

## Legal Mandates Governing Civil Rights in Vocational Education

To ensure equity in vocational education programs and activities regardless of race, color, national origin, sex and disability, there are a number of civil rights authorities which govern vocational education:

### 1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352)

Prohibits discrimination on the basis of race, color and national origin. Activities which are prohibited include:

- Denying an individual any service, financial aid, or other benefits provided under the program.
- Providing different services, aids, benefits.
- Subjecting individuals to separate/segregated treatment.
- Denying or limiting an advantage/privilege enjoyed by others in the program.
- Requiring different admission, enrollment, quotas, eligibility, membership in order to be provided services of the program.
- Denying an opportunity to participate as a member of a planning or advisory group which is an integral part of the program.

The following are some examples of cases which have arisen in vocational education of policies and practices which are in non-compliance with Title VI:

- Over-representation of minority students in special vocational programs for Developmentally Handicapped (DH).
- The use of one test as a basis for admission into a regional vocational technical high school results in the admission of 26 percent black applicants and 60 percent white applicants (both groups had approximately the same number of applicants). No link of the test to program performance has been established.
- Administrators of entrance examinations do not provide assistance to limited-English speaking applicants because of an inability to speak their language.
- National origin minority students, although assigned to guidance counselors, receive counseling only from one teacher who is not a qualified counselor.
- A public vocational school accepts students from a private school without obtaining assurances of the non-discrimination status of the private school.
- A vocational program has 41 percent minority enrollment when minority students constitute 2.5 percent of the student population in the district.
- Disciplinary sanctions demonstrate a discriminatory pattern--e.g., a higher percentage of minority students are suspended, for equal or lesser offenses (and for such an offense as "insubordination" which is vague and open to considerable discretion).

### 2. Title IX of the Education Amendments of 1972 (P.L. 92-310)

Prohibits discrimination on the basis of sex. Activities which are prohibited under Title IX include:

- The denial of an individual of any service or financial or other benefits provided under the program, specifically in terms of: access to courses and programs; counseling and guidance; physical education and athletics; vocational education programs; and extracurricular activities.
- The provision of different aids, benefits, or services.
- Denial of limitation of any advantage or privilege enjoyed by others in the program.
- The application of different rules, sanctions, or other treatment to any person.
- The application of any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state tuition, on the basis of sex.
- Discriminatory admissions policies, including:
  - ranking applicants separately on the basis of sex;
  - applying admissions quotas;
  - administering any test or criterion which has a disproportionately adverse effect on members of one sex, or which doesn't validly predict success in the education program;
  - making pre-admission inquiry as to the marital status of an applicant;
  - giving preferences or recruiting in predominately single sex schools unless the pool of applicants includes roughly equivalent numbers of males and females; and

- discriminating against any person on the basis of pregnancy.

There have been many documented cases of sex discrimination in vocational education. Below are some examples of such cases:

- Separate referral lists of boys and girls are maintained for a work-study program because some employers want only one sex for specific jobs.
- A female vocational education instructor applies for a teaching position: although she has favorable ratings, she is not given the job because the position includes coaching the boy's basketball team.
- There are references to gender in course descriptions such as "for the young bachelor" or "to acquaint girls with an auto."
- No comparable toilet facilities exist for females in an area of a school in which traditionally male courses are offered.
- A female resident who continues to reside in the same state but marries a non-resident loses her residence status (and this is not applied reciprocally to males).

Nine out of 12 vocational education courses have students of one sex exclusively, yet the self-evaluation does not assure that this is not the result of discrimination in counseling, appraisal materials or other forms.

### **3. Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112)**

Recipient of federal financial assistance may not through contractual, licensing, or other arrangement discriminate on the basis of disability by:

- denying a qualified disabled person the opportunity to benefit from an aid, benefit, or service;
- providing an aid, benefit, service not equal to that provided to others (the term "equal" is intended to encompass the concept of "equivalent" as opposed to "identical");
- providing different or separate aid, benefit, or services, "unless such action is necessary to provide qualified disabled persons with aid, benefits, or services that are as effective as those provided to other";
- restricting the enjoyment of any advantage/privilege enjoyed by others in the program; and
- denying an opportunity for a qualified disabled person to participate as a member of planning or advisory boards.

Policies or practices which have been taken from vocational education settings and are in non-compliance with Section 504 include the following examples:

- A person with a speech impediment is highly qualified for a job which does not require one to speak clearly, yet the applicant is not given the job based on poor performance on an oral test.
- The use of IQ scores on an application to a regional vocational technical high school.
- Assignment of all disabled students to one guidance counselor.
- In placing disabled students in vocational programs for mentally disabled students, the school did not demonstrate that regular placement is not workable.
- All special education students in grades 6-12 are required to attend a vocational education program in the afternoon, while there is no such requirement for non-disabled students.

A disabled student is denied the opportunity to enroll in the Cosmetology Program because school officials felt the student would be unable to pass the State licensing examination.

### **4. The U.S. Office for Civil Rights Vocational Education Programs Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Disability.**

Prohibits discrimination in vocational education programs on the basis of race, color, national origin, sex and disability. These guidelines provide the framework for the implementation by the Ohio Division of Vocational and Career Education of the following civil rights compliance efforts:

- Collecting and analyzing civil rights related data of school districts and postsecondary schools receiving federal financial assistance.
- Conducting periodic compliance reviews of selected school districts and postsecondary schools and notification of steps needed to attain compliance through voluntary action.
- Providing technical assistance upon request to school districts and postsecondary schools.
- Periodically reporting the Division's activities to implement the Methods of Administration (MOA) to the

Office for Civil Rights.

The OCR guidelines emphasize six major civil rights issues in vocational education:

- Eligibility requirements, such as residence within a geographic area or admissions tests.
- Lack of program accessibility for disabled students; for example, separate annexes, inaccessible facilities, and inadequate evaluation procedures.
- Vocational schools/programs established for students of one protected class and continued as segregated institutions.
- Denial of students with limited proficiency in English an equal opportunity to participate in vocational education programs.
- Inadequate protection against discrimination in the placement of students in work settings.
- Assignment of faculty and staff to vocational education programs on the basis of race, national origin, sex and disability.

The guidelines describe the major civil rights requirements of Title VI, Title IX and Section 504 as they apply to vocational education. Discussion of discrimination, including examples of discriminatory practices is presented in relation to six aspects of vocational education:

- Distribution of Federal Financial Assistance - Funding formulas may not discriminate, but may incorporate a factor for protected classes to compensate for past discrimination. Criteria for awarding competitive grants or contracts must be non-discriminatory and equal information must be provided to all potential applicants.
- Access and Admissions - Several areas are identified as possible sources for discrimination: criteria for eligibility (e.g., admissions cannot be limited to a set number from each sending school); site selection; facility segregation; eligibility based on residence; additions and renovations to existing facilities; and lack of programs providing for limited English speaking students and equal access for disabled students.

The guidelines assume that vocational education programs are voluntarily enrolled in by students and do not intend that protected class students should be forced to enroll in vocational education programs. The guidelines seek to ensure that no individual is denied an opportunity to participate in a vocational education program on the basis of race, color, national origin, sex or disability.

- Counseling and Prevocational Programs - Counseling programs (including counseling materials, recruitment activities, and promotional activities) must avoid restrictive recommendations for protected class members and be adapted for limited English speaking and vision or hearing impaired students.
- Equal Opportunity in Educational Activities - This includes accommodations for disabled students, financial assistance, housing and facilities.
- Placement - Provisions must be made to ensure non-discrimination in terms of access to and treatment in such components of vocational education programs as work-study, cooperative vocational education, apprenticeships, and job placement.
- Employment of Faculty and Staff - Areas Addressed in the guidelines include recruitment, patterns of discrimination, salary policies, employment opportunities and reasonable accommodations for disabled individuals and affirmative action.