

Discriminating Against Critics of Discrimination

by Warren G. Treadgold

The Art of Diversity: A Chronicle of Advancing the University of California Faculty through Efforts in Diversity, Equity, and Inclusion, 2010-2022, Susan Carlson, eScholarship Publishing, University of California, pp. viii, 169, open access (<https://escholarship.org/uc/item/1v45s9br>).

In November 1996, 54.6 percent of California voters passed Proposition 209, which added the following provision to the California state constitution: “The state shall not discriminate against or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.” In 2020, when Governor Gavin Newsom and the state legislature promoted Proposition 16 to repeal Proposition 209, 57.2 percent of voters rejected the repeal.

Since 1996 the California state university system has therefore been constitutionally forbidden to discriminate on the basis of race or sex. Instead, it decided to discriminate against people who opposed discrimination on the basis of race or sex. Such people may be

more than 57 percent of Californians but are now effectively barred from being hired in any of California’s state universities. Meanwhile the universities still measure the success of their hiring by counting how many women and “under-represented minorities” they hire.

The story is told in *The Art of Diversity* by Susan Carlson, who oversaw the process from 2010 to 2022 as Vice Provost for Academic Personnel and Programs at the Office of the President of the University of California. Carlson writes in “Deanspeak,” a dialect characterized by vapidness, obfuscation, and acronyms (like LEAD for Leadership Equity Advances Diversity and FRIENDS for Faculty Retention and Inclusive Excellence Networks Designing Solutions).

Another feature of Deanspeak is to describe whatever the administrator wants as “progress,” “advance,” or “moving forward,” browbeating faculty to accept a preferred policy as inevitable. A perhaps unexpected feature of Deanspeak is citing objections before rejecting them. A presumably unintended result is that the only coherent arguments in this book oppose Carlson.

Carlson begins by quoting a 2011 report noting the University of California’s “disappointing results in efforts to build a more diverse faculty in the prior decade.” In 2011 “women accounted for 47.5 percent of the pool of nationwide doctoral degree recipients but only 39.9 percent of UC’s new hires,” while “under-represented minorities (American Indian/Alaskan Native, African American, Chicano/Latino) ... accounted for 11.3 percent of the pool of nationwide doctoral degree recipients and 12.5 percent of UC’s new hires.”¹ (2) Although the percentage of “under-represented minorities” hired exceeded their percentage of doctorates, Carlson complains, “Faculty talk about the pipeline ... to emphasize that diverse candidates are not available in their disciplines,” (159) as if this were merely a pretext. The 2011 report also found that women were “represented at low levels in STEM fields (science, technology, engineering and mathematics),” although the only fields in which women were *not* hired “at a rate below their availability” were “computer science/mathematics/engineering, and physical sciences.” (2)

Carlson presumes that women and “under-represented minorities (URM),” regardless of their qualifications or availability, should never be a lower percentage in any university department than in the general population. She laments that, since UC professors were 38.2 percent women and 13.4 percent URM in 2021, “we have a long way to go to boast of a faculty that draws sufficiently from the diversity of California. For example, in 2021, 58 percent of California’s high school graduates were URM and 38 percent of new first-year undergraduates at UC were URM.” (109) A 2006 statement signed by the UC President and “all ten campus chancellors” declared, “A diverse faculty reflects inclusiveness and opportunity that are essential if UC is to maintain excellence and legitimacy in its role as a land-grant university,” (5) implying that “excellence” and “legitimacy” require hiring by race and sex.

Carlson describes how by 2015 “1) C2DEI [contributions to diversity, equity, and inclusion] statements were increasingly requested from applicants in faculty recruitments, and 2) C2DEI statements were increasingly expected in merit and promotion reviews of all faculty” to determine salaries and tenure. (12) Carlson makes these “requested” and “expected” statements sound like requirements: “Thus, by policy, activities that support and analyze diversity, equity, and inclusion are defined as integral to all areas of faculty responsibility.” (13)

Carlson quotes an unnamed objector that C2DEI

compromises the integrity of the scientific process by favoring certain outcomes of research over others, it infringes on academic freedom by singling out one research topic over others, and it is sufficiently ambiguous to potentially ... count contributions in the service area as contributions in research.... [Consequently] adoption of this language would in time result in substantial erosion of the University of California status as the top public university system in the world.

Carlson rejects such objections for demonstrating “a fundamental resistance to C2DEI that continues to exist. In short, some still see principles of diversity, equity, and inclusion as peripheral rather than integral to the research mission of the University of California.” (15)

Carlson also quotes a statement from 2019 by UC Davis Mathematics Professor Abigail Thompson in the *Wall Street Journal* that “rather than helping achieve inclusion, these DEI rubrics act as a filter for those with nonconforming views ... Mandatory diversity statements can too easily become a test of political ideology and conformity.” The UC Davis Chancellor and the Vice Chancellor speedily replied in the *Journal*,

We strongly disagree with this premise [that C2D is a new loyalty oath]. It is inaccurate, at once illogical and rhetorically inflammatory, and reminiscent of historical attempts to blunt substantive actions aimed at desegregation and broadening participation ... Indeed not asking questions about a candidate’s readiness to serve the diverse population of students in California,

the most diverse state in the nation, would be negligent. (16)

This rebuke by the two most senior administrators at UC Davis is name-calling rather than an argument, insinuating that critics of diversity statements would have favored racial segregation and are unwilling or unprepared to serve minority or female Californians.

Carlson further quotes a 2019 law review article by UC Davis Professor of Law Brian Soucek:

Behind all the rhetoric, the arguments made about diversity statements are, at heart, legal claims—and serious ones at that. Critics allege that universities are engaging in unconstitutional viewpoint discrimination, violating their faculty’s academic freedom, and imposing political litmus tests akin to the loyalty oaths struck down during the Cold War era.

Without addressing these objections, Carlson quotes the head of the UC Academic Senate:

The systemwide implementation of the use of these [diversity] statements both affirms DEI as core values of UC and reinforces the expectation that all faculty are responsible for diversity, equity, and inclusion, thereby ensuring that this work is shared broadly and recognized.” (18-19)

Later Carlson describes a series of seminars on “Fostering Inclusive Excellence” held on UC campuses in 2014-15 that focused on “microaggressions.” According to the definition participants found “useful,”

Racial microaggressions are one form of systemic everyday racism used to keep those at the racial margins in their place. Racial microaggressions are (a) subtle verbal and nonverbal

assaults [sic] directed toward people of color, often carried out automatically or unconsciously; (b) layered assaults, based on a person of color's race, gender, class, sexuality, language, immigration status, phenotype, accent, or surname; and (c) cumulative assaults that take a psychological and physiological toll on people of color, such as the "myth of meritocracy" and "claims of 'color blindness.'" (46-47) According to Carlson, means of combating microaggressions "include a chair ready to make change in department climate a priority; a critical mass of faculty who had a collective sense of responsibility and wanted change; admission of past mistakes; and a way to neutralize toxic individuals." (48)

While Carlson implies that the participants liked the seminars, responses to her survey of participants were mixed. She notes that "the theatre intervention ... was at the top of the list of highlights, with 47% praising the use of interactive theatre," indicating that not even the highest-rated part of the program won majority approval. Carlson quotes several devastating criticisms. One participant wrote, "The seminar entirely dodged the question that is at the heart of the issue: how should we handle the tradeoff between diversity and quality WHEN IT EXISTS." Another participant wrote, "[T]he heart of the matter is excellence versus diversity and I found the discussion on that topic to be superficial and lacking."

As for reactions outside the university, Carlson says,

Nearly all of the media coverage was negative ... In general, the media coverage on this issue took the lead of Fox News and derided several of the items on the list of microaggressions ... as actions to be avoided, like asking someone "where are you from?" or "where were you

born?" or saying, "America is a melting pot" or "America is the land of opportunity."

Despite Carlson's blaming Fox News, she quotes criticisms only from liberal newspapers, of which Fred Barbash's comment in the *Washington Post* was representative.

Once kids were taught about "sticks and stones," which break their bones, but that "words will never hurt me." Now on some campuses, they and faculty as well are being taught the opposite, innocently uttered words can and do hurt, and speech codes and guidelines about what to say and what not to say, are all the rage.

Carlson retorts,

Needless to say, the comments showed no indication that journalists and commentators had reviewed the entirety of the seminar materials, which did invite discussion and analysis. More disturbing, however, was the lack of recognition that the microaggressions under scrutiny were seriously impeding UC's attempt to address an all too real problem in its academic community. This criticism of UC and President [Janet] Napolitano resulted in my being informed by the President's staff that the program should not continue, although the tenth and last of the planned seminars was held anyway. (57)

Carlson then describes a 2016 appropriation by the California legislature for "Advancing Faculty Diversity (AFD)" administered by her office. This appears to mark the beginning of the now notorious UC practice of eliminating all candidates with unsatisfactory diversity statements.

Carlson says that in Engineering at UC San Diego in 2016-17, "The hiring results were notable, with the percentage of under-represented minority (URM)

faculty hiring increasing from 10.7% to 20.8% in comparison to prior years and with the percentage of female faculty hires increasing by 10% to 37.5%.” (77) In the whole UC system in 2017-18, again “hiring outcomes were notable,” with “a substantial increase in the percentage of under-represented minority (URM) and female faculty as finalists in three pilot units and of those hired in all four pilot units.” (79) In 2018-19 “there was a substantial increase in the percentage of underrepresented minority (URM) and female faculty as finalists and of those hired in all four pilot units.” (81) The same year at UC Santa Barbara in Mathematics, “The hiring results were promising in the pilot with URM hiring moving from 0% to 16.7% and female hiring moving from 16.7% to 50%. These powerful results were encouraging to many across UC.” (83)

Later Carlson asserts, “While there are many ways to measure the success of the AFD Recruitment awards, these hiring results do show that AFD interventions correlate with UC’s goal to build a faculty that serves the students and citizens of California.” (104) But she mentions no measures of “success” beyond race and sex.

Carlson does make a record of some resistance, in which UC mathematics departments resisted directives to do their recruiting through UC Recruit, opting instead for “Math Jobs,” a national recruitment platform used by many peer mathematics departments around the country. After a “difficult back and forth between Provost and Executive

Vice President Brown and mathematics department chairs and faculty,” all mathematics departments were required to manage their recruitments through UC Recruit. “All chairs of mathematics departments wrote to the UC President to protest the requirement” but were ignored. (82)

Finally, Carlson expresses her dissatisfaction with “hiring at rates of 47.2% women and 21.1% URM” in 2018-21 because these were still below the percentages of “under-represented minorities” among California high-school graduates and first-year UC undergraduates. (109)

Here as elsewhere, Carlson offers no reasoned argument for DEI. Instead, citing the “students of color” who performed in a “choral documentary drama” at UC Davis in 2023 and “often spoke about not ‘seeing themselves’ in UC Davis professors,” (107) she claims that “the students continue to ask that the faculty look more ‘like me.’” (110) These words spoken by student actors are taken to represent all students and a virtuous goal.

Carlson repeats a policy statement by the UC Regents: “Diversity should ... be integral to the University’s achievement of excellence.... The pluralistic university can model a process of proposing and testing ideas through respectful, civil communication.” (110)

Yet this “pluralistic university” excludes dissenters from DEI. Carlson says, “I have worked to build a space in which members of this UC community are able to learn and imagine, but

also to feel free to discuss their own achievements or to complain about the stubborn power of the status quo,” (113) implying that opinions supporting the “status quo” should be suppressed. She continues, “As noted previously, some faculty continue to believe that the university’s research enterprise is under threat from a set of priorities that rewards and prioritizes DEI work. Resistance, however, makes our work better, sharper as we seek the best ways to engage and critique.” (114) Evidently, Carlson thinks the only value of hearing dissent is to learn to ignore it.

In her conclusion, Carlson declares that the Supreme Court’s outlawing affirmative action in higher education in 2023 will “make the work in California even more useful for those outside the state [because UC circumvented Proposition 209]. I am hoping that this court ruling will also energize even more people to take active roles in building strong universities where a diverse student body is served by a diverse and welcoming faculty.” (114-15)

Carlson sums up, “This work on faculty diversity, equity, and inclusion IS the intellectual work of the university.” (90, 158)

This book shows that DEI is incompatible with academic freedom and excellence. DEI defies legal measures strongly supported by the public, like Proposition 209 and the Supreme Court ruling of 2023.² By using required DEI statements to reject applicants, UC administrators have done far more harm to their universities than if they had

enforced racial and gender quotas. They stifle free expression on campus by blatantly discriminating in employment, tenure, promotion, and pay against numerous scholars because of their ideas about fairness, merit, freedom, and research.

Today UC campuses will hire a white researcher who considers medicine inherently racist and reject a minority researcher who makes medical breakthroughs but opposes DEI. Still worse, as Carlson had hoped, UC policies have become a model for other universities. As Carlson’s book demonstrates, the remaining moderates and conservatives on American campuses are too few and marginalized to mount effective opposition to DEI. Even influential outside voices like the *Los Angeles Times* and *Washington Post* accomplished nothing in the end. New laws meant to force ideologues to act contrary to their ideologies are likely to fail as badly as Proposition 209.

Even when laws, lawsuits, and public outrage end mandatory DEI statements, as recently happened at several universities, nothing prevents their hiring only applicants who favor DEI in their application letters—as many American universities have done for years. Very little can change without wresting control of academic hiring from ideologues like Carlson. At present this seems to be happening only in a few new institutes in conservative states, whose efforts leave the major research universities and their graduate schools controlled by the commissars of DEI. Those research

universities remain the commanding heights of American education, and the task of reclaiming them has not even begun.³

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1. "Asian" is omitted here, though in her 2019 report that Carlson reproduces in an appendix she seems to count Asians as an "under-represented group." (158)
2. In a YouGov poll conducted two months before the 2023 Supreme Court decision, 74 percent of respondents (including 60 percent of the Democrats) believed "Public colleges and universities should not be able to use race as a factor in admissions. The same survey found that 69 percent of respondents (including 58 percent of Democrats) believed that private colleges should also not be able to use race as a factor in admissions. See "What role do Americans think race should play in college admissions?" YouGov—Public Data, <https://today.yougov.com/politics/articles/45841-what-role-should-race-play-college-admissions-poll>.
3. Yet I do not believe it is impossible. See my article, "A Strategy for Reforming American Universities," *Academic Questions* 36 (Fall 2023), 11-18, (<https://www.nas.org/academic-questions/36/3/a-strategy-for-reforming-american-universities>).