



Statement of the Oklahoma Advisory Committee to the U.S. Commission on Civil Rights Regarding Study of Changes to Affirmative Action in Public Education

The Oklahoma Advisory Committee (Committee) respectfully informs the U.S. Commission on Civil Rights (Commission) about its examination of the State's 2012 constitutional amendment prohibiting affirmative action in public hiring, contracting, and education enrollment.¹ Specifically, the Committee sought to investigate this law's impact, if any, on disparities based on race, color, sex, ethnicity, or national origin in public institutions of higher learning. The Committee finds that there is insufficient substantive analysis on the effects of this amendment and is concluding the project with this statement to the Commission. The Committee recommends that the Commission encourage public colleges and universities and the State of Oklahoma to collect more data and further study the potential effects of this constitutional amendment.

In 2012, Oklahoma's legislature passed a bill to send a constitutional amendment to voters prohibiting "preferential treatment or discrimination based on race, color, sex, ethnicity or national origin in the operation of public employment, public education, or public contracting."² The referendum has been

¹ 8 OKLA. CONST. ART. 2, §36A (amended 2012), <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=468407..>

² SJR 15, 53rd Leg., 1st Sess., (Okla. 2011) (Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Oklahoma Constitution by adding a new Section 36 to Article II).

referred to as Oklahoma’s Affirmative Action Ban Amendment and on November 6, 2012, Oklahoma voters passed State Question 759 by a vote of 745,854 to 514,163.³

The Committee contacted public colleges and universities, researchers, and other relevant stakeholders to gather data, documents, and opinions to enable the Committee to reach factual determinations about the effects of the Affirmative Action Ban. The responses received contained little substantive information.

For instance, Dr. Jason F. Kirksey, the Vice President for Institutional Diversity and the Chief Diversity Officer at Oklahoma State University, through emails and phone conversations with Commission staff, shared that in his anecdotal experience the amendment may have had an impact on minority-focused scholarship and related programs, but that he was not aware of any official analysis of its effects.

According to Halley Potter, a researcher with Century Foundation, the University of Oklahoma, in anticipation of the Affirmative Action Ban, shifted its admission criteria in spring of 2012 to a more “holistic” approach requiring students to submit an essay and a letter of recommendation.⁴ One of the new criteria used to evaluate applications is “recognition of benefits of a culturally and intellectually diverse academic community.”⁵ Potter’s research shows that such “race neutral” admissions policies generally result in similar levels of enrollment from underrepresented populations compared to affirmative action admission policies, but there is no data specific to the University of Oklahoma that confirms this.⁶

The Committee also submitted twenty-six open records requests to the public colleges and universities of Oklahoma requesting information on their affirmative action policies in admissions and any analysis of data identifying trends based on the race, color, sex, ethnicity, or national origin of the student body

³ “Oklahoma Affirmative Action Ban Amendment, State Question 759 (2012),” Ballotpedia, [https://ballotpedia.org/Oklahoma_Affirmative_Action_Ban_Amendment_State_Question_759_\(2012\)](https://ballotpedia.org/Oklahoma_Affirmative_Action_Ban_Amendment_State_Question_759_(2012)) (last visited Feb. 20 2020)

⁴ Halley Potter, “Transitioning to Race Neutral Admissions: An Overview of Experiences in States Where Affirmative Action Has Been Banned, in *The Future of Affirmative Action: New Paths to Higher Education Diversity after Fisher v. University of Texas*,” pp. 75-90 (Richard D. Kahlenberg ed. 2014), <https://production-tcf.imgix.net/app/uploads/2014/06/17150033/FOAA-12.pdf>.

⁵ *Ibid.*

⁶ *Ibid.*

and/or student applicant pool.⁷ Several colleges and universities responded to these requests but offered little insight into any changes or impact on the basis of race, color, sex, ethnicity, or national origin or changes in admissions demographics since the Affirmative Action Ban went into effect.⁸

Given the absence of substantive testimony or analysis on the Affirmative Action Ban, the Committee recognizes the need for more data collection and research regarding the admissions practices of public institutions of higher learning in Oklahoma, but can draw no further conclusions on the impact of the Affirmative Action Ban. The Committee recommends to the Commission that college and university administrators make a meaningful assessment of the effects, if any, their admissions policies have on disparities based on race, color, sex, ethnicity, or national origin. The Committee also recommends that the Commission encourage state officials to collect data and initiate a study of the changes in public college and university admission since the Affirmative Action Ban was implemented.

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The U.S. Commission on Civil Rights, established by the Civil Rights Act of 1957, an independent, bipartisan agency charged with advising the President and Congress on civil rights and reporting annually on federal civil rights enforcement. Our 51 state Advisory Committees offer a broad perspective on civil rights concerns at state and local levels. Among their duties, advisory committees of the U.S. Commission on Civil Rights are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.⁹ The

⁷ See Appendix A

⁸ FOIA requests and responses are available for public review by contacting the Support Specialist for the Oklahoma Advisory Committee, Corrine Sanders, at csanders@uscrr.gov or (202) 780-1042.

⁹ 45 C.F.R. § 703.2.

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Appendix A

| Open Records Request Submitted June 2019 |
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| Cameron University |
| Carl Albert State College |
| Connors State College |
| East Central University |
| Eastern Oklahoma State College |
| Langston University |
| Murray State College |
| Northeastern Oklahoma A&M College |
| Northeastern State University |
| Northern Oklahoma College |
| Northwestern Oklahoma State University |
| Oklahoma City Community College |
| Oklahoma Panhandle State |
| Oklahoma State University |
| Redlands Community College |
| Rogers State University |
| Rose State College |
| Seminole State College |
| Southeastern Oklahoma State University |
| Southwestern Oklahoma State University |
| Tulsa Community College |
| University Center at Ponca City |
| University Center of Southern Oklahoma |
| University of Central Oklahoma |
| University of Oklahoma |
| University of Science and Arts of Oklahoma |