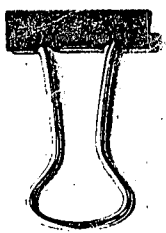


Wine's
sues -
Title IX



See - (1st page over)
Is there anything in all this?
What are we doing with ID # 207839

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

- ☐ O - OUTGOING
☐ H - INTERNAL
☒ I - INCOMING

Date Correspondence Received (YY/MM/DD) 97 / 09 / 16

is? Please check in with Rob Weiner. Thanks.
Elin

Name of Correspondent: ISABELLE KATZ PINZLER 97 SEP 17 PM 1:24

☐ MI Mail Report User Codes: (A) (B) (C)

Subject: DEPARTMENT OF JUSTICE RESPONSE TO PRESIDENT CLINTON'S JUNE 17 MEMO ON TITLE IX ENFORCEMENT

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD	
TIM SAUNDERS EXEC CLERK	ORIGINATOR	97/09/16		97/09/16	
Referral Note:					
Tony STERN - STAFF SECRETARY	A	97/09/16		97/09/25	
Referral Note:					
MARIA ECHAVESTE	A	97/09/25			
Referral Note:					
JENNIFER KLEIN	A	97/09/25			
Referral Note:					
ELENA KAGAN	A	97/09/25			
Referral Note:					

ACTION CODES:

- A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

- A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: NOT FOR THE PRESIDENT'S TRANSMITTAL TO THE CONGRESS

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

December 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Richard W. Riley

A handwritten signature in black ink that reads "Dick Riley" with a stylized flourish at the end.

SUBJECT: Strengthening Title IX Enforcement

This memorandum is in response to your June 17, 1997, Memorandum for the Heads of Executive Departments and Agencies titled "Strengthening Title IX Enforcement and Addressing Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs and Activities." You requested a description of department or agency priorities for Title IX enforcement and methods to make recipients of Federal financial assistance aware of their obligation not to discriminate on the basis of sex and to provide grievance procedures to handle Title IX complaints.

An earlier memorandum (copy attached) was sent by my Acting General Counsel in response to the information you requested about the agency's education programs and discrimination-related issues that might arise in these programs.

Background

The Department of Education, through its Office for Civil Rights (OCR), is the agency with primary enforcement authority for Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education programs. OCR's role is to ensure that no person is subjected to discrimination on the basis of sex in education programs or activities that receive Federal financial assistance. In addition to OCR's enforcement responsibilities for Title IX, OCR enforces four other Federal statutes that prohibit discrimination: Title VI of the Civil Rights Act of 1964 (prohibiting race and national origin discrimination in federally assisted programs), Section 504 of the Rehabilitation Act of 1973 (prohibiting disability based discrimination in federally assisted programs), Title II of the Americans With Disabilities Act of 1990, and the Age Discrimination Act of 1975. OCR is also charged with carrying out civil rights provisions in Title V, Part A of the Elementary and Secondary Education Act of 1965, relating to the Magnet Schools Assistance Program.

To carry out its responsibilities, OCR has enforcement authority to investigate complaints and conduct compliance reviews. Fundamental to OCR's effective investigative and enforcement program are strong efforts to achieve voluntary resolutions. OCR carefully monitors such resolution agreements to ensure that recipient institutions fully implement their plan commitments.

OCR offers technical assistance through seminars, speeches, widely disseminated policy guidance documents, and on-line access to encourage voluntary compliance. OCR also works proactively with recipients to develop, adopt and implement policies and grievance procedures that assist recipients to identify, prevent, and effectively respond to sex discrimination.

OCR has enforcement jurisdiction over recipients of Federal financial assistance in all 50 states, the District of Columbia, and the U.S. territories and possessions, including 56 state education agencies, 15,000 local educational agencies, 3,600 colleges and universities, and 5,600 proprietary schools. Other recipients include libraries, museums, and 83 state rehabilitation agencies.

In FY 1996, OCR received 4,828 new complaints and closed 4,886 complaints. Sex discrimination complaints numbered 324 or nearly seven percent of the incoming complaints. The agency also initiated 146 compliance reviews, several of which were Title IX reviews, and closed 173 reviews.

Title IX Enforcement Priorities

Complaints to OCR involve complex issues of different treatment and disparate impact on the basis of sex. In order to focus and prioritize limited enforcement resources, OCR's Strategic Plan and Enforcement Program highlights the areas of greatest need for our Title IX beneficiaries. Within these priority areas, in order to ensure that recipients are aware of their Title IX responsibilities, and so that recipients can work as partners with the Federal government in enforcing Title IX, OCR has issued several important policies within the last two years. These priority areas and related policy documents include:

- **Sexual harassment.** On March 13, 1997, OCR issued final policy guidance in the Federal Register on the subject of sexual harassment. The guidance explains that sexual harassment is a persistent and serious problem in our elementary, secondary, and postsecondary schools and states that it can interfere with a student's ability to benefit from his or her education. The guidance makes clear that school personnel who understand their Title IX obligations are in the best position to prevent and respond to sexual harassment, using good judgment and taking into account the age and maturity of the students involved. It also delineates the responsibility of school administrators to remedy the problem of sexual harassment once a school has notice of it, and describes how schools can implement effective grievance procedures. During the next year, OCR will reproduce and distribute copies of the sexual harassment policy guidance to recipients. Also, OCR has developed and will distribute a pamphlet setting out in clear, nonlegal terms how Title IX prohibits sexual harassment and legal requirements for effective grievance procedures responsive to complaints of sexual harassment. We have already made these documents available to the public at no cost on OCR's website (<http://www.ed.gov/offices/OCR/>). OCR recently sent a letter to all the Chief State School Officers reminding them of the requirements for designating Title IX coordinators and for developing effective grievance procedures to handle sex discrimination complaints.

- **Fairness in testing and assessment practices.** In the near future, OCR will issue final guidance for its regional enforcement offices to assist in the investigation of cases alleging the discriminatory use of tests in making high-stakes educational decisions. The guidance will set forth well-established legal standards relating to the use and misuse of tests, and will clearly articulate the existing principles of law that should guide any decision regarding the use of tests under Title IX or Title VI. OCR will also issue a pamphlet setting out in nonlegal terms the standards relating to the use and misuse of high-stakes tests. The Department plans to make the guidance and the pamphlet widely available to school systems and the public. In addition, during the next year, the Department's Office of Educational Research and Improvement and the Office of Elementary and Secondary Education, along with OCR, will work to identify and disseminate promising practices with regard to the validation and use of tests.
- **Gender equity in athletics.** On January 16, 1996, OCR issued to college and university presidents and other stakeholders a document relating to issues of gender equity in athletics. Accompanied by a Dear Colleague letter, OCR's "Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test" explained in clear terms and with helpful examples the different ways schools can provide students with nondiscriminatory athletic participation opportunities.

Making sure that female athletes are awarded athletic scholarships consistent with Title IX requirements is another important enforcement activity. The opportunity to go to college may elude some students from less advantaged socioeconomic backgrounds, and athletic scholarships are one way to create that opportunity. OCR is presently investigating 25 complaints alleging violations of Title IX in awarding athletic scholarships.

In the area of **vocational educational opportunities for females**, OCR has provided state vocational education agencies assistance in their civil rights enforcement responsibilities. This includes providing training in areas of gender equity, including sexual harassment and Title IX grievance procedure requirements. OCR on September 30, 1996, revised the procedures that assist state vocational education agencies in conducting their civil rights compliance reviews of local educational agencies. These procedures permit State agencies to focus on specific issues such as under-representation by sex in non-traditional courses.

Relatively few complaints are filed under Title IX, as compared to other civil rights laws. OCR will, however, examine on a regular basis whether pervasive Title IX issues are left unaddressed by either current policy or our system of responding to complaints. If enforcement gaps exist, OCR will pursue a range of intervention strategies to enforce Title IX, including technical assistance and compliance reviews.

Page 4 - The President

The Department anticipates furthering the goals of the Strengthening Title IX Initiative by continuing to aggressively implement enforcement programs like those described here to ensure that federally assisted education programs meet the requirements of Title IX. We also plan to work with the Department of Justice, which is relying upon the Department of Education's Title IX regulation as a model to assist other executive departments and agencies in their development of new sex discrimination regulations.

Attachment



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

Merrily Friedlander
Chief, Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
1425 New York Avenue, N.W., Room 4013
Washington, D.C. 20035-5968

AUG 20 1997

Re: Federally Conducted Education Programs

Dear Ms. Friedlander:

Attached please find the Department of Education's report identifying and describing its federally conducted education programs. The report has been prepared in the format requested by your office, and includes, as requested, a separate document identifying possible impediments to including these programs in an executive order prohibiting discrimination based on race and gender. A copy of both the report and notes on possible impediments will be transmitted to Jennifer Levine via e-mail so that you will have electronic versions of the documents.

There are several programs that we did not include in the report, notwithstanding that some aspects of the program arguably could be considered federally conducted, because we believe that the program as a whole is a federally assisted program already covered by Title IX and Title VI.

For instance, many Department programs authorize activities to be conducted either by grant, cooperative agreement (which is a grant) or contract. We do not believe that the fact that a contract instrument is used for some program activities is determinative of whether the program is federally conducted. Instead, we looked at the actual activities conducted under the contract. If these activities are similar to activities conducted by grants, i.e., decision making and control is primarily delegated to the entity conducting the activities, and the activities are conducted primarily to support or stimulate statutory goals and purposes, rather than acquire services for the direct benefit of the Department, we consider the program as a whole to be a federally assisted program. We regard all awards under these programs to be federal financial assistance that invokes coverage under Title VI and Title IX. The following are some examples of these types of programs:

- Women's Educational Equity Act (WEEA), 20 U.S.C. § 7231 -- This \$ 2 million program promotes educational equity for girls and women. It primarily awards grant to schools, non-profit organizations, or individuals to implement or develop gender-equity policies and practices. Through a contract, the program also funds the WEEA Publishing Center. The Publishing Center builds on the work of the grantees by distributing products

developed by grantees and providing technical assistance to grantees. It also distributes other gender equity materials, promotes awareness of gender-equity issues, and maintains a web cite and 1-800 number in order to respond to questions and to give technical assistance to the public as requested on gender equity.

- Regional Educational Laboratories for Research, Dissemination, and Technical Assistance, 20 U.S.C. § 6041(h) -- This \$ 51 million program funds regional laboratories that are directed to promoting "systemic school improvement strategies." While the statute only authorizes regional labs to be funded by contract, and the Assistant Secretary of OERI can ask the labs to conduct research of national importance, the laboratories primarily operate as federally assisted activities. For instance, the laboratories determine the educational needs for the region in which they operate and develop and disseminate research products for schools, teachers, and libraries in the region. In fact, an appropriations rider prohibits the laboratories from providing services requested by the Department unless the Laboratory agrees that the request is consistent with regional needs and priorities, as determined by the Laboratory. The laboratories also provide technical assistance to, and facilitate communication among, the regions' school officials, school experts, teachers, parents, and libraries regarding school reform and restructuring.
- Safe and Drug Free Schools -- National Programs, 20 U.S.C. § 7131 -- This program authorizes the Secretary in consultation with the Secretary of HHS, the Director of the Office of National Drug Control Policy, and the Attorney General to develop programs to prevent the illegal use of drugs and promote safety for students. Authorized activities include funding the development of innovative strategies, model training programs, development of curricula, and the implementation of prevention activities in schools and communities. The activities are primarily conducted through grants. However, the program has a contract to establish a higher education technical assistance center to assist schools in developing campus-based violence prevention programs. As with the WEEA Publishing Center (discussed above), the contract includes specific tasks but, like federal assistance, gives the contractor discretion in how to carry out the tasks and to respond to needs of the field.

We also did not include the Department's other dissemination programs such as the Educational Resource Information Center (ERIC), 20 U.S.C. § 6041(f), and other clearinghouses. The clearinghouses merely engage in the routine, administrative task of distributing resources and materials to anyone requesting such material. Accordingly, we do not believe these activities were intended to be covered by the executive order. For the same reason, we did not include programs that have merely collected and distributed (without the Department's endorsement) information about education programs or practices that appear to be promising. However, the report includes the Department's "National Library of Education." It is included because, in addition to dissemination activities, the Library can provide individualized reference services to other federal employees and the general public. Some dissemination programs also provide technical assistance and financial assistance to developers of educational programs, provide

Merrily Friedlander -- Page3

technical assistance in implementing educational programs, or connect schools and teacher seeking information to appropriate resource centers. See e.g., 20 U.S.C. § 6041(b). We consider these to be federally assisted activities.

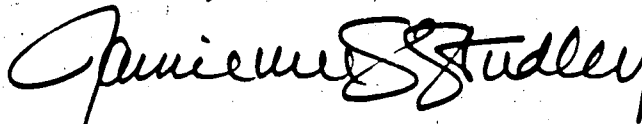
We also did not include individual Department generated reports -- sometimes statutorily mandated -- on specific topics. We do not consider such reports to be education research as they merely report on existing data. Responsive to your request to be over inclusive, we included the Department's National Center for Education Statistics. However, to the extent that the NCES merely collects and reports on educational data, it is unclear whether it should come within the scope of the executive order.

We did not include grant-related programs and activities. For instance, some federally assisted programs allow the Secretary to set-aside a certain percent of program funds to evaluate the impact of the program (see e.g. Charter Schools 20 U.S.C. 8065; Title I program, 20 U.S.C. § 6491; Safe and Drug Free Schools, 20 U.S.C. § 7117), and to develop, replicate, and disseminate successful programs supported by Department grants, (see e.g., *Id* (Charter Schools); Life Skills for Prisoners Program, 20 U.S.C. 1211-2(h), or authorize the Secretary to provide technical assistance to grantees (see e.g., *Id* (Life Skills program); see also Innovative Education Program Strategies, 20 U.S.C. § 7373(a)). We believe that these grant-related activities are beyond the scope of the executive order.

Finally, we did not include the Direct Student Loan Program because, like all of our student financial aid programs, we consider it to be federal financial assistance that invokes coverage under Title VI and Title IX.

Please feel free to call Susan Craig (401-6001) or Lisa Battalia (401-8322) if you have any questions regarding the report.

Sincerely,

A handwritten signature in black ink, reading "Jamienne S. Studley". The signature is fluid and cursive, with the first name "Jamienne" and last name "Studley" clearly legible.

Jamienne S. Studley
Acting General Counsel

Attachments

FEDERALLY CONDUCTED EDUCATION PROGRAMS

Name of Agency: DEPARTMENT OF EDUCATION

Name of Program	FY 1997 Funding Level	Number and Type of Participants	General description of program	Authority, Policies, and Possible Impediments
National Educational Research Institutes -- non-grant activities	\$54 mil (only \$8.4 is applicable to non- grant activities)	Not applicable (NA)	Funds support the activities of five research institutes within the Department's Office for Educational Research and Improvement (OERI) and organized around topics of national concern in education. The institutes conduct a program of research primarily through grants to fund research centers and studies. The Ass't Sec. of OERI can also conduct research directly or through contract. Other department programs can make arrangements with OERI for research on particular issues.	20 U.S.C § 6031(c); possible impediment (<u>see</u> note 1)

National Educational Research Institutes -- Graduate Study Fellowships	Unknown; program has not yet been implemented	Number unknown; participants must be qualified African-American, Hispanic, American Indian, Alaska Native, or other individuals from groups which have been underrepresented in the field of educational research	Fellowships support graduate study in educational research.	20 U.S.C. § 6031(c)(1)(D)
OERI -- Expert Panels	Unknown; only in pilot stage	Unknown at this time	The Ass't Sec. can establish panels of qualified experts (2/3rds of whom cannot be U.S. government employees) to evaluate submitted educational programs and recommend to the Secretary programs that should be designated as exemplary or promising	20 U.S.C. § 6041(d)
National Library of Education	\$1 mil.	Other federal employees and the public	Provides comprehensive reference services on matters related to education	20 U.S.C. § 6051

Bypass authority under Title I and Title VI of the Elementary and Secondary Education Act	\$7.15 million (Title I); \$1 million (Title VI)	Title I - Only implemented in Missouri and Virginia; 4133 private school students served. Title VI - 155,037 private school students served	Federal contractors provide educational services to eligible private school children in "bypassed" school districts under Title I (which provides services to disadvantaged children) and Title VI (which encourages innovative education strategies). Bypassed districts are unable or unwilling to provide equitable services to private school children	20 U.S.C. 6321(d); 20 U.S.C. § 7372(e). Contracts require compliance with the ADA; possible impediment (<u>see</u> note 2)
National Institute for Literacy (NIFL) -- Fellowships	\$149,747	4 fellowships awarded to 5 individuals	NIFL awards fellowships to individuals engaged in activities that advance the field of adult education and literacy	20 U.S.C. § 1213c(e); 34 CFR Part 1100

Title I and IDEA Allotment for BIA-Operated Schools	Title I - \$45 mil.; IDEA - \$ 38 mil.	Title I - []; IDEA - the last numbers we have are from 1993 showing 6,731 students served	The Secretary provides money to the Secretary of the Interior to meet the needs of disadvantaged children and children with disabilities in schools operated by the Bureau of Indian Affairs. Note: the IDEA allotment can be distributed through cooperative agreements (e.g., federal assistance)	20 U.S.C. § 6331(c); Sec. 611(I) of the Amendments to the Individuals with Disabilities Act of 1997; potential impediment (<u>see</u> notes 2 and 3)
Fellowships for Indian Students	Zero-funded in 1996 and 1997 (\$1.1 mil. In continuation awards only are still being funded with 1995 carryover funds)	75 fellows	Awards fellowships to Indian students to enable them to study in graduate and professional programs	20 U.S.C. § 7083; 34 CFR Part 263; (<u>see</u> note 4)

Research on the Status of Adult Education	\$4.9 million	NA	Federal contractors provide assistance to States in evaluating the status of adult education; Secretary submits report to the President and Congress every 4 years on the status of literacy and adult education	20 U.S.C. § 1213b (<u>see</u> note 1)
Vocational Education Research Program	The Voc. Ed. National program budget is \$13 mil -- most, but not all, is used for research	NA	Through OERI, the Department conducts applied research on specific aspects of vocational education as they relate to improved access for, among others, individuals who are disadvantaged or handicapped, women who are entering nontraditional careers, individuals who are single parents, displaced homemakers, or single pregnant women, and individuals with limited English proficiency.	20 U.S.C. § 2402 (<u>see</u> note 1)

National Center for Education Statistics (NCES)	Report/ Survey costs range from \$30,000 to \$30 million	NA	Primarily through contracts, the NCES collects and reports a wide range of educational data. Cross-sectional Special Purpose Surveys provide detailed information in special topic areas of education; longitudinal surveys collect information of the same students over time and provide information of academic growth and experiences. NCES also produces reports based on the survey data, such as a 1996 report "Women: Education and Outcomes," and a report titled "Educational Progress of Black Youth."	20 U.S.C. §§ 9003, 9004 (see note 1)
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Voluntary National Tests	\$13 mil.	At present, participants include students and parents participating in field tests. We are unable to estimate numbers at this time	The program is designed to test 4th grade students in reading English and 8th grade students in mathematics. The test is being developed by a Federal contractor and will first be administered in the Spring of 1999.	20 U.S.C. 8001. The contractor will develop inclusion guidelines to ensure that all students are included in the test. They will also conduct research on the valid and reliable uses of the test.
Jacob K. Javits Fellowship Program	\$5.9 mil.	247 graduate students	Funds provide fellowships for graduate (primarily doctoral) study in the Arts, Humanities, and Social Sciences to students of superior ability.	20 U.S.C. § 1134h; 34 CFR Part 650

Fulbright-Hays Act -- Faculty Research and Doctoral Dissertation Research Abroad	Faculty - \$744,615; Doctoral - \$1.6 mil.	19 teacher fellows and 75 doctoral student fellows	Funds provide scholarships to scholars to conduct research abroad in the area of modern foreign languages and area studies. Institutions of Higher Education participate in the program through grants by processing and screening applications; the Secretary evaluates and makes a preliminary selection of fellows; the final selection is made by the President's Board on Foreign Scholarships	22 U.S.C. §§ 2452(b)(6); 34 CFR Parts 662 and 663
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Blue Ribbon Schools	\$1 mil.	262 elementary schools (the 1998 cycle will select exemplary secondary schools)	This program was established by the Secretary in 1982. It identifies and recognizes outstanding public and private elementary and secondary schools, and encourages these schools to share "best practices" related to educational success. States, the Council for American Private Education, BIA and DOD nominate schools which are then selected by a national review panel.	NA; possible impediments (see note 5)
Satellite Town Meetings	\$215,000 (2/3rds of funds come from corporate donations)	General public	A Department-sponsored TV program series that is broadcast nationwide. Each program focuses on a particular education issue and highlights 4-6 education programs that have proven effective in that area.	NA; possible impediments (see note 6)

Partnership for Family Involvement in Education	\$1.1 mil (most of which is used for the cost of printing Read*Write*Now tutoring materials)	General public	This initiative (which includes Read*Write*Now and "America Goes Back to School") encourages families and communities voluntarily to get involved in schools and to help children read. As part of the initiative the Department occasionally convenes focus groups, co-sponsors conferences, and researches and produces publications on particular educational issues.	NA
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Presidential Scholars Program	\$250,000	141 high school seniors	This program was established by executive order to recognize outstanding high school students. A federal contractor conducts the initial selection process. Scholars are ultimately selected by a presidentially appointed commission. The commission picks one male and one female scholar from each State. Note that while the Department brings scholars to D.C. and provides them with medallions, a private foundation pays for the week of activities for the scholars.	E.O. 11155; possible impediments (<u>see</u> notes 6 and 7)
Teacher's Forum	\$100,000	120 teachers	Each year the Department invites exemplary teachers to the Department to learn about the Department and to learn ways to support education reform.	NA

NOTES ON POSSIBLE IMPEDIMENTS

Note 1 -- The executive order should not direct or control the selection of research topics or of data collection procedures.

Note 2 -- The Department's Title IX regulations permit recipients to operate single-sex elementary and secondary schools as long as the recipient provides for members of the other sex, pursuant to the same admission criteria, comparable courses, services, and facilities. We recommend that the executive order similarly permit the federal government to operate or serve students in single sex schools where comparable services are provided to members of the other sex.

Note 3 -- Any impediments raised by the Bureau of Indian Affairs relating to programs carried out with BIA appropriations should also be considered as they relate to the Department's BIA allotments. In addition, the executive order should clarify that the Department's allotment does not create oversight or enforcement responsibilities for the Department under the executive order.

Note 4 -- The Department has not requested continued funding for the Fellowships for Indian Students program. Thus, it is not expected that the program will continue to operate after 1997.

Note 5 -- As Title IX exempts the admissions practices of elementary and secondary schools, we recommend that the executive order not preclude the Secretary from recognizing exemplary single-sex elementary and secondary schools, where appropriate.

Note 6 -- Where, as here, a federally conducted activity is conducted in partnership with corporate or other private sponsors, we recommend that the executive order clarify that it applies to those activities of the corporation or private entity that are conducted with the federal government.

Note 7 -- The executive order should not create an inconsistency with the previous executive order requiring one male and one female scholar from each state.

Teacher's Listserve	NA	Approximately 200 teachers subscribe (although any teacher can ask to subscribe)	The Department established this e-mail forum for teachers and it manages the subscription list. The Department provides information about itself and highlights promising practices. Listserve members also communicate and share information among themselves. Note: It is likely that there are and will be more Department Listserves.	NA



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



OFFICE OF GENERAL COUNSEL

October 14, 1997

Bruce Reed
Assistant to the President for Domestic Policy
c/o G. Timothy Saunders
White House Executive Clerk
Old Executive Office Building, Room 5, NW
Washington, D.C. 20503

Bruce
Dear Mr. Reed:

Enclosed please find a copy of the Title IX Enforcement Plan for the Small Business Administration (SBA).

Our Equal Employment Opportunity Division and its Civil Rights Compliance Units have been actively involved in enforcing SBA's non-discrimination policies since 1965. Since 1979, SBA's regulations have contained comprehensive policies and procedures which prohibit recipients of financial assistance from discriminating on the basis of sex. We are proud to be in a position to help carry out the President's strong commitment to non-discrimination policies.

Sincerely,

John T. Spatola
John T. Spatola
General Counsel

cc: Merrily A. Friedlander
Chief, Coordination and Review Section
Civil Rights Division
1425 New York Avenue, N.W., Room 4013
Washington, D.C. 20035-5968

TITLE IX ENFORCEMENT PLAN FOR THE U.S. SMALL BUSINESS ADMINISTRATION

A. Priorities for Enforcement.

1. Identification of Recipients. SBA has several programs which provide financial assistance for the purpose of training and education.

a) Small Business Development Centers. The largest program funded by SBA which includes a training and education component is the Small Business Development Center (SBDC) program. SBDCs provide various types of management and technical assistance to current and prospective small business owners. SBDCs offer one-stop assistance to small businesses by providing a wide variety of information and guidance in central and easily accessible branch locations around the country. In each state there is a primary organization ("Lead SBDC") which sponsors the SBDC and manages the program. The Lead SBDC coordinates program services offered to small businesses through a network of regional centers and satellite locations ("Satellite SBDCs"). SBDCs provide numerous workshops, seminars, and conferences to assist small businesses.

The Lead SBDC in each state receives grant money from SBA. After combining the SBA assistance with matching funds provided by other sources, Lead SBDCs coordinate the funding and activities of Satellite SBDCs. For purposes of Title IX enforcement, Lead SBDCs are considered recipients of financial assistance from SBA. Satellite SBDCs are considered sub-recipients.

b) Other Programs. Other training and education programs which receive financial assistance from SBA are relatively small. However, these programs will receive the same attention to education and enforcement of non-discrimination laws as we propose for the SBDC program below.

2. Current Agency Procedures. As with all financial assistance programs administered and/or funded by SBA, the SBDC program officials notify recipients of their responsibility to function in a non-discriminatory manner. Additionally, these recipients, as well as sub-recipients, are subject to the comprehensive non-discrimination enforcement procedures set out in the Agency's regulations at 13 CFR Part 113 ("Part 113"). Part 113 prohibits discrimination on the basis of race, color, religion, sex, handicap or national origin. In addition to non-discrimination in employment practices, Part 113 covers activities related to the provision of goods, services, accommodations and credit by the aided business or other enterprise (including recipients), whether or not operated for profit. To supplement Part 113's current procedures so that they clearly include Title IX compliance, the Agency will pursue the additional actions set out in sections B and C, below.

3. Common Rule. SBA has joined with 23 other agencies in developing a common rule for Title IX education and enforcement. Through its participation in this common rule, SBA intends to supplement the policies and procedures already contained in Part 113.

B. Educating Recipients of their Obligations.

1. Current Procedures.

a) Part 113. All applicants for financial assistance are currently required to make affirmative assurances that they will comply with Part 113. For each of its programs, SBA specifies the form for such assurances and the extent to which like assurances will be required of sub-recipients. 13 CFR § 113.4. Further, recipients are required to make available to protected persons such information as SBA may find necessary to apprise them of their rights to such protection. 13 CFR § 113.5(d).

b) SBDC Program. Lead SBDCs are notified of their obligation to render their services on a non-discriminatory basis through the SBDC Program Announcement. This document also provides notice and guidance to SBDCs on such important matters as Conflicts of Interest, Use of Funds, Legal Services Restrictions and Travel. The Announcement provides that "no individual may be excluded from any program because of race, color, religion, sex, age, disability or national origin."

Additionally, the large majority of Lead SBDCs are large universities which are already subject to the Title IX policies and procedures of the Department of Education. SBA will seek to establish effective notification and education procedures through its participation with other agencies in the common rule noted above.

2. Proposed Supplementary Procedures.

a) Expanded Reference to Part 113. The Agency will seek to highlight the applicability of Part 113 to recipients of financial assistance by making express reference to the regulation in contracts, grants and other agreements where such reference is not already present.

b) Expanded Distribution of Notification Posters. SBA will seek to expand the distribution of its Form 722, Assurance of Compliance poster to all recipients of financial assistance. This poster is currently included in packages given to borrowers in SBA's loan programs. Recipients are required to post this notice in an area visible to employees, clients and guests. The notice, printed in English and Spanish, states that the recipient does not discriminate on the basis of race, color, religion, sex, marital status, age, handicap or national origin and that the recipient provides equal employment opportunities as well as equal treatment of employees, clients and guests. Additionally, the notice provides an address to report perceived violations of these policies.

C. Grievance Procedures for Complaints.

1. Current Procedures. 13 CFR § 113.6 details the Agency's procedures for investigating complaints of discriminatory practices by recipients and sub-recipients of financial assistance. Section 113.6 addresses:

- Periodic Compliance Reviews;
- Complaints;
- Investigations;
- Resolution of Matters; and,
- Intimidatory or Retaliatory Acts.

While the Agency will seek to resolve complaints on an informal basis wherever appropriate, Part 113 provides for resolution through such other means as:

- proceedings before SBA's Office of Hearings and Appeals;
- state and federal judicial proceedings; and,
- referral to the Department of Justice.

Remedies provided by Part 113 include:

- suspension or termination of financial assistance agreements;
- calling, canceling, terminating, accelerating repayment or suspending, in whole or in part, the financial assistance previously extended; and,
- all other remedies authorized by law.

2. Proposed Supplementary Procedures.

a) Additional Delegation Agreements. To supplement the Agency's existing procedures, SBA will seek to enter into delegation agreements with the Departments of Education and Justice where such agreements are not already in place. These agreements will allow SBA to refer certain large, complex or unique cases to another agency with more appropriate resources and/or expertise.

b) Common Rule. SBA anticipates that the common rule discussed above will address supplementary procedures for handling Title IX complaints.

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210



SEP 12 1997

Mr. Bruce Reed
Assistant to the President
for Domestic Policy
c/o Mr. G. Timothy Saunders
White House Executive Clerk
OEOB - Room 5 NW
Washington, D.C. 20503

Dear Mr. Reed:

This responds to the request from the Department of Justice for submission of the Title IX Enforcement Strategy for the Directorate of Civil Rights, Department of Labor. We have addressed the three concerns raised in the President's June 17, 1997, memorandum: priorities in enforcement; making recipients aware of their obligations; and procedures for processing complaints alleging a violation of Title IX.

If you have any questions, please feel free to have a member of your staff contact Mr. Bud West of my staff. He may be reached at (202) 219-8927.

Sincerely,

A handwritten signature in cursive script, reading "Annabelle T. Lockhart".

ANNABELLE T. LOCKHART
Director
Directorate of Civil Rights

Enclosure

U.S. DEPARTMENT OF LABOR TITLE IX ENFORCEMENT STRATEGY

This enforcement strategy is the Department of Labor's (DOL) response to the President's plan to strengthen Title IX enforcement in federally-assisted educational programs. In his June 17, memorandum, the President asked the head of each executive agency to submit a report which would describe: (1) the department's priorities for enforcement; (2) methods to make recipients of Federal financial assistance aware of their obligation not to discriminate; and (3) procedures to handle complaints.

The Job Training Partnership Act, as amended (JTPA), is the major funding source for DOL funded education and training programs and activities that are subject to Title IX. Section 167 of the JTPA prohibits discrimination on a number of bases, including sex. DOL published, in 1992, regulations implementing the nondiscrimination provisions of the JTPA. Thus, while, DOL does not have a regulation specifically for Title IX, it does have a very comprehensive regulation addressing such issues as enforcement, assurances and complaint procedures for the vast majority of DOL assisted educational and training programs and activities. Consequently, the task before the Directorate of Civil Rights (DCR), the agency within DOL charged with enforcing Title IX, is to identify those education and training programs and activities not assisted under JTPA and to ensure they conform to the requirements of Title IX.

The strategy described below addresses each of the concerns listed in the President's June 17, 1997 memorandum. First, it briefly shows how DOL is currently addressing each of those concerns and second, it describes how DOL will strengthen its enforcement efforts.

1. PRIORITIES FOR ENFORCEMENT

(A) Current Status. As noted above, the vast bulk of the education and training programs and activities assisted by DOL are funded under the JTPA. The nondiscrimination provisions of the JTPA specifically apply the prohibitions against sex discrimination of Title IX. Regulations implementing the nondiscrimination provisions of the JTPA are published at 29 CFR Part 34. These regulations prohibit discrimination on the basis of sex in **all** programs (not just education and training programs) funded in whole or in part by JTPA; establish compliance standards; and describe the enforcement process in cases of non-compliance. One tool in DCR's enforcement strategy is the Methods of Administration (MOA). MOA's are required from continuing state programs funded under JTPA. These documents describe the means by which the state will ensure that its JTPA funded programs and activities (including education and training programs and activities) operate in a nondiscriminatory way.

(B) Enforcement Strategy. Government-wide regulations implementing Title IX of the Education Amendment of 1972, as amended, are being prepared by the Department of Justice (DOJ). DOL intends to subscribe to and enforce these regulations. Prior to the publication of these regulations, the Directorate of Civil Rights (DCR), the agency within DOL charged with the enforcement of Title IX, will review 29 CFR Part 34 to determine if any conflicts exist between the two. Where DOJ's Title IX regulations place a standard upon recipients that is higher than that imposed by Part 34, DOL will publish revised sections of Part 34, thus making its standards at least as high as those in the DOJ Title IX regulation. Section 34.1 (c)(1) provides that "a recipient's compliance with this part shall satisfy any obligation of the recipient to comply with 29 CFR Part 31, implementing title VI of the Civil Rights Act of 1964, as amended and with subparts A, D, and E of 29 CFR part 32, implementing section 504 of the Rehabilitation Act of 1973, as amended." DOL proposes to add the DOJ Title IX regulation to this list.

2. MAKING RECIPIENTS AWARE OF THEIR OBLIGATIONS

(A) Current Status. Regulations implementing the nondiscrimination provisions of the JTPA include provisions requiring that recipients of funds under JTPA, either directly or indirectly from DOL, are aware of their obligations. For example, §34.20(a) provides that each application for Federal financial assistance under JTPA must contain an assurance with respect to the operation of the JTPA-funded program or activity. This assurance, contained in the regulation itself, obligates the recipient to comply fully with Title IX (as well as other non-discrimination laws) and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 34. The assurance also provides that the United States has the right to seek judicial enforcement of the assurance. Part 34 also requires that this assurance be included in all agreements or arrangements to carry out the JTPA-funded program or activity.

Additionally, DCR places significant effort on training and technical assistance. For example, DCR sponsors an annual equal opportunity training conference, for recipients of financial assistance from DOL, including operators of education and training programs.

(B) Enforcement Strategy. Under 29 CFR part 34, JTPA-funded programs and activities (including education and training programs and activities) are sufficiently aware of their obligations, including their obligation not to discriminate on any prohibited ground, including sex. As its strategy to ensure that non-JTPA education and training programs are aware of its planned enforcement strategy, DCR will focus on those education and training programs and activities that do not receive JTPA funding. As an initial step, DOL has already determined that these programs and activities are limited to those funded by the Occupational Health and Safety Administration (OSHA) and the Mine Safety and Health Administration (MSHA). DCR

will meet and discuss with these agencies their obligation to inform recipients of Title IX and its nondiscrimination provisions. In addition, DCR will review the agencies grant-making procedures to ensure that appropriate attention to Title IX is paid. Finally, DCR will extend its training and technical assistance efforts to those recipients who will be covered by the government-wide Title IX regulations.

3. PROCEDURES FOR HANDLING COMPLAINTS

(A) Current Status. Title 29 CFR part 34 addresses procedures for filing and processing complaints of discrimination, including sex discrimination. First, part 34 requires that each recipient establish a procedure for processing complaints. The existence of these procedures must be made known to applicants, participants and employees of the recipient through a variety of verbal and written means. Second, part 34 provides that applicants for, participants in, and employees of the recipient may file a complaint either with the recipient or with DCR. Where the complainant fails to obtain a satisfactory resolution through the recipient's complaint procedure, he or she may file with DCR. Part 34 also requires that recipients maintain a log of complaints and their outcomes, as well as maintain documents associated with such complaints for a period of three years.

(B) Enforcement Strategy. As noted above, education and training programs and activities funded by OSHA or MSHA are the only education and training programs or activities that are DOL funded that do not also receive JTPA-funds. Programs or activities that do not receive **any** JTPA funds are not covered by part 34. DCR will work with OSHA and MSHA to ensure that program participants are aware of their right to file a complaint with the recipient or with DCR.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

SEP 26 1997

Mr. Bruce Reed, Assistant to
the President for Domestic Policy
c/o Timothy Saunders, White House Executive Clerk
Old Executive Office Building, Room 5
Washington, D. C. 20503

Dear Mr. Reed:

This is in response to the portion of President Clinton's memorandum dated June 17, 1997, page 2, second paragraph, in which the heads of executive departments and agencies were requested to provide information regarding their Title IX compliance and enforcement policies. Enclosed for your review is the Department of the Interior's report.

Should you have any questions regarding this report, please do not hesitate to contact Melvin C. Fowler of this Office at 202 208-3455.

Sincerely,

David Montoya
Deputy Assistant Secretary
for Workforce Diversity

Enclosure

cc: Chief, Coordination and Review Section
Civil Rights Division, Department of Justice

Enforcement of Title IX by the Department of the Interior

On June 17, 1997, President Clinton announced his plans for strengthening the enforcement of Title IX of the Education Amendments of 1972, as amended (Title IX), 20 U.S.C. paragraph 1681. This statute prohibits discrimination on the basis of sex in federally assisted education programs. The President directed each agency, in consultation with the Department of Justice, to report on measures to ensure effective enforcement of Title IX, including a description of the agency's priorities for enforcing this statute, methods to make recipients of Federal financial assistance aware of their obligations not to discriminate under Title IX, and procedures to handle Title IX complaints.

In accordance with the President's directive of June 17, the Department of the Interior (Department) has taken or will take the following steps to invigorate Title IX enforcement with respect to its programs.

I. Priorities for the enforcement of Title IX

A. Identification of federally assisted education programs

The Department will conduct an inventory of federally assisted education and training programs and review the inventory to determine which programs are subject to Title IX in consultation with staff in the Civil Rights Division, Department of Justice (DOJ). If programs have not been previously identified, the Department will notify recipients of their obligations. The Department's Civil Rights Program staff, Office for Equal Opportunity (OEO) will coordinate enforcement within the Department.

B. Promulgation of a Title IX regulation

The Department in cooperation with the Civil Rights Division, DOJ, has taken steps to promulgate a Title IX regulation. The Department is one of twenty-four agencies participating in the publication of a common rule to implement Title IX. On August 11, 1997, the Department provided the Acting Assistant Attorney General for Civil Rights with information for drafting a Notice of Proposed Rulemaking to enforce Title IX. As a priority concern, the Department will continue to cooperate with the DOJ by responding to any information requests related to the publication of the Title IX common rule.

C. Assurances of compliance with Title IX by recipients

The Department's Civil Rights Program staff, OEO, will meet with components that fund programs covered by Title IX to determine whether

assurances of compliance are obtained routinely from recipients, and whether the component or office performs any sort of preaward review, i.e., whether the office seeks information regarding the applicant's compliance with civil rights laws. For example, Civil Rights Program staff, OEO, will seek to determine if the component has sought information as to whether the applicant is a defendant in a pending lawsuit alleging a civil rights violation or a party to a settlement agreement for similar allegations, and whether the applicant is subject to a finding of noncompliance by another Federal agency as a result of a complaint investigation or compliance review. Civil Rights Program staff, OEO, will provide assistance to the components in developing a form for seeking assurances of compliance with Title IX (and other applicable civil rights laws). In addition, upon request from a component, Departmental Civil Rights Program staff will assist components as they prepare for preaward reviews.

D. Training/Policy Development

The Department plans to conduct training on the requirements of Title IX for all Bureau civil rights staff. We plan to consult with officials at DOJ and request their assistance in providing Title IX training. The Department will also use the monthly technical assistance sessions for Bureau civil rights staff to disseminate information and to keep Bureau personnel aware of their Title IX responsibilities. Policies on the implementation of Title IX will be issued and/or revised to incorporate the provisions in the common rule.

E. Delegation Agreement with the Department of Education

Currently the Department has a delegation agreement with the Department of Education that covers all civil rights statutes except Title IX. The delegation agreement addresses civil rights compliance matters in DOI's federally assisted elementary and secondary schools and institutions of higher learning. The Department, in cooperation with the DOJ, intends to reevaluate the current civil rights delegation agreement with the Department of Education to determine its effectiveness. The Department plans to amend this agreement, as appropriate, to cover the requirements of Title IX. If a decision is made to cancel the agreement, the Department will explore other avenues to secure assistance or develop policies and procedures to ensure the Department's responsibilities under Title IX and other civil rights statutes are met.

II. Methods for making recipients and beneficiaries aware of their Title IX obligations and rights

The Department will notify recipients and beneficiaries of their respective responsibilities and rights under Title IX through several avenues.

A. The Department will develop a brochure¹ tailored to Department of Interior recipients and beneficiaries regarding their respective obligations and rights under Title IX. This material will be included in all grant packages and award documents to new and continuing Department of Interior recipients. In addition, the Departmental Civil Rights Program staff will revise its poster to include information on Title IX. The poster, currently in use by Department of Interior federally assisted recipients, will inform recipients and beneficiaries of the nondiscrimination requirements of Title IX in addition to other related nondiscrimination statutes, and will provide information on how to file a complaint. In instances where handbooks for recipients of federal financial aid exist, they will be revised to include information on the requirements of Title IX.

B. The Department will use the "World Wide Web Home Pages" as a medium for disseminating information on the obligations and rights of recipients and beneficiaries under Title IX. Bureaus will be directed to provide recipients with information on Title IX through regional newsletters and other means used to communicate with current and new recipients.

III. Procedures for handling Title IX complaints and other enforcement strategies

A. Recipient grievance procedures

The proposed Title IX regulation will require that recipients develop grievance procedures to address complaints alleging violations under Title IX. We expect that many recipients of Departmental funds currently have grievance procedures that address Section 504 or other matters, and that Title IX complaints can be incorporated into such mechanisms. Departmental Civil Rights Program staff will meet with each component that administers federally assisted education programs to determine the extent to which recipients in fact have grievance procedures. The Departmental Civil Rights Program staff will assist the components in assessing the adequacy of these grievance procedures for student and employee complaints and provide technical assistance, as requested. The Department will work with recipients to improve their procedures where deficiencies are found.

¹The Department's Title IX brochure will address other statutes that prohibit discrimination in Department of Interior-funded programs, including Title VI and Section 504 of the Rehabilitation Act of 1973 (that prohibits discrimination on the basis of disability).

B. The Department's Title IX Complaint Procedures

The proposed Title IX regulation will adopt the enforcement scheme under Title VI. The Department receives complaints from individuals who believe they have been discriminated against on the basis of sex in a federally assisted education program or activity funded by the Department. The Department will continue to use its existing Federal financial assistance civil rights procedures to address sex discrimination in federally assisted education programs until a final rule is published. Under our current procedures, a complaint is received by the Departmental Civil Rights Program staff and forwarded to the Bureau's for investigation and/or resolution. However, when the final rule is published, the Department will revise its policies and develop guidelines for processing Title IX complaints. Procedures for monitoring the status of complaints will be included. Recipients and beneficiaries will be notified of the revised complaint procedures through the avenues discussed under Item II.

United States Department of State

*Office of Equal Employment Opportunity
and Civil Rights*

Washington, D.C. 20520-4216

October 3, 1997

Mr. Bruce Reed
Assistant to the President for Domestic Policy
c/o Timothy Saunders
The White House.
Washington, D. C. 20500

Dear Mr. Reed:

The Secretary has asked me to respond to President Clinton's June 17, 1997 Memorandum to Executive Department Heads, requesting a report on measures to ensure effective enforcement of Title IX of the Education Amendments of 1972. We support the Title IX initiative and welcome the chance to review and make changes with respect to the role of the Department of State (DOS) in strengthening Title IX enforcement.

Our first enforcement priority is to participate in the Title IX federally assisted regulations "Common Rule" being drafted by the Department of Justice (DOJ). We have indicated our intent to adopt the Common Rule and have provided DOJ with technical information regarding publication of the rule for the DOS. In addition, we are currently preparing a list of covered programs for submission to the DOJ.

Although we have very few federally assisted education programs (we have identified only three such programs to date), we will undertake additional efforts to ensure that fund recipients are aware of their Title IX as well as their Title VI and 504 obligations. Specifically, we will prepare a Title IX assurance form to be provided to all fund recipients upon receipt of the grant or award. In addition, we will periodically distribute posters and/or brochures to fund recipients describing beneficiary rights and recipient obligations.

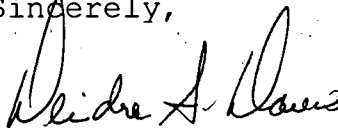
We intend to address complaints of discrimination in these programs in several ways. Our current Delegation Agreement with the Department of Education (ED) requires that ED process all Title VI and 504 complaints against recipients who receive ED and DOS funds. We will explore with ED whether this Agreement could be expanded also to cover Title IX complaints against such institutions. In addition, we understand that DOJ may revise inter-agency Delegation Agreement forms. We hope to participate in that process and expect to adopt the final revised agreement form.

Any complaints against non-ED recipients that receive DOS funds will be processed in accordance with the procedures set forth in the Common Rule. As part of the Common Rule, recipients will be required to establish internal grievance procedures to resolve complaints. We will work with institutions that have no current grievance process in the efforts to develop one. In addition, for those institutions not directly affiliated with an ED-covered entity, the DOS will explore the feasibility of developing a compliance review mechanism to determine their adherence to Title IX regulations.

Because we have so few federally assisted education programs, we have not, prior to this time, sought the resources for an extensive Title IX enforcement program. However, reorganization efforts are underway with respect to the Department of State, the United States Information Agency and the Arms Control and Disarmament Agency. Our efforts to enforce Title IX will be consolidated when the reorganization is complete. At this time, each agency will submit a separate Enforcement Plan.

If you have any questions regarding this matter, please contact Mr. Thomas Jefferson, Jr., Associate Director, of this office on (202) 647-9295.

Sincerely,



Deidre A. Davis
Deputy Assistant Secretary

cc:

Jennifer Levin, Esq.
Department of Justice



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

OCT - 1 1997

The President
The White House
Washington, DC 20500

Dear Mr. President:

In response to your recent directive seeking to strengthen enforcement of Title IX of the Education Amendments of 1972, I have enclosed the Department of Commerce's plan to fulfill the needs of this historic legislation. This Department is committed to eliminating gender discrimination in any education-related program or activity that receives Federal financial assistance. I strongly believe that our society will only reach its full potential when all of our citizens have equal opportunities.

Respectfully,

A handwritten signature in dark ink, appearing to read "W. M. Daley", is written over the printed name.

William M. Daley

Enclosure

**PLAN TO STRENGTHEN ENFORCEMENT OF
TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

September 1997

U. S. DEPARTMENT OF COMMERCE

Office of Civil Rights

Courtland Cox, Director, Office of Civil Rights

**PLAN TO STRENGTHEN ENFORCEMENT OF
TITLE IX OF THE EDUCATION AMENDMENTS OF 1972
U. S. Department of Commerce**

Item 1: Description of Commerce's priorities for enforcement of Title IX:

- Plan for Item 1:** All Commerce programs that provide Federal financial assistance to education programs and activities will be designated as priorities for the enforcement of Title IX of the Education Amendments of 1972.
- Commerce will work with the Department of Justice and other agencies to develop a common rule for Title IX enforcement. The common rule will be designed to eliminate discrimination on the basis of sex in any education program or activity receiving Federal financial assistance and cover all education programs or activities that receive Federal financial assistance through Commerce.

Item 2: Methods to make recipients of Federal financial assistance aware of their obligation not to discriminate on the basis of gender:

- Plan for Item 2:**
- a. Commerce will work with the Department of Justice and other agencies to develop a common rule for Title IX enforcement.
 - b. The common rule for Title IX enforcement will require every application for Federal financial assistance through Commerce to be accompanied by an assurance, from the applicant or recipient, that each education program or activity operated by the applicant or recipient will be operated in compliance with Title IX.
 - c. In addition to the notice provided by the publication of the common rule for Title IX enforcement, Commerce bureaus will increase the awareness of applicants for and recipients of Federal financial assistance of their obligation to comply with Title IX through staff contacts and publication of the requirements in Commerce's pages on the World Wide Web.

Item 3: Grievance procedures to handle Title IX complaints:

Plan for Item 3: Commerce will work with the Department of Justice and other agencies to develop a common rule for Title IX enforcement. The common rule will require each recipient to designate an official to coordinate its efforts to comply with Title IX, including any investigation of any complaint or grievance received by the recipient. Also, the common rule will require each recipient to adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX. In addition, the common rule will include a procedure for the processing and investigation of any complaint received by Commerce that alleges any action by a recipient that would be prohibited by Title IX.

ID # 207839

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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Subject: DEPARTMENT OF JUSTICE RESPONSE TO PRESIDENT
CLINTON'S JUNE 17 MEMO ON TITLE IX ENFORCEMENT

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>TIM SAUNDERS EXEC CLERK</u>	ORIGINATOR	<u>97 / 09 / 16</u>		<u>C</u>	<u>97 / 09 / 16</u>
<u>TODD STERN - STAFF SECRETARY</u>	<u>A</u>	<u>97 / 09 / 16</u>		<u>C</u>	<u>97 / 09 / 25</u>
<u>MARIA ECHAVESTE</u>	<u>A</u>	<u>97 / 09 / 25</u>			<u>1 / 1</u>
<u>JENNIFER KLEIN</u>	<u>A</u>	<u>97 / 09 / 25</u>			<u>1 / 1</u>
<u>ELENA KAGAN</u>	<u>A</u>	<u>97 / 09 / 25</u>			<u>1 / 1</u>

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A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

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B - Non-Special Referral
C - Completed
S - Suspended

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U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20535

September 16, 1997

Mr. Bruce Reed
Assistant to the President for
Domestic Policy
c/o White House Executive Clerk's Office
Old Executive Office Building
Room 5, NW
Washington, D.C. 20503

Dear Mr. Reed:

Enclosed is the Department of Justice Enforcement Plan regarding Title IX of the Education Amendments of 1972. This Plan is being submitted in compliance with the directive issued by the President on June 17, 1997.

Sincerely,

Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

Enclosure

Enforcement of Title IX by the Department of Justice

On June 17, 1997, President Clinton announced his plans for strengthening the enforcement of Title IX of the Education Amendments of 1972, as amended ("Title IX"), 20 U.S.C. § 1681, which prohibits discrimination on the basis of sex in federally assisted education programs. The President directed each agency, in consultation with the Department of Justice, to develop an enforcement plan that includes the agency's priorities for enforcing Title IX, methods to make its recipients aware of their obligations under Title IX, and procedures to handle Title IX complaints. Part I contains the Department of Justice's Title IX enforcement plan. Part II summarizes the Department's actions as coordinator of Title IX enforcement.

I. Department of Justice Title IX Enforcement Plan

In accordance with the President's directive of June 17, the Department has taken or will take steps to invigorate Title IX enforcement with respect to its programs, as set forth below.

A. Priorities for the enforcement of Title IX

1. Identification of federally assisted education programs

On August 8, 1997, the Attorney General sent a memorandum to the heads of Departmental components notifying them of the President's directive, asking them to designate a contact person for this initiative, and directing them to identify and report their federally assisted education and training programs to the Civil Rights Division, which has been designated to coordinate this effort. The Civil Rights Division is reviewing these submissions and will be meeting with representatives of components that administer programs subject to Title IX.

While only two or three components or offices fund most of the Department's "traditional" grant-in-aid programs, some of which are covered by Title IX, the Civil Rights Division also is identifying other federally assisted education and training programs and technical assistance that are provided to State and local criminal justice agencies at little or no cost to the recipient, e.g., training provided to law enforcement agencies by the FBI at the National Police Academy at Quantico, Virginia; training for sheriffs provided by the Marshals Service; etc. Although these latter programs are covered by Title IX, it is likely that a number of them heretofore have not been identified formally as being covered by this statute and, therefore, further action is necessary to notify recipients of their obligations and to coordinate effective enforcement by the Department.

2. Promulgation of a Title IX regulation

The Department will be one of the agencies participating in the publication of the Title IX common rule, which the Civil Rights Division is developing for 24 agencies (see discussion below in Part IIB).

3. Assurances of compliance with Title IX by recipients

When it meets with individual components that fund programs covered by Title IX, the Civil Rights Division also will determine whether assurances of compliance are obtained routinely from recipients, and whether the component or office performs any sort of preaward review, *i.e.*, whether the office seeks information regarding the applicant's compliance with civil rights laws. For example, the component may inquire whether the applicant is a defendant in a pending lawsuit alleging civil rights violations or a party to a settlement agreement for similar allegations, and whether the applicant is subject to a finding of noncompliance by a Federal agency as a result of a complaint investigation or compliance review. The Civil Rights Division will provide assistance to the components in developing a form for assurances of compliance with Title IX (and other applicable civil rights laws) and will evaluate whether a single form is appropriate for the Department. In addition, upon request from a component, the Civil Rights Division may assist components in performing preaward reviews.

B. Notification to recipients and beneficiaries of their rights and responsibilities under Title IX

The Department believes it is equally important not only to educate recipients of their obligations under Title IX, but also to inform beneficiaries of their rights under Title IX. In this regard, the Civil Rights Division will prepare a brochure tailored to Department of Justice recipients and beneficiaries regarding their respective obligations and rights under Title IX. This material will be included in all grant packages and

The Division has published and widely distributed a brochure regarding Title VI of the Civil Rights Act of 1964 (which prohibits discrimination on the basis of race, color, and national origin) as applied throughout the Federal government. The Division's Title IX brochure will be specific to the Department of Justice and also will address other statutes that prohibit discrimination in Department of Justice funded programs, including Title VI, Section 504 of the Rehabilitation Act of 1973 (which prohibits discrimination on the basis of disability), and the Omnibus Crime Control and Safe Streets Act (which prohibits discrimination on the basis of race, color, religion, national origin, and sex).

award documents to new and continuing Department of Justice recipients. The Civil Rights Division also will develop a poster for use by Department of Justice recipients that will inform recipients and beneficiaries of the nondiscrimination requirements of Title IX and related nondiscrimination statutes, and will provide information on how to file a complaint.

In addition, the upcoming edition of the Civil Rights Forum, the Civil Rights Division's quarterly newsletter, highlights the President's initiative to reinvigorate the enforcement of Title IX. The newsletter is distributed to more than 6,000 civil rights professionals and organizations, State and local governments (many of which are recipients of Departmental assistance), and professional and community organizations to increase their awareness and understanding of issues relating to Titles VI and IX.

C. Procedures to handle Title IX complaints and other enforcement strategies

1. Internal recipient grievance procedures

The proposed Title IX regulation will require that recipients develop grievance procedures to address complaints alleging violations under Title IX. It is envisioned that many recipients of Departmental funds, including police departments and corrections departments, currently have grievance procedures to address Section 504 or other matters, and that Title IX complaints can be incorporated into such mechanisms. The Civil Rights Division will meet with each component that administers federally assisted education programs to determine the extent to which recipients in fact have existing grievance procedures. The Division will assist the components in assessing the adequacy of these grievance procedures and provide technical assistance, as requested.

2. Department of Justice Title IX complaint and compliance review procedures

The proposed Title IX regulation will adopt the enforcement scheme under Title VI. Currently, each funding component is responsible for investigating complaints of discrimination and conducting preaward and postaward compliance reviews in its programs of Federal financial assistance. The Civil Rights Division's Coordination and Review Section has entered into Memoranda of Understanding with the Office of Justice Programs and the Asset Forfeiture Section of the Criminal Division to assist in the investigation of complaints against recipients of assistance from those offices that allege violations of Title VI and related statutes in the delivery of services by such recipients. It is expected that the Civil Rights Division will accept responsibility for the receipt and investigation of

complaints alleging violations of Title IX by a recipient of Departmental assistance from those offices and components that request such assistance. In addition, the Division may perform postaward compliance reviews upon request of components that have specific concerns about possible sex discrimination in their funded programs.

To the extent that a delegation agreement is established between agencies as discussed in Part IIC, the Department of Justice will be a participant in such an agreement.

II. Department of Justice as Coordinator of Title IX Enforcement

Under Executive Order 12250, the Attorney General has authority to coordinate the Executive branch's enforcement of Title IX. 45 Fed. Reg. 72995 (1980). This authority has been delegated to the Civil Rights Division. See 28 C.F.R. § 0.51. Pursuant to Executive Order 12250 and, as described in the President's memo, our role as a consultant to agencies, the Civil Rights Division has taken several steps to assist agencies in their efforts to invigorate Title IX enforcement. In summary, the Civil Rights Division: 1) held a meeting for 28 agencies on June 30, 1997, to discuss the President's initiative and is providing ongoing technical assistance to agencies as they develop Title IX enforcement plans; 2) is drafting a regulation to ensure the effective and consistent enforcement of Title IX, which will be adopted by 24 agencies as a common rule; and 3) is drafting a delegation agreement that will share enforcement responsibilities among the affected agencies with respect to multifunded recipients.

A. June 30, 1997, meeting with agencies and ongoing technical assistance on development of Title IX enforcement plans

Initially, representatives of the 28 agencies that fund or operate federally assisted programs attended a meeting that the Civil Rights Division held on June 30, 1997. At this meeting, Division representatives discussed the President's memorandum of June 17, the required elements of an agency's Title IX enforcement plan, and suggestions for agency action. The Division also notified agencies of its intention to develop a regulation for the enforcement of Title IX for those agencies that do not currently have such a regulation, and our interest in publishing this text as a common rule.²

² Title IX directs each department and agency empowered to extend Federal financial assistance to education program or activity to effectuate its provisions by issuing rules, regulations, or orders of general applicability, 20 U.S.C. § 1682. A regulation is essential for adequate enforcement of

Since that meeting, the Coordination and Review Section has provided oral guidance and suggestions to many agencies on the types of enforcement activities they may consider and pursue, and has reviewed and provided comments on draft enforcement plans for other agencies. In addition, the Coordination and Review Section, in coordination with the Department of Education (ED), which has expertise in Title IX, will expand its training program to include an overview of principles under Title IX.

B. Draft regulation for enforcement of Title IX by agencies currently without regulations

As mentioned, the Civil Rights Division also is drafting a regulation to enforce Title IX. All 24 agencies that currently do not have a Title IX regulation have agreed to participate in the rulemaking. The regulation will be published via the common rule procedure. Thus, a notice of proposed rulemaking (NPRM) will be published jointly by the 24 agencies in the Federal Register and, subject to minor, technical variations, the agencies will propose identical text for the regulation. In addition, we expect that the four agencies that do have Title IX regulations will publish technical amendments so that their regulations will conform to the text of the common rule. The proposed text of the NPRM is based upon the text of ED's regulation, 34 C.F.R. Part 106,⁴ with modifications to reflect statutory amendments in 1976 and 1988 since ED's regulations have not been updated to reflect these changes.⁵

Title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints) as well as essential interpretations. Since all departments and agencies should interpret Title IX consistently, it is important that they all be governed by similar standards.

³ The Coordination and Review Section currently provides basic training to Federal agencies on Title VI, upon request.

⁴ It is important that all agencies interpret Title IX consistently and that all recipients be governed by similar regulatory standards. The Department is using the ED regulation as a model for many reasons, including the fact that ED has had a Title IX regulation since that department was created in 1980, and because most educational institutions are funded by ED and are familiar with ED's Title IX regulation.

⁵ The regulations were issued initially by the former Department of Health, Education, and Welfare (HEW) in 1975. Upon the establishment of ED in 1980, ED reissued HEW's regulations as its own. See 45 Fed. Reg. 30802, 30955 (1980).

On July 25, 1997, the Civil Rights Division solicited the 24 participating agencies for technical information needed in preparing the NPRM. In addition, on August 18, 1997, the Division submitted the draft NPRM to the Office of Federal Register for a technical review of format. The draft also is being submitted to the Equal Employment Opportunity Commission (EEOC) for review under Executive Order No. 12067, and to ED for review. Upon receipt of feedback from the EEOC and ED, we will submit the draft NPRM to the participating agencies.

C. Draft delegation agreement to share Title IX enforcement responsibilities

Third, the Civil Rights Division has drafted a delegation agreement that would share investigatory and certain enforcement responsibilities among the 28 agencies with Federally assisted programs to ensure that action is taken to address complaints of discrimination appropriately and properly. This proposal, inter alia, increases communication and sharing of information between agencies that provide Federal assistance, and allows agencies that receive complaints of discrimination against a recipient that is also funded by ED, the Departments of Health and Human Services (HHS) or Veterans Affairs (VA) to refer such complaint to one of those agencies for investigation and enforcement action, if appropriate. By this agreement, agencies with limited resources can focus their enforcement efforts on those recipients that are not multifunded. The agreement also will prevent duplication of effort by the Federal government and/or undue burdens on recipients. We intend to provide the draft agreement to ED, HHS, and the VA for their respective review. Upon receipt of their comments, we will submit the draft agreement to the remaining participating agencies for review. Upon finalization, we expect to publish the agreement in the Federal Register.

ID # 207877

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☒ I - INCOMINGDate Correspondence Received (YY/MM/DD) 97 09 16Name of Correspondent: GEORGE E. REESE☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION RESPONSE
TO PRESIDENT CLINTON'S JUNE 17 MEMO ON TITLE IX
ENFORCEMENT

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
TIM SAUNDERS EXEC. CLERK	ORIGINATOR	97 09 16	C	97 09 16
TODD STERN - STAFF SECRETARY	A	97 09 16	C	97 09 16
Maria Echaveste	A	97 09 125		1 1
✓ Jennifer Klein	A	97 09 125		1 1
Elena Kagan	A	97 09 125		1 1

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: NOT FOR THE PRESIDENT'S TRANSMITTAL TO THE CONGRESS

Keep this worksheet attached to the original incoming letter.

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National Aeronautics and
Space Administration

Headquarters

Washington, DC 20546-0001



Reply to Attention of

El

Mr. Bruce Reed
Assistant to the President for Domestic Policy
Room Five
Old Executive Office Building
Washington, DC 20503

Dear Mr. Reed:

As requested by President Clinton in his June 17, 1997, memorandum, this letter contains the National Aeronautics and Space Administration's (NASA) plans to enforce Title IX of the Education Amendments of 1972. Currently, NASA requires all recipients of NASA Federal assistance to certify on NASA Form 1206 that they are in compliance with Title IX. We also have a delegation agreement with the Department of Education that stipulates that the Department of Education will monitor our Federally assisted programs that are covered by Title IX for civil rights compliance.

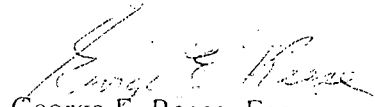
Through our discussions with the Department of Education over the past year, we have learned that they do not have the resources to fully meet our needs in the area of monitoring our Federally-assisted education programs. For that reason we have instituted a pilot program at the NASA Goddard Space Flight Center to begin conducting compliance reviews on our own. Once the pilot program has been completed, we plan to implement a NASA-wide training program for all NASA Officials who have a prominent role in administering Federally assisted programs. The training will enhance their awareness of enforcement responsibilities under Title IX, provide them guidance on monitoring their programs and cover the complaint and grievance procedures which currently exist for Title VI.

We have recently modified our civil rights certification form, with the assistance of the Justice Department, in an effort to better determine if recipients are actually in compliance. With the new form we will be collecting participation data on the minority composition as well as the gender of the beneficiaries of our programs. The new form has been published in the Federal Register for comments, and we expect to send it to the Office of Management and Budget for approval soon.

We are currently working with the Justice Department, Civil Rights Division, on a joint common rule for enforcement of Title IX that the Justice Department plans to issue for Federal Agencies, such as NASA, that currently have no regulation in effect. We expect, if Justice agrees, to pattern this new regulation after our regulation to enforce Title VI of the Civil Rights Act of 1964, which is published at 14 CFR 1250. Our grievance/complaint investigation procedures will be the same as we now use for Title VI grievances and/or complaints.

If you need additional information or have questions, please call me directly at (202) 358-2167 or James A. Westbrooks, of my staff, at (202) 358 0958.

Sincerely,

A handwritten signature in cursive script, appearing to read "George E. Reese".

George E. Reese, Esq.
Associate Administrator
for Equal Opportunity Programs

cc:
E/Deputy Administrator
EI/Division Director

ID # 207836

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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Received (YY/MM/DD)97 10 9 11b

Name of Correspondent:

Eugene A. Brickhouse☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject:

Dept. of Veterans Affairs Response to President
Clinton's June 17 Memo on Title IX Enforcement

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>Tim Saunders Exec. Clerk</u>	ORIGINATOR	<u>97109116</u>		<u>C</u>	<u>97109116</u>
<u>Todd Stein - Staff Secretary</u>	<u>A</u>	<u>97109116</u>		<u>C</u>	<u>97109116</u>
<u>MARIA ECHAVESTE</u>	<u>ACJ</u>	<u>97109125</u>			<u>1 1</u>
☒ <u>JENNIFER KLEIN</u>	<u>ACJ</u>	<u>97109125</u>			<u>1 1</u>
<u>ELENA LAGIAN</u>	<u>ACJ</u>	<u>97109125</u>			<u>1 1</u>

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
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FOR OUTGOING CORRESPONDENCE:

— Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Not for the President's Xmittal to the
Congress

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DEPARTMENT OF VETERANS AFFAIRS
ASSISTANT SECRETARY FOR HUMAN RESOURCES AND ADMINISTRATION
WASHINGTON DC 20420

SEP 15

Mr. G. Timothy Saunders
White House Executive Clerk
Old Executive Office Building, Room 5, NW
Washington, DC 20503

Dear Mr. Saunders:

As requested, information on how the Department of Veterans Affairs ensures the effective enforcement of Title IX by education programs or activities is enclosed.

Inquiries concerning this document should be directed to Ellis Jones Hodges, Director, Affirmative Employment Service, at (202) 482-6711.

Sincerely yours,


Eugene A. Brickhouse

Enclosures

VA's Efforts to Ensure Effective Enforcement of Title IX

I. Description of the Department's Priorities for Enforcement

A. Veterans Benefits Administration's (VBA's) Efforts

1. VBA's Organization to Ensure Compliance with Title IX

The Under Secretary for Benefits has been delegated responsibility for obtaining evidence of voluntary compliance under Title IX in those educational programs which fall under the jurisdiction of VBA. VBA administers a compliance and enforcement program which ensures Title IX compliance in proprietary schools at the elementary and secondary levels, proprietary technical and vocational schools, and post-secondary proprietary schools offering courses not leading to a standard college degree.

Within VA Central Office, VBA's Equal Opportunity Staff formulates equal opportunity policy as it relates to Federal financial assistance programs administered by VBA, and appraises and monitors the compliance activities performed by education liaison compliance personnel in 57 VBA field facilities. VBA requires its field station personnel to schedule and conduct equal opportunity compliance activities under Title IX, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975 at proprietary non-college degree institutions (NCD).

2. VBA's Directives for Equal Opportunity Field Personnel

The Under Secretary for Benefits has assured that sufficient guidance is provided for field station compliance personnel by issuing guidelines and a procedural manual. The following guidance has been provided to all VBA field stations:

- Title IX of the Education Amendments of 1972, 20 U.S.C. 1681.
- Executive Order 12250 of November 2, 1980, Leadership and Coordination of Nondiscrimination Laws.
- VBA Manual M27-1, Part III, which provides guidance and instructions to VBA personnel on implementation of equal opportunity compliance responsibilities, including Title IX. The manual provides specific instructions for conducting pre-award reviews, onsite reviews, complaint investigations, instructor and participant interviews, as well as procedures for maintaining records and reports.

3. VBA's Compliance Reviews

The Under Secretary for Benefits requires each field station to establish an annual equal opportunity compliance review schedule. The schedule includes a plan for onsite reviews at a 10 percent sample of proprietary non-college degree schools approved for training veterans or eligible dependents. Onsite reviews of facilities are scheduled so that no repeat visit will be

made until all facilities requiring review have been visited, unless there is an indication of noncompliance identified during a liaison visit, education compliance survey, or in allegations of discrimination reported by any other source.

Compliance personnel do not conduct equal opportunity reviews of programs administered by (1) institutions of higher learning, (2) elementary, secondary and vocational schools that are part of a public school system or an American Indian tribe, and (3) hospitals and other health facilities.

a. Pre-Award Review:

During pre-award reviews, determinations are made as to whether applicants are in compliance with nondiscrimination laws and the requirements of VA regulations. Each proprietary, non college-degree educational institution over which VA has compliance jurisdiction must sign a Statement of Assurance with Equal Opportunity Laws. By signing this statement, the school agrees to comply with Title IX and all applicable Federal regulations promulgated to carry out such laws. This assurance applies whether assistance is given directly to the recipient or indirectly through benefits paid to a student, trainee, or other beneficiary because of enrollment or participation in a program of the signatory.

When the compliance status of a proprietary school is questionable, additional information is requested from the facility. Federal and local government officials, civil rights organizations, and community leaders may be contacted, and an onsite review may be conducted in order to obtain the necessary data to make a determination of compliance.

b. Post-Award Review:

Post-award compliance reviews are conducted after Federal financial assistance has been awarded to the recipients. The post-award review is an onsite review to determine the continuing compliance status of the recipient. During the onsite review, facility officials are made aware of their responsibilities under Title IX as well as other laws prohibiting discrimination in programs receiving Federal financial assistance. Interviews with facility officials, instructors and students are conducted during the onsite review. The review requires that the recipient provide data by race and sex on applications received, enrollments, separations, placement assistance and discrimination complaints filed against the school. When necessary, a compliance review report will contain recommendations for corrective actions. If a recipient is found to be in noncompliance, VA will attempt to obtain voluntary compliance.

Post-award compliance reviews are conducted annually at ten percent of the proprietary schools, below college level, which are approved for training eligible veterans and/or beneficiaries. In cases where there has been a finding of noncompliance and the recipient voluntarily agrees to correct the noncompliance, a

follow-up review is conducted to determine whether noncompliance has been corrected. In those instances in which noncompliance has not been corrected, a report is forwarded to the General Counsel for possible enforcement action.

B. Veterans Health Administration's (VHA's) Efforts

The Under Secretary for Health has been delegated the responsibility for obtaining evidence of voluntary compliance in those programs under the jurisdiction of VHA. The Equal Employment Opportunity (EEO)/Civil Rights Policy Team is located in the Management and Administrative Support Office where enforcement responsibility resides. This Office provides general guidance for program operations to four EEO consultants located in the Veterans Integrated Service Networks (VISN) Support Service Center who serve as liaisons for twenty-two VISN Directors. VHA obtains signed statements of assurance from program recipients prior to awarding grant moneys. If complaints of non-compliance arise, they are handled or investigated by state auditors, not VHA.

II. Methods for Making Recipients of Federal Financial Assistance Aware of their Obligation not to Discriminate Based on Sex

A. VBA provides assistance to applicants and recipients of Federal financial assistance to help them understand and meet their civil rights responsibilities. Technical assistance is initiated upon request or as a result of a pre-award, post award or follow-up review, or a complaint investigation. In addition, once an educational institution has been approved to provide training to veterans, a liaison visit is scheduled by VBA field personnel to review civil rights review procedures and compliance requirements. At this time, any questions pertaining to Title IX requirements are addressed. VA Poster, "Equal Opportunity is the Law," provides information to applicants, and other interested persons on their rights under equal opportunity statutes such as Title IX that cover education and training in programs that receive Federal financial assistance. Facilities are required to display the poster in a conspicuous location which is accessible to all students and facility employees. Each VA regional office or center ensures that proprietary, non college-degree facilities under its jurisdiction receive a copy of the poster. VA personnel provide posters for facilities at any time the absence of a poster is noted during an onsite visit or during the investigation of a complaint of discrimination. Prior to issuing the poster, VA regional offices or centers will stamp their addresses in the blank space near the bottom of the poster in the event a student wishes to file a complaint of discrimination or apprise VA of alleged discriminatory practices at the recipient school.

B. VHA requires that agency agreements with school affiliates contain the following language that prohibits discrimination based on gender:

"The affiliate university/school complies with Title VI of the Civil Rights Act of 1964, Title IX of the Education amendments of 1972, Section 504 of the rehabilitation Act of 1973, Title III of the Older Americans Amendments of 1975, the Americans with

Disabilities Act of 1990, and all related regulations, and assures that it does not, and will not discriminate against any person on the basis of race, color, sex, creed, national origin, age, or handicap under any program or activity receiving Federal financial assistance."

III. Grievance Procedures for Handling Title IX Complaints

Complaints alleging violations under Title IX, as well as under Title VI, Section 504 and the Age Discrimination Act may be filed with any VA office or through the Department of Education (ED) or the Department of Health Human Services (DHHS).

VBA promptly acknowledges receipt of all complaints of discrimination. The complainant and facility officials are notified, in writing, of the actions being taken to investigate the complaint. VBA field station education compliance specialists are assigned to conduct onsite investigations of all complaints of discrimination. Reports of investigations are forwarded to the Equal Opportunity Staff (EOS) at VA Central Office for review and a determination of the validity of the allegations. The EOS formally notifies complainants, recipients of Federal financial assistance, and appropriate VBA field station personnel, in writing, of the findings of the investigations and recommendations for remedial action, if necessary. When findings of noncompliance are made, VBA field stations attempt to obtain voluntary compliance by working closely with facility officials.

VHA has not received any Title IX discrimination complaints. If they did, they would process them under procedures similar to those that are used to process Title VI and Section 504 external complaints.

VA plans to participate in the common rule to enforce Title IX of the Education Amendments of 1972, which is currently being drafted by the U.S. Department of Justice.

No description of programs
conducted by EPA

—



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Washington, D.C. 20460

OCT 30 1997

OFFICE OF
CIVIL RIGHTS

MEMORANDUM

SUBJECT: Measures to Ensure Effective
Enforcement of Title IX

FROM: Rafael DeLeon
Acting Director

Rodney J. Carl for

TO: Bruce Reed
Assistant to the President for
Domestic Policy

The Environmental Protection Agency (EPA) through its Office of Civil Rights (OCR) submits this action plan to ensure nondiscrimination in federally-assisted education programs and activities. The following measures will promote effective enforcement of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq.

I. Priorities for Enforcement

As its primary enforcement activity, EPA will participate in developing a common rule on Title IX and publishing Agency-specific regulations affording a regulatory means for enforcing Title IX. Currently, EPA relies upon a Delegation Agreement with the Department of Education to ensure nondiscrimination on the basis of sex in education programs and activities. The Agreement's provisions focus primarily on complaint processing and are largely reactive from a compliance standpoint. By participating in the publication of a common rule, EPA will be positioned to undertake a more proactive approach to fighting sex-based discrimination.

Promulgation of a Title IX rule will establish the basis for a comprehensive compliance program, including pre-award and post-award compliance reviews, complaint processing, technical assistance, and compliance monitoring. Through a compliance review program of selected recipients, OCR will be able to identify sex-based barriers to achieving equal educational opportunity and develop technical guidance documents to assist all recipients in eliminating such barriers. A new complaint processing procedure will complement OCR's compliance review program. OCR will seek the assistance of the Department of Education in developing its compliance review and complaint processing capabilities.

II. Methods to make recipients of Federal financial assistance aware of their obligation not to discriminate

EPA will issue a policy statement on Title IX. OCR will produce and distribute a brochure that will inform recipients and beneficiaries, such as students, interns and applicants for various educational programs, of their rights under Title IX. The brochure will describe what Title IX is; what programs and activities are covered by Title IX; how Title IX is enforced; how to file a Title IX discrimination complaint with OCR; and how to request additional information about the application of Title IX to federally-assisted education programs and activities. Finally, OCR will develop a Title IX poster.

III. Grievance Procedure to Handle Title IX Complaints

The common rule on Title IX will adopt the grievance procedures established under the regulations enforcing Title VI of the Civil Rights Act of 1964, as amended. EPA regulations are codified at 40 C.F.R. Part 7. OCR will use EPA's Title VI grievance procedures to enforce Title IX.

OCR will require all recipients to develop a grievance procedure for Title IX which permits individuals who believe they have been discriminated against because of their sex to file a written discrimination complaint. The grievance procedures developed by recipients will provide for early attempts to resolve complaints through the use of alternative dispute resolution (ADR) techniques.

IV. Title IX Training

OCR will provide training for designated agency employees and recipients on Title IX. The training will emphasize avoidance and prevention of complaints. OCR plans to request the Department of Education and Department of Justice to assist in the training.



OCT 31 1997

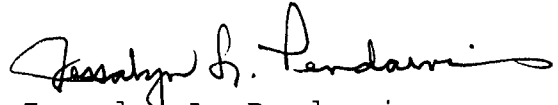
Mr. Bruce Reed
Assistant to the President for Domestic Policy
c/o G. Timothy Saunders
White House Executive Clerk
Old Executive Office Building
Room 5, N.W.
Washington, D.C. 20503

Dear Mr. Reed:

As directed by the President, the U.S. Agency for International Development has prepared an enforcement plan for Title IX of the Education Amendments of 1972. Staff of the Department of Justice Coordination and Review Section (DOJ/CRD) have asked that this plan be sent to you for review.

Accordingly, enclosed please find a copy of this enforcement plan, which also has been sent to DOJ/CRD staff. This Agency will continue Title IX enforcement, as enhanced by the actions outlined in the plan. We look forward to any suggestions or comments you may deem appropriate.

Sincerely,


Jessalyn L. Pendarvis
Director

Enclosure: Enforcement Plan

No ID + description
of education program
or activities conducted
by exec. dir. agency

ENFORCEMENT OF TITLE IX

BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

President Clinton has announced his intention to strengthen Federal enforcement of Title IX of the Education Amendments of 1972, as amended ("Title IX"), 20 U.S.C. Section 1681. This law prohibits discrimination based on sex in Federally-assisted education programs.

In his statement of June 17, 1997, the President directed each agency to develop an enforcement plan that includes the agency's priorities for enforcing Title IX, methods to make its recipients aware of their obligations under Title IX, and procedures for handling Title IX complaints. Pursuant to Executive Order 12250, the Department of Justice (DOJ) is coordinating this enforcement effort and assisting agencies in development and implementation of this Title IX enforcement plan.

I. USAID Enforcement Plan

To implement President Clinton's enforcement directive, the U.S. Agency for International Development has taken and will take steps to invigorate Title IX enforcement within its grant assistance programs, as described below.

A. Priorities for the enforcement of Title IX

1. Identification of federally assisted education programs

On July 22, 1997, the Director of the Office of Equal Opportunity Programs (EOP) sent a memorandum to the Assistant Administrator for Management, informing him of the President's initiative and the specific measures he has required of each federal agency. In addition, the Management Bureau was advised of the necessity to report federally assisted education and training programs to EOP, which is responsible for coordinating the enhanced enforcement effort. EOP is reviewing the data provided by Agency components, and will be requesting additional information. Subsequently, EOP will meet with Agency personnel who administer programs subject to Title IX to ensure that all components which provide Federal assistance have been identified and are in compliance with applicable regulations, and this new enforcement directive.

2. Promulgation of a Title IX regulation

USAID is one of the agencies participating in the publication of the Title IX common rule, which is being developed by the Civil Rights Division within the Department of Justice.

3. Assurances of compliance with Title IX by recipients

For years, USAID routinely has requested assurances of nondiscrimination from recipients of assistance at the inception of the USAID-grantee relationship. The text of such assurances (attached) puts recipients on notice that they must not discriminate. EOP will evaluate any other measures currently in use to convey the requirement not to discriminate, will discuss with responsible Agency officials alternative and/or additional means to broaden the dissemination of this message, and will develop recommendations for necessary action that will more fully notify recipients of their obligations.

4. Pre-award and post-award compliance reviews

Currently, USAID does not conduct pre-award or post-award reviews of recipients of federal assistance. In part this is due to the fact that many, if not most, recipients also are receiving assistance from other federal agencies that are considered primary sources of assistance.

To avoid duplication of investigative and enforcement efforts, for instance with educational institutions, USAID entered into a Memorandum of Understanding, published in the Federal Register on February 27, 1989, that delegates primary enforcement authority to the Department of Education (DE). EOP also has engaged in discussions with the Department of Health and Human Services to establish a similar agreement. USAID anticipates greater coordination by the Department of Justice regarding recipients funded by more than one agency, and we will continue to work with the Departments of Justice and Education, so that our limited enforcement resources can be focused on those recipients that are not multifunded.

Another consideration impacting whether pre-award or post-award reviews are conducted is the reality that most assistance provided by USAID is conveyed by recipients to ultimate beneficiaries not in the United States. Assistance not provided within the United States does not fall under the jurisdiction of these various federal assistance statutes.

USAID recognizes that, with regard to domestic recipients, we must ensure compliance by those recipients with domestic programs which are not also funded by another Federal entity. Accordingly, USAID intends to determine which recipients are not funded by other federal sources, and to target these entities for enhanced enforcement activities, which may include site visits, desk audits and/or interrogatories to help ensure compliance with civil rights laws.

B. Notification to recipients and beneficiaries of their rights and responsibilities under Title IX

1. Brochure.

USAID believes that it is equally important not only to educate recipients of their obligations under Title IX, but also to inform domestic beneficiaries of their rights under Title IX. The Office of Equal Opportunity Programs, with the assistance of the Department of Justice and involvement of key USAID personnel, will prepare a brochure for domestic USAID recipients and beneficiaries regarding their respective obligations and rights under Title IX. This brochure also will cover other statutes that prohibit discrimination in USAID funded domestic programs, including Title VI of the 1964 Civil Rights Act and Section 504 of the Rehabilitation Act of 1973. The information contained in the brochure will be included in all grant packages and award documents to new and continuing USAID recipients.

2. Poster

USAID also will develop and distribute a poster for use by recipients that will inform both domestic recipients and beneficiaries of the nondiscrimination requirements of Title IX and related statutes, and will provide information on how to file a complaint.

C. Procedures to handle Title IX complaints and other enforcement strategies

1. Complaint procedures

The proposed Title IX regulation will require that recipients develop complaint procedures for alleged Title IX violations. USAID will work with domestic recipients to determine the extent to which such procedures now exist, and with the Department of Justice to determine those circumstances in which domestic recipients must develop complaint procedures.

2. USAID complaint processing

Currently, each federal agency is responsible for investigating discrimination complaints and conducting preaward and postaward compliance reviews, subject to the memoranda of understanding discussed above. Where no other federal entity funds a USAID domestic recipient, EOP/USAID will accept responsibility for receipt and investigation of complaints alleging violations of Title IX and related statutes, and will adopt recommended procedures for doing so. All information thus obtained will be shared with the Department of Justice and other federal entities, consistent with any enforcement agreements.

AID HANDBOOK 13	Trans. Memo. No. 13:59	Effective Date October 18, 1991	Page No. 3C-1
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APPENDIX 3C

ASSURANCE OF COMPLIANCE WITH LAWS AND REGULATIONS GOVERNING NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

_____(hereinafter called the "Applicant")
(Name of Applicant)

hereby assures that no person in the United States shall, on the bases set forth below, be excluded from participation in, be denied the benefits of, or be ^{program} otherwise subjected to discrimination under, any ~~problem~~ of activity receiving financial assistance from AID, and that with respect to the grant for which application is being made, it will comply with the requirements of:

- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. 2000-d) which prohibits discrimination on the basis of race, color or national origin, in programs and activities receiving Federal financial assistance,
- (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance,
- (3) The Age Discrimination Act of 1975, as amended (Pub. L. 95-478), which prohibits discrimination based on age in the delivery of services and benefits supported with Federal funds,
- (4) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et. seq.) which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution); and

Page No.	Effective Date	Trans. Memo. No.	
3C-2	October 18, 1991	13:59	AID HANDBOOK 13

- (5) AID regulations implementing the above nondiscrimination laws, set forth in Chapter II of Title 22 of the Code of Federal Regulations.

If the Applicant is an institution of higher education, the Assurances given herein extend to admission practices and to all other practices relating to the treatment of students or clients of the institution, or relating to the opportunity to participate in the provision of services or other benefits to such individuals, and shall be applicable to the entire institution unless the Applicant establishes to the satisfaction of the AID Administrator that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which financial assistance is sought, or the beneficiaries of or participants in such program.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Agency, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Applicant.

(Applicant)

BY (Signature) _____ TITLE _____
TYPED NAME _____ DATE _____

ID # 207841

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☒ I - INCOMINGDate Correspondence
Received (YY/MM/DD)

97109122

97 SEP 22 AM 11:11

Name of Correspondent: Corlis S. Moody☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: The Report of the Department of Energy in
Response to the President's Memorandum of
June 17, 1997, RE Title IX Enforcement

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>Tim Saunders Clerk</u> ^{Exec.}	ORIGINATOR	<u>97109122</u>			<u>97109122</u>
<u>Todd Stern</u> ^{Staff Secretary}	Referral Note: <u>A</u>	<u>97109122</u>		<u>C</u>	<u>97109125</u>
<u>MARIA ECHAVESTE</u>	Referral Note: <u>A</u>	<u>97109125</u>			<u>1 1</u>
<u>JENNIFER KLEIN</u>	Referral Note: <u>A</u>	<u>97109125</u>			<u>1 1</u>
<u>ELENA KAGAN</u>	Referral Note: <u>A</u>	<u>97109125</u>			<u>1 1</u>

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Department of Energy

Washington, DC 20585

SEP 18 1997

Bruce Reed
Assistant to the President for Domestic Policy
c/o G. Timothy Saunders
White House Executive Clerk
Old Executive Office Building
Room 5 NW
Washington, D.C. 20503

Dear Mr. Reed:

This responds to President Clinton's memorandum of June 17, 1997, announcing his intention to invigorate the enforcement of Title IX by issuing an executive order. One requirement of the President's memorandum was to report on measures to ensure effective enforcement of Title IX. I have set out below the Department of Energy's program for enforcing Title IX.

Agency Priorities for Enforcement

The Department of Energy has regulations for enforcing Title IX. See, 10 C.F.R. Part 1040, Subpart C. Specifically, 10 C.F.R. 1040.46 incorporates by reference subparts G (Program Monitoring) and H (Enforcement) for obtaining compliance with Title IX.

To underscore the importance the Department places on Title IX enforcement, we will

- remind all grantees of their obligations under Title IX;
- require all grantees to inform program beneficiaries of their rights to remain free from discrimination and where and with whom program beneficiaries may file complaints should they believe they have been the victims of discrimination;
- require all grantees to send the following notice to program beneficiaries:

Any person, individually or as a member of a class or on behalf of others, may file a written complaint with DOE alleging discrimination prohibited by the Act or these regulations. A complainant must file a complaint within 180 days from the date he/she first had knowledge of the alleged act of discrimination. For good cause shown, however, the Director may extend the time limit for filing a complaint. Complaints



may be submitted to the EEO Managers located in the DOE's field operations offices or to the Director, OCR, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

[By reorganization of June, 1993, the position title "Director, OCR" was abolished and redesignated "Deputy Director, Office of Civil Rights and Diversity." The responsibilities and duties of the position did not change].

- survey all grantees to determine their knowledge and compliance with Title IX;
- conduct post award compliance reviews in accordance with the Department's recently promulgated business management oversight regulations for reviewing and monitoring Field activities; and
- make technical amendments to the Department's regulations to conform to the common rule.

Methods to make grantees aware of their obligations

The Department requires assurances from grantees that they will comply with Title IX and conducts pre-award compliance reviews. 10 C.F.R. 1040.4, providing for Assurances required and pre-award review, states:

(a) Assurances. An applicant for Federal financial assistance for a program or an activity to which this part applies shall submit an assurance on a form specified by the Director that the program or activity will be operated in compliance with applicable subparts. Such assurances are to include provisions which give the United States a right to seek judicial enforcement.

*** **

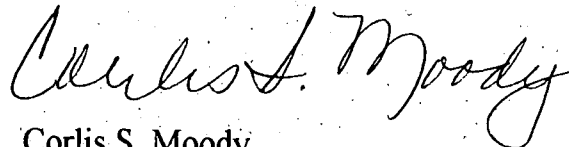
(h) Pre-award review. Prior to and as a condition of approval, all applications for Federal financial assistance are to be reviewed by the appropriate Civil Rights Department official who is to make a written determination of the applicant's compliance with this part. The basis for such a determination is to be the submission of the assurance of compliance and a review of data to be submitted by paragraph (a) and a review of data to be submitted by the applicant as specified by the Director.

Grievance procedures to handle Title IX complaints

The provisions for processing complaints alleging violations of Title IX are found at 10 C.F.R. 1040.104. This section contains specific time limits for filing complaints and for the Department's processing of them. We note that section 1040.104 does not contain, with sufficient clarity, language that instructs an individual about how to file a complaint. As stated, we will ensure that program beneficiaries clearly know where and with whom they may file complaints of discrimination. Specifically, the notice would be the same as that stated under Agency Priorities for Enforcement, which is identical to the one pertaining to complaints associated with federally assisted programs (Title VI of the Civil Rights Act of 1964, as amended).

I hope the foregoing is helpful. Should you need additional information, please contact Mr. William L. Garrett, Acting Deputy Director, Office of Civil Rights and Diversity, at 586-2218.

Sincerely,



Corlis S. Moody
Director
Office of Economic Impact and Diversity

cc:
Merrily A. Friedlander
Chief, Coordination and Review Section
Civil Rights Division
United States Department of Justice
1425 New York Avenue, N.W. Room 4013
Washington, D.C. 20035-5968

Jennifer Levin, Esq. _____
Coordination and Review Section
Civil Rights Division

Ralph Goldenberg (GC-80)
John Ketcham (GC-80)

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

7 SEP 22 PM 6:13

☐ O - OUTGOING☐ H - INTERNAL☒ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 97/09/22Name of Correspondent: Thurman M. Davis, Sr.☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: GENERAL SERVICES ADMINISTRATION RESPONSE TO THE
PRESIDENT'S MEMO OF 17 JUNE 97, RE TITLE IX
ENFORCEMENT

ROUTE TO:

ACTION

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<u>TOGG STERN - STAFF SECRETARY</u>	<u>A</u>	<u>97/09/22</u>		<u>C</u>	<u>97/09/22</u>
<u>MARIA ECHAVESTE</u>	<u>A</u>	<u>97/10/25</u>			
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U.S. GENERAL SERVICES ADMINISTRATION
Deputy Administrator

September 19, 1997

The Honorable Bruce Reed
Assistant to the President
for Domestic Affairs
c/o Mr. G. Timothy Saunders
The White House
Old Executive Office Building, Room 5
Washington, DC 20503

Dear Mr. Reed:

In accordance with the President's June 17, 1997, memorandum entitled, Strengthening Title IX Enforcement, enclosed is the General Services Administration's Enforcement Plan for implementing Title IX.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thurman M. Davis, Sr.", is written over the typed name.

Thurman M. Davis, Sr.
Deputy Administrator

Enclosure



ENFORCEMENT PLAN

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AS AMENDED

I. BACKGROUND

On June 17, 1997, the 25th anniversary of the Education Amendments of 1972, (Title IX), President Clinton announced his intention to issue an Executive order to include restrictions on sex discrimination in Federally assisted education programs and activities. The President also directed executive departments and agencies to develop vigorous new Title IX enforcement plans.

In accordance with the Federal Property and Administrative Services Act of 1949, as amended, the General Services Administration (GSA) disposes of surplus personal and real property to state and local governments, and eligible nonprofit organizations. This document explains GSA's enforcement plan for nonprofit, tax exempt organizations receiving Federal financial assistance from GSA.

II. PURPOSE

The purpose of this plan is to enforce Title IX of the Education Amendments of 1972, as amended, and the forthcoming joint regulations to be issued by the Department of Justice (DOJ) which are designed to eliminate discrimination on the basis of sex in education programs and activities receiving Federal financial assistance from GSA, whether or not such programs or activities are offered or sponsored by an educational institution. GSA, along with other Federal agencies, will participate in the publication of the Title IX joint regulations that will be issued by DOJ.

III. TITLE IX ENFORCEMENT PRIORITIES

Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., and the forthcoming joint regulations prohibit discrimination on the basis of sex in programs and activities receiving Federal financial assistance. GSA's initial priority is to ensure that within all compliance activities the intent of Title IX, is applied and enforced to all educational occupational training programs. State agency directors will be required to secure nondiscriminatory statements from each donee, as appropriate, prior to the donee being deemed eligible to receive property. GSA, in the course of conducting compliance reviews, will review the program to ensure compliance with Title IX of the Education Amendments of 1972. Additionally, GSA will address all complaints and/or provide technical assistance to ensure compliance.

The following GSA programs are targeted for enforcement:

- Acquisition of excess personal property by Federal Agencies for grantees (§ 202(d) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 483(d));
- Donation of personal property to public bodies (§ 202(h) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 483(h));
- Donation of surplus personal property to educational activities which are of special interest to the armed services (§ 203(j)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484(j)(2));
- Transfer of surplus personal property to state agencies for distribution through donation within the state to public agencies or nonprofit educational or public health institutions or organizations (§ 203(j)(3) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484(j)(3));
- Transfer of miscellaneous books to District of Columbia Free Public Library (Act of Feb. 25, 1903, 40 U.S.C. § 484-1);
- Disposal of surplus real and related personal property for purposes of education or public health, including research (§ 203(k)(1) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 484(k)(1)); and
- Transfer of surplus property to States, local government agencies, and nonprofit organizations or institutions for programs for older individuals (§ 213 of the Older Americans Act of 1965, 42 U.S.C. § 3020(d)).

To ensure nondiscrimination in the above programs, fifteen on-site compliance reviews of state agencies will be conducted by the Federal Supply Service per year according to their schedule to ensure compliance with Title IX of the Education Amendments of 1972. GSA also plans to expand its Method of Administration (MOA) Program. Ten MOA questionnaires will be forwarded to State agency directors biannually to be distributed to donees. The donees will complete the questionnaires and forward them to GSA's Office of Equal Employment Opportunity (OEEO) for review. Some questionnaires will be forwarded directly to educational institutions. The agencies to which the Public Buildings Service transfers surplus real property are responsible for all enforcement activities. However, those Federal agencies that receive Federal surplus real property must file compliance review reports with GSA.

IV. METHOD OF NOTIFICATION AND OUTREACH

GSA's responsibility is to ensure that Title IX and the forthcoming joint regulations (to be issued by DOJ) are applied to and enforced in education programs and activities receiving Federal assistance. This applies to State agencies and donees of Federal surplus property.

To implement Title IX, GSA will undertake the following: 1) issue a policy statement on Title IX; 2) send a letter to all State agency directors which informs them of their and GSA's responsibilities regarding Title IX; 3) prepare a Title IX brochure; 4) establish a 1-800 phone number in the GSA, OEE0; 5) develop a Title IX Poster in both English and Spanish; and, 6) install a TTY machine in the OEE0, to communicate with persons who are deaf or hard of hearing. GSA will also ensure that all of its donees publish a nondiscriminatory policy statement in their publications, as appropriate. Finally, the GSA, OEE0 will update its Web site to include GSA's Title IX policy statement and the forthcoming joint regulations (to be issued by DOJ).

V. GRIEVANCE PROCEDURE

GSA will adopt the Title IX procedures that will be included in the forthcoming joint regulations (to be issued by DOJ) as they apply to grievances. The proposed joint regulations will require State agencies and donees to develop a grievance procedure to address allegations of Title IX violations. GSA will promulgate a grievance procedure that can be universally adopted by State agencies and donees, which permits an individual or a class of individuals who believe they have been discriminated against because of their sex to file a written discrimination complaint. The procedures will be similar to or added to an existing grievance procedure. The grievance procedures will also contain standards which address specific acts of sexual harassment. The grievance procedures will provide for early attempts to resolve complaints through the use of alternative dispute resolution techniques.

VI. INVESTIGATIONS OF TITLE IX COMPLAINTS

GSA will adopt the Title IV procedures for processing Title IX complaints (both individual and class). GSA will develop a complete and impartial factual record upon which to make findings on the matters raised by the written complaint. The methods used to develop the record may be an exchange of letters, memoranda, interrogatories, investigations, fact-finding conferences, telephone interviews, or any other fact-finding method that efficiently and thoroughly addresses the matter at issue.

VII. RESOLUTION OF TITLE IX COMPLAINTS

The GSA, OEEEO will use mediation as the preferred method to resolve disputes. Mediation is a process in which a trained, neutral third party assists the parties in finding a mutually acceptable solution to their dispute. Mediation is both voluntary and confidential and is frequently used when the parties are unable to reach agreement on their own.

VIII. TITLE IX TRAINING

GSA will provide training for its program officials and State agency directors in Title IX. This is the most appropriate means to enhance the enforcement of Title IX. Emphasis will be placed on avoidance and prevention of complaints. All program officials and State agency directors will be required to receive eight hours of training on Titles VI and IX biannually. Newly appointed program officials and State agency directors will be required to receive at least eight hours of Titles VI and IX training within their first year of appointment. GSA plans to request the Departments of Education and Justice to assist in the training.

GSA will also recommend that each State agency and donee provide sexual harassment training to its management and administrative staff.