

OCR Response to Question about Non-Athletic Scholarships
May 24, 2017

Dear Mr. Sokolow:

Thank you for your April 24, 2017 email regarding how Title IX applies to academic (non-athletic) scholarships.

As you know, OCR enforces Title IX of the Education Amendments of 1972 and its implementing regulation at [34 C.F.R. Part 106](#), which prohibit sex discrimination in educational programs and activities operated by recipients of Federal financial assistance. Although OCR refrains from offering opinions about specific facts without first conducting an investigation, we are happy to provide key information on how Title IX applies generally in this context.

OCR has not issued any guidance on the topic of academic (non-athletic) financial assistance, but I will provide some general information based on the applicable regulations. First, I want to clarify that the Title IX regulations governing sex-specific academic financial assistance as set forth in 34 C.F.R. § 106.37(a) and (b) are different from the regulations governing athletic financial assistance as set forth in 34 C.F.R. § 106.37(c). The regulations governing academic financial assistance do not address proportionality and thus, the proportionality analysis that is applicable in the athletic financial assistance context does not apply to academic financial assistance. Rather, OCR would generally analyze claims of sex discrimination in academic financial assistance under 34 C.F.R. § 106.31, which governs different treatment on the basis of sex.

Additionally, the Title IX regulations that govern sex-specific non-athletic scholarships provide that a recipient generally may not, on the basis of sex, provide different amounts or types of assistance, limit eligibility, apply different criteria or assist another organization which offers sex-based student aid through solicitation, listing, approval, or provision of facilities or other services. 34 C.F.R. § 106.37(a). Despite this general prohibition, Title IX does not bar educational institutions from participating in certain sex-restricted scholarships. An educational institution “may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified therein, provided, that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.” 34 C.F.R. § 106.37(b)(1). The Title IX regulations also outline the procedures by which schools can ensure nondiscriminatory awards of assistance. 34 C.F.R. § 106.37(b)(2).

Correspondence issued by OCR in response to an inquiry from the public does not constitute a formal statement of OCR policy and should not be construed as creating or articulating new policy.

We hope this information is helpful and thank you for contacting the Department.

Sincerely,

Rachel Gettler
Program Legal Group
Office for Civil Rights