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# Black Higher Education



# A Legislative Victory

By William A. Blakey

Early in 1979, Rep. Shirley Chisholm, (D-N.Y.), chair of the Congressional Black Caucus Education Brain Trust, convened a meeting in her office of several individuals who were concerned about the plight of the historically Black colleges and universities (HBCUs). Attending that meeting to discuss what could be done legislatively to address the situation were Mary Frances Berry, who was HEW assistant secretary for education, and this writer, at that time a deputy assistant secretary for legislation (education) at HEW (now HHS). We were on the "con" side of the argument. Kenneth S. Tollett, director of the Institute for the Study of Educational Policy at Howard University, assumed a "pro" stance. Rep. Chisholm — and later Brenda Pillars, her education legislative assistant — served as referees.

That 1979 discussion served to stimulate thought, further research, and ultimately lead to numerous hearings and legislative initiatives in the 98th and 99th Congresses. Thus the first steps leading to the enactment of a "race-specific" statute to benefit Black colleges were taken.

Seven years later President Reagan signed into law the Higher Education Amendments of 1986 (P.L. 99-498). The new law, signed on October 17, 1986, includes a new Part B of Title III of the Higher Education Act authorizing the Black College and University Act. For the first time, Congress is on record in support of the historically Black colleges and universities.

Title III, which had been created in 1965 to benefit Black colleges, had been subjected to departmental mismanagement in recent years and had become increasingly attractive to small "developing institutions" with substantial minority and low income student populations. The political incursion of these institutions serving needy students, including many financially well-sup-

ported public institutions, reduced the percentage of Title III assistance reaching historically Black colleges. Although congressional appropriations grew, an increasing amount of Title III funding — often through specific set-asides — went to unintended beneficiaries.

## The New Remedy

The Black College and University Act of 1986 makes several important changes which will benefit Black postsecondary institutions. It:

- Assures funding on a non-discretionary, formula-driven basis to all eligible institutions as long as appropriations are provided by the Congress.
- Establishes new statutory activities, including faculty fellowships, construction and renovation of academic facilities and purchase, lease or rental of instrumentation and laboratory facilities for instruction and research purposes.
- Allows for institutional determination of funding priorities.

These changes are significant because, since 1965, more and more non-historically Black institutions have qualified for Title III assistance and the HBCU share of the Title III appropriation has declined. Although the dollar amount has increased along with the total Title III appropriation, the HBCU share of Title III reached an all-time low in 1980 (\$15,783,100 or 15%). The percentage decline disturbed Black college presidents and some Capitol Hill lawmakers because Title III had been widely perceived as a "Black college program." And Congress believed it was providing for Black colleges when it appropriated funds for Title III in 1965. The 1986 amendment, under Part B, will allow Congress to focus Title III funds on the intended target and provide a focal point for the Black community to ensure adequate funding for HBCUs.

Another important impact resulting

from enactment of the Black College and University Act will be the activities which institutions can propose and undertake as part of an overall institutional development plan. Previously, all Title III projects and activities required Department of Education approval, and more recently had to be "developmental" in nature. Construction of new academic facilities and the acquisition of research and instructional instrumentation were not specifically authorized under the old law.

The use of Part B funds for maintenance, construction and acquisition of instrumentation — according to Black college presidents and chancellors — is critical to long-term development, continued accreditation, effective competition for federal research grants and contracts, and attracting the best students of all races.

Also significant is the fact that the colleges themselves will determine which activities will best enhance their long-term interest — rather than having to fit their institutional goals and objectives into the Education Department's notion of what is best for them.

The 1986 bill's enactment represents a signal achievement in the white-dominated halls of Congress because initial legislative drafting, strategy development and political implementation were almost exclusively the labor of Black staffers in the House and the Senate and the members of the Congressional Black Caucus. Nothing, however, would have been accomplished without the help of the Black college presidents and their Washington-based officers.

## The Key Players

Senator Paul Simon (D-Ill.) and Rep. Augustus F. Hawkins (D-Cal.) who chairs the House Education and Labor Committee, were the principal sponsors of the Black College and University Act of 1986. Sen. Strom Thurmond (R-S.C.) played a pivotal part in the development of a compromise bill in the Senate Committee on Labor and

Human Resources. Reps. Mervyn Dymally, (D-Cal.), Charles E. Hayes, (D-Ill.) and Major R. Owens, (D-N.Y.), who served on the House Subcommittee on Postsecondary Education in the 99th Congress, along with Rep. John Conyers, (D-Mich.) played significant roles in the legislative process during House consideration of the bill.

Also, Rep. William H. Gray, III (D-Pa.) played a key role in assuring the adoption of a "technical amendment" to the bill, following its enactment. That amendment established a minimum grant of \$350,000 for each of the historically Black colleges and universities in order to assure base-level funding, particularly for the smaller private colleges.

**T**he most significant hurdle in the process was the perceived opposition of House Postsecondary Education Subcommittee Chairman William D. Ford (D-Mich.) to "set-asides" in general in Title III, and to the enactment of a race-specific statute for HBCUs in particular. A hearing at Atlanta University in 1985, convened by chairman Hawkins and arranged by John Smith of his staff, ultimately convinced Rep. Ford of the substantive reasons and the political support for the Black College and University Act.

The conditions which gave rise to the need for this legislation, however, began in the colleges themselves, whose decline over the years has been incremental. That decline has not been helped by the difficulties encountered by many of the institutions in administering student aid, Title III and other federal funds. Declining percentages of Title III dollars and almost no access to large federal research grants exacerbated an already very difficult situation.

Despite attempts by Presidents Carter and Reagan to focus attention and additional federal funds on Black colleges, no rush of federal funds occurred and very little has been done to help the neediest institutions.

The two most significant achievements benefitting Black colleges, for example, were initiated from within the legislative branch: (1) the Challenge Grant Act of 1983, which helps build institutional endowments with federal matching grants, authored by then-Rep. Paul Simon; and (2) the bail-out of Meharry Medical College and the provision of start-up funds for Morehouse School of Medicine, engineered by Rep. Louis Stokes (D-Ohio).

The Reagan administration's regulatory restrictions on uses of Title III funds for

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developmental purposes only was the "straw that broke the camel's back." The colleges could no longer do what they thought would lead to strengthening their institutions. Instead, they had to implement so-called "developmental" activities which were designed by the Department of Education to bring about the phasing out of Title III assistance to HBCUs. Under the department's interpretation of certain provisions in the 1980 Amendments (PL 93-374), only 38 historically Black colleges and universities would have remained eligible for Title III support.

There was also a need to recognize the contribution historically Black colleges have made to the nation, and continue to realize the federal mission of "access" and "choice" in higher education. That recognition includes acknowledging past discrimination on the part of the federal and state governments against Black institutions in awarding federal funds, grants, and land under the Morrill Act.

#### **A New Commitment**

The Black College and University Act does not represent a panacea for the survival of Black colleges. It does, however, represent a new statement of the federal government's commitment to the strengthening and to the survival of these colleges as part of the mainstream of higher education. The Act commits new resources in a new way, which the presidents of Black colleges believe will be most helpful.

For example, Part B of Title III carries an authorization of \$100,000 in fiscal 1987, plus an additional \$5 million for five Black graduate and professional schools, and provides appropriated funds under a formula which eliminates discretion on the part of the Secretary of Education in the awarding of Part B funds.

In the late 1970s and the early 1980s, some Black institutions faced decline, and even possible extinction. The extended indebtedness of Bishop College, the threatened closure of Fisk University, the temporary loss of accreditation at Knoxville College, coupled with the decline in church and alumni support, foreshadowed a dinosaur's demise for these citadels of learning.

The near closure in 1985 of Fisk University, which was founded in 1866, presents a good case and an unfortunate example of the plight of HBCUs. Fisk, once a proud monument to education, with high academic standards, the world renowned Jubilee Singers and its historic buildings, fell victim to mounting fiscal crisis coupled with alumni neglect.

The maintenance and enhancement of these institutions is not only consistent with the federal objectives of equal opportunity in higher education, but also with the broad goals of desegregation and integration in our society.

**S**ome Black Americans, joined by others in higher education and throughout society, perceive Black colleges and universities as an anachronism in a desegregated society or as an academic shell of the institutions which bloomed and flowered in the late 1800s and early 1900s. Middle and upper income Black Americans who originally declined to send their sons and daughters to Black colleges, often find their offspring socially rejected and academically under-developed at predominantly white institutions. Victimized by racial incidents and academic slurs, they are now looking for a positive learning and social environment at predominantly Black institutions. Jacqueline Fleming, in *Blacks in College*, published in 1985, has documented the problems and reasons for Black students' success at Black colleges and universities. She writes:

*"Our findings that Black colleges have the capacity to positively influence cognitive development certainly argue for their continued existence. . . . Despite their poorer resources, Black colleges still possess the capacity to permit the expression of natural adolescent motivations for cognitive*

# What Is A HBCU?

any definitions and phrases have been used over the years to describe and define the universe of postsecondary institutions which make up the Black college and university community. The most universally accepted definition was articulated by the National Advisory Committee on Black Higher Education and Black Colleges and Universities:

*"... institutions that were founded primarily for Black Americans although their charters were, in most instances, not exclusionary. These are institutions serving or identified with service to Black Americans for at least two decades, with most being fifty to one hundred years old ..."*

Other phrases of reference are used and defined, including traditionally Black institution; however, the Black College and University Act defines in Section 322 of Title III:

*"(2) The term 'Part B institution' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary [of education] to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation."*

This definition, developed in close consultation with Howard University law professors Herbert O. Reid and Kenneth S. Tollett, includes not only the 106 post-Civil War institutions, but also Denmark Vesey Technical Institute in South Carolina and the College of the Virgin Islands. The statutory definition focuses on the historic and continuing mission of this subset of higher education institutions — the providing of quality, postsecondary educational opportunities to Black Americans. As the legislative history makes clear:

*"... the statutory definition contained in Section 332(2) defining 'Part B institution' for historically Black college and university includes the universe of eligible Part B institutions. No other criteria, standard or definition should be used. This definition includes many institutions which are more than 100 years old, at least one established as late as 1963, one created in the 1940s, three whose student enrollments are no longer majority black and several historically black colleges which have been (or will be) merged with traditionally white institutions."*

The period 1865-1873 saw the establishment of most of America's first postsecondary schools for educating Black Americans, who were newly freed slaves under the Emancipation Proclamation. During these years, a number of the nation's most prestigious Black institutions of higher learning were founded, including Virginia Union and Shaw Universities (1865), Fisk University and Lincoln Institution (1866), Talladega College and Howard University (1867), Alcorn College (1873), and Cheyney State Teachers College (1837).

In 1872, Alcorn College (now Alcorn State University) became the first Black land grant institution under the Morrill Act of 1862, which authorized federal land-grant funds for higher education. Subsequent legislation, the Morrill Act of 1890, required that appropriated funds be distributed on a "... just and equitable basis." This provision, originally perceived as providing for equitable distribution of Morrill Act funds, also served to strengthen the "separate but equal" doctrine enunciated in *Plessy v. Ferguson*, and resulted in the establishment of 17 southern schools known as "Negro land grant colleges." □

*growth. This appears to be so because the Black college environment offers a student a wider network of supportive relationships."*

Mounting evidence suggests that Black students are transferring to historically Black institutions in ever increasing numbers and that Black students with degrees from Black colleges obtain employment or gain admission to and graduate from professional and graduate schools at the same rate as Blacks who attend predominantly white institutions.

Black colleges have a dual mission. They must continue to serve as access points to higher education for gifted and educationally disadvantaged Black youngsters. They also must continue to serve as educational citadels and cultural repositories for the Black community, as well as centers for social and political development for students, faculty and the communities, regions/states in which they are located.

The attitude of some in higher education and in the public policy arena who believe that the time for Black colleges and universities has passed, ignores the need for the continued presence of other special interest institutions. Although organized to overcome discrimination based on sex or religion, or to carry out a specific purpose — for example, to train ministers or the laity — the cultural or symbolic reason for the existence of other special interest institutions is not questioned. Vassar, Notre Dame and Brandeis have and will continue. So must Howard and Tougaloo.

Even though Black colleges and universities persist without direct federal assistance (except in the case of Howard University and the University of the District of Columbia which receive annual appropriations and don't qualify for Title III funds), they have a special claim to direct, race-specific, federal assistance because their present plight is, in large part, occasioned by discrimination in the past. Unfortunately, that discrimination did not end with the *Brown v. Board of Education* decision, nor with the enactment of the Civil Rights Act of 1964.

Congress, through the Black College and University Act, has reaffirmed the importance and continuing need for these institutions. □

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