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Panel: Age Discrimination Issues in Higher Education - Handout: Age, Experience and Bias (S. Jaschik)

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Age, Experience and Bias

Submitted by Scott Jaschik on June 6, 2008 - 4:00am

Talk to long-time instructors who are off the tenure track, and one of the frustrations voiced time and again is being passed over -- time and again -- for tenure-track jobs when they open up. If they are good enough to teach course after course, many adjuncts want to know, why are they not worthy of jobs with, say, some job security? Why is the new (young) Ph.D. always presumed to be better for the tenure-track job?

Rarely do such complaints result in lawsuits, let alone federal intervention. But on Thursday, the U.S. Equal Employment Opportunity Commission sued San Francisco State University in federal court, charging it with age discrimination when it hired a 31-year-old without a Ph.D. over Lawford Goddard, a 61-year-old with a Ph.D. (from Stanford University no less), with 30 years of teaching experience, 15 of them at San Francisco State. The position was in black studies, the field of both scholars.

Michael Baldonado, director of the EEOC's San Francisco office, issued a statement in which he said: "The EEOC's investigation revealed that the university wanted a younger person in the assistant professor position despite the fact that Dr. Goddard was the most qualified candidate. That is a violation of federal law."

A spokeswoman for San Francisco State, Ellen Griffin, said that the suit was "a complete surprise" and that the university didn't yet have a formal response. But she denied that there was any discrimination. She first characterized as "inaccurate" the EEOC statement that the man hired didn't have a Ph.D., but she then acknowledged that he was in fact A.B.D. at the time, but finished his dissertation after he was hired.

The suit against San Francisco State is the second in recent years in which the EEOC has taken up the cause of an adjunct instructor passed over for a full-time position. The suits are significant because the agency tends to give colleges considerable leeway in hiring decisions and largely avoids litigation against them.

In 2006, the EEOC sued Wilbur Wright College,^[1] one of the City Colleges of Chicago, saying that a pattern of hiring decisions and some comments made by colleagues demonstrated age discrimination against Rosemary Crane, who taught English there part time for 11 years and was passed over in four separate searches for full-time positions. In 2004, there were two openings and Crane didn't even get an interview. She was 68 at the time. The two people hired were then 29 and 30.

While the college denied wrongdoing, it quietly reached a settlement with EEOC last year in which Crane was paid \$40,000 and offered a full-time, tenure-track job.

In the San Francisco State case, an EEOC lawyer, William R. Tamayo, said in an interview that there was considerable evidence against the university. For starters, he said, there was the fact that someone with years of relevant teaching experience -- and outstanding reviews of his teaching -- was turned down for someone with less teaching experience and without a Ph.D. at the time.

In addition, Tamayo said that the EEOC has statements from individuals at the university who witnessed "age bias statements" made about hiring, and that there was a clear preference for a younger candidate. "This is a very strong case," he said. "Why would they go with someone without a Ph.D. over someone who had one, and who didn't have any bad evaluations?"

Kathy Hagedorn, a St. Louis-based consultant on human resources issues in higher education, said that she is not surprised that people who teach off the tenure track are demanding full and fair consideration for positions that open up. "Certainly they feel as if they are being overlooked because they are spending so much time teaching and driving that they can't do the kind of teaching and research and writing that a full-time faculty member can do," she said.

Hagedorn -- who said she had no involvement with San Francisco State and wasn't aware of the lawsuit -- said that the trend in recent years has been for colleges to instruct search committees, and especially committee chairs, on what may or may not be considered in a hiring decision. She said that there are circumstances where a committee might legitimately go with a less experienced, younger candidate. "If they felt that they needed research that was more recent, or the field may have changed rapidly in the past few years, that may give a younger candidate [a legitimate edge] over someone else," she said.

But Hagedorn stressed that such a distinction must be based on relevant qualifications and a true evaluation of the merits of the two candidates, not just "because they want a younger candidate" or are "making assumptions that are not valid" about an older candidate.

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