

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 17

RIN 1601-AA04

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

AGENCY: Office of the Secretary, Homeland Security.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes for the Department of Homeland Security the necessary procedures for effectuating Title IX of the Education Amendments of 1972, as amended (except sections 904 and 906 of those Amendments), 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.

DATES: These interim final rules are effective on March 6, 2003.

Written comments may be submitted to the Department of Homeland Security on or before April 7, 2003.

ADDRESSES: Submit written comments (preferably an original and three copies) to Associate General Counsel (General Law), Department of Homeland Security, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Robert Coyle, (202) 282-8410, not a toll free call.

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (Pub. L. 107-296), which created the new Department of Homeland Security (DHS). Pursuant to the provisions of the Act, the new Department came into existence on January 24, 2003.

In order to establish procedures to facilitate the operations of the new Department, DHS is issuing an initial series of proposed and interim final regulations.

II. The Interim Final Rule

This interim final rule provides those procedures necessary to effectuate Title IX of the Education Amendments of 1972, as amended (except sections 904 and 906 of those Amendments) (20

U.S.C. 1681-1683 and 1685-1688), 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.

III. Procedural Requirements

Because the DHS came into existence on January 24, 2003, it is necessary to promptly establish procedures to facilitate the operations of the new Department. Furthermore, this interim final rule parallels the existing operational regulations of other cabinet-level agencies to effectuate the provisions of Title IX (see 65 FR 52858, the final common rule for Title IX for numerous agencies). Similar regulations were applicable to components being transferred to DHS from other agencies, and the regulations are only being technically adapted for DHS, imposing no substantive requirement that is different from the existing regulations of other agencies. Accordingly, the Department has determined that notice and public procedure are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). For the same reasons, the Department has determined that this interim rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

It has been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

This regulation has been reviewed and approved by the Attorney General pursuant to Executive Order 12250 and reviewed by the Equal Employment Opportunity Commission pursuant to Executive Order 12067.

List of Subjects in 6 CFR Part 17

Civil rights, Education, Equal employment opportunity, Sex discrimination.

Authority and Issuance

For the reasons set forth above, chapter I of 6 CFR is amended by adding part 17 to read as follows:

PART 17—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

- 17.100 Purpose and effective date.
- 17.105 Definitions.
- 17.110 Remedial and affirmative action and self-evaluation.
- 17.115 Assurance required.
- 17.120 Transfers of property.
- 17.125 Effect of other requirements.
- 17.130 Effect of employment opportunities.
- 17.135 Designation of responsible employee and adoption of grievance procedures.
- 17.140 Dissemination of policy.

Subpart B—Coverage

- 17.200 Application.
- 17.205 Educational institutions and other entities controlled by religious organizations.
- 17.210 Military and merchant marine educational institutions.
- 17.215 Membership practices of certain organizations.
- 17.220 Admissions.
- 17.225 Educational institutions eligible to submit transition plans.
- 17.230 Transition plans.
- 17.235 Statutory amendments.

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

- 17.300 Admission.
- 17.305 Preference in admission.
- 17.310 Recruitment.

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

- 17.400 Education programs or activities.
- 17.405 Housing.
- 17.410 Comparable facilities.
- 17.415 Access to course offerings.
- 17.420 Access to schools operated by LEAs.
- 17.425 Counseling and use of appraisal and counseling materials.
- 17.430 Financial assistance.
- 17.435 Employment assistance to students.
- 17.440 Health and insurance benefits and services.
- 17.445 Marital or parental status.
- 17.450 Athletics.
- 17.455 Textbooks and curricular material.

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

- 17.500 Employment.
- 17.505 Employment criteria.
- 17.510 Recruitment.
- 17.515 Compensation.
- 17.520 Job classification and structure.
- 17.525 Fringe benefits.
- 17.530 Marital or parental status.
- 17.535 Effect of state or local law or other requirements.
- 17.540 Advertising.
- 17.545 Pre-employment inquiries.
- 17.550 Sex as a bona fide occupational qualification.