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Guidelines regarding Single Sex Classes and Schools

4000-01-U

DEPARTMENT OF EDUCATION

Office for Civil Rights; Single-Sex Classes and Schools: Guidelines on Title IX Requirements

AGENCY: Department of Education.

ACTION: Guidelines on current title IX requirements related to single-sex classes and schools.

SUMMARY: On January 8, 2002, the President signed into law the No Child Left Behind Act of 2001, which reauthorized the Elementary and Secondary Act of 1965. Section 5131(a)(23) of the Elementary and Secondary Education Act allows local educational agencies (LEAs) to use Innovative Programs funds to support same-gender schools and classrooms consistent with applicable law. It also requires the Department, within 120 days of enactment, to issue guidelines for LEAs regarding the applicable law on single-sex classes and schools. This notice fully implements Congress's mandate by describing and explaining the current statutory and regulatory requirements relating to single-sex classes and schools.

FOR FURTHER INFORMATION CONTACT: Jeanette J. Lim, Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, S.W., room 5036, Mary E. Switzer Building, Washington, DC 20202-2899. Telephone: (202) 205-8635 or 1-800-421-3481.

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SUPPLEMENTARY INFORMATION: This notice implements Congress's mandate in the No Child Left Behind Act of 2001 (NCLB Act) to provide guidelines to LEAs regarding the applicable law on single-sex classes and schools. See Pub. L. 107-110, Sec. 5131(a)(23), 5131(c).

Elsewhere in this issue of the Federal Register is a notice of intent to regulate (NOIR), which invites comment on our intention to amend the current regulations implementing Title IX of the Education Amendments of 1972 (Title IX) related to elementary and secondary single-sex classes and schools to provide more flexibility to educators. The purpose of these amendments would be to support efforts of school districts to improve educational outcomes for children and to provide public school parents with a diverse array of educational options that respond to the educational needs of their children, while at the same time ensuring appropriate safeguards against discrimination. The NOIR is intended to begin this process and ensure adequate public input on these important and sensitive issues.

GUIDELINES ON CURRENT TITLE IX REQUIREMENTS:

Single-sex classes: The Title IX statute generally prohibits sex-based discrimination in education programs or activities receiving Federal financial assistance. Specifically, it states that no person in the United States, on the basis of sex, can be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. 20 U.S.C. 1681.

Section 1681(a) of Title IX contains two limited exceptions relating to classes or activities within primary and secondary schools that otherwise are coeducational. Subsection 1681(a)(7)(B) of Title IX exempts any program or activity of any secondary school or educational institution specifically intended for the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference or for the selection of students to attend such a conference. Subsection 1681(a)(8) of Title IX states that the law does not preclude father-son or mother-daughter activities at an educational institution. However, if those activities are provided for students of one sex, opportunities for reasonably comparable activities must be provided for students of the other sex. Accordingly, these activities are permitted on a single-sex basis if the requirements of the statute are met.[1]

Our current Title IX regulations generally prohibit single-sex classes or activities. The regulations in 34 CFR 106.34 state --

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

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