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Race and Representation: A Case Study of Racial Diversity in Student Government

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**RACE AND REPRESENTATION: A CASE STUDY OF RACIAL DIVERSITY
IN STUDENT GOVERNMENT**

A Thesis Presented

By

RHYS JAMES LIVINGSTONE

Submitted to the Graduate School of the
University of Massachusetts Amherst in partial fulfillment
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DEDICATION

For Catharine and Emily -- the stars of my life.

ABSTRACT

RACE AND REPRESENTATION: A CASE STUDY OF RACIAL DIVERSITY IN STUDENT GOVERNMENT

SEPTEMBER, 2008

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Colleges and universities in the United States have attempted for years to implement policies and procedures to promote racial diversity in their student bodies, as well as to ensure reflective minority representation in student programs at their institutions. I have done an independent evaluation assessment of the necessity and program theory for a policy aimed at assuring diversity of the undergraduate student government at the University of Massachusetts Amherst, covering the period 2003-2005. The policy in effect during those years was a system which guaranteed minority representation reasonably mirroring the known minority population of the undergraduate student body by reserving 13 percent of Senator positions in the Student Government Association for students affiliated with the African, Latino/a, Asian/Pacific Islander, and Native American caucus. The policy intent was to achieve campus fair and just minority representation in UMass student government. In reality, however, that policy produced unintended consequences instead – bitter, and sometimes violent racial tensions, and widespread and prolonged charges of reverse and illegal discrimination. As a result of this evaluation of that policy, and its attendant procedures for implementation, in the conclusion I offer recommendations which would allow UMass to replace a problematic policy with one which could achieve reflective minority representation in student government acceptable to, and supported by, the majority of the undergraduate population.

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CHAPTER 1

INTRODUCTION

Colleges and universities in the United States have struggled for more than thirty years to reflect racial and ethnic diversity among their student organizations. The importance of diversity is espoused by society in general and institutions of higher learning in particular. Commitment to diversity is a virtue which most colleges want to practice, in part because college leaders believe overall educational goals are best served by being diverse. Most college and university mission statements stress diversity as a core value of the institution. Yet, as Feagin (1996) argues “. . .much racial discrimination and many other forms of racism occur in what first appears to be an unlikely place, the U.S. system of higher education. In the United States, major colleges and large universities are usually thought to be centers of diversity and global knowledge, centers showing the way for the nation in solving problems of racial intolerance. Yet as we still see, U.S. colleges and universities are frequently permeated with much subtle, covert, and blatant racism.” (pg X). In this paper I address the overall university policies regarding racial diversity (such as affirmative action); however I focus on approaches taken to diversify student organizations. Through a case study focused on the University of Massachusetts, I analyze a policy put in place for the African, Latino/a, Asian/Pacific Islander, and Native American (ALANA) student caucus and its representation in the Student Government Association (SGA) via appointed seats set aside exclusively for ALANA members.

My study examines turbulent years of racial disharmony on the University’s campus from 2003-2005 in connection with a set-aside seat program. The UMass case demonstrates confusion and controversial aspects of racial diversity for students and administrators. It demonstrates dynamics of racial discourse within a university setting, and shows the difficulty of straight talk regarding race. I conducted an independent formative evaluation with the goal of offering recommendations to restructure the established program, which has provoked substantial controversy. My evaluation answers these questions: (1) Is the appointed seat program necessary for racial minority students to participate actively and be represented on the SGA? (2) Is the current program the best way to achieve or assure racial diversity within the SGA? My intention is to provide feedback to policymakers and students interested in racial diversity by examining a numerical set aside program design. Although my study involves only one university, these issues might

arise in any institution of higher learning implementing a similar program, and therefore should be more broadly of interest.

I begin with summary background about the racial composition of the student body at UMass, the origin and purposes of the SGA, ALANA, and the SGA seat policy. Next, I summarize the narrative history of the contentions around the ALANA Caucus appointed seats. I discuss my method, and then analyze the legal outcomes in *Gratz v. Bollinger* 539 U.S. 244 and *Grutter v. Bollinger* 539 U.S. 306, decided in 2003, explaining the current status of the law in terms of affirmative action guidelines. I also use previous scholarly research on race/ethnicity and higher education to analyze this case. I offer recommendations regarding racial diversity programs. Lastly, I offer appropriate means for addressing issues of racial diversity particular to the UMass campus.

1.1 Background Information

The University of Massachusetts, Amherst, is the flagship campus of the commonwealth's higher education system. It is a major research university enrolling approximately 25,000 students from all states in this country and from many nations in the world. UMass is governed by a Board of Trustees, which includes five student members elected for one year terms from each of the campuses of the five-college system: Amherst; Boston; Dartmouth; Lowell; and the UMass Medical School in Worcester.¹

In 2003, the majority --83.2% -- of the undergraduate population is classified as white, while the remaining 16.8% of the student population belongs to the ALANA community (Office of Institutional Research).² Similarly according to census figures for 2000, the commonwealth of Massachusetts, which UMass serves, is predominately (81.9%) white and ALANA students are somewhat underrepresented at the university.³

¹ The board functions as a legislative body dealing primarily with questions of policy and establishes general policies which govern the university. It also delegates certain powers to the president, who in turn, delegates authority to campus administrators responsible for day-to-day operations. The president of the university oversees the five-campus system along with chancellors at each of the campuses. While setting of policy is the primary responsibility of the board, it also provides oversight on academics and student affairs, and approves student government constitutions and faculty governance policies. In collaboration with the president the board determines the institutional mission statement. (The UMass system Website).

² These proportions based on students reporting race and ethnicity.

³ Demographics for the state of Massachusetts in 2000 listed the total population of White only as 81.9% and all other categories 18.1%, for 2006 82.8 and 17.2% for all others. Source: U.S. Census Bureau, Census 2000 Summary File 1.

The SGA is the collective voice of undergraduate students at UMass and consists of an executive and legislative branch currently composed of 60 Senators, and a student judiciary. As Cuyjet (1994) states, the primary purpose of student governments are to serve as the official voice of the student body to the administrators. Student Government also plays a central role in the distribution of student activities fees to organizations and agencies, as well as provides services officially recognizing other student organizations and programming of extracurricular activities. The SGA began as a student senate in 1901 by undergraduate students at what was then the Massachusetts Agricultural College. By the 1920s it consisted of four organizations: the student senate which was the executive body for all four year students; the women's student council; honor council; and adelphia. Student government was reorganized again in 1948 and in the 1960s, resulting in a larger and more formal organization which consisted of committees handling budgets, finance, services, elections, announcements, women's affairs, and other areas of student concern. In 1994 the Board of Trustees granted the SGA responsibility for governing undergraduate student affairs.

The primary purpose of the SGA currently is student support, by promoting student interests and through reviewing and making recommendations regarding the use of the student activity fee, at the time of this study controlling a budget of over a million dollars a year. The roles and tasks of the Senators include passing resolutions and enactments, determining a budget, and expressing the will of the undergraduate student body. Senators are appointed to one of six committees, each having their own set of various responsibilities and duties.

The areas which are integral components of this study are the Office of ALANA Affairs (OAA), the Student Government Association (SGA), and Student Legal Services Office (SLSO), all of which fall under the Vice Chancellor for Student Affairs and Campus Life (VC). Funding for the SGA comes from student activities fees that students pay each semester. From those activities fees the SGA approves budgets for the OAA and SLSO. Since the SGA had such a large budget from 2003-2005 it was considered a serious player within the university funding system.⁴

⁴ Prior to the Campus Action Plan (4/29/05) the OAA was funded by the SGA, after the Plan the university took over funding and OAA is now advised by the Center for Student Development also created as a result of the Plan.

In 1995, OAA replaced the Office of Third World Affairs, which had been created in 1976. The OAA was created at the urging of ALANA students because they wanted professional advocates to recognize and address issues of campus racial and ethnic diversity, multiculturalism, and fairness. The office works with University departments, staff, faculty and Registered Student Organizations (RSOs). The goals of OAA are to create inclusion of ALANA voices in addressing policy issues that affect such students on campus; to assist ALANA RSOs in developing and implementing educational and social programming; to educate campus members about concerns of the minority community, and to increase campus educational resources for the ALANA community. The traditional function of the organization has been as a multicultural and educational support agency for racial and ethnic minority students at UMass (ALANA website and charter).

In addition to the OAA, there is an ALANA caucus, which is used to appoint members to the Senate through a set aside policy. This set aside seat policy was created in the 1970s with the goals of ensuring racial diversity of the SGA and of being reflective of minority enrollment in the undergraduate population. In other words, the set aside seats were created with the intent of guaranteeing a diverse student leadership. Available research does not exist about the reasoning behind the decision that this would be a successful policy and no studies supporting the creation of this type of policy to achieve the intended goals of student diversity could not be found (SLSO 10/24/03 memo). The appointed seat policy entitles ALANA student representatives to 13 percent of the SGA Senator positions and is written into the current SGA bylaws, but is not part of the SGA Constitution, (any changes to the Constitution must be approved by the UMass Board of Trustees while bylaws can be approved by the Vice Chancellor).⁵ An ALANA caucus member has the option of becoming a Student Senator within the appointed seat system. Non-ALANA caucus members must run for a position and be elected. ALANA Senators are expected to advocate on behalf of ALANA students by voicing concerns and formalizing motions that affect those students.

Although no documents exist regarding the specifics around the creation of the policy, by 1979 there was a policy specified in the Constitution which included appointed seats for Third World and other

⁵ Legally, the Constitution overrides the Bylaws.

constituencies.⁶ The Board approved the Constitution in 1994. The Board would not approve the Constitution until all appointed seats were removed. The seats were limited to the Bylaws, which are not Trustee approved. Other appointed seats went to constituencies in the same residential areas, such as students in fraternities and sororities, and students residing off campus. ALANA students were the only appointed seats for students that did not reside in the same district. The only SGA appointed seats existing in 2007 are the ALANA seats. In the Spring semester of 1996 there were conflicts over the appointed seats and voting rights (Collegian 2/22/96 & 3/26/96). A Senate select committee was created with the intention of looking into creating new caucuses for women, those with disabilities, and Lesbian, Bisexual, Gay, and Transgendered (LBGT) students, reviving earlier student set aside seats. In April of 2000, the “Senate voted 40-6 in favor of eliminating all appointed seats from the Senate, including the ALANA caucus.” (Daily Collegian 9/10/03) This decision was followed later that same spring to an SGA judiciary hearing where a committee overruled the decision to eliminate the seats indicating they were constitutional. In March of 2001 the choice was given to the student vote where they elected to keep the seats.⁷ In order to technically eliminate the seats an approval for a change in the Bylaws would have to come from the VC. In September of 2003 it was reported in the college newspaper that the ALANA caucus seat issue “has come up too many times in the last 10 years” for it not to be provided for in the Constitution if the seats are to be part of the SGA Senate.

When challenges, like those which occurred in the 1990s and again in 2003, to the appointed seat policy have taken place, the OAA has defended the need for a continued seat policy, noting that ALANA caucus members are not necessarily racial-ethnic minority students, but students in support of ALANA issues.⁸ Some students and administrators have viewed the policy as race based affirmative action, a quota system, since its purpose is to achieve a certain percentage of minority students serving in the SGA.

⁶ Similar appointed seats for women and gay/lesbian students once existed as well in the 70s-80s, but those groups relinquished their set-aside seats in the 1980s. Leadership of those caucus’ told the Director of SLSO this was done because of “strong feelings that the continued existence of the seats were counterproductive” (SLSO).

⁷ The Collegian reported 1678-797 was the student vote in favor of keeping the seats. (9/10/03)

⁸ However, a student needs signatures from 25 students of color to become a member of the caucus (SLSO).

Discontent by opponents of the seat system has been evident during the past decade and erupted into overt verbal confrontation by 2004.

1.2 Contention Around the ALANA Caucus Appointed Seats

Although the appointed seats policy was in place for decades, a major contention arose regarding the seats in 2003. During Fall 2003, the SGA leadership decided not to recognize the appointed ALANA seats. They argued against the way the seat policy was implemented rather than against its intended goals, and noted that the ALANA seats were unconstitutional. Campus rallies against this decision followed. A number of UMass students called for the resignation of the Speaker of the SGA Senate, and branded him a racial bigot.

In response to critics, the Speaker generated a series of referendum questions for the upcoming elections that would allow the undergraduate student population to decide if the appointed seats should be reinstated via a constitutional amendment. Students again voted that the seats should remain part of the SGA and a provision authorizing them should be added to the Constitution. Although only a small percentage of total student population typically vote in SGA elections,⁹ “67% voted in favor of keeping the caucus appointed seats” (Graduate Student Voice 11/2004). The SGA determined it would not be useful to attempt to get the seats added to the Constitution, since based on precedent; the Board of Trustees would not support the change. This decision was made based on the Board’s prior failure to approve the SGA Constitution until all appointed seat policies were removed.¹⁰ However the Director of SLSO did request the opinion of University General Counsel on the matter and the opinion was that the fixed percentage of ALANA Senators is not permitted. The Constitution, approved by the Board in 1994, specifically states that senators shall be elected. “While by-laws are a permitted means to execute constitutional provisions, they may not go beyond or contradict such provisions.” (General Council Memorandum, 12/29/03). It did not matter what the students had voted because General Counsel would advise the Board against instituting such a provision. Election results showed ALANA students had won 25% of the Senate seats, which was approximately what they would have received under the appointed seat policy (Daily Collegian 9/29/03).

⁹ SGA Chancellor of Elections estimated 10% of the campus voted in the 9/03 elections, a number which doubled the 9/02 elections (Massachusetts Daily Collegian 9/29/03).

¹⁰ The Constitution was ratified by the University Board of Trustees June 8, 1994 as Trustee Document T94-060.

The administration backed the SGA leaders, agreeing with the removal of the seats, and indicated they were unconstitutional. After being approached by SGA members unable to work out conflicting interpretations of the Constitution and Bylaws, the University General Counsel concluded the seats were “discrimination for its own sake and not demonstrably tailored to further an interest in educational diversity.” (Memorandum, 12/29/03) This opinion was backed by the Vice Chancellor who agreed the SGA would not be in compliance with recent Supreme Court rulings by having an appointed seat policy. Yet as noted earlier, the OAA responded that the by-laws do not specifically mention race, and anyone who is interested in ALANA issues can join the caucus. White students have represented the ALANA caucus, though they have had to obtain signatures of students of color before being approved as members.¹¹ Some have viewed race as the determining factor in being granted an appointed seat and the OAA’s claim of “caucus openness to all” as an attempt to save the appointed seat policy and ward off challenges to its legality. The seats are to assure that racial and ethnic minority viewpoints are included in the SGA. The OAA position is that no where in the charter does it exclude students on the basis of race.

During the semester leading up to the 2004 elections, students upset with the decision to end the appointed seat policy wrote graffiti on election materials for students who supported the removal of the ALANA caucus seats. Graffiti labeled these students racist for their support of the removal of the seats. An ALANA student was elected President; however all elections must be ratified by the Senate, and the election was contested, and deemed unconstitutional by the student judiciary for technical reasons stemming from the type of voting procedures used. Since the election was not ratified, the Speaker of the Senate became the interim President until a new election could take place. These developments added tension because the Speaker was viewed as a “ringleader” of efforts to end the appointed seats policy.

After the judiciary ruled the election unconstitutional, but prior to failure to ratify by the senate, the SGA annual banquet took place. ALANA members attended and attempted to persuade the Senate to ignore the ruling and recognize the President. Many carried signs of support for the candidate they believed had won. They covered their mouth with tape intending to indicate they were silenced by the University. Protest speeches were given. After the election was rejected and the new President (the old speaker) was

¹¹ In 2004 the ALANA caucus charter changed from needing 25 signatures of ALANA students to need 25 signatures from ALANA RSOs.

sworn in, students threw objects at him and booed and chanted the name of the perceived winner, disrupting the ceremony. The new President had to be escorted out by building security and other senators fearing for his safety.

The election was rescheduled and new campaigns took place, this time with the approved voting procedures. The same ALANA student won the presidency again. This process took most of the semester and the new President was not sworn in until the beginning of May. In the middle of May, the student pictured in the not yet released photographs with the Ku Klux Klan insignia, was elected to the position of student Speaker. Another semester concluded which had been primarily spent dealing with issues focused on the appointed seats and the aftermath of various racial conflicts, and while the SGA was occupied with the appointed seat issue not much else was accomplished.

Despite advice from Student Legal Services, the Vice Chancellor for Student Affairs and Campus Life, and University General Counsel to the contrary, this Speaker again recognized the seats in the fall semester of 2004. He indicated he did not agree with the appointed seats theoretically, did not think they were necessary or should exist, but would recognize them so the SGA could address other matters of importance. This decision served to further inflame and extend the controversy and its issues of legality, fairness, merit, and necessity, rather than settling the issue through a collaboratively formulated viable policy alternative.

Shortly after this decision, racially charged photographs of student leaders were released. Those pictures were of high level white student representatives to the SGA photographed in a university office with KKK insignia. The SGA Speaker, who had just decided to recognize the seats again, appeared as a caricature, dressed as a Wizard holding a burning cross in one hand and a sign which read "I Love ALANA."¹² The cartoon pictures were drawn on a dry erase board and students were shown posing in front of the drawings. In the background posters celebrating Black History Month were visible. The photographed students claimed the event was a joke, they were poking fun at themselves for the alleged bigotry of which they had been wrongly accused. ALANA supporters viewed the photographs as the proof

¹² The Student pictured holding the "I Love ALANA" sign declined an invitation to appear on the O'Reilly Factor syndicated TV show televised by the generally-acknowledged "right leaning" Fox network. He also received communications of support from what are viewed as politically conservative groups such as the Center for Individual Rights, a staunch opponent of affirmative action.

they needed to demonstrate racism within the SGA. The Speaker issued a public apology to the student body which appeared in the student newspaper indicating that he and the others pictured did not subscribe to the racist ideology which the photos implied to some, but rather were joking since they had been labeled racist for their lack of support of the appointed seat policy. However, many students were outraged and reported an inability to comprehend “joking” about anything so abhorrent as the KKK. At the end of September the Speaker resigned and later withdrew from the university after he was threatened and harassed regarding his racial politics.¹³ This student had also been employed by the Dean of Students’ Office, the office responsible with charging students with violations of the Code of Student Conduct. Some students were upset with what they viewed as a lack of repercussions, or response from the university dealing with the labeled “KKK-9” group. Although there was a “no confidence” vote, and repeated student requests for the Vice Chancellor for Student Affairs and Campus Life to resign, he did not.

In mid-October, 2004, UMass appointed a special Commission on Campus Diversity to assess programs and identify areas for improvement. Following the KKK episode, the Chancellor expressed extreme concern about the effectiveness of the current University approach to diversity issues and convened the commission to render expert guidance in this area. This Commission consisted of 23 members and included varied representation from UMass as well as professionals from leading institutions. The Commission’s objectives were to present specific recommendations, campus guidelines, organizational structures and funding models with the intention of making UMass “a welcoming place that offers exceptional educational opportunities to all students.” (Press release 10/15/04).

Even after the commission’s creation, however, conflicts continued to rage. In early November 2004, the OAA conducted a press conference and announced it possessed inappropriate emails between former SGA officials and administration members. ALANA supporters argued the emails did not follow the proper guidelines and left out key players who may have had differing opinions than those expressed. Funding and legitimacy of the OAA was the general concern of the emails. The OAA reported the emails had withheld information about legal decisions concerning the ALANA caucus appointed seat policy and that the seats could in fact be viewed as legal. A specific quote in the newspapers that was reported and referred to on several occasions involved one sent by the VC to the Speaker, “If you get a chance please

¹³ To date this student has not returned to the university.

call me this weekend or early Monday. . . . I heard back from General Counsel and the news is different than we anticipated.” (6/26/04) Another often referred to quote was an email exchange between the then Speaker and the previous Speaker (the one who originally made the call not to recognize the seats) which was “General Counsel came back and declared that the 25 signatures from the ALANA community was legal and the caucus was legal.” (6/26/04) There were more than 200 emails between the Student Speaker at the center of the KKK photographs, the director of SLSO, and the VC. Excerpts from the emails that were not made public, or quoted in the school newspaper showed the VC communicating with both sides and offering advice to the President of the SGA, who also happened to be an ALANA student, saying how policy could be written in a way that it would have the possibility of being approved. For example, “If we propose a solution we then can manage the outcome rather than leave it entirely in the hands of Counsel. Again, if we remove race and/or ethnicity from the equation I think you have a workable program.” (Email VC to SGA President 6/2/04) The email also goes on to offer ideas for finding an alternative to the appointed seats that could be agreeable for everyone.

The email exchanges in general devoted a lot of time to making OAA more forthcoming regarding staff, office issues, and procedures. At one point the director was ill and had taken time off for treatments and had appointed a graduate student to act as interim director. There were several bureaucratic issues being argued about and there were suggestions for evaluation of the way the system was working and consideration of altering the office. At one point the Secretary of Diversity for the SGA was suggesting a diversity office that also dealt with issues of socioeconomic class and LGBT issues. The emails dealt mainly with overarching issues of the OAA more generally. It is difficult to separate OAA in general from the seat issue in particular because there were many things going on simultaneously which affected both the overall racial discourse and race relations on campus. The campus was also in the midst of major budget cuts where an 18 percent system wide cut to campus occurred. Budget cuts were split between a number of organizations “twenty one million dollars were made in cuts to organizations and services the administration did not consider a central part of the University’s purpose (Daily Collegian 9/3/03). UMass president reported that the University had been hit with the equivalent of more than 150 million cuts to the budget in the preceding three years (Collegian 11/3/03). There are other pieces of the story which are greatly under addressed in this paper because they dealt more generally with the OAA; I focus only on the

appointed seats and the emails directly relevant to that part of the story. Not much resulted over the public release of certain quotes in the emails, except concern by the VC about how they became public, and investigations into the office responsible for the operation of the campus email system.

In mid-November the Commission met in private sessions and scheduled a public forum where interested campus parties could present for a total of 5 minutes. The response was so strong from the campus community that another public forum was scheduled after the January break. In mid-February the Commission again met in private and on March 1, 2005 presented the final report, "Diversity and Inclusion at UMass Amherst: A Blueprint for Change," in a public meeting. This commission made two brief references to this case, and only mentioned the KKK photographs, and not the reserved seat issue which led up to the photographs, in their 86 page final report. The major recommendation concerning student government was that student voices should be valued and the integrity of student government and its agencies respected in the pursuit of diversity and inclusion goals (Commission Report, 11). In terms of the OAA the main theme involved re-defining and re-structuring the ALANA support programs. Under such re-structuring a call was made for support of these programs in terms of budgets and full time employees and listed the services they should provide. (Commission report, 10) No specific mention of what to do with the caucus seats and their questionable legality was included. Also the blanket statement of supporting student government leaves open for interpretation – should the support be of their right to exclude the seats, or should the support be of the overall student population vote to allow them to remain regardless of legality. The Chancellor responded to those recommendations by creating the Center for Student Development attempting to bring together offices in one central location. Funding for OAA was shifted from the SGA to Student Affairs and Campus Life and OAA would report to the Center for Student Development rather than the Student Activities Center (Action Plan, 23). This would alleviate the funding arguments that happened surrounding the budget of OAA, but would do nothing to address the matter of the appointed seats, and would allow the issue to continue to be raised in the future. The question of legality of an appointed seat system for minority students on the SGA was largely ignored in both reports. This was a potential time to deal with the seat controversy and resolve it. It could have shifted blame to an outside party – the commission members – because indeed with certain policies not everyone will be satisfied or agree with the decision. In mid March, the Chancellor's draft plan in response to the

Commission's report was publicly announced and a comment period began. In mid-April a second draft plan came from the Chancellor and on 4/29/05 the Final Action Plan was released. Many suggestions regarding academic affairs were approved in the Plan issued by the University, but many of the suggestions regarding student affairs were not approved.¹⁴ Although the University expended time, effort, and money interviewing and listening to testimony of more than 100 students, staff, faculty, administrators, as well as alumni, it ended up disregarding much of the Commission's recommendations. Although the creation of the Commission gave the impression of a university-wide commitment to diversity being a core value, the lack of follow through with many of the recommendations in Student Affairs, the area where these problems occurred, undermined that impression.

The most important Commission report suggestion was recommendation 1: "Appoint a senior level administrator with adequate staffing, budget and resources to report directly to the Chancellor to review and coordinate all diversity and inclusion activities of the Amherst campus." The University rejected that recommendation. The primary reason cited was unwillingness to segregate diversity oriented activities in one office lest it might "relieve" other UMass entities of responsibility concerning diversity issues. University representatives said they did not believe this was an effective way to achieve the goals recommended by the Commission. In addition, instituting a Vice Chancellor for Diversity, who would have a significant amount of responsibility and authority to manage the budget, would require reorganization of the institution to move a significant portion of funding and responsibility for academic affairs and portions of student affairs into the office of the new vice chancellor (Appendix re: rec 1 in the Action Plan). "In the case of the Commission report, the campus received clear communications from a public interest law group indicating that in their view many of the recommendations violated federal laws and court decisions." (Chancellor's Q&A p. 5) The suggestion for a VC for Diversity was rejected despite the Commission's note of a lack of centralized coordination of diversity issues and no senior level individual designated to advocate on behalf of inclusion and diversity at all levels of University life (Commission Report, 6). They

¹⁴ Commission recommendations regarding academic affairs included a call for strategies to reverse the decline of underrepresented minority students, as well as to significantly increase the diversity of faculty, and determined UMass lacked a coherent plan and coordinating unit to achieve full racial and ethnic inclusion. The Commission also acknowledged that previous commissions appointed to address diversity issues on campus had not been able to spur changes required to make UMass a welcome and welcoming place for minority students.

also noted “over extended goals for the ALANA support programs” and the “presence of other “isms” beyond racism . . . which deserve attention (e.g. socioeconomic class, disability, language preference, sexual orientation etc.) (Commission report, 7) Also in the Chancellor’s Q & A on the Commission Report and Campus Responses, he noted “. . . the responsibility for diversity in academic affairs rests with the Provost and the deans and departments. The responsibility for diversity in student affairs rests with the Vice Chancellor for Student Affairs and the staff of that office. Similarly, responsibility for the diversity agenda of the SGA resides with elected officers and representatives of the SGA.” The OAA prior to the Action Plan reported to the director of the Student Activities Center, but was funded by the SGA. “Student Affairs and Campus Life will relieve the SGA of its current obligation, (of funding the OAA) enabling the SGA to reallocate the current OAA budget . . . to RSOs or other services. This is consistent with the Commission on Campus Diversity’s final report, which states that primary responsibility for diversity and inclusion belongs to the campus on a permanent basis.” (Action Plan 4/29/05 p. 24)

Existing policy to ensure diversity and inclusion was not working and the administration’s failure to create and fund the diversity position communicated lack of a true commitment to successfully resolving the problem. In Spring 2008, the ALANA appointed seat policy remains as it was in 2005. There have been no new major attempts to remove the appointed seats, while many racial minority students continue to be elected to high ranking positions within the SGA. (Collegian 2005-2007)

CHAPTER 2

METHODS

My research is a program assessment, involving issues of conflict, power, race, and law, by analyzing different groups vying for power within a single organization. My focus is achieving diversity in student government. My project applies social science research to solve a contemporary social problem employing an interdisciplinary process, which brings together evaluation research methods, sociological scholarship in race and ethnicity, research in higher education, and U.S. law concerning racial politics in higher education.

There are two questions this evaluation answered, employing both primary and secondary data sources. First: Is there a need for appointed seats for racial/ethnic minority students on the SGA? Second: Is the current implementation of the program meeting those needs? For this study, I examined the program theories and goals to determine whether they embodied a valid conceptualization of the problem, and if so whether they were working as intended. Since Needs Assessment is one type of applied social research, the goal is that the means are used to inform policy and program development (Reviere, 1996). The analysis of what presently exists was done with the intent of answering the question: Is the program design good enough?

I use a triangulation of methods to explore the ALANA set-aside seats. I obtained evidence to answer these questions from three sources: University records and statistics, newspaper articles and editorials covering appointed seat issues on campus, and interviews with students as well as University administrators. These sources serve as credible materials necessary to inform the basis of answers to my questions. As Feagin (1991, p. 19) notes in discussing triangulation, by relying on different sources, “all of which may be used to cross-check and thereby validate observations as well as claims based on those observations.”

Because my goal was to explore the racial climate on the UMass campus from 2003-2005 related to student relationships, qualitative inquiry was the preferred research approach and allowed me to obtain the in depth data required to understand the set-aside seat system and conflicts because of it. “The narrative form is precisely adapted to communicating these meanings and understandings – the “lived” experience – as experienced by people.” (Feagin, 1991 p. 21) Students and administrators involved in these events

recounted their perceptions and experiences to me. Their stories are part of my investigation into the set-aside seat program. I then cross checked interview information with University documents and records, as well as newspaper coverage of the events. “Careful and artful combination of secondary and primary sources, and of quantitative and qualitative methods, greatly strengthens a research design.” (Reviere 1996, 17)

A significant component of this research came from analysis of published materials, including the *Massachusetts Daily Collegian*, the *Graduate Student Voice*, the *Boston Globe*, and the *Daily Hampshire Gazette*, as well as various university records regarding policies and procedures. I reviewed archived copies of the above mentioned papers dealing specifically with the timeframe of my study. I also reviewed archived *Collegian* articles involving racial hostilities between the UMass administration and the OAA since its inception.¹⁵

In addition, I viewed video tapes of public hearings conducted by the Commission on Campus Diversity, as well as reviewed transcripts of those hearings. The tapes were helpful because the appointed seats controversy is highlighted by several students; the emotion can be seen on their faces and heard in their voices. This same observation was made by the Commission chair who was quoted as saying “While quantitative data on diversity and inclusion are summarized in appendices to this report, these data do not reveal the climate of distrust that exists on the Amherst campus, nor the depth of the pain and passion voiced by many students, faculty, staff and alumni when they speak of their experiences as racially or ethnically isolated members of the campus community.” (Executive Summary p. 1)

My review of university records included the organizational chart, statistics regarding racial information from the Office of Institutional Research, the ALANA caucus charter, the SGA Constitution and Bylaws, and information available on websites of each of these organizations. I also reviewed the University Statement on Diversity, the Diversity Commission Report, the Action Plan issued by the university in response to the Commission’s report, university Judicial charges brought against the students labeled the KKK-9, Student Legal Services documents researching constitutionality of the appointed seats

¹⁵ There have been conflicts where ALANA students and the administration have butted heads, one event which led to a student take over of a building until university met the demands of the community. I make reference to the conflicts to set the stage for the overall racial climate on campus over time and demonstrate that ALANA is an organization aimed at promoting issues relevant to racial and ethnic minority students on campus. All information came from the ALANA website and was located in the campus history section.

system, and the memo from University General Counsel stating the seats are a racial set aside and therefore constitute an illegal policy. I also viewed the notorious KKK photographs of student leaders taken in the Student Center for Educational Research and Advocacy Office (SCERA), and reviewed copies of numerous emails between student leaders and university administrators from which were excerpted in student newspapers.

I interviewed representatives from the office of the Dean of Students who have worked on campus a long time and have witnessed firsthand many of the developments unfold regarding ALANA, racial diversity on campus, and in particular the appointed seats policy. I had numerous interviews with a student who was central to much of the conflict, and who provided me with information and insight beyond what has been disclosed publicly and who also granted me permission to cite that material in this paper. I interviewed the Graduate Student President who was one of two appointed student representatives to the Diversity Commission and also interviewed eight other students involved with ALANA and the SGA during the timeframe of this study. For the students the sampling approaches I used were both purposive, contacting people based on newspaper accounts and snowball sampling where I asked the students I spoke with for the names of individuals they thought I should contact. The conversations with the students were casual and open-ended and the same few names were mentioned time and again. Often we met on campus and had coffee together. There were a few key players I attempted to reach but was unsuccessful. I also had interviews and correspondence with the Director of Student Legal Services who was called upon to help settle the set-aside seats dispute. I made repeated attempts to interview the ALANA director, who ran the office for fourteen years, but was unsuccessful. I also made attempts to reach some ALANA students and was unsuccessful. I was also unable to gain access to internal ALANA documents regarding the appointed seats, which were sealed for a number of years after they were archived.¹⁶ I obtained oral histories from involved students, staff, and administrators and cross checked what I was told with written materials and videos.

I chose a case study design in which I conducted a series of informal interviews with people involved directly and indirectly with student government, student affairs administration, and the OAA.

¹⁶ Limited information was available and much was sent to university archives but was also restricted from public view for a certain amount of years per the director in 2006. However, I did interview some students involved with ALANA, who were knowledgeable about the debates and were helpful.

Obtaining those interviews helped me to understand a particular aspect of human behavior from the perspective of the interviewees. Their stories, coupled with a diverse array of written materials about the seat policy and its aftermath, are an example of what many scholars in the area of race have been saying, certain forms of affirmative action policies are strongly disapproved of by people, particularly white people, if they are viewed as group rights over individual merit.

2.1 Analysis of Legal Context

During summer of 2003 the U.S. Supreme Court heard cases involving affirmative action in education for the first time since the landmark decision in *Regents of the University of California v. Bakke* 438 U.S. 265 (1978). The rulings in *Grutter* and *Gratz* both involved challenges to the University of Michigan affirmative action admission policies. *Grutter* upheld the admissions policy of the University of Michigan Law School and allowed the use of race as a plus factor in determining a student's admission; however the court held that it could not be the only factor. *Gratz* struck down the more rigid point based system used with undergraduate admissions policy because it was deemed a quota system. The court ruled the point system was too mechanistic and therefore unconstitutional. Those decisions left many universities rushing to adjust their admissions policies to comply with the court's ruling. The University of Massachusetts, which had awarded ½ point out of 10 possible points for race from an underrepresented minority status applicant in what were called "non academic" qualifications, changed its admissions process for the 2003 fall semester in order to comply with the *Gratz* ruling.

The Supreme Court rulings did not directly address the legality of race-conscious policies in higher education other than admissions. What is clear is that the interest in obtaining benefits of student body diversity is constitutionally compelling and therefore should serve as justification for other types of race-conscious policies in higher education. Legality of non-admission programs, if justified by desire for student diversity, would need to satisfy the narrow tailoring requirements set by the court (Ancheta, 2005). *Gratz & Grutter* both prohibit quotas or separate tracks for minority students in admissions (Ancheta, 2005 p. 187).

Ancheta (2005 p. 193) discusses programs outside of admissions, diversity in student organizations, and concludes universities will need to "document institution-specific practices and to turn to research studies on the benefits of diversity, the linkages between race-conscious policies and diversity

interests, and the overall effectiveness of their policies.” He also points out that there is limited empirical research which documents the effectiveness of minority only programs, and although the ALANA seats may not be minority only they certainly would classify as race conscious. Research done into this issue by SLSO found no proof of any studies done by a “qualified deliberative body” regarding the reserved seat system which found that the appointed seats were the solution to remedying past discrimination (Memorandum, 10/24/03). So there are no studies that exist examining the benefits of the appointed seats in order to make a strong argument in favor of keeping them. Also studies indicating that using a system of appointing seats as an effective way to diversify do not exist.

A major contention around the appointed seats has to do with whether or not they are race based, and therefore a minority only type of program. On the one hand you have a group of students who claim the seats have race as the deciding factor. On the other hand another group of students and the OAA more generally, argue they are issue driven, anyone interested in issues affecting the ALANA population at the University can join. In fact OAA is quick to point out that white students can and have served on the caucus and have filled some of the appointed seats. They also point out that OAA does not discriminate based on race. What can be determined is that race plays a part in the receiving of a seat in as much as signatures are required from the ALANA community, a community made up primarily of culturally, racially, and ethnically minority students. Whether the signatures come from ALANA members or ALANA RSOs, one way or another they are coming from members of the community. What is also clear is that the program of the reserved seats is considered minimally to be a minority-conscious program.

There is some research that addresses the broader question of whether a university should make explicit exemptions for religious student organizations from signing anti-discriminatory statements required of some universities. There was a case in 2003 when the University of North Carolina at Chapel Hill withdrew official recognition of a Christian fraternity for their failure to sign the University mandatory antidiscrimination statement. A legal analysis was done by examining court decisions involving First Amendment rights. The research determined other student organizations were allowed to discriminate on membership on the basis of beliefs and behavior when they are relevant to the student organizations’ purpose. The author ultimately concludes that a university’s denial of granting explicit exemptions to religious organizations is discriminatory to those groups because others are allowed to discriminate. Some

examples cited include Students for Choice having the authority to expel a pro-life advocate, even if pro-life views are compelled by religion.¹⁷ The vegetarian club can exclude a Santerian who refuses to stop eating his sacrifices¹⁸ (118 Harv. L. Rev. 2882). So if this reasoning extends to the ALANA caucus seats as being an “expressive” student organization as is often argued by the OAA, they can exclude people based on their conflicting beliefs about racial diversity on campus, regardless of the racial classification of the person being excluded. The ALANA position has consistently been one of being an issue driven organization and following that line of reasoning they are able to manage their membership. And if desired exclude those with differing beliefs about minority communities and policies toward racial and ethnic diversity, from joining the caucus, regardless of the race of that person.

If the other position is followed, that the seats are in fact race specific, then there is much research that demonstrates it would be difficult to withstand legal challenge. Many colleges and universities have in response to the *Grutter* and *Gratz* rulings opened up programs previously targeted at certain minority groups to whites and Asians as well (Schmidt 2004). There is currently an ongoing trend with colleges and universities changing the way they administer a wide range of programs aimed at minorities to open up criteria to include all students, regardless of membership in a minority community, who have lacked opportunities. Some institutions altered policies after being contacted by the Center for Equal Opportunity and the American Civil Rights Institute and then other colleges and universities followed behind changing their policies as well. For example, Carnegie Mellon University had hosted a summer camp for minority students which it changed in 2003 to allow white and Asian students who represented they could contribute to campus diversity. The Mellon foundation also changed criteria for minority undergraduate fellowship programs. The programs had provided students with faculty mentors and financial support and were altered in a way to allow fellowships to white applicants committed to the program’s mission of increasing minority representation in college faculties (Schmidt 2004). There are colleges who have not followed suit in changing programs aimed at minority students but since 2003 there have been changes in 70 colleges which have opened minority programs to non minorities in response to challenges and threats of legal

¹⁷ See UNC-CH Motion To Dismiss, *supra* note 1, at 14 n.4 (stating that a student club can require its members “to support [the club’s] work”).

¹⁸ See *Religious Free-dom: History, Cases, and Other Materials on the Interaction of Religion and Government* 537 (Noonan, J. T. Jr. and Gaffney, E.M. Jr. eds 2001).

action. Many other colleges have been opening programs to non minority students on their own (Schmidt 2004). The trend continues with some institutions refusing to alter their programs but many have, in what Schmidt calls a domino effect.

However, if the reasoning of the Supreme Court is applied to programs outside of admissions, the ALANA appointed seats could fit the category struck down in *Gratz*, as a system which is too mechanistic and a quota system which has race, in one way or another, as the deciding factor for an appointed seat. In addition to the *Gratz* ruling, literature from social scientists demonstrates quota systems, regardless of legality, are not a good way to diversify because of potential for backlash (Wilson, 1999, Pincus, 2003).

The Supreme Court has not developed a single test for narrow tailoring as used in *Gratz* and *Grutter* but rather used guidelines from a variety of earlier cases. Together *Gratz* and *Grutter* suggest the most important part of an admissions policy in regard to narrow tailoring is flexibility. It must provide sufficient individualized consideration of all applicants, i.e. race cannot be the determining factor in admissions. Strict Scrutiny is the standard used by courts to evaluate the legality of policies under the Equal Protection Clause of the 14th Amendment. The Court also held that Title VI of the 1964 Civil Rights Act, which prohibits racial discrimination by recipients of federal funding, is “coextensive”. With the Equal Protection clause the same constitutional standard applies to both public and private institutions receiving federal dollars – therefore almost every institution of higher learning in the U.S. is bound by the constitutional strict scrutiny requirement. Under strict scrutiny two fundamental tests must be met. First, the policy goal must be sufficiently important to constitute a compelling interest. If the policy is deemed compelling, it must be narrowly tailored, meaning it is necessary to advance the stated interest. The court, in *Gratz*, struck down the University of Michigan’s undergraduate policy, a system which automatically assigned a fixed number of points to underrepresented minority applicants (Ancheta, 2005 p. 176). Because changes in UMass admissions policy occurred the summer preceding the timeframe of my study, constitutional issues being fresh in the collective mind of the campus may have instigated a renewed attempt to remove ALANA appointed seats.

The Civil Rights reforms of the 1960s were a clear response to the need for race-conscious policies to attempt to overcome historical and modern day obstacles to a truly equal educational opportunity for people of color in this country. Feagin (1996) states: “black students have historically been

denied entrance to or have been greatly discouraged from attending most U.S. colleges and universities – often under force of law.” (Feagin, 1996 pg. 19) This reality is not ancient history and repercussions are still felt today on predominantly white campuses. Programs were established in an attempt to remedy past discrimination, as well as to increase the racial diversity of students. Through such reforms progress was made in racial integration of the workforce and higher education, but that progress did not come without controversy and conflict (Ancheta, 2005). Controversy and conflict remains strong and the racial diversity debate continues. Numerous legal challenges to race-conscious admissions programs have greatly limited the kinds of programs institutions can implement to address discrimination, promote diversity, and yet remain within the law.

Much social science and educational research indicates that support programs aimed at racial minorities help achieve racial diversity in higher education (Orfield 2001, Gurin 2003). Research shows that racial diversity is important for all students regardless of race (Feagin 1996). Indeed, the winning argument in **Gratz** that a diverse student body was a compelling interest, justifying the need for maintaining race conscious admissions policies (Green 2004 & Hurtado 2005). Furthermore, much research indicates that students are aware of this fact and that while white students in particular may oppose quota systems as forms of affirmative action policies, they do not oppose non-quota systems (Wilson 1999, Bowen & Bok 1998). Such research is relevant because it demonstrates the importance of programs aimed at supporting diversity in higher education in general and student organizations in particular. Diversity is beneficial for all students because it exposes to them there are many potential answers in problem solving. Many students want a diverse college experience and understand its importance in preparation for a world beyond the ivory tower. The literature concludes that diversity is important to all students, not just minority students, and outlines what works well, particularly for college and university campuses (Hurtado 2005, Whitlia et al 2005). Although recent court decisions make clear that points cannot be awarded for race, and cannot be a determining factor, the ruling is also clear that race is important and should be taken into account.

The world of higher education has not been an exception and court challenges have arisen regarding programs in which some students are favored over others based on group membership. According to research done by SLSO in 2003, there were no other university student governing bodies in

the country which had appointed seats for any racial/ethnic groups (Memorandum SLSO 10/21/03). Also relevant in the UMass situation because of its example of racial diversity within a student organization, is the case of *Uzzell v. Friday* 592 F. Supp. 1502 (D.N.C. 1984) which addressed the issue of violations of university student government minority appointed seat policy. This case determined that minority appointed seats on the University of North Carolina, Chapel Hills' student government violated the equal protection provisions of the 14th amendment. The court's decision in *Uzzell* analyzed the issue of minority appointed seats using the reasoning of Justice Powell in the *Bakke* decision. A more detailed summary of the provisions relevant to my study includes part of the decision from citation of the *Bakke* case . . . "while agreeing that promotion of diversity was a permissible objective, it found that 'minority provisions based solely on race [did] not promote diversity, but actually hinder[ed] it by precluding consideration of the non-racial attributes of each candidate of appointment.'" The decision also said the defendant argument that minority set aside seats provided "protective representation" to racial minorities to assure minority representation failed to meet the burden because minority students had achieved high student offices such as President without the minority provisions. The same thing happened at UMass, prior to, within, and since the timeframe of this study, regarding the legality of ALANA appointed seats. So while it cannot be assumed that outcomes in cases involving admissions policies automatically apply to diversity within student organizations, precedent shows that reasonings have been greatly impacted by the laws surrounding admissions policies and the reasoning has been followed in making determinations about existing programs.

In summary these legal issues relate because they all deal with the issues of diversity in higher educational institutions. Although the Supreme Court cases do not address issues beyond admissions that is what UMass used to determine their response to the issue, it is also what University of North Carolina relied on in deciding *Uzzell*. Also if the Supreme Court makes a specific ruling it does not seem plausible that the university would overrule and create or maintain a policy which could be in conflict. When the court says a "fixed number of points" it could be interpreted as a set amount, number, or percentage of anything. Furthermore, the constitutionality of programs such as minority-targeted scholarships and minority only support programs have not been clearly determined, again because more research is needed into their benefits and effectiveness (Ancheta 2005 p. 185). Although white students can be appointed by

the caucus to serve, they must get the approval of the ALANA community before being allowed to do so. Therefore that program may also be interpreted as a minority-targeted or even minority only program.

2.2 Analysis of the Case

A support program aimed at assuring racial minority student representation in student government at a predominantly white institution theoretically sounds like a good idea. Research indicates that it is important for colleges and universities to attempt to get students of color to participate in student government and other leadership positions (Lavant and Terrell 1994). The ALANA appointed seats system differs significantly from other types of support programs at the university which have not historically been under assault on campus the way the appointed seats have been. The fundamental reason is because these other programs are not quotas, but rather use alternate means to achieve the goals of providing assistance to students of color. As addressed by Chen and Rossi (1980) any program needs a delivery system in order to implement and in some cases the mode of delivery itself will cause effects which were not initially intended as program goals. Whether the program is race based or issue driven is missing the root of the problem which stems from the fact that a numerical set aside exists.

Research in the area of higher education and campus diversity address the importance of a university-wide commitment (Whitla 2005, Commission Findings 2005). In order to achieve the most positive campus community it must be clearly demonstrated that the university, as a whole, has a strong commitment to diversity (Whitla 2005, Commission Findings 2005). The institutional capital of a school involves examining behavior of high level administrators because they affect diversity on campus (Whitla 2005). The University of Massachusetts fell short of following through on its goal of diversity becoming a value woven inextricably throughout the university fabric. The Commission chair indicated diversity issues faced by the University of Massachusetts are similar to issues at most of the nation's leading research universities. Specific details may differ, but the overall issues are the same and might be generalized to other higher education institutions in this country.

The major themes that come out of social science literatures include the idea that it greatly depends of the mode of delivery of programs whether public support will exist. Affirmative action policies are supported by whites, regardless of racial attitudes, but quotas or preferential hiring or promotion procedures are met with resistance. There exists a very real opposition to the use of numerical systems

involving percentages (Wilson 1999). Whites are opposed to certain forms of affirmative action; the kind which they label reverse discrimination or somehow unfair and/or discriminatory toward whites (Bobo 1998, and Bobo & Smith 1994). It is precisely such a line of reasoning that allows for legal arguments involving violations of civil rights filed by white people citing violation of Title IV of civil rights act.

Although the discourse around reverse discrimination is lacking in both historical perspective and accurate information about affirmative action policy it is a real concern for people. It follows the line of reasoning that the playing field is now level and only colorblind antidiscrimination policies are needed. Race or gender-conscious policies and quotas are interpreted as both unfair and unnecessary to innocent, hardworking whites and men (Pincus 2003). A strong collective belief exists in the idea of reverse discrimination, even if in reality it is a contradiction in terms. Anything that can be construed as a group right can also be labeled as reverse discrimination because it is aimed at a targeted group and therefore exclusionary by its very nature.

Diversity is a much valued goal for college students and diversity is good for all students (Bowen & Bok 1998, Hurtado 2005). The *Grutter* and *Gratz* decisions concentrated on redefining the meaning of access as a benefit for all, not just for those previously excluded from Higher Education. Strategies in both cases involved empirical demonstration of the advantages of diversity of viewpoints, methodologies, and cultures in addition to race and ethnicity (Hurtado 2005).

Research also demonstrates there are problems around the idea of separate areas for Black students in university housing, student unions, and other student organizations. Although Black students describe the separatist behavior as survival mechanisms in an otherwise unwelcome environment, white students typically view such behavior as anti-social, segregation, and reverse discrimination (Feagin 1996). However, when ethnic minority students are involved in Student Government and Student Leadership on a predominately white campus they feel a sense of belonging and feel included within the culture of the organization (Lavant and Terrell 1994). This demonstrates the importance of inclusion of racial and ethnic minority students as leaders, for their own well being, but also for the greater good of the undergraduate population, so all students are exposed to differing points of view.

A revisit to the major findings of Gunnar Myrdal's classical 1938-1942 study of race relations in America was done through a contemporary analysis. Those findings also support the claim that

it depends on the style of program implemented whether public support will exist. If sufficient public support does not exist conflict and backlash is virtually an automatic likelihood.

The above mentioned research all applies to the case of the University of Massachusetts appointed caucus seats because all of these problems have arisen in the case. The appointment of seats for the caucus to the SGA has set up a divisive program. To begin it is a numerical set aside program, that is clear with a fixed percentage required. It has thereby opened up the varying viewpoints with one group claiming essential for minorities to be a part and the other saying they are in essence, reverse discrimination, and questioning why all the seats shouldn't be reserved for various other groups on campus. It does not much matter if the term "race" is not used in the exact wording of the documents, the implication is clear. The purpose of the seats is to assure racial and ethnic diversity and viewpoints within the student organization. Arguing over whether the nomination comes from ALANA students or ALANA Registered Student Organizations seems counterproductive. Again with the reserved seats people could be unable to obtain the required signatures from ALANA students or ALANA RSOs if they expressed politics different than the ones espoused by the organization. That raises another set of questions because that would mean technically the organization can discriminate against those with differing views and could be considered an expressive organization. The students have shown they do want diverse organizations, this can be witnessed through election results to continually include the seats in the bylaws and for support in having them added to the constitution. The mode of delivery is not working. It allows for the continuance of a future full of debates surrounding the program which is counterproductive for the SGA as an organization and for the goal of racial diversity in general. Since diversity is, for the most part, desired by students, and affirmative action is approved of when not viewed as a quota, the foundation is there. Continued effort needs to be applied to finding viable policy alternatives to the appointed seats and thus removing the potential backlash and promoting the intention – a student government which is representative of the students it represents. An alternative must be found that is compliant with the laws of this country and the rules of the University.

CHAPTER 3

CONCLUSION

For many years institutions of higher education in the United States have attempted to promote racial diversity on their campuses and in their student organizations. The UMass policy in effect, then and now, is a quota system which guarantees minority representation approximating the minority population of the undergraduate student body. Although the intent of that policy is to achieve minority representation in the SGA, the reality has been the policy has produced episodic – and sometimes violent – racial tension and turmoil.

The OAA has the goal of insuring racial diversity of the SGA via appointed seats in an attempt to “guarantee” reflective diversity. My assessment focused on two questions: Is the appointed seat program necessary in order to have minority students actively participate and be represented in the SGA? and, Is the current program the best way to assure racial diversity within the SGA? My findings indicate that the ALANA appointed seat policy has not worked well and needs to be redesigned.

While people disagree on various methods used in achieving racial diversity in organizations, for the most part they agree that racial diversity is desirable. Research indicates that having a diverse organization is a useful goal. The courts have adopted this stance and it has become standard contemporary rhetoric when discussing higher education in the U.S. Arguments continue, however, concerning what is fair and not fair, what fits within the bounds of the constitution and what does not regarding policies to help provide for a diverse climate. Policies aimed at group rights are condemned, while policies favoring individual merit are supported. While debate continues about which policies people agree with and think are necessary, underlying beliefs remain constant concerning the importance of, desire for, and general agreement that diversity is ethically, morally, and politically right.

My research indicates that not only is the University of Massachusetts program of ALANA appointed seats unnecessary, but that it is probably constitutionally illegal, following the Supreme Court decisions regarding admission policies. Also following the aftermath of colleges and universities which have altered programs outside of admissions that previously were reserved for minority students to include whites as well demonstrates that there is extreme concern over the rulings in *Grutter* and *Gratz*. My conclusion that appointed seats are not necessary is based on election results of the Fall 2003 semester.

When the appointed seats were removed ALANA students ran campaigns and were elected to essentially the same number of seats as they would have had through the appointed seat system. Also consistently since the Fall 2003 many ALANA students have been elected to higher ranking positions. Those positions are achieved by running a campaign and getting elected. Similar reasoning was given in *Uzzel*, that such a policy is not essential because students of color are able to get elected to student government positions. The results also dispel the argument that appointed seats are necessary to achieve racial diversity of the SGA. Faulty, too, is the theoretical foundation on which the appointed seat program is based. The mode of delivery, the quota system, has been the source of continuing racial conflict on campus.

Recommendations based on findings of my study and reasons for those recommendations are as follows:

1. Re-visit the suggestions by the Commission particularly regarding appointing a Vice Chancellor or Dean for diversity issues and look for other possibilities for creation of the position. This will help develop the institution from reactive to proactive and is supported by research which demonstrates an institutionally wide commitment to diversity will produce a welcoming and inclusive environment for students, faculty, and staff. If the support exists at this highest level there will be trickle down for other areas and departments because the importance of the issue will be demonstrated. This would not mean all diversity issues would be dealt with in only this office. There is flexibility in exactly how this position would operate, but the overall commission suggestion should be revisited.

2. UMass should eliminate SGA numerical guidelines. Such action would remove questionable legality, student backlash, and divisiveness affecting the student campus community. Instead, programs should be put in place which support minority students by incorporating high level administrators, the OAA, and student leaders to promote participatory democracy concerning SGA service, thereby attracting diverse student representation. The diverse target groups would need to be expanded beyond race and ethnicity to include all types of diversity such as gender, socioeconomic class, and sexual orientation, thereby allowing a cross section of the undergraduate student population to be represented on the SGA.

With OAA support for students interested in the SGA and its leadership positions, such students could be assisted regarding the mechanics of running a good campaign, doing necessary paper work and getting elected to the SGA, rather than appointed. If this were done, charges currently voiced by some

white students of “reverse discrimination,” would be muted, perhaps silenced. Such a system would also alleviate the current divisive program implementation. Since research, like that done by Wilson, Bowen and Bok, Bobo, and numerous expert witnesses who testified in *Grutter* and *Gratz*, indicates diversity is desired by students, alternative support and educational programs could flourish. However, a program of this type will only work with the acknowledgement and support minimally of the OAA, and ideally the university as a whole.

The ALANA appointed seats policy has demonstrated historically that the program has been divisive. SGA funds and monies should be spent developing programs to attract underrepresented minority students of all kinds to the SGA. Judging by the percentage of racial minority students elected to SGA positions such an attraction already exists; however, a program reaching a diverse student population would help ensure that minority representation does not diminish in the future. Such a program ideally would be developed by a multicultural group of students and staff devoted specifically to the project. Such a program would also have to be continuous. Efforts would need to be made year-round to actively recruit students to run for SGA positions such as at orientations for new students and various recurring events for all students.

The previously mentioned Whitley et al study highlights methods which can successfully transform institutions of higher learning to better serve a diverse society (132). “Successful efforts tend to have an impact on more than one area of the school, and such overlap provides mutual reinforcement of these efforts (Chang, 2002; Hurtado et al, 1999).” At the University of Massachusetts the VC of Diversity should involve other areas also rather than have all diversity and inclusion efforts be the responsibility of one particular area. Programs designed to promote/enhance a diverse campus fall into three major categories: 1.) Programs and activities which enhance curricula for all students, as well as specific academic programs designed to support minority and female student achievement in science, math, engineering and technology – which is labeled the “educational” capital of a school; 2.) Programs influenced by the organizational behavior of a school with respect to promoting diversity of the school’s “institutional” capital; 3.) Programs aimed at increasing the structural diversity of a school and the direct efforts in place to recruit, admit, and retain minority students and faculty and staff, which are referred to as “human” capital. Institutions of higher education deemed to have excellent diversity programming typically have numerous initiatives aimed at all three major areas of campus life: educational, institutional, and human capital. Essential to

institutional capital of a school involves looking at behavior of high level administrators i.e. presidents, vice presidents, deans and academic chairs. Such capital directly affects diversity activities because those administrators are primarily responsible for programmatic and policy decisions which affect the entire campus over time (p. 133). At the University of Massachusetts the high level administrators chose not to create the VC of Diversity position suggested by the Commission. This was interpreted by some as lack of support. The VC for Student Affairs also received a vote of no confidence from students on campus. It is only when efforts in those three areas work together that the outcomes are impressive for all students. In other words, to achieve diversity, the entire campus must make a unified commitment to diversity.

The Whitla et al study also described people who direct an institution's human capital programs as "lifelines" and critical for student success, according to students interviewed. That finding demonstrates for the University of Massachusetts the importance of administrators being involved in student programming aimed at diversity issues and is what Wilson would refer to as a multiracial coalition. "Open assessment of campus climate and responsiveness to findings, as well as transparency of findings, can move campus systems from reactive to responsive modes and from crises to positive events. Planning and education can move leadership from responsive to proactive modes." (p. 147) An example cited is Stanford University which has a full time multicultural educator with responsibilities which include educating students, staff, board members, and alumni about issues of race and ethnicity (including white privilege). Such education moves the campus to a proactive rather than reactive stance, especially regarding bias. In addition, the campus community becomes interested in, rather than resistant to, ethnic affinity organizations (p. 148). There is no doubt that the Commission at the University of Massachusetts was reactive. It went into effect at a time when a major campus conflict had taken place over the seats which led to the KKK photos. A better approach would be to have a commission permanently in place to assure ongoing dialogue throughout the campus community.¹⁹

The Commission chair deemed the issues at the University of Massachusetts to be a national problem and prevalent on many other campuses throughout the United States. The SGA appointed seats is

¹⁹ The Community, Diversity and Social Justice Initiative (CDSJ) is a long term, campus wide, change process which has been operating for the last 10 years. Their work is based on assessments of CDSJ issues which are conducted by teams in each of the five administrative divisions on campus. The Commission report praised the work of CDSJ but indicated more was needed.

just one piece of the diversity puzzle that the University of Massachusetts needs to address in order to achieve its proclaimed goal of diversity and inclusion. Creation of the Commission was an attempt to get the entire university involved in diversity issues. Commission members heard ideas, suggestions, complaints, and stories from members of the campus community. Even though many suggestions were made by the commission and some were implemented by the university, the ALANA appointed seat policy was not adequately addressed. The appearance exists that the whole University is working toward achieving a unified front in regard to diversity, but nothing happened concerning the program which led to such controversial viewpoints and actions. Two crucial mistakes by the University were failure to create the senior level diversity position recommended by the Commission, thereby demonstrating a lack of real commitment to diversity as a core value, and allowing students to disregard extensive legal research about ALANA appointed seats and continuing to authorize them, thereby ensuring that the racial conflict of the past concerning set-aside seats will most likely continue in the future. An ancient adage states, in essence, that those who ignore history are destined to repeat the mistakes. Campus turmoil over the appointed seats is not dead, it is simply resting. The old conflict of set-aside seats will inevitably return with a new group of student players. If the University of Massachusetts is viewed as a microcosm regarding diversity issues affecting this country, then administrators are akin to national politicians proclaiming the importance of diversity and multiculturalism on campus, but making inadequate efforts to “walk the walk” necessary to correct diversity problems affecting either campus community or society-at-large.

Public opinion, the Supreme Court, and university rules and regulations, agree that diversity is important and valued. I have offered suggestions that could help achieve the goal of diversifying the SGA without a numerical guideline, thereby reducing, or eliminating, campus racial conflict surrounding the issue. The best case scenario of instituting a VC of Diversity and commitment to diversity of the entire University would clearly involve significant money, time, effort, and training to make the university more proactive and less reactive. Given that the University has refused to accept such a recommendation by the Commission charged with identifying solutions to historical conflict regarding ALANA appointed seats, I also have made specific recommendations regarding restructuring the appointed seats program to reduce racial and ethnic discord on campus while also maintaining legal compliance with current constitutional law.

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