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# **Affirmative Action in Academe: Increase Opportunities, Remove Barriers, and Change Attitudes**

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**T**ITLE VII of the 1964 Civil Rights Act and the 1972 Equal Employment Opportunity Act which amended Title VII were enacted to eliminate economic inequalities and the maldistribution of blacks and women in the workforce (Greene, 1988). Like all agencies, institutions of higher education must engage in affirmative action to eliminate such maldistribution. This article discusses affirmative action in academe and the advancement of affirmative action goals in the academy. Specifically, the article is divided into three sections. First, Greene's (1988) analysis of the judicial justification for affirmative action is briefly summarized to illuminate the legal philosophy supporting affirmative action and its remedies. Second, the 1973 and 1983 American Association of University Professors' (AAUP) statements on affirmative action in higher education are summarized because they recommend remedies for academe. Finally, the advancement of affirmative action goals in academe in the 1990s is discussed.

## **JUDICIAL JUSTIFICATION**

Greene (1988) asserted that Congress left it to the courts to define discrimination and evaluate the potential remedies or affirmative actions designed to ensure the economic equality and employment opportunities demanded by Title VII and EEO Act. In her analysis of employment discrimination and affirmative action cases, Greene argued that while the

arguments for affirmative action may be based on principles of compensatory or distributive justice, the Supreme Court decisions upholding the policy are based on distributive justice. That is, "discrimination is not simply specific acts against specific individuals and affirmative action does not compensate victims of discrimination but attempts to alter the composition of the workforce to facilitate the elimination of discrimination" (p. 1).

Furthermore, Greene identified three definitions of discrimination that evolved via the Court's rulings: disparate treatment, present effects of past discrimination, and adverse impact. She noted that these different definitions allow for different remedies. For example, disparate or unequal treatment of specific persons via employment practices and benefits may be remedied with back pay and seniority. Present effects of past discrimination and adverse impact refer to employment practices and procedures that have negatively impacted or are impacting the hiring, retention, and promotion of blacks and women (regardless of intent) thus resulting in racial or gender imbalance. "If a finding of discrimination is based on these definitions, there are no identified victims who can be provided compensation. Therefore, the remedy must be directed toward the racial or gender imbalance. . . [thus] affirmative action facilitates the elimination of imbalance. . . by increasing opportunities for the disadvantaged groups" (p. 25).

Moreover, Greene maintained that when amending Title VII in 1972 Congress "recognized that discrimination was systematic and not simply the result of discrete acts of individuals. Section 706(g) was changed to include 'any other equitable relief the court deems appropriate'" (p. 26). She concluded that "the Supreme Court has upheld affirmative action because it serves the distributive [justice] goal of moving blacks and women into positions in the workforce from which they have been excluded because of discrimination, not because it compensates for specific acts of discrimination" (p. 30). Affirmative action designed to change a workplace to include more women and minorities, then, is based on the legal principle of distributive justice which Greene argued "is superior [to compensatory justice] because it provides a more coherent analysis of the underlying moral principles of affirmative action" (p. 19).

## AAUP RECOMMENDATIONS

In an apparent response to the 1972 amendment to Title VII and the Supreme Court rulings which defined discrimination as adverse impact and present effects of past discrimination, the American Association of University Professors (AAUP, 1974) adopted a policy statement on affirmative action and some recommendations for institutions of higher education. However, in 1983 five "worrisome trends" in academe motivated AAUP to reiterate its commitment to affirmative action and provide more specific recommendations for affirmative action plans that would redistribute or alter the workplace to include more women and minorities. Since these AAUP documents were endorsed by 113 academic associations, they are perhaps the most accepted guiding principles for enacting affirmative action in academe.

### *1973 Report*

The AAUP's philosophy of affirmative action in academe is presented first followed by four affirmative actions that institutions of higher education should engage in: (1) Defining the Criteria of Merit, (2) The Critical Review and Revision of Standards for Academic Appointment and Advancement, (3) The Review and Revision of Academic, Recruitment Policies, and (4) Statistical Forecasts Under An Affirmative Action Plan and the Monitoring of Equal Protection. These are discussed in order.

### *Philosophy of Affirmative Action in Academe*

The committee argued that eliminating discrimination is not in conflict with the goals of excellence and quality in academe. Moreover, its affirmative action philosophy is based on distributive justice:

“What is sought in the idea of affirmative action is essentially the revision of standards and practices to assure that institutions are in fact drawing from the largest marketplace of human resources in staffing their faculties, and a critical review of appointment and advancement criteria to insure that they do not inadvertently foreclose consideration of the best qualified persons by untested presuppositions which operate to exclude women and minorities” (p. 82).

*Defining The Criteria of Merit* is the first affirmative action recommended. Specifically, the committee argued that excellence and quality in academe are ostensibly met by hiring and advancing people who meet certain criteria. However, “we cannot assume uncritically that the present criteria of merit and procedures for their application have yielded the excellence intended; to the extent that the use of certain standards has resulted in the exclusion of women and minorities from professional positions in higher education, or the inclusion only in token proportions to their availability. the academy has denied itself access to the critical mass of intellectual vitality. . . [and] such criteria must thus be considered deficient on the very grounds of excellence itself” (p. 83).

Furthermore, the committee argued that while there is no inherent conflict between scholarly merit and equality of access in the academy, women and minorities have been denied such access because of “unexamined presuppositions of professional fitness” which define an acceptable academic person. “Insofar as few are called, the range of choice must necessarily be a narrow one, and those fewer still who are chosen tend to mirror the profession’s image of what it is, not what it should or might be” (p. 83). Accordingly, the first test of equal opportunity is the prior and independent determination of standards of competence and qualification. Additionally, “if a particular criterion of merit, even while not discriminatory on its face or in intent, nonetheless operates to the disproportionate elimination of women and minority group persons, the burden upon the institution to defend it as an appropriate criterion rises in direct proportion to its exclusionary effect” (p. 84).

*Critical Review and Revision of Standards for Academic Appointment & Advancement* are the next affirmative actions recommended. Specifically, the committee asserted that permissible discretion, a norm in academic decision making, is both “a hazard and a valuable opportunity.” It is a hazard when it allows unintended or explicit prejudices against women and minorities to operate in decision making and it is an opportunity for when it “broadens the internal criteria in accordance with a general notion of excellence and hence expanding that notion” (p. 84).

Thus, when advancing the goals of affirmative action the critical review and revision of standards for academic appointment and advancement and consideration of alternatives must address six issues: (1) the relationship between a specific standard and its negative effects on hiring women and minorities, (2) the relationship between apparent exclusionary standards and possible alternative standards, (3) criteria that limit the field of eligible candidates, (4) the overall excellence of and balance in a department, (5) the diversity of the faculty in a department or an institution, and (6) the relationship between criteria for excellence in teaching and research and the persons applying those criteria. The committee noted a “circularity in the verification of standards insofar as professors may discern ‘excellence’ in others who resemble themselves” (p. 86).

Moreover, the committee reasoned that hiring a faculty member who enhances a department's demographic diversity is analogous to hiring a faculty member who meets a department's need for a senior, tenured, experienced faculty member or a faculty member in a certain specialty area. Hiring based on such criteria is not exclusionary but is considered relevant given the existing composition of the faculty. Specifically, the committee argued "special efforts to attract persons to improve the overall diversity of a faculty and to broaden it specifically from its unisex or uniraice sameness. . . [is] a variety of affirmative action which deserves encouragement" (p. 86).

*Review and Revision of Academic Recruitment Policies* are the next affirmative actions recommended because certain conventional recruitment practices, e.g., calling colleagues at another university may function to exclude women and minorities from equal opportunity for consideration. Such exclusion may not be intentional discrimination but discrimination nonetheless and it is inconsistent with excellence in higher education. The committee again challenged professors to evaluate their recruitment of undergraduates for academic careers as it is difficult to hire minority and women faculty if none exist.

*Statistical Forecasts and Monitoring Equal Protection* are the last affirmative actions recommended. Specifically, the committee argued that affirmative action goals are not quotas. Rather, goals are informed predictions of "what an institution expects under conditions of nondiscrimination, given its standards and recruiting practices, in light of the proportion of those within the field of eligibility and recruitment who are women or minorities" (p.88). Moreover, the committee argued that such predictions should: (1) enable universities to decentralize appointments recommended by department and college faculties and provide a means of insuring that racial and gender discrimination are not contributing to those decisions, (2) provide assurances of compliance to government agencies, and (3) provide evidence that universities are not intentionally discriminating.

The committee supported requiring affirmative action plans because they improve quality and equal opportunity. However, such plans assume that faculty are what they claim to be: fair professionals honestly concerned with excellence and the civil rights of all persons. If these assumptions are false, "affirmative action plans can go the way of other proposals which are intellectually solid but which so frequently fail in their assumptions about the nature of people. . . the temptation will [be] to distinguish between the appearance and the substance of such a plan and to opt for the appearance alone: the token production of 'adequate' number of women and blacks to avoid the likelihood of contract suspension or federal inquiry . . . while disparaging their presence and [blaming] government" (p.89).

### *1983 Report*

Ten years later the AAUP adopted a second affirmative action report because of five "worrisome" trends: (1) faculty have relinquished their role in university policy making and implementation and let administrators assume responsibility for affirmative action, (2) administrators established rules that intrude in academic decision making and are counter productive to affirmative action goals, (3) "insufficient progress has been made in removing vestiges of discrimination and achieving equality," (4) many universities and colleges have not ended discriminatory policies and practices or provided effective internal appeals procedures. thus faculty members are going to court and court ordered enforcement is viewed as unwarranted interference with institutional autonomy, and (5) "criticism of affirmative action has been widespread and provided a handy target for critics of government regulation of academic institutions although other aspects of government regulations may be more intrusive and expensive to implement" (p. 91).

### *1983 Affirmative Actions*

Given these trends, the committee reaffirmed AAUP's support of affirmative action and its 1973 recommendations. Next, the committee recommended four affirmative actions that are consistent with the principles of nondiscrimination and protection of individual rights. First, the committee argued that universities should examine appointment, tenure, and promotion policies to ensure that they are nondiscriminatory in principle and practice and change them if necessary. Second, universities should replace policies and procedures that seem neutral but have an adverse impact on women or minorities with more inclusive policies that achieve the same purpose. We must "eliminate barriers to fair consideration for women and minorities. e.g., antinepotism policies, child bearing, child rearing leave policies" (p. 91).

Third, universities should encourage diversity via race and sex sensitive selection which "does not itself lead to a violation of individual rights" (p. 92). The committee reasoned that affirmative action permits the inclusion of sex and race among a number of desirable characteristics, e.g., publications, professorial rank, specialization, academic credentials, used to evaluate candidates. Moreover, the committee asserted that this "process is consistent with the principle of nondiscrimination, in that, as a matter of faculty judgment, a decision may be made that more males are needed in a predominantly female department, or more whites in a predominantly black department, or more senior, full professors in a [young] department" (p. 92).

Fourth, the committee called for detailed affirmative action plans with achievable goals for the appointment of women and minority faculty members. Defining a goal as "an expectation of what an institution has reason to suppose will result under conditions of non-discrimination," the committee rejected the notion of quotas arguing that "mandatory quotas and double standards perpetuate the myth of inferiority" (p. 92). Rather, the committee argued that faculty must focus critically on the decision making process, set numerical goals, and make the process as nondiscriminatory as possible (p. 93). If faculty will not do this, then institutions must develop other effective means of insuring equal opportunity.

Fundamentally, the committee concluded that equal opportunity in academe requires that faculty develop, implement, and monitor affirmative action plans that meet the needs and standards of the academic community (p. 93). Moreover, these plans and procedures are essential to overcoming past or present barriers to equal opportunity employment and should be integrated into the routine conduct of personnel procedures for peer review and collegial governance (p. 93).

### *Affirmative Action Plans*

The committee presented numerous suggestions for designing, implementing, and monitoring affirmative action plans. The **faculty** should design plans which are sensitive to classifications requiring academic expertise, tenure and promotion policies, fringe benefits, and salary. Goals and timetables must be realistic, provide incentives for compliance, and appear in faculty, staff, student handbooks.

Regarding implementing an affirmative action plan, the committee addressed six issues: affirmative action office, recruitment, screening candidates, appointment, professional advancement, and retrenchment. First, the committee suggested that universities establish an Affirmative Action Office and an appoint an Affirmative Action Officer who is a faculty member selected with faculty input. This officer "should have power of effective oversight of search and appointment procedures for faculty and academic administrative positions and authority to determine if a department's search was adequate" (p. 94). Additionally, this officer should be involved in personnel issues, e.g., tenure, promotion, and salary determinations. Faculty should participate in establishing, promoting, and reviewing the university's

affirmative action plan via an affirmative action committee (p. 94). Most importantly, the university president should charge the affirmative action officer and committee with oversight responsibilities and clearly communicate that charge to faculty, staff, and students (p. 94).

When discussing affirmative action and recruitment, the committee presented 12 specific recommendations. It argued that each **department** should develop a recruitment plan that is approved by the affirmative action officer and department search committees should try to meet the department's goals. Recruitment plans should also address advertising issues, e.g., identifying publications that women and minorities read; search committees should contact minority and women's caucuses of professional organizations as well as graduate departments with minority students. Applications should be sought from a large variety of universities and the standards should be the same for all candidates. "The fact that the pool of minority candidates may be small should not be used as an excuse for not recruiting them" (p. 95). Additionally, position descriptions should clearly state teaching loads, research expectations, and departmental duties. The criteria for reappointment, tenure, and promotion should also be available to candidates.

Next, screening of candidates, appointments, professional advancement, and retrenchment are discussed in order. When screening candidates, the committee argued that search committees should include a diversity of candidates. Moreover, the affirmative action officer or an affirmative action committee member should meet with the minority candidates. While faculty appointments should be based on individual merit, faculty should carefully review criteria for potential adverse impact.

Regarding professional advancement the committee offered five suggestions. Criteria for reappointment, tenure, and promotion should be "made clear to the candidate at the time of his/her appointment. . . [and] sexual or racial qualifications for tenure or promotion should not be introduced" (p. 96). Next, the committee asserted that marginally qualified women and minorities should not be appointed unless there is support for professional development. Moreover, universities should provide all women and minority faculty opportunities for professional development, e.g., summer research grants, sabbatical leave. Finally, since the number of minority and women faculty is often small, faculty should make special efforts to welcome them.

If retrenchment must occur, the committee referred readers to the AAUP's Regulation 4 which recommended that along with other criteria, affirmative action be considered in such decisions. Regarding monitoring affirmative action plans, the committee argued that "through its governance structure the **faculty** is best qualified to assure that the letter and spirit of affirmative action are followed . . . and that appropriate grievance procedures are established and that the grievance committee members have access to all pertinent files.

### AFFIRMATIVE ACTION IN THE 1990s

This discussion of affirmative action in academe in the 1990s addresses two questions. First, have we **fully** enacted **all** of the affirmative actions recommended by the AAUP and endorsed by the Association for Communication Administration, Speech Communication Association, Association for Education in Journalism and Mass Communication, American Speech-Language-Hearing Association, Western States Communication, and the Southern States Communication Association? Second, what can we do to further advance the distributive justice goals of affirmative action in the academy?

#### *Assessing the Status Quo*

As previously reported, when racial and gender imbalance exist in a workplace, judicial reasoning recommended increased opportunity for entry into that workplace as a remedy.

Indeed, the 1973 AAUP committee applied that reasoning consistently throughout its report. Initially, the committee asserted that affirmative action plans must increase opportunities for women and minorities to enter academe by revising standards and practices of recruiting undergraduates to academic careers and by encouraging more women and minorities to pursue academic careers. Have we done this as completely as possible? No we have not. Yes, analyses will probably reveal an increase women in our graduate programs but how many are pursuing doctoral degrees? Where are the minority students - many of whom are first generation college graduates? Can and should we do more? Yes, we can and should do more.

The AAUP committee also recommended that we change our faculty recruitment procedures. The report stated that our informal means of advertising faculty positions via calls to our alma maters or colleagues at another university had to change. The academy had to advertise its positions more widely to ensure equal opportunity for application. Have we done this? Again, data will probably indicate that most universities have enacted this recommendation by advertising positions in various professional newsletters, publications, and the *Chronicle of Higher Education*. Can and should we do more? Yes.

Faculty were also advised to examine critically and stipulate appointment criteria prior to advertising a position, screening, and interviewing candidates. Are we advertently or inadvertently using criteria that exclude women and minorities? Generally, data will probably indicate that we have made progress here. Many of us have discussed the relative importance, even weighting, of teaching, research, and service in the academy. Is our definition of research too narrow if it is defined as "publication" only? Have we completely addressed more subtle issues like quality of a journal or publisher? How important is teaching in the academy? Currently, higher education has its vocal critics who suggest that we have lost sight of our true *raison d'être*. Yes, we have made progress but we can do more.

Similarly, in 1973 we were encouraged to review and revise our standards and policies for tenure and promotion. That is, we were to evaluate the potential discriminatory effects of certain criteria and potential biases that could result from evaluating people "different" from us. And we were encouraged to consider issues like department diversity and balance as important criteria when promoting and tenuring. In spite of the 1973 recommendation, we were again encouraged to review our tenure and promotion policies in 1983 with the added recommendation to remove barriers that effect women and minorities. Have we removed those barriers? Have we altered our child-bearing, child-rearing leave policies? Data from one university suggest that we have not sufficiently removed those barriers, i.e., as professorial rank increases the number of women decreases from 74% instructors to 14% full professors. The pattern for men is exactly the opposite: 26% instructors and 86% full professors. While these data are from only one university, they suggest that those barriers have not been removed and that there is now a different kind of imbalance in the academy. Women are now in the academy, but most occupy the lowest academic rank. Can we do more? Yes.

Finally, the 1973 report called for setting goals or statistical forecasts (not quotas) of the potential for more women and minorities to enter academe. The report also challenged us to avoid the temptation to accept tokenism and honestly embrace the ideals of affirmative action as a vehicle for positive growth and development of the academy. Did we do this? Given the third and fourth recommendations in the 1983 AAUP report. We apparently did not. Specifically, those recommendations called for us to include diversity as an important criteria in evaluating the composition of our departments and to engage in race and sex sensitive selection of faculty as we often engage in professorial rank and specialty area sensitive selection of faculty. Most importantly, the 1983 report not only called for universities and departments to develop affirmative action plans. it also provided extremely specific, almost step-by-step recommendations for the affirmative action plans. Have we developed and used such affirmative action plans in the last ten years to diversify the academy? Again, the data

probably indicate a split answer. Yes, some universities have developed and implemented excellent affirmative action plans so that their faculty is more diverse. However, other universities have probably not developed such plans, have not implemented them seriously, or are engaging in tokenism. Can we do more? Yes.

### *Advancing Affirmative Action*

Yes, we can do more to advance the goals of affirmative action. Perhaps universities need to move like a snake does; first it goes backward in order to gain momentum to move forward. Perhaps in order to advance the goals of affirmative action in the 1990s we must repeat the recommendations of the 1970s and 1980s. First, we must do more to recruit minority and women undergraduates into academic careers for without a larger pool of candidates only a few universities will be able to diversify. Recruitment could include a mentoring program that starts in the freshman year. Academically talented women and minority students should be assigned to work with various faculty members who will encourage them to consider an academic career. Second, we must examine our curricula and ask whether we are preparing students to compete in doctoral programs. If we are not preparing all of our students. How can we expect them to consider an academic career? Why would anyone choose a career in which they anticipate not succeeding?

What can we do to enhance our recruitment of women and minority faculty? We must continue to advertise our positions in all of the appropriate professional publications but we must also engage in more personalized communication, e.g., letters sent to women and minority persons encouraging them to apply for positions. While some universities send such letters, we must recognize that the content of the letters and the university's affirmative action reputation are equally important. Our attitudes about the recruitment process are also critically important. Negative attitudes are easily discerned. One rather closed-minded administrator said in a salary review meeting, "what more do you women want, we hired you?" We can place all the advertisements and send all the letters and flyers we want. but it our attitude about diversity is negative they do no good.

Have we reviewed and revised our tenure and promotion standards to eliminate discrimination and embrace diversity and balance? Or have we invented new arguments to defend those old standards? Data from one university suggest that we have revised our standards for tenure and promotion to associate professor. However, the standards for promotion to full professor are much the same. Perhaps we need more mentoring of junior faculty so that they are guided and assisted by successful full professors. Of course such mentoring assumes that it is desirable that women and minorities are successful and get promoted in the academy. Some of us might find success by women and minorities threatening or a source of dissonance. After all, they do not really belong in the academy in the first place so how could they be successful? Again, we must sincerely examine our attitudes about women and minorities in the academy and our commitment to their success. Generally, research indicates that most successful women were mentored by men, however, women in the academy are not mentoring other women.

Finally, affirmative action plans must be dynamic plans that are monitored and subject to change. As faculty, we should encourage the development of affirmative action plans in our departments, colleges, and universities - if none exist. If such plans exist, we should evaluate them and ask critical questions regarding their success. We must also evaluate our attitudes and our administrators' attitudes about affirmative action and engage in persuasive campaigns, if necessary, to change negative attitudes.



## SUMMARY

This article addressed affirmative action in academe by examining the judicial justification for the policy and the 1973 and 1983 AAUP recommendations. Those reviews indicated that the Supreme Court supported affirmative action using distributive justice principles. Moreover, the AAUP recommendations are also based on distributive justice principles. In the 1973 report, the AAUP called mostly for increased opportunities for women and minorities to enter the academy. In its 1983 report, the AAUP reiterated the need to alter the workplace to include more women and minorities and added a call for to remove barriers to tenure and promotion. Finally, the last section of this article addressed the state of affirmative action in the 1990s and argued that while some progress has been made, more needs to be done. We must revisit the recommendations of the 1970s and 1980s and, most importantly, we must change attitudes. Affirmative action is here to stay, for as Greene (1988) noted, "affirmative action is a policy adopted by a society in search of justice" (p. 1).

## REFERENCES AND NOTES

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