

Department of Veterans Affairs

§ 23.400

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.

§ 23.305 Preference in admission.

A recipient to which §§ 23.300 through 23.310 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 §§ 23.300 through 23.310.

§ 23.310 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which §§ 23.300 through 23.310 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 § 23.110(a), and may choose to undertake such efforts as affirmative action pursuant to § 23.110(b).

(b) *Recruitment at certain institutions.* A recipient to which §§ 23.300 through 23.310 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 §§ 23.300 through 23.310.

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

§ 23.400 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 23.400 through 23.455 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 §§ 23.300 through 23.310 do not apply, or an entity, not a recipient, to which §§ 23.300 through 23.310 would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in §§ 23.400 through 23.455, 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