

The History of Desegregation and the Theory of Student Choice

**Sandra K. Woodley
Victoria L. Figiel**

Nova Southeastern University

Abstract

Diversity of the student population is legislated and affects recruitment strategies at colleges and university. There is much legal history bringing administrators to the current position. Blending the history of desegregation and the resultant legal situation with the Theory of Student Choice is important to ensure enrollment targets are met. Student choice factors are instrumental in determining which college a student will attend. Understanding which factors influence white students to attend HBCUs, and black students to attend TWIs, is important for administrators and will help them ensure desegregation structural diversity mandates are met. This paper reviews the legal history and the Theory of Student Choice as a beginning point to assist Institutional policy makers, and defines the need for future efforts.

Introduction

Population diversity in students of higher education is a topic that inspires much debate in administrative circles. Universities and colleges compete to enroll students such that the school meets required minimum levels of diversity. The Theory of Student Choice, as it affects college and university choice, is at the heart of these discussions, and enrollment targets (Woodley & Figiel, 2004). “Choice is a phenomenon that clearly acts on a market (pupils) with inputs from the consumer (parents) and producer (government) alike” (Udechukwu, 2003, p.15).

Diversity targets are legislated, or exist as a result of court cases, for public institutions, and can affect federal funding. Many cases have led to the current environment. Still, the literature does not bridge both the historical legal environment and the interplay of the Theory of Student Choice. This paper captures the literature specific to the legislated actions and court rulings that led to the current situation, and pulls in current literature on Student Choice into one concise and joint paper. This is expected to be of interest to college recruiters and administrators of public institutions. It serves the purpose of educating those interested parties on the current thinking regarding effective minority recruitment strategies that can be implemented on college campuses. This paper applies to both Historically Black Colleges and Universities (HBCUs) and Traditionally White Institutions (TWIs) attempting to reach diversity goals.

Legal History of Desegregation and Higher Education

The Morrill Act, passed in 1862, begins the legal history of higher education desegregation in the United States (Stefkovich & Leas, 1994). Interestingly, the Morrill Act,

beginning desegregation, preceded the Emancipation Proclamation's freeing slaves, which became law later that same year.

Stefkovich and Leas (1994) offer three periods in which to consider the legal history of desegregation in higher education: (1) "Separate but Equal"; (2) "Separate is Inherently Unequal"; and (3) Civil Rights, Fordice, and Dismantling Dual Systems. It is within that framework that this paper reconstructs the legal history.

Period 1 - "Separate but Equal"

As mentioned earlier, the Morrill Act passed in 1862 begins the legal history, and specifically revolves around the equal protection clause of the 14th Amendment. This period lasts into the 1930s. State and Federal governments through this period maintained a doctrine of "separate but equal". Consequently, the laws generally reflected the view that separate education was not synonymous with unequal education. The main section of the 14th Amendment relevant to legal battles of the time is as follows:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without the due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

The law of the period supported, and in some cases, even mandated separate facilities for whites and blacks. However, the Constitution and legal bases for pursuing equality of educational opportunity were based on the firm and indisputable equal protection clause (Butler, 1994).

Period 1 – Legislative Acts and Rulings

The chronology of desegregation in higher education is centered on the legislated requirements of the time. In order to fully understand the period, it is important to consider the Legislative Acts which defined the time.

Morrill Act in 1862 had only an indirect affect on African American education. Morrill established federal funding for land grants to universities. Three states: South Carolina, Virginia and Kentucky, used some of the funds to open land grant facilities for African Americans.

Hatch Act of 1887 provided money for the creation of state experiment stations. The act also stated that funds were to be divided equally between Black and White institutions, unless otherwise directed by State Legislatures. Still, Hatch provided a minimal source of funds for colleges.

The Second Morrill Act of 1890, however, provided a more reliable source of funding for Black institutions. 2nd Morrill required an equitable distribution of funds, but the act also legitimized the separate status. Preer (1982, p. 7) offers that, " Ironically, the earliest efforts to

provide equal educational opportunities for Negroes came to be viewed as an impediment to desegregation”.

Plessy v. Ferguson was not even a case about education but was a major factor in education desegregation, or segregation, as the ruling went. It was the famous dissenting opinion of Justice Louis Harlan that defines this case.

At the time, there was a Louisiana statute that required racial separation on railway cars. It endorsed a “doctrine that was grounded fundamentally in the subjugation and subordination of Blacks as described by the Court in [the legal case of] Dred Scott.” (Byrd-Chichester, 2000, p. 14). Homer Plessy challenged the statute that allotted seating areas on railroad cars according to race. He argued that it violated the 14th Amendment and that the practice contributed to the institutionalization of white supremacy (Henry, 1998).

Justice Henry B. Brown, writing for the majority, basically ruled against *Plessy*. He, rather, deferred to the state’s right to render judgment on such matters. He supported the position that while the intent of the 14th Amendment was to enforce absolute equality of the races, it was not meant to abolish all racial distinctions, and that racial separation does not imply inferiority of either race. Brown rejected the notion that separation necessarily stamps one race or the other as inferior, and used the example of separate schools for white and colored children as having “been held to be a valid exercise of the legislative power even by courts of states where the rights of the colored race have been the longest and most earnestly enforced” (163 U.S. at 544).

The lone dissenting voice of Justice Louis Harlan argued that sentiments of racial superiority may not have been expressed but they were definitely implied. He wrote, “...But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens” (*Plessy v. Ferguson*, 1886, p. 559). This dissenting argument became known as the “colorblind” argument, and foreshadows future events.

Period 2 - “Separate is Inherently Unequal”

While the first period can be thought of as having an institutional focus, the second period shifts to the individual. Many cases, in this period, were brought to the legal system by Black students suing for the right to attend their college of choice. At issue was the desire to overturn the “separate but equal” doctrine. This period roughly began in the 1930’s and extended through the early 1950’s. *Brown v. Board of Education*’s is one of the landmark decisions of this period, but there were several important cases that laid the groundwork for the 1954 Brown decision.

Period 2 – Legislative Acts and Rulings

Gaines v. Canada in 1938 was one of the first legal cases directly related to higher education in which Plessy’s “separate but equal” philosophy was not supported (Preer, 1982). The case involved Lloyd Gaines who applied to Missouri Law School and was rejected solely on the basis of race. The Supreme Court said the state was obligated to provide “within its borders,

facilities for legal education substantially equal to those which the state offered for persons of the white race, whether or not other Negroes sought the same opportunity” (*Gaines*, 1938 p. 351).

Two other cases of particular importance, as they were precursors to the *Brown* decision, were litigated in the 1950’s; *Sweatt v. Painter*, and *McLaurin v. Oklahoma State Regents*. *Sweatt v. Painter* addressed the question; “to what extent does the Equal Protection Clause of the Fourteenth Amendment limit the power of a state to distinguish between students of different races in professional and graduate education in a state university?” (*Sweatt*, p. 631). In *McLaurin v. Oklahoma State Regents*, the case was used to determine “whether a state may, after admitting a student to graduate instruction in its state university, afford him different treatment from other students solely because of his race” (*McLaurin*, p. 638).

The court addressed the narrow question of the 14th Amendment protection but explicitly did not address *Plessy*. Nonetheless, these two cases in particular provided a foundation for, and were specifically referred to in *Brown*, which overturned *Plessy* by declaring that in education, separate is inherently unequal (Stefkovich & Leas, 1994).

Period 2 - Landmark Case: Brown v. Board of Education

Arguably, one of the most important cases on educational segregation issues was *Brown v. Board of Education* (1954). Byrd-Chichester (2000, p. 6) describes this case as the one that “struck down the legal apartheid in the field of education in the United States and was therefore a direct blow to the racial caste system”. The United States Court of Appeals illustrated the purpose of *Brown* in language for the 11th Circuit in *Knight v. Alabama* (1994, p. 1538):

In very broad terms, for more than a century following its admission to the Union in 1819, Alabama denied blacks all access to college-level public higher education and did so for the purpose of maintaining the social, economic and political subordination of black people in the state...Until Reconstruction, all education of enslaved black persons was criminalized in Alabama. Following Reconstruction, blacks were excluded from the universities attended by whites, relegated instead to only vastly inferior institutions that did not even begin to offer college-level courses until required to do so by a 1938 Supreme Court decision. Although they were upgraded somewhat beginning in the 1940’s, the institutions to which blacks were restricted by state law continued to be allocated a radically disproportionately small share of the resources devoted by the state to public higher education.

Period 3 - Civil Rights, Fordice, and Dismantling Dual Systems

The third period in this history began with the passage of the Civil Rights Act of 1964 and culminated with the *United States v. Fordice* (1992). As Stefkovich and Leas (1994) describe it, the focus was on the dismantling of dual systems and the questioning of previously conceived notions about choice, particularly in higher education.

Period 3 – Legislative Acts and Rulings

The Civil Rights Act of 1964 (p. 391) guaranteed that: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. This legislation pressured the Office of Civil Rights in the Department of Health, Education, and Welfare (HEW) to dismantle dual systems of higher education. The interpretation and implementation of this law would lead to decades of litigation.

Adams v. Richardson (1972) tested the issue of how long could the HEW wait to enforce compliance with Title VI before it terminated funds or referred the cases to the Justice Department (*Adams*, 1972). Between 1969 and 1970, HEW found that nineteen operated dual systems of higher education, which was a direct violation of Title VI. The institutions within these states were referred to as “1890” institutions, or “Adam’s states.” The ruling ordered HEW to establish compliance procedures and commence enforcement proceeding against several states. “The importance of *Adams* decision cannot be [overstated]. It is virtually impossible to identify an element of desegregation between 1973 and 1990 that was not linked to this decision” (Noland, 2000, p 113). *Adams* is historically significant because “it represents the most ambitious and enduring effort ever mounted to use litigation to ensure the effective enforcement of federally protected civil rights” (Halpern 1995, p 102).

Ayers v. Fordice; United States v. Fordice: Out of a very complex set of issues surrounding higher education in Mississippi came what has been argued to be one of the most critical cases influencing higher education today, *Ayers v. Fordice* (1992), or now known as *United States v. Fordice* (1992) (Butler, 1994). In his book, *On the Limits of the Law: The Ironic Legacy of Title VI of the Civil Rights Act*, Stephen Halpern (1995, p. 238) defines the *Fordice* case in Mississippi as the “jurisprudential legacy” of desegregation litigation. He suggests that this case established a new judicial precedent for the “desegregation of higher education across the country” and concluded that the ruling would serve as the guide to developing state policies which serve to eliminate segregated systems of higher education. Indeed, the *Fordice* decision impacted very heavily the remedies set forth in the *Knight v. Alabama* desegregation case, as will be discussed later in the paper.

Halpern attempted to clarify the relationships between academe and public policy as well as the constrictions, distortions and subjectivity of “translating a social problem into the ‘Language’ of the law” (M. Christopher Brown’s Book Review). Halpern (1995, p. 13) argues that litigation has been in the center of the struggle for equal educational opportunity and as a result there is a tendency to commit what he referred to as four fallacies: (1) To depend too heavily on “the legal process to transform educational concerns,” (2) To address all issues of inclusion surrounding African Americans as legal or court ordered, (3) To engage in redefinition of the struggle for equal opportunity in a way that delineates political and economic power, and (4) To ignore new inequalities of race, ability, financial status and socioeducational exposure.

The ruling in the *Fordice* case concluded that Mississippi state officials failed to dismantle a dual system in violation of the equal protection clause of the 14th Amendment and Title VI of the Civil Rights Act of 1964. The court said that mere adoption and implementation

of race neutral policies to govern its system of higher education was not enough. The state of Mississippi argued that higher education was different from lower levels of education in that college students had “totally unfettered choice” in deciding which college to attend if any. But, the court rejected this argument, “

If the State perpetuates policies and practices traceable to its prior system that continue to have segregative effects, whether by influencing student enrollment decisions or by fostering segregation in other facets of the university system—and such policies are without sound educational justification and can be practicably eliminated, the state has not satisfied its burden of proving that it has dismantled its prior system. Such policies run afoul of the Equal Protection Clause, even though the State has abolished the legal requirement that blacks and whites be educated separately and has established racially neutral policies not animated by a discriminatory purpose (*Fordice*, p. 2737).

Similarly, Justice Clarence Thomas wrote in his concurring opinion: “A challenged policy does not survive under the standard we announce today if it began during the prior *de jure* era, produces adverse impacts, and persists without sound educational justification” (*Fordice*, p. 2745).

However, Justice Antonin Scalia’s separate opinion in the case noted an additional component of the test which was the requirement that policies cannot “substantially restrict a person’s choice of which institution to enter” (*Fordice*, p. 2738). Scalia himself noted that the choice requirement was ambiguous and stated emphatically, “I have not the slightest idea how to apply the court’s analysis—and I doubt whether anyone else will” (*Fordice*, p. 2748).

Period 3 - Implementing the “Fordice” Ruling

Indeed, much has been written about the difficulty of understanding the legal guidelines of *Fordice*, including how to implementing them. Halpern (1995, p. 295) states, “From the very inception of Title VI, it was unclear what compliance with the statute required. The statute did not define discrimination based on race or national origin--- it merely outlawed it”. Consequently, as he discusses, there is a lack of clarity regarding the definition of desegregation and the criteria for compliance. Higher Education is without a prevailing legal standard that clearly articulates what it means for it to be desegregated or to have dismantled dual educational systems.

Brown and Hendrickson (1997, p. 95) share this view, “This ambiguity has allowed many states to circumvent or misinterpret the current legal standards of compliance handed down by the Supreme Court in the United States v. Fordice ruling. Moreover, because the findings in past desegregation cases are ill understood by policy makers, it prevents many states from establishing and attaining achievable compliance goals”.

Period 3 – The Current Chapter

Most recently, the U.S. Supreme Court, in the much publicized case involving Michigan University’s race-sensitive admissions practices brought all this history to the forefront of the

news. The case involved a student from 1997 who claimed that the admission's policy at Michigan's law school harmed her as a non-minority applicant. She filed the request for the Supreme Court to take up the case. The school rejected Barbara Grutter's case in 1997. The University of Michigan argued that both academic selectivity and racial diversity are "integral to the educational mission" of the law school and that "the only way for the law school to achieve meaningful diversity in its student body (while maintaining academic selectivity) is to take race into account in admissions" (Schmidt & Selingo, 2002, p. A20). The Supreme Court's much publicized final ruling provided a mixed bag for undergraduate and graduate level admissions selection.

Research from the University of Michigan provides empirical analyses and offers research findings as evidence of the "continuing importance of affirmative action and diversity efforts by colleges and universities, not only as a means of increasing access to higher education for greater numbers of students, but also as a means of fostering students' academic and social growth" (Gurin, Dey, Hurtado, & Gurin, 2002, p. 330).

In addition, it is important for those states that were determined to have vestiges of discrimination in the higher educational systems based on Title VI of the U.S. Constitution, and which are dealing with desegregation court orders, to more fully understand the factors that would enhance their ability to reach diversity goals (Jackson, 2001). Therefore, the next section of this paper links current research on the Theory of Student Choice. The result of this effort provides the background for those attempting to effect changes to minority recruitment strategies to reach diversity goals.

The Theory of Student Choice in Higher Education

The legal and legislative discussions to this point in history have brought mixed reactions from leaders associated with HBCUs. While most HBCUs have benefited financially from these rulings, they also meant the express legal expectation that the institutions increase non-black enrollments. Diversity scholarships were included in many remedial decrees to recruit other-race (predominately white) students to HBCU campuses, but these are for a limited number of years. In order for HBCUs to meet the demands of the court ordered decrees, and to attain some level of diversity on their campuses, they must find alternative solutions for effectively and efficiently recruiting other-race students while at the same time maintaining their black culture, heritage and identity, so that they can also recruit black students effectively (Taylor & Olswang, 1999; Brown II, 2001; St. John, 1997; Brown, II, & Hendrickson, 1997).

Similarly, TWIs also must increase minority representation in their student bodies, and it is important to determine the factors that allow for success in both cases; that is, increases in minority enrollments at HBCUs and TWIs. Missing from college choice literature is the in-depth analysis of college choice factors that influence students to choose institutions where they are ethnic minorities, and empirical evidence to support relevant minority recruitment strategies. Without analyses of this kind, results of desegregation efforts are often unpredictable and inconsistent (Jackson, 2001). This paper reviews the current research and thinking on college choice criteria.

Background on HBCU's

While today, there are just over 100 Historically Black Colleges and Universities (HBCUs) in the United States, their contributions to African American college enrollment and degree completions have always been disproportionately large. In 1995, HBCUs accounted for 17.3% of Black enrollment, but awarded 28% of all baccalaureate degrees to Black Students. These statistics tend to stand out given the fact that these 100 HBCUs represent only 2% of the nation's institutions of higher learning (Allen & Jewell, 2002).

Desegregation or Title VI related remedial decrees ordered by state courts, have, in most cases, provided a watershed of much needed funding for HBCUs. In Alabama, for example, the *Knight v. Alabama* case, during the period from 1991 to 2002 provided over \$160 million dollars of state money for the Title VI remedy, most of it going to the two HBCUs in the state; Alabama State University (ASU) and Alabama A&M University (A&M). Funds have been appropriated for new programs, capital expenditures, endowments, and funds for scholarships to attract other race students (Alabama Commission on Higher Education, 2002). It is this last category of funding that has caused some consternation among some leaders at HBCUs.

Knight v Alabama Provisions

On August 1, 1995, the district court in Alabama handed down the 1995 remedial decree, which incorporated an earlier 1991 decree, in which the following language from the Alabama Commission on Higher Education's (2002) planning document was quoted:

The role and scope of the HBCU's is of crucial importance in this State. The duty to create a truly non-discriminatory system of higher education clearly rests upon the State. Institutional efforts to create not "white colleges" and not "black colleges" but just "colleges" should continue...By the same token, the unique contribution and perspective of the HBCU's should not be lost in an effort to achieve numerical quotas for majority and minority students. The burden of further desegregation should not fall unduly upon the HBCU's. Since enrollment in higher education, unlike that in elementary and secondary schools, remains a voluntary action, the right of student to choose the institution, which they believe best meets their needs and desires should be respected. The State has an affirmative duty to insure that its policies and practices and those of its institutions do not in and of themselves create or perpetuate institutions which, by their faculty or administration or admissions policies are clearly "white" or "black". But we do not believe that the principle of free choice in higher education should be abridged and lost.

The court indicated that while limited missions have had some effect, "ASU and its leaders, through acts or omission, have adversely affected that institution's ability to attract other-race students" (Alabama Commission on Higher Education, 2002, p.96). Court experts met with ASU officials and concluded that they continue to strongly wish to remain predominately black. Additionally, the presidents of HBCU's felt that they were on the "horns of a dilemma" between the imperative to desegregate and the pressure from alumni, students,

faculty and others to maintain the black identity of their institutions. Furthermore, many students at A&M indicated at the time that the single most important factor influencing their choice of attending A&M was the fact that the student body was predominately black. A number of the Knight Plaintiff class and A&M witnesses in the 1990 trial expressed the desire for the institutions to remain predominately black and to maintain the identity and heritage of a traditionally black institution (Alabama Commission on Higher Education, 2002, p. 94).

Dilemma for HBCUs

The dilemma expressed by ASU and A&M regarding the questions of HBCUs and desegregation has been the subject of much academic literature in the past few years, especially as states have operated to eliminate segregated public higher education systems while struggling to maintain their black heritage (Brown & II, 2001; Allen, 1992; Fries-Britt & Turner, 2002; Stephens, 1999; Taylor & Olswang, 1999; St. John, 1997; Brown, II, & Hendrickson, 1997; Lee, 2002; Chang, 2002; Hurtado, Milem, Clayton-Pedersen, & Allen, 1998; Butler, 2000).

Even though this dilemma was recognized both by the Court and the Commission on Higher Education, the court found that “ASU and A&M have maintained and asserted their black heritage in ways, and to a degree, that has had a segregative effect on student choice” (Alabama Commission on Higher Education, 2002, p.96). Furthermore, the court found that the desire of an HBCU to maintain its racially identifiable character extracts an intangible, but very real, cost in the desegregation process and makes it more difficult to recruit white students. The court concluded that “ASU and A&M must henceforth act in a manner such that their pride in their heritage does not hinder their, the state’s, or the Court’s effort to reduce segregative effects on student choice. ASU and A&M need not deny they heritage but they must become institutions not identified solely on the basis on race” (Alabama Commission on Higher Education, 2002, p. 97).

Results of Diversity Initiatives Based on Remedial Decrees

Alabama is not unique in that its HBCUs have faced the same struggles as others in the nation. As conflicted as HBCUs have been about diversifying their student body, many have worked hard to comply. Remedial decrees have assisted by providing diversity scholarships for a limited time to other-race students (predominately white) which has increased enrollments of white students (Alabama Commission on Higher Education, 2002).

In Alabama for example, ASU has used these scholarships to propel its student body enrollment from 1% white in 1991 to 8% in 2001. By contrast, A&M, which did not take advantage of diversity scholarships as much as ASU, dropped from 13% to 9% during that same time frame. The national average of white enrollment for HBCUs (32 public ones) dropped from 16% in 1991, to 11% in 2001. Some of this drop nationally may be explained by demographic changes. More analysis would be necessary to determine the reasons for the national decline in white enrollments. However, the diversity scholarships in Alabama will expire in three years. Therefore, if diversity efforts are to continue beyond fading court remedies in many states, other solutions will have to emerge (Alabama Commission on Higher Education, 2002).

Models of Student Choice Literature

Models of student choice decisions are conceptually based on the Theory of Student (college) Choice. The Student Choice literature underlies most models of enrollment behavior and includes individual characteristics of the students and their preferences about the institution and college choice (McDonough, 1997; McDonough & Antonio, 1996; Chapman, 1979; Hossler, 1984; Hossler, Braxton, & Coppersmith, 1989; Fuller, Manski, & Wise, 1982; Manski & Wise, 1983; Leppel, 1993; Paulsen, 1990).

There is a significant amount of literature that addresses the issues of college choice. Anne Delaney's (1998) analysis explained the effects of parental income on the college choice process. Homer Wesley and Arthur Southerland (1994) analyzed the application of traditional college choice models in recruiting minority students.

In her book, *Choosing Colleges*, McDonough (1997) identified three basic approaches to the study of college choice decision-making: (1) Social Psychological; (2) Economic; and (3) Sociological Status Attainment. According to her study, the social psychological approach looks at the impact of academic programs, campus social climate, cost, location, and peers on students' choices, students' assessment of their fit with their chosen college and the cognitive states of college choice. She explains the student choice process as follows:

passing through a variety of states, each student narrows her options to a single set of institutions (Hossler & Gallagher 1987; Jackson 1982; Litten 1982). The Hossler model specifies those stages as predisposition, search and choice. In the predisposition phase, a student first decides whether to attend college. The search phase occurs when the students search for general information about colleges, forms a choice set, and begins to consider several specific colleges. In the final choice phase, the student winnows the choice set down to a single college and chooses to attend the college (McDonough, 1997, p 55).

The "search" and "choice" phases are crucial to desegregation and minority recruitment research and policy. During these stages, many factors have consistently been found to be influential, such as parents, college size, location, academic program, reputation, prestige, selectivity, alumni, student peers, friends, guidance counselors and the availability of financial aid (McDonough, 1997). McDonough asserts that except for social class, race is the most influential factor affecting the college entry variable. Other research draws an explicit relationship between race and college choice (Bowen & Bok, 1998; Hurtado, 1996).

There have also been some macro level studies, mainly student demand models, that explain enrollments as a function of measures characterizing the population of potential students and the characteristics of a relevant set of existing colleges (Hoenack & Weiler, 1979). Traditionally, this literature deals with race-based differences at the individual level, but in the context of desegregation, more research is necessary on the effect of racial composition of the institutions on the choice process. More must be done to identify how considering an HBCU affects the choice process for white students compared to considering a TWI. In addition, more

research is needed to address the role that considering a TWI plays for black students compared with choosing a HBCU (Jackson, 2001).

Link Between College Choice and Minority Recruitment

The research on college choice is useful in the context of desegregation if it helps to develop effective minority recruitment strategies. Homer and Southerland explore this connection and in their study, they assert that higher education has typically focused on special group efforts to attract minority students, most often without regard to individual characteristics and background (Wesley & Southerland, 1994).

Delaney (1998) found that among enrolling students, significantly greater numbers of higher income students rated the college of choice positively on academic reputation, quality of faculty, majors and the perception of academic challenge, while lower income enrolling students rated the college on surroundings, social life, extracurricular activities and costs.

Sevier studied the factors that most influence African American students (Sevier, 1993). The study identified four items that were found to be most significant to African-Americans: (1) Reputation of the college; (2) Availability of a specific major; (3) Total cost of attending; and (4) Availability of financial aid (Sevier, 1993, p. 49).

Solutions for Minority Recruitment

Stephen L. DesJardins (2002) posited a model that could be used recruit more white students for HBCUs. His model could make student recruitment efforts more efficient and effective and could provide some relief for the “horns of the dilemma” in that the model could be used to target both student populations effectively; the black students and the other-race students. The model was not specifically formulated with race in mind, but could easily be used by HBCUs for this purpose.

Recent research from Harvard Graduate School of Education also seeks to provide assistance to HBCUs in their recruitment efforts but does not stop there (Jackson, 2001). This research extends existing models to incorporate the fact that there are differences between races in their student choice behaviors that could be analyzed and used to support recruitment efforts of both HBCUs and TWIs. Jackson (2001, p. 19) dispels the myth that, “factors that influence White or Black students to attend institutions where they will be within an ethnic majority and the factors and influence them to attend institutions where they will be in the ethnic minority are one and the same”. He also asserts (Jackson, 2001, p. 20) that, “institutions assume that the same initiatives that work to influence White students to attend HBCUs will also work to encourage Black student to attend TWIs.” His research shows that these assumptions have no foundation in the college choice research and have been instrumental in the development of ineffective and inefficient minority recruitment plans.

Conclusions and Remarks

With competition for diversity enrollment, and legislated actions to ensure diversity enrollment, administrators and recruiters at colleges and universities must be clear on the current literature for both the legal conditions and the Theory of Student Choice. Diversity targets in some cases are legislated, or exist as a result of court cases, for public institutions, and can affect federal funding. This paper attempted to bridge the gap between the literature specific to the legislated actions and court rulings that led to the current situation, and current literature on Student. This paper applies to both Historically Black Colleges and Universities (HBCUs) and Traditionally White Institutions (TWIs) attempting to reach diversity goals. Still, open areas of research remain. Missing from college choice literature is the in-depth analysis regarding college choice factors that influence students to choose institutions where they are ethnic minorities. Also missing is the empirical evidence to support relevant minority recruitment strategies. These gaps result in desegregation efforts that are often unpredictable and inconsistent. As was previously stated, if diversity efforts are to continue beyond fading court remedies, other solutions will have to emerge. This paper begins the process of aggregating current research toward the end result of effective minority recruitment policies.

References

- Alabama Commission on Higher Education (2002). *Knight v Alabama*: Historical perspective, summary of major provisions, analysis of eleven years of data and status report. Alabama.
- Allen, W. R. (1992). The color of success: African-American college student outcomes at predominantly white and historically black public colleges and universities. *Harvard Educational Review*, 62(1), 26-44.
- Allen, W. R., & Jewell, J. O. (2002). A backward glance forward: Past, present, and future perspectives on historically black colleges and universities. *The Review of Higher Education*, 25(3), 241-261.
- Bowen, W. G., & Bok, D. (1998). *The shape of the river*. New Jersey: Princeton.
- Brown, II, C. M. (2001). Collegiate desegregation and the public black college. *The Journal of Higher Education*, 71(1), 46-62.
- Brown, II, C. M., & Hendrickson, R. M. (1997). Public historically black colleges at the crossroads. *Journal for a Just and Caring Education*, 3(1), 95-113.
- Butler, G. L. (1994). Legal and policy issues in higher education. *Journal for Negro Education*, 63(3), 451-459.

- Butler, G. V. (2000). Grass roots and glass ceilings: African American administrators in predominately white colleges and universities. *Journal for Negro Education*, 71(2), 266-269.
- Byrd-Chichester, J. (2000). The federal and claims of racial discrimination in higher education. *Journal for Negro Education*, 69(1/2), 12-26.
- Chang, M. J. (2002). Preservation or transformation: Where's the real educational discourse on diversity? *The Review of Higher Education*, 25(2), 125-140.
- Chapman, R. C. (1979). Pricing policy and the college choice process. *Research in Higher Education*, 10(1), 37-57.
- Delaney, A. M. (1998, May 17-20). Parental income and student's college choice process: Research findings to guide recruitment strategies. Paper presented at the meeting of the *Annual Forum of the Association for Institutional Research*. Minneapolis, MN.
- DesJardins, S. J. (2002). An analytic strategy to assist institutional recruitment and marketing efforts. *Research in Higher Education*, 43(5), 531-553.
- Fries-Britt, S. & Turner, B. (2002). Uneven stories: Successful black collegian at a black and a white campus. *The Review of Higher Education*, 25(3), 315-330.
- Fuller, W. C., Manski, C. F., & Wise, D. A. (1982). New evidence on the economic determinants of postsecondary school choice. *Journal of Human Resources*, 17(Fall), 477-498.
- Gurin, P., Dey, E. L., Hurtado, S., & Gurin, G. (2002). Diversity and higher education: Theory and impact on educational outcomes. *Harvard Educational Review*, 72(3), 330-364.
- Halpern, S. C. (1995). *On the limits of the law: The ironic legacy of Title VI of the Civil Rights Act*. Baltimore, MD: The John Hopkins University Press.
- Henry, A. R. (1998). Perpetuating inequality: *Plessy v. Ferguson* and the dilemma of black access to public and higher education. *The Journal of Law and Education*, 27(1), 47-71.
- Hoernack, S. A., & Weiler, W. C. (1979). The demand for higher education and institutional enrollment forecasting. *Economic Inquiry*, 17(1), 89-113.
- Hossler, D. (1984). *Enrollment management: An integrated approach*. New York: College Entrance Examination Board.
- Hossler, D., Braxton, J., & Coppersmith, G. (Eds.). (1989). *Understanding student college choice: Higher education: Handbook of theory and research* (Smart, J.C. ed.). New York: Agathon Press.

- Hurtado, S. (1996, May 5-8). Differences in college access in choice among racial/ethnic groups: Identifying continuing barriers. Paper presented at the meeting of the *Annual Forum of the Association for Institutional Research*. Albuquerque, NM.
- Hurtado, S., Milem, J. F., Clayton-Pedersen, A. R., & Allen, W. R. (1998). Enhancing campus climates for racial/ethnic diversity: Educational policy and practice. *The Review of Higher Education*, 21(3), 279-302.
- Jackson, J. H. (2001). The effects of the racial composition of an institution of college choice and desegregation (Doctoral dissertation, Harvard University, 2001). *Dissertation Abstracts International*, 3012923 .
- Lee, W. Y. (2002). Culture and institutional climate: Influences on diversity in higher education. *The Review of Higher Education*, 25(3), 359-368.
- Leppel, K. (1993). Logit estimation of a gravity model of the enrollment decision. *Research in Higher Education*, 34(3), 387-398.
- Manski, C. F., & Wise, A. D. (Eds.). (1983). *College choice in America*. Cambridge MA: Harvard University Press.
- McDonough, P. M. (1997). *Choosing colleges: How social class and schools structure opportunity*. Albany: State University of New York Press.
- McDonough, P. M., & Antonio, A. L. (1996, April 8-13). Choosing colleges: How social class and schools structure opportunity. Paper presented at the meeting of the *American Educational Research Association*. New York, NY.
- Noland, B. (2000). *Unpublished Dissertation*. Unpublished doctoral dissertation, University of Tennessee.
- Paulsen, M. B. (1990). *College choice: Understanding student enrollment behavior* (ASHE-ERIC Higher Education Report 90-6). Washington DC: The George Washington University.
- Preer, J. L. (1982). *Lawyers v. educators: Black colleges and desegregation in public higher education*. Westport, CT: Greenwood.
- Schmidt, P. & Selingo, J. (2002, December 13). A Supreme Court showdown: The justices take up two Michigan cases and the debate over affirmative action in admissions. *The Chronicle of Higher Education*, 49(16), A20-A26.
- Sevier, R. (1993). Recruiting African-American undergraduates: A national survey of the factors that affect institutional choice. *College and University*. 68(1), 48-52.

- St. John, E. P. (1997). Desegregation at a crossroads: Critical reflections on possible new directions. *Journal for a Just and Caring Education*, 3(1), 127-134.
- Stefkovich, J. A., & Leas, T. (1994). A legal history of desegregation in higher education. *Journal for Negro Education*, 63(3), 406-420.
- Stephens, J. E. (1999). The quest to define collegiate desegregation: Black colleges, Title VI compliance, and post-Adams litigation. *Journal for Negro Education*, 68(2), 238-239.
- Taylor, E., & Olswang, S. (1999). Peril or promise: The effect of desegregation litigation on historically black colleges. *Western Journal of Black Studies*, 23(2), 73-82.
- Udechukwu, I. (2003). The mechanics of microeconomic choice: A school option perspective. *Essays in Education*, 8 (Winter), 1-18.
- Wesley, H. A., & Southerland, A. R. (1994). General college choice models and ethnic minority recruitment. *Journal of College Admissions*, 143(Spring), 18-21.
- Woodley, S. K. and Figiel, V. L. (2004), Diversity and higher education: Effects of the racial composition on college choice and desegregation, Paper presented at the meeting of the *College Teaching and Learning Conference*.

Cases cited:

1. *Adams v. Richardson*, 356 F. Supp. 92 (D.D.C. 1973)
2. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)
3. *Knight v. Alabama*, 14 F. 3d 1535(11th Cir. 1994)
4. *McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950)
5. *Missouri ex Rel. Gaines v. Canada*, 305 U.S. 337 (1938)
6. *Plessy v. Ferguson*, 163 U.S. 537 (1896)
7. *Sweatt v. Painter*, 339 U.S. 629 (1950)
8. *U.S. v. Fordice* 112 S. Ct 2727 (1992)