Communicating the Facts:

What's Happened Elsewhere & What Can Michigan Expect?

Presentation for the Leadership Assembly

Toward A Fair Michigan – December 8, 2006

Other states that have banned preferences:

- CA: 1996 ballot initiative (Prop 209) amended state constitution to ban preferences in public education, employment & contracting.
- TX: 1996 *Hopwood v. University of Texas Law School* limited use of preferences in admissions in public higher education.
- WA: 1998 ballot initiative (I-200) enacted a new law banning preferences in public education, employment & contracting
- FL: 1999 Governor's Executive Order ending preferences in public employment, contracting & higher education.

Examples of practices in a "post-preference" environment in:

- Education (focus on college admissions and faculty hiring);
- State civil service employment;
- State contracting

HIGHER EDUCATION

2004 U.S. Dept. of Education report,

"Achieving Diversity:

Race-Neutral Alternatives

in American Education"

provides a useful toolkit of practices for colleges & universities to consider

Several broad approaches:

- Institutional commitment to diversity
- Admissions Processes
- Developmental approaches
- Recruitment & outreach
- Partnerships with low-performing schools
- Partnerships with the College Board
- Community College Outreach
- Expanded Financial Aid

Institutional Commitment to Diversity

- "The University of California is committed to achieving excellence through diversity in the classroom, research lab and the workplace. It strives to establish a climate that welcomes, celebrates, and promotes respect for the contributions of all students and employees." from Diversity section of UC website (http://www.universityofcalifornia.edu/diversity/)

- "Ours is a diverse learning community, with students from more than 100 countries and a student body that reflects the face of our society. African American, Hispanic, and Asian American students make up more than 32 percent of the enrollment, and 9 percent are international students." from UT President's website welcome (http://www.utexas.edu/president/)

- "The University of Washington educates a diverse student body to become responsible global citizens and future leaders through a challenging learning environment informed by cutting-edge scholarship. Discovery is at the heart of our university. We discover timely solutions to the worlds most complex problems and enrich peoples lives throughout our community, the state of Washington, the nation and the world." UW vision statement (http://www.washington.edu/provost/index.html)

Institutional Commitment to Diversity (2)

- "Together with our undergraduate and graduate students we participate in an educational process that links the history of Western Europe with the traditions and cultures of all societies, that explores the physical and biological universes, and that nurtures generations of young people from diverse backgrounds to address the needs of our societies." from U. of FL mission statement (http://www.registrar.ufl.edu/catalogarchive/02-03-catalog/intro/mission.html)

- At campuses throughout CA, TX, WA and FL, there is the usual array of racial, ethnic, gender and cultural centers, student organizations, residence halls organized by race or ethnic group, classes with a multicultural focus. This aspect of campus life appear indistinguishable from comparable institutions in other states that allow preference practices in college admissions.

Admissions Processes

- Comprehensive or holistic admissions review
  - UC system adopted comprehensive admissions review in 2002
  - U. of FL uses holistic review
  - UW encourages consideration of cultural & life experiences, and overcoming educational, economic and personal disadvantages in admissions review
- Socio-economic preferences (such as family income, 1st generation college, parents' occupation, overcoming economic or educational hardship)
- Class-rank/percentage plans
  - CA: 4% plan
  - TX: Top 10%
  - FL: Talented 20

Developmental Approaches:

- School Choice
- Align K-12 requirements with college admissions
  - FL: Goal for K-20 alignment
- Expand AP courses
  - FL: teacher bonuses to increase AP enrollment & performance
- Early outreach
  - CA: “Early Academic Outreach Program” involves 80,000 students in 542 middle and high schools
  - UC-Berkeley & UC-Santa Cruz: Saturday Academies
  - UW: “Science for Success” program for h.s. students; “Seattle Early Scholars” program for middle schools
- Math, Engineering & Science Achievement programs in middle school
  - WU Engineering: MESA program for underrepresented students in grades K-12
  - CA MESA Middle School program is nationally recognized

Recruitment & Outreach

- TX A&M: Regional recruiting centers to reach out to "1st generation" students – includes college campus visits, college admission fee waivers, leadership seminars.
- FL: student ambassador programs; increased admissions staffing; revamped recruitment materials to emphasize diversity; workshops with the College Summit to prepare for national test-taking; CROP (College Reach Out Program) provides tutoring, counseling, college site visits, summer residency programs
- UW: sends reps to festivals within communities of color; Minority Scholars Invitational (2-day on campus program); student ambassadors; Talent Search Program; UW academic counselors placed in WA hight schools
- CA: Puente Project provides teaching, counseling, & mentoring to educationally disadvantaged youth in 36 high schools

Colleges Partnering with Low-Performing Schools

- UC-Berkeley: partnerships with 4 local school districts to provide counseling and college information
- UCSF Medical School: “Doctors’ Academy” for Fresno Unified School District
- U. of FL: “Reading Rocks” program in Miami Senior High; U of FL Alliance Program involves 6 high schools and a middle school
- UT: “Bridging Algebra” summer program for area high schools

Colleges Partnering with the College Board

- FL: provides free PSAT or ACT PLAN testing for all 10th graders
- UC provides a “fee waiver” to allow low-income students to take the SAT upon application
- The majority of institutions in all 4 states participate in the College Board’s SAT waiver program or belong to its Scholarship Assembly

Community College Outreach & Transfer Options

- CA: statewide program to increase transfers by 6% each year. UC-Irvine “University Link” program with Santa Ana CC.
- FL: Community colleges upgraded their curricula and some established Honors Colleges.
- UW Office of Minority Affairs designated one assistant director to work specifically with transfer applicants and the community college syste.

Expanded Financial Aid

- UT: Longhorn Scholarships for low-income students from 70 “Opportunity Schools” (also includes intensive advising and preferred access to competitive programs & majors)
- TX A&M: Century Scholars Program provides pre-collegiate counseling, Recognition campus visits and scholarships to students at 35 high schools with no history of sending students there
- UW: “Diversity Scholars” scholarships (privately funded); Educational Opportunity Program scholarships for current UW students who participate in any of the programs of the Office of Minority Affairs & Diversity
- UC-Berkeley: over 80 scholarships (privately funded) specifically designated for “minorities” (http://scholarships.berkeley.edu/scholdb/Action.Lasso)
- See UC system policy: “Financial Aid Guidelines for Compliance with Proposition 209” (http://www.ucop.edu/sas/sfs/docs/prop209_guidelines.pdf)
- FL: statewide “First Generation Matching Grant Program” – state funded contingent upon matching private sources; Stanley Tate STARS program for low-income students at risk of dropping out of high school

Other Aspects of Higher Education

- Federal Contractor Requirements
- Faculty Hiring, Promotion, Retention
- Data collection and analysis
- Self-assessment of institutional climate, programs and “progress”

Federal Contractor Requirements

- CA: *UC Affirmative Action Guidelines for Recruitment and Retention of Faculty*

"…Proposition 209 contains language stating that the prohibitions do not apply to actions which are necessary to establish or maintain eligibility for any Federal program, where ineligibility would result in a loss of Federal funds to the University. As a Federal contractor, the University of California has an obligation to comply with affirmative action regulations governing all levels of employment, including academic personnel practices… Therefore, an effective affirmative action program for faculty remains a legal requirement for the University of California." (http://www.ucop.edu/acadadv/fgsaa/affirmative.pdf)

- Similar language is found in other policy documents, such as the UC Grants & Contracts manual (www.ucop.edu/raohome/cgmanual/)

Federal Contractor Requirements (2)

- WA: from the UW Academic Human Resources website: "As a condition of being a federal contractor, the University of Washington maintains an affirmative action program." (http://www.washington.edu/admin/acadpers/procedures/search_and_hire/aa_compliance.html)
- FL: UF regulations on EEO/AA include a requirement for an annual University-wide affirmative action plan (http://regulations.ufl.edu/chapter1/10061.pdf)

[note: every CA, WA, FL institution I checked seems to still create some sort of affirmative action plan – including "placement goals" – based on the federal contractor requirement]

Faculty Hiring

- UW: “Faculty Hiring Toolkit” recommends many forms of affirmative action in the faculty recruitment & hiring process, such as ensuring diversity (and commitment to diversity) on search committees, emphasize diversity in the position announcements, an explicit review of candidates’ commitment to diversity when deciding on interviews, an explicit recommendation to bring in more than one female candidate for interviews, etc. (www.washington.edu/admin/eeo/forms/ftk_01.html#III)

Faculty Hiring (2)

- UC AA Guidelines (see above) recommend efforts to ensure diversity (and commitment to diversity on search committees, permit language in position ads to encourage applicants whose teaching, research or service activities will contribute to academic diversity on campus and the statement that the University is an EO/AA employer and that “all qualified applicants are encouraged to apply, including minorities and women,” encourage advertising positions with organizations and publications targeted to women and minority audiences, permission for search committees to inquire specifically about promising women and minority candidates when making phone or mail inquiries to colleagues to discover potential candidates
  - The UC Guidelines specifically prohibit outright preferences in the actual hiring decision, but emphasize the need to analyze the pool for diversity before moving to the hiring decision, permitting administrators to review gender and race of the interview list and ask for a review of the selection recommendations if there are no women or minorities on the list

Data Collection and Analysis

- In accord with current federal requirements, institutions in these states continue to compare the demographic profile of current employees with availability figures and to set placement goals for hiring women and minorities; there are annual processes to report statistics and adjust goals
  - UW: “Washington State law requires state agencies to collect and report the same data. Initiative 200, passed by the citizens of Washington State in 1998 and now incorporated into the Washington State Law Against Discrimination prohibits preferential treatment on the basis of race, color, national origin, and sex but does not prohibit requests for information on affirmative action as defined by federal and state laws.” (http://www.washington.edu/admin/eoo/aadf/)
- Some institutions and/or systems provide readily available demographic data on faculty and or staff composition at a summary or a detailed level
  - UW Workforce Profile: http://www.washington.edu/admin/eoo/2005/F-WP1-2005.pdf
  - UC system: http://www.ucop.edu/acadadv/datamgmt/welcome.html
  - Cal State system: http://www.calstate.edu/HR/Fall2005CSUProfiles.pdf

Self-assessment of institutional climate, programs and "progress"

- Recruitment, hiring, promotion and/or retention of women & minority faculty are included in institutional and state "diversity assessment" studies
  - WA statewide study "Diversity in Washington Higher Education" (2006) http://www.hecb.wa.gov/research/issues/documents/DiversityReport_001.pdf
  - UW Diversity Appraisal website http://depts.washington.edu/divinit/
  - UC system: "Representation of minorities among ladder rank faculty" (May 2006) http://www.universityofcalifornia.edu/facultydiversity/report.pdf
  - FL: Governor's report "Access and Diversity in Florida Higher Education" (June 2006) http://www.flbog.org/AccessAndDiversity/pdfs/FinalAccessDiversityReport.pdf

EDUCATION
SUMMARY & QUESTIONS

- Except that they no longer practice explicit preferences based on race, ethnicity or gender in admissions, publicly funded scholarships, and employment, colleges and universities in CA, FL, and WA utilize the full range of practices to enhance diversity found at most US institutions
- Are there specific practices we might want to recommend to Michigan public colleges and universities (or recommend against)?

State Employment Practices

- Outreach and other efforts to recruit, hire,promote and retain female and minority employees without the use of preferences
- Data collection and analysis
- Climate assessment

[Note: Standard EO/non-discrimination practices are not included because they were in no way affected by any of these preference bans]

Outreach and other efforts

- CA State Personnel Board
  - "Permissible Affirmative Action" training material www.spb.ca.gov/civilrights
  - "Affirmative action is necessary to ensure equal opportunity"
  - State-mandated "Upward Mobility" program is "a tool to increase departmental mobility in professional, technical and administrative jobs."

http://www.spb.ca.gov/civilrights/documents/Upward_Mobility_Training.ppt#280,1,UPWARD MOBILITY PROGRAM REQUIREMENTS

Outreach and other efforts (2)

- WA Dept. of Personnel: Managerial training on diversity issues http://www.dop.wa.gov/HRProfessionals/TrainingAndDevelopment/Diversity.htm

Outreach and other efforts (3)

- FL: from *Annual Workforce Report* (DMS, HR Management) – "It is the policy of the State of Florida to fully use the diversity of Florida's human resources in providing assurances of equal employment opportunities through programs of affirmative action."
  http://dms.myflorida.com/human_resource_support/human_resource_management/human_resource_programs_and_information/reports
  - Dept. of Revenue uses a "team approach" for hiring decisions
  - Dept. of Transportation uses internal promotions to increase diversity
  - Dept. of Financial Services maintains a database of qualified female and minority applications for management & professional positions
  - Fish & Wildlife Cons. Comm. organizes community outreach projects to interest girls and minorities in marine careers

Data Collection and Analysis

- FL: Human Resource Management policies: “Each agency shall develop and implement a written plan to promote equal employment opportunity and to meet the agency’s established affirmative action goals.” http://dms.myflorida.com/human_resource_support/human_resource_management/hrm_quick_links/personnel_rules_and_statutes
- WA: “The state requires that its agencies and institutions undertake affirmative action programs to recruit and promote into all levels of employment women, people of color, persons with disabilities, persons over the age of 40, and disabled and Vietnam-era veterans.” from A.A. Guidelines http://www.dop.wa.gov/NR/rdonlyres/A8092C7D-8257-4FBF-90A4-9E9DE49448DF/0/AAGuidelines.doc

Data Collection and Analysis (2)

- CA: SPB Guidelines for conducting the annual workforce analysis:

  "….all state departments with 50 or more employees are required to compare the race/ethnic, and gender representation of their workforce with relevant California labor force representation to identify any group that has a significantly lower representation, hereafter referred to as an "underutilization." Where such an underutilization is identified, departments are required to determine the cause, and to take appropriate action to eliminate any illegal, non-job-related employment barriers. Any actions taken, however, must not provide employment preferences based on race, ethnicity or gender, which is consistent with California Constitutional provisions, as amended by Proposition 209."
  http://www.spb.ca.gov/civilrights/documents/Guidelines%20for%202006-2007.doc

Data Collection and Analysis (2)

- CA:
  - Posts information on hiring trends by race & gender on SPB website
    - Summary level: http://www.spb.ca.gov/civilrights/documents/Hiring_Trend_(6-03).xls
    - Detailed by department: http://www.spb.ca.gov/civilrights/pdf/5102sum_rpt.pdf

Data Collection and Analysis (3)

- FL:
  - Requires affirmative action plans from state agencies
  - Posts a demographic analysis of the state workforce on the DMS, Div. of HR Management website (*Annual Workforce Report*)

Climate Assessment

- In one form or another, these states have advisory commissions on Women, African American, Hispanic, Asian Pacific American Affairs – climate assessment activities seem to occur mainly in that venue.
  - One example is Washington's Interagency Committee of State Employed Women http://icsew.wa.gov/reports/default.htm

State Employment: Summary & Questions

- CA, FL, and WA each seem to have taken varying approaches to whether/how they have modified state employment practices.
- What course might Michigan adopt?

State Contracting

- Even without the legislation banning preferences in state contracting in these states, numerous court rulings in the past decade have limited the use of set-aside programs
- Efforts now tend to focus on outreach, building contacts, simplifying bid processes, and urging increased use of WBEs/MBEs where there is buyer discretion

State Contracting -- Washington

- Office of Minority & Women's Business Enterprises: (http://www.omwbe.wa.gov/)
  - Maintains MBE/WBE/DBE certified list
  - Provides certification services
  - Identifies barriers to equal participation
  - Established voluntary state contracting goals
  - Collects data on goal attainment
  - Uses advisory committees to get stakeholder input
  - Annual report publishes utilization of M/WBE relative to agency goals http://www.omwbe.wa.gov/2005%20Annual%20Report%20Final.doc

State Contracting – Washington (2)

- WA Linked Deposit Program provides a means for loans to be made to certified MBE/WBEs (www.omwbe.wa.gov/ldp)
- The Washington State Supplier Diversity Initiative provides tips for drafting a M/WBE plan, organizes business diversity events, analyzes challenges to increasing the number of certified firms doing business with the state and develops recommendations to overcome them http://www.omwbe.wa.gov/supplierdiversity/index.htm
- This webpage summarizes what I-200 banned and what is permitted: http://www.omwbe.wa.gov/i200.htm. Many of the FAQ also address impact of I-200 on policy: http://www.omwbe.wa.gov/omwbefaq.htm#general

State Contracting -- California

- CA: Two large CA state agencies use race-neutral programs to increase contracts awarded to small and/or disadvantaged businesses
  - CalTran – goal to award 10.4% of FHWA dollars and 4% of FTA dollars to DBE (note: plan is pending approval) http://www.dot.ca.gov/hq/bep/documents/dbe/dbe_program_plan_final.pdf
  - Dept. of General Services – administers a 5% Small Business Bid Preference program and reports annual on awards (http://www.pd.dgs.ca.gov/smbus/default.htm) (http://www.documents.dgs.ca.gov/Legi/Publications/2006LegislativeReports/SmallBusinessReportFY0405.pdf)

State Contracting -- Florida

- FL Office of Supplier Diversity's function is to improve business and economic opportunities for FL's M/WBEs; 3 main areas:
  - MBE certification (has streamlined process)
  - Advocacy & outreach
  - Matchmaking activities (e.g., annual fair)
  - Also, publishes annual report with summaries of M/WBE spending by state agencies http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/osd_reports
    - AP 11/13/06: FY 2005/06 spending with M/WBEs increased 189% over 1998/99

Contracting: Summary & Questions

- Two states (WA and FL) have interpreted the state legislation/Governor's executive order as allowing continued explicit outreach and have made increased contracting with W/MBE a state priority. CA has interpreted the amendment to its state constitution as requiring a race-neutral approach to state contracting.
- What course might Michigan take?