
- ____.450 Athletics
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Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and 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

Section _____ .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 [30 days after publication of the final rule].

Section _____.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 Pub. L. 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.

Section _____.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 12087, 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 [the effective date of these Title IX regulations]:

(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.

Section _____.115 Assurance Required

(a) *General.* Every application for Federal financial assistance for any education program or activity shall as a condition of its approval contain or be accompanied by an 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 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.

Section _____.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).

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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 and 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 [the effective date of these Title IX regulations] or of the date these Title IX regulations first apply to such recipient, whichever comes later, which notification shall include publication in:

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

Section _____.200 Application

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

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section ____ .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.

Section ____ .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.

Section ____ .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, 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

Section _____.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.

Section _____.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.

Section _____.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 and Activities Prohibited

Section _____.400 Education Programs and 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) *Programs not operated 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.

Section _____.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.

Section _____.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.

Section _____.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 [the effective date of these Title IX regulations]. 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 [the effective date of these Title IX regulations].

(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 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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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 in the normal education program or activity 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 instructional program in the separate program 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.

Section _____.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 [the effective date of these Title IX regulations]. 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 [the effective date of these Title IX regulations].

Section _____.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 and Activities Prohibited

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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.

Section _____.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*Section ____ .600 Notice of Covered Programs*

Within 60 days of [the publication as a final rule of these Title IX regulations], 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.

Proposed Adoption of the Common Rule

The proposed 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, D.C. 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.

Dated: January 8, 1999.

William D. Travers,

Executive Director for Operations.

For the reasons stated in the preamble, the Nuclear Regulatory Commission proposes to amend 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 AND 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 and Activities Prohibited

- 5.400 Education programs and 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 and 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:**

Erline M. Patrick, 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, Educational facilities, Grant programs—education, Loan programs—education, Sex discrimination, Women.

Aida Alvarez,
Administrator.

For the reasons stated in the preamble, the Small Business Administration proposes to amend 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.

§§ 113.1 through 113.8 [Redesignated as Subpart A]

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**Appendix A to Part 113 [Redesignated as Appendix A to Subpart A of Part 113]**

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 and 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 and Activities Prohibited

- 113.400 Education programs and 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 and 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 and Activities Receiving Federal Financial Assistance

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

Subparts A through F [Removed]

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

ED), Washington, D.C. 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.

Daniel S. Goldin,

Administrator.

For the reasons stated in the preamble, the National Aeronautics and Space Administration proposes to amend 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 AND 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 and Activities Prohibited

- 1253.400 Education programs and 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 and 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:

Kimberly H. Walton, Director, Office of Civil Rights, Department of Commerce, Room 6010, Washington, D.C. 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.

Kimberly H. Walton,

Director, Office of Civil Rights, Department of Commerce.

For the reasons stated in the preamble, the Department of Commerce proposes to amend 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 AND 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 and Activities Prohibited

- 8a.400 Education programs and 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 and 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.

For the reasons stated in the preamble, the Tennessee Valley Authority proposes to amend 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 AND 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 and Activities Prohibited

- 1317.400 Education programs and 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 and 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.

Dated: December 8, 1997.

Bonnie R. Cohen,

Under Secretary of State for Management.

For the reasons stated in the preamble, the Department of State proposes to amend 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 AND 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 and Activities Prohibited

- 146.400 Education programs and 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 and 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.

For the reasons stated in the preamble, the Agency for International Development proposes to amend 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 AND 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 and Activities Prohibited

- 229.400 Education programs and 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 and 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-P-01]

RIN 2501-AC42

FOR FURTHER INFORMATION CONTACT: Juan E. Milanés, Acting Director, Office of Enforcement, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, Washington, D.C. 20410-0500, (202) 708-0836, ext. 6962. (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 proposes to amend 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 AND 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 and Activities Prohibited

- 3.400 Education programs and 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 and 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. 2265-99]

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: October 4, 1999.

Janet Reno,
Attorney General.

For the reasons stated in the preamble, the Department of Justice proposes to amend 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 AND 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 and Activities Prohibited

- 54.400 Education programs and 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 and 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.

Dated: January 14, 1999.

Alexis M. Herman,
Secretary of Labor.

For the reasons stated in the preamble, the Department of Labor proposes to amend 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 AND 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 and Activities Prohibited

- 36.400 Education programs and 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 and 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 Compliance with 29 CFR part 34

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. Sections 36.605 and 36.610 are added 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 Compliance with 29 CFR Part 34.

Compliance with section 167 of the Job Training Partnership Act, as amended (JTPA), 29 U.S.C. 1577, and implementing regulations at 29 CFR part 34 shall satisfy the obligation of recipients of Federal financial assistance from the Department of Labor under JTPA to comply with these Title IX regulations.

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 5110 Annex, Washington, D.C. 20220, (202) 622-1160.

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.

Dated: December 9, 1997.

Nancy Killefer,

Assistant Secretary for Management and Chief Financial Officer.

For the reasons stated in the preamble, the Department of the Treasury proposes to amend 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 AND 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 and Activities Prohibited

- 28.400 Education programs and 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 and 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 requirement
- 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.

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, 28.615, 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 [the effective date of these Title IX regulations].

(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 may also 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, 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 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 which 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 which 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.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

For the reasons stated in the preamble, the Department of Defense proposes to amend 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 AND 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 and Activities Prohibited

- 196.400 Education programs and 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 and 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 Communications Staff (NPOL), 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.

Dated: February 5, 1999.

John W. Carlin,

Archivist of the United States.

For the reasons stated in the preamble, the National Archives and Records Administration proposes to amend 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 AND 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 and Activities Prohibited

- 1211.400 Education programs and 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 and 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 [the effective date of these Title IX regulations].

(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, 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 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 which 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 which 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: March 3, 1998.

Togo D. West, Jr.,
Acting Secretary.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 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 AND 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 and Activities Prohibited

- 23.400 Education programs and 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 and 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 Equal Opportunity” 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, 401 M Street, S.W. (1201), 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: January 15, 1998.

Carol M. Browner,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 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 AND 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 and Activities Prohibited

- 5.400 Education programs and 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 and 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

Civil rights, Government property management, Sex discrimination, Women.

James M. Taylor,

Director, Office of Civil Rights.

For the reasons stated in the preamble, the General Services Administration proposes to amend 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 AND 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 and Activities Prohibited

- 101-4.400 Education programs and 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 and 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 Equal Employment Opportunity” 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

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: September 21, 1999.

John Berry,

Assistant Secretary—Policy, Management, and Budget.

For the reasons stated in the preamble, the Department of the Interior proposes to amend 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 AND 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 and Activities Prohibited

- 41.400 Education programs and 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 and 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.

List of Subjects in 44 CFR Part 19

Administrative practice and procedure, Civil rights, Colleges and universities, Discrimination, Discrimination in education, Discrimination in employment, 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, Nondiscrimination, Reporting and recordkeeping requirements, Schools, Secondary education, Sex discrimination, Student aid, Universities, Women.

Pauline C. Campbell,

Director, Office of Equal Rights.

For the reasons stated in the preamble, the Federal Emergency Management Agency proposes to amend 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 AND 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 and Activities Prohibited

- 19.400 Education programs and 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 and 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

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, Sex discrimination, Women.

Lawrence Rudolph,
General Counsel.

For the reasons stated in the preamble, the National Science Foundation proposes to amend 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 AND 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 and Activities Prohibited

- 618.400 Education programs and 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 and 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.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1155

FOR FURTHER INFORMATION CONTACT:

Hope O’Keeffe, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, (202) 682-5418 (voice), (202) 682-5496 (TDD), (202) 682-5572 (facsimile).

List of Subjects in 45 CFR Part 1155

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Educational facilities, Education of individuals with disabilities, Educational research, Educational study programs, Elementary and secondary education, Equal educational opportunity, Equal

employment opportunity, Grant programs—education, Individuals with disabilities, Investigations, Marital status discrimination, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Hope O'Keeffe,

Deputy General Counsel.

For the reasons stated in the preamble, the National Endowment for the Arts proposes to amend 45 CFR, chapter XI, subchapter B, as follows:

1. Part 1155 is added as set forth at the end of the common preamble to read as follows:

PART 1155—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

- 1155.100 Purpose and effective date
- 1155.105 Definitions
- 1155.110 Remedial and affirmative action and self-evaluation
- 1155.115 Assurance required
- 1155.120 Transfers of property
- 1155.125 Effect of other requirements
- 1155.130 Effect of employment opportunities
- 1155.135 Designation of responsible employee and adoption of grievance procedures
- 1155.140 Dissemination of policy

Subpart B—Coverage

- 1155.200 Application
- 1155.205 Educational institutions and other entities controlled by religious organizations
- 1155.210 Military and merchant marine educational institutions
- 1155.215 Membership practices of certain organizations
- 1155.220 Admissions
- 1155.225 Educational institutions eligible to submit transition plans
- 1155.230 Transition plans
- 1155.235 Statutory amendments

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

- 1155.300 Admission
- 1155.305 Preference in admission
- 1155.310 Recruitment

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

- 1155.400 Education programs and activities
- 1155.405 Housing
- 1155.410 Comparable facilities
- 1155.415 Access to course offerings
- 1155.420 Access to schools operated by LEAs
- 1155.425 Counseling and use of appraisal and counseling materials
- 1155.430 Financial assistance

- 1155.435 Employment assistance to students
- 1155.440 Health and insurance benefits and services
- 1155.445 Marital or parental status
- 1155.450 Athletics
- 1155.455 Textbooks and curricular material

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

- 1155.500 Employment
- 1155.505 Employment criteria
- 1155.510 Recruitment
- 1155.515 Compensation
- 1155.520 Job classification and structure
- 1155.525 Fringe benefits
- 1155.530 Marital or parental status
- 1155.535 Effect of state or local law or other requirements
- 1155.540 Advertising
- 1155.545 Pre-employment inquiries
- 1155.550 Sex as a bona fide occupational qualification

Subpart F—Procedures

- 1155.600 Notice of covered programs
 - 1155.605 Enforcement procedures
- Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

§ 1155.105 [Amended]

2. In § 1155.105 in the definition of “designated agency official,” the brackets and text within brackets are removed and “Director, Office of Civil Rights” is added in its place.

3. In § 1155.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 1155.100 through 1155.605” is added in its place.

4. Section 1155.605 is added to read as follows:

§ 1155.605 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 1110.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1171

RIN 3136-AA11

FOR FURTHER INFORMATION CONTACT:

Virginia R. Canter, General Counsel, 1100 Pennsylvania Avenue, NW, Suite 530, Washington, DC 20506, (202) 606-8322.

List of Subjects in 45 CFR Part 1171

Administrative practice and procedure, Civil rights, Colleges and universities, Education, Equal

educational opportunity, Grant programs—education, Investigations, Reporting and recordkeeping requirements, Sex discrimination, Student aid, Women.

Virginia R. Canter,
General Counsel.

For the reasons stated in the preamble, the National Endowment for the Humanities proposes to amend 45 CFR, chapter XI, subchapter D as follows:

1. Part 1171 is added as set forth at the end of the common preamble to read as follows:

PART 1171—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

- 1171.100 Purpose and effective date
- 1171.105 Definitions
- 1171.110 Remedial and affirmative action and self-evaluation
- 1171.115 Assurance required
- 1171.120 Transfers of property
- 1171.125 Effect of other requirements
- 1171.130 Effect of employment opportunities
- 1171.135 Designation of responsible employee and adoption of grievance procedures
- 1171.140 Dissemination of policy

Subpart B—Coverage

- 1171.200 Application
- 1171.205 Educational institutions and other entities controlled by religious organizations
- 1171.210 Military and merchant marine educational institutions
- 1171.215 Membership practices of certain organizations
- 1171.220 Admissions
- 1171.225 Educational institutions eligible to submit transition plans
- 1171.230 Transition plans
- 1171.235 Statutory amendments

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

- 1171.300 Admission
- 1171.305 Preference in admission
- 1171.310 Recruitment

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

- 1171.400 Education programs and activities
- 1171.405 Housing
- 1171.410 Comparable facilities
- 1171.415 Access to course offerings
- 1171.420 Access to schools operated by LEAs
- 1171.425 Counseling and use of appraisal and counseling materials
- 1171.430 Financial assistance
- 1171.435 Employment assistance to students

- 1171.440 Health and insurance benefits and services
 1171.445 Marital or parental status
 1171.450 Athletics
 1171.455 Textbooks and curricular material

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

- 1171.500 Employment
 1171.505 Employment criteria
 1171.510 Recruitment
 1171.515 Compensation
 1171.520 Job classification and structure
 1171.525 Fringe benefits
 1171.530 Marital or parental status
 1171.535 Effect of state or local law or other requirements
 1171.540 Advertising
 1171.545 Pre-employment inquiries
 1171.550 Sex as a bona fide occupational qualification

Subpart F—Procedures

- 1171.600 Notice of covered programs
 1171.605 Enforcement procedures

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

§ 1171.105 [Amended]

2. In § 1171.105 in the definition of “designated agency official,” the brackets and text within brackets are removed and “General Counsel” is added in its place.

3. In § 1171.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 1171.100 through 1171.605” is added in its place.

4. Section 1171.605 is added to read as follows:

§ 1171.605 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 1110.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Part 1182

RIN 3137-AA09

FOR FURTHER INFORMATION CONTACT:

Mary Ann Bittner, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, N.W., Room 510, Washington, D.C. 20506, (202) 606-8536.

List of Subjects in 45 CFR Part 1182

Administrative practice and procedure, Civil rights, Education, Equal educational opportunity, Grant programs—education, Investigations, Reporting and recordkeeping

requirements, Sex discrimination, Student aid, Women.

Mary Ann Bittner,

Director of Legislative and Public Affairs.

For the reasons stated in the preamble, the Institute of Museum and Library Services proposes to amend 45 CFR, chapter XI, subchapter E, as follows:

1. Part 1182 is added as set forth at the end of the common preamble to read as follows:

PART 1182—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

- 1182.100 Purpose and effective date
 1182.105 Definitions
 1182.110 Remedial and affirmative action and self-evaluation
 1182.115 Assurance required
 1182.120 Transfers of property
 1182.125 Effect of other requirements
 1182.130 Effect of employment opportunities
 1182.135 Designation of responsible employee and adoption of grievance procedures
 1182.140 Dissemination of policy

Subpart B—Coverage

- 1182.200 Application
 1182.205 Educational institutions and other entities controlled by religious organizations
 1182.210 Military and merchant marine educational institutions
 1182.215 Membership practices of certain organizations
 1182.220 Admission
 1182.225 Educational institutions eligible to submit transition plans
 1182.230 Transition plans
 1182.235 Statutory amendments

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

- 1182.300 Admission
 1182.305 Preference in admission
 1182.310 Recruitment

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

- 1182.400 Education programs and activities.
 1182.405 Housing
 1182.410 Comparable facilities
 1182.415 Access to course offerings
 1182.420 Access to schools operated by LEAs
 1182.425 Counseling and use of appraisal and counseling materials
 1182.430 Financial assistance
 1182.435 Employment assistance to students

1182.440 Health and insurance benefits and services

- 1182.445 Marital or parental status
 1182.450 Athletics
 1182.455 Textbooks and curricular material

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

- 1182.500 Employment
 1182.505 Employment criteria
 1182.510 Recruitment
 1182.515 Compensation
 1182.520 Job classification and structure
 1182.525 Fringe benefits
 1182.530 Marital or parental status
 1182.535 Effect of state or local law or other requirements
 1182.540 Advertising
 1182.545 Pre-employment inquiries
 1182.550 Sex as a bona fide occupational qualification

Subpart F—Procedures

- 1182.600 Notice of covered programs
 1182.605 Enforcement procedures

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

§ 1182.105 [Amended]

2. In § 1182.105 in the definition of “designated agency official,” the brackets and text within brackets are removed and “Director, Policy, Planning and Budget” is added in its place.

3. In § 1182.105 in the definition of “Title IX regulations,” the brackets and text within brackets are removed and “§§ 1182.100 through 1182.605” is added in its place.

4. Section 1182.605 is added to read as follows:

§ 1182.605 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 1110.

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.

For the reasons stated in the preamble, the Corporation for National and Community Service proposes to amend 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 AND 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 and Activities Prohibited

- 2555.400 Education programs and 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 and 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 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.

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 Slater,
Secretary of Transportation.

For the reasons stated in the preamble, the Department of Transportation proposes to amend 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 AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

- Sec.
25.100 Purpose and effective date
25.105 Definitions
25.110 Remedial and affirmative action and self-evaluation
25.115 Assurance required
25.120 Transfers of property
25.125 Effect of other requirements
25.130 Effect of employment opportunities
25.135 Designation of responsible employee and adoption of grievance procedures
25.140 Dissemination of policy

Subpart B—Coverage

- 25.200 Application
25.205 Educational institutions and other entities controlled by religious organizations
25.210 Military and merchant marine educational institutions
25.215 Membership practices of certain organizations
25.220 Admission
25.225 Educational institutions eligible to submit transition plans
25.230 Transition plans
25.235 Statutory amendments

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

- 25.300 Admission
25.305 Preference in admission
25.310 Recruitment

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

- 25.400 Education programs and activities
25.405 Housing
25.410 Comparable facilities
25.415 Access to course offerings
25.420 Access to schools operated by LEAs
25.425 Counseling and use of appraisal and counseling materials
25.430 Financial assistance

25.435 Employment assistance to students
 25.440 Health and insurance benefits and
 services
 25.445 Marital or parental status
 25.450 Athletics
 25.455 Textbooks and curricular material

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

25.500 Employment
 25.505 Employment criteria
 25.510 Recruitment
 25.515 Compensation
 25.520 Job classification and structure
 25.525 Fringe benefits
 25.530 Marital or parental status
 5.535 Effect of state or local law or other
 requirements
 25.540 Advertising
 25.545 Pre-employment inquiries

25.550 Sex as a bona fide occupational
 qualification

Subpart F—Procedures

25.600 Notice of covered programs
 25.605 Enforcement procedures

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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 7515-01-P, 8320-01-P, 6560-50-P, 6820-34-P, 4310-
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