



Department of Justice

ADDRESS

BY

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ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY ATTORNEYS

8:00 P.M.
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COLONY SQUARE HOTEL
ATLANTA, GEORGIA

I am happy to have the opportunity to meet with you, and I particularly want to congratulate you on your choice of cities for your meeting. We are glad to suffer the inconvenience of leaving Washington for a weekend in Atlanta.

As a Federal judge on the Fifth Circuit for nearly 15 years and now as Attorney General, I have long been sensitive to the legal problems of colleges and universities. I know your concerns as counsel to these institutions cover a wide range of complex issues.

I am sure that one of your great concerns, as lawyers for the Nation's colleges and universities, is how your institutions are affected by national or Federal government policies and practices.

Somewhat akin to Federalism, as that concept embodies our national, state, and local governmental structure, there has evolved in recent years a special and sometimes strained relationship between the Federal government and our country's universities and colleges.

The President of the University of Georgia, Dr. Fred Davison, has complained in a recent article entitled "Higher Education: Victim of a Federal-State Partnership Gone Wrong," of the constant stream of rules, regulations, guidelines, and directives of the Federal government that he says severely

restrict the management of the everyday affairs of universities. Such regulations, he says, cost enormous amounts of money, time, and energy in keeping records, compiling reports, and interpreting directives.

The paperwork problem created by Federal regulations has also been cited by the President of Indiana University, John Ryan, in testimony before the Commission on Federal Paperwork. Just finding the extent of the paperwork problem facing that school resulted in a stack of papers six inches high, Dr. Ryan reported.

The President has repeatedly emphasized to his Cabinet that we must be sensitive to how rules from Washington affect the internal operations of your institutions. More is at stake than just the paperwork required, but more fundamentally what you are required to do.

We have begun a number of initiatives to improve the Federal-state partnership in higher education, to get it on track, to work with you in resolving problems.

First, the President has made it clear in unmistakable terms that governmental regulations are to be written so that everyone can understand them. That means shorter, clearer, and hopefully fewer regulations. By his order, each Cabinet member went through the chore in the first months of the Administration of personally reading every regulation that his or her department issued. The author of every regulation must still sign them.

I was impressed with the succinct message the new chairman of the Civil Aeronautics Board, Alfred Kahn, sent his lawyers in a memo last week just six days after he took office, as reported in this Wednesday's Washington Star. I think you will find his directive refreshing:

"One of my peculiarities which I must beg you to indulge if I am to retain my sanity (possibly at the expense of yours!) is an abhorrence of the artificial and hyper-legal language that is sometimes known as bureaucratese or gobbledygook. Please try very hard to write . . . in straight-forward, quasi-conversational human prose - - - as though you are talking to or communicating with real people."

Another important project is the effort to reduce paperwork in the Federal government and to cut back Federal demands for information from state and local governments and private persons and organizations. The Commission on Federal Paperwork I mentioned earlier is now completing a two-year study and will make its final report in October. Among its interim reports is one dealing with education.

The Commission's recommendations will be studied carefully and implemented where feasible to reduce paperwork and its cost. One series of recommendations would make a single Federal agency responsible for equal opportunity and civil rights record keeping, reporting, and compliance in the field of education.

Although unrelated to reorganization, an example of unnecessary duplication of civil rights enforcement is the two sets of guidelines on preventing employment discrimination. As you know, one set was adopted by the Civil Service Commission and the Departments of Justice and Labor. The other is used by the Equal Employment Opportunity Commission, which decided to continue following its own set of guidelines which had been in effect since 1966. There are differences between the two sets of guidelines, causing understandable confusion in the private sector most affected.

If an employer, such as a college or university, is trying to determine how to avoid being charged with discrimination or being sued by the Federal government, the place to look is to guidelines that supposedly articulate the government's standards. An employer rightly expects the government to speak with one voice on such an important matter.

Several weeks ago, I began working through the Civil Rights Division of the Justice Department with other agencies on the Equal Employment Opportunity Coordinating Council to arrive at one set of guidelines applicable to all employers. The work is going well, and I am hopeful that a single set of guidelines will be arrived at soon.

Because we are lawyers who represent separate clients -- the Federal government on the one hand and higher education on the other -- we sometimes find ourselves on opposing sides.

But reviewing the higher education cases in the Justice Department, however, I was pleased to learn that the number of legal conflicts is fewer than one might expect.

I know that higher education is committed to the ideal of equal opportunity and equal rights for every person -- just as we are at the Justice Department. How to achieve these goals is where we sometimes differ. But at least we share the responsibility as lawyers to make a good-faith effort to resolve these differences as equitably and as promptly as we can.

I assure you that the Justice Department is always willing to discuss the issues with you, to negotiate, and to conciliate within the applicable statutes and the Constitution.

I guess that I cannot discuss legal issues affecting higher education without mentioning the Bakke case, a case pending before the Supreme Court that may have profound consequences on the admission policies of your institutions and on the entire question of what is called reverse discrimination.

We have been devoting a great deal of time to the study of the issues in that case. We have made a thorough analysis of the record. We have solicited the view of other Federal agencies whose programs would be affected by the decision, and we have held discussions with a number of persons and groups involved in the litigation. We will soon determine whether the Justice Department should intervene and, if it does, what position it should take.

I hope this rather brief discussion of our mutual concerns provided some insight on our attitude toward higher education.

We know the points of friction with the Federal government and we are committed to reducing them.

We want regulations and guidelines that we all can understand.

We don't want any more paperwork than you do.

We want uniformity in Federal enforcement.

During the past few months, I have spoken around the country about certain fundamental principles that I hope the Department of Justice will represent and will be perceived by the American people to represent -- Integrity. Openness. Fundamental fairness. Restraint.

It is my hope that they will also write on our headstone that we did our part in shaping and implementing a national policy for the delivery of justice. This will include the development of an effective partnership between the Federal government and the Nation's higher educational institutions.

I once knew a lawyer in North Georgia who always as a first question on cross-examination, said to a witness: "So that is your swear, is it?" What I have said about the missions and goals of the Department of Justice is my swear.

Thank you.