

therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which 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.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.58 Effect of State or local law or other requirements.

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

(b) *Benefits.* A recipient which 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.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.59 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.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.60 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 this part.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.61 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart 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 which 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.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§§ 86.62–86.70 [Reserved]

Subpart F—Procedures [Interim]

§ 86.71 Interim procedures.

For the purposes of implementing this part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to title

Pt. 86, Index

45 CFR Subtitle A (10-1-10 Edition)

IX and other civil rights authorities administered by the Department, the procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR 80-6 through 80-11 and 45 CFR Part 81.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

SUBJECT INDEX TO TITLE IX PREAMBLE AND REGULATION¹

A

- Access to Course Offerings [43, 55, 56, 57, 58]; 86.34
- Access to Schools Operated by LEA's, [44]; 86.35
- Admissions, [5, 6, 30]; 86.15, 86.21
 - Affirmative and remedial action, [16, 17, 24]; 86.3 (a), (b)
 - Administratively separate units, [30]; 86.15(b), 86.2(o)
 - Educational Institutions, [30], 86.15(d), 86.2(n)
 - General, 86.21(a), 86.2(p),
 - Prohibitions relating to marital and parental status, [32, 36]; 86.21(c)
 - Professional schools, [30], 86.2(m)
 - Public institutions of undergraduate higher education, 86.15(e)
 - Recruitment, [34, 35]; 86.23
 - Specific prohibitions, 86.21(b)
 - Tests, [31]; 86.21(b)(2)
 - Preference in admission, [35]; 86.22
- Advertising, 86.59
- Affirmative Action, see "Remedial and Affirmative Actions"
- Assistance to "outside" discriminatory organizations, [40, 53]; 86.31(b)(7), (c)
- Assurances, [18]; 86.4
 - Duration of obligation, 86.4(b)
 - Form, 86.4(c)
- Athletics, [69 to 78]; 86.41
 - Adjustment period, [78]; 86.41(d)
 - Contact sport defined, 86.41(d)
 - Equal opportunity, [76, 77]; 86.41(d)
 - Determining factors, 86.41(c) (i) to (x)
 - Equipment, 86.41(c)
 - Expenditures, 86.41(c)
 - Facilities, 86.41(c)
 - Travel, 86.41(c)
 - Scholarships, [64, 65]; 86.37(d)
 - General, [69, 70, 71, 72, 73, 74, 75]; 86.41(a)
 - Separate teams, [75]; 86.41(b)

B

- BFOQ, [96]; 86.61

¹Preamble paragraph numbers are in brackets [].

C

- Comparable facilities
 - Housing, [42, 54]; 86.32
 - Other, 86.33, 86.35(b)
- Compensation, [84, 87, 92]; 86.54
- Counseling
 - Disproportionate classes, [45, 59]; 86.36(c)
 - General, [45, 59]; 86.36(a)
 - Materials, [45, 59]; 86.36(b)
- Course Offerings
 - Adjustment period, [55]; 86.34(a) (i)
 - General, [7, 43]; 86.34
 - Music classes, [43]; 86.34(f)
 - Physical education, [43, 56, 58];
 - Sex education, [43, 57]; 86.34(e)
- Coverage, [5]; 86.11 to 86.17
- Exemptions
- Curricular materials, [52]; 86.42(a)

D

- Definitions, [14, 15]; 86.2(a) to (r)
- Designation of responsible employee, [20, 22]; 86.8(a), (b)
- Dissemination of policy, [21]; 86.9
- Distribution, 86.9(c)
- Notification of policy, [21]; 86.9(a)
- Publications, 86.9(b)
- Dress codes 86.31(b) (4)

E

- Education Institutions
 - Controlled by religious organizations, 86.12
 - Application, [28, 29]; 86.12(a)
 - Exemption, [26]; 86.12(b)
- Education Program and Activities
 - Benefiting from Federal financial assistance, [10, 11]; 86.11
 - General, [10, 11, 53]; 86.31(a)
 - Programs not operated by recipient, [41, 54]; 86.31(c)
 - Specific prohibitions, [38, 39, 40, 53]; 86.31 (b)
- Effective Date, [3]
- Employee responsible for Title IX, see "Designation of Responsible Employee"
- Employment
 - Advertising, 86.59
 - Application, 86.51(b)
 - Compensation, [84, 92]; 86.54
 - Employment criteria, 86.52
 - Fringe benefits, [88, 89]; 86.56
 - General, [81, 82, 87]; 86.51
 - Job Classification and Structure, 86.55
 - Marital and Parental Status, 86.57
 - Pregnancy, [85, 93]; 86.57(b)
 - Pregnancy as Temporary Disability, [85, 93]; 86.57(c)
 - Pregnancy Leave, [85, 93, 94]; 86.57(d)
- Pre-Employment Inquiry
 - Recruitment, [83, 90, 91, 95]
 - Sex as a BFOQ, [96]; 86.61
 - Student Employment, [66]; 86.38
 - Tenure, 86.51(b) (2)
- Exemptions, [5, 27, 28, 29, 30, 53]; 86.12(b), 86.13, 86.14, 86.15(a), 86.15(d), 86.16

- F
- Federal Financial Assistance, 86.2(a)
 - Financial Assistance to students, [46, 60, 61]; 86.37
 - Athletic Scholarships, [46, 64, 65]; 86.37(d)
 - Foreign institutions, study at [63]; 86.31(c)
 - General, 86.37
 - Non-need scholarships, [62]; 86.37(b)
 - Pooling of sex-restrictive, [46, 61, 62]; 86.37(b)
 - Sex-restrictive assistance through foreign or domestic wills [46, 61, 62]; 86.37(b)
 - Foreign Scholarships, see "Financial assistance" 86.37 and "Assistance to 'outside' discriminatory organizations", 86.31(c)
 - Fraternities/Sororities
 - Social, [53, 27, 28]; 86.14(a)
 - Business/professional, [40, 53, 27, 28]; 86.31(b) (7)
 - Honor societies, [40, 53]; 86.31(b) (7)
 - Fringe benefits, [67, 88, 89]; 86.56, 86.39
 - Part-time employees, [89]
- G
- Grievance Procedure, see "Designation of responsible employee", 86.8(a) (b)
- H
- Health and Insurance Benefits and Services, [67, 88, 93]; 86.39, 86.56
 - Honor societies, [40, 53]; 86.31(b) (7)
 - Housing, 86.32
 - Generally, [42]; 86.32(b)
 - Provided by recipient, 86.32(b)
 - Other housing, [54]; 86.32(c)
- J
- Job Classification and Structure, 86.55
- L
- LEA's, [44]; 86.35
- M
- Marital and Parental Status
 - Employment
 - General, [85, 93, 94]; 86.57
 - Pregnancy, [85, 93, 94]; 86.57(b)
 - Pregnancy as a temporary disability, [85, 93, 94]; 86.57(c)
 - Pregnancy leave, [85, 93, 94]; 86.57(d)
 - Students
 - General, [49]; 86.40(a) (b)
 - Pregnancy and related conditions, [50]; 86.40(b) (1) (2) (3) (4) (5)
 - Class participation, [50]; 86.40(b) (1)
 - Physician certification, [50]; 86.40(b) (2)
 - Special classes, [50]; 86.40(b) (3)
 - Temporary leave, [50]; 86.40(b) (4) (5)
 - Membership Practices of Social fraternities and sororities, [27, 28, 53]; 86.14(a)
 - Voluntary youth service organizations, [27, 28, 53]; 86.14(c)
 - YMCA, YWCA and others, [27, 28, 53]; 86.14(b)
- Military and Merchant Marine Educational Institutions, [29]; 86.13
- P
- Pooling, see "Financial Assistance", 86.37
 - Pre-employment Inquiries
 - Marital status, [86, 95]; 86.60(a)
 - Sex, 86.60(b)
 - Preference in Admissions, [35]; 86.22
 - See also "Remedial and Affirmative Action"
 - Pregnancy, Employment
 - General, [85, 93, 94]; 86.57
 - Pregnancy, [85, 93, 94]; 86.57(b)
 - Pregnancy as temporary disability, [85, 93, 94]; 86.57(c)
 - Pregnancy leave, [85, 93, 94]; 86.57(d)
 - Students
 - General, [49, 50]; 86.40(a) and (b)
 - Pregnancy and related conditions; [50]; 86.40(b) (1) to (5)
 - Class Participation, [50, 55, 58]; 86.40(b) (1)
 - Physical certification, [50]; 86.40(b) (2)
 - Special class, [50]; 86.40 (b) (3)
 - Temporary leave, [50]; 86.40(b) (4), (5)
 - Private Undergraduate Professional Schools, [30]; 86.15(d)
 - Purpose of Regulation, [13]; 86.1
- R
- Real Property, 86.2(g)
 - Recruitment
 - Employment
 - Nondiscrimination, [83, 91]; 86.53(a)
 - Patterns, 86.53(b)
 - Student
 - Nondiscrimination, [34, 35]; 86.23(a)
 - Recruitment at certain institutions, 86.23 (b)
 - Religious Organizations
 - Application, [29, 28]; 86.12(a)
 - Exemption, [26]; 86.12(b)
 - Remedial and Affirmative Actions, [16, 17, 24]; 86.3
- S
- Scholarships, see "Financial Assistance", 86.37
 - Self-evaluation, [16, 22]; 86.3(c) (d)
 - Surplus Property (see Transfer of Property 86.5)
 - Duration of obligation 86.4(b)
 - Real Property 86.4(b) (1)
- T
- Textbooks and curricular materials, [52, 79, 80]; 86.42
 - Termination of funds, [10, 11]
 - Transfer of property, 86.5
 - Transition Plans
 - Content of plans, 86.17(b)
 - Different from Adjustment period, [78]; 86.41(d)
 - Submission of plans, 86.17(a)