Affirmative Action in the Public Sector

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Diversity in the workplace is a valuable trait for an organization to have. Diversity is defined as differences between people (Dias, 2011, p.65). A diverse organization will have employees from all facets of life, bringing all of their unique attributes to the table which provides the organization with a greater dynamic ability to function, solve problems, and develop new ideas. In our modern society, diversity can happen naturally, with people from all walks of life cohabitating peacefully such as occurs at any grocery store. This has not always been the case in the United States though, as prejudiced attitudes and policies dominated much of our existence until the Civil Rights movement of the 1960’s. The government began to realize that steps had to be taken to prevent discrimination against minorities and protected classes, and ensure their equal participation in the workforce. This notion spawned the birth of affirmative action. According to Carlos Gullett, two underlying reasons exist for affirmative action, which are the need for diversity within an organization and as a remediation for past discrimination (2000). The following is a discussion on the history of affirmative action, arguments for and against it, and methods to effectively implement the integral component of diversity into the public sector workforce.

Affirmative Action is a means by which government activity openly and actively promotes the hiring and promotion of members of groups that have historically suffered from job-related discrimination. Soni takes the definition further:

Employers must act positively, affirmatively, and aggressively to remove all barriers, however informal or subtle, that prevents minorities and women from having equal access to all levels of the nation’s educational, industrial, and governmental institutions. (1999, p.579)

Although first used as a to restrain or end discriminatory actions in the workplace (public and private sectors) and educational institutions, affirmative action has morphed into a more proactive program, aimed at correcting imbalances in the workforce (Allen, 2003).

The Civil Rights Act of 1964 was legislation designed to eliminate and prevent future discrimination against anyone of the basis of race, color, sex, and national origin (Dias, 2011). Since the original passage of the act, age, family status, veteran status, and disability have been added. Title VII of the act specifically pertained to employment of protected classes, and thus created the ideas for affirmative action. Surprisingly, Title VII did not pertain to federal employment, and it was not until the creation of the Equal Opportunity Employment Act of 1972, (which amended the Civil Rights Act of 1964) that federal, state, and local government employment was blanketed (Kogut, 2007). This legislation, along with the equal protection provisions of the 14th amendment in the Constitution officially placed affirmative action into law.

According to Lee, the federal government specifically set affirmative action into place within itself in 5 CFR Part 720. Sec 7201(c), which requires:

…that each Executive agency conduct a continuing program for the recruitment of members of minorities for positions in the agency to carry out the [non- discrimination] policy set forth in subsection (b) in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources which minorities can be recruited…(1999, p. 400)

5 CFR 720.205(e) goes on to describe the requirements of an affirmative action plan.

1. An assessment of categories and numbers of jobs expected to be filled in the current year, whether from inside or outside sources.
2. An assessment of internal availability of candidates from underrepresented groups.
3. A description of the methods the agency intends to use to locate and develop minority and female candidates for each category.
4. A description of special efforts planned by the agency to recruit in communities and educational institutions for qualified minority candidates
5. A description of efforts that will be undertaken to identify jobs which can be redesigned to involve opportunities for minorities.
6. A list of priorities for special recruitment program activities.
7. An identification of training and job development programs the agency will use to provide skills, knowledge and abilities to qualify increased numbers of minorities and women (Lee, 1999, p.401).

Even with a legal base, affirmative action is a controversial subject to many, especially in the public sector (such as the federal government) where applicants sometimes undergo a competitive testing process to obtain their jobs. If an applicant of the predominant demographic finishes higher in the testing process than a minority candidate, is it fair to give the minority preferential treatment in order to meet a guideline? Early federal guidelines presumed discrimination existed whenever the percentage of a minority’s presence in the workforce was less than 80 percent of their share of the surrounding population (Lee, 1999). In 1996, the Clinton administration instructed all local, state, and federal employers to apply the following four standards to their affirmative action program.

1. There should be no quotas, in theory or practice
2. No illegal discrimination of any kind is permitted, including reverse discrimination.
3. No preference for candidates can be given for people who are not qualified for any job or other opportunity.
4. No continuation of affirmative action is required for programs that have met their goals (Lee, 1999, p.403).

Affirmative action invokes strong feelings of both strong support and opposition in people. Proponents of affirmative action argue that discrimination is very much alive in the workforce and needs to be prevented by all means possible. They also argue that merit is very difficult to ascertain and define, as different demographics are brought up under different educational climates, which may aid or hinder their performance on “standardized testing”. Opponents of affirmative action believe that it promotes reverse discrimination and gives protected classes an unfair advantage against the largest group in the workforce. Opponents also argue that affirmative action can harm the workplace by hiring and promoting lesser qualified individuals on the basis of race and gender rather than specific job qualifications. Finally, opponents feel that standards of employment should be adhered to without differentiation – they assert employment is not an entitlement, but rather an earned event that should be filled by the best possible candidate without favor.

A common argument against affirmative action plans is they unfairly discriminate against whites, or more specifically white males, whom make up the majority of the public sector workforce in the United States. This argument holds validity, as it has been proven to have occurred by a federal court of law. Prior to September in 1996, the Prince George’s County Fire Department had an affirmative action policy in place that aided minorities and women in both hiring and promotion, by setting caps on the numbers of whites and men whom could hold jobs (Baumann, 1996). The case was taken to federal court, which ruled the program was in fact discriminatory against whites and men. The court deemed “outright racial classification” was unfair and the department officials should partake in other methods to facilitate diversity throughout the department. (Baumann, 1996, p.2). The standards implemented by the Clinton administration sparked this change.

In a perfect system, the workforce makeup would mirror the diversity present in the area in which it is located, but this does not usually happen. The City of Phoenix has maintained an active affirmative action plan across all of its departments since 1980 with a goal of maximizing the utilization of minorities, women, and disabled persons, and yet there is still a dramatic misrepresentation of diversity in some departments. Phoenix is a diverse area with an approximate demographic breakdown of 65 percent Anglo, 28 percent Hispanic, 3 percent Black, 2 percent Native Indian, and 2 percent Asian (Allen, 2003). Looking at the police department specifically, to meet the city’s affirmative action plan the department should show similar demographics of the city itself, and yet the police department makeup is substantially different. The Phoenix Police Department employs 82 percent Anglo officers, 12 percent Hispanic, 4 percent Black, .5 percent Native Indian and 1.5 percent Asian officers. (Allen, 2003). The demographic makeup of Phoenix Police Department even after decades of an affirmative action plan goes to show just how long and difficult a task it is to meet a plans desired goals.

It has been agreed upon and even litigated that the public sector workforce should be representative of the demographic who it represents, but how can this be ensured without the establishment of quotas or unfair hiring policies? Promoting and protecting diversity and preventing discrimination is a core American value, therefore the driving principles of affirmative action are by default core American values. First and foremost affirmative action plans must be well thought out, with legal, ethical, and all demographic situations considered. Gullett suggests that plans should follow the more rigorous requirements of the Constitution in order to avoid challenges (2000). Secondly, proper informational materials and education must be delivered to the workplace and the surrounding community, highlighting the need and methods to achieve diversity. By focusing on the ethical principles of affirmative action, an organization can divert the negative attention from controversial legal issues and emphasize its core purpose (Soni, 1999). Thirdly, all parties must commit long term to the plans and “buy in”, in order to make the proper transition. Affirmative action was developed in response to serious discrimination, and it has taken and will continue to take a good deal of time and effort to eradicate it. Finally, the progress of any plan implemented must be continuously monitored for success, and reevaluated and changed accordingly when the desired outcomes are not achieved.

In surveys, affirmative action tends to be opposed by most Americans in theory because of the perceived notion of unfairness, but when presented with concrete examples of working affirmative action plans in the workplace, they overwhelmingly support it (Patterson, 1998). When the debate is steered from the defensive, unproductive notions based on misinformation, and instead focused on the true meaning which is diversity, positive strides can be made. Affirmative action is an interesting, polarizing, complex and beneficial concept that when correctly implemented, assures the fairness and diversity that all citizens are entitled to.

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