

MEMORANDUM

TO: Faculty Senators

FROM: Sharon Bland

DATE: April 20, 1989

Attached please find the data from the Faculty Welfare Minorities Subcommittee relevant to the minorities survey results. Please review for discussion at the Senate meeting on April 25, 1989.

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Symbols and Notes:

\$: F-test meets .05 criterion but Chi Square does not.

@: Chi Square meets .05 criterion but F test does not.

#: t-test and Chi square meet .05 criterion but ANOVA (F test) does not.

\*\* t-test and Chi square or ANOVA and Chi Square meet the criteria

Items 2,7,10, 20, 36 and 48 do not meet any of the above tests.

The t-test compares means from 2 categories. So, sex is the one variable with two categories. Birth, race, and status have more than two categories. For them, Chi square and F-test for "ANOVA" apply.

"ANOVA" is actually "differences between all groups which occur" formed from the characteristics: sex, birth, race, and status. Both the F-test (ANOVA) and Chi square are calculated.



| ITEM NUMBER | ITEM DESCRIPTION                   | SEX | BIRTH | RACE | STATUS | ALL POSSIBLE GROUPS |
|-------------|------------------------------------|-----|-------|------|--------|---------------------|
| 1           | EDU JOB OPENING                    |     |       | \$   |        |                     |
| 2           | COMPETITIVE SALARY                 |     |       |      |        |                     |
| 3           | GROWTH AT ECU                      |     |       |      | **     |                     |
| 4           | MORE TEACHING THAN RESEARCH        | **  |       |      |        |                     |
| 5           | PROGRAMS TO DEVELOP                |     |       | **   | **     | @                   |
| 6           | PURPOSE EXPRESSED BY SEARCH COMM   |     |       | **   | **     | **                  |
| 7           | AFFORDABLE HOUSING IN GREENVILLE   |     |       |      |        |                     |
| 8           | GEOG. LOCATION OF GREENVILLE       |     |       | **   |        |                     |
| 9           | SMALL TOWN                         |     |       | **   | **     |                     |
| 10          | LESS CRIME                         |     |       |      |        | **                  |
| 11          | MF: MODELS AND PEERS               | **  |       | **   |        | **                  |
| 12          | MF: DEMOGRAPHIC BALANCE            | **  | **    | **   |        | **                  |
| 13          | MF: CANNOT IGNORE TALENT           | **  | **    | **   |        | **                  |
| 14          | PRESENT ECU OFFICE OF ED. OPP      | **  | **    | **   |        | **                  |
| 15          | RACE/SEX BIAS: VC'S LEVEL          | **  |       |      | **     | **                  |
| 16          | RACE/SEX BIAS: DEAN'S LEVEL        | **  |       |      | **     | **                  |
| 17          | RACE/SEX BIAS: CHAIR'S LEVEL       | **  | **    | **   |        | **                  |
| 18          | RACE/SEX BIAS: PERSONNEL COMM      |     |       | **   |        | **                  |
| 19          | INSTITUTIONAL BIAS                 | **  |       | **   | **     | **                  |
| 20          | TOLERABLE ATMOSPHERE               |     |       |      |        |                     |
| 21          | DEPARTMENTS WITH BIAS              | **  |       | **   |        | **                  |
| 22          | RESEARCH AND SALARY DEMANDS        |     |       |      |        | **                  |
| 23          | INSENSITIVITY OF ADMNS. AND S.C    | **  | **    | **   | **     | **                  |
| 24          | NEGATIVISM OF COMMUNITY AND RSO    | **  | **    | **   |        | #                   |
| 25          | RESPECT FROM STUDENTS              |     | **    | **   |        | \$                  |
| 26          | RESPECT FROM FACULTY AND STAFF     |     |       | **   | **     | **                  |
| 27          | RESPECT FROM ADMINISTRATORS        | #   | **    | **   | **     | **                  |
| 28          | RESPECT FROM UNIV. COMMUNITY       |     | **    | **   | **     | **                  |
| 29          | RESPECT FROM COMMUNITY             |     | **    | **   |        | **                  |
| 30          | CONTRIBUTIONS TO THE UNIVERSITY    |     |       |      |        | @                   |
| 31          | CONTRIBUTIONS TO THE COMMUNITY     |     |       |      |        | \$                  |
| 32          | RECR. RETN. GRADT. MORE MIN STUDT  |     |       |      | **     | @                   |
| 33          | NEW SLOTS FOR RECR. MIN FACL       | **  | **    | **   |        | **                  |
| 34          | PERSONAL CONTACTS: PRO. MEETINGS   | **  | **    |      |        | **                  |
| 35          | SENSITIVITY WORKSHOPS              | **  | **    | **   |        | **                  |
| 36          | CONCERNS OF MIN. FACULTY HOUSING   |     |       |      |        |                     |
| 37          | MONITOR ACTIVITIES @ DEPT. LEVEL   | **  | **    | **   |        | **                  |
| 38          | DEFINITION: BLACKS+WOMEN+FB'S ETC  | **  | **    |      |        | @                   |
| 39          | UNIT HEADS: INCREASE MF. %         | **  | **    | **   |        | **                  |
| 40          | SPECIAL EFFORTS TO RECR. MIN. FAC  | **  |       |      |        | **                  |
| 41          | SPECIAL EFFORTS: ADMINIS. POSTS    | **  | **    | **   |        | **                  |
| 42          | SELECTION COMM. @ UNITS WITH MF    | **  | **    | **   | **     | **                  |
| 43          | RECR. RETAIN MIN. FAC AND MONITOR  | **  | **    | **   |        | **                  |
| 44          | DEAL WITH ACTS OF DISCRIMINATION   |     | **    |      | **     |                     |
| 45          | ENCOURAGE MENTORSHIP PROGRAMS      | **  |       |      |        | **                  |
| 46          | ADMINIS. STRUC: SENATE+NEW ADMINIS | **  |       |      |        | **                  |
| 47          | COMMUNIC. THRU MIN. NETWORKS       |     |       |      | **     |                     |
| 48          | NAMES OF NETWORKS                  |     |       |      |        |                     |
| 49          | SEX: MALE 270 FEMALE 135           |     |       |      |        |                     |
| 50          | BIRTH: US 367 FOREIGN 37           |     |       |      |        |                     |
| 51          | RACE: W 368 B 14 OTHERS 18         |     |       |      |        |                     |
| 52          | FACL. 325 HEADS 37 ADMIN. 19       |     |       |      |        |                     |



Table 1 Questionnaire on Minority Faculty Recruiting: All Responses

| Question Number | Frequency and percent frequency of each individual response |            |            |            |            | Total Responses | Point Average |      |      | Net Score |       |      |
|-----------------|-------------------------------------------------------------|------------|------------|------------|------------|-----------------|---------------|------|------|-----------|-------|------|
|                 | Omit                                                        | A          | B          | C          | D          |                 | E             | Mean | Std  | Rank      | V     | Rank |
| 1               | 0 ( 0%)                                                     | 275 ( 66%) | 110 ( 27%) | 9 ( 2%)    | 6 ( 1%)    | 14 ( 3%)        | 414           | 1.49 | 0.89 | 1.0       | 0.90  | 5.0  |
| 2               | 2 ( 0%)                                                     | 51 ( 12%)  | 162 ( 39%) | 60 ( 14%)  | 99 ( 24%)  | 40 ( 10%)       | 414           | 2.79 | 1.22 | 31.0      | 0.21  | 32.0 |
| 3               | 4 ( 1%)                                                     | 32 ( 8%)   | 129 ( 31%) | 97 ( 23%)  | 100 ( 24%) | 52 ( 13%)       | 414           | 3.03 | 1.18 | 40.0      | 0.03  | 40.0 |
| 4               | 2 ( 0%)                                                     | 68 ( 16%)  | 76 ( 18%)  | 73 ( 18%)  | 101 ( 24%) | 94 ( 23%)       | 414           | 3.19 | 1.40 | 48.0      | -0.15 | 46.0 |
| 5               | 2 ( 0%)                                                     | 188 ( 45%) | 131 ( 32%) | 43 ( 10%)  | 34 ( 8%)   | 16 ( 4%)        | 414           | 1.93 | 1.11 | 10.0      | 0.73  | 17.0 |
| 6               | 6 ( 1%)                                                     | 51 ( 12%)  | 128 ( 31%) | 122 ( 30%) | 62 ( 15%)  | 44 ( 11%)       | 413           | 2.80 | 1.17 | 32.0      | 0.26  | 28.0 |
| 7               | 6 ( 1%)                                                     | 31 ( 7%)   | 138 ( 33%) | 110 ( 27%) | 82 ( 20%)  | 47 ( 11%)       | 414           | 2.94 | 1.14 | 37.0      | 0.13  | 36.0 |
| 8               | 5 ( 1%)                                                     | 68 ( 16%)  | 134 ( 32%) | 60 ( 14%)  | 75 ( 18%)  | 72 ( 17%)       | 414           | 2.88 | 1.37 | 35.0      | 0.16  | 35.0 |
| 9               | 3 ( 1%)                                                     | 42 ( 10%)  | 150 ( 36%) | 63 ( 15%)  | 90 ( 22%)  | 66 ( 16%)       | 414           | 2.97 | 1.28 | 39.0      | 0.10  | 38.0 |
| 10              | 6 ( 1%)                                                     | 37 ( 9%)   | 120 ( 29%) | 119 ( 29%) | 83 ( 20%)  | 49 ( 12%)       | 414           | 2.97 | 1.16 | 38.0      | 0.09  | 39.0 |
| 11              | 0 ( 0%)                                                     | 208 ( 50%) | 148 ( 36%) | 25 ( 6%)   | 24 ( 6%)   | 9 ( 2%)         | 414           | 1.74 | 0.96 | 6.0       | 0.83  | 11.0 |
| 12              | 3 ( 1%)                                                     | 136 ( 33%) | 119 ( 29%) | 55 ( 13%)  | 71 ( 17%)  | 30 ( 7%)        | 414           | 2.37 | 1.30 | 21.0      | 0.43  | 24.0 |
| 13              | 4 ( 1%)                                                     | 147 ( 36%) | 142 ( 34%) | 69 ( 17%)  | 38 ( 9%)   | 13 ( 3%)        | 413           | 2.09 | 1.09 | 16.0      | 0.70  | 20.0 |
| 14              | 5 ( 1%)                                                     | 59 ( 14%)  | 47 ( 11%)  | 240 ( 58%) | 39 ( 9%)   | 24 ( 6%)        | 414           | 2.81 | 0.99 | 33.0      | 0.25  | 29.0 |
| 15              | 6 ( 1%)                                                     | 41 ( 10%)  | 42 ( 10%)  | 193 ( 47%) | 69 ( 17%)  | 63 ( 15%)       | 414           | 3.17 | 1.12 | 47.0      | -0.23 | 48.0 |
| 16              | 7 ( 2%)                                                     | 45 ( 11%)  | 54 ( 13%)  | 168 ( 41%) | 77 ( 19%)  | 63 ( 15%)       | 414           | 3.14 | 1.17 | 46.0      | -0.17 | 47.0 |
| 17              | 9 ( 2%)                                                     | 52 ( 13%)  | 75 ( 18%)  | 133 ( 32%) | 78 ( 19%)  | 67 ( 16%)       | 414           | 3.08 | 1.25 | 43.0      | -0.07 | 43.0 |
| 18              | 5 ( 1%)                                                     | 43 ( 10%)  | 68 ( 16%)  | 159 ( 38%) | 72 ( 17%)  | 67 ( 16%)       | 414           | 3.13 | 1.19 | 45.0      | -0.11 | 45.0 |
| 19              | 7 ( 2%)                                                     | 32 ( 8%)   | 91 ( 22%)  | 146 ( 35%) | 96 ( 23%)  | 41 ( 10%)       | 413           | 3.06 | 1.09 | 42.0      | -0.05 | 42.0 |
| 20              | 10 ( 2%)                                                    | 40 ( 10%)  | 222 ( 54%) | 95 ( 23%)  | 34 ( 8%)   | 12 ( 3%)        | 413           | 2.39 | 0.89 | 22.0      | 0.70  | 19.0 |
| 21              | 13 ( 3%)                                                    | 35 ( 8%)   | 90 ( 22%)  | 176 ( 43%) | 64 ( 15%)  | 35 ( 8%)        | 413           | 2.93 | 1.04 | 36.0      | 0.12  | 37.0 |
| 22              | 6 ( 1%)                                                     | 104 ( 25%) | 213 ( 52%) | 56 ( 14%)  | 22 ( 5%)   | 12 ( 3%)        | 413           | 2.08 | 0.93 | 15.0      | 0.81  | 14.0 |
| 23              | 11 ( 3%)                                                    | 111 ( 27%) | 161 ( 39%) | 87 ( 21%)  | 23 ( 6%)   | 20 ( 5%)        | 413           | 2.20 | 1.06 | 18.0      | 0.73  | 18.0 |
| 24              | 7 ( 2%)                                                     | 86 ( 21%)  | 153 ( 37%) | 87 ( 21%)  | 56 ( 14%)  | 24 ( 6%)        | 413           | 2.46 | 1.14 | 23.0      | 0.50  | 23.0 |
| 25              | 4 ( 1%)                                                     | 224 ( 54%) | 172 ( 42%) | 8 ( 2%)    | 3 ( 1%)    | 3 ( 1%)         | 414           | 1.51 | 0.65 | 2.0       | 0.97  | 2.0  |
| 26              | 4 ( 1%)                                                     | 166 ( 40%) | 194 ( 47%) | 23 ( 6%)   | 24 ( 6%)   | 3 ( 1%)         | 414           | 1.79 | 0.85 | 7.0       | 0.86  | 8.0  |
| 27              | 6 ( 1%)                                                     | 126 ( 30%) | 181 ( 44%) | 58 ( 14%)  | 37 ( 9%)   | 6 ( 1%)         | 414           | 2.06 | 0.97 | 14.0      | 0.75  | 16.0 |
| 28              | 4 ( 1%)                                                     | 130 ( 31%) | 197 ( 48%) | 57 ( 14%)  | 20 ( 5%)   | 6 ( 1%)         | 414           | 1.96 | 0.89 | 11.0      | 0.85  | 10.0 |
| 29              | 6 ( 1%)                                                     | 134 ( 32%) | 185 ( 45%) | 59 ( 14%)  | 26 ( 6%)   | 4 ( 1%)         | 414           | 1.97 | 0.90 | 13.0      | 0.83  | 12.0 |
| 30              | 3 ( 1%)                                                     | 205 ( 50%) | 192 ( 46%) | 12 ( 3%)   | 1 ( 0%)    | 1 ( 0%)         | 414           | 1.54 | 0.59 | 3.0       | 0.99  | 1.0  |
| 31              | 3 ( 1%)                                                     | 114 ( 28%) | 238 ( 57%) | 46 ( 11%)  | 12 ( 3%)   | 1 ( 0%)         | 414           | 1.90 | 0.72 | 9.0       | 0.93  | 4.0  |
| 32              | 3 ( 1%)                                                     | 93 ( 23%)  | 189 ( 46%) | 66 ( 16%)  | 51 ( 12%)  | 11 ( 3%)        | 413           | 2.26 | 1.03 | 19.0      | 0.64  | 21.0 |
| 33              | 6 ( 1%)                                                     | 50 ( 12%)  | 95 ( 23%)  | 102 ( 25%) | 77 ( 19%)  | 84 ( 20%)       | 414           | 3.12 | 1.31 | 44.0      | -0.05 | 41.0 |
| 34              | 8 ( 2%)                                                     | 100 ( 24%) | 198 ( 48%) | 68 ( 16%)  | 25 ( 6%)   | 15 ( 4%)        | 414           | 2.16 | 0.99 | 17.0      | 0.76  | 15.0 |
| 35              | 6 ( 1%)                                                     | 70 ( 17%)  | 118 ( 29%) | 98 ( 24%)  | 79 ( 19%)  | 42 ( 10%)       | 413           | 2.77 | 1.24 | 30.0      | 0.22  | 31.0 |
| 36              | 8 ( 2%)                                                     | 52 ( 13%)  | 114 ( 28%) | 128 ( 31%) | 71 ( 17%)  | 41 ( 10%)       | 414           | 2.84 | 1.16 | 34.0      | 0.19  | 34.0 |
| 37              | 3 ( 1%)                                                     | 97 ( 23%)  | 140 ( 34%) | 97 ( 23%)  | 40 ( 10%)  | 37 ( 9%)        | 414           | 2.46 | 1.21 | 24.0      | 0.51  | 22.0 |
| 38              | 3 ( 1%)                                                     | 221 ( 53%) | 132 ( 32%) | 31 ( 7%)   | 11 ( 3%)   | 16 ( 4%)        | 414           | 1.71 | 0.99 | 5.0       | 0.86  | 9.0  |
| 39              | 5 ( 1%)                                                     | 76 ( 18%)  | 126 ( 30%) | 91 ( 22%)  | 72 ( 17%)  | 44 ( 11%)       | 414           | 2.71 | 1.26 | 27.0      | 0.27  | 27.0 |
| 40              | 3 ( 1%)                                                     | 169 ( 41%) | 164 ( 40%) | 43 ( 10%)  | 23 ( 6%)   | 12 ( 3%)        | 414           | 1.89 | 1.00 | 8.0       | 0.81  | 13.0 |
| 41              | 2 ( 0%)                                                     | 93 ( 22%)  | 128 ( 31%) | 86 ( 21%)  | 64 ( 15%)  | 41 ( 10%)       | 414           | 2.59 | 1.27 | 26.0      | 0.36  | 26.0 |
| 42              | 7 ( 2%)                                                     | 85 ( 21%)  | 113 ( 27%) | 79 ( 19%)  | 74 ( 18%)  | 56 ( 14%)       | 414           | 2.76 | 1.34 | 29.0      | 0.21  | 33.0 |
| 43              | 7 ( 2%)                                                     | 76 ( 18%)  | 125 ( 30%) | 78 ( 19%)  | 81 ( 20%)  | 47 ( 11%)       | 414           | 2.75 | 1.29 | 28.0      | 0.22  | 30.0 |
| 44              | 6 ( 1%)                                                     | 234 ( 57%) | 132 ( 32%) | 18 ( 4%)   | 13 ( 3%)   | 11 ( 3%)        | 414           | 1.62 | 0.92 | 4.0       | 0.88  | 6.0  |
| 45              | 5 ( 1%)                                                     | 87 ( 21%)  | 125 ( 30%) | 109 ( 26%) | 53 ( 13%)  | 34 ( 8%)        | 413           | 2.56 | 1.20 | 25.0      | 0.42  | 25.0 |
| 46              | 6 ( 1%)                                                     | 56 ( 14%)  | 91 ( 22%)  | 83 ( 20%)  | 140 ( 34%) | 38 ( 9%)        | 414           | 3.03 | 1.22 | 41.0      | -0.10 | 44.0 |
| 47              | 2 ( 0%)                                                     | 76 ( 18%)  | 124 ( 30%) | 206 ( 50%) | 4 ( 1%)    | 1 ( 0%)         | 413           | 2.34 | 0.79 | 20.0      | 0.95  | 3.0  |
| 48              | 379 ( 92%)                                                  | 11 ( 3%)   | 17 ( 4%)   | 4 ( 1%)    | 0 ( 0%)    | 2 ( 0%)         | 413           | 1.97 | 1.00 | 12.0      | 0.87  | 7.0  |



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# Affirmative Action in Higher Education

## A Report by the Council Committee on Discrimination

*The report which follows was presented in April 1973 to the Council and to the Fifty-ninth Annual Meeting.*

**T**he Council Committee on Discrimination has been directed to formulate a position on the role of affirmative action in the elimination of discriminatory practices in academic recruiting, appointment, and advancement. In doing so, we begin with the premise that discrimination against women and minorities in higher education is both reprehensible and illegal and reaffirm the emphatic condemnation of such practices by the AAUP.

More particularly, it is to the specific meaning and implications of affirmative action that our concern is directed, and especially to the question of so-called "preferential" or "compensatory" treatment of women and minorities. Because the phrase "affirmative action" has been assigned such extraordinarily different meanings by different persons and agencies, however, we mean to set the tone for this report at the beginning by stating our own position as to what it must mean consistent with the standards of the AAUP. It is that affirmative action in the improvement of professional opportunities for women and minorities must be (and readily can be) devised wholly consistent with the highest aspirations of universities and colleges for excellence and outstanding quality, and that affirmative action should in no way use the very instrument of racial or sexual discrimination which it deprecates.

The plans which we commend are those which are entirely affirmative, i.e., plans in which "preference" and "compensation" are words of positive connotation rather than words of condescension or *noblesse oblige*—preference for the more highly valued candidate and compensation for past failures to reach the actual market of intellectual resources available to higher education. The committee believes that the further improvement of quality in higher education and the elimination of discrimination due to race or sex are not at odds with each other, but at one. 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. Further, faculties are asked to consider carefully whether they are requiring a higher standard and more conclusive evidence of accomplishment of those women and minorities who are considered for appointment and advancement. What is asked for in the development of an affirmative action plan is not a "quota" of women or blacks, but simply a forecast of what a department or college would expect to occur given the *nondiscriminatory* use of *proper* appointment standards and recruiting practices—with the expectation that where the forecast turns out to be wide of the mark as to what actually happens, the institution will at once make proper inquiry as to why that was so. In essence, it is measures such as these which the committee believes to be required by the federal



government in the case of universities using federal funds, and we do not see that there is in such requirements anything which the AAUP should find inconsistent with its own goals. Indeed, there may be more reason for concern that affirmative action of this kind which is critical to the abatement of discrimination may fail to be pursued with vigor than that it may be pursued too zealously. At the present moment, the politics of reaction are a greater source for concern than the possibility that affirmative action might lend itself to heavy-handed bureaucratic misapplication.

### 1. DEFINING THE CRITERIA OF MERIT

"Excellence" and "quality" are not shibboleths with which institutions of higher learning may turn away all inquiry. Rather, they are aspirations of higher education which are thought to be served by seeking certain attributes and skills in those to be considered for academic positions. Some of these appear almost intuitively to be clearly related to certain standards customarily used by universities, others less obviously so but nonetheless determined by experience to "work," and still others are not infrequently carried along largely by custom and presupposition. Where a long period of time has passed since any serious study has been made to review the effects and the assumptions of stated or unstated standards of appointment and advancement (or where no study was ever made, but the standards were simply adopted on the strength of common custom and plausible hypothesis), it would be reasonable in any case to expect a conscientious faculty to reconsider the matter from time to time. When the use of certain unexamined standards tends to operate to the overwhelming disadvantage of persons of a particular sex or race who have already been placed at a great disadvantage by other social forces (not exclusive of past practices within higher education itself), it is even more reasonable to expect that an institution of higher learning would especially consider its standards in light of that fact as well: to determine whether it is inadvertently depriving itself of a larger field of potential scholars and teachers than simple economy requires, even while compounding the effects of prior discrimination generally.

We cannot assume uncritically that 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 their inclusion only in token proportions to their availability, the academy has denied itself access to the critical mass of intellectual vitality represented by these groups. We believe that such criteria must thus be considered deficient on the very grounds of excellence itself.

The rationale for professional advancement in American higher education has rested upon the theoretical assumption that there is no inherent conflict between the principles of intellectual and scholarly merit and of equality of access to the academic profession for all persons. In practice, this access has repeatedly been denied a significant number of persons on grounds related to their membership in a particular group. In part, this denial of access has resulted from unexamined presuppositions of professional fitness which have tended to exclude from consideration persons who do not fall within a particular definition of the acceptable academic person. This is in part, but only in part, a function of the procedures through which professional academics have been sought out and recognized within the academy. 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. Beyond procedural defects, however, the very criteria by which professional recognition is accorded have necessarily tended to reflect the prejudices and assumptions of those who set them, and professional recognition and advancement have generally been accorded those who most closely resemble the norm of those who have in the past succeeded in the academy.

It is therefore incumbent upon the academic community, as the first test of equal opportunity, to require something more: that the standards of competence and qualification be set independently of the actual choices made, ostensibly according to these standards; for otherwise, a fatal circularity ensues, in which the very standards of fitness have no independent parameters other than survival itself.



Where 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. Where criteria for appointment or promotion are unstated, or so vaguely framed as to permit their arbitrary and highly subjective application in individual cases, the institution's ability to defend its actions is the less. While we do not mean to suggest that criteria for academic appointment and advancement be reduced to an easily quantifiable set of attributes or credentials, all of which might be possessed uniformly by a large number of persons otherwise wholly unsuited to the position in question, we are convinced that a reluctance or inability to explicate and substantiate the criteria and standards employed generally and in a given instance does nothing to dispel the notion that something more than chance or intuition has been at work.

## 2. THE CRITICAL REVIEW AND REVISION OF STANDARDS FOR ACADEMIC APPOINTMENT AND ADVANCEMENT

The range of permissible discretion which has been the norm in reaching professional judgments offers both a hazard and a valuable opportunity to the academic community. The hazard stems from the latitude for the operation of tacit and inadvertent or explicit prejudices against persons because of race or sex, and their consequent exclusion on indefensible grounds when the standards are clearly met; the opportunity stems from the possibility for broadening the internal criteria for choice in accordance with a general notion of excellence, and hence expanding that notion.

As faculty members keenly aware from our own experience that it may not be possible to verify every consideration taken into account or to experiment wildly, we cannot, of course, urge an abandonment of common sense or common experience. Nor, frankly, have we learned of anything in the specifics of federal guidelines which does so. Rather, what is called for is a review to determine whether we have taken too much for granted in ways which have been harmful, to an extent that institutions themselves may not have known, and a consideration of alternatives which would be neither unreasonable nor unduly onerous in the avoidance of inadvertent discrimination and unwarranted exclusion. Specifically, the review and revision of criteria for academic appointment and advancement should be sensitive to the following considerations:

(a) The greater the effect of a given standard in diminishing the opportunity of women and minorities for possible appointment, the greater the corresponding responsibility to determine and to defend the particular standard as necessary and proper. The disqualification of larger percentages of women and minorities by standards which are only hypothetically related to professional excellence may, understandably, invite skepticism and inquiry.

(b) Standards which may serve valid professional and institutional interests, but which are more exclusionary than alternative standards sufficient to serve those interests, should be reconsidered in light of the less exclusionary alternatives. For instance, an institution-wide antinepotism rule is doubtless connected with a legitimate interest to avoid conflicts of loyalties among faculty members, but its exclusionary effect is far broader than a rule that requires faculty members to excuse themselves from participating in particular decisions involving family members, and in practice the exclusionary effect of overly broad antinepotism rules has overwhelmingly disabled a far greater proportion of women than men from consideration for academic appointment. The Association has already called for the curtailment of such rules.

(c) Criteria adopted to limit the field of eligible candidates largely (if not exclusively) for reasons of administrative convenience or out of past habits especially need to be reconsidered. For example, candidates may be sought only from those few graduate programs which in the past have provided the majority of the institution's staff; or application may be limited only to those who have had prior teaching experience. To the extent that such a policy of presumed efficiency excludes persons who may be equally excellent, the interest of economy should be carefully weighed against the tendency of the standard to disqualify a disproportionate number of women and minority persons.



(d) The overall excellence of a given department may be better assured by considering its existing strengths and weaknesses and, accordingly, varying the emphasis given to different kinds of individual qualification for appointment from time to time, rather than applying a rank-order of standards of fitness identically in every case. The failure to consider appointments in terms of a balance of qualities within a department may in fact result in less overall excellence than otherwise. Exactly as excellence of a *total* department is the goal, consideration of different kinds of skills and interests in different persons becomes important in order to maintain that kind of excellence and to liberalize the emphasis given to the appointment of persons stronger in certain respects than those in which the department is already very notable.

We would go further in this observation. An institution which professes to be concerned with many things not only must indicate by its appointment practices that it means what it declares, but must act consistently with that declaration thereafter in the advancement, salary, and respect for the appointee. It is unacceptable and hypocritical to make an appointment of a candidate based on a belief that that candidate, whose strongest assets are different from those of the existing faculty, is appointed precisely because his or her strengths are valued in what they add to the quality of the department, and thereafter nonetheless treat that person as less valuable when it comes to subsequent consideration in respect to salary, tenure, and similar considerations.

(e) The consideration of diversity of characteristics among the faculty of a given department or institution may be relevant to excellence and to affirmative action in an even larger and more important sense. Ordinarily, an institution would never think to list a narrow range of "age" as a categorical criterion of eligibility for academic appointment, precisely because it is a wholly inappropriate means of categorically eliminating great numbers of people who may be as well qualified as or better qualified than others. To restrict eligible candidates as a general and categorical matter to persons between, say, thirty-five and fifty years old would be thrice wrong: it unduly narrows the field of excellent people by an exclusionary standard which may work against the achievement of the highest quality of faculty obtainable; it is discriminatory and unfair to the well-qualified persons whom it categorically excludes; it may weaken the faculty in the particular sense of staffing it in a flat and homogeneous manner, depriving it of perspectives and differences among persons of more diverse ages.

It is nonetheless true that a characteristic which may be indefensible when used as a categorical standard of ineligibility is neither inappropriate nor invidious when it is taken into consideration affirmatively in choosing between two or more otherwise qualified persons, when it is related to securing a larger diversity than currently exists within the faculty. As between two otherwise well-qualified persons, a general concern for balance and the subtler values of diversity from the heterogeneity of younger and older faculty members has quite commonly found expression in resolving a preference between two candidates for a given position—never as a reflection upon, or as an "exclusionary" device against, the one, but as a relevant factor in light of the existing composition of the faculty.

The point may be generalized: meeting a felt shortage of tenured professors by preferring a more experienced and senior person; broadening the professional profile within a department, most of whose faculty secured their degrees from the same institution, by preferring in the next several appointments well-qualified persons of a different academic graduate exposure or professional background; leavening a faculty predominantly oriented toward research and publication with others more interested in exploring new teaching methods, and vice-versa. It is useless to deny that we believe such considerations are relevant, as indeed we familiarly and unself-consciously take them into account all the time, and rightly so; never in lieu of seeking the "best qualified person," but as contributing to a sensible decision of what constitutes the best qualified person in terms of existing needs and circumstance.

As we do not think this Association would disapprove conscientious efforts by academic faculties to register an affirmative interest, as they often have, in the positive improvement of their departments in the several ways we have just illustrated, but rather that this Association would (and does) regard those efforts as wholly conducive to fairness and quality, we do not see any sufficient reason to be less approving in the affirmative consideration of race or sex.



We would go further to say that special efforts to attract persons to improve the overall diversity of a faculty, and to broaden it specifically from its unisex or uniface sameness, seem to us to state a variety of affirmative action which deserves encouragement. A preference in these terms, asserted affirmatively to enrich a faculty in its own experience as well as in what it projects in its example of mutually able men and women, and mutually able blacks and whites, seems to us to state a neutral, principled, and altogether precedented policy of preference.

The argument to the special relevance of race and sex as qualifying characteristics draws its strength from a recognition of the richness which a variety of intellectual perspectives and life experiences can bring to the educational program. It is more than simply a matter of providing jobs for persons from groups which have in the past been unfairly excluded from an opportunity to compete for them; it is a matter of reorganizing the academic institution to fulfill its basic commitment to those who are seriously concerned to maintain the academic enterprise as a vital social force. The law now requires the elimination of discriminatory practices and equality of access for all persons regardless of race or sex; moral justice requires an end to prejudice and an increase of opportunities for those who have been denied them in the past by prejudice; enlightened self-interest requires that an institution reexamine its priorities where standards of merit are concerned, to revitalize the intellectual life of the community through the utilization of heretofore untapped resources. Most important, insofar as the university aspires to discover, preserve, and transmit knowledge and experience not for one group or selected groups, but for all people, to that extent it must broaden its perception of who shall be responsible for this discovery, preservation, and transmission. In so doing, it broadens the base of intellectual inquiry and lays the foundation of more human social practices.

(f) It is far from clear that every qualification we may associate with excellence in teaching and research is in fact as important as we are inclined to view it, or that our predisposition to certain qualities we habitually associate with significant scholarship is as defensible as we may earnestly suppose. There is, as we have noted, a certain circularity in the verification of standards insofar as professors may discern "excellence" in others who resemble themselves, and thus, by their appointment and advancement decisions, generate the proof that merit is the function of those resemblances. It is also far from clear that some degree of frank experimentation in academic appointment would not yield significant information in terms of how a faculty decides what is to be taught, or what is an appropriate or interesting subject for research and publication. It is surely not impossible, for instance, to question whether what is not taught and what is not researched is at least as much a function of parochialism and endless circularity of education-and-teaching as it is a function of wise perspective in determining what is truly important. The point need not be labored, however, for the professional literature concerned with higher education has itself repeatedly expressed these same concerns.

Nevertheless, the point has relevance to an affirmative action plan in the following sense. An institution appropriately concerned with its own continuing development may well wish to involve a component of experimentalism in its own staff policies—deliberately reserving discretion to depart from standards and criteria it generally employs precisely as a means of determining whether there may be important scholarly and educational functions to be served by standards different from those it ordinarily applies. The selection of some faculty "out of the ordinary" is itself very much a part of an institution's continuing concern with excellence in this sense. The preference for candidates who bring to a particular position certain differences of experience and background which the university may very properly be reluctant to adopt as a general matter in advance of any opportunity to determine what kind of difference they may make, but which it needs to take into account in order to have that opportunity, is neither invidious to others nor irrelevant to a university's legitimate aspirations. This consideration, while it exists quite apart from the need for an affirmative action plan in the improvement of equal opportunity for women and minorities, may nevertheless affect and help to broaden the design of that plan.



### 3. THE REVIEW AND REVISION OF ACADEMIC RECRUITMENT POLICIES

It must be obvious that even the most conscientious review and revision of eligibility, appointment, and advancement standards can have little effect in the shaping of academic faculties independent of recruiting practices. Even supposing that all of the preceding concerns for excellence, diversity, and experimentalism are nominally composed in the standard of a department or institution, they may yield very little if the manner in which the department goes about the business of finding qualified persons is itself so confined that in fact only a very few qualified persons are likely to turn up, and these not necessarily the best qualified. Additionally, it is now abundantly clear that certain conventional ways of locating possible candidates may operate to the disproportionate exclusion of women and minorities from equal opportunity for consideration—not necessarily as a consequence of willful discrimination but as a practical matter nonetheless. It is natural, for instance, that members of an appointments committee would seek names of possible candidates from acquaintances at other institutions—and that the resulting suggestions may substantially understate the availability of interested, qualified women and minority persons in a number of ways. For example, the institution from which the references are sought may be one which has proportionately fewer women or minority persons among its graduates or graduate students than other institutions. Or, the acquaintances providing the reference may act on presuppositions respecting the interest, qualification, or availability of women and minorities, and thus underrepresent them in their references.

Even if we were to assume, therefore, that there is no *willful* discrimination against women and minorities in the easy custom of recruiting principally by personal inquiry and reference, still the consequence of exclusion by inadvertence is grossly unfair—and altogether inconsistent with the development of excellence in higher education.

The call for affirmative action plans provides an occasion we believe is long overdue—to re-examine recruiting practices and patterns, and to revise them with the specific ambition of broadening the field of persons whose interest and qualifications the institution should want to know of and correspondingly providing them an opportunity to express their interest. In our view, this is an area in which we should be particularly concerned with “under-utilization” of qualified women and minority persons, i.e., that customary and unexamined parochialism in recruiting practices seriously understates the availability of persons fully qualified according to an institution’s own standards, and that they do so disproportionately with respect to women and minority persons.

The committee does not think it feasible to blueprint the particular ways in which each discipline, department, or institution can best proceed consistent with reasonable economy—for the means of reaching larger numbers of qualified candidates differs considerably from discipline to discipline. In nearly all cases, however, it may be necessary to assess academic staffing needs more in advance of the time when the appointment is itself to be made, i.e., to provide greater lead-time in order that new ways of locating additional qualified persons can be given a chance to work successfully. In some disciplines, moreover, it may be feasible through national professional associations to enlist the aid of a national service, readily providing a point of contact between interested candidates and available positions, vastly improving the field of available candidates with very little expense or time to a given department. For more than a decade, the Association of American Law Schools has provided a directory and registry for those interested in law teaching, for instance, and its use by a great number of law schools is now exceedingly well established. Similarly, many of the disciplinary associations in the humanities and social sciences operate professional registers and employment information bulletins, which provide a mutually satisfactory opportunity for prospective applicants and employers to make themselves known to one another. Far from being regarded as introducing an unhelpful and inefficient element in recruiting, such services should be seen as contributing to the efficiency and quality of academic staffing.

Finally, given the procedural inequity of past recruiting practices which have not only worked with discriminatory effect against women and minorities but which may well have had an



additional effect of discouraging their interest in considering an academic career, we believe that a highly principled argument for preference and compensation may be made which bears on the generation of the pool of candidates to be considered. Since good evidence exists to support the claim that overwhelmingly there has been an initial skewing of the candidate pool in traditional search and recruitment procedures, it may reasonably be argued that equity itself now requires a certain "preference" whose effects are "compensatory" in the special sense that more attention and care shall be paid where little or none was paid before; and this is not to the *special* advantage of women or blacks, for example, but for the equalization of their opportunity, in the face of prior disadvantage. Such preference and compensation does not discriminate against majority candidates, but puts them on an equal footing for the first time.

#### 4. STATISTICAL FORECASTS UNDER AN AFFIRMATIVE ACTION PLAN AND THE MONITORING OF EQUAL PROTECTION

Litigation and government inquiry are substantial risks in any case where the observable facts do not seem to support a claim of nondiscrimination. Historically, the relevance of statistics as a means of shifting the burden to come forward with evidence has most frequently been allowed by courts in respect to racial discrimination and the right to trial by jury. As the actual means which may have been used to compose a jury list are often not subject to public view, it proved virtually impossible for black defendants to establish that the persistent absence of blacks from grand juries and trial juries was, *in each particular case*, the result of willful discrimination. Where a comparison of census figures respecting the proportion of jury-eligible blacks in a given community would give rise to an expectation that over a substantial period of time approximately the same proportion of persons called for jury duty would similarly be black, but where in fact few or none were black, it became familiar that the federal courts would regard the fact of a continuing and significant disparity as yielding a *prima facie* inference that racial discrimination was a contributing element. The effect of the inference was to shift to the state the duty to come forward with evidence which would explain the result on grounds other than racial discrimination. Without doubt, this development in the law—which now has analogues in many other areas as well, including employment—was important to the effective detection and remedying of racial discrimination. We have thought it important to recall this fragment of civil rights history as a useful way of placing in perspective our several observations about "goals" and "targets," which have become misidentified as "quotas" in the litany of criticism of affirmative action plans.

In accordance with present requirements of the federal government, a "goal" and the timetable for its fulfillment are to be set by the institution itself. The means of arriving at the "goal" include exactly the kind of measures we have already discussed in the review and revision of criteria of eligibility and the review and revision of recruiting practices. In this framework, the "goal" is nothing more or less than an expectation of what an institution has reason to suppose will result 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 members of minority groups. Indeed, the word "goal" is itself something of a misnomer insofar as it suggests that the production of percentages is some kind of end in itself. Rather, what is contemplated is the specification of an expectation as to what the institution has reason to believe should appear in the ordinary course of events, given valid criteria of eligibility, proper recruiting practices, and the fair and equal consideration of equally qualified women and minority members in the actual course of selecting among candidates. Essentially, it is an arrangement which leaves open to public review the logic by which the expectation was determined, the general legality of standards which inform the criteria applied in personnel actions, the technical quality of the statistical analyses upon which conclusions are reached, and the degree of integrity with which an institution has adhered to a procedure which it has itself designed. The Committee on Discrimination believes that this part of an affirmative action plan is entirely proper and extremely important in several respects:

(a) Depending upon the unit for which the forecast is made, it will enable an institution to continue a policy of decentralized appointments recommended by the faculties of its respective



departments and colleges, while simultaneously providing it with a means of insuring that racial and sexual discrimination is not in fact contributing to those staffing decisions.

(b) It provides the government agency responsible for making certain that institutions assisted by public funds are not in fact violating executive, statutory, and constitutional requirements of equal protection with a means of fulfilling that responsibility.

(c) It provides the institution with a means of rebutting allegations of racial or sexual discrimination, insofar as simplistic impressions of disproportionality might otherwise support an inference of discrimination where, in fact, no such inference is warranted.

Beyond this, conscientious efforts to project personnel needs and to forecast the extent to which affirmative action plans should tend to make a real difference in the employment opportunities of women and minority persons may serve a broader interest as well. As citizens as well as educators we all have a common interest in attempting to determine how effective our separate and combined efforts are likely to be in the abatement of discrimination and the amelioration of effects from past discrimination. The knowledge these efforts can help to provide is not without significance in assessing whether or not we have done too little in this sensitive area of civil and human rights. It may help, moreover, not only to fortify the thinking of institutions of higher learning in terms of their own role, but in considering more knowledgeably what attention needs to be given to other institutions as well—institutions not involved in higher education, but whose existence and operation nonetheless profoundly affect the equal opportunity of women and minorities.

To be effective even in the three respects we have noted, however, it is obvious that additional reports and records must be made and maintained by the university—information to be periodically supplied by the various departments and colleges. An institution's willingness and ability to keep a careful and accurate record of personnel actions is of paramount importance. Among these is the requirement that educational institutions collect and analyze personnel statistics by race and sex, so as to determine whether there is cause for inquiry and explanation where actual staffing practices fall short of expectations under a policy of nondiscrimination. The same need to establish reliable information on actual recruiting practices under an affirmative action plan also holds.

Finally, we think it important to note again the point, purpose, and relationships of the several parts of an affirmative action plan. It is a plan which is well designed to improve both quality and equal opportunity, but it is a plan which makes an assumption. It assumes that institutions of higher education are what they claim they are—and that all of us as teachers and professors are also what we say we are; that we mean to be fair, that our concern with excellence is not a subterfuge, that we are concerned to be just in the civil rights of *all* persons in the conduct of our profession. If the assumption is a false one, then it will quickly appear that affirmative action plans can go the way of other proposals which are intellectually sound but which so frequently fail in their assumptions about the nature of people. For without doubt, the temptation will appear to the indifferent and the cynical to distinguish between the appearance and the substance of such a plan and to opt for the appearance alone: the token production of "adequate" numbers of women and blacks to avoid the likelihood of contract suspensions or federal inquiry, even while disparaging their presence and assigning the "blame" to the government. However, we do not doubt in this respect that institutions of higher learning will thus reveal more about *themselves* in the manner in which they respond to the call for affirmative action than is revealed about the consistency of such plans with excellence and fairness in higher education. For its own part, the Committee on Discrimination believes that plans reflected in the body of this report are entirely sound and congenial to the standards of the Association, and we commend them for the opportunity they provide for the further improvement of higher education as well as for their contribution to the field of civil rights.



# Affirmative Action Plans

## Recommended Procedures for Increasing the Number of Minority Persons and Women on College and University Faculties<sup>1</sup>

*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.*

*Affirmative Action in Higher Education: A Report by the Council Committee on Discrimination*

Since this statement was issued in 1973, the commitment of the American Association of University Professors to affirmative action in higher education has remained strong. Our concern has been heightened, in fact, by a number of worrisome trends:

1. Although some faculty have vigorously supported affirmative action, faculty have too often abrogated their traditional role in institutional policy formulation and implementation by allowing administrators to assume major responsibility for affirmative action requirements.
2. The administrations of many institutions have promulgated rules which not only intrude into the academic decision-making process, but are counterproductive to the aims of affirmative action.
3. Insufficient progress has been made in removing the vestiges of discrimination and achieving equality.<sup>2</sup>
4. Failure of many universities and colleges to end discriminatory policies and practices or to provide effective internal means of redress has led faculty members to resort to federal agencies and the courts. At the same time, enforcement activities have been viewed as unwarranted interference with institutional autonomy.

<sup>1</sup>This report results from the deliberation of the Council Committee on Affirmative Action Guidelines and of Committee W on the Status of Women in the Academic Profession. It was approved for publication by Committee W and adopted by the Council in June 1983 as Association policy.

<sup>2</sup>See, e.g., Committee Z annual reports on the Economic Status of the Profession, published annually in *Academe: Bulletin of the AAUP*. The reports show that the number of faculty members who are women is holding fairly steady but that the gap between men's and women's average salaries is widening. See also *Climbing the Academic Ladder: Doctoral Women Scientists in Academe*, by the Committee on the Education and Employment of Women in Science and Engineering (National Research Council, 1979). Higher education cannot shift the blame for the scarcity of women in its upper echelons to early societal influences. Data show that the percentage of women in each rank becomes successively less; they also show that the percentage of women faculty members is less than the percentage of Ph.D. recipients who are women (although not all faculty members have Ph.D.'s), which, in turn, is less than the percentage of master's recipients who are women, which, in turn, is less than the percentage of bachelor's degree recipients who are women. In fact, currently more than 50 percent of all undergraduates are women. In the case of minorities, the situation is somewhat different: the percentage among college and university students, after an initial modest increase, has fallen and remains substantially below their percentage in the population as a whole.

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5. Criticism of affirmative action has been widespread and has provided a handy target for the critics of government regulation of academic institutions although other aspects of government regulation may in fact be far more intrusive and expensive to implement.

### AAUP POLICIES

In view of these concerns, now is an appropriate time for the AAUP not only to reaffirm its stand in support of affirmative action but to suggest ways that affirmative action might be implemented in such a fashion as to be both effective and consonant with AAUP standards. The AAUP has long endorsed the principle of nondiscrimination, and the 1973 report of the Council Committee on Discrimination saw affirmative action as a necessary corollary to that principle.<sup>3</sup> Although affirmative action involves the identification of groups, such identification need not and should not imply a remedy which sacrifices individual rights to purported group entitlements. The AAUP has consistently supported the rights of individuals, advocating that an individual receive neither more nor less favorable treatment simply because of his or her race or sex.<sup>4</sup>

We believe that the following forms of affirmative action are consistent with the principle of nondiscrimination in the protection of individual rights:

1. *Examination of policies to be certain that they are scrupulously nondiscriminatory in principle and in practice, followed by corrective action where needed.* Included would be a review of recruitment practices to insure all qualified candidates for a position an opportunity to be considered fairly; to eliminate stereotyping assumptions, such as a belief that women with young children will be unable to devote themselves adequately to their profession; and to provide adequate internal grievance procedures for those who perceive that they have been the victims of discrimination.

2. *Examination of policies and procedures that, while facially neutral, have an adverse impact on women or minorities.* Whenever possible, they should be eliminated or replaced by less exclusionary policies designed to accomplish the same legitimate purpose.<sup>5</sup> The goal is to do away with gratuitous barriers to the fair consideration of women and minorities. Examples would be the narrowing of antinepotism policies or the liberalization of child-bearing and child-rearing leave policies. Another, less direct, action might be provision for day-care facilities, the absence of which tends to have a heavier impact on women than on men.

3. *Race- or sex-sensitive selectivity.* Awareness of race or sex in the appointment and retention process reaches a more difficult concept, but one that we believe was affirmatively addressed by the 1973 committee and by the AAUP's *amicus* brief in the *Bakke* case.<sup>6</sup> It is contemplated that in

<sup>3</sup>This committee report endorsed federal guidelines establishing numerical goals and timetables and asked institutions to "review the effects and the assumptions of stated or unstated standards of appointment and advancement, to provide statistical forecasts under an affirmative action plan, and to monitor equal protection provisions. ("Affirmative Action in Higher Education: A Report by the Council Committee on Discrimination," *AAUP Bulletin* 59 [Summer 1973]: 178).

<sup>4</sup>This is the basis of the AAUP's position on pension benefits that similarly situated men and women should receive equal periodic benefits. To give each man more in benefits to make up for the fact that more men die early means that men and women who in fact live the same number of years will be treated differently. The Supreme Court in *Los Angeles Department of Water and Power v. Manhart*, 435 U.S. 702 (1978), found this difference in treatment to be an illegal preference for group rights over individual rights. Limited federal legislation guaranteeing group entitlement has been upheld by the Supreme Court in *Fullilove v. Klutznick*, 448 U.S. 448 (1980), but there is no general constitutional provision for group rights, which would, for example, provide for representational voting as is done by some governments. While the AAUP recognizes, as does federal law, the right of religious institutions to formulate appointment policies based on religious affiliation, it has never endorsed a policy of guaranteed representation of certain groups in employment.

<sup>5</sup>See "Affirmative Action in Higher Education," note 3 above.

<sup>6</sup>AAUP brief *amicus curiae* in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978). In this brief the AAUP took the position that when (a) a faculty was convinced on the merits that racial heterogeneity was in fact relevant to conditions of its own professional excellence, and when (b) failure to "count" race might necessarily frustrate that possibility to improve its excellence, then it might consider race in deciding on admissions. Mr. Justice Powell found this to be the sole basis on which it was constitutional for a public university to make any use of race.



the interest of "diversity" a faculty might make the academic judgment that it would be desirable to have more men or more women or more black or more white persons among the faculty or student body. Such a judgment raises a delicate matter in that we must assure that the call for diversity does not itself lead to a violation of individual rights. It also raises the question of what types of considerations may appropriately be taken into account in the development and application of assessment criteria. At church-related institutions (although probably not at public institutions), for example, a religious affiliation may be considered in providing a degree of homogeneity in institutional values. With respect to political views, on the other hand, the AAUP would not endorse the right of a faculty to make judgments based on diversity criteria, nor could a public institution do so legally. At the same time there are some considerations that faculty might quite properly take into account in order to achieve a certain heterogeneity they might view as beneficial to the college or university's stated purpose. Institutional diversity may, in itself, be an appropriate goal. Under certain circumstances it can be sound policy to avoid appointing large numbers of Ph.D.'s from a single institution, apart from the merits of individual candidates, and an age mix may also be sought in a manner consistent with nondiscrimination principles.

Affirmative action may thus permit the inclusion of sex or race among a number of characteristics assessed in a potential candidate—along with his or her publications, area of specialization, academic credentials, etc. Sound academic practice requires that these criteria provide the basis for a complex assessment of relative merit and not merely establish a large pool of minimally qualified candidates. Nonetheless, it is frequently the case that the selection process generates a group of two or more highly rated candidates who are viewed as approximately equivalent. In such circumstances, and in the interests of diversity, affirmative action considerations might control the final selection. This type of selectivity is still consistent with the principle of nondiscrimination in that, as a matter of faculty judgment, the decision may be made that more males are needed in a predominantly female department or more whites at a predominantly black institution.<sup>7</sup> It should be kept in mind, however, that what is permissible or desirable in race- or sex-sensitive selectivity in the appointment process differs from what may be permissible in subsequent personnel decisions.<sup>8</sup>

4. *The establishment of achievable goals for the appointment of women and minority faculty members.* A "goal is nothing more or less than an expectation of what an institution has reason to suppose will result under conditions of nondiscrimination."<sup>9</sup> The setting of goals in an affirmative action plan does not guarantee representation for the groups for whom the goals are set, but it does serve as a useful monitoring device consistent with the principle of nondiscrimination and the rights of individuals.

Despite recognition of past and continuing discrimination in higher education and the slow progress in achieving a more diverse faculty in terms of race and sex, the AAUP does not support affirmative action that would set rigid quotas in the appointment of faculty members. We recognize that special efforts may be needed to attract and retain women and minority faculty members. It is our position, however, that if the first three means of implementing affirmative action described above were fully implemented at colleges and universities, there would be no need to mandate appointments from underrepresented groups. Where the principle of nondiscrimination is truly operative, the expectation is that all groups, where large enough units were considered, would achieve adequate representation.<sup>10</sup> The focus of our concern, in light

<sup>7</sup>While the body of this statement refers rather consistently to women and minorities because that is where the problem usually is, it is recognized that affirmative action may be desirable to increase the number of men or whites on the faculty in some cases. Again, that would be an academic judgment by the faculty.

<sup>8</sup>See below, 2e. Professional Advancement (ii).

<sup>9</sup>"Affirmative Action in Higher Education: A Report by the Council Committee on Discrimination," *AAUP Bulletin* 59 (Summer 1973): 182.

<sup>10</sup>We recognize the great difficulties in eliminating the historical effects of discrimination; nonetheless, we believe these historical disabilities can be remedied through a truly nondiscriminatory system without the imposition of mandatory quotas or a double standard which would merely perpetuate the myth of inferiority.

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of our equal concern for the rights of individual candidates, must necessarily fall on the decision-making process and how to make it as nondiscriminatory as possible within the academic setting. It is important that faculty take the initiative in the setting of numerical goals as well as in other aspects of affirmative action; if, however, individual departments are unwilling to accept responsibility, then there must be effective means within the institution to insure that provisions are made for equality of opportunity.

The AAUP recognizes that a fundamental commitment to nondiscrimination and equal opportunity requires the careful development and vigorous implementation and monitoring of affirmative action plans designed to meet the needs and standards of the academic community. In line with the types of affirmative action described above, affirmative action plans may include a wide range of lawful and academically sound corrective policies and procedures employed to overcome the effects of past or present barriers to equal employment opportunity. We believe that such plans are essential not only to insure that equal opportunity is realized, but also to remove those vestiges of past discrimination which would otherwise perpetuate indefinitely the disadvantages of unequal treatment.

The second assumption on which these procedures are founded is that primary responsibility for affirmative action should reside within the academic community and especially with the faculty. Members of the academic community frequently regard affirmative action as a bureaucratic intrusion and respond with merely cosmetic formal compliance. We ought instead to recognize that outside pressure, though at times intrusive and insensitive, is sometimes required to stimulate the reform of long-standing discriminatory policies and procedures. We need, in fact, to reexamine long-standing policies to ascertain whether there are some facially neutral policies which have an adverse impact on women or minority persons without providing a substantial contribution to academic excellence. We need to integrate affirmative action efforts into the routine conduct of personnel decisions through established procedures for peer review and collegial governance. While the primary responsibility lies within the institutions, we recognize that their policies and judgments cannot be exempted from administrative and judicial scrutiny and review. The right to institutional autonomy does not include the right to violate the law. The role of the government should, however, vary inversely with the efforts of the academic community to implement the principles of nondiscrimination.

## AFFIRMATIVE ACTION PLANS

### 1. *Designing the Plan*

Consonant with principles of sound academic governance,<sup>11</sup> the faculty should play a major role in formulating an institution's affirmative action plan. To the extent that persons affected participate in the development and ratification of a plan, the document's acceptability will be enhanced.

The content of affirmative action plans should be sensitive to classifications requiring academic expertise. Attention must also be paid to institutional policies governing tenure and promotion, fringe benefits and salary, and to any other area of professional life where vestiges of bias may persist. The most difficult aspect of plan development is the formulation of goals and timetables that not only are realistic but also will serve as an incentive to maximum effort in providing equality of opportunity. Realism requires an honest recognition of diminishing resources, shrinking enrollments, and the limits of the candidate pool available to a specific institution and in specific disciplines or professional fields.

The existence of a formal document which sets forth the institution's commitment to equal opportunity obligations, including goals, timetables, and procedures for the rectification of inequities, should be publicized. Incorporating the plan in faculty, staff, and student handbooks assures its availability and facilitates its use as a ready reference.

<sup>11</sup>See "Statement on Government of Colleges and Universities," *AAUP Bulletin* 63 (February 1977): 375-79.



## 2. Implementing the Plan

### a. The Affirmative Action Office

- (i) The institution should establish an affirmative action office.
- (ii) An affirmative action officer for faculty should be a person selected by a representative committee on which faculty have a major role; it is preferable that the person selected have had faculty experience in order to assure an understanding of the role of faculty and to foster cooperation.
- (iii) The affirmative action officer should have power of effective oversight of search and appointment procedures for faculty and academic administrative positions and their implementation. For example, the affirmative action officer should have the authority, upon determining that a department's search for candidates has not been adequate, to defer an appointment pending appropriate faculty and administrative review.
- (iv) The affirmative action officer should play a role in the normal personnel-action procedures of the institution, including promotion, tenure, and salary determinations. Timely reviews of individual actions should be complemented by public disclosure through periodic reports on the overall situation at the institution with respect to personnel decisions affecting faculty status.
- (v) The administration of an institution's affirmative action program should encourage and provide a mechanism for faculty participation. Support from members of the faculty and the administration is of the utmost importance. A committee established by the appropriate institutional governing body should be responsible for promoting the policies established in the institution's affirmative action plan and for periodic review of the plan once adopted. An institution-wide committee would be able to see to the integration of the affirmative action plan into the personnel decision-making process and the coordinating of equal opportunity activities on campus.
- (vi) A charge for implementation of the affirmative action plan should be given by the president of the institution to the affirmative action officer and to the committee that has oversight responsibilities. This charge should be communicated to the faculty, staff, and students.

### b. Recruitment

- (i) A plan for the recruitment of minority persons and women should be developed by each department and approved by the affirmative action officer.
- (ii) Departments should establish search committees which would work in consultation with the department chairperson and other members of the department toward meeting departmental goals in appointing minority persons and women.
- (iii) Plans for recruitment should include advertising in appropriate professional publications, in newsletters of minority or women's groups, and in publications of minority and women's caucuses, or professional organizations.<sup>12</sup> If a search is to be internal only, announcements should be circulated only internally. The deadline for applications should allow for a reasonable period of time after the announcement appears.
- (iv) Descriptions of vacant positions should be clear concerning teaching load, research expectation, departmental duties, and other responsibilities. Criteria and procedures for reappointment, promotion, and tenure at the institution should be available for all interested candidates.
- (v) Search committees should ask minority and women's caucuses of professional organizations for suggestions of candidates.
- (vi) Department chairpersons at graduate universities should be asked to call the opening to the attention of their current students or recent graduates.

<sup>12</sup>It should not be necessary to note that positions that have already been filled, or for which the candidate has already been selected, should not be advertised.

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- (vii) Search committees should consider going beyond those institutions from which faculty for the institution have been traditionally recruited. Consistent use of the same few institutions may perpetuate a pattern of discrimination in faculty hiring. In addition to broadening the base of sources from which candidates are seriously considered and appointed, the regularly recruited institutions should be asked to submit names of *all* qualified candidates.
- (viii) Search committees should contact the minority and women graduates (or men in departments where there are few men) and present and former members of the department for suggestions of possible candidates.
- (ix) Departments might well consult with the appropriate minority and women's groups on campus to secure their aid in recruitment efforts.
- (x) Women and minority candidates who have recently acquired their professional training, after having been absent from formal academic pursuits for some years, should be judged with other recently trained persons for the same positions.
- (xi) In recruiting for faculty, the standards should be the same for all candidates. White males should not be considered on "promise" and all others, of comparable education and accomplishments, on "achievement." Search committees should be sensitive in reading letters of reference for indications of bias.
- (xii) The fact that the pool of minority persons and women candidates for a particular vacancy is small should not be used as an excuse for not attempting to recruit for such candidates.

*c. Screening of Candidates*

- (i) Search committees should make every effort to include among the applicants a diversity of candidates. After receipt of candidates' credentials and accompanying letters of recommendation, search committees should invite applicants—men and women, majority and minority—to the campus for interviews.
- (ii) When feasible, the affirmative action officer and/or members of the appropriate minority or women's group on campus should be invited to meet with the minority or women candidates. It is important for the candidates to know that there are current faculty members who are minority persons or women.

*d. Appointments*

- (i) Appointments should be made on the basis of individual merit. Careful consideration should be given to the criteria traditionally used for merit to be certain that they serve to further academic excellence. It is especially important to reconsider any facially neutral policies which have an adverse impact on affirmative action efforts that is disproportionate to their contribution to the determination of merit. The need for an institution to justify a criterion as appropriate rises in direct proportion to its exclusionary effect.
- (ii) Offers to minority and women candidates should be made as attractive as possible; e.g., appointment to full-time probationary or tenured positions, arranging course assignments in an area of the candidate's specialty, or a part-time appointment when mutually desirable or advantageous. This last item requires special attention because of the tendency to relegate women involuntarily to part-time or irregular positions on the faculty.
- (iii) Reports on faculty personnel decisions should include information on the department's search for minority and women candidates, interviews held, and the basis for a final choice.

*e. Professional Advancement*

- (i) Criteria for reappointment, promotion, or tenure should have been made clear to the candidate at the time of his or her appointment. They should be reviewed with the appointee on a regular basis afterwards.



- (ii) Sexual or racial qualifications for reappointment, promotion, or the granting of tenure should not be introduced. Although a decision to seek diversity may be a legitimate factor in the appointment process, denial of retention or advancement because of this consideration is inappropriate and often a breach of stated criteria and expectations. While it is understood that needs of institutions change, a redefinition of criteria and/or the imposition of requirements substantially different from those stated at the time of the initial appointment are suspect, and should be carefully examined for their potentially discriminatory impact.
- (iii) As in the case of all new appointees, care should be taken not to appoint a woman or minority candidate to a position for which she or he is marginally qualified and then to provide no opportunity for professional development, such as a lightened teaching load to enable access to further study or research opportunities. Without support for professional development that is made available to all new appointees equitably, these faculty members often are denied reappointment. The cycle is likely to be repeated with their replacements. Where this occurs, there may be the appearance of a viable affirmative action program without the reality of one.
- (iv) Because the number of minority and women faculty members at most institutions is small, it is important that they be made to feel welcome at the institution and educated into practical professional concerns. They should be given advice, if needed, on appropriate journals for the publication of scholarly papers, on obtaining grant support, and on participation in professional meetings and conferences.
- (v) There are various incentives which an institution can provide for the professional development of faculty members in junior academic positions, including postdoctoral opportunities in those fields historically closed to women and minorities, early leaves or sabbaticals, summer research grants, and funds for attendance at professional meetings. Because women and minority persons have traditionally been excluded in disproportionate numbers from such support, special encouragement may be required to insure their participation.

f. *Retrenchment*

In those situations where an administration moves to terminate the positions of faculty members on continuous appointment on grounds of financial exigency or discontinuance of program, Regulation 4 of the Association's *Recommended Institutional Regulations on Academic Freedom and Tenure*<sup>13</sup> recognizes that "judgments determining where within the overall academic program termination of appointments may occur involve considerations of educational policy, including affirmative action, as well as of faculty status." That is, special care should be taken that the burden of retrenchment does not fall inequitably on those for whom affirmative action was taken. The same careful scrutiny must be given to retrenchment criteria as to those used in appointment, promotion, and tenure.

3. *Monitoring the Plan*

Through its governance structure, the faculty is best qualified to assure that the letter and spirit of affirmative action are followed in the search for new appointees, as well as in promotion, retention, and tenure decisions. Furthermore, it is essential that the faculty, in conjunction with the administration, establish and implement appropriate grievance procedures. Information regarding nondiscrimination policies, and notice of the recourse available should they not be followed, should be distributed to the faculty. Grievance committees should have access to the files and statements on which disputed decisions have been based, and, upon request, the faculty member should be provided an explanation of decisions affecting his or her status on the faculty.

<sup>13</sup>See *Academe* 69 (January-February 1983): 16a, 17a.



## CONCLUSIONS

Progress in the appointment and professional advancement of women and minority persons in higher education has been exceedingly slow. There are few minority and women faculty members in most academic fields; those there are tend to be concentrated in the lower academic ranks and in part-time and temporary positions. Unequal treatment of the underrepresented groups continues. The AAUP surveys of faculty compensation consistently show a gap in salary between men and women faculty members, a gap which increases with rank.<sup>14</sup> It is clear that discrimination has not been eliminated and effective affirmative action plans are necessary. We urge a greater commitment, psychologically, ideologically, and materially, to the basic principles and to the implementation and monitoring of affirmative action plans, so as to approach real equality of opportunity.

<sup>14</sup>See, e.g., "Annual Report on the Economic Status of the Profession 1979-1980," *Academe* 66 (September 1980): 260-320.