

File No. 36404

classification of a position, shall be, and the opportunity to fill that position must be given to men and women alike.

You ask me this specific question:

"Does the recent Act of the Legislature require us to level the colored men and women teachers of colored high school up with the men teachers of the City College and Polytechnic Institute in the same manner as we are planning to level up the white women teachers of the girls' high schools with the white men teachers of the City College and Polytechnic Institute?"

As I understand it, the salaries paid teachers in the colored high school have been on a different basis than the salaries paid teachers in the City College, Polytechnic Institute, Eastern High School and Western High School. Under the provisions of the Act of the General Assembly there must be no discrimination between men and women teaching in the colored high school on account of sex. The same situation is true with respect to any particular service rendered, or position in any of the other schools.

To construe this Act to mean that the City is compelled to pay all teachers in the secondary schools the same compensation, without regard to the value of their services, would certainly be to put a construction upon this Act that was never intended by the General Assembly, and a construction that would result in equal pay for unequal work. You know, of course, that the equalization principle in respect to sex has been in force in the counties for some time, and that the State law makes provision for the payment of salaries in colored schools on a different basis than that in other schools. With this knowledge, I do not understand how your Department could have discussed a construction of this Act that would extend its application to matters not mentioned either expressly or by implication, and I cannot help but feel that it is exceedingly unfortunate that your request for a ruling should have directly raised a question of race or color.

Very truly yours,

(Signed) Philip B. Perlman,
City Solicitor.