Office for Civil Rights, Education

§ 108.6


(g) Group officially affiliated with any other Title 36 youth group means a youth group resulting from the chartering process or other process used by that Title 36 youth group to establish official affiliation with youth groups.

(h) Group officially affiliated with the Boy Scouts means a youth group formed as a result of a community organization charter issued by the Boy Scouts.

(j) Limited public forum means that an elementary school or secondary school grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.


(k) Outside youth or community group means a youth or community group that is not affiliated with the school.

(l) Premises or facilities means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in that property.


(o) Title 36 of the United States Code (as a patriotic society) means title 36 (Patriotic and National Observances, Ceremonies, and Organizations), Subtitle II (Patriotic and National Organizations) of the United States Code.

(p) Title 36 youth group means a group or organization listed in title 36 of the United States Code (as a patriotic society) that is intended to serve young people under the age of 21.

(q) To sponsor any group officially affiliated with the Boy Scouts or with any other Title 36 youth group means to obtain a community organization charter issued by the Boy Scouts or to take actions required by any other Title 36 youth group to become a sponsor of that group.

(r) Youth group means any group or organization intended to serve young people under the age of 21.

(Authority: 20 U.S.C. 7905)

§ 108.4 Effect of State or local law.

The obligation of a covered entity to comply with the Act and this part is not obviated or alleviated by any State or local law or other requirement.

(Authority: 20 U.S.C. 7905)

§ 108.5 Compliance obligations.

(a) The obligation of covered entities to comply with the Act and this part is not limited by the nature or extent of their authority to make decisions about the use of school premises or facilities.

(b) Consistent with the requirements of §108.6, a covered entity must provide equal access to any group that is officially affiliated with the Boy Scouts or is officially affiliated with any other Title 36 youth group. A covered entity may require that any group seeking equal access inform the covered entity whether the group is officially affiliated with the Boy Scouts or is officially affiliated with any other Title 36 youth group. A covered entity’s failure to request this information is not a defense to a covered entity’s noncompliance with the Act or this part.

(Authority: 20 U.S.C. 7905)

§ 108.6 Equal access.

(a) General. Consistent with the requirements of paragraph (b) of this section, no covered entity shall deny equal access or a fair opportunity to meet, or discriminate against, any group officially affiliated with the Boy Scouts or officially affiliated with any
other Title 36 youth group that requests to conduct a meeting within that covered entity’s designated open forum or limited public forum. No covered entity shall deny that access or opportunity or discriminate for reasons including the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts or of the Title 36 youth group.

(b) Specific requirements—

(1) Meetings. Any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting in the covered entity’s designated open forum or limited public forum must be given equal access to school premises or facilities to conduct meetings.

(2) Benefits and services. Any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting as described in paragraph (b)(1) of this section must be given equal access to any other benefits and services provided to one or more outside youth or community groups that are allowed to meet in that same forum. These benefits and services may include, but are not necessarily limited to, school-related means of communication, such as bulletin board notices and literature distribution, and recruitment.

(3) Fees. Fees may be charged in connection with the access provided under the Act and this part.

(4) Terms. Any access provided under the Act and this part to any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group, as well as any fees charged for this access, must be on terms that are no less favorable than the most favorable terms provided to one or more outside youth or community groups.

(5) Nondiscrimination. Any decisions relevant to the provision of equal access must be made on a nondiscriminatory basis. Any determinations of which youth or community groups are outside groups must be made using objective, nondiscriminatory criteria, and these criteria must be used in a consistent, equal, and nondiscriminatory manner.

(Authority: 20 U.S.C. 7905)