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Chapter V

Introduction

Guidelines and funding for equal employment were presented in 1961 in an Executive Order signed by Democratic President J. F. Kennedy (Stewart, 2012). And then, the Supreme Court was the center of forming the foundational legal concepts of affirmative action (FAQ, 2003). And later, Republican President Richard M. Nixon supported employment equity by establishing federal contractors to meet affirmative action standards. Three decades later, 32 years after the 1964 Civil Rights Act, the California legislature passed a ban on affirmative action. The law had been initiated by California Proposition 209 which had been accepted in a popular vote. The effect of the law, the California Civil Rights Initiative (CCRA), (1991) on hiring African-Americans in the state's higher education sector is the subject of the research. The research asks how California African-American faculty and administrators have been influenced by Proposition 209.

Discussion

The support and opposition of equity rules for hiring in the US is briefly reviewed in the discussion section, along with a short history of how Proposition 209 became part of the California constitution. Next the results of the evaluation of the numbers of African-Americans holding professional positions at UC and CSU higher education systems are discussed. Affirmative action is often in the public realm due to media coverage on the extreme stances, the pro and the cons on the policy since the 1960s. Former President L. B. Johnson expanded the support and policy initiatives that

President J. F. Kennedy initiated. The campaign for passing Proposition 209 called for the ban on affirmative action because of the presumed unfair hiring practices supported by the policy. In 2001, a national poll of white Americans demonstrated that they believed African-Americans had reached equity with whites in “ jobs, incomes, schooling, and healthcare” (Civil Rights, 2004). The UC Associate Vice-Chancellor for Faculty Diversity, Becerra (2003) claims that by 1995 (four years after Proposition 209 was passed) the law had negatively impacted the hiring of women and minorities into faculty positions. An article in the JBHE (2014) addressed the finding that even at high ranked American universities; the numbers of African-American faculty member were noticeably less than the national average. The research evaluated the numbers of faculty and staff hired before and after the passing of the legislation based on Proposition 209 for the UC and CSU systems.

- California voters approved Proposition 209 on November 5, 1996. The approval initiated the process for amending the California state constitution prohibiting hiring discrimination based on race, sex, or ethnicity. UC Regent Ward Connerly was instrumental in making sure Proposition 209 was on the ballot. Pro-affirmative action interest groups worked to influence voters to dismiss the proposition.

- The Proposition was challenged in lawsuits after the vote. The California Supreme Court agreed that Proposition 209 is constitutional.

- A lawsuit was filed addressing the ability to allow affirmative action for

college admissions. The US Appeals for the Ninth Circuit upheld Proposition 209 on April 2012.

UC and CSU compared from 1988-1997 to 1998-2005

The results of the research demonstrate that the number of the African-American faculty at UC and UCS systems is not proportional to the African-American population in California. The percentage of African faculty in the total faculty at CSU was increasing fairly consistently from 1988 to 1997. The highest percentage is calculated at almost four percent in 1993 and 1995 with a dip in-between. And then, in 1997 the percentage decreased. From 1998 to 2005 the percentage did not change the number of African-American faculty members. Faculty positions at CSU remained at the low value of approximately four percent.

The same variable was evaluated for the same two time periods in the UC system. The number of African-American faculty at UC as a percentage of total faculty is lower by approximately 1.5 percent from 1988 to 1996 than at CSU. The period from 1988 to 1996 demonstrates a small amount of change, even though the trend was increasing from 1988 to 2.7 percent in 1996. In 1997 a small drop to 2.6 percent was calculated. And then, from 1998 to 2005, the percentage of African-American faculty as a proportion of the total UC faculty was maintained at approximately 2.5 percent or lower. The probability distribution for the percent change in African-American faculty at UC was calculated. From 1989 to 1997 the range was only zero to 0.222 percent. From 1998 to 2007 the range was only from zero to 0.44 percent. The percent probability for change in the number of African-

American faculty at UC was particularly interesting. The percent probability was calculated for every year from 1998 to 2007; the most recent years showed that the probability of change was zero. The most recent percent probability for change of African-American faculty at UC was found to be the same value, zero, as in the early 1990s.

The CSU system is a larger network than the UC system so overall the number of African-American individuals in faculty positions is higher at CSU. For example the number of African-American CSU faculty was 689 in 1989, 808 in 1999, and 880 in 2005. Whereas, the number of African-American UC faculty was 144 in 1989, 176 in 1999, and 211 in 2005. Twenty six years at CSU, from 1985 to 2011, a one percent increase in African-American faculty was reported. The number reported in 1985 was equal to 2.8 percent and in 2011 was 3.8 percent (CFA. 2012, 18). The average in the 16 years from 1989 to 2005 was maintained at approximately 3.85 percent.

Top-ranked California universities from 1999 to 2005

The percentage of African-American faculty at four top ranked California universities between 1999 and 2005 are compared. The percentage of UC Berkeley African-American faculty was 3.8 percent in 1999 and dropped to 2.1 percent in 2005; a drop of 1.7 percent. At Stanford University the amount was 2.6 percent in 1999 and 3.2 percent in 2005; an increase of about 0.6 percent. At UCLA the amount was 2.6 percent in 1999 and three percent in 2005; an increase of about 0.4 percent. At California Institute of Technology the amount was 0.6 percent in 1999 and increased to 1.4 percent in 2005; an increase of 0.8 percent. The largest decrease was at UC

Berkeley, whereas the other three universities showed a small amount of increase that ranged from 0.6 percent to 0.8 percent.

No discernible change was evident for the number of African-American faculty members for both California higher education systems from 1990 to 1995 and from 2000 to 2005. The percent change from 1990 to 1995 at UC was 2.33 percent and the percent change from 2000 to 2005 was 2.45 percent change of African-American. The percent change from 1990 to 1995 at CSU was 3.81 percent, and from 2000 to 2005 it was 3.97 percent.

Essentially, the amount of change was zero from the time before Proposition 209 (1990 to 1995) until after the Constitution was amended with the addition of Proposition 209 (2000 to 2005). In contrast, the percent of African-Americans in the California population reported by the state census is eight percent.

For the percentage probability distribution from 1998 to 2007, the most recent values were zero, matching the values from the early 1990s. The rates of employment for African-Americans in the professional positions of faculty and administrators increased after Affirmative Action legislation was passed in the 1960s. The rate decreased in numbers of African-American in professional positions in California after affirmative action was banned in the 1990s. In 2002 human resources for CSU reported African-American employees in the following types of positions: faculty, managerial, professional, secretarial, technical, skilled crafts, and service. The amount of African-American faculty was reported to be about 4 percent, whereas the rest of the African-American employees amounted to about 9 percent. The CSU faculty percentage rate of growth for African Americans peaked during

the period 1986 to 1990. And then, from 1990 to 1993 the amount dipped to negative five percent. From 1993 to 2001 the amount was reported to be four percent which agrees with the research calculations.

The percentage of self-described African-Americans in California for 2000 was 6.7 percent, in 2009 it was 6.1 percent and in 2013 the value was 5.9 percent according to the US Census. The percentage of African American faculty to total faculty working at CSU and UC higher education systems does not reach 5.9 percent, but the percentage of African-American staff employees is higher than the percent population; it is about nine percent.

Recommendations

The higher education systems in California have some of the top-ranked universities in the nation. The universities are also well-respected around the world. The fact that the number of African American faculty members currently is similar to the numbers in the early years after Civil Rights laws were passed is disturbing. In fact, the percentage of African-American faculty and staff is generally unsatisfactory and the increasing trend for hiring that occurred after affirmative action laws were passed has stopped. Therefore the following recommendations are offered to enhance the hiring of African-American faculty and staff. The purpose of the recommendations is to ensure the hiring of qualified African-Americans because they have equal rights to equal opportunity, with or without a law forcing universities to meet those rights.

- Adopt a student-centered approach to hiring that ensures students that they will experience an education with faculty who each have unique

strengths to offer their students. Several positive aspects arise from this approach according to research by Gruiffrida and Douthit (2010). A learning environment with a diverse faculty gives students a more realistic experience, one that better mirrors the real world. The results indicated that students find white faculty as sympathetic, but the African-American faculty take time to listen to student's concerns, offered advice and showed professional concern. The bond between African-American faculty and African-American students was reported as especially strong (Gruiffrida and Douthit, 2010).

- It is recommended that the university systems set a hiring target for reaching a specific goal for the percentage of African-American faculty to total faculty that must be teaching in the systems. The target for the tenured African-American faculty at each of the higher education facilities in the UC and CSU systems can be calculated to match the amount of African-American student population (approximately eight or nine percent, for example). Therefore, if the percentage of African American tenured faculty to total tenured faculty is targeted to match the African-American population, the hiring practices will be transparent. And then, the amount of faculty on the tenure track can be hired so that the university can maintain at least an eight percent level of African American tenured faculty to the total of tenured faculty. Using the measurement of the African-American student population as a base line for hiring would show a serious intention to fair and equal hiring of African-American faculty.

Gandara (2012) recommends that African-American faculty take on the responsibility of contacting potential African-American students in order to

encourage them to apply to the UC and CSU systems. In order for this to work, the hiring practices of the universities needs to be in compliance with the practice. Many universities do not hire recent graduates from their own college. The hiring of students from other universities must be carried out, but the pool of African-American students is small, as has been represented in chapter four. Therefore, not only African-American faculty should work on recruiting African-American students, but the entire faculty needs to be involved in the same goal to encourage African-American students to seriously consider an academic position at their university. The same activity can be done by the scientific faculty and senior laboratory managers to encourage African-American counterparts to apply for positions.

- The hiring processes at UC and CSU need to be transparent. The steps of the process need to be easily available to a larger audience. Trower and Chat (2007) strongly argued that secret hiring processes do not ensure diversity and fair practices.

- Reframing the hiring process so that the traditional segregation of job categories is no longer the basis of hiring has been suggested by Feder (2012). The strategy is problematic, as Feder (2012) noted when cases have been taken to the court system; the result has not been straight forward and has not addressed higher education directly. The judgments for Parents Involved in Community Schools v. Seattle School District No. 1 and Fisher v. University of Texas did not support changing job categories in order to apply non-discriminatory hiring strategies via job categories in the field of education (Feder, 2012, p. 2). On the other hand, the Supreme Court and other court judgments have not been consistent, so that means that the

stand of the justice system on the issue is not absolutely rigid.

Aberson (2006) found in his research that approaching the subject of hiring according to foundational civil rights practices, from a procedural justice perspective, engages many people that are not for 'affirmative action laws' per se. Hiring policies that are presented as motivated by "past discrimination" were supported more often than minority hiring practices "with no justification for the preferences (Asberson 2006, p. 12). Aberson (2006) has developed a model to better understand how the subject of diversity can be presented to the public so that they think about the issue, rather than only giving a 'knee-jerk' reaction. Aberson found that when people are offered the reasons why having diversity in the workplace is in their self-interest; they are more likely to support hiring practices that are designed to allow people with ethnic differences.

- Target education programs to the public to teach the reality of the meaning of affirmative action so the confusion caused by Proposition 209 on the definition of affirmative action will be overcome. The importance of social diversity in higher education needs to be made clear to the public. Educating the public is the first step to policy change for hiring processes that result in diverse faculty and staff at universities.

- A serious intention to attract highly qualified African-Americans to reflect the numbers of students would prove to the nation and the rest of the world that California's higher education systems are dedicated to diversity in higher education. A serious intention to educate a diverse population of students can be done by setting goals of matching, at least the percentage of African-American college-aged students in California for CSU and in the

nation for UC. A counterbalance to the inequities of society towards the environment and schooling of African-American children can be designed into admission policies based on factors of economic status and life experiences. For example, more African-Americans are jailed than whites, although whites commit the most crime simply because the population is majority white. African-American children with parents in jail cannot compete at the same level as white children with parents in business or other positions. African-American children have the potential of doing as well or better than white students, especially with enough African-Americans faculty members in the system for role models (Gandara 2012).

In order to make the above suggestions part of state policy, people must vote for the policy. Therefore, encouraging voter registration and helping people go to the voting polls on voting day can support, indirectly, hiring policies that are pro-diversity.

- The process for educating all the children in the state and hiring qualified faculty and staff must be defined consistently within university systems. The path of state government public policy has demonstrated that the issue of affirmative action or a ban on affirmative action simply causes the issue to swing from one extreme to the other. Changing regulations and insisting that higher educational facilities meet one set of standards one decade and switch to the opposite set of standards the next does not create stability in the educational system. Educational facilities need to educate; but if the top-ranked universities in the nation and the other facilities are forced to prioritize governmental policy on volatile issues like race, regulations

become the priority not education. The real problem of bigotry and hiring based on skin color needs to be addressed, not avoided.

Suggestions for Further Research

- The way that data is reported between the systems of UC and CSU is not consistent. Although they are two different systems, the reporting of faculty and staff for African-Americans and other minorities needs to be recorded for all positions in both systems. That is the only way that good comparisons can be made between systems so that California has reliable values about higher education to report.

- The number of African-American faculty members on tenure track needs to be evaluated. Researchers need to understand whether or not the California higher education systems hire enough African-American faculty to maintain a stable level of tenured African-American faculty for the long-term.

- The number of African-American staff positions, including laboratory positions, need to be analyzed more thoroughly, but finding data is very difficult. A quantitative research project designed to go into each of the higher education facilities and count the number of African-American faculty and staff by observation would be fruitful for good results. The same research project can gather demographic details on the level of education of the individuals in the positions and can define the positions in detail.

- The ability of Proposition 209 to undermine hiring African-American faculty and staff requires further study with reference to making positive policy changes within UC and CSU. Altbach, Lomotey and Rivers (2002) described the situation as a crisis and said that eligible individuals need to be offered

the same opportunities as everyone else regardless of race.

- Further study is needed to understand clearly how California higher education systems can change their hiring policies without breaking the Constitutional amendment that was established based on Proposition 209. In general, some topics that can be addressed are (a) the hiring barriers effecting minorities that are not based on race, (b) allowing all applicants, but discerning the best-qualified including special abilities like acting as a role model, (c) how to lower costs from the costs of applying affirmative action laws, and (d) reviewing work contracts for wording that discourages the hiring of minorities and introducing “ operational needs analysis” that require the diversity that only minorities can offer to a facility (Feder, 2012, 29; Higgins, 1999).

- The affirmative action legislation had success in ensuring equal pay for equal work and equitable hiring practices. Without the affirmative action measures in place in California, new public policies need to reframe hiring in terms of qualified candidates being hired, but that will include educating white population that African-Americans do not have the same equal opportunities.

- The marginalization of African-Americans in university employment needs to be studied from an organizational perspective. Richard and Kirby (1997) suggest the perspective of organizational justice be applied and that African-American voices be an important part of the input.

- The types of procedural justice that can cause marginalization of African-American staff hiring, even when progress is made on hiring a diverse faculty (Aberson, 2003).

- The work of Holzer and Neumark (2005) concluded that a diversity-related understanding on hiring increases the likelihood that people develop a racially just mindset. A study needs to be carried out to learn more about the phenomena. A public education programme could then be designed and presented to the public.
- It would be interesting to identify and measure the benefits between the ethnicities, African-American, white, American Indian, Latino, Chinese-American, Asian-Indian American and others. If the benefits for each group of ethnicity was discerned the results can be used for comparison purposes. Therefore, the next step would be to identify the way the public perceives the benefits of each ethnic group. And then, the goal of the research can be carried out: comparing the real-life benefits to the ethnic groups and can be reported by comparing the real-life benefits to the public perception of each ethnic group.
- New immigrants into California have settled from China and India so the focus on African-American ethnicity was pushed out of the public view. The effect immigration by other groups considered minorities have on the equal rights of African-Americans needs to be studied.
- The historical political and social factors that led to an improvement in African-American faculty and staff hiring due to affirmative action need to be identified. Knowing what made affirmative action successful in certain circumstances, but not in other circumstances can be used as a knowledge base to build upon.
- California is an excellent location to carry out the suggested research on the hiring of African-Americans in higher education in order to make

knowledgeable policy decisions. UC includes undergraduate and graduate programs, a law school, and national science laboratories. Whereas, CSU offers a wide-ranging and large number of study areas. Both systems have a historical presence in the area since the 1800s and are even now expanding into new contemporary fields of study with new classrooms and facilities. UC Berkeley hired the first African-American faculty in the system in 1952, the engineering professor Joseph T. Gier. Gier was only the second black faculty in the nation to gain tenure at predominately white universities. The first African-American law review president, Vaughn Charles Williams took the position as head of the Stanford Law Review in 1969. These African-American 'firsts' took place 62 and 45 years ago (consecutively). Earlier policies that overcame the racism against African-Americans in white higher education systems worked; perhaps important factors can be discerned by a longer historical study of Civil Rights and affirmative action in California.

Summary

Proposition 209 appears to have negatively influenced the trend of increasing African-American faculty and administrators that started after affirmative action measures started. In order to correct the inequity introduced to the hiring process of African-American faculty and staff into California higher education facilities, three main activities can be undertaken.

- Develop an education programme that explains fair-hiring based on self-interest (perception of benefit) and procedural justice as explained in the research by Aberson (2003). Introduce the programme to the public in an

organized way, with full coverage of the state of California.

- Accept the input of students who have invested themselves in political action against 209 and other students with a serious interest for diversity in hiring. Setting up study workshops with faculty, administrators and students can deflate the demonstrations on campus. Inviting students into the process opens up the process and will help lead to more openness of hiring policies. Students have a different perspective from faculty and administration that can be used to develop popular policy changes for UC and CSU.

- Start activities to bring diverse hiring practices to the agenda-setting calendar of the state legislator. The best strategy for introducing the issue to the public needs to be developed. The organizations that are seriously invested in diversity issues need to be engaged. When the policy presentation is agreed upon, the policy needs to be taken to the public through the media, until the public makes the topic a priority of public discussion. Pressure needs to be applied for policies that include African-American hiring of faculty and staff proportional to the number of African-American students or other measurement decided upon.

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