



# **SINGLE-SEX CLASSES AND TITLE IX**

Presented by Amanda K. Dallo

Office for Civil Rights, U.S. Department of Education

# WHAT IS TITLE IX?

- Law that prohibits discrimination on the basis of sex in education programs and activities offered by recipients of federal financial assistance.
- This includes separation of students on the basis of sex except when explicitly permitted by Title IX.
- Nonvocational single-sex classes are permitted if they meet certain requirements.



## WHAT ARE SINGLE-SEX CLASSES AND ACTIVITIES?

- For purposes of Title IX, a single-sex class is a class that excludes students of one sex from enrolling or otherwise participating in the class.
- It is a class in which students are separated on the basis of sex.
- It does not include a class that is open to members of both sexes, but in which members of only one sex enroll.



# SOURCES OF INFORMATION FROM THE DEPARTMENT

## ○ Title IX Regulations:

- 34 C.F.R. § 106.34(b) (single-sex classes and activities)
- 34 C.F.R. § 106.34(c) (single-sex schools)
- Regulations available at:  
<http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html#S34>
- Preamble to the 2006 regulations available at:  
<http://www2.ed.gov/legislation/FedRegister/finrule/2006-4/102506a.html>

## ○ Policy Guidance:

- Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities available at:  
<http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>



# JUSTIFICATION

- The justification has two parts:
  - Important objective and
  - Substantial relationship.
- Need a justification for each single-sex class or activity offered.
- Must be established BEFORE offering the single-sex class.
- OCR recommends documenting the justification in writing.



# IMPORTANT OBJECTIVE

- Two possible important objectives.
  - Needs objective: To meet the particular, identified educational needs of its students.
  - Diversity objective: To improve educational achievement of the recipient's students, through the recipient's overall established policy to provide diverse educational opportunities.
- For either objective, recipient must demonstrate that the single-sex nature of the class is substantially related to achieving that objective.



# NEEDS OBJECTIVE

- Recipient must identify a particular educational need, evidenced by limited or deficient educational achievement in its student body.
- Potential educational needs: deficient scores on a state exam in a certain subject, low graduation rates.
- Potential social needs: dating violence, pregnancy, discipline problems, drug or alcohol abuse, delinquency, criminal activity.



# DIVERSITY OBJECTIVE

- First, recipient must identify the educational achievement it seeks to improve.
- Second, recipient must have a diverse class or activities offering- can't be just single-sex!
- Potential types of diverse classes: various electives, STEM curriculum, IB curriculum, co-op or internship opportunities, option to take classes at other schools.





## SUBSTANTIAL RELATIONSHIP — EVIDENCE REQUIRED

- May use more than one type of evidence.
- OCR identified two types of evidence that may suffice.
- Comparator schools.



- Look for a tight fit between the recipient's classes and the comparator school's classes.
- Be mindful of other reasons for success.
- Research evidence.
  - Does it meet the standards in the *What Works Clearinghouse Procedures and Standards Handbook*?



# SUBSTANTIAL RELATIONSHIP- NO STEREOTYPES!

- May not rely on overbroad generalizations or stereotypes about the talents, capacities, or preferences of the sexes.



- Claims that a certain strategy works better for one sex must be supported by evidence that the strategy is more effective if used in a single-sex class.
- Consider whether the strategy could be implemented in a coeducational class.



# EVENHANDEDNESS

- Recipients offering single-sex classes must provide equal educational opportunities to all students, regardless of sex.
- If a school thinks single-sex will work for its male students, it must consider whether single-sex will work for its female students, and vice versa.
- If both sexes have the same educational need (e.g., a deficiency in 3<sup>rd</sup> grade reading) or would be served by the same set of diverse class offerings, the school must determine whether single-sex classes in the same subject would work for both sexes.



# EVENHANDEDNESS

- Doesn't mean boys and girls must be offered single-sex classes in the same subject.
- If each sex has different educational needs (e.g., a deficiency in 3<sup>rd</sup> grade math and a deficiency in 3<sup>rd</sup> grade science) or would be served by different class offerings, the school must determine whether single-sex classes in different subjects would work to address both needs.
- Pay attention to core vs. non-core classes.
- If the recipient can justify a single-sex class for only one sex, the school may not offer the single-sex class to the other sex.



# VOLUNTARINESS

- Completely voluntary = affirmative consent
- Opt-in not opt-out
- If no affirmative consent, student must be placed in a coeducational class.
- OCR recommends a written, signed document.

YOUR SCHOOL!!

## Single-Sex Class Permission Form

Please enroll my child, \_\_\_\_\_, in the single-sex section of \_\_\_\_\_ (subject) for the \_\_\_\_\_ (season/year) semester.

I have read all of the attached justification documents. I understand that if I do not return this form, my child will be placed in a substantially equal coeducational class.

<i>Date</i>		<i>Justification Reviewed?</i>	
<i>Parent/Guardian Signature:</i>			

- May not make it easier to enroll in a single-sex class.
- School should provide appropriate pre-enrollment information.



# SUBSTANTIALLY EQUAL COEDUCATIONAL OPTION

- A school must offer a substantially equal coeducational class for every single-sex class it offers.
- Factors OCR will consider:
  - Admissions criteria and policies;
  - Educational benefits provided (e.g., curriculum, books, technology);
  - Qualifications of faculty and staff;
  - Geographic accessibility;
  - Quality, accessibility, and availability of facilities and resources; and
  - Intangible features (e.g., reputation of faculty).



# PERIODIC EVALUATIONS

- A recipient must evaluate each of its single-sex classes (and the original justification) at least every two years.
- Evaluations must show that each class is:
  - based on genuine justification;
  - does not rely on overbroad generalizations about either sex, and;
  - continues to be substantially related to the achievement of the important objective.
- Evaluations should also confirm that all other regulatory requirements are met.
- Distribute to the public!







## EMPLOYMENT

- Cannot assign teachers to a single-sex class on the basis of the teacher's sex.
- Cannot assume female teachers will be better at teaching female students, or that male teachers will be better at teaching male students (or vice versa).





## OTHER FEDERAL PROTECTIONS FOR STUDENTS

- Students with disabilities may not be excluded from a single-sex class because of need for special education or related aids and services.
- English learners may not be excluded from a single-sex class because of need for English language services.
- Transgender students generally must be treated consistent with their gender identity for purposes of a single-sex class.



# OTHER APPLICABLE LAWS

- Equal Protection Clause of the Fourteenth Amendment
- Title IV of the Civil Rights Act of 1964
- Equal Educational Opportunities Act
- State and Local Laws



# OCR CAN HELP!

- Questions? Concerns? Contact OCR!
- Anyone can file a complaint with or request technical assistance from OCR.
- Telephone: 800-421-3481  
FAX: 202-453-6012; TDD: 800-877-8339  
Email: OCR@ed.gov
- For more information, visit  
<https://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>

