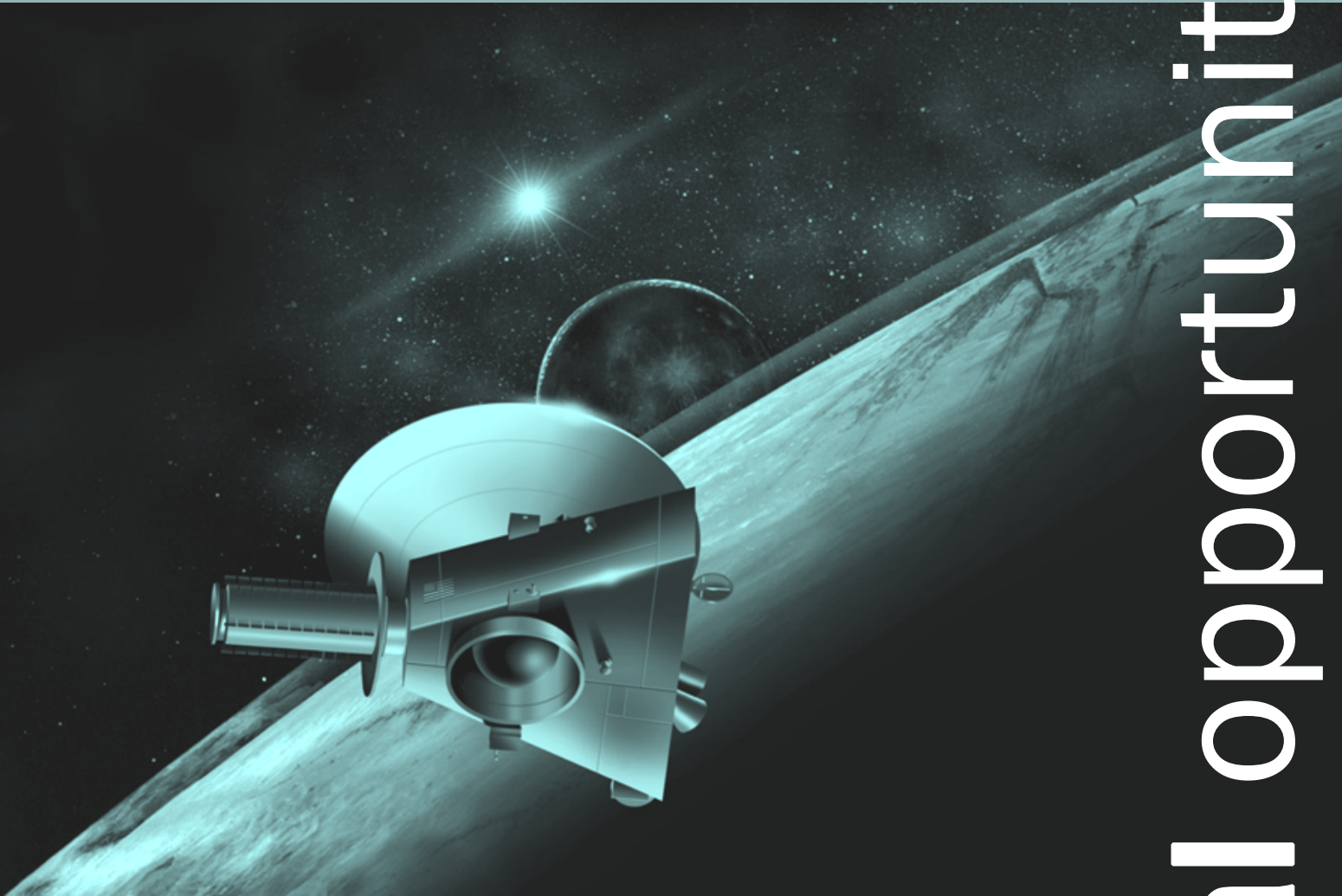
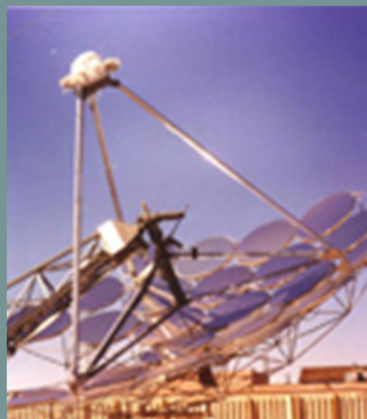


# TITLE IX & STEM

## A Guide for Conducting Title IX Self-Evaluations in Science, Technology, Engineering, and Mathematics Programs



equal opportunity





## A Message from NASA's Associate Administrator for Diversity and Equal Opportunity

The National Aeronautics and Space Administration (NASA) shares in common with your institutions the goal of increasing women's and girls' participation in science, technology, engineering, and mathematics (STEM) fields at all levels and ensuring equal opportunity in STEM, regardless of gender.

As we commemorate the milestone 40<sup>th</sup> anniversary of Title IX of the Educational Amendments Act of 1972, we can all be proud of the great progress the law has helped us to make. Women have reached parity in professional fields such as medicine, law, and journalism, to name just a few. But there remains much work still to be done.

When we look at the STEM fields in particular, we see that the numbers of women remain low. This is particularly true in physics, computer science, and some of the engineering disciplines. We also see that the numbers of women drop off at every step along the way, from middle school to doctoral completion and faculty tenure. The low numbers of women in STEM, when they have progressed to parity in other professional fields, trigger concerns as to the reasons why.

This publication is specifically designed to help NASA grant recipients identify why the dearth of women in STEM fields continues and to ensure that it is not due to illegal discrimination. It does this by stepping you through a self-evaluation of your STEM program(s), consistent with reviews NASA has conducted as part of our responsibilities under Title IX. We have prepared this document in response to requests we have received for informa-



tion on how to conduct meaningful Title IX self-evaluations. I hope that you will find the information contained in this publication useful in helping to strengthen your Title IX compliance efforts and thus better ensure equal opportunities regardless of gender in your institution's educational programs.

I cannot overemphasize the criticality of our responsibilities under Title IX to ensure gender equity in STEM programs. It is essential that every American, male or female, with an interest in science and engineering, have every opportunity to pursue his or her dream of choice. Any opportunity denied, any dream diminished, may mean that an important scientific discovery isn't made or a brilliant technological innovation isn't developed. We must not allow that to happen. I urge you to use the information contained in this guide to help you become or remain a leader in gender equity in STEM.

A handwritten signature in blue ink that reads "Brenda R. Manuel". The signature is fluid and cursive.

Brenda R. Manuel  
June 2012

***"It is essential that every American, male or female, with an interest in science and engineering, have every opportunity to pursue his or her dream of choice."***

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# Introduction

The self-evaluation provision of NASA's Title IX regulations calls on grant recipient educational institutions to evaluate their policies and practices as well as the effects of these in three main areas:

- Admission of students;
- Treatment of students; and
- Employment of both academic and nonacademic personnel working in connection with the recipient's education program or activity.<sup>1</sup>

The intent is for recipients to modify any policies and practices that do not or may not meet the requirements of Title IX.<sup>2</sup>

NASA Title IX regulations, published in August 2000, required recipient institutions to conduct a Title IX self-evaluation regarding admissions and treatment of students by September 29, 2001, and to keep the self-evaluation on file for three years.<sup>3</sup> While recipients of NASA funding are not obligated to conduct a further Title IX self-evaluation, such evaluations are very helpful to ensure that educational institutions are providing equal opportunities regardless of gender in all aspects of their programs and activities. For example, self-evaluations can help to ensure that selection criteria and academic practices do not adversely impact students based on gender. Self-evaluations also provide an excellent opportunity for educational institutions to step back and assess program trends over time and to de-

velop mechanisms for proactively addressing emerging issues. Indeed, the Title IX regulations make explicit that such self-evaluations are intended to provide Federal funding recipients with an opportunity and a mechanism to modify any policies or practices that do not or may not meet the requirements of the Title IX regulations and/or to take any appropriate remedial steps to eliminate the effects of any discrimination that resulted or may have resulted from adherence to such policies and practices.<sup>4</sup>

A nonexhaustive list of the specific areas for inquiry under a Title IX self-evaluation includes:

- Applications, admissions, matriculations, retention, and degrees earned rates;
- The availability of mentoring relationships;
- The standards and practices used for faculty hiring and promotion decisions;
- Criteria for assignment of graduate students to researchers and advisors;
- Funding of students through assistantships, fellowships, and scholarships;
- Allocation of lab space and experiences in the lab and classroom;
- Opportunities to edit prestigious professional journals, co-author research articles, and/or apply for research grants; and
- Periodic campus climate and culture surveys.

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<sup>1</sup>Self-evaluation, 14 C.F.R. § 1253.110(c).

<sup>2</sup>Id.

<sup>3</sup>Id.

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<sup>4</sup>Id., 14 C.F.R. § 1253.110(c)(2)-(3).



# Suggested Elements of a Title IX Self-Evaluation

As stated, the three main areas of inquiry envisioned by the Title IX regulations are admission of students, treatment of students, and employment of academic and nonacademic personnel. Within these broad parameters, recipients are free to shape self-evaluations to meet their own institutional and program needs. The specific elements identified in this publication are intended only as suggestions, designed to help recipients gather baseline data that can be tracked over time for each of the three main areas.

Title IX coordinators should work in close partnership with STEM departments and university administrative divisions—such as legal counsel—in the gathering and analysis of the data. In each of the three main sections, we provide recommended “Questions to Ask” and “Documents to Review.” For the questions, a general rule of thumb is that positive responses suggest that your institution is taking steps consistent with the intent of Title IX. Regarding the “Documents to Review” these should be collected and carefully analyzed by the appropriate administrative divisions, such as legal counsel and the equal opportunity (EO) office, working collaboratively with the STEM departments, to ensure consistency with the Title IX requirements. The “Questions to Ask” regarding, for example, Title IX policies and procedures, will assist in determining whether the institution’s policies and procedures are consistent with Title IX requirements. As for recommended statistical data for review, more specific guidance is provided in the following sections.



***“...A general rule of thumb is that positive responses suggest that your institution is taking steps consistent with the intent of Title IX.”***

## ADMISSION OF STUDENTS

The NASA Title IX regulations state that recipients may not discriminate on the basis of sex in admissions and recruitment.<sup>5</sup> Consistent with this requirement, NASA Title IX compliance reviews of STEM departments and programs receiving NASA funding have examined student outreach, recruitment, and admissions practices, as well as student departures and degrees earned. For graduate students, NASA also examines financial assistance awarded to students in the form of research or teaching assistantships, as well as success on high-stakes testing, such as comprehensive and qualifying exams.

In order to conduct a thorough assessment of STEM programs under review, NASA requests the recipient provide relevant statistical and qualitative data. For recipients seeking to conduct self-evaluations of their STEM programs, NASA recommends the collection and analysis of the information identified on the following pages. Unless otherwise noted, these analyses are appropriate (but should be done separately) for both undergraduate and graduate programs.

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<sup>5</sup>Admission, 14 C.F.R. §1225.300;  
Recruitment, § 1253.310.



### *Admissions and Enrollments\**

1. Declared majors by gender (undergraduate).
2. Total enrollment by gender (graduate).
3. Application, acceptance, and new enrollment rates by gender.<sup>6</sup>
4. Declared majors (undergraduate) or enrolled students (graduate) who left the program (changed major or dropped out of the institution) by gender.
5. Financial assistance (types and amounts) to male and female program majors, including scholarships, fellowships, research assistantships (RA) (graduate) and teaching assistantships (TA) (graduate).
6. Number of students working on paid research (other than RAs) by gender and by lab.
7. Graduation rates and/or degrees earned by gender (separate for bachelor's, master's and doctorate degrees).

\*For at least the past five academic years

The above numbers should be totaled for the entire five-year period for a summary view, but they should also be disaggregated by year to look for trends over time. NASA has seen, for example, statistics that looked acceptable for the combined five-year period but were still of concern because of a downward trend for female students in each of the five years. In addition to looking at trends over time, recipients should compare their male/female enrollments and rates of degrees earned with appropriate comparators, e.g., national rates and/or similarly situated programs and schools.<sup>7</sup>

The self-evaluation of outreach, recruitment, and admissions should also include an applicant flow analysis; that is, accep-

ances should be examined as a percentage of applications, and new enrollments

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<sup>6</sup>Examination of applications, acceptances, and new enrollments for undergraduates is only applicable if students apply to a specific department and/or declare a major at the time of application.

<sup>7</sup>For degrees earned by major and gender at specific schools, see U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, IPEDS Data Center at <http://nces.ed.gov/ipeds/>. For national enrollment and degrees awarded by gender, see: National Science Foundation, Division of Science Resources Statistics. 2011. *Women, Minorities, and Persons with Disabilities in Science and Engineering: 2011*. Special Report NSF 11-309. Arlington, VA (available at <http://www.nsf.gov/statistics/wmpd/>).





as a percentage of acceptances, for both genders. In the science and engineering programs reviewed by NASA (e.g., aerospace engineering, physics, and mechanical engineering), it is expected that fewer females will apply, be accepted, and enroll than males. The applicant flow analysis enables the evaluator to determine whether there is a gender difference in acceptance rates of those who applied and whether there is a difference in new enrollment rates (matriculations) of those who were accepted. For the same reason, evaluators should look at departures as a percentage of enrollments for each gender, to determine whether, of those enrolled, male and female students departed at the same or different rates.

It should be noted that the statistical analysis described above **is not intended** to make the case for specific numbers of male and female students, e.g., “quotas.”

It is intended to help departments with a gender differential in enrollment to understand whether and where in their outreach, recruitment, admissions, and enrollment policies and processes males and females were treated or impacted differently. For example, are a lower than expected number of females applying? Are females applying but not accepted at the same rate as males? Are females accepted at comparable rates to males but not matriculating? Are females enrolling but departing at rates greater than males? In this regard, the statistical evaluation should be understood to be the point of departure for appropriate additional inquiries (see below) and programmatic efforts to ensure that neither male nor female students are being treated or impacted negatively and that both men and women are afforded equal opportunities to enroll and succeed in the program.

## *Admissions and Enrollments*

### *Questions to Ask*

1. Are formal programs utilized to provide outreach to high school students, particularly female students?
2. Are metrics used to evaluate the effectiveness of existing outreach programs? If yes, how is effectiveness measured? If the outreach is not effective, are metrics used to guide modifications and improvements? Provide specific examples.
3. Are recruitment efforts undertaken to attract more female applicants? If yes, describe the effectiveness of recruitment efforts in increasing the number of female students. If recruitment efforts have not been effective, what modifications and improvements are needed?
4. What are the specific criteria used for admissions? Are admissions criteria neutral, valid predictors of success, and are they fairly applied?
5. Is there any indication of an adverse impact based on gender resulting from the use of any of these criteria (indicator is comparison of acceptance versus applied rates for men and women)? If so, what steps have been taken to address this?
6. Is there evidence of a disparity on the basis of gender in the way the criteria are being applied? For example, where the average grade point average (GPA) for women accepted is higher than for men, is there any evidence that a higher standard is being applied (need to look at application files randomly selected from graduate and undergraduate files, comparing accepted men versus non-accepted women)?

## *Admissions and Enrollments*

### *Questions to Ask (Continued)*

7. Is there evidence of a gender-based differential between those accepted and those enrolling (indicator is a comparison of the acceptance rates versus enrollment rates for men and women)? If such a disparity exists, to what does the school attribute it and what can be done about it?
8. Has the program developed a mechanism to further analyze concerns raised by the data and draw fact-based conclusions (e.g., survey of accepted students choosing not to enroll, including questions on whether their decision was influenced by gender issues)?
9. Are there undergraduate and graduate admissions committees? If so, is there gender diversity on the committees? If so, are steps also being taken to ensure that women faculty in the department aren't being "spread too thin" by being asked to serve on too many administrative committees? For example, has the department attempted to utilize women faculty in other departments to serve on such committees?
10. Are admission processes and policies set forth in writing and clearly described? Have students raised any concerns about the processes that could potentially be related to gender? Are there any grievances or complaints relating to the admissions process? If so, what were the outcomes of those complaints? Has there been a need to address any concerns regarding the admissions process?
11. Are procedures for selecting students for fellowships, research assistantships, teaching assistantships and other types of funding set forth in writing and clearly described? Have students raised any concerns about the processes that could potentially be related to gender? Are there any grievances or complaints relating to the funding of students? If so, what were the outcomes of those complaints? Has there been a need to address any concerns regarding these processes?

## TREATMENT OF STUDENTS

With regard to treatment of students, the NASA Title IX regulations provide that recipients may not, on the basis of sex,

- Exclude from participation in;
- Deny the benefits of; or
- Otherwise limit any person in any advantage or opportunity pertaining to academic, extracurricular, research, occupational training, or other education program or activity operated by the recipient.<sup>8</sup>

The regulations also explicitly state that a recipient may not discriminate on the basis of gender with regard to career counseling or guidance.<sup>9</sup> In addition, the regulations prohibit a recipient from “utilizing methods of administration which have the effect of defeating or substantially impairing accomplishment of the objectives of the program for an individual based on sex.”<sup>10</sup>

Finally, the regulations include detailed provisions on matters pertaining to marital and parental status.<sup>11</sup> Generally, under the regulations, a recipient may not apply any rule concerning actual or potential parental, family, or marital status that treats students differently on the basis of sex. Regarding pregnancy and related conditions, the regulations state that a recipient may not discriminate against any student

on the basis of the student’s pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

In light of these provisions, when conducting Title IX compliance reviews, NASA asks recipients to provide a wide range of information regarding the institution’s policies, procedures, and methods of administration relating to internal grievance procedures, policy and information dissemination, Title IX education and awareness for faculty and graduate students, and parental/marital status policies.

NASA recommends that recipients seeking to conduct Title IX self-evaluations give consideration to all of these areas in making assessments as to whether the institution is in compliance with Title IX requirements and that it is undertaking appropriate efforts to ensure equal opportunities regardless of gender.

<sup>8</sup>Education programs or activities, 14 C.F.R. § 400(a), (b) (7).

<sup>9</sup>Counseling and use of appraisal and counseling materials, 14 C.F.R. § 1253.425.

<sup>10</sup>Enforcement procedures, 14 C.F.R. § 605.

<sup>11</sup>Marital or parental status, 14 C.F.R. §§ 1253.445 and 1253.530.

**“... [P]roviding all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students’ right to receive an education free from discrimination and, in the case of sexual violence, is a crime.”**

— U.S. Department of Education, Office of Civil Rights, Dear Colleague letter, April 2011

To this end, it is recommended that recipient Title IX coordinators, in partnership with stakeholders such as the institutional legal office and STEM program leadership and faculty, review and analyze the following information to assess whether institutional policies and procedures are op-

erating optimally to ensure equal opportunity regardless of gender. For purposes of organizational clarity, we have grouped the various evaluative elements relating to treatment of students under two main rubrics: 1) Policies and Grievance Procedures and 2) Program Administration.

### ***Non-Discrimination/Anti-Harassment Policies and Grievance Procedures for Students***

#### ***Documents & Statistics to Review***

1. Non-discrimination (including sexual harassment) statements, policies, and any other relevant guidance provided to students, such as brochures, booklets, posters, etc.
2. Grievance/complaint procedures for students who report discrimination (including sexual harassment) on the basis of gender, by faculty, staff, or other students.
3. Grievance/complaint data: Data for sex discrimination (including sexual harassment) grievances and complaints made by students against faculty, staff, and other students in the STEM program(s) being evaluated for at least the past five academic years including:
  - a. Number of reported incidents
  - b. Number of informal mediations
  - c. Number of formal grievances filed internally
  - d. Number of complaints filed externally
  - e. Number and type of findings/resolutions



## ***Non-Discrimination/Anti-Harassment Policies and Grievance Procedures for Students***

### ***Questions to Ask***

1. Do the grievance procedures include both formal and informal stages?
2. Do the procedures explicitly inform students of their rights to file a Title IX complaint directly with the U.S. Department of Education Office for Civil Rights or with other Federal-funding agencies of the recipient (e.g., NASA)?
3. Are the grievance procedures clearly written and up to date? If more than one office is involved, are the roles and responsibilities of each office clearly defined? If student and faculty procedures are separate and distinct, is there collaboration, as appropriate, between the involved offices?
4. Are the procedures designed to be equitable and prompt?<sup>12</sup> For example, do they ensure basic due process for all parties, such as allowing for an attorney or representative? Do they make utilization as simple and user-friendly as possible? Do they provide reasonable time frames for key process elements, e.g. investigations? Do the grievance procedures provide a means to determine whether a violation of rules has occurred? Do they provide an appropriate means for correcting and redressing the violation? Do they provide appeal rights?

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<sup>12</sup>The NASA Title IX regulations require that recipient educational institutions adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX. See, Designation of responsible employee and adoption of grievance procedures, 14 C.F.R. § 1253.135(b).



## ***Non-Discrimination/Anti-Harassment Policies and Grievance Procedures for Students***

### ***Questions to Ask (Continued)***

5. Does the institution take steps to disseminate important information pertaining to Title IX compliance and enforcement, such as the Department of Education Office for Civil Rights policy guidance documents on sexual violence on campus?<sup>13</sup>
6. Are the procedures easily accessible to the student body?<sup>14</sup> For example, may they be easily found through a search on the university Web site? Is the Title IX coordinator identified in written materials, and is the Web site for the Title IX coordinator's office easily found?
7. Are steps taken to ensure that the procedures and related policies are appropriately disseminated to students on a regular basis (e.g., handbooks, posters, brochures, e-mails)?
8. Are there any trends evident in the complaint data (e.g., recurring issues, a particular lab or person)? If so, what steps can be taken to address any concerns (e.g., greater emphasis on Title IX educational and awareness opportunities)?

<sup>13</sup>Guidance documents are accessible at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> (Dear Colleague letter regarding sexual violence); <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf> (Dear Colleague letter regarding bullying); and <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201010.pdf> (Fact Sheet regarding harassment and bullying).

<sup>14</sup>In its guidance document, "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," issued in January 2001, the U.S. Department of Education, Office for Civil Rights states that "[a] grievance procedure . . . cannot be prompt or equitable unless students know it exists, how it works, and how to file a complaint. Thus, the procedures should be written in language appropriate to the age of the school's students, easily understood, and widely disseminated." See § IX. Prompt and Equitable Grievance Procedures (accessible at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html>).

## ***Program Administration Pertaining to Students***

### ***Documents & Statistics to Review***

1. Written policies and procedures on academic advising of students at both the undergraduate and graduate levels.
2. Written policies and procedures for selection and placement of students into research projects.
3. Written policies and procedures on undergraduate and graduate honors programs.
4. Written policies and procedures on “family friendly” policies, e.g., policies pertaining to maternity leave and parental leave for students.
5. Written policies and procedures and other documentation ensuring the physical safety and security of the program environment.
6. Results of any “campus culture” or similar type of survey conducted in the past five years that would have included undergraduate and/or graduate students in the program.
7. Documentation of the types and frequency of equal opportunity (EO), diversity, sexual harassment, and gender bias training offered to program students.
8. Number of students, by gender, participating in co-op and external internship experiences (separately for undergraduate and graduate students).
9. Number of students, by gender, who have used the academic appeal process or any other procedure to request a change in their research group, including a brief description of the nature of their request and the outcome of their request (separately for undergraduate and graduate students).
10. Number of graduate students, by gender, who have requested leave for child-bearing and/or dependent care, and number approved for such leave.
11. Status (e.g., graduated, still enrolled, changed major, left program) of students, by gender, who were approved or not approved for childbearing and/or dependent care.
12. Number of students, by gender, who have received childcare subsidies, grants, or scholarships to assist with childcare costs.



## *Program Administration Pertaining to Students*

### *Questions to Ask*

1. Are there any areas from above where there are not written policies and procedures? If there is a need, based on a program review, for written policies and procedures in any of these or other areas, who is responsible for ensuring that they are written?
2. Does the institution have a written description of the procedures for matching students to advisers? Can a student request a change in adviser, and if so, what is the process? Do students tend to have problems with particular faculty advisers, and if so, how has the department ensured that the reason(s) is/are not related to gender issues?
3. To the extent that undergraduate or graduate classes within the program contain a disproportionate number of males or females, what steps (e.g., self-evaluation) has the university taken to assure itself that the disparity is not the result of discrimination on the basis of sex in advising, counseling or appraisal materials? Provide supporting documentation.<sup>15</sup>
4. If the ratio of female program participants is lower than national averages for comparable programs, has the department/college considered programmatic efforts to improve female participation? For example, are faculty and other decision makers/influence leaders familiar with research supporting dedicated resources or modified curricula to better engage women?

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<sup>15</sup>See 14 C.F.R. § 1253.425(c), Counseling and Use of Appraisal and Counseling Materials, (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.



## Program Administration Pertaining to Students

### Questions to Ask (Continued)

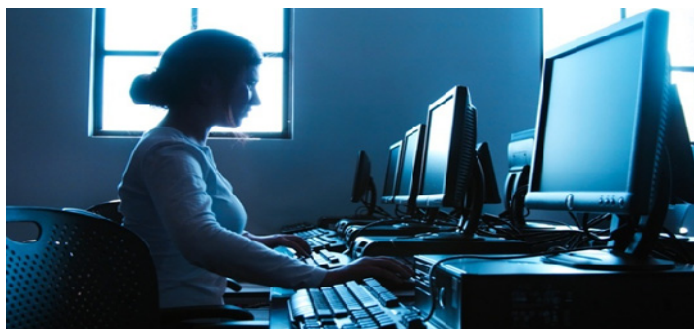
5. Has the program taken any steps to integrate research data on gender and STEM into its administration? If so, what are these steps? Are there any systems in place, for example, periodic surveys or review of statistics, to measure the success of any such steps?
6. Are safety policies and practices adequate to ensure a safe physical environment during both day and evening hours (e.g., campus evening escort service, evening shuttle routes, security cameras, “blue light” phones, or periodic crime/assault reports) e-mailed directly to the students?
7. Does the program have support organizations for female students (e.g., Women in Science and Engineering)? If so, how strong is the commitment and support given to these organizations? Do they have paid staff? If so, at what level is the director in the management structure? What type of support do they receive from departmental leadership?
8. Has the Title IX coordinator taken any steps to determine whether concerns related to gender bias or harassing conduct exist in STEM programs? For example, has the coordinator used surveys, discussions with faculty, student organizations or focus groups to ascertain whether student-professor relationships and graduate-undergraduate relationships are viewed as respectful and appropriate?
9. If educational and awareness activities are provided, how does the department ensure that such activities are designed to resonate with STEM students, e.g., using hypothetical examples of inappropriate conduct that might occur in the STEM setting, e.g., lab environment ?



## *Program Administration Pertaining to Students*

### *Questions to Ask (Continued)*

10. Does leadership encourage student participation in education and awareness opportunities beyond required sexual harassment training? Is leadership commitment demonstrated in other ways such as holding open forums or “town hall” type meetings with students?
  
11. Has the department/college given any consideration to a student survey that would enable the program to observe and address, as appropriate, differences in responses by gender? For example, within the program, are there concerns related to any of these:
  - a. Access to an academic adviser?
  - b. Counseling and guidance services?
  - c. Access to research equipment and time in the lab?
  - d. Process for receiving research/teaching assistantships?
  - e. Parental/marital status?
  - f. Safety?
  - g. Inappropriate gender-related conduct or actions?
  - h. Gender stereotyping or subtle gender bias, e.g., level of respect accorded is different along gender lines?
  
12. Regarding educational and awareness opportunities, has the department given consideration to subtler forms of bias than sexual harassment? If so, has the department taken steps, in collaboration with the Title IX coordinator’s office or related administrative division, to develop training on subtle or unconscious bias that can be present in learning environments? For example, has consideration been given to education and awareness tools on this topic, such as the Harvard Implicit Association Test Project test on gender and science (accessible at <https://implicit.harvard.edu/implicit/demo/selectatest.html>).



## EMPLOYMENT OF ACADEMIC AND NONACADEMIC PERSONNEL

Title IX's nondiscrimination mandate is intended to protect both students, faculty and staff at educational institutions receiving Federal dollars. Therefore, a faculty or staff member also may raise a claim of discrimination or harassment under Title IX. Accordingly, the Title IX self-evaluation regulatory provision makes employment of academic and non-academic personnel the third main area for review and analysis.<sup>16</sup>

Nondiscrimination in employment covers a wide range of policies and procedures, in-

cluding recruitment, compensation, promotions, tenure, leaves of absence (including leave for pregnancy), childbirth, job classification, fringe benefits, and marital or parental status.<sup>17</sup>

As with the previous sections, we have grouped the various evaluative elements relating to employment under a few main rubrics: 1) Employment Data, 2) Policies and Grievance Procedures, and 3) Program Administration.

### *Employment Data*

#### *Documents & Statistics to Review*

1. List of current program faculty, designating those in tenure track, by gender.
2. Number of faculty search committees conducted, number of applicants, and number of hires in at least the past five years, by gender.
3. Number of promotions to tenure in at least the past five years, by gender.
4. Number of tenure promotions denied in at least the past five years, by gender.
5. Number of faculty who have requested to "stop the tenure clock" for family reasons and number approved or not approved for at least the past five years, by gender.
6. Number of faculty who have left the department in at least the past five years, by gender, with reasons for departure.
7. Number of faculty, by gender, who have requested leave for childbearing and/or dependent care, and number approved for such leave, for at least the past five academic years.
8. Status (e.g., still on faculty, received tenure status, left the department) of faculty, by gender, who were approved or not approved for childbearing and/or dependent care leave, for at least the past five academic years.

<sup>1</sup>Self-Evaluation, § 1253-110(c).

<sup>17</sup>Employment, § 1253.500 through 1253.550.



### *Employment Data*

#### *Questions to Ask*

1. What was the gender composition for each of the search committees listed above? Is gender diversity a requirement for search committees?
2. Do search committees receive any training/education regarding unconscious or implicit gender bias (e.g., Harvard's Project Implicit services for Web-based or face-to-face courses)?
3. If applicant pools were not gender diverse, what additional efforts did or can the department take to increase diversity?
4. Do the data regarding promotions, denial of tenure, family-friendly requests and accommodations, grievances, complaints, and/or faculty departures indicate trends around any particular issues on the basis of gender? If so, what can be done to make the program more equitable for male and female faculty?
5. Does the university have paid staff positions for offices such as Women in Engineering or Women in Science and Engineering? If not, who is responsible for ensuring continuity of efforts to increase the participation of women in STEM at the university?

## ***Non-Discrimination/Anti-Harassment Policies and Grievance Procedures for Faculty***

### ***Documents & Statistics to Review***

1. Non-discrimination (including sexual harassment) statements, policies, and any other relevant guidance provided to faculty, such as brochures, booklets, posters, etc.
2. Grievance/complaint procedures for faculty who report sex discrimination (including sexual harassment) by other faculty, staff, university officials, or students.
3. Grievance/complaint data: data for sex discrimination (including sexual harassment) grievances and complaints made by faculty against faculty, staff, or students in the STEM program(s) being evaluated for at least the past five academic years including the following:
  - a. Number of reported incidents
  - b. Number of informal mediations
  - c. Number of formal grievances filed internally
  - d. Number of complaints filed externally
  - e. Number and type of findings/resolutions
4. Written policies and procedures on “family friendly” policies, e.g., policies pertaining to maternity leave and parental leave for faculty.

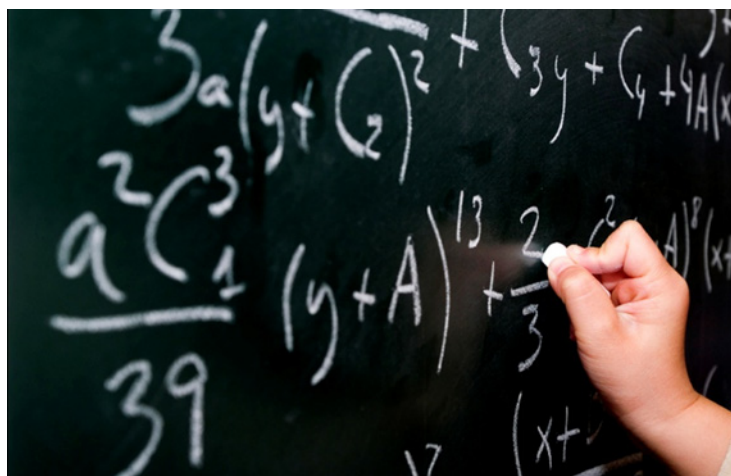
***“When responding to harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred... If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.”***

— U.S. Department of Education, Office of Civil Rights,  
Dear Colleague letter, October 2010

## ***Non-Discrimination/Anti-Harassment Policies and Grievance Procedures for Faculty***

### ***Questions to Ask***

1. Do the grievance procedures for employees include both formal and informal stages?
2. Do the procedures explicitly inform employees of their rights to file a Title IX complaint directly with the U.S. Department of Education Office for Civil Rights or with other Federal-funding agencies of the recipient (e.g., NASA)?
3. Are the grievance procedures clearly written and up to date? If more than one office is involved, are the roles and responsibilities of each office clearly defined?
4. Are the procedures designed to be equitable and prompt (see footnote 12)? For example, do they ensure basic due process for all parties, such as allowing for an attorney or representative? Do they make utilization as simple and prompt as possible? Do the grievance procedures provide a means to determine whether a violation of rules has occurred? Do they provide an appropriate means for correcting and redressing the violation? Do they provide appeal rights?
5. Are the procedures easily accessible to university employees? For example, may they be easily found through a search on the university Web site? Is the Title IX coordinator identified in written materials and is the Web site for the Title IX coordinator's office easily found?



## ***Non-Discrimination/Anti-Harassment Policies and Grievance Procedures for Faculty***

### ***Questions to Ask (Continued)***

6. Are steps taken to ensure that the procedures and related policies are appropriately disseminated to faculty on a regular basis (e.g., handbooks, posters, brochures, e-mails)?
7. Does the institution take steps to disseminate important information pertaining to Title IX compliance and enforcement such as the Department of Education Office for Civil Rights policy guidance documents on sexual violence on campus?<sup>18</sup>

## ***Program Administration Pertaining to Faculty***

### ***Documents & Statistics to Review***

1. Results of any “campus culture” or similar type of survey conducted in the past five years that would have included faculty respondents.
2. Documentation of the types and frequency of equal opportunity (EO), diversity, sexual harassment, and gender bias training offered to program faculty and staff.
3. Number of committee assignments and other non-research, non-teaching assignments for each faculty member for at least the last five academic years.

<sup>18</sup>Guidance documents are accessible at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> (Dear Colleague letter regarding sexual violence); <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf> (Dear Colleague letter regarding bullying); and <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201010.pdf> (Fact Sheet regarding harassment and bullying).



## *Program Administration Pertaining to Faculty*

### *Questions to Ask*

1. Who in the department leads efforts to increase the participation of female faculty? Are both male and female faculty members within the department expected to increase female participation? Are faculty members coordinating their efforts with the support organizations and the Title IX coordinator's office, for example, on education and awareness activities?
2. How does the department ensure that female faculty are not "stretched too thin" by serving on multiple committees and/or responding to frequent requests for a "female representative"? Alternatively, how are faculty members recognized and rewarded for extensive committee work?
3. If the department has educational and awareness opportunities, are steps taken to ensure that participants understand the distinctions between harassing behavior and more subtle, even unconscious forms of gender bias, e.g., calling on one gender more than the other in class, reacting more positively to one gender than the other, providing more encouragement to one gender than the other?
4. Does the department/college conduct periodic examinations of student data and climate surveys to regularly assess Title IX compliance? Does the department use these data, including trend analysis, to inform training needs and other proactive efforts to ensure equal opportunity on the basis of gender?
5. Does the program demonstrate concern for gender equity by taking steps to ensure that faculty and staff stay current on campus-wide climate surveys and reports that pertain to women? Does leadership participate in and encourage faculty participation in educational and awareness opportunities beyond required sexual harassment training? Is leadership commitment demonstrated in other ways such as discussing relevant issues in faculty meetings?
6. Has the department or institution given consideration to applying for a National Science Foundation ADVANCE grant? (The ADVANCE program is specifically designed to address gender issues, such as potential bias, that can impact the recruitment, hiring, and retention of female STEM faculty.) If the department/institution has received an ADVANCE grant, what have been the results? Is there a plan to continue funding the program?

# Conclusion

Title IX self-evaluation can greatly assist efforts to identify concerns regarding the admission and treatment of students, as well as the employment of both academic personnel and non-academic personnel. It can also help programs to address problems in a host of specific areas, from stronger outreach and recruitment efforts, to greater transparency in program policies and practices, to changed policies and practices reflecting a better understanding of program participant perceptions about the learning environment. NASA urges its grant recipients to use the above guidelines to conduct periodic self-evaluations and use the results to improve the participation of women in STEM programs and to enhance the overall inclusiveness of STEM program environments.



# NASA'S Title IX Regulations

## Code of Federal Regulations Title 14: Aeronautics and Space

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

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- Sec. 1253.600 Notice of covered programs.
- Sec. 1253.605 Enforcement procedures.

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

**Source:** 65 FR 52865, 52876, Aug. 30, 2000, unless otherwise noted.

## ***Subpart A—Introduction***

### ***Sec. 1253.100 Purpose and effective date.***

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

### ***Sec. 1253.105 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 Associate Administrator for Equal Opportunity Programs.

*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

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

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

offer academic study.

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

*Recipient* means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and that operates an education program or activity that receives such assistance, including any subunit, successor, assignee, or transferee thereof.

*Student* means a person who has gained admission.

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

*Title IX regulations* means the provisions set forth at Sec. 1253.100 through 1253.605.

*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.

**Sec. 1253.110 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 C.F.R., 1964–1965 Comp., p. 339; as amended by Executive Order 11375, 3 C.F.R., 1966–1970 Comp., p. 684; as amended by Executive Order 11478, 3 C.F.R., 1966–1970 Comp., p.

803; as amended by Executive Order 12086, 3 C.F.R., 1978 Comp., p. 230; as amended by Executive Order 12107, 3 C.F.R., 1978 Comp., p. 264.

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

- (1) Evaluate, in terms of the requirements of these Title IX regulations, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and nonacademic 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.

Sec. 1253.115 Assurance required.

(a) *General.* Either at the application stage or the award stage, Federal agencies must ensure that applications for Federal financial assistance or awards of Federal financial assistance contain, be accompanied by, or be covered by a specifically identified assurance from the applicant or recipient, satisfactory to the designated agency official, that each education program or activity operated by the applicant or recipient, and to which these Title IX regulations apply, will be operated in compliance with these Title IX regulations. An assurance of compliance with these Title IX regulations shall not be satisfactory to the designated agency official if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with Sec. 1253.110(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior to or subsequent to the submission to the designated agency official of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

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



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

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

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

**Sec. 1253.120 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 Sections (Secs.) 1253.205 through 1253.235(a).

**Sec. 1253.125 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 C.F.R., 1964–1965 Comp., p. 339; as amended by Executive Order 11375, 3 C.F.R., 1966–1970 Comp., p. 684; as amended by Executive Order 11478, 3 C.F.R., 1966–1970 Comp., p. 803; as amended by Executive Order 12087, 3 C.F.R., 1978 Comp., p. 230; as amended by Executive Order 12107, 3 C.F.R., 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.

*Sec. 1253.130 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.

*Sec. 1253.135 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.

*Sec. 1253.140 Dissemination of policy.*

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities that it operates, and that it is required by Title IX and these Title IX regulations not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the designated agency official finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and these Title IX regulations, but shall state at least that the requirement not to discriminate in education programs or activities extends to employment therein, and to admission thereto unless Secs. 1253.300 through 1253.310 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 Sec. 1253.135, or to the designated agency official.

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

(i) Newspapers and magazines operated by such recipient or by student, alumnae, or alumni

groups for or in connection with such recipient, and

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

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

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

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b)(1) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and shall require such representatives to adhere to such policy.

## Subpart B—Coverage

### [Sec. 1253.200 Application.](#)

Except as provided in Secs. 1253.205 through 1253.235(a), these Title IX regulations apply to every recipient and to each education program or activity operated by such recipient that receives Federal financial assistance.

### [Sec. 1253.205 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.

[Sec. 1253.210 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.

[Sec. 1253.215 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 19 years of age.

[Sec. 1253.220 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, Secs. 1253.225 and 1253.230, and Secs. 1253.300 through 1253.310, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of Secs. 1253.300 through 1253.310.* Except as provided in paragraphs (d) and (e) of this section, Secs. 1253.300 through 1253.310 apply to each recipient. A recipient to which Secs. 1253.300 through 1253.310 apply shall not discriminate on the basis of sex in admission or recruitment in violation of Secs. 1253.300 through 1253.310.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients that are educational institutions, Secs. 1253.300 through 1253.310 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.* Secs. 1253.300 through 1253.310

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.

*Sec. 1253.225 Educational institutions eligible to submit transition plans.*

(a) *Application.* This section applies to each educational institution to which Secs. 1253.300 through 1253.310 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 Secs. 1253.300 through 1253.310.

*Sec. 1253.230 Transition plans.*

(a) *Submission of plans.* An institution to which Sec. 1253.225 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 Sec. 1253.225 applies shall result in treatment of applicants to or students of such recipient in violation of Secs. 1253.300 through 1253.310 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 Sec. 1253.225 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.

*Sec. 1253.235 Statutory amendments.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii)(A) An entire corporation, partnership, or other private organization, or an entire sole proprietorship.

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

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

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

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

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

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

(d)(1) Nothing in these Title IX regulations shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Medical procedures, benefits, services, and the use of facilities, necessary to save the life of a pregnant woman or to address complications related to

an abortion are not subject to this section.

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

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

#### **Sec. 1253.300 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 Secs. 1253.300 through 1253.310 apply, except as provided in Sec. 1253.225 and Sec. 1253.230.

(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 Secs. 1253.300 through 1253.310 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 Secs. 1253.300 through 1253.310 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 there from, or establish or follow any rule or practice that so discriminates or excludes

(3) Subject to Sec. 1253.235(d), shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery there from 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.

**Sec. 1253.305 Preference in admission.**

A recipient to which Secs. 1253.300 through 1253.310 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 Secs. 1253.300 through 1253.310.

**Sec. 1253.310 Recruitment.**

(a) *Nondiscriminatory recruitment.* A recipient to which Secs. 1253.300 through 1253.310 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 Sec. 1253.110(a), and may choose to undertake such efforts as affirmative action pursuant to Sec. 1253.110(b).

(b) *Recruitment at certain institutions.* A recipient to which Secs. 1253.300 through 1253.310 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 Secs. 1253.300 through 1253.310.

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

**Sec. 1253.400 Education programs or activities.**

(a) *General.* Except as provided elsewhere in these Title IX regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or

other education program or activity operated by a recipient that receives Federal financial assistance. Sections 1253.400 through 1253.455 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 Secs. 1253.300 through 1253.310 do not apply, or an entity, not a recipient, to which Secs. 1253.300 through 1253.310 would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in Secs. 1253.400 through 1253.455, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

- (1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service
- (2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner
- (3) Deny any person any such aid, benefit, or service
- (4) Subject any person to separate or different rules of behavior, sanctions, or other treatment
- (5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-State fees and tuition
- (6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students or employees
- (7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

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

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

ment 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.

**Sec. 1253.405 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.

*Sec. 1253.410 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.

*Sec. 1253.415 Access to course offerings.*

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

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

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

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

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

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

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

*Sec. 1253.420 Access to schools operated by LEAs.*

A recipient that is an LEA 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.

**Sec. 1253.425 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.

**Sec. 1253.430 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 Sec. 1253.450.

**Sec. 1253.435 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 Secs. 1253.500 through 1253.550.

**Sec. 1253.440 Health and insurance benefits and services.**

Subject to Sec. 1253.235(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 Secs. 1253.500 through 1253.550 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.

*Sec. 1253.445 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 there from, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

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

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

(4) Subject to Sec. 1253.235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery there from 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 there from 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.

*Sec. 1253.450 Athletics.*

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied

the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

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

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

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

(ii) The provision of equipment and supplies

(iii) Scheduling of games and practice time

(iv) Travel and per diem allowance

(v) Opportunity to receive coaching and academic tutoring

(vi) Assignment and compensation of coaches and tutors

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

(viii) Provision of medical and training facilities and services

(ix) Provision of housing and dining facilities and services

(x) Publicity.

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



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

*Sec. 1253.455 Textbooks and curricular material.*

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

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

*Sec. 1253.500 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 therefore, 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 Secs. 1253.500 through 1253.550, 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 Secs. 1253.500 through 1253.550 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.

*Sec. 1253.505 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.

*Sec. 1253.510 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 Secs. 1253.500 through 1253.550.

*Sec. 1253.515 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.

*Sec. 1253.520 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 Sec. 1253.550.

*Sec. 1253.525 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 Sec. 1253.515.

(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.

*Sec. 1253.530 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 there from.

(c) *Pregnancy as a temporary disability.* Subject to Sec. 1253.235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, recovery there from, and any temporary disability resulting there from as any other temporary disability for all job-related purposes, including commencement, duration, extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, 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 there from 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.

*Sec. 1253.535 Effect of State or local law or other requirements.*

(a) *Prohibitory requirements.* The obligation to comply with Secs. 1253.500 through 1253.550 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.

*Sec. 1253.540 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.

*Sec. 1253.545 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.

*Sec. 1253.550 Sex as a bona fide occupational qualification.*

A recipient may take action otherwise prohibited by Secs. 1253.500 through 1253.550 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**

*Sec. 1253.600 Notice of covered programs.*

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

*Sec. 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 C.F.R. 1250.105 through 1250.110. [65 F.R. 52877, Aug. 30, 2000]

# Resources

Institute for Women's Policy Research, Increasing Opportunities for Low-Income Women and Student Parents in Science, Technology, Engineering, and Math at Community Colleges, (March 2012) (accessible at <http://www.iwpr.org/initiatives/student-parent-success-initiative/increasing-opportunities-for-low-income-women-and-student-parents-in-science-technology-engineering-and-math-at-community-colleges-1/view>)

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