

Students

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Scholars Mount Sweeping Effort to Measure Effects of Affirmative Action in Higher Education

By PETER SCHMIDT

The affirmative-action programs at the nation's public colleges and professional schools are about to undergo a kind of scrutiny they have long managed to avoid: intensive research that examines whether they actually help the minority students who are their intended beneficiaries.

A national consortium of about 20 professors and 10 graduate students has been collecting student data from colleges, law schools, and state bar associations — typically by invoking state public-records laws — with the intent of conducting a long list of studies on how minority students who receive admissions preferences fare in higher education and in the long term.

Colleges and universities have been reluctant to share such information in the past, often because they feared critics of affirmative action would use it to produce ideologically slanted studies that potentially stereotyped or stigmatized minority students. Some advocates of affirmative action remain similarly skeptical of the new consortium's intentions, partly because the researcher who is leading its efforts as principal investigator is Richard H. Sander. Mr. Sander, a professor of law at the University of California at Los Angeles, has been embraced by conservative activists for his studies that criticize law schools' affirmative-action policies as counterproductive.

However, other scholars involved with the undertaking describe themselves as supporters of affirmative action and characterized their group as committed to studying those policies objectively.

Among them, William D. Henderson, an associate professor of law at Indiana University's Bloomington campus, said he endorses the idea that diversity yields educational benefits for all students and he has no intention of using his research to argue that affirmative action should be abandoned. Nevertheless, he said, "there is a good possibility that we are not getting optimal outcomes right now, to the extent that current policies are backfiring," and "if diversity comes at the expense of young people not getting the education they need, we need to be sensitive to those dynamics."

Neither Mr. Sander nor Jane R. Yakowitz, the consortium's director, would release the names of all those involved with the consortium. But Ms. Yakowitz said the group has "a base of researchers who are neutral or even affirmative-action supporters."

"Not only has there been an effort to get balance, but I think it is important to even skew liberal," Ms. Yakowitz said. "We are looking at something that is clearly politically controversial, and it is important we look at it for the right reasons."

Out in the Sunshine

The research consortium is known as Project Seaphe, with the acronym standing for Scale and Effect of Admissions Preferences in Higher Education. Its members, who include sociologists, economists, and law professors, intend to undertake at least 18 different studies using the information they obtain from higher-education institutions, with the tentative goal of discussing their findings at a conference sometime in 2009, Mr. Sander said.

The consortium is receiving financial support from the Searle Freedom Trust, a Washington-based foundation with libertarian leanings that has been a major supporter of research by the American Enterprise Institute and other conservative groups. In addition to looking at admissions preferences for minority students, it also plans to examine the effects of preferences for low-income students, athletes, the children of alumni, and other subsets of colleges' applicant pools.

The group has submitted freedom-of-information requests to nearly all of the nation's more than 80 public law schools. About 20 promptly gave the consortium the student data it sought, and most others seem willing to fulfill the consortium's information request, Mr. Sander said.

"A lot of schools seem eager to cooperate," Mr. Sander added. "There has definitely been a change in the climate" regarding such data, and "individual schools feel less defensive" about sharing them, he said.

The consortium also has contacted about 100 undergraduate colleges, and has received data from 25 and pledges of cooperation from at least 40 others, Mr. Sander said.

Helping the consortium's efforts, he said, are the strong freedom-of-information laws in place in most states, which higher-education institutions generally interpret as obliging them to provide the consortium with the information it seeks.

Among the law schools that have provided information to the consortium is Ohio State University's. Its dean, Nancy H. Rogers, who recently completed a term as president of the Association of American Law Schools, said last week that "it is hard to have views on research that has not been done." But, she added, "the academy in general is supportive of research," and "most scholars want to see more research, not less."

John H. Garvey, dean of Boston College's law school and the law-school association's new president, said, "You can find in legal education a real difference of opinion about the value of affirmative action." Nevertheless, he said, "I just have to believe that being well informed about what steps are going to be effective in the long run is in everybody's benefit."

Others were less sanguine. Charles E. Daye, a professor of law at the University of North Carolina at Chapel Hill who has harshly criticized Mr. Sander's past research as biased against affirmative action, expressed suspicion that Project Seaphe had some sort of agenda. "I am not going to characterize the study," he said, but "I can tell you they have a project that is on a mission."

Despite his misgivings about the project, Mr. Daye has agreed to provide the consortium with the findings of his own pending study of diversity on law-school campuses. Although he is not yet ready to release his results, he said, he is obliged to share such information under the terms of the Law School Admission Council grant financing his research.

Shirley J. Wilcher, executive director of the American Association for Affirmative Action, which represents affirmative-action officers at colleges and other public and private institutions, said "we view the likely outcome of this research with skepticism, given Mr. Sander's previous work."

"Moreover," she said, "we do not know who the other researchers are or why affirmative-action practitioners were not invited to join this important project," and her group doubts the results of the research "will be useful" to higher-education institutions or minority students.

Wide Scope

The subjects the consortium plans to study include one that has already been a key focus of Mr. Sander's: how the performance of minority students on bar examinations correlates with the caliber of the law school they attended and the degree to which their law school used affirmative action in admissions. In his controversial 2004 study, which has been attacked on methodological grounds by several scholars who support affirmative action, Mr. Sander concluded that the use of racial preferences by law schools hurts many black students by placing them in environments where they struggle academically.

The consortium also plans to examine whether minority students granted admissions preferences are disproportionately likely to drop out of undergraduate science programs, whether or how various admissions preferences affect undergraduate retention rates, and how the use of preferences affects social interactions on campuses. The group plans to use data from California before and after that state's voters banned the use of racial, ethnic, and gender preferences by public colleges in 1996, to see if the ban helped eliminate gaps in the academic performance of different racial and ethnic groups.

Project Seaphe is one of a few avenues through which Mr. Sander is seeking data on the long-term performance of law students whose race or ethnicity played a role in their admission. He and several colleagues have spent more than a year trying to get the State Bar of California to release data showing how the beneficiaries of affirmative action at that state's law schools fared in law school and on the bar exam. With the consortium's backing, Mr. Sander said, he plans within weeks to file a lawsuit arguing that state law requires the bar to provide such information.

Mr. Sander has also been enlisted as an expert witness by the Center for Individual Rights and other critics of affirmative action in their efforts to defend against legal challenges to Michigan's year-old Proposal 2 ban on the use of racial, ethnic, and gender preferences by public colleges and other state agencies.

In response to arguments by opponents of Proposal 2 that such preferences help minority students, the center has asked a U.S. District Court judge to order the University of Michigan at Ann Arbor, Michigan State University, and Wayne State University to release data pertaining to the long-term success of students enrolled in certain academic programs, including the medical schools of all three institutions and the law schools at the University of Michigan and Wayne State. The court plans to hold a hearing on the dispute next month.

So far, the University of Michigan law school has provided data related to bar-examination passage rates of its graduates for three of the 11 years sought by the center: 2004, 2005, and 2006.

In a written statement submitted to the court in October, Mr. Sander said the data show "very large disparities in bar passage rates across racial lines," with black graduates of the law school being about eight times as likely as white graduates of the law school to fail state bar examinations on their first attempt.

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