

Ed Shabor

United States Senate

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The Editor
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Editor:

We are writing in response to your recent editorial "Drawing Lines" in the October 17, 1985 Washington Post regarding the legislation we have introduced to amend Title III of the Higher Education Act of 1965. The Institutional Aid Act of 1985 would amend Title III in order to achieve several specific objectives: (1) eliminate existing program overlap and duplication, while preserving the eligibility and participation of all currently eligible institutions of higher education; (2) assure the continuing participation of historically black colleges and universities through a meaningful program of assistance which promises to strengthen their endowments and improve academic quality; and (3) continue the program of endowment building for Title III institutions, which may be their last, best hope for survival and long-term growth into the next century.

While commendatory in its overall treatment, "Drawing Lines" appears to question, in its final paragraphs, the efficacy of our Part B proposal for a Black College and University Act, even though you agree that the existing mechanism for providing aid to black colleges and universities has not worked. We agree. Over the past seven years, black colleges and universities have received a declining share of Title III assistance -- despite the fact that its authors and supporters agree that the 'developing institutions' program was established to provide institutional assistance to these colleges and universities. It is the use of oblique proxies that has led to the misdirection of Title III funds. The history of Title III fund distribution clearly shows that alternative definitions do not, as the Post suggests, ensure that aid will be directed to the intended recipients.

We made an intentional decision to develop a 'race conscious' remedy. The historic discrimination against black colleges was based on race, Title III assistance to these institutions is critical in order to continue the Federal commitment to postsecondary educational opportunities for Black Americans, and the remedy through Title III must focus that assistance on these institutions in a way that works. The Supreme Court, in its 1980 decision in Fullilove v. Klutznick, affirmed the

authority of the Congress to enact "race conscious" legislation under the general authority of the Civil War Amendments to the Constitution. We believe an adequate factual and legislative predicate has been laid out for the bill we introduced in the House and Senate.

Finally, black colleges and universities have been the epitome of equal educational opportunity since their inception. They have always enrolled and educated white and black students, particularly low income students from educationally disadvantaged families. Howard University, for example, included four white females among its first students in 1867. Today, three historically black colleges and universities have majority white student bodies. Most importantly, in our view, these institutions educate almost 40 per cent of all black students receiving baccalaureate degrees. In addition, the majority of all black professional and doctoral degree recipients earn their first degree at an historically black college.

There would be no equality of educational or employment opportunity in America without these institutions. The Institutional Aid Act of 1985 will continue the federal commitment to black colleges and ensure the strengthening of these 'national treasures'.

Cordially,



Paul Simon
United States Senator



Augustus F. Hawkins
Chairman
House Committee on
Education and Labor

PS:AH/wab

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Drawing Lines

IN 1965 Congress, at the behest of the Johnson administration, created a special program of aid to "developing" institutions of higher education. It was understood that a significant share of the aid would go to historically black colleges and universities. These schools then as now were needy and continued, in a period of fitful and often half-hearted desegregation, to be an important source of higher education for blacks. But the enabling act, out of whatever sense of reserve or uneasiness, did not specify that the aid or any part of it was to be for black schools. The term "developing" was thus in part a euphemism, but in a deeper sense stood for a substantive compromise as well.

Now there are moves in Congress to do away with this obliqueness, in order to be more exact in the spreading-out of the aid. The amount of money involved in this so-called Title III program has never been large, but it has been important to the receiving institutions—and in recent times there has been new competition for it. Among the aggressive claimants have been community colleges, many of which also serve large numbers of blacks. The historically black colleges and universities had 47 percent of the appropriation in fiscal 1978, but only 34 percent in fiscal 1984. Their loss of share has prompted increasingly elaborate efforts to protect them. The 1980 amendments to the Higher Education Act, of which Title III is a part, put a floor under annual aid to the historically black schools. In appropriations acts since, Congress has earmarked certain sums for them, in effect raising the floor. Now Congress is again rewriting the Higher Education Act (it will otherwise expire), and proponents are urging a further step.

Rep. Augustus Hawkins, chairman of the House Education and Labor Committee, and Sen. Paul Simon of Illinois are leading sponsors of a bill to set up a new subdivision of Title III explicitly for historically black colleges and universities. In an open-

ing toward other constituencies, they would also reserve certain other sums each year for "Hispanic institutions," "Native American, Native Alaskan or Aleut institutions" and "institutions serving Native American Pacific Islanders, including Native Hawaiians residing in the Pacific Basin." The House higher education subcommittee has now taken most of these provisions into its version of the bill; there has been no markup in the Senate.

There is no argument that the 104 schools grouped as historically black are deserving of national help. They now enroll only 20 percent of the nation's black college students, but they occupy a unique position, and they are home to the survivors. Their students still earn almost 40 percent of the baccalaureate degrees that go to blacks in this country, and according to one recent study they make up more than 50 percent of those who go on to earn PhDs.

The issue with Hawkins-Simons is not the aid it would channel, but how it would channel that aid. For good reasons it writes bad law; from the best of motives it puts an unabashed racial classification back in the statute books. As justification and for protective purposes as well, it includes a finding that "the current state of black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government" in the past, and that "this discriminatory action requires the remedy" of increased aid today. That is an effort to meet the test of the courts that race-conscious actions of the government are legitimate if they are meant to overcome the effects of past discrimination.

In other programs over the years, Congress has used poverty and other nonracial characteristics as proxies when seeking to direct aid to blacks. That is how it was originally done in Title III. Proxies can never be as exact as outright racial designations, but they get close enough. To write a new generation of racial distinctions into the law is simply wrong.