EEOC African American Workgroup Report

Executive Summary

In January 2010, Carlton Hadden, Director of the Equal Employment Opportunity Commission's (EEOC) Office of Federal Operations (OFO), commissioned a work group to identify the obstacles that remain in the federal workplace that hinder equal employment opportunities for African Americans.[1]

This workgroup was created in furtherance of the EEOC's overall mission to eradicate discrimination in both the federal sector and private sector workplace. EEOC's OFO ensures equality of opportunity within the federal sector by implementing its regulatory and adjudicatory authority and through use of its oversight function.[2]

In advancement of the mission of the Commission and OFO's oversight responsibilities, between 2010 and 2012, the African American workgroup engaged in a series of discussions with EEO officials, various affinity groups, and subject matter experts. The workgroup decided that it would be most efficient to hold these discussions in conjunction with a similar workgroup commissioned to identify obstacles for Women in the federal workplace.[3]

In summation, the workgroup began the dialogue about obstacles facing African Americans by engaging in a roundtable discussion with federal EEO Directors, who are responsible for the implementation of a continuing affirmative employment program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies. Next, the workgroup engaged in roundtable dialogue with federal Special Emphasis Program Managers, who are tasked with assisting agencies in ensuring equal opportunity for specific protected classes that are underrepresented. Subsequently, the workgroup held roundtable discussions with various affinity groups, including Blacks in Government (BIG); Federally Employed Women (FEW); and the African American Federal Executives Association (AAFEA).

Additionally, the workgroup dialogued with non-federal interest and advocacy groups, including the Equal Justice Society, the Women's Bar Association of the District of Columbia, Workplace Flexibility 2010, and the Equal Rights Center. Finally, we received input from academic expert Dr. Paula Caplan, who is the Voices of Diversity Project Director for the W.E.B. Dubois Institute at Harvard University and an author, noted research psychologist, and professor. We assured our dialogue partners that their contributions to this discussion would only be generally reported and not specifically attributed to any particular dialogue partner.

Our dialogue partners identified many obstacles to achieving equality for African Americans in the federal workforce, and provided recommendations for overcoming those obstacles. For the most part, the impediments identified below were independently and repeatedly identified by our dialogue partners as the most formidable obstacles to equal employment opportunities for African Americans in the federal sector. We note that while we are not issuing a traditional report with findings and conclusions of the EEOC, we are issuing this report to memorialize the obstacles and recommendations identified by our dialogue partners.

Obstacle 1: Unconscious biases and perceptions about African Americans still play a significant role in employment decisions in the federal sector.

Background: Dialogue partners reported that discrimination today tends to be more subtle and can often be directly attributable to unconscious bias. Unconscious bias is defined as "social behavior . . . driven by learned stereotypes that operate automatically – and therefore unconsciously — when we interact with other people." [4]

Prejudiced actions are largely the unconscious manifestation of mental processing and stereotypical associations, of which the prejudiced subject may be completely unaware.[5] While individuals are generally unaware of their unconscious biases, there are tools available to help individuals understand the biases that underlie their everyday decision making. For instance, the Implicit Association Test (IAT) is a test that assesses bias by measuring the speed with which an individual associates

a categorical status (such as African American) with a given characteristic or description (such as good or bad).[6]

Researchers contend that a large number of biased employment decisions result not from discriminatory motivation, as current legal frameworks derived from the Civil Rights era suggest, but from a variety of unintentional categorization-related judgment errors associated with normal human cognitive functioning.[7]

Issues Identified by Dialogue Partners:

The dialogue partners reported that unconscious bias creates the following issues for African Americans:

- There is a practice that African Americans are not considered, groomed, or selected for high level positions because of the stereotypical view (or unconscious bias) that those positions are considered nontraditional for African Americans.

- There is a stereotypical assumption (or unconscious bias) that African Americans who are in high level positions cannot successfully perform in those positions because those positions are considered nontraditional for African Americans.

- Individuals may not be aware that their decisions are motivated by bias because it is subconscious rather than intentional, and therefore they do not take steps to change their biased decision making.

- It is difficult to prove discrimination motivated by unconscious bias because it is not conducive to current legal analysis.

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address unconscious biases that affect African Americans:

- Conduct unconscious bias training for all employees so they can become aware of their biases, such as:

  - All selection panelists and selection officials should receive comprehensive training on unconscious bias that will keep them attuned to the subtle and unconscious ways that race bias can negatively affect all aspects of employment.

Obstacle 1 Issues

Obstacle 1 Recommendations

o   Special Emphasis Program Managers should sponsor events that feature discussions and presentations on unconscious bias. Such discussions may feature academic and social science researchers to educate employees on unconscious bias theory.

o   Agencies should conduct interactive exercises that allow "actors" to act out real life offensive situations and the audience can participate by asking questions that explore why the offendee was offended or why the offender did not realize what they said or did was offensive. The exercises should address "micro-inequities," which are small slights, subtle discrimination and tiny injustices in the workplace.[8]

•   Legal experts must analyze how unconscious bias can be evaluated as evidence of discrimination under Title VII and other federal antidiscrimination laws.

Obstacle 2: African Americans lack adequate mentoring and networking opportunities for higher level and management positions

Background: Our dialogue partners reported that African Americans lack sufficient mentoring and networking opportunities in the federal sector. The purpose of mentoring and networking opportunities is the professional and personal development of an individual.[9] Mentoring is viewed as crucial for enhancing an individual's skills and intellectual development; for using influence to facilitate an individual's entry and advancement; for welcoming the individual into a new occupational and social world and acquainting the individual with its values, customs, resources, and role players; and for providing role modeling behavior.[10]

Formal and informal mentoring and support from superiors and coworkers are key factors that help place African Americans on the organizational fast track. One study found that 73% of African American executives who reported having informal mentors at work had faster salary and total compensation growth than those without an informal mentor.[11]   Social science research has established a direct correlation between having mentors and increased occurrences of job growth, promotions and salary increases.[12]

Similarly, networking opportunities are vital for a diverse workplace because a network of professional contacts can help African Americans find unadvertised jobs, build their professional skills, and make them more employable by having someone vouch for them. Research has led scholars to conclude that African Americans suffer in the labor market from having weaker social networks than other groups.[13] Having friends and relatives who can introduce someone to selecting officials or tell them about ripe opportunities has proven to be one of the most critical factors in getting work.[14] Such connections can also help people hold onto their jobs.[15]

One means of networking is the establishment of affinity groups, also called networking groups, which provide forums for employees to gather socially, meet other individuals with similar interests, and share ideas. Many federal agencies have found positive effects from affinity groups. For example, the Central Intelligence Agency (CIA) has found that affinity groups make employees feel more valued.[16]

Issues Identified by Dialogue Partners:

The dialogue partners reported that a lack of mentoring and networking opportunities create the following issues for African Americans:

- African Americans are less likely to have multidimensional relationships that combine social components with work-based components.

- African Americans are less likely to receive crucial information about career advancement, including coaching about networking, tips on informal or unwritten rules of the workplace, or information about job opportunities.

- Few management officials formally mentor any employees, and even fewer mentor employees who are African American.

- African Americans are less likely to become managers and senior executives because managers and senior executives tend to be groomed for their positions by mentors who steered and prepared them for career advancement.

Obstacle 2 Issues

Obstacle 2 Recommendations

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address mentoring and networking issues that affect African Americans:

- Agencies should establish formal mentoring programs and monitor their effectiveness in increasing equal employment opportunities.

- Agencies should appoint Mentoring Program Managers to oversee the mentoring activities and metrics should be developed to assess the success of mentorship programs and activities.

- Group mentoring may be an option for agencies to consider, wherein a mentor may work with multiple employees at a time to discuss various career development topics.

- Senior Level officials should be encouraged to mentor subordinates.

- Agencies should foster mentoring without regard to race or any other protected basis.

- Mentors should work with employees to develop Individual Development Plans (IDPs) that identify helpful training and generally create a roadmap for employees' career advancement and fulfillment.

- Mentors should be used to help employees acquire specific technical and leadership skills; to address succession planning needs; and in adjusting socially to the workplace.

- All agencies should establish an African American affinity group, and ensure that the group has the necessary resources in order to provide meaningful networking opportunities for African Americans.

- Agency senior executives should sponsor and champion African American affinity groups, should notify the group of job opportunities, and should act as a liaison between the affinity group and upper level management.

Obstacle 3: Insufficient training and development assignments perpetuate inequalities in skills and opportunities for African Americans.

Background: Our dialogue partners reported that insufficient training and development opportunities pose a significant impediment to the realization of equal employment opportunities for African Americans in the federal sector. Training is planned, organized experiences that assist in the gaining or expansion of key competencies.[17] Training not only builds needed competencies in order to achieve mission success and performance objectives, but also helps prepare employees to take on new or expanded work duties and positions, including management positions.

Development assignments are temporary projects assigned for the purpose of exposing employees to work duties and environments that will prepare them for promotional opportunities. One example of a development assignment is the opportunity to act in a supervisory capacity. An MSPB report issued in 2009 found that 13.9% of African American federal employees reported that they had served as acting supervisor at least regularly, whereas 22.3% of White employees reported that they had served as acting supervisor.[18] This may place African Americans at a distinct disadvantage for promotions because serving in an acting supervisory capacity is often a gateway experience for supervisory or higher level positions. As noted by the MSPB, employees who had served in an acting supervisory capacity were "more likely to have received a greater number of promotions during the course of their Government careers."[19]

Issues Identified by Dialogue Partners:

The dialogue partners reported that a lack of training and development assignments creates the following issues for African Americans:

- African Americans are less likely to be offered the chance to act in supervisory positions than White males.

- Standards for granting training for African Americans are not transparent or objective.

- African Americans generally are not given as many developmental assignments as their White counterparts.

- Through development assignments, managers often steer African

Obstacle 3: Insufficient training and development assignments perpetuate inequalities in skills and opportunities for African Americans.

Obstacle 3 Issues

Americans into non-management tracks and positions such as staff positions or human resources, research, or administration rather than managerial or high level positions.

- Training and development opportunities can lead to higher levels of performance, and therefore higher performance evaluations. Several dialogue partners also reported that African Americans generally receive lower performance evaluations than White males, which can inhibit their promotion potential.

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the lack of training and development assignments that affect African Americans:

- Agencies should establish objective and transparent criteria for granting employees' requested training and offering developmental assignments.

- In the case of scarce resources for training and where all qualified candidates who want training cannot be approved, agencies should consider using lotteries to determine who should receive training. Otherwise, when possible, a diverse pool of multiple officials can determine decisions on training requests.

- Agencies should monitor and track training approvals and denials to evaluate whether there is disparate treatment in training.

- Supervisors should consider all subordinate employees for acting supervisory appointments.

- Supervisors should assist employees in developing IDPs that reflect their career goals and aspirations and in receiving training and developmental opportunities that can help them reach those goals.

- Agencies should provide employees with easily accessible lists of courses and training on leadership development.

- Agencies should emphasize that employees who volunteer for difficult assignments and pursue training can distinguish themselves from their peers and increase their chances of promotion.

Obstacle 3 Recommendations

Obstacle 4: Narrow recruitment methods negatively impact African Americans.

Background: Our dialogue partners reported that narrow recruitment methods negatively impact African Americans in the federal sector. Recruitment is the activity employers use to create a continuous pool of qualified job applicants. Broad and effective recruitment practices are important because they ensure an effective and diverse workforce with people from different backgrounds who will have wide-ranging and creative ways to problem solve and will be able to produce innovative solutions in the workplace.

Many organizations use affirmative outreach efforts in order to ensure that their recruitment methods result in a diverse pool of qualified individuals.[20] When the pool of qualified individuals is not diverse, these organizations expand recruitment efforts and require that extra measures be taken to identify, recruit, and hire underrepresented groups such as African Americans.[21] These extra measures often include media advertisements, participation in job fairs, word of mouth, internships, and ongoing relationships with community organizations and schools.

Issues Identified by Dialogue Partners:

The dialogue partners reported that narrow recruitment methods create the following issues for African Americans:

- Agencies recruit too narrowly by preferring candidates who attended perceived prestigious universities and colleges, which tend to have low percentages of African American graduates.

- Agencies do not adequately advertise for high level and management positions at educational institutions with high percentages of African American students.

- Agencies do not utilize African American professional organizations to recruit qualified African American candidates.

- Agencies are not adequately recruiting African American interns for professional apprenticeships or partnering with Historically Black Colleges and Universities (HBCUs) and African American professional organizations.

Obstacle 4 Recommendations

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address narrow recruitment methods that negatively affect African Americans:

- Agencies should expand recruitment methods by entering into partnerships with affinity groups, professional organizations, universities, and media that will facilitate dialogue with African Americans who may be interested in careers in the federal government.

- Agency recruiters, representatives, and interviewers should be trained on cultural competency, EEO, diversity issues, and unconscious bias theory.

- Agencies should use internships to introduce African American students to federal careers and should consider awarding scholarships.

- Agencies should focus on the individual abilities of candidates rather than their branding, i.e., specific schools.

- Agencies should think of recruitment not only as attracting candidates for specific vacancies or internships, but also as an ongoing way to market the federal workplace as a desirable place to work. For instance, agencies should consider participating in high school career day events; host field trips to the agencies; and make presentations at meetings and conferences of professional associations.

- Agencies should widen their recruitment pool to attract and recruit qualified African Americans from the private sector into the federal sector. Thus, federal agencies should recruit at private sector job fairs and private sector professional organization events targeted at African Americans.

- Agencies and OPM should publicize and recruit candidates for the Presidential Management Fellows Program[22] through partnerships with HBCUs, professional organizations, African American graduate student associations, and job fairs.

Obstacle 5: The perception of widespread inequality among African Americans in the federal workforce hinders their career advancement.

Background: According to our dialogue partners, widespread perceptions of inequality among African Americans in the federal sector negatively impacts their career advancement. Researchers have affirmed that perceptions of unfairness or inequality can impact the career advancement of underrepresented groups. [23] Employees who feel that their chances for advancement in an agency are limited are less likely to be highly motivated to pursue higher level positions and management.[24] For example, according to the Expectancy Theory, motivation is created when an employee expects that accomplishment will be followed by rewards.[25] However, when an employee perceives that there is a low probability that promotion is available to him or people in his demographic group, employees naturally are less motivated to contribute to the organization.[26] Further, employees who feel that they have little chance of promotion are likely to have feelings of injustice.[27] Similarly, the Equity Theory suggests that feelings of injustice are stimulated if someone believes that they receive fewer rewards than others who do comparable work or produce comparable achievements.[28]

In its most recently published results from the Career Advancement Survey, the MSPB found 56 percent of African American employees reported "great" or "moderate" discrimination against African Americans on the job, while only 15 percent of employees overall said that African American federal employees experienced significant discrimination at work.[29] Additionally, 59 percent of African American federal employees said their organization was reluctant to promote minority employees into management, while just 17 percent of White employees said the same thing.[30]

Issues Identified by Dialogue Partners:

The dialogue partners reported that perceptions of widespread inequality among African Americans create the following issues for African Americans:

- Perceptions of widespread inequality among African Americans depress their pursuit of career-enhancing activities and management positions.

- Cynicism about equal employment opportunities has reinforced inequalities for African Americans.

**Obstacle 5
Recommendations**

- The lack of support and mentoring in upper level and management positions often results in feelings of isolation among African Americans in upper management.

- Perceptions of inequality are often subtly or directly communicated to African Americans who are not in management, which reinforces widespread fears and perceptions that African Americans must sacrifice social support and racial identity in order to be successful in management.

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the perceptions of widespread inequality among African Americans:

- Agency heads should make a commitment to address inequities in a proactive and effective manner, and should become more visible and hands-on in managing diversity and holding senior management accountable for results.

- Agency heads should also:

  o Seek to include all groups in diversity initiatives;

  o Communicate the message that diversity is a priority and that it promotes the mission of the agency;

  o Consistently monitor agency diversity programs to ensure effectiveness;

  o Ensure that managers have technical as well as interpersonal, communications, and management skills;

  o Reward managers who comply with and promote diversity and hold managers accountable for diversity and EEO compliance in their performance evaluations;

  o Expand and utilize African American Special Emphasis Programs; and

  o Be briefed by African American affinity groups and African American Special Emphasis Program Managers on obstacles.

Obstacle 6: Educational requirements create obstacles for African Americans in the federal workforce.

Background: Dialogue partners reported that educational requirements create obstacles for some African Americans in the federal sector. The Commission has noted that educational requirements can disparately impact particular protected groups, including African Americans.[31] Studies have found that there is a strong relationship between education and advancement even in occupations that do not have explicit educational requirements.[32] Likewise, studies have found a positive relationship between formal education and promotion rates for both professional and administrative positions.[33]

For most of American history, African Americans were legally and socially discouraged from pursuing professional and higher-paying careers. Likewise, African Americans were often prohibited from attending many higher educational institutions. Therefore, African Americans historically had less of an incentive and opportunity to pursue higher education. The historic legal and social hurdles created huge disparities between Caucasian and African American educational attainment through most of American history. Although African Americans have made significant strides in closing the gap in educational attainment with White Americans in recent decades, the remnants of historic hurdles continue to impact the workforce today.

Issues Identified by Dialogue Partners:

The dialogue partners reported that educational requirements create the following issues for African Americans:

- Because today's work force still reflects the vestiges of the educational inequities of yesteryear, African Americans remain generally less likely to have college and advanced degrees that often are necessary to qualify for high level and managerial positions in the federal sector.[34]

- Relatively few African Americans are entering into certain technical fields, such as Science, Technology, Engineering, and Mathematics (STEM).

Obstacle 6: Educational requirements create obstacles for African Americans in the federal workforce.

Obstacle 6 Issues

Obstacle 6 Recommendations

Obstacle 7: EEO regulations and laws are not adequately followed by agencies and are not effectively enforced.

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address the obstacles that educational requirements may pose to some African Americans:

- Agencies should ensure that education requirements are job-related and a business necessity.[35]

- Where possible, agencies should allow practical experience to replace educational achievements.

- Agencies should consider awarding scholarships and internships to undergraduate students pursuing STEM degrees.

- Agencies should partner with primary schools, secondary schools, colleges, and foundations to stimulate interest in STEM and to encourage students to attend college and pursue degrees in STEM.[36]

Obstacle 7: EEO regulations and laws are not adequately followed by agencies and are not effectively enforced.

Background: Dialogue partners reported that EEO regulations, laws and policies are often not adhered to and enforced. They maintained that, while many agencies attain technical superficial compliance with EEO regulations and directives, there is an overall lack of commitment by agency heads to ensuring equal employment opportunities. Dialogue partners also maintained that agency heads are failing to incorporate EEO into their agency's missions and view EEO as a burdensome adjunct to the operations of the agency.

The EEOC's Office of Federal Operations (OFO) has enforcement authority over federal sector EEO laws and regulations under Title VII, the Rehabilitation Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Genetic Information Non-discrimination Act. OFO's responsibilities include adjudicating complaints of discrimination on appeal as well as oversight of the EEO programs of federal agencies.

Agencies are required to follow the statutes and laws under the Commission's jurisdiction, the Commission's regulations, as well as the Commission's management directives and guidance. Section II(A) of

EEOC Management Directive 715 (MD-715) provides that "commitment to equal employment opportunity must be embraced by agency leadership and communicated through the ranks from the top down. It is the responsibility of each agency head to take such measures as may be necessary to incorporate the principles of EEO into the agency's organizational structure." Further, EEOC regulations governing agency programs to promote equal employment opportunity require each agency to "maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies."[37] To implement the program, each agency must designate a Director of Equal Employment Opportunity who shall be under the immediate supervision of the agency head.[38]

Issues Identified by Dialogue Partners:

The dialogue partners reported the following obstacles for African Americans because of inadequate enforcement of EEO regulations and directives:

- Although a majority of the agencies report that they hold management accountable for EEO, many agencies define "accountable" loosely, and in fact management officials are not being held accountable for EEO issues.

- EEO Directors who do not directly report to their agency's head represent a serious threat to the effectiveness of their agency's EEO programs.

- EEO programs generally lack adequate resources, including funding, to effectively prevent and address discrimination. Additionally, the lack of funding reflects agencies' lack of commitment to achieving EEO principles and goals.

- Some agencies do not display a firm commitment to equal employment opportunity because it is not embraced by agency leadership and communicated through the ranks from the top down.

- Noncompliance with EEOC directives undermines the importance of EEO and stymies the eradication of barriers to equal employment opportunities.

- The Commission lacks sufficient enforcement powers, or "lacks

Obstacle 7 Issues

teeth", to effectively combat discrimination and eradicate impediments for African Americans.

- When the Commission finds that an agency has engaged in unlawful discrimination and orders agencies to consider disciplining the responsible management officials, agencies usually do not discipline responsible management officials, which sends a strong message that EEO is not a top priority for the federal government.

- The Commission's inability to directly order agencies to discipline managers who have been found to have engaged in unlawful discrimination sends a message to agencies, discriminators, employees, and the public that the federal government does not take discrimination seriously.

Recommendations of Dialogue Partners:

The dialogue partners made the following recommendations to address inadequately enforced EEO regulations:

- As part of their annual performance ratings, mangers, supervisors, and senior executives should be evaluated in at least one element that assesses their commitment to equal employment opportunity principles and goals.

- Awards, bonuses, and promotions should be contingent on managements' actions in EEO, and agencies should not grant proven discriminators awards, promotions, outstanding performance evaluations, etc.

- Agency should consider demotion and/or removal of managerial duties of management officials who have been found to have engaged in unlawful discrimination or have inadequately responded to harassment.

- The EEOC should issue an agency "EEO Scorecard" that evaluates agencies' EEO programs, inclusiveness, and accomplishments in various critical EEO elements, and it should be presented in a digestible, user-friendly manner that is available to the public.

- The EEOC should publicize findings of discrimination in the federal sector via press releases.

- The EEOC should seek legal authority to order punishment for

Obstacle 7 Recommendations

responsible management officials.

- The EEOC should enter into a new agreement with the Office of Special Counsel (OSC) and explore ways to refer more cases in which agencies have failed to comply with our orders or if a violation warrants prosecution by OSC.

Conclusion

The work of the Commission and its dialogue partners is timely. On February 22, 2012, the EEOC approved its Strategic Plan for Fiscal Years 2012-2016. The Strategic Plan establishes a framework to achieve the EEOC's mission to stop and remedy unlawful employment discrimination and to promote equal opportunity in the workplace. With regard to the federal sector, the new Strategic Plan sets forth our objective to use education and outreach to prevent employment discrimination, deliver excellent service through effective systems, update technology, have a skilled and diverse workforce, and combat employment discrimination through strategic law enforcement.

Through our discussions with our dialogue partners, we have learned that further research into the identified obstacles is necessary. An in-depth statistical study into how these particular obstacles affect African Americans would be helpful to determine what actions can be taken to address the obstacles. In particular, in-depth research is needed in the area of unconscious bias to be able to determine its prevalence and effects on the federal sector and how the EEOC and agencies can work together to address the problem. Additionally, the Office of Federal Operations should take steps to further cultivate our relationships with the dialogue partners that partnered with this workgroup, as they will continue to provide information about and insight into the obstacles that continue to face African Americans in the federal workplace.

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[1] We note that in the African American community the terms "African American" and "Black" are often used interchangeably. In this report, we use the term "African American."

[2] OFO's responsibilities include oversight of the EEO programs of federal agencies. The EEOC's Management Directive 715 (MD-715) provides federal agencies with policy guidance for establishing and maintaining effective programs of equal employment opportunity under Section 717 of Title VII, and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. MD-715 requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination and sets forth the standards by which EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs. Moreover, pursuant to MD-715, the EEOC evaluates agency policies, procedures, and practices to identify barriers to equal employment opportunity, and the agencies specify plans to remove any barriers to equal employment opportunity.

[3] A separate report memorializing the observations and recommendations from the dialogue partners regarding issues affecting Women in the federal government is forthcoming.

[4] Americans for American Values, *"What Is Implicit Bias?,"* available online at http://www.americanvaluesinstitute.org/?page_id=14.

[5] Id.

[6] Samuel R. Bagenstos, *Implicit Bias, "Science," and Antidiscrimination Law,* Harvard Law and Policy Review, Vol. 1, p. 477 (2007).

[7] Linda Hamilton Krieger, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity*, Stanford Law Review, Vol. 47, pp. 1163-1165 (1995).

[8] Mary Rowe, *Micro-affirmations and Micro-inequities,* Journal of the International Ombudsman Association, Vol. 1, No. 1, pp. 1-9 (2008).

[9] Kijana Crawford and Danielle Smith, *The We and the Us: Mentoring African American Women*, The Journal of Black Studies, Vol. 36, No. 1, pp. 52-54 (September 2005).

[10] Id.

[11] Price M. Cobbs and Judith L. Turnock, *Cracking the Corporate Code: The Revealing Success Stories of 32 African American Executives* (2003).

[12] Id.

[13] Michael A. Fletcher, *Black Jobless Rate is Twice that of Whites*, The Washington Post, December 14, 2012, available online at http://www.washingtonpost.com/business/economy/2012/12/14/01b6c9be-37e5-11e2-b01f-5f55b193f58f_story.html .

[14] Id.

[15] Id.

[16] Jason Forsythe, *Winning with Diversity*, New York Times (2004), available online at http://www.nytimes.com/marketing/jobmarket/diversity/affinity.html.

[17] NASA's Goddard Space Flight Center Office of Human Capital Management, *Career Development and Training*, available online at http://ohcm.gsfc.nasa.gov/sup_info/toolbox/career/career.htm.

[18] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, p. 45, (December 2009).

[19] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment,* supra at 34.

[20] See for example, *North Carolina State University Office for Institutional Equity and Diversity: Guidelines for Recruiting a Diverse Workforce*, (June 2011), available online at http://oied.ncsu.edu/oied/hiring/OEO_Recruitment_Guidelines.pdf .

[21] Id.

[22] The Presidential Management Fellows Program is a prestigious two year paid government fellowship sponsored by the Office of Personnel Management (OPM). Since 1977, the Presidential Management Fellows Program has matched outstanding graduate students with exciting federal opportunities. Agencies can hire very competitive individuals from a network of graduate schools that nominate their best students. Finalists are pre-qualified at the GS-9 level, although agencies may initially appoint at the GS-9, GS-11, or GS-12 or equivalent, available online at http://www.pmf.gov/about/index.aspx .

[23] Ray Friedman, Melinda Kane, and Daniel B. Cornfield, *Social Support and Career Optimism: Examining the Effectiveness of Network Groups Among Black Managers*, Human Relations, Vol. 51, No. 9, p. 1157 (1998).

[24] Id.

[25] Id.

[26] Id.

[27] Id.

[28] J. Stacy Adams and Sara Freedman, *Equity Theory Revisited: Comments and Annotated Bibliography*, Advances in Experimental Social Psychology, Vol. 9, pp. 43-90 (1976).

[29] U.S. Merit Systems Protection Board, *2007 Career Advancement in Workforce Diversity Survey*, p. 55.

[30] Id. at p. 50.

[31] U.S. Equal Employment Opportunity Commission, Compliance Manual, Section 15, Race and Color Discrimination, No. 915.003, at 15-V.B. (April 19, 2006), available online at http://www.eeoc.gov/policy/docs/race-color.html#VB .

[32] U.S. Merit Systems Protection Board, *Women in the Federal Government: Ambitions and Achievements*, p. 13 (May 2011).

[33] U.S. Merit Systems Protection Board, *Fair and Equitable Treatment*, supra at 36.

[34] According to the U.S. Census Bureau's most recent statistics on educational attainment, 81 percent of African Americans 25 years of age or older had at least a high school diploma or its equivalent in 2009, 18 percent had at least a bachelor's degree, and six percent had an advanced degree (master's, doctorate, medical, or law). In contrast, among non-Hispanic Whites, 90 percent had a high school diploma, 31 percent had at least a bachelor's degree, and 12 percent had an advanced degree. U.S. Census Bureau, *Educational Attainment in the United States: 2009* (February 2011), available online at http://www.census.gov/prod/2012pubs/p20-566.pdf .

[35] "Educational requirements obviously may be important for certain jobs. For example, graduation from medical school is required to practice medicine. However, employers often impose educational requirements out of their own sense of desirable qualifications. Such requirements may run afoul of Title VII if they have a disparate impact and exceed what is needed to perform the job." As the Supreme Court stated in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), which is one of its earliest interpretations of Title VII: "History is filled with examples of men and women who rendered highly effective performance without the conventional badges of accomplishment in terms of certificates, diplomas, or degrees. Diplomas and tests are useful servants, but Congress has mandated the commonsense proposition that they are not to become masters of reality." EEOC Compliance Manual Section 15, "Race and Color Discrimination," No. 915.003, at VI.B.2 (Apr. 19, 2006).

[36] For instance, in December 2010, the National Aeronautics and Space Administration (NASA) selected the United Negro College Fund Special Programs Corporation to administer a $1 million career development and educational program designed to address the critical shortage of minority students in science and engineering fields. Likewise, NASA's Minority University Research and Education Program strives to ensure that underrepresented and underserved students participate in NASA education and research projects in pursuit of STEM careers. Additionally, the Minority University Research and Education Program enhances the research needs and technology enterprises of HBCUs, and NASA's Office of Education encourages HBCUs to collaborate with teacher preparation programs that improve the quality and diversity of STEM teachers. Available online at http://www.nasa.gov/home/hqnews/2010/dec/HQ_10-342_Science_Careers_Program.html .

[37] 29 C.F.R. § 1614.102(a).

[38] 29 C.F.R. § 1614.102(b)(4).