

# CLIENT NEWS BRIEF

## OCR Issues New Guidance Regarding Single-Sex Classes

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The U.S. Department of Education's Office for Civil Rights (OCR) recently released new guidance on the requirements applicable to single-sex classes in federally funded educational programs. Title IX of the Education Amendments of 1972 generally prohibits discrimination on the basis of sex in federally funded schools. However, single-sex classes may be permissible when the requirements of the Department of Education's Title IX regulations are met. [OCR's new guidance](#) helps to navigate these complex and often amorphous regulations through a question and answer format that provides explanations, examples and recommendations.

Single-sex classes may be offered for contact sports in physical education classes, as well as in classes or portions of elementary and secondary classes that deal primarily with human sexuality. In addition to these two specific bases for single-sex classes, the Title IX regulations include a broad third category that permits non-vocational single-sex classes when several specific conditions are met. OCR's new guidance focuses on this broad third category of permissible single-sex classes.

Single-sex classes under this third category must be based on an educational entity's "important objective." An "important objective" is an objective to either (1) improve student educational achievement through the entity's overall established policies to provide diverse educational opportunities ("diversity objective"), or (2) to meet the particular identified educational needs of students ("needs objective"). Additionally, the single-sex nature of the class must be "substantially related" to achieving the educational entity's important objective. OCR's guidance provides explanations and examples that help to elucidate these somewhat abstract requirements.

For example, OCR explains that the required substantial relationship between the single-sex nature of the class and the entity's important objective must be directly supported by evidence gathered and evaluated prior to offering the single-sex class. Additionally, OCR strongly recommends that educational entities articulate their justification for the single-sex class in writing prior to offering the single-sex class, and to preserve such documents. OCR explains that without this historical documentation, OCR will assume that the educational entity did not establish its justification prior to offering the single-sex class, unless it can be proven otherwise.

If a single-sex class has a valid important objective and the single-sex nature of the class is substantially related to that objective, then the educational entity must: (i) implement that objective in an "evenhanded" manner, (ii) ensure that student enrollment is "completely voluntary," (iii) provide a "substantially equal" coeducational class in the same subject, and (iv) conduct periodic evaluations to ensure ongoing compliance with the Title IX regulations. These implementation requirements are also explained in detail in the new OCR guidance, and OCR provides additional useful examples and recommendations.



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OCR clarifies that “evenhanded” implementation includes providing equal educational opportunities and equally considering the relevant needs of both male and female students. Additionally, OCR advises that in order for enrollment to be “completely voluntary” parents or students must affirmatively opt into the class before they are enrolled. OCR recommends that the affirmative election to enroll be made in a signed writing. Additionally, because an uninformed decision may not be completely voluntary, OCR recommends that prior to enrollment parents and students have an opportunity to review the educational entity’s justification documents for the single-sex class to allow for a more informed enrollment decision. OCR also warns that enrollment cannot be completely voluntary if there is no “substantially equal” coeducational class offered in the same subject. OCR further notes that periodic evaluations are required at least every two years and must show that the single-sex nature of the class results in achievement of, or progress toward, the important objective.

OCR’s new guidance contains detailed explanations and recommendations beyond those included here. While OCR’s guidance is restricted to Title IX compliance and other legal consideration may be required, the guidance is a helpful resource for understanding the complex Title IX regulations governing single-sex classes.

If you have questions regarding single-sex classes or related Title IX compliance matters, please contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).