Experts consider impact of high court's decision

By Beth Hlavek and Marc B. Geller, Journal and Courier

Greater Lafayette affirmative action supporters rejoiced Monday in the Supreme Court's reiteration of diversity as a compelling interest to consider race in admissions processes.

The high court's decisions on the University of Michigan's admissions policies allow school faculty and administrators the flexibility to set policy as they see fit, said Judith Gappa, a Purdue University professor of education administration.

"I'm very pleased that the use of race as a factor was reaffirmed," Gappa said.

"It could have been a lot worse from the standpoint of maintaining diversity in education and in private industry."

The case's timing dovetailed neatly with ongoing research by a pair of Purdue political science professors who have been studying public perception of the Supreme Court for three years.

The Supreme Court historically has enjoyed a "reservoir of good will" from the public, as compared to the legislative or executive branches, professor Eric Waltenburg said. He and Rosalee Clawson are researching whether the Supreme Court can legitimize a policy through its credibility as an institution.

Market Strategies, a Michigan-based public opinion research firm, is conducting the poll, which is gauging the opinions of 500 minorities and 200 others both before and after the Supreme Court decision.

"I think it is the sort of decision that supporters of affirmative action can take solace in," Waltenburg said. "The court did not strike down affirmative action. In both cases, the court reiterated the point that attempting to establish diverse student bodies is a compelling goal."

Last case was 1978

The court has not visited the issue since the 1978 Regents of the University of California v. Bakke case, said Purdue constitutional law professor William McLauchlan. Chief Justice William Rehnquist and Justice John Paul Stevens are the only members who have remained on the bench since then, he said.

"They really decided on a middle position," McLauchlan said. "They're not rejecting affirmative action, per se, but the point system or blatantly rating of applicants by number isn't allowed by the equal protection clause of the 14th Amendment."

The equal protection clause, written during the post-Civil War Reconstruction states, "No state shall ... deny any person within its jurisdiction the equal protection of the law."

Court doctrine has interpreted the clause to hold racial qualifications, such as segregation, as "highly suspect," McLauchlan said.

Advocates of affirmative action say it assists people who have suffered economic and education disparity because of their race. Opponents argue that the state should be colorblind under the Constitution.

Judson L. Jeffries, an associate professor of political science and an expert in 1960s civil rights movements and African-American politics, said he was pleased and surprised the Supreme Court didn't abolish affirmative action altogether.

"I thought the decision that the justices were going to reach was that the United States has reached a point where race is no longer a significant impact in the life chances of people of color; therefore affirmative action has outlived its usefulness," he
said.

Jeffries believes Justice Sandra Day O'Connor sided with the liberal members of the court in affirming the narrowly tailored use of race in admissions because she acknowledges that women, particularly white women, are among the chief beneficiaries of affirmative action.

Abolishing affirmative action would have significantly reduced the life chances of women and people of color, Jeffries said.

**Leveling the playing field**

He likens awarding points to applicants based on race to giving greater consideration to applicants with family members who attended the institution to which they're applying.

"I think we can debate as to how many points race should be given, but I don't think there's anything wrong with assigning points to race," he said.

Jeffries attributes hostility toward affirmative action to the misconception that it entails awarding unqualified minorities over qualified whites.

"Clearly, that's not what affirmative action is," he said. "Affirmative action is a program to level the playing field so that people like me -- an African-American male in his 30s with a Ph.D. -- would not have to be a custodian, drive a cab, cut hair or some other such job that would clearly be an indicator of underemployment. Rather, a person like me would have the opportunity to compete for a prestigious post at a Big Ten university like Purdue University."

Jeffries expects the Supreme Court decisions will elevate affirmative action to a major political issue again.

"This is going to play a significant role," he said.

"Clearly each presidential candidate is going to spend time molding his or her response to questions about affirmative action."

Leonard Harris, a professor of philosophy and American studies, said there are moral implications to the court's decisions.

"Race by itself is morally odious to use, but under some circumstances it's justified," he said.

"The circumstances are, at the very least, a racially divided and segregated society. We have that, so it's a compelling reason to use what would otherwise be a morally odious variable."

And while there may be ways to create a diverse society without using points, there's nothing inherently wrong with the practice.

The real divide is not over affirmative action but over whether or not people believe they are living in a just society, said Harris, a member of the African-American Studies program at Purdue.

The problem, for people of good will, is that segregation is not as obvious as it once was.

"Some people against affirmative action have good will," Harris said. "They just don't think that there's a racial divide. They're wrong."

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