§ 86.3 Remedial and affirmative action and self-evaluation.

(a) Remedial action. If the Director 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 Director 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 to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) Self-evaluation. Each recipient education institution shall, within one year of the effective date of this part:

(1) Evaluate, in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient’s education program or activity;

(2) Modify any of these policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination which 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 Director 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.

(40 FR 21428, June 4, 1975; 40 FR 39506, Aug. 28, 1975)

§ 86.4 Assurance required.

(a) General. Every application for Federal financial assistance for any education program or activity shall as condition of its approval contain or be accompanied by an assurance from the
applicant or recipient, satisfactory to
the Director, that the education pro-
gram or activity operated by the appli-
cant or recipient and to which this part
applies will be operated in compliance
with this part. An assurance of compli-
ance with this part shall not be satis-
factory to the Director if the applicant
or recipient to whom such assurance
applies fails to commit itself to take
whatever remedial action is necessary
in accordance with §86.3(a) to elimi-
nate existing discrimination on the
basis of sex or to eliminate the effects
of past discrimination whether occur-
ring prior or subsequent to the submis-
sion to the Director of such assurance.

(b) Duration of obligation. (1) In the
case of Federal financial assistance ex-
tended 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 ac-
tivity.

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

(3) In all other cases such assurance
shall obligate the recipient for the pe-
riod during which Federal financial as-
sistance is extended.

(c) Form. The Director will specify
the form of the assurances required by
paragraph (a) of this section and the
extent to which such assurances will be
required of the applicant's or recipi-
ent's subgrantees, contractors, sub-
contractors, transferees, or successors
in interest.

§ 86.5 Transfers of property.

If a recipient sells or otherwise trans-
fers property financed in whole or in
part with Federal financial assistance
to a transferee which operates any edu-
cation 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 trans-
feror and the transferee shall be
deemed to be recipients, subject to the
provisions of Subpart B of this part.

§ 86.6 Effect of other requirements.

(a) Effect of other Federal provisions.
The obligations imposed by this part
are independent of, and do not alter,
obligations not to discriminate on the
basis of sex imposed by Executive
Order 11246, as amended; sections 799A
and 845 of the Public Health Service
Act (42 U.S.C. 295h–9 and 298b–2); Title
VII of the Civil Rights Act of 1964 (42
U.S.C. 2000e et seq.; the Equal Pay Act
(29 U.S.C. 206 and 206(d)); and any other
Act of Congress or Federal regulation.

(b) Effect of State or local law or other
requirements.
The obligation to comply
with this part is not obviated or allevi-
ated by any State or local law or other
requirement which would render any
applicant or student ineligible, or limit
the eligibility of any applicant or stu-
dent, on the basis of sex, to practice
any occupation or profession.

(c) Effect of rules or regulations of pri-
vate organizations.
The obligation to
comply with this part is not obviated
or alleviated by any rule or regulation
of any organization, club, athletic or
other league, or association which
would render any applicant or student
ineligible to participate or limit the
eligibility or participation of any ap-
plicant or student, on the basis of sex,
in any education program or activity
operated by a recipient and which re-
cieves Federal financial assistance.

§ 86.7 Effect of employment opportuni-
ties.
The obligation to comply with this
part is not obviated or alleviated be-
cause employment opportunities in any
occupation or profession are or may be