

Fraternal Organizations and Title IX: Understanding the Implications

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We would like to begin with a simple premise. All students who are interested in joining a student organization, including a fraternity or sorority, in order to enhance their collegiate experience and support their interests, should have the opportunity to do so. Today's students have more opportunities than ever when seeking involvement opportunities, both within the fraternity/sorority community and beyond. However, and related to this, we understand that there are unanswered questions related to the effects that Title IX has on the membership practices of fraternities and sororities as well as the inclusion of transgender students in single-sex organizations such as fraternities and sororities.

The answers to many of these questions begin with the understanding and interpretation of Title IX and the exemption that fraternities and sororities are specifically granted in Title IX. Congress enacted Title IX in 1972 to achieve sex equality in educational institutions that receive federal funding. Title IX does not directly affect fraternities and sororities; it applies to and regulates only the educational institution. The adoption of Title IX led to questions about the ability of educational institutions to continue to recognize single-sex organizations, such as social fraternities and sororities. As the legislation never intended this, an amendment was made in 1974 to ensure that all male and all female fraternities and sororities would be exempted from Title IX applications and that institutions can continue to recognize such fraternal organizations without risking Title IX violations. Additionally, Title IX does not impose any specific requirement on fraternities to remain single-sex organizations (Tran, 2013).

The North-American Interfraternity Conference and the National Panhellenic Conference represent private membership organizations. The NIC and NPC are not in a position to determine or interpret prospective membership requirements as they exist in the governing documents of its member organizations. NIC's 74 member fraternities and NPC's 26 member sororities exist and have existed throughout their history, as single-sex, private social organizations. Fraternities and sororities promote the value of the single-sex membership organizations as an opportunity for men and women to develop the life skills and experiences that will enable them to be more successful in their families, careers, and communities. Data has shown fraternity and sorority members exhibit higher levels of well-being than non-members (Gallup, 2014). A question that can arise is how an organization defines a requirement that its members must be male or must be female.

All aspects of membership-based decisions and interpretations, including whether a transgender student meets the requirements for being a member under the organization's governing documents, remain solely with the individual member organization.

In all membership decisions, the NIC and NPC advise their member organizations to do the following:

1. Clarify and follow organizational policies and governing documents.
2. Research, understand, and appropriately apply current state and local law as it relates to the current legal status of the student.
3. In consideration of the two previous points, address membership and eligibility questions on a case by case basis as they arise.

There is no single, clear answer to the overarching question, as it remains a developing area in higher education, in the law as it addresses the gender of an individual, and in other arenas. Fraternities and

sororities have the ability to define their membership; they are empowered to address and determine how this developing area fits within a requirement in the organization's governing documents that its members must be male or female. As higher education and fraternal organizations continue to adapt with the changing environment, they make way for our hope that more and more students will have and take advantage of the opportunity to join organizations that meet their own social and developmental needs, including opportunities via single-sex organizations such as fraternities and sororities.

References

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- Tran, S. (2013). Transgender Membership and Title IX. *Fraternal Law Newsletter*, (127), 4-6.