

Affirmative Action: what is it?

What is Affirmative Action? What is Title IX? How do they affect CCC? This is the first in a series that will deal with the discrimination issue as it affects CCC, and steps are being taken to comply with current regulations and guidelines.

Since this is extremely dry reading, it will be interesting to show why so few people are interested as to the rights and responsibilities of academic administration.

It is difficult, if not impossible, to make this interesting. Unless we have been discriminated against, we tend to have little sympathy for compassion.

Let us hope that ten percent of the student body (wishful thinking? . . . perhaps.)

Johnson on Sept. 24, 1965, the Department of Labor became the sanctioning body of Title VI.

The same Executive Order (Part IV, Section 401) allowed the Secretary of Labor to delegate to any officer or agency of the Executive branch any "function or duty of the Secretary, except authority to promulgate rules and regulations of a general nature."

Thus the Department of Health Education and Welfare (HEW) became the "monitor" of higher education under the sanction of the Department of Labor authority.

On June 23, 1972, President Nixon signed into law the Education Amendments

based on or related to the sex of the employee.

The employer must make jobs available to all qualified employees in all classifications without regard to sex.

The employer shall take affirmative action to recruit women to apply for those jobs where they have been previously excluded.

An important element of affirmative action shall be to a commitment to include women candidates in consideration for management positions.

Employers must demonstrate that both sexes have equal access to all training programs.

Executive Order 11246 embodies two concepts: nondiscrimination and affirmative action.

Nondiscrimination requires the elimination of all existing discriminatory conditions, whether purposeful or inadvertent.

A university contractor must carefully and systematically examine all of its employment policies to be sure that they do not, if administered as stated, operate to the detriment of any persons on grounds of race, color, religion, sex, or national origin.

The contractor must also ensure that the practices of those responsible in matters of employment, including all supervisors, are nondiscriminatory.

Affirmative Action requires the contractor to do more than ensure employment with regard to race, color, religion, sex, or national origin.

As the phrase implies, affirmative action requires the employer to make additional efforts to recruit, employ and promote qualified members of groups formerly excluded, even if that exclusion cannot be traced to particular discriminatory action on the part of the employer.

The premise of the affirmative action concept of the executive order is that unless positive action is taken to overcome the effects of systematic institutional forms of exclusion and discrimination, employment practices will tend to perpetuate the "status quo ante" indefinitely.

In 1972, Governor McCall issued Executive Order EO-72-7 which requires that all state agencies prepare and file "affirmative action plans."

In 1973, the Oregon Legislative Assembly passed two bills -- patterned after the federal government's Rehabilitation Act, Section 504 -- which extended all civil rights protections to handicapped and ill persons. (ORS 659.400 to 659.435 cover civil rights of the handicapped, and ORS 339.030 protects the physically and/or mentally ill student.)

Oregon Administrative Rule 21-040 of the Oregon Board of Education requires "equal employment and educational opportunities for all persons, whether on the basis of age, handicap, national origin, race, religion or sex."

In a January 1975 bulletin, the Department of Education went on record as being "committed to developing, implementing, and evaluating its Affirmative Action Plan to achieve parity."

"Without such parity," they said, "federal funds may be withheld under the laws of the land."

The next issue of the Cougar Print will examine what has been done, what is being done, and what plans exist for future implementation at CCC, toward achieving that parity.

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find the time to struggle through these statistics in search of further understanding. Unfortunately, statistics deal with numbers, seemingly a contradiction in terms when we attempt to apply them to such individual liberties as are implied in civil rights.

It is necessary though, to create an awareness of what the law is to accurately determine, as Lincoln suggested, "whither we are tending."

It is historically probable that the Civil Rights Act of 1964 is the most comprehensive legislation to concern itself with individual equality in America since the ratification of the Nineteenth Amendment.

To gain a perspective of Affirmative Action, and to understand Title IX, requires that we go back to the Civil Rights Act of 1964, and trace the history of each.

The Civil Rights Act directed itself exclusively to discrimination based on race, color, religion, and national origin, in areas enumerated under the following titles:

- I. Voting Rights
- II. Injunctive Relief Against Discrimination in Places of Public Facilities
- III. Desegregation of Public Facilities
- IV. Desegregation of Public Education
- V. Commission on Civil Rights (to oversee and regulate)
- VI. Nondiscrimination in Federally Assisted Programs
- VII. Equal Employment Opportunity
- VIII. Registration and Voting Statistics
- IX. Intervention and Procedure After Removal in Civil Rights Cases
- X. Establishment of Community Relations Service

Title IV has an obvious bearing on educational institutions. Less obvious, but equally important, is Title VI.

Section 601 of this title prohibits "discrimination under any program or activity receiving federal financial assistance."

Section 602 directs "federal departments or agencies which are empowered to extend federal financial assistance" to "effectuate the provisions of Section 601 by issuing regulations consistent with achievement of the objectives of the statute."

"Compliance with any requirement adopted pursuant to this section may be affected by the termination of federal assistance," it reads.

Under provision of Executive Order 11246, signed by former President Lyndon B.

of 1972. Here, finally, is Title IX.

Title IX of the Education Amendments provides: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving federal assistance."

Title IX of the Amendments, as it exists today, did not become law until it was signed by President Ford on May 27, 1975. The effective date of Title IX was July 21, 1975.

It is to be noted that the fabric of "Civil Rights" runs, as a thread, through three separate administrations.

Acting on Title IX legislation, HEW issued 45 CFR-86.3. This, in a nut-shell, is what the educational institutions of America must wrestle with.

It generally requires that by July 21, 1976, educational institutions must carefully evaluate current policies and practices (including those related to the operation of athletic programs), and, where such policies or practices are inconsistent with the regulation, conform current policies and practices to the requirement of the regulation.

On March 24, 1972, the Equal Employment Opportunity Act of 1972 was passed by Congress. This Act updated Title VII of the Civil Rights Act of 1964, as amended, which deals with fair hiring practices.

In addition to securing equal employment opportunity without regard to race, color, religion, sex, or national origin, it provided that no federal funding should be denied an employer by the government if that employer has an Affirmative Action Plan that has previously been accepted by the government within the last 12 months, except through proper hearing.

To better understand the meaning of affirmative action we must examine the conditions set down in the Equal Employment Opportunity Act of 1972. This requires a dispassionate discussion of sex; an awkward proposition.

The Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor, provides the following as a means of implementing Executive Order 11246 and Executive Order 11375:

Employers engaged in recruiting activity must recruit employees of both sexes for all jobs.

The employer must not make any distinction based upon sex in employment opportunities, wages, hours, pensions, retirement age, insurance premiums or benefits, and other fringe benefits.

Seniority lines and lists must not be

