

California State University

It Is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives

REPORT NUMBER 2007-102.2, DECEMBER 2007

California State University's response as of December 2008

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the California State University's (university) practices for hiring to determine how it ensures that faculty and executives reflect the gender and ethnicity of the university they serve, the State, and the academic marketplace.¹ As part of our audit, we were asked to determine how the university develops hiring goals and how it monitors progress in meeting those goals. In addition, we were to gather and review the university's statistics on its hiring practices and results over the last five years and, to the extent possible, present the data collected by gender, ethnicity, position, and salary level.

Finding #1: Campuses are inconsistent in their approaches to considering diversity in their hiring processes.

The chancellor's office and the board of trustees (board) of the university, who delegate the hiring authority of assistant, associate and full professors (professors) to the campuses, have not adopted systemwide guidance to aid in standardizing the hiring process. As a result, the five campuses we reviewed use different methods to consider gender and ethnicity in the hiring of professors. Although California's Proposition 209 specifically prohibits the university from giving preferences to women or minorities during the hiring process, these requirements coexist with federal affirmative action regulations and thus are not intended to limit employment opportunities for women or minorities.

During the position allocation phase of the hiring process for professors, the campuses we reviewed do little, if anything, in considering gender and ethnicity. For instance, just one of the five campuses we reviewed encourages departments to consider faculty diversity at this stage. We acknowledge that departments can choose to hire professors in a specialized field of study in which proportionately fewer women and minorities exist to meet reasonable academic needs. However, when flexibility exists, they should be open to the idea of recruiting new professors from those disciplines or areas of specialization that will not decrease the likelihood of hiring female or minority professors.

Further, the California Faculty Association recommends that search committees review their campuses' affirmative action plans so they are aware of underrepresentation and the actions that administrators have recommended to improve recruitment efforts to reach women

¹ The audit committee also requested that we review the university's compensation practices. The results of our review of those practices were the subject of a separate report (2007-102.1) issued November 6, 2007.

Audit Highlights . . .

Our review of California State University's (university) hiring processes and employment discrimination lawsuits revealed the following:

- » *The university has issued little systemwide guidance to the campuses regarding the hiring process.*
- » *Campuses are inconsistent in their consideration of gender and ethnicity when hiring assistant, associate, and full professors.*
- » *Campuses use differing levels of detail when estimating the percentage of qualified women and minorities available for employment, decreasing the university's ability to effectively compare data among campuses.*
- » *Campuses have hiring policies that vary in terms of the amount of guidance they provide search committees for Management Personnel Plan employees, and one campus has developed no policies for these positions that relate to nonacademic areas.*
- » *While the hiring process for presidents requires input from many stakeholders, the hiring of system executives is largely at the discretion of the chancellor in consultation with the board of trustees.*
- » *As of June 30, 2007, the university spent \$2.3 million on settlements resulting from employment discrimination lawsuits filed during the five-year period we reviewed, and \$5.3 million for outside counsel in defending itself against such lawsuits.*

and minorities. Nevertheless, the campuses we reviewed generally did not share information from the affirmative action plans with search committees. Additionally, although women and minority professors can provide search committees with different perspectives when evaluating candidates, the campuses we reviewed generally did not have written policies that address gender and ethnic representation on such committees. Further, the chancellor's office has not issued guidance on this matter. As a result, some campuses consider the gender and ethnic composition of search committees, while others forbid it.

Additionally, to analyze their employment processes in accordance with federal regulations, campuses distribute surveys to all job applicants to determine their gender and ethnicity. The University of California has issued guidelines that state that if women and minority applicants are not present in the applicant pool at about the rate of their estimated availability in the corresponding labor pool, campuses should review recruitment and outreach efforts and can consider reopening the search with expanded inclusive recruitment efforts. However, the chancellor's office has not issued guidance in this area. Not performing such comparisons increases the risk that departments are unaware of the need to perform more inclusive outreach.

Because applicants are not required to submit the surveys containing their gender and ethnicity, it is not unexpected that response rates can be low. During our review of the hiring processes at five campuses, we noted that one campus sent out a reminder e-mail to applicants requesting that they complete and submit the forms containing their gender and ethnicity, even if they decline to disclose their gender and ethnicity. The campus notes that while it does not typically send reminders to applicants, it does so when response rates are unreasonably low. This practice seems a promising measure to increase the low response rates cited by campuses as a reason why comparing applicant pool data with labor pool data often is not meaningful.

We recommended that the university issue systemwide guidance on the hiring process for professors to ensure it employs hiring practices that are consistent with laws and regulations and among campuses. This guidance should include the development of position descriptions that are as broad as possible, the use of affirmative action plans to familiarize search committees with estimated availability for women and minorities, the development of alternatives for including women and minorities on search committees, a requirement to compare the proportion of women and minorities in the total applicant pool to the proportion in the labor pool to help assess the success of their outreach efforts, and the distribution of reminders to applicants requesting them to submit information regarding their gender and ethnicity.

University's Action: Partial corrective action taken.

The university reported that in spring 2008 it formed a committee composed of campus and system managers to develop systemwide guidelines for hiring professors consistent with the provisions contained within the collective bargaining agreement between the university and the California Faculty Association. The university stated that subsequently, once the committee completed its work, campus faculty affairs managers, equal employment opportunity officers, and the system's office of the general counsel reviewed the systemwide guidelines. In December 2008 the university offered two training courses on the hiring process for professors, which included a discussion on campus affirmative action plans and Proposition 209, and stated that it distributed these guidelines to training participants at that time. Further, the university reported that it plans to distribute the guidelines officially to campuses in the near future. The systemwide guidelines include guidance to campuses on developing position descriptions as broadly as possible, ensuring search committees understand university policies on recruitment as they relate to equity and affirmative action, devising alternatives to create diverse search committees where possible, and establishing processes for monitoring the search process and applicant pool during the hiring process.

➔ The university did not address the portion of the recommendation relating to the distribution of reminders to applicants requesting them, when response rates are low, to submit information regarding their gender and ethnicity in its one-year response to our audit. However, in its original response to our audit report, the university stated that it would notify campus officials that they

may send reminders to applicants regarding the submission of their gender and ethnicity, but that such reminders should clearly explain the use of the data collected and the applicants' rights to decline to submit such information.

Finding #2: Campuses are inconsistent in how they conduct their availability analyses.

Because the chancellor's office does not provide campuses with a uniform method for determining availability, campuses have some latitude in deciding the factors they will consider. Availability is an estimate of the number of qualified women or minorities available for employment in a given job classification expressed as a percentage of all qualified persons available for employment in the comparable labor pool. Because, according to the university, campuses have different recruitment areas, specialties, and positions, the campuses each determine their own availability. However, our review of the availability analyses for various university campuses revealed that the reasonable recruitment area for professors is nationwide. Therefore, we believe that a uniform method of determining availability for professors in the reasonable recruitment area is possible, appropriate, and necessary.

We also noted differing levels of detail in campus availability analyses in their affirmative action plans. For instance, three of the five campuses we reviewed presented an aggregate analysis for professors campuswide rather than comparing the gender and ethnicity of their current professors in each department to those available in the labor pool. The differing levels of detail decrease the university's ability to effectively compare data among campuses.

We recommended that the university devise and implement a uniform method for calculating availability data to better enable it to identify and compare availability and goals systemwide and among campuses. Further, it should direct campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by individual department to ensure that goals are meaningful and useful to those involved in the hiring process.

University's Action: Pending.

The university did not address this recommendation in its one-year response to our audit. However, in its original response to our audit report, the university asserted that it would establish a task force comprised of campus officials in order to identify a workable method for uniform calculating of availability data. The university also indicated that it would identify the appropriate levels for data comparison, stating that in some cases this may be at the department level, school, or other division level. Additionally, in its systemwide guidelines, the university included information pertaining to the formation of search committees, including the provision contained within the collective bargaining agreement between the university and the California Faculty Association that stipulates that campuses have departments elect faculty to serve on search committees.

Finding #3: The hiring process lacks consistent training.

Some campuses have more detailed procedures than others to maintain the integrity of the hiring process and to ensure that search committee members are aware of applicable laws and regulations. For instance, some campuses require search committee members to attend training regarding the hiring process while others do not. As a result, not all of the departments we reviewed were aware of campus hiring protocols. For example, although the collective bargaining agreement between the board and the California Faculty Association requires that search committees be elected and consist of tenured professors, some departments do not elect their search committee members. Further, this lack of guidance may have contributed to one campus developing a policy that requires the consideration of gender or ethnicity in hiring decisions. This policy is inconsistent with what other campuses are doing: the remaining four campuses we reviewed indicated that gender or ethnicity would never play a role in their hiring decisions because Proposition 209 prohibits preferences based on these factors.

We recommended that the university issue systemwide guidance that instructs campuses to require search committee members to receive training offered at the campus level regarding the hiring process, federal regulations, Proposition 209, and other relevant state and federal laws. Additionally, we recommended that the university take action to ensure that campuses have departments elect faculty to serve on search committees to help ensure that searches are conducted in accordance with the collective bargaining agreement and campus policies.

University's Action: Partial corrective action taken.

The university stated that it believes that campuses have primary responsibility for ensuring that search committee members and administrators with hiring authority are well informed about campus policies and practices regarding hiring. In the systemwide guidelines that it has developed and plans to officially distribute to campuses in the near future, the university emphasizes that campuses have a responsibility to provide training to individuals who will be involved with hiring professors and that it is especially important that members of search committees comply with established campus policies and obtain permission before deviating from published hiring processes. Additionally, to address the need for systemwide training, the university stated that in spring 2008, it developed a task force to, among other things, develop a training program to disseminate information to campuses on the appropriate use of affirmative action plans and availability data as well as Proposition 209 issues. Subsequently, in December 2008, the university offered two web-based training courses that it stated covered the use of affirmative action plans as well as strategies for inclusive outreach and guidelines for good practice in hiring professors. The university asserted that, as a long-term strategy, the chancellor's office has committed to developing a web-training module that could be used by campuses in conjunction with their own training, which it states it will develop and implement in 2009.

Additionally, in its systemwide guidelines, the university included information pertaining to the formation of search committees, including the provision contained within the collective bargaining agreement between the university and the California Faculty Association that stipulates that campuses have departments elect faculty to serve on search committees.

Finding #4: Campuses' hiring processes for management personnel vary and they are inconsistent in considering diversity in recruiting for these positions.

Similar to the hiring authority the university has delegated to campuses for professors, it has also delegated authority to the campuses to develop policies for hiring Management Personnel Plan employees (management personnel). Also, as with the hiring of professors, the university has not adopted systemwide guidance to aid in standardizing the hiring process for management personnel. Thus, it is not surprising that campuses we reviewed have developed hiring policies that vary in the amount of guidance they provide search committees on how to conduct the search process. For instance, only one of the five campuses we reviewed has developed policies that address each of the key steps in the hiring process for both academic and nonacademic management personnel, while some of the remaining campuses allow search committees for management personnel positions discretion in conducting the hiring process. In fact, one campus has not developed any formal written policies to govern the hiring of nonacademic positions.

Search committee members can be appointed or elected to serve depending on their position or campus and are generally responsible for conducting the search process for management personnel. Because these responsibilities are crucial to a hiring process that is fair and equitable, composition of the search committee is an important consideration. For instance, women and minorities can provide search committees with different perspectives when evaluating candidates. However, assessment of the gender and ethnic composition of search committees is not specifically required.

We have similar concerns regarding inconsistencies in campuses' approaches to considering gender and ethnicity at various stages in the hiring process for academic management personnel to those we express for hiring professors. Campuses we reviewed generally did not share information in their

affirmative action plans with search committees when planning the search process for academic management personnel in order to make progress in achieving equal employment opportunity for underrepresented groups. Further, although federal regulations require contractors, such as the university's 23 campuses, to perform in-depth analyses of their total employment processes to determine whether and where impediments to equal opportunity exist, most campuses we reviewed do not require an assessment of applicant pool data to evaluate their success in recruiting women and minorities. Moreover, because applicants are not required to submit the surveys containing their gender and ethnicity, response rates can be low, thus inhibiting the meaningfulness of comparing the diversity of the applicant pool to the estimated availability in the labor pool. As discussed in Finding 1, we noted a promising measure at one campus as it states that it sends reminders to applicants when response rates are unreasonably low requesting that they complete and submit the forms containing their gender and ethnicity.

We have some additional concerns about the hiring of nonacademic management personnel. The campuses we reviewed generally lack a requirement that search committees review information in campus affirmative action plans when planning the hiring process and performing an analysis of applicant pool data to assess their success in recruiting women and minorities for nonacademic management personnel positions. We also noted inconsistent hiring practices between academic and nonacademic management personnel positions at one campus. This inconsistency further highlights the need for the chancellor's office to issue systemwide guidance on the hiring process for all management personnel.

Finally, we have concerns about the manner in which the campuses conduct their availability analyses for these positions. The campuses we reviewed consider management personnel at the administrator IV level as one group for purposes of their availability analysis. Because they do not separate the analysis for management personnel based on the functions of the positions, the analysis is not as meaningful as it could be. For instance, campuses could present the analysis separately based on position duties, such as those having responsibility for academic affairs or finance, because these positions typically draw from separate labor pools. Devising a meaningful analysis may assist campuses in better planning their search and recruitment efforts for management personnel.

We recommended that the university issue systemwide guidance on the hiring process for management personnel and in developing this guidance it should direct campuses to develop hiring policies for management personnel that address the key steps in the hiring process. Further, this guidance should include the development of alternatives for including women and minorities on search committees, the use of affirmative action plans so search committees are aware of the underrepresentation of women and minorities, a requirement to compare the proportion of women and minorities in the total applicant pool to the proportion in the labor pool to help assess the success of their outreach efforts, and the distribution of reminders to applicants requesting them to submit information regarding their gender and ethnicity. Additionally, we recommended that the university advise campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by separating management personnel positions into groups based on the function of their positions to ensure goals are meaningful and useful to those involved in the hiring process.

University's Action: Partial corrective action taken.

The university did not specifically address this recommendation in its one-year response to our audit, as it did not indicate whether it had issued systemwide guidance on the hiring process for management personnel or whether it had advised campuses on the manner in which to compare and report the gender and ethnicity of their current workforce. However, in its previous response to our audit report, the university asserted that it organized a task force of campus and system representatives in spring 2008 to work on guidelines to inform management personnel searches on best practices for inclusion of women and minorities on search committees, proper use of affirmative action goals and availability data, and broader advertising, as well as a training program for dissemination of this information. In its one-year response, the university stated that it developed systemwide web-based training covering the use of affirmative action plans,



strategies for inclusive outreach, and guidelines for good practice in the management personnel hiring process. In December 2008 the university offered this training in two web-based training courses. According to the university, as a long-term strategy, the chancellor's office is committed to developing a web-training module that could be used by campuses in conjunction with their own training, which it plans to develop and implement in 2009.

Finding #5: Policies for hiring system executives are minimal and the consideration of diversity when hiring presidents and system executives is limited.

The chancellor alone is responsible for the search process for system executives; the policy governing this hiring process gives the chancellor discretion on how to conduct the search. According to the university's chief of staff, the board's policy provides the chancellor with this responsibility because the board believes the chancellor should have the ability to select his or her executive team. The search process for system executives must include representation from the board and advice from one or more presidents, faculty, and students chosen at the chancellor's discretion. For the one system executive hired during our audit period, the chancellor appointed a search committee whose responsibilities included screening and selecting applicants. However, without establishing more complete policies to guide the recruitment process for system executives, the university cannot ensure that the process for each search is fair, equitable, and consistent.

Further, the university policies for hiring presidents and system executives do not require consideration of gender and ethnicity during the hiring process. For instance, although professor positions are generally advertised in a variety of sources, including the Women in Higher Education and Hispanic Outlook, these same publications are not routinely used when advertising for presidential and system executive positions. According to the university's chief of staff, advertising is just one aspect of recruiting and that, in the experience of the chancellor's office, the best means to attract women and minority applicants is through direct personal contact, including that made by the chancellor, the chief of staff, or a third party such as a campus president. Nevertheless, the university could enhance the effectiveness of its current recruitment efforts by having a more broad-based and consistent advertising requirement for presidential and system executive positions. Further, the university's policies that govern the formation of the search committees involved in the search and selection process for presidential positions do not address gender and ethnic representation on such committees.

We recommended that the university establish more complete policies to guide the recruitment process for system executives to ensure that the process for each search is fair, equitable, and consistent. Further, to ensure it is conducting inclusive and consistent advertising to obtain as diverse an applicant pool as possible, the university should require broad-based advertising, including publications primarily with women or minority audiences, for all presidential and system executive positions. Finally, to broaden the perspective of the committees involved in the search for presidential positions, the university should develop policies regarding the diversity of these committees and consider alternatives to increase their diversity.

University's Action: Partial corrective action taken.

- ➔ The university's board approved a revised policy and procedure for the recruitment and selection of system executives in March 2008; however, the university did not state in its one-year response that it required broad-based advertising for all presidential and system executive position searches. Instead, the university asserted that broad advertising is embedded into practice for recruitment of system executives and university presidents.
- ➔ In its one-year response, the university did not address the recommendation that it should develop policies regarding the diversity of search committees for presidential positions and consider alternatives to increase their diversity. However, in previous responses, the university stated that with respect to developing policies about the diversity of trustees serving on presidential search

committees, appointment to the board is not within the control of the university system. The university claims that restricting membership of trustees and others based on gender and ethnicity to serve on presidential search committees could be a violation of Proposition 209. However, because of the importance of this issue, we believe that the university should explore ways in which to develop policies in this area that are consistent with Proposition 209.

