Synching the Law to Resolve the Disconnection between Awareness and Action in Legally Mandated Diversity Hiring Practices in Higher Education Institutions

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Abstract: *Conflicting regulatory demands on higher education institutions (HEIs) contribute to an environment of increasing legal risk for HEIs. In addition, the increasing cost of non-compliance jeopardizes institutional viability as HEIs struggle to adjust to the pressure created by these legally-mandated changes. The legal risk to HEIs can be attributed to the breakdown that employees experience between their awareness of policies and their follow through in carrying out those legal actions. HEIs would benefit from implementing legally-mandated change in a way that maximizes compliance and therefore minimizes risks. This study investigates the relationship between the elements (legal rule, legal procedure and legal agents) of a new model, Synching the Law, that synchronizes the law with organizational characteristics allowing the organization to understand itself in the context of the legal rule and adapt successfully to the legal mandate. While this paper is primarily focused on making institutional legal change, the study used diverse hiring practices of research administration hiring managers to reveal the role of legal agent self-identity in the legal change decision-making process. This study reinforces the need for guidance in making legally-mandated changes that embed effectively within organizations using principles from organizational psychology and therapeutic paradigms. The study confirms that psychological decision making cannot solely be affected by an awareness of the rule of law and legal procedures. In fact, setting the law as a priority is insufficient to motivate compliance to the law by those who must carry out these legal rules.*

Keywords: *Organizational psychology, change management, action research, research administration, legal rule, legal procedure, legal agent, compliance, risk management, therapeutic jurisprudence, legal awareness, legal action, disconnection, synching the law*

Introduction

Institutional change scholars rely on social psychology constructs, principles or models for designing organizational change strategies. Focusing on an understanding of the psychological basis for changing an individual mindset or managing the dynamics of a group, change scholars often develop tools that equip change agents to effectively engage institutions and steward the change process (Eisold, 2005; Gardner, 2006; Morgan, 1997). Both internal and external challenges can drive the institutional necessity for change. For institutions of higher education a legal mandate, such as, legislation, statutes, other policies and court decisions, serve as major external drivers of change bearing serious institutional risks including fines, non-fiscal punitive measures, loss of prestige and privilege, and public criticism.

Despite the high liability for higher education institutions, change scholars have yet to create a tool for implementing legally mandated change. Ideally, a tool that facilitates institutional compliance while minimizing legal liability would remedy this omission. Currently, institutions facing a changing legislative landscape must respond on a policy-by-policy basis to develop adequate plans. Each institution runs the risk of making changes that may not embed in institutional practices and result in non-compliance. Institutional non-compliance can manifest in several ways: by misinterpreting the law, by ineffectively implementing the law, or by failing to guide institutional enforcers of the law (Kern, 2014; Lipsky, 2010). Creating a remedy requires a solution that addresses each of these risks and removes barriers to effective change from a human behavior perspective.

Synching the Law: A Model for Legally Mandated Change

Framework of the Model

The *Synching the Law* model, created as part of this research, draws from organizational theory and legal therapeutic paradigms. Combining the generally accepted action research model (Cummings & Worley, 2008) with an understanding of organizational behavior and an existing legal intervention called therapeutic jurisprudence (Wexler, 1991), the model recommends overcoming institutional resistance to legally mandated changes by optimizing the role of the legal agent in the legal change process. In so doing, the model encourages a focus on organizational well-being and controls the stress often associated with change failures. This focus is a departure from the current practice of responding to the law with a punitive design to deter non-compliance. The legal agent includes those who must carry out the legal rule and are not the legal, subject, or content matter experts of the legal rule.

The model nods to the conventional wisdom of the necessity of institutional policies, but also equips organizations to incorporate changes that overcome the intergroup dynamics that disconnects awareness of rules and procedures from actions evidenced in the research findings. This results in departures from expected behaviors as required by law, i.e. non-compliance. The model encourages the use of legal agents in conjunction with legal experts at every point of potential legal failure which includes understanding the rule of the law, developing the

implementation process and providing guidance needed by the legal agents to overcome their embedded beliefs which contribute to non-compliance.

Summary of the Synching the Law Model

Figure 1 summarizes the model's four elements: 1) interpreting the law, 2) synching the interpretation, 3) tailoring the procedures, and 4) sensitizing the implementation, and Table 1 outlines the model's process flow.
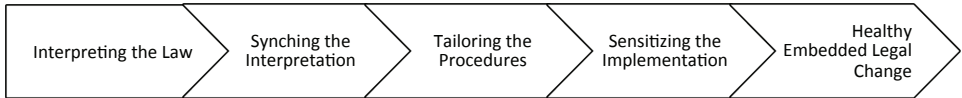

Figure 1. Synching the Law: A Model for Making Legally Mandated Changes in HEIs

Table 1. Synching the Law Process Flow

Stage	Interpreting the Law	Synching the Interpretation	Tailoring the Procedures	Sensitizing the Implementation
Action	External legal interpretation enters organization, i.e. regulations, statues, court rulings, industry standards, best practices, etc.	What are the benefits and challenges of the law to the under- or over-bounded organization? Who benefits from the law? Who is challenged by it?	Empowered legal agents refine earlier determinations Gather data about past organizational changes Use legal benefits, challenges, and neutral areas to craft policy	Use of disequilibrium or safety approach in roll out of policy to targeted areas
Outcome	Formation of stakeholder group comprised of **legal, content, or subject matter experts** Determine potential benefits, challenges, and neutral aspect of the law.	Addition of **legal agents** to the stakeholder group Determination of organizational boundedness as related to the law Determination of psychological approach to change	Addition of more **legal agents** based on refinements, as needed Identification of target organizational units Development of targeted procedural approaches rooted in psychological approaches	Embedded policies Monitor compliance by **legal agents** in targeted areas Evaluate efficacy of targeted procedures

This project investigated the elements of the Synching the Law, a model designed to facilitate legally mandated change in U.S. higher education institutions (HEIs). In an environment of increasing legislative burden on HEIs, this model positions HEIs to comply with the law while reducing legal liability. The model makes a significant contribution to managing change and ensuring legal compliance.

Literature Review

Making the Case with Diversity Law in the Higher Education Institution Context

The first and most crucial part of the research involved selection of a legally mandated change. The criteria for this selection included a legal change that has historically resulted in challenges for institutional implementation. Laws that produced psychological stress in the internal stakeholders of the institution provided the best context for this project. The combination of these two criteria, i.e. institutional challenge and stakeholder psychological stress, led to the selection of diversity law and its implementation as the legal context of the project. The long history of diversity efforts in higher education institutions provided substantial information with regard to institutional compliance.

Decades ago, when HEIs described their responsibility to develop a culturally competent workforce, they meant effecting changes in core areas involving student admissions, enrollment, and retention as the primary focus, with employees and faculty as stakeholders (Worthington, 2012). The approach attempted to develop a culturally competent workforce through the admissions and the retention of diverse students to achieve a student body comprised of a mixture of people with diverse characteristics. US Supreme Court decisions shifted HEI diversity methods from structural diversity achieved through student quotas to interactional diversity rooted in student to student engagement achieved through holistic admissions criteria (Gurin, Dey, Hurtado, & Gurin, 2002; *Educational Benefits Realized*, 2010).

The preponderance of the literature around HEI diversity strongly favored student-focused diversity initiatives (Worthington, 2012). However, recognition of the role and importance of the institutional environments of HEIs, also known as campus climate, has emerged in more recent years (Smith, 2011; Worthington, 2012). An emphasis on campus climate integrated the role of diverse faculty in enabling a more comprehensive approach to developing culturally competent students (Igwebuike, 2006; Niemann & Maruyama, 2005). The campus climate focus on diversity initiatives provides an opportunity to include more than students and faculty, but also university administrators. Previous research shows a lack of gender, racial, and ethnic diversity among university leaders (Jackson & O'Callaghan, 2009; McHargh, 2010). This lack of diversity within the administration posed challenges for universities attempting to create culturally competent students as mandated by law (McHargh, 2010; Parker & Villalpando, 2007). Compliance to diversity law is not merely compliance with Title IX or Affirmative Action, but also compliance with the judicial interpretations of diversity mandates as described in Supreme Court decisions. Collectively, these represent what the study refers to as diversity law.

Making the Case with University Research Administration

The extensiveness of HEI organizational hierarchy and the complexity of diversity law applications in HEIs meant limiting the focus of the research to a segment of HEI stakeholders. This limitation created a reasonable and manageable research case. Research Administrators comprise one of many highly skilled university administrative groups. Similar to other university administrative areas, research administration evidences a high level of gender diversity among the general administrative staff, but lacks racial and ethnic diversity among staff. Both female and non-white populations are underrepresented at the executive level of the profession (Nash & Wright, 2013). As compliance officers, research administrators would be keenly aware of the importance of compliance and the adverse impact on the institution due non-compliance. Unlike other university administrative units that would not have the same awareness of the importance of compliance.

The profession of research administration in the United States became firmly established in the 1950s. According to the National Council of University Research Administrators (NCURA) prior to that time, the work of research administration was handled by part time university employees who held other primary duties (Wile, 2008). Federal funding for scholarly research activities grew, so too the regulations governing management both grant and contract processes and funds (Wile, 2008). The research endeavor has become an integral part of university business and identity, as reflected in HEI Carnegie classifications and the prestige associated with grant funding within the academia (Nash & Wright, 2013). The federal regulations governing research administration have also become more complex over time. The Research Administrators Certification Council (RACC) divides these administrators' skill set into four categories: project development and administration, legal requirements and sponsor interface, financial management, and general management (RACC, 2014).

Since the launch of NCURA, there have emerged other organizations for the profession. The foremost of these organizations developed initially for non-university administrators is the Society of Research Administrators International (SRA). A review of the journal archives of both SRA and NCURA revealed a paucity of articles addressing diversity in research priorities despite the increasing federal focus on university development of a diverse future workforce, federal emphasis on increasing the diversity of those conducting research including post-doctoral scholars and graduate students, and the federal requirement to diversify research study participation in gender, race, and ethnicity, e.g. in the Public Health Service Act sec. 2492B, 42U.S.C. sec. 289a-2. Three studies investigated the profiles of research administrators. Roberts and House (2006) conducted a study of research administrators in the southeastern United States using 2005 demographic data describing gender and race as white or non-white. Shambrook and Roberts repeated the study in 2010 using national survey data and disaggregating the race/ethnicity category to include: African American, Asian, Hawaiian, Hispanic, Pacific Islander, and Native American. Both the 2006 and 2010 articles showed high representation of women (approximately 50% and 80% female, respectively) and low racial and ethnic diversity (less than 10% non-white). Neither study disaggregated diversity by professional level.

In 2013, Nash and Wright focused their research on the pathway to the highest position of the profession, i.e. chief research officers (CROs), and investigated the demographics of that group. Despite the dominance of women in the profession, less than 40% of CROs are women in doctorate conferring institutions. In research universities with the highest Carnegie classification, the percentage of women in the highest leadership positions was even lower: 15%. Nash and Wright aggregated the race and ethnicity classifications into white and non-white and found six percent of the CROs identified as minorities. Based on the minimal research conducted to date, one would conclude that the research administration profession is predominantly a white female workforce led principally by white men. The lack of diversity at the most competitive HEIs is not singular to offices of research administration, but, as reported by Jackson and O'Callaghan (2009) and McHargh (2010), is in fact indicative of the lack of diversity of university administration in general.

In the past, entrance into the profession has been through on the job training as exemplified by the short history of the one certification organization for the profession, the Research Administrators Certification Council (RACC) established in 1993 (RACC, 2014). In the last few years, universities have developed degree programs for the training of research administrators at the master's level. This newest educational pathway does not change the fact that most current research administrators entered into the field without any prior knowledge of research administration and received training on-the-job.

Research Design

The foundation of this study stemmed from a broader interest, i.e. can legally mandated changes be implemented in organizations using a structured approach that incorporates organizational psychology principles? This study was premised on the idea that successful implementation of legal change required attention to the legal rule, legal procedures, and legal agents within the context of an individual organization's characteristics.

The development of a structured model for embedding legally mandated change in organizations from the conceptual framework is depicted in Figure 1. The first three foundational elements of the model, i.e. legal rule, legal procedure, and legal agents, combined with the psychological approach to embedding change, i.e. either safety or disequilibrium, represent aspects of legal and psychological scholarship that had not been tested together. It was important to understand how these elements manifested in a particular legal context to confirm that the theoretical construct offered a useful framework. The focus here is observing and understanding the incorporation of diversity law considerations during the hiring process as practiced by research administration hiring officers.

Research Questions

In the context of diversity law and higher education, the specific research questions are:

1. Are research administrators aware of diversity laws and the diversity legal procedures of their institutions?

2. Are research administrators' hiring decisions significantly related to their awareness of diversity law and diversity legal procedures, diversity priorities, training, or a demographic self-identification?

3. What is the preferred change approach of research administrators?

The study confirmed the relationship between the elements of the model in the context of diversity law as practiced by a type of administrative unit of higher education institutions. Specifically, the study revealed that strong correlations exist between awareness of diversity policy, i.e. defined as legal rule incorporated into legal procedures, and institutional priorities. Another strong correlation exists between hiring manager training and racial and gender diversity priorities. However, the only variable correlated to hiring decisions was the hiring managers' gender and racial identity.

Methods

Data Sources and Collection

The Society of Research Administrators International (SRA) agreed to disseminate the web-based online survey to its membership. The 25-minute survey instrument, created by the author specifically for this study using SurveyMonkey, gathered data in the following categories: 1) hiring manager awareness of diversity policies and practices of their home institution, 2) hiring manager training in the hiring procedures affecting diverse workforce recruitment, and 3) perceptions of the role of diversity in their decision process. Currently, SRA's membership included over 5000 members from over 50 countries. A statistically significant sample size (n=217) was achieved assuming that approximately 4000-4500 members were US based administrators, and, of that number, 10% were hiring managers or participated in the hiring process and exclusions described below in the methods section (Patten, 2012, p. 203).

Organized into six sections, SRA offered the opportunity to cluster data into four of the relevant geographic regions: Northeast, Western, Southern, and Midwest. The two other sections, Canadian and International, were excluded from the survey via a qualifying question. This exclusion was necessary because the diversity mandate applies only to US higher education institutions.

SRA membership included a variety of non-higher education institutions, such as teaching hospitals, research institutes, and other non-profit and for-profit organizations affiliated with HEIs. Information collected about the type of organization helped isolate the sample of interest. Participant demographics (gender, race) and the demographics of the office served by the hiring manager, rounded out the data collected.

De-identified data was stored in password protected cloud files using OneDrive for the duration of the research project. Identifying information deleted from the data set included IP addresses and home institution names. IP addresses were necessary initially to allow respondents to return to their unfinished survey. Home institution names allowed purging of non-higher education institutions included in the Type of Institution-Other category. In this way, the survey respondents' identities remained confidential and did not affect data analysis or the interpretation of the

findings. All demographic information was aggregated by racial, ethnic, and gender categories. Data was kept and stored electronically in a password protected cloud and a password protected file on an external drive. The Institutional Review Board of Northeastern University approved this study.

Data collection provided the connection between the law and compliance to the law. The data collected helped to develop an understanding of how the three aspects of the framework (legal rule, legal procedure and legal agents) connected or failed to connect. Data collected provided insight into the preferences of higher education institution employees for one of two psychological approaches.

Measures

The study data involved variables designed to provide an understanding of the population and to investigate the relationship between the elements of the model from the legal agents' perspective.

Region. This study used US regions defined by the Society of Research Administrators International. The SRA divided the US into four categories: Northeast, Southern, Midwest, and Western. The regions served to provide an independent demographic variable to define the study participants.

Gender. Gender serves as an independent variable in the study. The study defines gender as male, female, and other. There are two gender variables in this study. One variable captures the participants' gender. The other variable measures the gender composition of the hiring managers' organizational units.

Race and Ethnicity. The race/ethnicity independent variable allowed a selection of responses including: African American/Black, American Indian or Alaskan Native, Asian, Hispanic, White Non-Hispanic, Multi-racial/Multiethnic and Other. Due to the focus of this research on diversity law, this question was required; the survey did not allow participants to opt out of this question. However, participants who categorized all organizational unit personnel as "Other" and used the open comment box to write in "prefer not to answer" were deemed to be non-responsive and the data was treated as missing. Participant's responses of "don't know," were coded as missing for the same reason. There are two race/ethnicity variables in this study. This variable captures participants' race and ethnicity. The other variable measures the racial/ethnic composition of the hiring managers' organizational units.

Hiring Manager. An independent variable in this study and the basis of the participant eligibility criteria, research administration hiring manager, included two categories: hiring manager, i.e. person with authority to both hire and fire, and hiring participant, i.e. person who assists in the hiring process in some manner.

Type of Institution. Because SRA membership included "colleges and universities, research hospitals and institutes, government agencies, non-profit funders of research, and industry," the respondents' identification included the categories: college, university, university affiliated foundation or other.

Total Personnel. Using a fillable grid allowed for the collection of disaggregated gender and racial information about each organizational unit. This variable provided the aggregated data with regard to number of people in each participant's unit. Total personnel was achieved by adding total males and total females together.

Total Male. This variable totaled all males listed in the fillable grid.

Total Female. This variable totaled all females listed in the fillable grid.

Total by Racial Group. This variable totaled all personnel into each racial category listed in the fillable grid. The categories included: African American/Black, American Indian or Alaskan Native, Asian, Hispanic, White Non-Hispanic, Multi-racial/Multiethnic and Other.

Racial Diversity Ratio. The racial index provided a means of analyzing the level of racial diversity of each office. This diversity index treated diversity as a ratio of white to non-white individuals. The non-white organizational unit totals, i.e. African American/Black, American Indian or Alaskan Native, Asian, Hispanic, Multi-racial/Multiethnic and Other, were combined for the purposes of this ratio. The ratio ranged from -1 to 1. Where -1 and 1 represented 1:1 ratios of non-white to white, or white to non-white, respectively. Zero indicated a non-diverse population that was either all white or all non-white. Otherwise, the ratio measured fractions of diversity by race. The formula for this variable was calculated as follows for each organizational unit:

$$\text{If } w > nw, \text{ then } nw/w, \text{ but if } w < nw, \text{ then } -1*w/nw.$$

Gender Diversity Ratio. In order to measure level of gender diversity, a similar ratio with a range of -1 to 1 comprised of total males to total females and calculated as follows:

$$\text{If } f > m, \text{ then } m/f, \text{ but if } f < m, \text{ then } -1*f/m.$$

Both the racial and diversity indices provided a measure of actual decision-making. The office compositions reflect the hiring norms of the managers collectively and reflect the intergroup practices of the managers.

Policy Awareness. The policy awareness variable served as an indication of level of knowledge of both the legal rule and the legal procedures. The independent variable, policy awareness, measured level of awareness by offering participants a list of typical racial and gender diversity policies at higher education institutions. The policies included in this variable were not meant to be comprehensive, but representative. Of the six policies listed, four were racially-based and two were gender-based policies. The racially-based choices included: affirmative action plan, equal employment opportunity policy, institutional diversity plan, and racial anti-harassment policy. The two gender-based references included: gender anti-harassment policy and Title IX coordinators. Thus, resulting in a policy awareness measure ranging from 0 to 6, where 0 equated to no awareness and 6 to total awareness.

Racial Priority Index. Three survey questions related to the prioritization of race and ethnicity in various institutional decisions, i.e. student enrollment, faculty recruitment, and hiring of

administrative staff form the basis of the racial priority index. Each of the three questions allowed for six responses ranging from unimportant to very important and scaled from 1 to 4, respectively. The other two responses, not applicable and don't know, were assigned zero values in the racial priority. The index values ranged from 0 to 4 with 4 representing the highest priority. The formula for this variable was calculated as follows:

$$\frac{\textit{Sum of three race priority questions' scale values}}{\textit{Total number of race priority questions}}$$

Gender Priority Index. The gender priority index used a similar rationale as the racial priority index. The formula for this variable was calculated as follows:

$$\frac{\textit{Sum of three gender priority questions' scale values}}{\textit{Total number of gender priority questions}}$$

Hiring Managers' Racial Recruitment Priority. This independent variable captured hiring managers' racial hiring priority by assigning values of 1 to 4, unimportant to very important.

Hiring Managers' Gender Recruitment Priority. This independent variable captured hiring managers' gender hiring priority on a scale of 1-4, unimportant to very important.

Hiring Managers' Training Received. This variable measured level of diversity hiring training received by the hiring manager on a six point scale from 1-6. The scale ranged from: "did not need training from my current institution" (0) to "yes, substantial, formal training received from my current institution" (6).

Hiring Manager Training Needed. This variable asked of all participants if training in diversity hiring would be beneficial. The two hiring manager training variables provided the opportunity to understand a likely reason for any observed associations between the variables that align with the various model elements.

Psychological Approach. The psychological approach measures practices and preferences for two approaches to organizational change: (1) disequilibrium and (2) psychological safety. Disequilibrium enables change by making people uncomfortable with the status quo, while avoiding stress levels so high as to create psychological dysfunction (Heifetz, Grashow, & Linsky, 2009). Psychological safety preserves individual identity, allowing the engagement of the individual without engendering fear of reprisal or marginalization (Singh, Winkel, & Selvarajan, 2013).

Data Analysis

Statistical analysis of data was accomplished using SPSS. Review of the survey data involved uncovering the occurrence of patterns attributable to each aspect of the model. The analytic process looked at the frequency of occurrences and determination of statistically significant correlations through analysis of variance (ANOVA).

Results

Participant Selection Criteria

Participant eligibility in this study required that the respondent hold a position that involved hiring of research administration personnel at their current institution. Of the 489 survey respondents, 319 participants identified as hiring managers with firing authority or as participants in the hiring process who reviewed resumes, triaged candidates, assisted with candidate interviews, recommended candidates for selection, or all of the above. All other survey respondents were excluded. Of the remaining 319 respondents, the study used the responses of the 217 participants who completed at least 87%-90% of the questions, i.e. 29 out of 33 questions. Respondents who abandoned the survey before completing the questions relevant to the study's research questions

Table 2. Sample Population Demographic Data

Variable	Description	N	%
Status	Hiring Managers	137	63.1%
	Hiring Participants	80	36.9%
Regions	Northeast	47	21.7%
	Southern	80	36.9%
	Midwest	46	21.2%
	Western	44	20.3%
Type of Institution	University	204	94%
	College	13	6%
Organizational Level	Central Administration	118	54.4%
	Department	72	33.2%
	Laboratory	2	0.9%
	Other	25	11.5%
Size of Research Funding	$1-$19,999,999	44	22%
	$20,000,000-$39,999,999	19	9.5%
	$40,000,000-$59,999,999	8	4%
	$60,000,000-$79,999,999	12	6%
	$80,000,000-$99,999,999	9	4.5%
	Greater than $100,000,000	108	54%
Participants by Race and Ethnicity	African American or Black	16	7.5%
	Asian	9	4.2%
	Hispanic	13	6.1%
	White, Non-Hispanic	169	79%
	Multi-racial/Multi-ethnic	7	3.3%
Participants by Gender	Female	171	78.8%
	Male	46	21.2%
Participants by Year Experience	Less than 1 year	3	1.4%
	1-3 years	14	6.5%
	4-6 years	27	12.4%
	7-9 years	27	12.4%
	10 or more years	146	67.3%

were excluded. Of the 217 participants making up the research sample, 63.1% identified themselves as hiring managers and 36.9% self-identified as participants in the hiring process. Table 2 includes descriptive statistics of the sample population.

Descriptive Analysis of the Sample Population

Institutional demographics. Participants worked in all 4 geographic areas of the US: 21.7% from Northeast, 36.9% from Southern, 21.2% from Midwest and 20.3% from Western regions. Ninety-four percent of participants were employed by universities and the remaining 6% were employed by colleges. Over 50% of respondents identified as central administration, about one-third of participants worked in a department, and less than 1% worked in a laboratory. The remainder of participants worked in university affiliated research institutions. The participants' institutions varied in the amount of research funding received. More than half maintained portfolios of $100 million per year or more in funding. The second largest group (22%) had an annual research funding portfolio under $20 million.

Diversity demographics. Participant diversity analysis by race and ethnicity revealed that the sample population broke down as follows: 79% White Non-Hispanic, 7.5% African American/ Black, 6% Hispanic, 4.2% Asian, and 3.3% Multi-racial. The remaining respondents' answers, 1.4%, were treated as missing. Gender demographics analysis of all 217 participants revealed 78.8% female and 21.2% male. Although an "other" category for gender was available, none of the hiring managers nor the hiring participants self-identified as "other".

Other demographics. Participants' number of years of experience shows that 67.3% of the participants have 10 or more years of experience in research administration.

Descriptive Analysis of Office Diversity Composition

Table 3 below shows the gender and race composition the research administrations offices served by the hiring managers and presents this data side by side with the hiring managers' gender and race demographics.

Table 3. Hiring Manager vs. Office Composition by Gender and Race

Variable	Description	Manager	Office
Gender	Female Male	78.8% 21.2%	70.4% 29.6%
Race	Non-White White	20.1% 79.9%	35.3% 64.7%
Gender/Race	Male/Non-White Male/White Female/Non-White Female/White	2.3% 18.9% 13.8% 65.%	9.7% 18.5% 25.6% 46.2%

Descriptive Analysis of Psychological Approaches to Change

Regardless of the circumstances, the data showed a stronger tendency for psychological safety than for disequilibrium as an approach to making change in an organization (Figure 2).
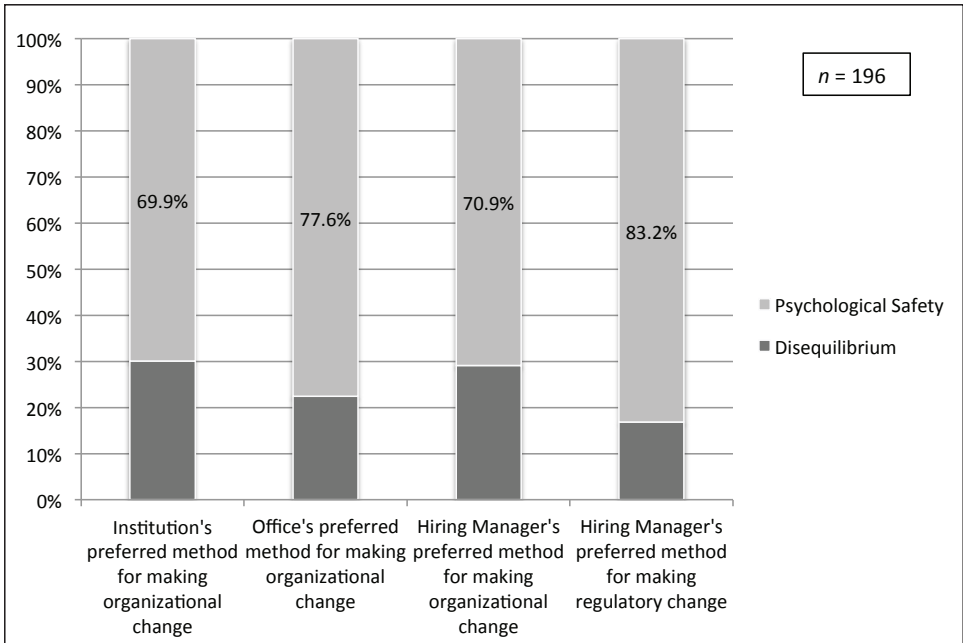

Figure 2. Preference for Disequilibrium vs. Psychological Safety Approach to Making Institutional Changes

Specifically, respondents reported that institutional change practices tend towards safety (69.9%) over disequilibrium (30.1%). At the office level, 77.6% use a safety approach. The hiring manager's themselves reported a preference for psychological safety (70.9%) in making organizational change. Finally, the preference for legally mandated change represented the highest percentage, i.e. 83.2%, selecting psychological safety as the preferred approach to making legally mandated changes.

Regression Analysis

Table 4 summarizes the ANOVA results of the detailed description of the findings that follow.

Finding 1. Results of the ANOVA indicated an association between policy awareness and the prioritization of race and gender in hiring. There is a significant positive relationship between policy awareness and race/ethnicity prioritization in institutional practices (F1, 188 = 10.080; p<.01). The regression analysis also demonstrates a significant positive association of policy

Table 4. ANOVA Results of Research Administrators Hiring Practices Survey

Description of Variable Correlations	F	*p*
Policy awareness vs. Racial priority	10.080	**.002**
Policy awareness vs. Gender priority	5.201	**.024**
Racial policy awareness vs. Manager recruitment priority	6.857	**.010**
Gender policy awareness vs. Manager recruitment gender priority	.547	.461
Manager recruitment race/ethnicity priority vs. Racial diversity ratio	.214	.644
Manager recruitment gender priority vs. Gender diversity ratio	.000	.988
Policy awareness, Racial priority, vs. Racial diversity ratio	.220	.802
Policy awareness, Gender priority, vs. Gender diversity ratio	3.244	**.041**
Racial policy awareness, Racial priority, vs. Racial diversity ratio	.220	.802
Gender policy awareness, Gender priority, vs. Gender diversity ratio	2.888	**.059**
Training vs. Manager recruitment race/ethnicity priority	12.222	**.001**
Training vs. Manager recruitment gender priority	7.781	**.006**
Training vs. Racial diversity ratio	1.639	.202
Training vs. Gender diversity ratio	.018	.893
Race/ethnicity vs. Manager recruitment race/ethnicity priority	4.829	**.029**
Racial/ethnicity vs. Gender priority	3.772	**.054**
Gender vs. Race priority	5.365	**.022**
Race/ethnicity vs. Manager recruitment gender priority	5.312	**.022**
Manager gender vs. Gender diversity ratio	5.972	**.015**

awareness on gender prioritization in institutional practices (F1, 201 = 5.201, p<.05). A closer analysis reveals that awareness of race and ethnicity specific policies is significant positive association with hiring managers' prioritization of racial recruitment (F1, 177= 6.857, p<.01). However, hiring managers' gender prioritization is not significantly related to gender specific policy awareness (p=0.461).

Finding 2. When comparing hiring managers' priorities to the hiring decisions made (as evidenced by the personnel race and gender ratios), the analysis shows that priorities have no significant relationship to hiring actions. The regression analysis shows no significant association between race/ethnicity hiring priorities and the racial/ethnic composition of their unit's staff (p=0.644). Similarly, there is no significant association between hiring manager gender prioritization and the gender ratios (p=0.988).

The regression analysis identified a significant positive correlation between three variables: policy awareness, gender priority, and gender ratio (p=0.041). More specifically, when comparing gender policy awareness, gender priority, and gender ratio, a significant positive association emerged (p=0.059). However, when considering race and ethnicity, no significant correlation existed between policy awareness, racial priority, and race ratio (p=0.802). Neither was there a significant association between racial policy awareness, racial priority and race ratio (p=0.802).

Finding 3. The result of the analysis shows a significant positive relationship between training and hiring manager race/ethnicity priority (F1, 180= 12.222, p<.001). Training also has a

significant positive association with hiring managers' gender priority (F1, 181= 7.781, p<.01). However, there is no significant association between training and the racial/ethnic diversity ratio (p=0.202). There is no correlation between training and the gender diversity ratio (p=0.893).

Finding 4. There is a strong positive correlation between hiring managers' prioritization of race and ethnicity and hiring managers' racial demographics (p = 0.029). Gender prioritization and hiring managers' race and ethnicity are significantly correlated (p=0.054). Institutional racial priority and hiring managers' gender are significantly correlated (p=0.022). There is a strong, positive association between hiring managers' gender prioritization and hiring managers' race and ethnicity (p=0.022). Gender diversity ratio and hiring manager gender show a significant positive association (p=0.015).

Discussion

Aligning Findings to the Research Questions

Research Question 1: Hiring Priorities. The connection between policy awareness and priority setting is very apparent from the results of the study. At the institutional level hiring managers are cognizant of the institution's priorities in relation to diversity related legal rules and legal procedures. This is not a surprising finding as one would hope that a general awareness of the rules would positively correlate to the priorities developed by those within the organization. However, the relationship only holds for race and ethnicity. There is a positive correlation between the level of awareness of racial policies and the importance placed upon the practice of prioritizing racial diversity in the enrollment of students, hiring of faculty, and hiring of administrators as well as in individual manager's hiring priorities. There is also a positive relationship between training in diversity hiring and both race and gender hiring prioritization.

Research Question 2: Hiring Decisions. While one can hope that the awareness of policy and the priority placed on that policy would affect hiring actions, the exact opposite occurs. The study findings indicate that despite the high percentage of women in this field (Roberts & House, 2006; Shambrook & House, 2010) and in this sample, neither gender policy awareness nor gender priority were considered significant factors. Yet, gender hiring was significantly linked to gender policy and gender priority together. Conversely, significant links emerged between racial policy and racial priority, but there was no link between the two with hiring actions. Therefore, while hiring managers perceived race-based policies and priorities as important and gender-based policies and priorities as unrelated, in a female-manager dominated environment, gender hiring was the norm.

The clearest and most consistent link to hiring actions emerged only when considering the race or gender of the hiring manager. In the white dominated managers group, those most likely hired were white. The gender connection proved to be similar, i.e. women hired women. Finally, white-women managers most likely hired white women. The key concern here is two-fold. First, if personal characteristics drive hiring decisions and hiring managers are unaware of this tendency, then it is unlikely that the hiring managers will change their behavior. Secondly, current practices need to take the managers' readiness to change their thinking as part of implementing a successful

legal change process. Only then can awareness and actions become synchronized. Addressing the unconscious tendencies of the hiring managers who serve as the legal agents in this study are the key to compliance in diversity hiring practices.

Research Question 3: Preferred Change Approach. Research administration hiring managers indicated a tendency for taking a psychological safety approach to making change at every level (Figure 2). The majority of hiring managers agreed that psychological safety was more evident in the change processes they observe in their higher education context. At both the university level and office level, managers reported tendency for psychological safety approaches to change. However, hiring managers also largely agreed that psychological safety was better way to make both institutional and regulatory changes.

Aligning the Findings with the Synching the Law Model

The assumption of the model inherent in its depiction in Figure 1 is that connections between the model's elements are strengthened by Synching the Law into the organizational psyche. In order to make that case, the research looked into existing legal change practices and preferences in the diversity context, which assumes an absence of a structured psychological approach.

The Power of Identity in Compliance. Prior research argues that the breakdown in legal compliance occurs in three possible ways: 1) misinterpretation of the law, 2) ineffective implementation, and 3) failing to guide institutional enforcers (Kern, 2014; Lipsky, 2010). This study not only revealed the breakdown of the legal change process as it relates to compliance in diversity law, but exposed a fourth way that the law fails to embed. The fourth way relates to the identity of the individual making the decision. The research shows that individual identity had a stronger relationship with hiring actions than knowledge of the law. Knowledge of both the law and procedures was measured in terms of awareness and recognition of institutional priority. The findings suggest that intergroup dynamics permeate institutional decision making with regard to race and gender hiring. This remained true in a sample drawn from various US geographic regions, types of higher education institution, and types of office. The identity findings of this empirical study are consistent with the findings of EU and US studies (Morgan & Vardy, 2009; Rivera, 2012) focused on manager tendency to hire individuals whose identities are most closely reflected by the applicants that they interview. However, neither study offers a targeted solution to overcome the power of hiring manager identity in the selection of applicants.

Placement of Identity in Legal Policy Development. Addressing hiring manager identity during the interpreting the law and synching the interpretation steps of the model would have recognized the strength of identity as a psychological construct and addressed it by discussing the nature of this construct and allowing the stakeholder group to create a new shared identity construct that would be embedded in the procedures and tailored for the most resistant organizational units.

The development of a procedure could be enhanced by recognizing that hiring manager identity trumps awareness and priorities. Despite the collective recognition of how important diversity practices are to the institution, the analysis revealed no significant connection between diversity priorities and hiring practices. Their acknowledgement of diversity's importance had no significant relationship with how the hiring managers made their hiring decisions except in the

case of gender, more specifically, in the hiring of women. Therefore, incorporating identity into the targeting of procedures would have prevented development of procedures based solely on agreement with the legal principles and procedures and focused more on getting hiring managers past their strongly held identity decision paradigms to a newly constructed, psychological identity that more effectively embeds the legal mandate.

Implementing Legal Mandate Training with Identity in Mind. This study focused on the rule and procedures related to diversity hiring mandates. The findings show a high correlation between training and awareness, but no such correlation could be made between training and actions. Again, identity, as a psychological construct, connected with diverse hiring decisions in a way that neither awareness nor training connected with diverse hiring decisions. Sensitizing the implementation addresses this issue of considering the psychological approach needed to truly embed the change that would address identity and not just awareness.

Organizational Environment Relevant to Crafting an Identity Response. Finally, the preponderance of reliance on psychological safety as an approach for embedding legally mandated change at higher education institutions suggests an interesting connection. Under-bounded organizations with flexible boundaries benefit from a psychological safety approach as intergroup conflicts manifest as identity conflicts, while over-bounded organizations tend to exhibit task-oriented conflicts. In the context of diversity and despite their hierarchical structure, higher education institutions are characterized as under-bounded organizations. Within universities, intergroup conflicts will manifest as identity conflicts, including conflicts of racial and gender orientation.

The study findings support the idea of universities as under-bounded within the context of diversity law compliance. The tendency to accept the law and yet not comply with it does not indicate rigidity, but the lack of a structure that would effectively shape behavior. While a semblance of structure exists in higher education, when it comes to implementation design, the clarity and targeting necessary to effectively change unchecked practices does not exist.

Conclusion

Summary

This study addressed the relationship between the legal rule, legal procedure, legal agents and psychological approach to change, i.e. elements of the *Synching the Law* model. The data collected captured the relationships between different elements of this model from the legal agents' perspective. The findings of the study helped to identify a disconnection in the flow of legal change between awareness and action. Although action, i.e. hiring decisions, failed to correlate to policy awareness, it was clear that action connected significantly to legal agents' demographic identity. Simply stated, hiring managers tended to duplicate themselves in the hiring process with regard to gender and race.

In an industry that is disproportionately white and female (Roberts & House, 2006; Shambrook & Roberts, 2010), self-identification as the basis for decision making means that very little will change without a redefining of identity as part of the intervention. In the larger context of implementing legally mandated change, the research findings indicate that historical uses of psychological approaches provides data for understanding the characteristics of organizations and can be used effectively to make the right changes if developed in conjunction with and targeted at the appropriate legal agents. *Synching the Law* offers a way to begin addressing disconnections in the legal change process as it moves from awareness to action.

Future Research

This study investigated the relationship between the individual elements of the model. Further testing would be needed to both validate and refine the model. This would be accomplished by staging organizational interventions and observing the outcomes. It would also be beneficial to test this model using different legal mandates other than diversity law to investigate the usefulness of the model in varying contexts. Finally, testing the model within different organizational structures and industries would shed light on the organizational contexts of the model.

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References

Alderfer, C. (1980). Consulting to underbounded systems. In C. P. Alderfer & C. L. Cooper, *Advances in Experiential Social Processes,* (Vol. 2, pp. 267-295). New York, NY: Wiley & Sons, Ltd.

Bargal, D. (2006). Personal and intellectual influences leading to Lewin's paradigm of action research: Towards the 60th anniversary of Lewin's 'Action research and minority problems' (1946). *Action Research, 4*(4), 367-388. doi: 10.1177/1476750306070101

Baylor, R. (2011). Practicing adaptive leadership in the college setting. [Review of the book *The practice of adaptive leadership: Tools and tactics for changing your organization and the world,* by R. A. Heifetz, A. Grashow, & M. Linsky]. National Clearinghouse for Leadership Programs. Retrieved from http://www.nclp.umd.edu

Brown, J. & Hoxby, C. (2015). *How the financial crisis and great recession affected higher education* [National Bureau of Economic Research Conference Report]. Chicago, Il: University of Chicago Press.

Cummings, T. & Worley, C. (2008). *Organizational development and change* (9th ed.). Cincinnati, OH: Southwestern College Publishing.

Educational benefits realized: Universities' post-admissions policies and the diversity rationale. (2010). *Harvard Law Review, 124*(2), 572-593.

Eisold, K. (2005). Using Bion. *Psychoanalytic Psychology, 22*(3), 357-369. doi:10.1037/0736-9735.22.3.357

Gardner, H. (2006). *Changing minds: The art and science of changing our own and other people's minds.* Boston, MA: Harvard Business School Press.

Gurin, P., Dey, E. L., Hurtado, S., & Gurin, G. (2002). Diversity and higher education: Theory and impact on educational outcomes. *Harvard Educational Review, 72*(3), 330-366.

Harper, S. (2012). Race without racism: How education researchers minimize racist institutional norms. *The Review of Higher Education, 36*(1), 9-29.

Heifetz, R., Grashow, A., & Linsky, M. (2009). *The practice of adaptive leadership: Tools and tactics for changing your organization and the world.* Boston, MA: Harvard Business Press.

Hoy, W. & Feldman, J. (1987). Organizational health: The concept and its measure. *Journal of Research and Development in Education, 20*(4), 30-37. [Retrieved from University of Massachusetts Amherst holdings via Interlibrary Loan].

Igwebuike, J. G. (2006). Legal and policy implications for faculty diversification in higher education. *The Negro Educational Review, 57*(3/4), 189-201.

Jackson, J. & O'Callaghan, E. (2009). Ethnic and racial administrative diversity: Understanding work life realities and experiences in higher education [Monograph]. *ASHE Higher Education Report, 35*(3), 1-95. doi: 10.1002/aehe.3503

Jayakumar, U. (2008). Can higher education meet the needs of an increasingly diverse and global society? Campus diversity and cross-cultural workforce competencies. *Harvard Educational Review, 78*(4), 615-651.

Kern, P. (2014). *Institutional change in times of crisis: Corporate practice as a driver of incrementalism.* Unpublished manuscript, King's College, London, UK.

Lipsky, M. (2010). *Street-level bureaucracy: Dilemmas of the individual in public services.* New York, NY: Russell Sage Foundation.

Maier, A. (2012). Doing good and doing well: Credentialism and Teach for America. *Journal of Teacher Education, 63*(1), 10-22. doi:10.1177/0022487111422071.

McHargh, C. (2010). *Career mobility of black and white upper level administrators in a predominantly white institution of higher education: A case study* (Doctoral dissertation). Retrieved from ProQuest Dissertations and Theses database. (UMI No. 3439827).

Morgan, G. (1997). *Images of organization.* Thousand Oaks, CA: Sage Publications [Specifically, Chapter 7: Exploring Plato's cave: Organizations as psychic prisons].

Morgan, J. & Vardy, F. (2009). Diversity in the workplace. *American Economic Review, 99*(1), 472-485. doi:10.1257/aer.99.1.472.

Nash, J. & Wright, D. (2013). Profile of the chief research officer at major research universities in the United States and examination of the current pathways to the position. *Journal of Research Administration, 44*(2), 74-93. Retrieved from http://srainternational.org/publications/ journal/volume-xliv-number-2/profile-chief-research-officer-major-research-universities.

Newsome, M. (2011). Slaying two dragons: For black women leaders in education, gender equity is only half the battle. In J. L. Martin (Ed.), *Women as leaders in education: Succeeding despite inequity, discrimination, and other challenges, Volume I* (pp.179-199). Santa Barbara, CA: Praeger.

Niemann, Y., & Maruyama, G. (2005). Inequalities in higher education: Issues and promising practices in a world ambivalent about affirmative action. *Journal of Social Issues, 61*(3), 407-426. doi: 10.1080/18146627.2011.586162

Patten, M. (2012). *Understanding research methods: An overview of the essentials* (8ᵗʰ ed.). Glendale, CA: Pyrczak Publishing.

Public Health Service Act, sec. 2492B, 42U.S.C. sec. 289a-2. Retrieved from http://uscode. house.gov/view.xhtml?req=(title:42%20section:289a-2%20edition:prelim)

Research Administrators Certification Council (RACC). (2014, May 13). *CRA body of knowledge*. Retrieved from http://www.cra-cert.org/CRAbodyofknowledge.html.

Rivera, L. (2012). Hiring as cultural matching: The case of elite professional service firms. *American Sociological Review, 77*(6), 999-1022. doi: 10.1177/0003122412463213

Roberts, T. & House, J. (2006). Profile of a research administrator. *Research Management Review, 15*(1), 41-47. Retrieved from http://www.ncura.edu/Portals/0/Docs/RMR/ v15n1.pdf

Schneider, B., Ehrhart, M., & Macey, W. (2013). Organizational climate and culture. *Annual Review of Psychology, 64*(1), 361-388. doi:10.1146/annurev-psych-113011-143809

Shambrook, J. & Roberts, T. (2010). Profile of a research administrator. *Research Management Review, 18*(1), 19-30. Retrieved from www.eric.gov.

Singh, B., Winkel. D., & Selvarajan, T. (2013). Managing diversity at work: Does psychological safety hold a key to the racial differences in employee performance? *Journal of Occupational and Organizational Psychology, 86*(2), 242-263. doi:10.1111/joop.12015

Smith, D. (2011). The diversity imperative. In P. G. Altbach, P. J. Gumport, & R. O. Berdahl (Eds.), *American higher education in the twenty-first century: social, political, and economic challenges* (pp. 465-490). Baltimore, Maryland: John Hopkins University Press.

Wexler, D. (1990). Therapeutic jurisprudence: The law as a therapeutic agent. Durham, NC: Carolina Academic Press.

Wexler, D. (1991). An introduction to therapeutic jurisprudence. In D. B. Wexler & B. J. Winick (Eds.), *Essays in therapeutic jurisprudence* (pp. 17-38). Durham, NC: Carolina Academic Press.

Wile, H. (2008). Twenty five years: A history of the National Council of University Research Administrators. *National Council of University Research Administrators.* Retrieved from www.ncura.edu/Portals/0/pdf/NCURA_history.pdf.

Winrow, B. & Schieber, C. (2010). The disparity between disparate treatment and disparate impact: An analysis of the Ricci Case. *Journal of Legal, Ethical and Regulatory Issues, 13*(2), 45-54.

Worthington, R. (2012). Advancing scholarship for the diversity imperative in higher education: An editorial. *Journal of Diversity in Higher Education, 5*(1), 1-7. doi:10.1037/a002718