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CIVIL AERONAUTICS BOARD

Status Summary

The Civil Aeronautics Board (CAB) promotes and regulates the civil air transport industry within the United States and between the United States and other nations. The Board grants licenses to provide air transportation services and opposes or disapproves proposed agreements and corporate relationships involving air carriers.

CAB has completed a thorough review of the USC, the CFR, policies, and practices, and has uncovered no substantive sex discrimination.

The Rules Division of the CAB has issued a directive to all divisions that proposed regulations be gender neutral.

CAB will report in the future on affinity group charter regulations and the need to promulgate a non-discrimination provision applying to affinity group charters.



CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

IN REPLY REFER TO:

B-37

February 4, 1983

Ms. Stewart Oneglia
Chief
Coordination and Review Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Dear Ms. Oneglia:

This letter transmits the Board's initial review of its statutes, regulations, policies, practices and publications to identify any that may still discriminate on the basis of gender. Our review is made pursuant to Executive Order 12336 which established the Task Force on Legal Equity for Women.

On December 17, 1982, I met with Ms. Barbara Honegger and Ms. Brenda Sheppard of your office to discuss the Board's gender discrimination review program.

Based on the recommendations that your staff made at this meeting, we asked each bureau and office head to appoint a person to aid us in our review of the Board's statutes, policies, regulations, etc. We met with these persons and briefed them on the requirements of Executive Order 12336. We asked each person to review all relevant materials pertaining to their office or bureau for gender based discriminatory practices or language. Each office and bureau reported the results of its review to us.

I am pleased to report that the review discloses that there is no evidence of either implied or intentional gender based discrimination in any of the Board's statutes, regulations, policies, etc.

We also reviewed, with the help of your Lexis print-out sheet, Title 14 of the Code of Federal Regulations, Parts 200-1199 for gender discrimination. Although we uncovered a number of instances of gender-related terminology such as "men," "his", "workmen", "airmen", "mother", "him", "steward", and "he", the use of these terms does not result in any implied or intentional gender-based discrimination. These terms will be eliminated whenever the regulations are next reviewed by the Board.

As to the Board's new regulations, the Rules and Legislation Division, of the Office of General Counsel, which has a primary responsibility for drafting the Board's rules, has a long standing policy of making all new regulations gender-neutral. To achieve this end the Rules Division recently notified all Bureaus and Offices that they should propose gender-neutral regulations.

In addition to the review described above, we also looked at the following specific areas that were of concern to the Department of Justice in 1978.

Transportation of Pregnant Women

On January 11, 1979, the Board issued Order 79-11-148. The Order significantly changed the airlines' rules dealing with the transportation of pregnant women. In effect, the rule removed the classification of pregnant women as handicapped and the argument that carriers were unjustly denying transportation to them.

The basic industry rule in effect today (#35) states as follows:

"In the case of pregnant passengers, carriers will not transport a passenger expecting delivery within seven days, unless it is provided a doctor's certificate, dated within 72 hours of departure that he examined and found her to be physically fit for transportation from (place) to (place) on (date) and that the estimated time for birth of the baby is (date)".

The Board believes that this rule is necessary for the safety and well-being of both mother and child, and that it presents no problem with respect to gender discrimination.

Equal Credit Opportunity Act

Under Section 704(a)(5) of the Consumer Protection Act (the Equal Credit Opportunity Act) the Board has the duty to ensure compliance with respect to the prohibition against discrimination on the basis of race, color, religion, national origin, sex, marital status or age in consumer credit transactions by airlines that have their own credit plans. Both Section 404(b) and the Consumer Protection Act are presently enforced under the Board's enforcement procedures set out in Part 302 of its regulations (14 CFR 302). The regulations provide an avenue through which persons who feel that they have been unjustly treated by the carriers with respect to credit may seek a remedy. We believe these regulations adequately address the problem. There is no plan at present to change these regulations.

Affinity Group Charters (14 CFR 207.2 et seq)

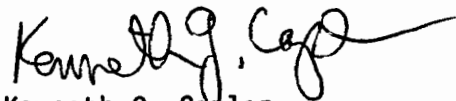
The affinity group charter regulations in place in 1978 were of particular concern to the Department of Justice. The concern was that because of the wording of the regulations there was significant room for discriminatory practices by the carriers. These charter provisions are now under review by the Board in Docket No. 40336. The staff's recommendation is that the regulations be abolished.

The Board has always been aware of its responsibility to prevent any kind of discrimination to airline passengers. While the Board's primary statutory responsibilities under the Airline Deregulation Act of 1978 (PL-95-504) concern the gradual economic deregulation of the airline industry, the Board continues to maintain the ancillary responsibility to prevent discrimination under Section 404(b) of the Federal Aviation Act (49 U.S.C. 1374(b)), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 101), and the Consumer Credit Protection Act (15 U.S.C. 1601).

The basic source of the Board's civil rights enforcement responsibility is Section 404(b) of the Federal Aviation Act. Section 404(b) prohibits all "unjust discrimination or any undue or unreasonable prejudice or disadvantage" and applies to all certificated carriers. Section 404(b) codifies the common law duty of common carriers not to discriminate in the provision of transportation services to the public. Although frequently associated with economic discrimination, Section 404(b) extends to all forms of non-economic discrimination, including race, national origin, color, religion, handicap, sex and age.

The Board will continue to lend its full support to the Department of Justice in its effort to implement Executive Order 12336. If I may provide any more information, please call me at 673-5790.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kenneth G. Caplan", with a stylized flourish extending from the end.

Kenneth G. Caplan
Associate General Counsel
Legal Counsel Division
Office of General Counsel

DEPARTMENT OF DEFENSE

Status Summary

The Department of Defense (DOD) is responsible for providing the military forces needed to deter war and protect the security of the United States.

DOD has reviewed each military statute appearing in Appendix B of the First Quarterly Report. A few statutes listed in Appendix B as uncorrected were cured by the Defense Officers Personnel Management Act (DOPMA). These statutes, therefore, do not appear in updated list of Federal statutes which still substantively discriminate on the basis of sex contained in the present report.

In addition to the attached, DOD submitted three printed documents that are not included in this report due to length considerations. These are I) Women in the Military: Background Review, October 1981 (available from the Office of the Deputy Chief of Staff for Personnel; Department of Army); II) Women in the Army Policy Review, November 12, 1982 (available from the Office of the Deputy Chief of Staff for Personnel, Department of the Army); and III) Women in America's Defense, June 24, 1982 (available from the Office of the Deputy Assistant Secretary of Defense for Equal Opportunity and Safety Policy). Selections from this last report have been copied and appended to the Department's submission.

The report, Women in the Army Policy Review, is a detailed presentation and support for the Army's newly designed system for classifying each of its Military Occupational Specialities, referred to as MOS's. This system, now in the validation phase, ranks each MOS according to a combination of a physical demands analysis rating and a direct combat probability rating. As noted in the attached report, a similar system is now being developed for each service, under coordination by the Office of the Secretary of Defense. By quantifying the physical demands of each military MOS, as precise a match as possible can be achieved between the physical (as well as mental) capabilities of individual servicemembers and the jobs to which they are assigned.

The central issue of combat exclusion for military women is not just one of equal opportunity and career advancement. At least as important, as the Department notes in its report, is the question of management flexibility and the relative authority of the several service secretaries to assign all qualified personnel when and where they are most needed.

Existing laws and service policies related to the issue of women in combat restrict the employment of women in varying degrees. These statutory restrictions on women in combat (10 U.S.C. §6015 and §8549) apply to all services except the Army. Under the cited statutes, Navy and Marine Corps women may not be assigned to duty aboard aircraft that are engaged in combat missions, nor may they be assigned to other than temporary duty

on vessels of the Navy except hospital ships, transports, and vessels of similar classifications not expected to be assigned combat missions. Similarly, Air Force women, except those in designated medical, chaplain, and judge advocate functions may not be assigned to duty aboard aircraft engaged in combat missions. In the Army, constraints on the use of women in combat are covered by departmental policies that are consistent with the statutes governing the other services. DOD submitted legislation to the 96th Congress to repeal the statutory restrictions but the subcommittee did not report out prior to the adjournment of the 96th Congress. See DOD Report.

DOD has been asked, by citation, to detail, for each Service, each MOS now categorically closed to women under a combat exclusion policy or law, and provide a description of the duties required.

Also as a result of combat exclusion law/policy, military service academies, which first opened their doors to women in 1976, limit the number of women admitted based on management/personnel factors related to combat or combat-related position requirements of the services at a given time. Similar policy decisions limit the number of women allowed to enroll in the Reserve Officer Training Corps and the Officer Candidate School.

On January 14, 1982, the Secretary of Defense issued a memorandum to all service secretaries informing them that the Administration desires to increase the role of women in the military, and noting that institutional barriers still exist to

the achievement of this goal. In a memorandum of the same date, the Deputy Secretary of Defense requested each department secretary to conduct a thorough study to determine how the career paths of military women are adversely affected by limitations on their assignment(s) to combat duties and hence full combat training regardless of performance qualifications. In turn, the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics outlined the specific questions to be addressed in these studies.

The initial responses from the services were "inconclusive," and, therefore, the Office of the Deputy Assistant Secretary of Defense for Equal Opportunity and Safety Policy is "working closely with the Services to complete a meaningful analysis." The results of the studies will be reported when complete.

DOD's report includes a summary of considerations currently being addressed in its review of combat exclusion law/policy. It states that the Supreme Court, in Rostker v. Goldberg, 453 U.S. 57 (1981) "implicitly sustained this (combat exclusion) differential treatment of women."

DOD's report also notes that repeal of 10 U.S.C. §6015 and §8549 would allow women the option of volunteering for combat duty, rather than being assigned it; this would constitute gender-differential treatment.

Despite the combat exclusion laws and policies of the services, much progress has been made in recent years to

eliminate institutional and statutory barriers to equal career opportunity. DOD has worked closely with Congress over the past decade to repeal and amend dozens of statutes which treated military women differently from military men. The most notable of these is the DOPMA (Pub. L. No. 96-513 (1980)) which revised and standardized provisions of law relating to the appointment, promotion, separation, and mandatory retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps and equalizing the treatment of male and female commissioned officers. Appendix B of the First Quarterly Report contained an extensive list of the statutes revised or repealed by DOPMA.

DEPARTMENT OF DEFENSE

Military women in all Services are fulfilling vital military requirements with the same high degree of competence as military men. Today, over 190,000 officers and enlisted women account for about 9% of the active force compared to 1972 when 45,000 women made up 1.5% of the active force. A Background Review on Women in the Military (Tab A), was published in October 1981, and outlines general policy concerns.

The Secretary of Defense established the Defense Advisory Committee on Women in the Services (DACOWITS) in 1951. DACOWITS is composed of civilian men and women appointed by the Secretary of Defense for a three-year term. The members serve as individuals, not as official representatives of any group or organization with which they are affiliated. The purpose of the Committee is to assist and advise the Secretary of Defense on policies and matters relating to women in the Services. In carrying out its purpose, the Committee interprets to the public the need for and the role of women as an integral part of the All Volunteer Force; encourages public acceptance of military service as a citizenship responsibility and as a career field for qualified women; recommends measures to insure effective utilization of the capabilities of the women in the Services; and, provides a vital link between the Armed Forces and the civilian communities.

The Department of Defense is committed to the elimination of artificial goals and barriers to the full utilization of women in the military. This is reflected in a memorandum sent to the military departments early last year in which the Secretary of Defense directed the fullest possible use of women in the military, directed the Service Secretaries to review personally their policies to insure that women were not discriminated against, and directed the Service Secretaries to break down any institutional barriers that might still exist.

Progress, as directed by Secretary Weinberger, is being made to remove barriers in career fields in which women are eligible to serve. In general, the Service Secretaries are alleviating discrimination and barriers, affording women a wide range of opportunities and competitive advancement, and maintaining a personnel mix capable of satisfying combat requirements and providing career development. The Services manage their forces toward these ends within the constraints of current legislation. The Department will continue to strive for a combat-ready force that provides equality of opportunity for all servicemembers within career fields for which they are physically and mentally qualified. We are committed to Secretary Weinberger's charge to increase the role of women in the military and to insure that women are not subject to discrimination in recruiting or in career opportunities.

In its recruitment program, the Department of Defense is concerned with four major areas of enlistment standards: aptitude, education, moral, and physical.

The aptitude criteria are based on test scores from the DoD entrance test, the Armed Services Vocational Aptitude Battery (ASVAB), which determines the aptitude eligibility for the four military services. The test is predictive of success in training. There are some variations among the Services in aptitude standards. The Army, Air Force, and Navy use the same standards for men and women, while the Marine Corps requires higher test scores for women than for men. The Marine Corps is evalua-

ting its policy regarding different entrance standards for men and women.

The level of education is used to predict adaptability to the Military Services. The possession of a high school diploma is the best single predictor of satisfactory adjustment to the military. At present, a high school diploma graduate has almost an eighty percent probability of completing the first three years of service, as against a sixty percent likelihood for the nongraduate. Standards for men and women are equal, although the Congress, in the 1983 DoD Appropriations Act, requires at least 65% of Army male members to be high school graduates.

All the Services basically use the same methods of researching an applicant's background and history to establish moral standards. These methods are designed to insure that good applicants may enlist and to prevent individuals with significant criminal records or with anti-social tendencies such as alcoholism or drug use from enlisting. Male and female applicants receive the same background checks.

Physicals are administered to men and women at the Military Entrance Processing Stations (MEPS). The minimum physical standards are the same for each Service with no significant differences in the standards for men and women. The Air Force has been administering a strength test to all its applicants since 1975. The purpose of the Air Force's test is to assign applicants to jobs for which they have the proper strength and stamina. This is the only Service to do so. The Army is validating measures of physical capacity for all its applicants. That action will enable the Army to match the physical capabilities of new recruits (both men and women) to the physical demands of various jobs. The Navy has conducted research in physical standards. Discussions between the Office of the Secretary of Defense and the Services are underway on a common set of gender-free physical capacity measurements.

In career opportunity, the Defense Officer Personnel Management Act (DOPMA) corrected gender bias in many of the statutes affecting military personnel. The Department is now reviewing the remaining statutes and will provide an assessment in the next quarterly report to the Department of Justice. S. 3008, Elimination of Gender-Based Distinctions, introduced by Senator Dole, also addresses gender-biased statutes. We must insure that all proposals to cure gender-biased language are reviewed carefully and evaluated to make sure that undesirable and unintended consequences do not result.

One provision of DOPMA places men and women in competition with each other for promotion in the same competitive categories in the Navy and Marine Corps. It is of particular concern to women in warfare specialties who are restricted by law from serving in combat positions and thus could be affected adversely at time of promotion because of their restricted utilization in the career specialties. We have been sensitive to this concern. Navy selection boards are briefed thoroughly on the restrictions so that they will be considered in the selection process, and Board results are monitored at the Department of the Navy and at Department of Defense levels. To date, women have fared generally as well as men, or better. Women communities in other services have competed at large with men under the same general procedures for some time, with equally balanced results. Our interest is to insure that we have fair promotion systems across all services in order to select our best people, regardless of gender.

Existing laws and Service policies related to the issue of women in combat restrict the employment of women in varying degrees. These statutory restrictions on women in combat (Sections 6015 and 8549 of Title 10, U. S. Code) apply to all Services except the Army. Under the cited statutes, Navy and Marine Corps women may not be assigned to duty aboard aircraft that are engaged in combat missions, nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of similar classifications not expected to be assigned combat missions. Similarly, Air Force women, except those in designated medical, chaplain and judge advocate functions may not be assigned to duty aboard aircraft engaged in combat missions. In the Army, constraints on the use of women in combat are covered by Departmental policies that are consistent with the statutes governing the other services. The DoD submitted legislation to the 96th Congress to appeal the statutory restrictions but the subcommittee did not report out prior to the adjournment of the 96th Congress.

The Department of Defense has these statutes under review. The considerations that bear on the issue are many. They include:

- Repeal of current restrictions probably would not result in major changes (at least initially) in the utilization of military women. The Departments of Navy and Air Force probably would implement policies similar to current statutory restrictions.
- Repeal would not result in significantly increased numbers of military women unless major policy changes result.
- Legislation to repeal statutory restrictions could be construed by Congress, by the public, and internationally as an effort by DoD to assign women to combat skills and employ them in combat.
- Repeal would have a favorable effect on the morale of those military women who feel constrained by current legal restrictions, but this could be short-lived, absent significant policy changes.
- The Defense Advisory Committee on Women in the Services (DACOWITS) strongly recommends repeal.
- A major objection to the assignment of women to combat career fields is their exposure to being killed, wounded, and captured. All Services readily acknowledge that in future conflicts, depending on their nature, significant numbers of women may be killed, wounded or captured even under existing law and policy. Assigning women to combat duties deliberately would increase these numbers.
- The Supreme Court's decision in the Rostker vs Goldberg case (concerning registration) relied heavily on the military's exclusion of women from combat and implicitly sustained this differential treatment of women.

- Repeal could provide an option for allowing women to volunteer for combat roles vice being assigned to them. This would constitute differential treatment.
- The statutes prohibiting women from combat were enacted in 1948 when the attitude of the Congress and the nation toward women was less egalitarian and more protective than it is now. Whether attitudes have changed to the extent of condoning intentional commitment of women to direct combat is not known.
- Existing laws could constrain the Secretaries of the Navy and Air Force from full use of their personnel resources in time of emergency.

On August 26, 1982, The Office of the Secretary of Defense announced the results of the Women in the Army Review, which was published on November 12, 1982. (Tab B). The number of enlisted women in the Army will increase to 70,000, which is the highest number of women in the Army since World War II and over 10% of the enlisted force. The Army will recruit well over 15,000 enlisted women per year to sustain this higher strength. An increase of 6,000 leadership and managerial positions available for women officers and non-commissioned officers will expand opportunities for meaningful careers. The study identifies certain skills that will not be open to women because of exclusion from direct combat. For all other specialties, new gender-free physical entry standards will improve the success and performance of both men and women who enter the Army. Except for a total of 61 of 364 skill areas most likely to involve direct combat, any soldier, male or female, will be able to serve in any skill in which he or she is physically able to perform. No skill will be closed due to physical demands alone, and no qualified person will be denied enlistment or reenlistment. The main intent of the Army's review was to make sure that no men and women who come into the Service will be "programmed" to fail by assignment to tasks they cannot accomplish. We want to put all of our human resources into occupations in which they can be successful.

The decade of the 1980s will see more clearly defined requirements for women in uniform being established in all Services. These requirements are being developed based on the proven capability of women in performing specific military requirements. In recognition of the vital role women play in sustaining the readiness of our military forces, we have increased the number of women in uniform from 150,000 to 190,000 over the last three years. Our projections call for continued growth over the next five years. Over the same period, we also expect greater numbers of women to progress into supervisory positions. Specifically, we project a 24% increase in women officers by 1987, and a 27% increase in the top six enlisted grades.

Statistics which reflect the clustering of women in the mid-to-lower grades do not reflect discrimination, rather they simply reflect how far women have come in their progress through the military personnel system since entering the force in large numbers starting in 1972. As a result of the rapid growth in military women strengths, 95% of all military women have less than ten years of service and about 71% have less than five years of service. Comparable figures for men are 76% and 53%, respectively. Our planned rate of increase over the next five

ears will permit the experience and grade distribution of military women to approximate more closely that of military men. That women are succeeding in the military service is evidenced by Figure 1. This figure shows that, in FY 82, women promoted to the grades E-2 through E-9 had less time-in-service, and thus achieved more rapid promotions, than their male counterparts.

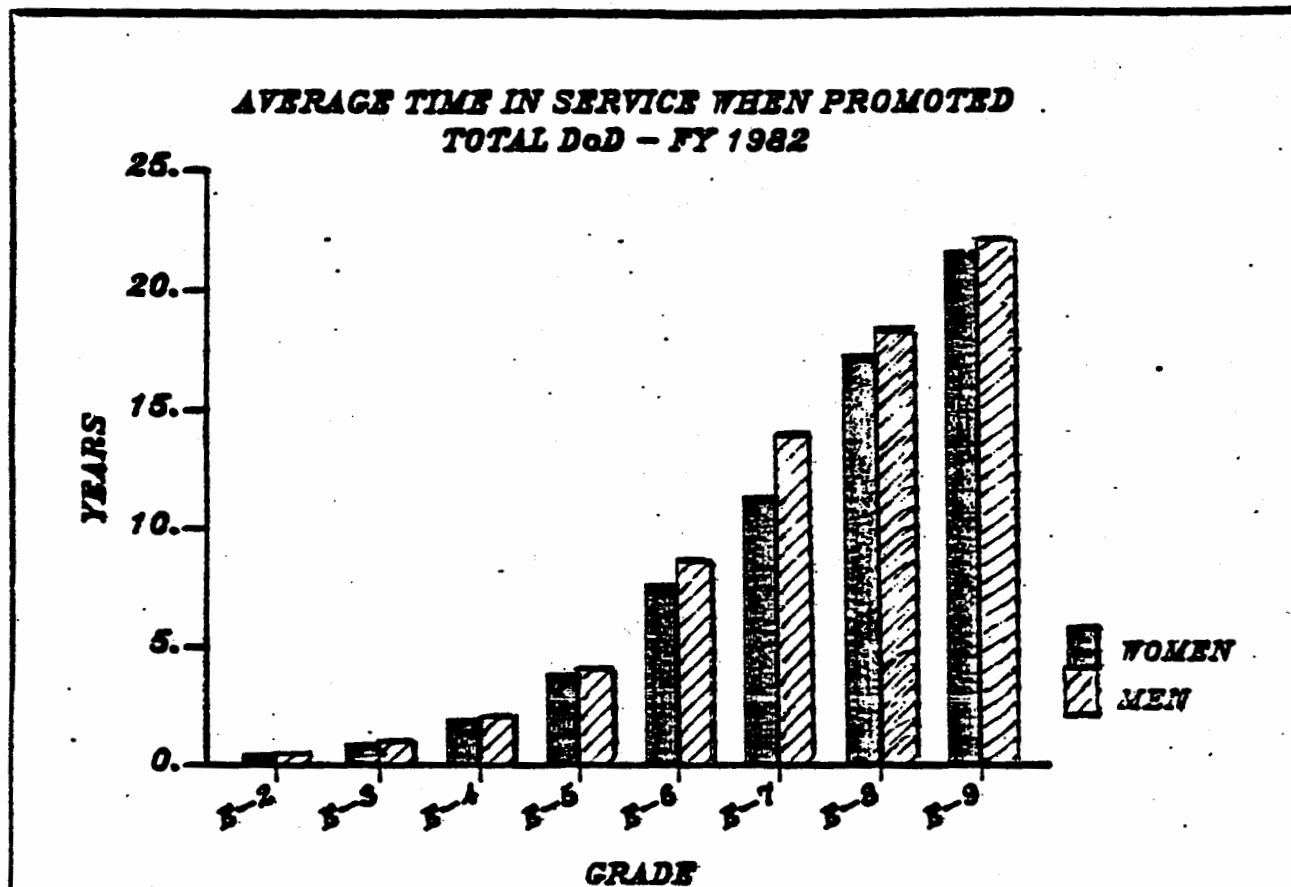


Figure 1.

From both quantitative and qualitative standpoints, there can be no doubt that women have progressed in the military and will continue to do so. The numbers cited above speak clearly to the subject. In addition, our publication entitled Women in America's Defense, Tab C, portrays women as full members of the Defense team. This publication also contains a copy of Secretary Weinberger's memorandum to the Secretaries of the Military Departments regarding the fullest possible use of women in the military.

Summary

Contrary to prevalent misconceptions, women are being recruited in large numbers. Their numbers in the military will continue to increase. They are an essential

part of the All Volunteer Force (AVF), and they are performing in an outstanding manner. Equal opportunity and legal equity are important considerations in our personnel program development, and we are committed to eliminating artificial barriers which affect the most effective utilization and development of women in the military.



THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

JAN 14 1932

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
SUBJECT: Women in the Military

Women in the military are a very important part of our total force capability. Qualified women are essential to obtaining the numbers of quality people required to maintain the readiness of our forces. This Administration desires to increase the role of women in the military, and I expect the Service Secretaries actively to support that policy.

While we have made much progress, some institutional barriers still exist. I ask that you personally review your Service policies to ensure that women are not subject to discrimination in recruiting or career opportunities. This Department must aggressively break down those remaining barriers that prevent us from making the fullest use of the capabilities of women in providing for our national defense.

Sup. Ke. L. G.



THE DEPUTY SECRETARY OF DEFENSE

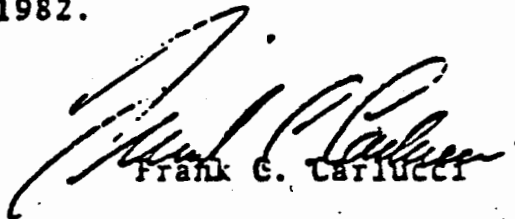
WASHINGTON, D.C. 20301

JAN 14 1982

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Barriers to the Utilization of Military Women

In accordance with Secretary Weinberger's guidance in his January 6, 1982 staff meeting, please send me your report on (1) actions you are taking to remove institutional barriers for women in the military and (2) your analysis of how their career paths are affected by limitations on their assignment to combat duties. In your report I want you to identify specifically the military career paths, officer and enlisted, which are closed or in any way restricted to women by combat limitations you have in place. In each instance specify whether the limitations exist because of law, policy, or definition of combat. I would also like you to quantify the impact of these limitations on your utilization of women. The attached format should be used for reporting the career path information. I would like your input no later than January 28, 1982.


Frank C. Carlucci

Attachment

REPORTS TO INCLUDE: Skill Identification
Nature of Limitation
Reason for Limitation
Total Number of Positions in Skill
& Number of Women in Skill.

69539

Department of Defense



HUMAN GOALS

Our nation was founded on the principle that the individual has infinite dignity and worth. The Department of Defense, which exists to keep the Nation secure and at peace, must always be guided by this principle. In all that we do we must show respect for the serviceman, the servicewoman and the civilian employee, recognizing their individual needs, aspirations and capabilities.

The defense of the Nation requires a well-trained force, military and civilian, regular and reserve. To provide such a force, we must increase the attractiveness of a career in Defense so that the service member and the civilian employee will feel the highest pride in themselves and their work in the uniform and the military profession.

THE ATTAINMENT OF THESE GOALS REQUIRES THAT WE STRIVE

To attract to the defense service people with ability, dedication, and capacity for growth;

To provide opportunity for everyone, military and civilian, to rise to as high a level of responsibility as possible, dependent only on individual talent and diligence;

To make military and civilian service in the Department of Defense a model of equal opportunity for all regardless of race, color, sex, religion or national origin,

and to hold those who do business with the Department to full compliance with the policy of equal employment opportunity;

To help each service member in leaving the service to readjust to civilian life; and

To contribute to the improvement of our society, including its disadvantaged members, by greater utilization of our human and physical resources while maintaining full effectiveness in the performance of our primary mission.

Ernest R. Meyer
Chief of Staff, U.S. Army
James H. Dugan
Chief of Staff, U.S. Air Force
Paul H. Brown
Commandant, U.S. Marine Corps

John D. Marsh, Jr.
Secretary of the Army
John L. Felt
Secretary of the Navy
James A. ...
Secretary of the Air Force

Supade R. ...
Secretary of Defense
Paul C. ...
Deputy Secretary of Defense
David C. Jones
Chairman and Chief of Staff

May 18, 1981

THE DoD HUMAN GOALS PROGRAM

FOR CIVILIAN EMPLOYEES



THE SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

JUN 23 1981

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTORS OF THE DEFENSE AGENCIES
DEPUTY ASSISTANT SECRETARY OF DEFENSE
(ADMINISTRATION)

SUBJECT: Equal Employment Opportunity (EEO) for Civilians
within the Department of Defense

The Equal Employment Opportunity Commission (EEOC) has the responsibility to issue instructions to Federal agencies for the development of affirmative action program plans (AAP). The responsibility for carrying out a successful affirmative action effort, under EEOC guidance, rests with each of us. We should all make every effort to increase the representation of qualified minorities, women, and persons with handicapping conditions in DoD.

I ask your help in managing and improving our EEO and AAP efforts by taking the following actions.

- Ensure that the civilian budget and compliance reports that we submit to OMB under Section 53 of its Circular A-11, "Preparation and Submission of Budget Estimates," are complete and accurate;
- Fill authorized equal employment opportunity staff positions, if necessary, with fully trained and qualified personnel;
- Ensure the impartial investigation of discrimination complaints, including sexual harassment, in a timely and equitable manner;
- Assure that sufficient full time staff positions and adequate resources are devoted to carry out equal employment opportunity programs; and
- Assure that your component fulfills its obligations under DoD Directive 5500.11, "Nondiscrimination in DoD Federally Assisted Programs," and recent Federal laws which prohibit discrimination under DoD federally assisted programs.

I ask that you review your equal opportunity budgets thoroughly to assure cost effective utilization of allocated funds--but not at the expense of program effectiveness.

Finally, all departmental officials to whom responsibility is delegated for the implementation of your EEO/AAP programs should have their efforts in that connection included in their evaluation along with other criteria. Critical elements for Senior Executive Service (SES) and Merit Pay System members, where appropriate, should include EEO performance standards. We must also try to increase the number of qualified minorities and women in the SES and SES candidate pools.

Please give this matter your careful attention. The Assistant Secretary of Defense (MRA&L) will submit reports to me annually on our efforts and progress in these areas. I look forward to your full cooperation in achieving a qualified civilian workforce that is reflective of the Nation's diversity.

A handwritten signature in dark ink, which appears to read "Samuel W. Huntington", is located at the bottom right of the page.

POLICY STATEMENT IMPLEMENTING

FOR MILITARY MEMBERS



THE SECRETARY OF DEFENSE

WASHINGTON DC 20301

JUN 23 1991

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTORS OF THE DEFENSE AGENCIES
DEPUTY ASSISTANT SECRETARY OF DEFENSE
(ADMINISTRATION)

SUBJECT: Equal Opportunity for Military Members within the
Department of Defense

In fulfilling our commitment to strengthen national security, I want to ensure that we do not neglect our military equal opportunity (EO) and affirmative action programs. The conditions that breed discrimination based on race, color, religion, gender, or national origin continue to exist in the society at large and may have a spillover into the military environment. Effective EO programs can significantly improve our cohesiveness, our readiness, and our total defense capability.

Accordingly, I ask your help in managing and improving our equal opportunity programs by taking the following actions:

- Ensure that the military budget and compliance report that we submit to OMB under Section 53 of its Circular A-11, "Preparation and Submission of Budget Estimates," are complete and accurate;
- Ensure that authorized equal opportunity/human resources management staff billets are filled with high caliber, fully trained, and qualified personnel at all levels;
- Ensure a prompt and impartial investigation of discrimination complaints, including racial and sexual intimidation, discrimination, and harassment;
- Review classification, assignment, and promotion policies to ensure that our objective of equitably distributing qualified minorities and women into service occupations and military grades is achieved;
- Continue to pursue the utilization of qualified women;
- Assure that sufficient full-time staff positions and sufficient resources are devoted to carry out equal opportunity programs; and
- Assure the fulfillment of our obligations under DoD Directives 1100.15, "The DoD Equal Opportunity Program" and 5500.11, "Nondiscrimination in DoD Federally Assisted Programs," and recent Federal laws which prohibit discrimination under DoD federally assisted programs.

I ask that you review your equal opportunity budgets thoroughly to assure cost effective utilization of allocated funds. Bearing in mind that if equal opportunity is to be meaningful in this Department, all officials to whom responsibility is delegated for implementation of your military EO programs must be evaluated on the basis of their efforts and results in these areas. The Assistant Secretary of Defense (MRA&L) will submit reports to me annually on our efforts and progress in these areas.

Traditionally, the military community has led our society in establishing equality of opportunity for all Americans. I look forward to your full cooperation in maintaining this leadership. I am convinced that a stronger, more cohesive military force will be the final result.



THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

JUL 17 1981

MEMORANDUM FOR The Secretaries of the Military Departments
Chairman of the Joint Chiefs of Staff
Directors of the Defense Agencies

SUBJECT: Department of Defense Policy on Sexual Harassment

Federal regulations require, and our DACOWITS strongly recommends, that policy statements be issued prohibiting sexual harassment of anyone. It is the firm policy of the Department of Defense that sexual harassment is unacceptable conduct and will not be condoned or tolerated. You can obtain definitions from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (ASD(MRA&L)).

A high priority will be given to investigating all complaints of sexual harassment. These complaints will be examined impartially and resolved promptly. Every supervisor and manager--military and civilian--will take the necessary action to ensure an environment free from sexual harassment.

I would appreciate it if each of you would issue a strong statement promulgating DoD and service policy on sexual harassment. Your statement should inform all personnel of the avenues to seek redress and the actions that will be taken against persons violating the policy. The ASD(MRA&L) will review the results of your policy and report the results to me annually.

Please send a copy of your statement which carries out this policy to the ASD(MRA&L) as soon as convenient.

I count on your personal leadership to make this policy work.

Samuel H. King



MANPOWER,
RESERVE AFFAIRS
AND LOGISTICS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

AUG 6 1981

MEMORANDUM FOR The Secretaries of the Military Departments
Chairman of the Joint Chiefs of Staff
Directors of the Defense Agencies

SUBJECT: Department of Defense Policy on Sexual Harassment

On July 17, 1981, Secretary Weinberger sent to you a memorandum outlining the Department's policy on sexual harassment. He has given me the responsibility to provide you with a definition of sexual harassment; that definition is set forth below:

"Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting this person; or (3) such conduct has the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile or offensive environment."

Any supervisor who uses implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated offensive verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment. Individuals who are sexually harassed are encouraged to make it clear that such behavior is offensive and to use fully the established procedures to report all cases of sexual harassment.

I would appreciate it if you would include the definition on sexual harassment in your policy statement and assure that you have appropriate training programs for military and civilian personnel. It would also be useful to me if you would establish a monitoring and reporting system. This will enable you to furnish to me the information I will need to report the results of your policy to the Secretary annually.

If you have any questions or need assistance, please contact the Deputy Assistant Secretary of Defense for Equal Opportunity.

Lawrence J. Korb
Assistant Secretary of Defense
(Manpower, Reserve Affairs & Logistics)

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES (DACOWITS)

The Defense Advisory Committee on Women in the Services (DACOWITS) celebrated its 30th anniversary in April 1981, with special activities planned in conjunction with its semianual meeting in Washington, D.C. DACOWITS is composed of civilian men and women who are selected on the basis of their outstanding reputations in business, the professions, public service, and their records of civic leadership, with due regard to equitable distribution of fields of interest and geographical location.

DACOWITS was established in 1951, by the late Secretary of Defense George Marshall when he invited fifty civilian women to Washington, D.C., to form an advisory committee pertain-

ing to women in the Armed Forces. Ms. Anna Rosenberg (Hoffman), Assistant Secretary of Defense for Manpower, Personnel and Reserve, served as presiding officer for this group of people from a variety of geographical locations who represented business, education, and civic enterprises.

At the formal reception and dinner, hosted by Deputy Secretary of Defense and Mrs. Frank C. Carlucci in honor of the 30th anniversary of DACOWITS, Mr. Carlucci presented Ms. Hoffman with a plaque honoring her as an instrumental agent in the founding of DACOWITS.

The Committee continues to successfully pro-



Mrs. Maria Elena Torralva, Chair, Defense Advisory Committee on Women in the Services, receives a certificate from Lieutenant General R. Dean Tice, Deputy Assistant Secretary of Defense (Military Personnel and Force Management).



Caspar W. Weinberger, Secretary of Defense, is seen in the receiving line at the formal reception and dinner honoring the 30th anniversary of DACOWITS held on April 27, 1981.

mote public acceptance of military service as a career field for women, and advise the Secretary of Defense on policies relating to the effective utilization of women in the Services. It interprets to the public the need for women to serve as an integral part of the All Volunteer Force. DACOWITS provides a vital link between the Armed Forces and the civilian communities.

The Committee has been particularly effective in the areas of recruitment and retention of servicewomen. Within their respective fields of interest and geographical

area, each DACOWITS member endeavors to aid the recruiting program by providing publicity for use in the local media, and by endorsing military careers in speaking engagements. In their recommendations to the Department of Defense, the Committee concentrates on areas which affect the retention rate, housing, pay and allowances, job opportunities and existent inequities. Their recommendations are valuable in considering and seeking changes in policies and laws.



Frank C. Carlucci, Deputy Secretary of Defense, presents Ms. Anna Rosenberg Hoffman a plaque honoring her for her work in the founding of DACOWITS.

DEFENSE EQUAL OPPORTUNITY MANAGEMENT INSTITUTE

The Defense Equal Opportunity Management Institute (EOMI), formerly known as the Defense Race Relations Institute (DRRI), is located at Patrick Air Force Base, Florida. Established in June 1971, the Institute was originally designed to train race relations instructors for all of the Armed Forces. The primary objective of the Institute was to reduce racial tensions and prevent racial violence in the Armed Forces.

After an extensive review of the race relations and equal opportunity programs in DoD, and an assessment of the training program offered by the Institute, the Institute was reorganized in 1977-1978 and its mission was expanded. Today, the Institute trains military and civilian personnel to be equal opportunity specialists and staff officers. The curriculum has been revised to shift the focus from what was almost exclusively individual forms of discrimination to the concern with both individual forms of discrimination and the more pervasive systemic and institutional forms of discrimination. The DRRI training of a core phase and a service phase has been integrated into a single training program of 16 weeks. Students are now taught specific skills to identify not only personal discrimination but also institutional discrimination. Added to these skills are those which provide future Equal Opportunity Specialists with the ability to use major management assessment tools to (1) identify issues involving equal responsibility as a road to equal opportunity; (2) to move from understanding abstract concepts in society to translating

them into practice in a defense environment; (3) to base actions and reactions on data rather than emotion. As well as being trained in using management assessment tools to identify, understand, and translate issues for command, Equal Opportunity Specialists are also trained to assist and advise commanders on appropriate courses of action based on conflict resolution knowledge and techniques and problem-solving skills. Such training provides commanders with the required linkage of equal opportunity actions to mission effectiveness and readiness by helping to bring about a reduction of real or perceived strains and conflicts which impede people satisfaction, hence mission effectiveness and readiness.

The name of the Institute was changed in July 1979 from DRRI to EOMI in order to reflect the total range of what is now being taught. With this broader focus, however, there has been no reduction in the amount of effort devoted to training personnel in race/human relations. The course length has been expanded.

In addition to serving the active forces of the DoD, EOMI recently implemented a course consisting of correspondence and resident phases to accommodate the scheduling needs of the National

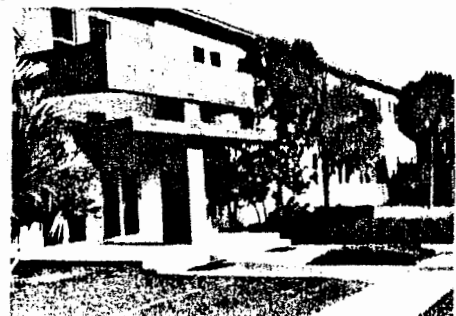


Colonel Shirley J. Bach, USAF, Director, Defense Equal Opportunity Management Institute.

Guard and the Reserves.

Since its inception, EOMI has trained over 7,000 race relations instructors and equal opportunity specialists for the Armed Forces and the United States Coast Guard. EOMI continues to assist commanders in attaining and maintaining the highest degree of organizational effectiveness and combat readiness through the promotion of harmonious relations throughout the DoD.

On June 21, 1981, EOMI celebrated its tenth anniversary, a significant milestone. Speakers at the ceremony included Mr. James N. Jullana, Principal Deputy to the Assistant Secretary of Defense (MRA&L), and Major General Lucius Theus, USAF (Ret.) who is considered to be the "Father" of EOMI.



SPOUSE EMPLOYMENT PROGRAM



EXECUTIVE ORDER 12362 OVERSEAS EMPLOYMENT

By the authority vested in me as President of the United States of America by Sections 3301 and 3302 of Title 5 and Section 301 of Title 3 of the United States Code, and in order to permit certain overseas employees to acquire competitive status upon returning to the United States, it is hereby ordered as follows:

Section 1. A United States citizen who is a family member of a civilian employee or of a member of a uniformed service and who has completed a total of 24 months of fully satisfactory service under one or more overseas appointments in the excepted or competitive civil service, may be appointed noncompetitively to a competitive service position in the Executive branch within the United States (including Guam, Puerto Rico and the Virgin Islands) if he or she meets the qualifications and other requirements established by the Director of the Office of Personnel Management and the provisions of this Order.

Section 2. In order to be eligible for noncompetitive appointment to positions within the United States under this authority, such an individual must:

(a) have been appointed to an overseas position or positions while residing in the overseas area under local hire procedures approved by the Director of the Office of Personnel Management;

(b) have completed 24 months of overseas service in an appropriated fund position after January 1, 1980 within a ten year period from the date of initial appointment;

(c) have received a satisfactory or better performance rating for such overseas service;

SPOUSE EMPLOYMENT PROGRAM

(d) have been a family member of a civilian employee or of a member of a uniformed service (the civilian or uniformed sponsor) while serving in the overseas position or positions;

(e) have accompanied the civilian or uniformed sponsor on official assignment to an overseas post of duty while serving in the overseas position or positions; and

(f) exercise the eligibility for noncompetitive appointment within two years of returning to the United States.

Section 3. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this Order, including uniform local hire procedures to assure merit selection of overseas employees.

Section 4. To the extent there is any conflict between this Order and Civil Service Rule 8.2 (5 CFR 8.2), the provisions of this Order shall control.

RONALD REAGAN

**THE WHITE HOUSE,
May 12, 1982.**

What is the DoD Federal Women's Program

The Federal Women's Program within the Department is a management initiative, operating under the authority of DoD Instruction 1450.1, *Federal Women's Program Within the Department of Defense*.

Each of the military departments and agencies within DoD has appointed Federal Women's Program Managers (FWPMs) to ensure that the employment concerns of government women are addressed, and to pursue the objectives cited in the DoD Human Goals Statement. Full time, part-time, collateral duty, and committee member Defense employees work to advance the employment of women through the Federal Women's Program.

The Federal Women's Program Manager serves as the focal point for improving the employment policies and practices, advises on procedures, and helps to advance women in the DoD work force. The goals of the Federal Women's Program and FEW are identical: to engage managerial support in applying resources to advance the employment of women, and to design training programs to motivate women employees to become qualified to compete for higher-level traditional and non-traditional jobs.

DoD and FEW Working Together

This is not the first time that DoD and FEW have teamed up to discuss issues of mutual interest. Last October, DoD sponsored a Federal Women's Program Observance, entitled "DoD Forum on Women's Issues," which dealt with all aspects of Federal women's concerns. Included on the agenda were topics such as these: "Military Spouse Issues;" "Succeeding in a Military Environment;" "Stress — Executive and Other Types;" "Senior Executive Service — How to Get There, How to Stay There;" and "Changing Roles of Women . . . Youth, Minority Women, Older Women, the Disabled." On a monthly basis, in the Pentagon and at other Defense locations, training sessions are held for managers and employees, cosponsored by the FWP and FEW.

DoD and FEW continue to view these seminars and other events as a part of ongoing dialogue to raise important issues affecting women in the Federal work force, as a part of the Defense team.



Kari J. Fielder is the Director of Public Affairs for Headquarters, Air Force Contract Management Division at Kirtland Air Force Base, Albuquerque, New Mexico. Her government career began at the Pentagon as a clerk-typist in the United States Air Force Civilian Personnel Office. Eleven months later she entered an Air Force upward mobility program as a writer-editor, with the Office of the Chief of Security Police. Four years later, she assumed her present position at Kirtland AFB. Ms. Fielder's story is an example of the aims of FEW and the FWP.

DEPARTMENT OF EDUCATION

Status Summary

The Department of Education (ED) is the cabinet-level department which establishes policy for, administers, and coordinates most Federal assistance to education.

ED was created by the Department of Education Organization Act (20 U.S.C. §3401), approved October 17, 1979, with the first Secretary of Education sworn in on December 6, 1979.

As of May, 1982, no exhaustive review of the USC, the CFR, policies, and practices for gender discrimination had been conducted by ED. On August 12, 1982, ED notified the Department of Justice that a thorough review was complete and that "none of the Department of Education's laws or regulations unjustifiably differentiates or effectively discriminates on the basis of sex." The letter also stated that a review of ED's policies and practices was underway. On October 14, 1982, ED notified the Department of Justice that the review of policies and practices was complete and that no instance of unjustifiable differentiation or effective discrimination on the basis of sex had been identified. Attached to this letter was a list, by citation and description, of ED's laws, regulations, policies, and practices that prohibit, monitor, or control for gender discrimination in ED's programs.

Ed has been asked to identify and report those provisions of the USC, the CFR, policies, and practices it has reviewed (by citation).

Since submission of the attached list of gender discrimination prohibitions, ED has forwarded a memorandum and attachments which include a list of ED publications reviewed and found to be gender-neutral.

Finally, ED has been asked to report on what specific steps are being taken to implement the Women's Educational Equity Act and the Equity Training and Technical Assistance Program under which \$5.76 million and \$24 million, respectively, will be disbursed in FY 1983.

SURVEY OF GENDER DISTINCTIONS IN DEPARTMENT
OF EDUCATION REGULATIONS AND PROGRAMS

Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., prohibits discrimination on the basis of sex in education programs or activities receiving federal financial assistance. Regulations implementing Title IX are found at 34 CFR Part 106. The Office for Civil Rights has published the following guidelines and policy interpretations on Title IX:

44 Fed. Reg. 71412 (December 11, 1979) contains a policy interpretation on intercollegiate athletics.

44 Fed. Reg. 17162 (March 21, 1979) contains guidelines for eliminating discrimination and denial of services on the basis of race, color, national origin, sex and handicap in vocational education programs.

44 Fed. Reg. 18772 (May 2, 1978) contains a memorandum on the application of Title IX to intercollegiate athletics.

44 Fed. Reg. 18629 (May 1, 1978) contains policy interpretations on requests for a job applicant's marital status and religious objections to participation in coeducational classes, and a decision announcement on the use of statistical analyses in proving allegations of unlawful sex discrimination.

General Education Provisions Act

20 U.S.C. 1221e (National Institute of Education)

Declaration of U.S. policy to provide to every person an equal opportunity to receive a high quality education regardless of sex.

Education Department General Administrative Regulations

34 CFR 75.111(d)

An applicant for a new grant under a formula grant program must provide information about the project, including the extent to which intended project participants and beneficiaries are members of groups that have been traditionally underrepresented, such as women.

34 CFR 75.140(c)

Any local educational agency that is required to hold a public meeting to inform the public about a grant for which it is applying must take steps to insure that persons who are members of groups that have been traditionally underrepresented, including women, receive notice of the meeting and are encouraged to participate in the meeting.

34 CFR 75.202, 75.203

The regulations include selection criteria that are used by most of the Department's direct discretionary grant programs in evaluating application. One of these criteria is the quality of the applicant's plan of operation, which is evaluated in part based on the applicant's description of how it will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as women (34 CFR 75.202(a)(5)). Another criterion in selecting grantees is the quality of key personnel, including the extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as women (34 CFR 75.203(b)(4)). ✓

34 CFR 75.500, 76.500

Each grantee is required to comply with the provisions requiring nondiscrimination on the basis of sex contained in Title IX of the Education Amendments of 1972, as implemented by 34 CFR Part 106.

34 CFR 75.590(c)(1)

Each grantee must evaluate the effect of its project on persons being served by the project, including persons who are members of groups that have been traditionally underrepresented, such as women.

Federal Real Property Assistance Program

34 CFR 12.3(f)

An applicant's plan of operation for use of Federal surplus real property must provide that the applicant will not discriminate on the basis of sex.

Contract Compliance

ED Standard Clause 32

A contractor agrees not to discriminate against any employee or applicant for employment because of sex, and agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to sex. This provision implements 41 CFR Chapter 60 which includes sex discrimination guidelines at Part 60-20.

Sexual Harrassment

The Secretary issued a policy statement and sent a memorandum to all ED employees and one to managers and supervisors setting out the Department's policy to prevent and/or eliminate sexual harrassment in the work environment. See attached.

Bilingual Education Act

Program regulations implementing the Bilingual Education Act (20 U.S.C. 3221-3261) use as a criterion in selecting grantees the extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as women (34 C.F.R. 501.30(f)(1)(ii)(B), 502.30(a), 503.31(f)(1)(iii)(B), 504.30(g)(1)(iii)(B), 505.30(f)(1)(iii)(B), 510.30(g)(1)(iii)(B), 514.30(e)(3)(iii)).

Women's Educational Equity Act

The Women's Educational Equity Act (20 U.S.C. 3341-3348) authorizes a program of grants and contracts designed to provide educational equity for women in the United States and to assist educational agencies and institutions to meet the requirements of Title IX of the Educational Amendments of 1972. Regulations implementing this program are found at 34 CFR Part 745.

Title IV of the Civil Rights Act of 1964

Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c-5) authorizes technical assistance, training of educational personnel, and financial assistance to local educational agencies to assist them in dealing with problems relating to desegregation on the basis of race, color, religion, sex, or national origin. The program regulations authorize four types of programs to assist with problems relating to the elimination of sex discrimination in education (34 CFR Part 270).

Fellowships for Graduate and Professional Students

Section 922(d)(3) of the Higher Education Act, 20 U.S.C. 1134e(d)(3)), provides that, in making grants to institutions of higher education to be used for fellowships, the Secretary shall --

Consider the need to prepare a larger number of individuals from minority groups, especially from among such groups that have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefit of the program authorized in this section, in comparison with the total number of individuals of such group in any community, State, or other area.

The program regulations (34 CFR 649.4) define the term "underrepresented groups" as follows:

"Underrepresented groups" means minorities and other groups, including women, who are underrepresented in the specific graduate area of study or profession in which the award is made.

In ranking applications for awards under this program, points are awarded for such activities involving "underrepresented" groups as:

The hiring of faculty and administrators from underrepresented groups (34 CFR 649.12(a)(2)(iii)).

A recruitment plan that focuses on underrepresented groups (34 CFR 649.12(b)(2)).

Net increase of students from underrepresented groups (34 CFR 649.12(c)).

Recruitment from underrepresented groups in the academic area of the fellowship (34 CFR 649.12).

Provision of public service education to individuals from underrepresented groups (34 CFR 649.13(b)).

Nondiscriminatory employment practices with respect to underrepresented groups (34 CFR 649.13(e)(2)(iv) and 649.14(d)(1)(iv)).

National Direct Student Loan Program

34 CFR 674.34(b)(1);

34 CFR 674.34a(b)(1)

These provisions implement section 464(c)(2)(A)(ii) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1087dd(c)(2)(A)(ii), and Section 205(b)(2) of the National Defense Education Act of 1958 as amended (NDEA), 20 U.S.C. §425(b)(2), by providing that no repayment of principal or interest need be made on a loan made under the National Direct Student Loan (NDSL) Program, or its predecessor, the National Defense Student Loan Program, during any period of the United States Armed Forces. In Personnel Administrator of Massachusetts v. Fenney, 442 U.S. 256 (1979), the Supreme Court recognized the fact that hiring preferences based on military service operate overwhelmingly in favor of males. Statutes or regulations which grant a benefit, such as deferment of a student loan repayment, on the basis of military service, will have a disproportionate impact on the number of women qualifying for that benefit, at least until enlistment ratios equalize.

34 CFR 674.56

In addition to the provision for deferment of repayment of loans made under these programs for periods of military service, the regulations provide that up to one-half of the borrower's obligation on these loans is cancelled at the rate of 12 1/2 percent of the original principal amount, plus the interest on the unpaid balance, for each year of military service completed by the borrower. This provision is based on Section 205(b)(3) of the NDEA, 20 U.S.C. §425(b)(3), and Section 465(a)(2)(D) of the HEA, 20 U.S.C. §1087ee(a)(2)(D).

Guaranteed Student Loan Program

47 Fed. Reg. 19086, May 3, 1982

Pursuant to Section 532(a) of the Omnibus Reconciliation Act of 1981, Pub. L. 97-35, the Secretary published a schedule of expected family contributions to the educational costs of borrowers seeking to qualify for subsidized guaranteed student loans. A similar schedule is now in the clearance process for the 1983-84 academic year. These schedules provide two methods of calculating the need of borrowers into dependent and independent students, and treat the two groups differently.

The schedule and the systems it authorizes are gender-neutral on their face. However, two married independent students have sued to have the schedules declared unconstitutional, alleging that the schedules, by requiring the families of married independent students with incomes over \$30,000 to contribute more of their income to the borrower's education than equally affluent families of dependent students, discriminate on the basis of sex. Barbara Greenberg, et al v. T.H. Bell, et al., C.A. No. 82-0927 (E.D.N.Y.). These plaintiffs assume that most spouses earning over \$30,000 a year are men, and therefore that the class of students adversely affected by these standards is composed mostly of married women. They assert that the Department's schedules have a disproportionate impact on women, and that this consequence was foreseen and therefore intended as a matter of law if not of fact. We are aware of no studies which would confirm or rebut this contention that the class of married, independent students required to show financial need comprises mostly women.

34 CFR 682.508(b)

This section of the regulations implements Section 427(a)(2)(C) of the HEA by providing a deferment for GSLP borrowers during any period during which a borrower is attending a Federal institution such as a service academy, 34 CFR 682.508(b)(1)(ii), and for up to three years of active duty service in the United States Armed Forces. 34 CFR 682.508(b)(3). For the same reasons as those discussed earlier with regard to the similar provisions of the NDSL regulations, these deferment provisions might be expected to have a disproportionate adverse impact on women.

Vocational Education and Rehabilitation Programs

A. Adult Education

34 CFR 426.23(a)

The membership of the State advisory council must include "a significant proportion of women."

B. Vocational Education

34 CFR 400.72-400.75

The State must hire full-time personnel to eliminate sex discrimination and sex stereotyping. The functions of such personnel are enumerated. These regulatory provisions implement 20 U.S.C. 2301(3) (the purpose of the Act is to overcome sex discrimination and sex stereotyping in vocational education); 2304(b)(1) (requiring the States to hire sex equity personnel); 2309(a)(3)(B) (requiring sex equity personnel to review the State plan).

34 CFR 400.92(a)(17), (b)(3)

The membership of the State advisory council must include women with certain backgrounds and knowledge about job discrimination and include appropriate representation of both sexes. These provisions implement 20 U.S.C. 2305(a).

34 CFR 400.93(c)

The State advisory council must evaluate all vocational education programs (including those to overcome sex bias), and publish and distribute the results.

34 CFR 400.111(d)

Each eligible recipient must establish a local advisory council with appropriate representation of both sexes.

34 CFR 400.171(g)

The State plan must contain a certification by sex equity personnel that an opportunity was provided to review the plan. This provision implements 20 U.S.C. 2309(a)(3)(B).

34 CFR 400.187

The State plan must include a description of the policies and procedures that will be used to assure equal access to vocational education by both sexes. This provision implements 20 U.S.C. 2307(b)(4).

34 CFR 400.261 and 400.262

The Secretary will not approve a State plan until he has received assurances that sex equity personnel have had a chance to review it. This provision implements 20 U.S.C. 2309(a)(3)(B).

34 CFR 400.402

The State Board must evaluate the effectiveness of additional services provided to women.

34 CFR 400.502(c)(9)

The State is authorized to use grant funds to provide support services to women. This provision implements 20 U.S.C. 2330(b)(1)(J).

34 CFR 400.592

The State is authorized to use grant funds for industrial arts programs designed to eliminate sex stereotyping.

34 CFR 400.601-400.603

The State may use grant funds to provide counseling, job development, or job follow-up support services to women. These provisions implement 20 U.S.C. 2330(b)(1)(J).

34 CFR 400.621-400.622

The State must establish programs for displaced homemakers and other special groups. These provisions implement 20 U.S.C. 2330(b)(1)(L).

34 CFR 400.701(d)

The State is authorized to use grant funds for grants to overcome sex bias and sex stereotyping. This provision implements 20 U.S.C. 2303(e) and 2350(b)(6).

34 CFR 400.705(c)

A research coordinating unit may use grant funds for programs to overcome sex stereotyping, for curriculum materials, or for reviewing such materials to insure they do not reflect sex stereotypes. This provision implements 20 U.S.C. 2351(b)(2) and (3).

34 CFR 400.706(b)

Contracts made by the research coordinating unit for exemplary projects must give priority to programs designed to reduce sex bias and sex stereotyping. This provision implements 20 U.S.C. 2352(b).

34 CFR 400.763

The State may use grant funds for training designed to make counselors aware of women's changing work patterns, ways of overcoming sex stereotyping, and ways of helping women choose careers based on their interests and needs. This provision implements 20 U.S.C. 2354(a).

34 CFR 400.774

The State may use grant funds for in-service training for vocational staff designed to overcome sex bias and sex stereotyping. This provision implements 20 U.S.C. 2355(a).

34 CFR 400.791-400.793

The State may use grant funds to support grants to overcome sex bias and sex stereotyping. The types of projects that may be supported are set out. These provisions implement 20 U.S.C. 2350(b) and 2356.

34 CFR 400.901-400.905

The State must establish programs of consumer and homemaking education or fund ancillary services. The types of programs acceptable and the purposes of the programs are set forth. These provisions implement 20 U.S.C. 2380.

34 CFR 408.104

The Secretary may support projects of national significance, including grants to assist in overcoming sex bias and sex stereotyping. This provision implements 20 U.S.C. 2356 and 2401(a).

34 CFR 408.309(g)

In reviewing applications for leadership development awards, the Secretary will consider whether the distribution among males and females is equitable.

34 CFR 408.443(e) and (f)

In reviewing applications for certification fellowships, the Secretary will consider the applicant's goals and their relationship to eliminating sex stereotyping. The Secretary will consider whether the distribution among males and females is equitable and whether an applicant is entering a field not traditionally open to a person of that sex.

34 CFR 408.503(c)

An application for a grant for emergency assistance for remodeling and renovating vocational education facilities must state how the improvements will further the goal of eliminating sex bias and sex stereotyping. This provision implements 20 U.S.C. 2443(a)(3).

C. Library Career Training

34 CFR 776.11(b)

Applicants are encouraged to design projects that increase the opportunities for upward mobility of women through advanced degree level programs.

D. Vocational Rehabilitation

34 CFR 361.31(a)(1)

The State plan must contain the assurance that Federal eligibility requirements will be applied without regard to sex of applicants.

E. Vending Facility Program for the Blind

34 CFR 395.3(a)(11)

In an application for designation as a State licensing agency, the agency will provide an assurance that it will establish a policy against discrimination of any blind vendor on the basis of sex.

DEPARTMENT OF EDUCATION

Status Summary

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ED was created by the Department of Education Organization Act (20 U.S.C. §3401), approved October 17, 1979, with the first Secretary of Education sworn in on December 6, 1979.

As of May, 1982, no exhaustive review of the USC, the CFR, policies, and practices for gender discrimination had been conducted by ED. On August 12, 1982, ED notified the Department of Justice that a thorough review was complete and that "none of the Department of Education's laws or regulations unjustifiably differentiates or effectively discriminates on the basis of sex." The letter also stated that a review of ED's policies and practices was underway. On October 14, 1982, ED notified the Department of Justice that the review of policies and practices was complete and that no instance of unjustifiable differentiation or effective discrimination on the basis of sex had been identified. Attached to this letter was a list, by citation and description, of ED's laws, regulations, policies, and practices that prohibit, monitor, or control for gender discrimination in ED's programs.

Ed has been asked to identify and report those provisions of the USC, the CFR, policies, and practices it has reviewed (by citation).

Since submission of the attached list of gender discrimination prohibitions, ED has forwarded a memorandum and attachments which include a list of ED publications reviewed and found to be gender-neutral.

Finally, ED has been asked to report on what specific steps are being taken to implement the Women's Educational Equity Act and the Equity Training and Technical Assistance Program under which \$5.76 million and \$24 million, respectively, will be disbursed in FY 1983.

SURVEY OF GENDER DISTINCTIONS IN DEPARTMENT
OF EDUCATION REGULATIONS AND PROGRAMS

Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., prohibits discrimination on the basis of sex in education programs or activities receiving federal financial assistance. Regulations implementing Title IX are found at 34 CFR Part 106. The Office for Civil Rights has published the following guidelines and policy interpretations on Title IX:

44 Fed. Reg. 71412 (December 11, 1979) contains a policy interpretation on intercollegiate athletics.

44 Fed. Reg. 17162 (March 21, 1979) contains guidelines for eliminating discrimination and denial of services on the basis of race, color, national origin, sex and handicap in vocational education programs.

44 Fed. Reg. 18772 (May 2, 1978) contains a memorandum on the application of Title IX to intercollegiate athletics.

44 Fed. Reg. 18629 (May 1, 1978) contains policy interpretations on requests for a job applicant's marital status and religious objections to participation in coeducational classes, and a decision announcement on the use of statistical analyses in proving allegations of unlawful sex discrimination.

General Education Provisions Act

20 U.S.C. 1221e (National Institute of Education)

Declaration of U.S. policy to provide to every person an equal opportunity to receive a high quality education regardless of sex.

Education Department General Administrative Regulations

34 CFR 75.111(d)

An applicant for a new grant under a formula grant program must provide information about the project, including the extent to which intended project participants and beneficiaries are members of groups that have been traditionally underrepresented, such as women.

34 CFR 75.140(c)

Any local educational agency that is required to hold a public meeting to inform the public about a grant for which it is applying must take steps to insure that persons who are members of groups that have been traditionally underrepresented, including women, receive notice of the meeting and are encouraged to participate in the meeting.

34 CFR 75.202, 75.203

The regulations include selection criteria that are used by most of the Department's direct discretionary grant programs in evaluating application. One of these criteria is the quality of the applicant's plan of operation, which is evaluated in part based on the applicant's description of how it will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as women (34 CFR 75.202(a)(5)). Another criterion in selecting grantees is the quality of key personnel, including the extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as women (34 CFR 75.203(b)(4)). ✓

34 CFR 75.500, 76.500

Each grantee is required to comply with the provisions requiring nondiscrimination on the basis of sex contained in Title IX of the Education Amendments of 1972, as implemented by 34 CFR Part 106.

34 CFR 75.590(c)(1)

Each grantee must evaluate the effect of its project on persons being served by the project, including persons who are members of groups that have been traditionally underrepresented, such as women.

Federal Real Property Assistance Program

34 CFR 12.3(f)

An applicant's plan of operation for use of Federal surplus real property must provide that the applicant will not discriminate on the basis of sex.

Contract Compliance

ED Standard Clause 32

A contractor agrees not to discriminate against any employee or applicant for employment because of sex, and agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to sex. This provision implements 41 CFR Chapter 60 which includes sex discrimination guidelines at Part 60-20.

Sexual Harrassment

The Secretary issued a policy statement and sent a memorandum to all ED employees and one to managers and supervisors setting out the Department's policy to prevent and/or eliminate sexual harrassment in the work environment. See attached.

Bilingual Education Act

Program regulations implementing the Bilingual Education Act (20 U.S.C. 3221-3261) use as a criterion in selecting grantees the extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as women (34 C.F.R. 501.30(f)(1)(ii)(B), 502.30(a), 503.31(f)(1)(iii)(B), 504.30(g)(1)(iii)(B), 505.30(f)(1)(iii)(B), 510.30(g)(1)(iii)(B), 514.30(e)(3)(iii)).

Women's Educational Equity Act

The Women's Educational Equity Act (20 U.S.C. 3341-3348) authorizes a program of grants and contracts designed to provide educational equity for women in the United States and to assist educational agencies and institutions to meet the requirements of Title IX of the Educational Amendments of 1972. Regulations implementing this program are found at 34 CFR Part 745.

Title IV of the Civil Rights Act of 1964

Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c-5) authorizes technical assistance, training of educational personnel, and financial assistance to local educational agencies to assist them in dealing with problems relating to desegregation on the basis of race, color, religion, sex, or national origin. The program regulations authorize four types of programs to assist with problems relating to the elimination of sex discrimination in education (34 CFR Part 270).

Fellowships for Graduate and Professional Students

Section 922(d)(3) of the Higher Education Act, 20 U.S.C. 1134e(d)(3)), provides that, in making grants to institutions of higher education to be used for fellowships, the Secretary shall --

Consider the need to prepare a larger number of individuals from minority groups, especially from among such groups that have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefit of the program authorized in this section, in comparison with the total number of individuals of such group in any community, State, or other area.

The program regulations (34 CFR 649.4) define the term "underrepresented groups" as follows:

"Underrepresented groups" means minorities and other groups, including women, who are underrepresented in the specific graduate area of study or profession in which the award is made.

In ranking applications for awards under this program, points are awarded for such activities involving "underrepresented" groups as:

The hiring of faculty and administrators from underrepresented groups (34 CFR 649.12(a)(2)(iii)).

A recruitment plan that focuses on underrepresented groups (34 CFR 649.12(b)(2)).

Net increase of students from underrepresented groups (34 CFR 649.12(c)).

Recruitment from underrepresented groups in the academic area of the fellowship (34 CFR 649.12).

Provision of public service education to individuals from underrepresented groups (34 CFR 649.13(b)).

Nondiscriminatory employment practices with respect to underrepresented groups (34 CFR 649.13(e)(2)(iv) and 649.14(d)(1)(iv)).

National Direct Student Loan Program

34 CFR 674.34(b)(1);

34 CFR 674.34a(b)(1)

These provisions implement section 464(c)(2)(A)(ii) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1087dd(c)(2)(A)(ii), and Section 205(b)(2) of the National Defense Education Act of 1958 as amended (NDEA), 20 U.S.C. §425(b)(2), by providing that no repayment of principal or interest need be made on a loan made under the National Direct Student Loan (NDSL) Program, or its predecessor, the National Defense Student Loan Program, during any period of the United States Armed Forces. In Personnel Administrator of Massachusetts v. Fenney, 442 U.S. 256 (1979), the Supreme Court recognized the fact that hiring preferences based on military service operate overwhelmingly in favor of males. Statutes or regulations which grant a benefit, such as deferment of a student loan repayment, on the basis of military service, will have a disproportionate impact on the number of women qualifying for that benefit, at least until enlistment ratios equalize.

34 CFR 674.56

In addition to the provision for deferment of repayment of loans made under these programs for periods of military service, the regulations provide that up to one-half of the borrower's obligation on these loans is cancelled at the rate of 12 1/2 percent of the original principal amount, plus the interest on the unpaid balance, for each year of military service completed by the borrower. This provision is based on Section 205(b)(3) of the NDEA, 20 U.S.C. §425(b)(3), and Section 465(a)(2)(D) of the HEA, 20 U.S.C. §1087ee(a)(2)(D).

Guaranteed Student Loan Program

47 Fed. Reg. 19086, May 3, 1982

Pursuant to Section 532(a) of the Omnibus Reconciliation Act of 1981, Pub. L. 97-35, the Secretary published a schedule of expected family contributions to the educational costs of borrowers seeking to qualify for subsidized guaranteed student loans. A similar schedule is now in the clearance process for the 1983-84 academic year. These schedules provide two methods of calculating the need of borrowers into dependent and independent students, and treat the two groups differently.

The schedule and the systems it authorizes are gender-neutral on their face. However, two married independent students have sued to have the schedules declared unconstitutional, alleging that the schedules, by requiring the families of married independent students with incomes over \$30,000 to contribute more of their income to the borrower's education than equally affluent families of dependent students, discriminate on the basis of sex. Barbara Greenberg, et al v. T.H. Bell, et al., C.A. No. 82-0927 (E.D.N.Y.). These plaintiffs assume that most spouses earning over \$30,000 a year are men, and therefore that the class of students adversely affected by these standards is composed mostly of married women. They assert that the Department's schedules have a disproportionate impact on women, and that this consequence was foreseen and therefore intended as a matter of law if not of fact. We are aware of no studies which would confirm or rebut this contention that the class of married, independent students required to show financial need comprises mostly women.

34 CFR 682.508(b)

This section of the regulations implements Section 427(a)(2)(C) of the HEA by providing a deferment for GSLP borrowers during any period during which a borrower is attending a Federal institution such as a service academy, 34 CFR 682.508(b)(1)(ii), and for up to three years of active duty service in the United States Armed Forces. 34 CFR 682.508(b)(3). For the same reasons as those discussed earlier with regard to the similar provisions of the NDSL regulations, these deferment provisions might be expected to have a disproportionate adverse impact on women.

Vocational Education and Rehabilitation Programs

A. Adult Education

34 CFR 426.23(a)

The membership of the State advisory council must include "a significant proportion of women."

B. Vocational Education

34 CFR 400.72-400.75

The State must hire full-time personnel to eliminate sex discrimination and sex stereotyping. The functions of such personnel are enumerated. These regulatory provisions implement 20 U.S.C. 2301(3) (the purpose of the Act is to overcome sex discrimination and sex stereotyping in vocational education); 2304(b)(1) (requiring the States to hire sex equity personnel); 2309(a)(3)(B) (requiring sex equity personnel to review the State plan).

34 CFR 400.92(a)(17), (b)(3)

The membership of the State advisory council must include women with certain backgrounds and knowledge about job discrimination and include appropriate representation of both sexes. These provisions implement 20 U.S.C. 2305(a).

34 CFR 400.93(c)

The State advisory council must evaluate all vocational education programs (including those to overcome sex bias), and publish and distribute the results.

34 CFR 400.111(d)

Each eligible recipient must establish a local advisory council with appropriate representation of both sexes.

34 CFR 400.171(g)

The State plan must contain a certification by sex equity personnel that an opportunity was provided to review the plan. This provision implements 20 U.S.C. 2309(a)(3)(B).

34 CFR 400.187

The State plan must include a description of the policies and procedures that will be used to assure equal access to vocational education by both sexes. This provision implements 20 U.S.C. 2307(b)(4).

34 CFR 400.261 and 400.262

The Secretary will not approve a State plan until he has received assurances that sex equity personnel have had a chance to review it. This provision implements 20 U.S.C. 2309(a)(3)(B).

34 CFR 400.402

The State Board must evaluate the effectiveness of additional services provided to women.

34 CFR 400.502(c)(9)

The State is authorized to use grant funds to provide support services to women. This provision implements 20 U.S.C. 2330(b)(1)(J).

34 CFR 400.592

The State is authorized to use grant funds for industrial arts programs designed to eliminate sex stereotyping.

34 CFR 400.601-400.603

The State may use grant funds to provide counseling, job development, or job follow-up support services to women. These provisions implement 20 U.S.C. 2330(b)(1)(J).

34 CFR 400.621-400.622

The State must establish programs for displaced homemakers and other special groups. These provisions implement 20 U.S.C. 2330(b)(1)(L).

34 CFR 400.701(d)

The State is authorized to use grant funds for grants to overcome sex bias and sex stereotyping. This provision implements 20 U.S.C. 2303(e) and 2350(b)(6).

34 CFR 400.705(c)

A research coordinating unit may use grant funds for programs to overcome sex stereotyping, for curriculum materials, or for reviewing such materials to insure they do not reflect sex stereotypes. This provision implements 20 U.S.C. 2351(b)(2) and (3).

34 CFR 400.706(b)

Contracts made by the research coordinating unit for exemplary projects must give priority to programs designed to reduce sex bias and sex stereotyping. This provision implements 20 U.S.C. 2352(b).

34 CFR 400.763

The State may use grant funds for training designed to make counselors aware of women's changing work patterns, ways of overcoming sex stereotyping, and ways of helping women choose careers based on their interests and needs. This provision implements 20 U.S.C. 2354(a).

34 CFR 400.774

The State may use grant funds for in-service training for vocational staff designed to overcome sex bias and sex stereotyping. This provision implements 20 U.S.C. 2355(a).

34 CFR 400.791-400.793

The State may use grant funds to support grants to overcome sex bias and sex stereotyping. The types of projects that may be supported are set out. These provisions implement 20 U.S.C. 2350(b) and 2356.

34 CFR 400.901-400.905

The State must establish programs of consumer and homemaking education or fund ancillary services. The types of programs acceptable and the purposes of the programs are set forth. These provisions implement 20 U.S.C. 2380.

34 CFR 408.104

The Secretary may support projects of national significance, including grants to assist in overcoming sex bias and sex stereotyping. This provision implements 20 U.S.C. 2356 and 2401(a).

34 CFR 408.309(g)

In reviewing applications for leadership development awards, the Secretary will consider whether the distribution among males and females is equitable.

34 CFR 408.443(e) and (f)

In reviewing applications for certification fellowships, the Secretary will consider the applicant's goals and their relationship to eliminating sex stereotyping. The Secretary will consider whether the distribution among males and females is equitable and whether an applicant is entering a field not traditionally open to a person of that sex.

34 CFR 408.503(c)

An application for a grant for emergency assistance for remodeling and renovating vocational education facilities must state how the improvements will further the goal of eliminating sex bias and sex stereotyping. This provision implements 20 U.S.C. 2443(a)(3).

C. Library Career Training

34 CFR 776.11(b)

Applicants are encouraged to design projects that increase the opportunities for upward mobility of women through advanced degree level programs.

D. Vocational Rehabilitation

34 CFR 361.31(a)(1)

The State plan must contain the assurance that Federal eligibility requirements will be applied without regard to sex of applicants.

E. Vending Facility Program for the Blind

34 CFR 395.3(a)(11)

In an application for designation as a State licensing agency, the agency will provide an assurance that it will establish a policy against discrimination of any blind vendor on the basis of sex.

Statement placed in publications

DISCRIMINATION PROHIBITED. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.

Additional Information

The General Counsel has prepared for the signature of the Secretary a memorandum to all Assistant Secretaries affirming the importance of conducting the review required by Executive Order 12336. That memorandum instructs the Assistant Secretaries to take the following steps:

1. Identify each regulation, policy statement, manual, publication, subregulatory issuance, practice and procedure that was reviewed by their offices this report.
2. Describe all actions that are currently being taken to ensure the elimination of sex discrimination in all the programs sponsored by their offices, and all actions being taken to increase the participation of women in those programs where women traditionally have been underrepresented.
3. Identify all actions taken by their offices to implement Executive Order 12138.
4. Collect data for the period February through May 1983 on the results of the implementation of initiatives designed to increase participation by women in programs where they traditionally have been underrepresented.

The information described in the first three items will be included in the Fourth Quarterly Report.



THE SECRETARY
WASHINGTON, D.C. 20202

Policy Statement

On November 10, 1980, final guidelines on sexual harassment as an Amendment to the Guidelines on Discrimination Because of Sex, 29 CFR Part 1604.11, 45 FR 25024 were issued. This amendment reaffirmed that sexual harassment is an unlawful employment practice.

"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Sexual harassment is a form of misconduct which undermines the integrity of the employment relationship, debilitates morale, and interferes in the work productivity of its victims and other co-workers. Such behavior is unacceptable conduct in the work place and will not be tolerated in the Department of Education.

We must aggressively strive to insure that all employees conduct themselves in a manner in keeping with the Federal Code of Conduct and Ethics for maintaining a high standard of honesty, integrity, and equality in the work environment. Our efforts toward prevention and elimination of sexual harassment must extend above and beyond the letter of law -- that is, total commitment to this goal on the part of every employee. Accordingly, I expect all employees to join in the commitment to prevent and/or eliminate sexual harassment in the work environment.

With regard to processing such matters, I have directed the Equal Employment Opportunity Staff (245-2983) to counsel, accept, investigate, and attempt resolution of complaints alleging sexual harassment.

T. H. BELL
U.S. Department of Education

A handwritten signature in cursive script, appearing to read "T. H. Bell", is written over a horizontal line.

Signature

2-24-82

Date

Equal Employment Opportunity Action Priorities for the Establishment
and Implementation of Policy on Sexual Harassment

Specific Priority Actions:

1. Develop and issue a Departmental Policy Statement (broken down in categories) defining sexual harassment as a prohibited personnel practice; inform employees of their rights to raise the issue of sexual harassment under Title VII of the Civil Rights Act of 1964, as amended; and describe actions to be taken if a victim of sexual harassment.
2. Include in a Equal Employment Opportunity Training Course for Supervisors and Managers, a segment on sexual harassment that will accomplish the following objectives:
 - a. Alert and sensitize Supervisors and Managers to the problems of sexual harassment;
 - b. Inform them of the criteria used for determining unlawful behavior that is perceived to constitute sexual harassment;
 - c. Make Managers and Supervisors aware of their supervisory responsibilities regarding sexual harassment.
3. Monitor orientation programs for new employees to assure the inclusion of the Department's policy on sexual harassment; identify all avenues which an employee may use to file and/or to have resolved complaints of sexual harassment.
4. Be responsive to allegations of sexual harassment and attempt to resolve matters by taking whatever action deemed appropriate.
5. Issue policies and procedures regarding the way in which allegations of sexual harassment may be brought to the attention of appropriate officials; inform employees; inform employees of the officials responsible for the receipt of informal and formal complaints of discrimination based on sexual harassment.

6. Make Supervisors and employees aware of actions that will be taken against individuals violating the Federal Government Policy with regard to sexual harassment.

7. Resource Information:

Develop and/or update the Equal Employment Opportunity Counseling Courses to include information on the Code of Conduct and procedures for handling sexual harassment concerns.



THE SECRETARY
WASHINGTON, D.C. 20202

SUPPLEMENT TO THE AFFIRMATIVE ACTION PROGRAM PLAN - SEXUAL HARASSMENT
FISCAL YEAR 1981

U.S. Department of Education
Name of Organization

Washington, D.C. 20202
Address of Organization

5670

Earl G. Ingram, Director, Equal Employment Opportunity Staff
Name and Title of Principal EEO Official

Earl G. Ingram
Signature

5/13/81
Date

T. H. Bell, Secretary

T. H. Bell
Signature

2-24-82
Date

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Introduction and Policy Statement

The Department of Education recognizes that sexual harassment is a violation of Section 703 of Title VII of the 1964 Civil Rights Act as amended, and it is also a prohibited personnel practice under the Civil Service Reform Act of 1978. Consistent with the aforementioned regulations, ED will continue its objectives of maintaining an environment free of sexual harassment; and the Department will take the affirmative action steps included in this supplement to prevent sexual intimidation in any form.

The attached policy statement will be disseminated to all managers, and they will be held accountable for informing all employees of their rights to bring such concerns to the appropriate authorities and for implementing steps to prevent sexual harassment in any form.



THE SECRETARY
WASHINGTON, D.C. 20202

MAR 8 1982

FILE

Do Not Remove

MEMORANDUM

TO : All Department of Education Employees

SUBJECT: Equal Employment Opportunity

The Department is undergoing many changes. While we are not in a posture to be hiring very many staff, personnel actions are still occurring. Department Executives have a serious responsibility regarding Equal Employment Opportunity (EEO). EEO is a means by which the Department's personnel policies and practices are applied to all employees without regard to race, color, religion, national origin, sex, age or handicap. It is the policy of the Department of Education that discrimination will not be tolerated.

EEO is not only policy, it is also the law. Senior Officers are responsible for the development and implementation of plans and programs which will sustain efforts to ensure that the Department's workforce is representative of the diversity of our society.

Since it will be difficult to change our work force through new hires, it is important that opportunities for employees already on board be enhanced by:

- o providing training opportunities;
- o allowing lateral reassignments, and
- o creating advancement opportunities to higher graded positions as vacancies occur.

To initiate our FY 1982 EEO agenda, I have endorsed a plan developed by the Deputy Under Secretary for Management and the Director of the Equal Employment Opportunity Staff, by which they will:

- o brief Senior Officers and their management teams regarding their responsibilities, and
- o offer supervisors and managers training in their EEO responsibilities.

Each Senior Officer should review the EEO plan for FY 1982 and relate achievements in that plan to elements of your managers' performance agreements. Regarding EEO complaints, Senior Officers should review the status of complaints in your element; keep in contact with the Director, Equal Employment Opportunity Staff as problems or concerns develop; and resolve those problems in a correct and expeditious manner.

I am personally committed to Equal Employment Opportunity. It is the law of the land and the rule of this Department. I expect the assistance of all employees seeing that it is accomplished.

T. H. Bell

THE SECRETARY
WASHINGTON, D.C. 20202

MAR 8 1982

MEMORANDUM TO: ED Employees

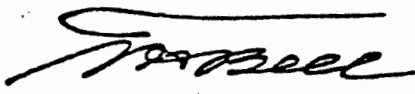
SUBJECT : Sexual Harassment

The issue of sexual harassment surfaced as a component of sex discrimination before the establishment of the Department of Education. On April 11, 1980, the Equal Employment Opportunity Commission published Interim Guidelines on Sexual Harassment as an amendment to the Guidelines on Discrimination Because of Sex, 29 CFR Part 1604.11, 45 FR 25024. This amendment reaffirmed that sexual harassment is an unlawful employment practice. Final amendment to the Guidelines on Discrimination Because of Sex became effective on November 10, 1980. This memorandum constitutes the policy of the Department of Education with regard to sexual harassment.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

We must aggressively strive to insure that all employees conduct themselves in a manner in keeping with the Federal Code of Conduct and Ethics for maintaining a high standard of honesty, integrity, and equality in the work environment. Our efforts toward prevention and elimination of sexual harassment must extend above and beyond the letter of law -- that is, total commitment to this goal on the part of every employee. Accordingly, I expect all employees to join in the commitment to prevent and/or eliminate sexual harassment in the work environment.

Complaints of sexual harassment are to be filed with the Office of Equal Employment Opportunity under the existing procedures of the Equal Employment Opportunity Complaint Process. Any questions regarding such procedures may be directed to the Equal Employment Opportunity Staff on 8-245-2983.


T. H. BELL



THE SECRETARY
WASHINGTON, D.C. 20202

MAR 8 1982

MEMORANDUM TO: Managers and Supervisors

SUBJECT : Sexual Harassment

This memorandum constitutes the policy of the Department of Education with regard to sexual harassment.

Sexual harassment is an unlawful employment practice. "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." It is unacceptable conduct in the work place and will not be condoned in the Department of Education.

We must aggressively strive to insure that all employees conduct themselves in a manner in keeping with the Federal Code of Conduct and Ethics for maintaining a high standard of honesty, integrity, and equality in the work environment. Our efforts toward prevention and elimination of sexual harassment must extend above and beyond the letter of law -- that is, total commitment to this goal on the part of every employee. Under Title VII Principles, an employer is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment. Thus, each member and/or supervisor shall be held accountable for any and all acts complained of within his/her organization.

With regard to processing such matters, I have directed the Equal Employment Opportunity Staff (8-245-2983) to counsel, accept, investigate, and attempt resolution of complaints alleging sexual harassment.


T. H. Bell

ED PublicationsPlaced in Production by the Publications BranchSince the Beginning of the Moratorium

<u>Title</u>	<u>Office</u>
Annual Evaluation Report, Volumes I & II (1980)	OPBE
" " " " " " (1981)	"
Report to Congress on the Implementation of P.L. 94-142: The Education for All Handicapped Children Act Third Annual Report - 1981 Fourth Annual Report - 1982	OSERS
Resource Guide: Employment of the Handicapped	"
Directory of National Information Sources on Handicapping Conditions and Related Services, August 1982	"
Resource Guide: Employment of the Handicapped	"
Programs for the Handicapped, July/August 1981	"
" " " " May/June 1982	"
" " " " July/August 1982	"
" " " " September/October 1982	"
" " " " November/December 1982	"
" " " " January/February 1983	"
The Student Guide: Five Federal Financial Aid Programs, 1982-83 (English)	OPE
The Student Guide: Five Financial Aid Programs, 1982-83 (Spanish)	"
The Student Guide: Five Financial Aid Programs, 1983-84	"
Accredited Postsecondary Institutions and Programs, 1981-82	"
Status of National Direct Student Loan Defaults as of June 30, 1981	"
Application for Teacher Exchange Program	"
Federal Financial Aid for Men and Women Resuming Their Education or Training, 1982-83	"
Pell Grant Program/Recipient Data Exchange, 1982-83	"
Pell Grant Payment Schedule, 1982-83	"

<u>Title</u>	<u>Office</u>
Pell Grant Poster - English, 1982-83	OPE
The Pell Grant Formula, 1983-84	"
Counselor's Handbook: A Federal Student Aid Reference, 1983-84	"
State Student Financial Assistance Training Program: Report of State Activities in Award Periods 1979-80 & 1980-81	"
Higher Education Opportunities for Minorities and Women -- Annotated Selections, 1982 edition	OASPE
Q & A Newsletters, 1980-81	OPE
" " " 1981-82	"
Application for Federal Student Aid/Student Aid Report	"
Federal Student Financial Aid Handbook: 1982-83, Sections I & II	"
National Defense and Direct Student Loan Program, Directory of Designated Low-Income Schools for Teacher Cancellation Benefits for 1982-83	"
Opportunities Abroad for Educators, 1982-83	"
" " " " 1983-84	"
Basic Grants, End-of-Year Report, 1979-80	"
Progress of Education in the U.S.A., 1978-79 & 1979-80 (Also: Arabic, Japanese, Russian, Chinese, Spanish, and French translations)	"
U.S. Department of Education - Annual Report, FY 1981	OLPA
" " " " " " FY 1982	"
Directory of Education Associations, 1980-81	"
Administration of Public Laws 81-874 & 81-815, FY 1980 (Thirtieth Annual Report)	OESE
Women's Educational Equity Act Program, Annual Report, FY 1982	IIA
Statistics of Public Elementary/Secondary School Systems: Schools, Pupils, and Staff - Fall 1980	OERI
Estimates of Local Public School System Finances, 1980-81	"
Office of Inspector General Semi-Annual Report to Congress, April 1, 1982 - September 30, 1982	OIG

TitleOffice

The Condition of Bilingual Education in the Nation, 1982

Secretary's Office

American Rehabilitation, September-October 1982 edition

RSA

Included in Manuscript Preparation Memorandum, distributed to authors.

Race and sex stereotypes: Copy should be free of race and sex biases and stereotypes and should strive toward a realistic representation of minorities and women in a variety of employment and social situations.

Statement placed in publications

DISCRIMINATION PROHIBITED. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.