

Delaware Association of Scholars

Willard Hall □ University of Delaware □ Newark DE 19716

President
Jan Blits
302-831-1649

April 25, 2001

Vice-president
Linda Gottfredson
302-831-1650

Secretary
Frederic M. Stiner
302-831-1806

Treasurer
Stephen M. Barr
302-831-6883

Howard E. Cosgrove, Chairman
UD Board of Trustees
c/o Conectiv Inc.
800 King Street, P.O. Box 231
Wilmington, DE 19899

Dear Mr. Cosgrove,

As you can see from the enclosed news article, the UD administration has publicly confirmed that it will use racial preferences in hiring faculty. If a unit's first choice is not a minority, the administration says, the unit may make an offer to both its first choice and a minority--but only a minority--on its short list. Immediately following the Senate's vote on adopting this policy, the Provost announced that the University will try to hire ten blacks, so that our percentage of blacks is the same as the national average.

The administration's announced policy is a clear violation of the 1991 U.S. Civil Rights Act, which explicitly forbids hiring by race. According to Section 107 of the Act ("DISCRIMINATORY PRACTICE NEED NOT BE THE SOLE CONTRIBUTING FACTOR"):

[A]n unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.

Moreover, the U.S. Court of Appeals for the Third Circuit, which includes Delaware, has ruled:

It is clear that the language of Title VII [of the 1964 Civil Rights Act] is violated when an employer makes an employment decision based on an employee's race (*Taxman v. Board of Education*).

And as to the Provost's announced quota, the Third Circuit explicitly reaffirmed Title VII's prohibition that "Preferential treatment [is] not to be granted on account of existing number or percentage imbalance" (*Taxman v. Board of Education*).

It is hard to see how the University can reconcile its declared policy of treating members of different races differently in employment with the law's clear prohibition of such racial preferences. Nor is it easy to see how a major public university can flout the express language of both U.S. civil rights laws and a U.S. federal court.

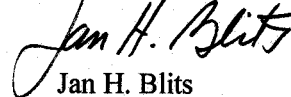
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An Affiliate of the National Association of Scholars

This concern is not merely hypothetical. The policy has already been put into practice. I have witnessed it first-hand and could supply you with the details if you like.

The Delaware Association of Scholars therefore asks you, again, whether the Board of Trustees considers it appropriate for the University to hire by race, as the administration is now openly doing.

Thank you very much. I look forward to your reply.

Sincerely,

A handwritten signature in cursive script that reads "Jan H. Blits".

Jan H. Blits
Professor

cc: Members of the Board of Trustees