

CONSIDERING THE ETHNORACIAL AND GENDER DIVERSITY  
OF FACULTY IN UNITED STATES COLLEGE AND UNIVERSITY  
INTELLECTUAL COMMUNITIES

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*Diversity, equity and inclusion should be widely promoted across disciplines, colleges, and a university's intellectual community to positively impact educational practices and outcomes. It is important that our nation's college and universities centrally value gender and ethnoracial diversity that fits within the framework of the law in the admissions processes and the recruitment and employment of faculty, two areas uniquely separate and distinct in their legal analyses. Notably, propositions, legislation and judicial decisions have challenged policies crafted to increase diversity in education in some states, particularly, in the context of admissions in higher education, while the U.S. Supreme Court has allowed race to be considered as a "plus" factor. Considering the legal context surrounding higher education admissions, it is important for leaders and administrators in higher education to understand whether universities and colleges have advanced greater diversity among faculty given this legal environment. Our discussion focuses on what higher education leaders are facing with respect to faculty diversity given the legal context surrounding affirmative action and admissions processes. We note differences in gender and ethnoracial diversity by institution type (Bachelor's, Master's and Doctoral). We also find that in recent years, gains in faculty diversity in U.S. college and university intellectual communities were largely minimal.*

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## INTRODUCTION

Diversity is defined by Merriam-Webster as “the condition of having or being composed of differing elements: variety, especially the inclusion of different types of people (such as people of different races or cultures) in a group or organization.”<sup>1</sup> While gender and ethnoracial difference are often considered the foundational definitions of diversity, the operational meaning of diversity is defined by many different backgrounds and contexts. Narratives of diversity also include neurodiversity, physiological diversity, biodiversity, and socioeconomic diversity, etc. Jurisprudence has inculcated various forms of protected diversity (gender, race, age, disability, color, creed, national origin, religion, and genetic information) into law and policy, improving the quality of life for hundreds of millions of people across the U.S.

Conversations about the attainment of a diverse society in the U.S. are ongoing in the public discourse. Inequality in basic social structures in the U.S. such as education, housing, government, incarceration, and employment continue to be problematic. For example, in 2017, women’s median earnings were just 80 percent of men’s median earnings, and this gender pay gap collectively costs women approximately \$500 billion annually.<sup>2</sup> Furthermore, in 2017, the racial wage gap between Black/African Americans and Whites grew.<sup>3</sup> Finally, considering intersectionality of gender and ethnoracial background, Hispanic/Latina women earned on average, 53% of what White men earned in

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<sup>1</sup> Diversity, Merriam-Webster, Dictionary (2019), <https://www.merriam-webster.com/dictionary/diversity> [<https://perma.cc/R6LZ-GTGZ>].

<sup>2</sup> See Deborah J. Vagins, *The Simple Truth about the Gender Pay Gap*, AAUW, Fall 2018, at 5, [https://www.aauw.org/aauw\\_check/pdf\\_download/show\\_pdf.php?file=The\\_Simple\\_Truth](https://www.aauw.org/aauw_check/pdf_download/show_pdf.php?file=The_Simple_Truth) [<https://perma.cc/4XVE-GNBB>].

<sup>3</sup> See Mary C. Daly, Bart Hobbins & Joseph H. Pedtke, *Disappointing Facts about the Black-White Wage Gap*, 2017-26 Fed. Reserve Bank of San Francisco Econ. Letter, Sep. 5, 2017, <https://www.frbsf.org/economic-research/files/el2017-26.pdf> [<https://perma.cc/KU7C-M6XV>].

2018.<sup>4</sup>

Historically, higher educational institutions have taken on a very important role in our nation's debates about diversity and inequality.<sup>5</sup> In fact, diverse educational environments have been shown to promote life success and reduce inequality.<sup>6</sup> These findings have led many educational institutions to promote diversity policies. Still, diversity and inclusion contexts in university settings are less than ideal. According to a U.S. Department of Education report,<sup>7</sup> racially diverse enrollment rates have steadily increased since the 1960s Civil Rights movement. However, college and university completion rates for African Americans, Latinos and Native Americans still have not equaled Whites.

Additionally, the U.S. faces ongoing challenges with diversity and representation among higher education faculty members. Overall faculty representation relative to the demographics of the nation continues to fall short for both gender and ethnoracial background.<sup>8</sup> To this, the National Center for Education Statistics (NCES, 2018) found that “among full-time professors, 55

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<sup>4</sup> See Unidos US, *Beyond Wages: Effects of the Latina Wage Gap: Fact Sheet*, Nov. 2018, <http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/latinas-wage-gap.pdf> [<https://perma.cc/ES88-Y5B7>].

<sup>5</sup> See *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954); See also *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978); See also *Fisher v. University of Texas*, 136 S.Ct. 2198 (2016).

<sup>6</sup> See Amy Stuart Wells, Lauren Fox & Diana Cordova-Cabo. *How Racially Diverse Schools and Classrooms Can Benefit All Students*, THE CENTURY FOUNDATION (Feb. 9, 2016), [https://production-tcf.imgix.net/app/uploads/2016/02/09142501/HowRaciallyDiverse\\_AmyStuartWells-11.pdf](https://production-tcf.imgix.net/app/uploads/2016/02/09142501/HowRaciallyDiverse_AmyStuartWells-11.pdf) [<https://perma.cc/EQ2R-HUA2>]; See also Patricia Gurin, Eric L. Dey, Sylvia Hurtado & Gerald Gurin, *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 HARV. EDUC. REV. 330 (2002).

<sup>7</sup> U.S. Dep't of Education, Office of Planning Evaluation and Policy Development, Office of the Under Secretary, *Advancing Diversity and Inclusion in Higher Education: Key Data Highlights Focusing on Race and Ethnicity and Promising Practices*, Nov. 2016, <https://www2.ed.gov/rschstat/research/pubs/advancing-diversity-inclusion.pdf> [<https://perma.cc/TW6A-QQKD>].

<sup>8</sup> See also United States Department of Education, Office of Planning Evaluation and Policy Development, Office of the Under Secretary, *Advancing Diversity and Inclusion in Higher education: Key Data Highlights Focusing on Race and Ethnicity and Promising Practices*, Nov. 2016.

percent were White males.”<sup>9</sup> According to the same U.S. Department of Education report, ethnoracial faculty diversity has steadily increased since 1993 (i.e. from 3% to 5% for Hispanic/Latino faculty and from 4% to 6% for Black/African American faculty). Furthermore, gender diversity among higher education faculty has improved to approximately even between males and females.<sup>10</sup> However, the largest gains for faculty diversity have occurred in untenured positions.<sup>11</sup> As a result, considering the research, understanding the broader condition of faculty diversity requires an examination of faculty tenure status. Also, a conceptual understanding of faculty diversity in different types of institutions is foundational if the general condition of faculty diversity is to be more adequately described.

In this article, we will consider the ethnoracial and gender diversity of faculty in U.S. college and university intellectual communities. We structure the analyses into three sections: Section I will review the literature on faculty diversity perspectives, practice, and policy. Section II will review the legal landscape of diversity and affirmative action policies in national and state contexts. Section III utilizes national data to explore patterns of faculty diversity, dependent upon the afore mentioned variables. Finally, we present our conclusion.

## I. BENEFITS OF FACULTY DIVERSITY

This section will provide a general overview of important issues related to faculty diversity. The first area to be examined is the educational benefits of

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<sup>9</sup> U.S. Dep’t of Education, Nat’l Ctr for Educ. Statistics. *Fast Facts*, Feb. 2, 2019, <https://nces.ed.gov/fastfacts/display.asp?id=61> [https://perma.cc/2FTL-PVM5].

<sup>10</sup> Martin J. Finkelstein, Valerie M. Conley & Jack H. Schuster, *Taking the Measure of Faculty Diversity*, ADVANCING HIGHER EDUC. (Apr. 2016), [https://www.tiaainstitute.org/sites/default/files/presentations/2017-02/taking\\_the\\_measure\\_of\\_faculty\\_diversity.pdf](https://www.tiaainstitute.org/sites/default/files/presentations/2017-02/taking_the_measure_of_faculty_diversity.pdf) [https://perma.cc/G4E7-87TM].

<sup>11</sup> *Id.*

faculty diversity for teaching and scholarship in institutions of higher education such as colleges, universities, and law schools. Second, we evaluate the barriers to faculty diversity such as underrepresentation, having a campus climate that lacks a commitment to diversity, issues surrounding recruiting, hiring, and retention of diverse faculty, lack of support for research, scholarship and socio-emotional supports. Finally, we will discuss faculty diversity and perspectives, practices, and policies.

A. *Educational Benefits of Faculty Diversity*

The first area to be explored involves the educational benefits of faculty diversity within institutions of higher education, such as colleges, universities, and law schools that have been shown to be an important factor for receiving a well-rounded education. Mary A. Armstrong and Hannah Stewart-Gambino in their study *Building Curricular Diversity through a “Social Movement”: How Faculty Networks Support Institutional Change* argued that diversity is an essential educational goal in order to prepare students for a nation that is increasingly interconnected and diverse.<sup>12</sup> Kevin R. Johnson in his article *The Importance of Student and Faculty Diversity in Law Schools: One Dean’s Perspective* wrote, from his standpoint as a law school dean, that diversity is an important factor to consider when one is evaluating the quality of a law school and the education of its student body.<sup>13</sup> Johnson stated, “Before becoming a dean, I firmly believed—and continue to believe—that racial, socioeconomic, and other kinds of diversity among students and faculty is critically important to ensuring excellence at any

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<sup>12</sup> Mary A. Armstrong & Hannah Stewart-Gambino, *Building Curricular Diversity through a “Social Movement”: How Faculty Networks Support Institutional Change*, 31 SOC. MOV. 112, (2016).

<sup>13</sup> Kevin R. Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean’s Perspective*, 96 IOWA L. REV. 1549, 1551 (2011).

law school.”<sup>14</sup> Johnson argued that for law schools to be able to achieve and advance their educational missions, they should include arguments for a multitude of diversities— ethnoracial, socioeconomic, gender and more.<sup>15</sup> Johnson also explained that the educational benefits of faculty diversity can be looked at through two lenses: the benefits of faculty diversity to teaching, and the benefits of faculty diversity to legal scholarship.<sup>16</sup> In terms of the educational benefits to teaching, Johnson contended that students, in particular law students from historically underrepresented groups that have been excluded from law schools and the legal profession, need role models and a diversity of perspective that comes from a diverse faculty.<sup>17</sup> This diversity of perspective, experience, and knowledge, stemming out of faculty diversity and teaching, Johnson argued, also has a positive influence on the legal scholarship of the faculty as well.<sup>18</sup>

The same can be said for the benefits of faculty diversity in terms of teaching and learning in institutions of higher education. Susan Sturm in *The Architecture of Inclusion: Advancing Workplace Equity in Higher Education* argued that stakeholder’s higher education can lead to a path of “citizenship, leadership, and democratic participation.”<sup>19</sup> Sturm explained that higher education serves as a guidepost for students to follow while in pursuit of a career and therefore institutions of higher education must provide a multitude of perspectives, diverse peers, and a multitude of career pathways for students to choose from so they can effectively contribute to a diversifying U.S. workforce.<sup>20</sup>

With respect to faculty scholarship and research, the educational benefits of a diverse faculty are exhibited in colleges and universities as well.

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<sup>14</sup> *Id.* at 1550.

<sup>15</sup> *Id.* at 1551.

<sup>16</sup> *Id.* at 1557.

<sup>17</sup> *Id.* at 1558.

<sup>18</sup> *Id.* at 1563.

<sup>19</sup> Susan Sturm, *The Architecture of Inclusion: Advancing Workplace Equity in Higher Education*, 29 HARV. J. LAW GEND. 247, 333 (2006).

<sup>20</sup> *Id.* at 333.

Caroline Sotello Viernes Turner in her article *Lessons from the Field: Cultivating Nurturing Environments in Higher Education*, explored her journey through higher education as a student and faculty member of color.<sup>21</sup> The researcher explained how she came to understand the value of knowledge gained in one's home community, and how this could provide insight for others in cultivating nurturing environments for students, faculty, and administrators of color.<sup>22</sup> Turner concluded that diverse faculty often add perspective, experience, knowledge and methodology (i.e. narrative and counter storytelling approaches) to an institution's teaching and scholarship.<sup>23</sup>

### B. Barriers to Faculty Diversity

A second area to be examined is the barriers to faculty diversity that continue to exist in institutions of higher education. Alvin Evans and Edna Breinig Chun in their article *Are the Walls Really Down? Behavioral and Organizational Barriers to Faculty and Staff Diversity*, contended that hidden barriers exist for women and people of color who are faculty and administrators in colleges and universities.<sup>24</sup> The researchers argued that prolonged discrimination in the educational workplace takes a physiological and mental health toll on women and people of color, resulting in subtle behavioral forms of oppression that perpetuate the institutional climate of exclusion.<sup>25</sup> They explained that these barriers obstruct empowerment, participation, and retention, and offered a solution to combatting oppressive institutional barriers through the concept of "reciprocal empowerment" or the "sharing of power" between all parties.<sup>26</sup>

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<sup>21</sup> Caroline S. Turner, *Lessons from the Field: Cultivating Nurturing Environments in Higher Education*, 38 REV. HIGHER EDUC. 333 (2015).

<sup>22</sup> *Id.* at 333.

<sup>23</sup> *Id.*

<sup>24</sup> Alvin Evans & Edna Breinig Chun, *Are the Walls Really Down? Behavioral and Organizational Barriers to Faculty and Staff Diversity*, 33 ASHE HIGHER EDUC. REP. 1, 1 (2007).

<sup>25</sup> *Id.* at 26.

<sup>26</sup> *Id.* at 17.

Sharon L. Fries-Britt et al. in their study, *Underrepresentation in the Academy and the Institutional Climate for Faculty Diversity*, had similar findings from their research. They found barriers such as persisting underrepresentation, the fact that the overall campus climate did not reflect commitment to diversity and inclusion, a lack of diversity initiatives aimed at recruitment, hiring, and retention, and limited institutional support for diversity-oriented research interests and their negative implications for promotion and tenure of diverse faculty.<sup>27</sup>

Similar barriers affecting faculty and women of color in higher education are also discussed by Turner in her article *Incorporation and Marginalization in the Academy: From Border Toward Center for Faculty of Color?*<sup>28</sup> Turner considered the problems that continue to plague faculty of color, such as the fact that they remain underrepresented, their achievements are many times “invisible and/or devalued,”<sup>29</sup> and that recruitment and retention of faculty of color remains a difficult challenge.<sup>30</sup> The author focused on research from various scholars examining the concepts of marginalization and highlighted the negative aspects of remaining at the borders of academia, as well as the additional contradictions and “ambiguous empowerment”<sup>31</sup> faculty of women of color face.<sup>32</sup> For example, she problematized negative micro-aggressions that faculty of color encounter such as energy-draining situations involving unconscious bias and racial confrontation.<sup>33</sup>

Barriers to faculty diversity continue to have an influence on faculty and

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<sup>27</sup> Sharon L. Fries-Britt et al., *Underrepresentation in the Academy and the Institutional Climate for Faculty Diversity*, 5 J. PROFESSORIAL. 1, 13 (2011).

<sup>28</sup> Caroline S. Turner, *Incorporation and Marginalization in the Academy: From Border Toward Center for Faculty of Color?* 34 J. BLACK STUD. 112 (2003).

<sup>29</sup> *Id.* at 112.

<sup>30</sup> *Id.* at 113.

<sup>31</sup> *Id.* at 115 (citing SUSAN E. CHASE, *AMBIGUOUS EMPOWERMENT: THE WORK NARRATIVES OF SCHOOL SUPERINTENDENTS* (1995)).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 116.



women of color on a socio-emotional level. Turner's *Lessons from the Field: Cultivating Nurturing Environments in Higher Education* examined how barriers affect socio-emotional well-being, feelings of loneliness, and need for mentoring support.<sup>34</sup> Turner also offered solutions and recommendations based on her research for future consideration, such as working towards creating culturally engaging campus environments,<sup>35</sup> "cross-race, cross-ethnic, and cross-gender mentoring to diversify the academe"<sup>36</sup> and cultivating nurturing environments<sup>37</sup> so that students, faculty, and administrators of color will experience success in colleges and universities.<sup>38</sup>

Considering the impact of the legal context for faculty diversity, Caroline Sotello Viernes Turner with Juan Carlos González and Kathleen Wong (Lau) conducted a qualitative research study entitled *Faculty Women of Color: The Critical Nexus of Race and Gender*. They utilized a focus group approach that centered on faculty women of color's experience in higher education at White public research-intensive universities.<sup>39</sup> The authors sought to discover the work life and impact on faculty women of color, and their institutions, following anti-affirmative action legislation and the two Supreme Court rulings of *Gratz v. Bollinger* and *Grutter v. Bollinger* to provide insight into the ethnoracial and gender composition of the universities that were being served.<sup>40</sup> The researchers examined the concept of numerical tokens and used Critical Race Theory (CRT) and Critical Race Feminism (CRF) as dual frameworks to analyze the issue.<sup>41</sup> The authors found that the anti-affirmative action movements had a negative

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<sup>34</sup> Caroline S. Turner, *supra* note 21, at 333.

<sup>35</sup> *Id.* at 345.

<sup>36</sup> *Id.* at 348.

<sup>37</sup> *Id.* at 336.

<sup>38</sup> *Id.*

<sup>39</sup> Caroline Sotello Viernes Turner, Juan Carlos González & Kathleen Wong (Lau), *Faculty Women of Color: The Critical Nexus of Race and Gender*, 4 J. DIVERSITY HIGHER EDUC. 199 (2011).

<sup>40</sup> *Id.* at 199.

<sup>41</sup> *Id.* at 199, 201.

impact on university contexts (such as feelings of alienation, isolation) perpetuating environments that continued to pose significant barriers to the advancement of faculty of color and hindering their professional growth and development.<sup>42</sup>

### C. Faculty Diversity and Perspectives, Practices, and Policies

A final area to be explored is faculty diversity and perspectives, practices, and policies. Julie J. Park and Nida Densen in their article *Attitudes and Advocacy: Understanding Faculty Views on Racial/Ethnic Diversity*, discussed diversity in higher education and how it has been an increasingly popular area within academia.<sup>43</sup> The authors explored the attitudes and perceptions of faculty members regarding diversity and campus climate and how they play an important part in maintaining its success.<sup>44</sup> The researchers also argued that diversity in institutions of higher education has become largely a point of agreement as most research indicates that ethnoracial makeup is associated with positive student outcomes.<sup>45</sup> The findings also suggest that the likelihood of faculty holding a diversity advocacy identity is influenced by a number of factors.<sup>46</sup> Their analyses revealed that people of color, women, and those in English, Social Science, and Humanities were the most likely to strongly agree with items in a diversity advocacy identity survey.<sup>47</sup> Multi-variate analyses revealed that diversity advocacy is also strongly related to political orientation, incorporating ethnoracial and gender diversity in teaching and research as well as maintaining civic-minded values.<sup>48</sup>

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<sup>42</sup> *Id.* at 208-209.

<sup>43</sup> Julie J. Park & Nida Denson, *Attitudes and Advocacy: Understanding Faculty Views on Racial/Ethnic Diversity*, 80 J. HIGHER EDUC. 415, 415 (2009).

<sup>44</sup> *Id.* at 419.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 416.

<sup>47</sup> *Id.* at 428.

<sup>48</sup> *Id.* at 428, 431-32.

Susan Sturm, in her article *The Architecture of Inclusion: Advancing Workplace Equity in Higher Education*, discussed the concept of advancing workplace equity through institutional transformation, by creating an environment where all people can realize their capabilities regardless of their race or gender. She explored the idea of developing a norm of institutional citizenship as an institutional target for those working on diversity.<sup>49</sup> In describing the purpose of full institutional citizenship, Sturm wrote that “identifying and removing institutional barriers often advances the more general goal of enabling full and fair participation, even as it also focuses attention on the circumstances particular to ethnoracial or gender exclusion.”<sup>50</sup>

Matthew J. Mayhew and Heidi E. Grunwald explored factors that may affect faculty decisions to include diversity-related content in their course curricula.<sup>51</sup> The purpose of the authors’ research was to build upon prior research related to course curricula and institutional diversity planning.<sup>52</sup> The study measured faculty commitment and perceptions of diversity, as well as faculty perceptions of department level and top administration, commitment to, and perceptions of diversity.<sup>53</sup> They found that workshops and activities designed to promote diversity-awareness and facilitate faculty members’ incorporation of diversity-related content into their course materials was the most significant indicator at the departmental and institutional levels.<sup>54</sup>

Daryl G. Smith, Caroline Sotello Viernes Turner, and Nana Osei-Kofi argued that to promote faculty diversity there is also a critical need for institutions to examine and alter their hiring practices. To do this, institutions of

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<sup>49</sup> Sturm, *supra* note 19, at 250.

<sup>50</sup> *Id.* at 250.

<sup>51</sup> Matthew J. Mayhew & Heidi E. Grunwald, *Factors Contributing to Faculty Incorporation of Diversity-Related Course Content*, 77 J. HIGHER EDUC. 148, 149 (2006).

<sup>52</sup> *Id.* at 149.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

higher education should utilize specific tools such as special-hiring interventions and diversity indicators, as well as analyze how positions are posted to further the goal of “interrupting the usual.”<sup>55</sup> The authors also recommended that leaders of institutions seek to diversify their search committees and invest targeted resources to foment a more diverse applicant pool.<sup>56</sup> They also argued that institutions should encourage search committees to broaden their search beyond typical networks for candidate selection and properly negotiate compensation packages in order to be competitive for diverse candidates.<sup>57</sup>

In summary, this section began by providing an overview of important issues related to faculty diversity and its positive effect on educational outcomes. Faculty diversity is found in the literature included positive benefits for teaching, legal scholarship, and, more broadly, scholarship in institutions of higher education. Second, higher education leaders should be cognizant of barriers to faculty diversity in order to inform perspectives and improve institutional practices and policy.

## II. LEGAL LANDSCAPE OF FACULTY DIVERSITY

The conceptual legal underpinning for affirmative action to encourage faculty diversity is amorphous.<sup>58</sup> Whether a diverse faculty constitutes a compelling state interest, narrowly tailored, passing strict scrutiny for Equal

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<sup>55</sup> Daryl G. Smith, Caroline Sotello Viernes Turner & Nana Osei-Kofi, *Interrupting the Usual: Successful Strategies for Hiring Diverse Faculty*, 75 J. HIGHER EDUC. 133, 156 (2004).

<sup>56</sup> Caroline Sotello Viernes Turner, *Before Starting a Faculty Search, Take a Good Look at the Search Committee*, 53 CHRON. HIGHER EDUC. 67, (2006).

<sup>57</sup> *Id.*

<sup>58</sup> See Ann D. Springer, *How to Diversify Faculty: The Current Legal Landscape*, AAUP ASSOCIATE COUNS., 2 (2002). “To put it simply, the Constitution and federal statutes require that employers eliminate discrimination on the basis of race or sex. Employers can be sued under these statutes both for individual discrimination (“disparate treatment” of an individual) or for policies and practices that create widespread disparities in the number of women and minorities in the workplace (actions that have a “disparate impact” on minorities as a whole).”

Protection Clause purposes or is allowed under Title VII of the Civil Rights Act of 1964 prohibiting the use of race-based preferences in employment decisions except for remediation purposes, remains to be determined.<sup>59</sup> The legal context for hiring and retaining faculty is influenced by affirmative action policies and legal cases that have been the subject of legal and political debate and analysis of jurisprudence for over seventy years.<sup>60</sup> Our discussion does not focus on legal cases and employment decisions centering on the employment of faculty, which are directly determinative and controlling as legal precedent, rather we focus on what higher education leaders are influenced by and face given the legal context surrounding faculty diversity and admissions processes within higher education. In fact, affirmative action policies in general, were never officially comprehensively adopted in the U.S.—rather they are a patchwork of jurisdictional and organizational policy praxis, and often look very different from organization to organization and state to state. However, the most concrete form of affirmative action policy with respect to higher education admissions processes—hard quotas for considerations of race and/or gender—were abolished after the Supreme Court Ruling in *University of California v. Bakke*.<sup>61</sup>

Since *Bakke*, affirmative action policies have faced various successful and unsuccessful challenges from legislation, citizens' initiatives, or jurisdictional authority that have addressed the concept in one form or another. These various challenges have impacted the role of affirmative action in employment, admissions, hiring, contracts, financial aid initiatives and diversity in our nation's

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<sup>59</sup> See Suzzane E. Eckes, *Diversity in Higher Education: The Consideration of Race in Hiring University Faculty*, 33 BYU EDUC. & L.J. 33, 34, 37 (2005).

<sup>60</sup> See Caroline Sotello Viernes Turner, Juan Carlos González & J. Luke Wood, *Faculty of Color in Academe: What 20 Years of Literature Tells Us*, 1 J. DIVERSITY HIGHER EDUC. 145 (2008). "In a national context, the processes of hiring and retaining faculty of color are influenced by the legal landscape, notably national debates on affirmative action and its applications."

<sup>61</sup> See Engelbert Ssekasozi, *A PHILOSOPHICAL DEFENSE OF AFFIRMATIVE ACTION*. (1999).

colleges and universities. The legal context combined with various forms of scholarly inquiry have considered justifications for affirmative action that have evolved around the diversity rationale.<sup>62</sup> This section provides an overview of the history of jurisprudence on affirmative action in higher education, in particular in the context of admissions processes, and considers the implications for faculty diversity.

#### A. Federal Executive Orders

The U.S. Constitution does not refer to education or diversity. In fact, the federal government played no role in higher education to promote student or faculty diversity until the 20<sup>th</sup> century.<sup>63</sup> Many executive orders relating to diversity and affirmative action in higher education grew out of the political climate surrounding the military and defense industries, which are legally evaluated separately than other employment cases, but have still had an influence and impact. During the Second World War, President Franklin Delano Roosevelt issued Executive Order 8802 of 1941 to eliminate racially discriminatory recruitment practices within the defense industry.<sup>64</sup> This is considered the foundation for subsequent executive orders, and expanded the substance of the nondiscrimination obligation.<sup>65</sup> In the aftermath of the Second World War, affirmative actions in higher education were marked by the Servicemen's Readjustment Act of 1944, also known as the G.I. Bill of Rights,

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<sup>62</sup> See Marlo Goldstein & Rebecca J. Meisenbach, *Reproducing Whiteness Through Diversity: A Critical Discourse Analysis of the Pro-Affirmative Action Amicus Briefs in the Fisher Case*, 10 J. DIVERSITY HIGHER EDUC. 162 (2017).

<sup>63</sup> See Peter D. Eckel & Jacqueline E. King, AN OVERVIEW OF HIGHER EDUCATION IN THE UNITED STATES: DIVERSITY, ACCESS AND THE ROLE OF THE MARKETPLACE. (2003) <https://www.acenet.edu/news-room/Documents/Overview-of-Higher-Education-in-the-United-States-Diversity-Access-and-the-Role-of-the-Marketplace-2004.pdf> [https://perma.cc/R2GK-Z4ZY].

<sup>64</sup> Exec. Order No. 8802, 6 Fed. Reg. 3109 (1941).

<sup>65</sup> See Gregory L. Hanson, *The Affirmative Action Requirement of Executive Order 11246 and Its Effect on Government Contractors, Unions and Minority Workers*, 32 MONTANA L. REV. 249 (1971).

during President Roosevelt's administration. This became the first law referring to access to higher education and grant funds to help the integration of war veterans to the workforce, regardless of gender and race.

The Civil Rights movement that began to gain momentum in the 1950s and 1960s stirred more affirmative actions for recruitment policies. President John Fitzgerald Kennedy's Executive Order 10925 of 1961 required government contractors to "take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, or national origin."<sup>66</sup> Then, the Civil Rights Act of 1964<sup>67</sup> enacted an education legal framework of affirmative actions to "set off another round of revisions to state constitutions to remove segregation mandates."<sup>68</sup> For example, Title VI regulations address racial or national origin to award financial aid.<sup>69</sup> The concept "affirmative action" appeared in federal regulations but there was "no general statutory obligation on employers to adopt affirmative action remedies."<sup>70</sup>

Executive Order 11246 of 1965 issued by President Lyndon Baines Johnson retained the nondiscrimination clause of a previous order that, imposed upon contractors the duty to undertake "affirmative action" and established non-discriminatory practices in hiring and employment by government agencies.<sup>71</sup> Soon after, the Philadelphia Plan of 1967 was established to integrate the building construction trade unions by race through non-White hiring.

An important outgrowth of the Civil Rights movement was affirmative actions from presidential executive power in favor of racially based non-discriminatory employment in public and private institutions. Updated

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<sup>66</sup> Exec. Order No. 10925, 26 Fed. Reg. 1977 (1961).

<sup>67</sup> 42 U.S.C. § 2000e (1964).

<sup>68</sup> See Derek W. Black, *EDUCATION LAW: EQUITY, FAIRNESS, AND REFORM 2* (2013).

<sup>69</sup> *Id.*

<sup>70</sup> 44 Fed. Reg. 58509 (Oct. 10, 1979).

<sup>71</sup> Exec. Order No. 11246, 30 Fed. Reg. 12319 (1965).

interpretations of Title VI of the Civil Rights Act required schools and colleges to take affirmative action to overcome the effects of past discrimination and to encourage voluntary affirmative action to attain a diverse and more equal society.<sup>72</sup> Then, approximately ten years later, the U.S. Supreme Court began to shape the jurisprudential contours of affirmative action.

### B. Court Cases

The *Regents of University of California v. Bakke* ruling in 1978<sup>73</sup> was the first U.S. Supreme Court precedent applicable to student admissions<sup>74</sup> and established the premise that “a diverse student body is a compelling state interest.”<sup>75</sup> The *Bakke* case “launched the contemporary constitutional debate over state-sponsored affirmative action” and determined how subsequent cases would be discussed.<sup>76</sup> Allan Bakke was denied enrollment to the UC Davis medical school while admitted minority students had lower test scores. Up to 100 places were set aside under University of California at Davis student admission policies for minority applicants.<sup>77</sup> The program was condemned on equal protection grounds, since the University’s policies instituted a quota, which is unconstitutional, in the opinion of Justice Lewis Powell. However, UC Davis was allowed to continue institutional practices that sought to recruit and admit minorities with a “compelling state interest” to foster student inclusion and attain a diversified educational environment.<sup>78</sup>

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<sup>72</sup> See *supra* note 70.

<sup>73</sup> *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

<sup>74</sup> Ann Springer, UPDATE ON AFFIRMATIVE ACTION IN HIGHER EDUCATION: A CURRENT LEGAL OVERVIEW. (2003).

<sup>75</sup> Black, *supra* note 10.

<sup>76</sup> National Council of State Legislature, *Affirmative Action Overview* (2014). <http://www.ncsl.org>.

<sup>77</sup> *Id.*

<sup>78</sup> See *Bakke*, *supra* note 19.



The plaintiffs in *Hopwood v. Texas*, four White residents of Texas, argued that they were unfairly rejected because of the law school's use of race as consideration in the admissions process.<sup>79</sup> The Fifth Circuit court held that the university could not use race as a means to "achieve a diverse student body."<sup>80</sup> Texas House Bill 588 or the Top-10% Plan passed in 1997<sup>81</sup> as a result of the *Hopwood v. Texas* ruling.<sup>82</sup> Flagship universities also took other actions aimed to increase diversity—the Longhorn Opportunity Scholarship started in 1999 at UT-Austin and the Century Scholars program began at Texas A&M in 2000. The Fifth Circuit ruling banned affirmative action in admissions, financial aid, and recruiting from 1996 to 2003.<sup>83</sup> The *Hopwood* decision was abrogated by the Supreme Court in 2003, when the *Gratz v. Bollinger* and *Grutter v. Bollinger* decisions were handed down regarding the undergraduate and law school admissions processes at the University of Michigan Ann Arbor.<sup>84</sup> After *Grutter*, UT-Austin used the 10% Plan and diversity as a plus factor in admission which later led to the *Fisher* challenge.<sup>85</sup>

In June of 2003, twenty-five years after the *Bakke* decision, the U.S. Supreme Court decided in *Gratz* that the undergraduate admissions approach was not sufficiently narrowly tailored to meet a strict scrutiny standard because it did not provide individual consideration, but rather resulted in the admission of nearly every applicant of "underrepresented minority" status. However, the

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<sup>79</sup> See *Hopwood v. Texas*, 78 F. 3d 932 (5<sup>th</sup> Cir. 1996).

<sup>80</sup> *Id.*

<sup>81</sup> See Julian Vasquez Heilig, L. Dietz & M. Volonnino, *From Jim Crow To The Top 10% Plan: A Historical Analysis of Latina/o Access to a Selective Flagship University*, 5 ENROLLMENT MGMT. J.: STUDENT ACCESS, FINANCE, AND SUCCESS IN HIGHER EDUC. 83, 95 (2011).

<sup>82</sup> *Hopwood*, *supra* note 79.

<sup>83</sup> *Id.* The Fifth Circuit ban in *Hopwood* impacted Texas, Louisiana, and Mississippi until abrogated by *Grutter*.

<sup>84</sup> See Angela M. Hough, *All Deliberate Ambiguity: The Question of Diversity, College Admissions, and the Future of the Texas Top-Ten-Percent Plan*, 39 TEX. TECH L. REV. 187, 206 (2006).

<sup>85</sup> See Heilig, *supra* note 81. In 2009, Senate Bill 175 limited the percentage of under the 10% Plan to 75% of an institution's incoming first year, resident class, allowing some institutional flexibility in admissions decisions.

Court reconfirmed in the *Grutter* decision that race can be considered in admission processes in higher education, such as in law schools, as a “soft variable” along with others, finding the practice constitutional. Therefore, the diversity in higher education as a compelling state interest for the invocation of race in admissions was reaffirmed. In synthesis, the Court’s direction for the consideration of race in *Gratz and Grutter* is seen as indispensable and has implications and influence on faculty diversity, as it is still allowed in the decision process as a soft variable.<sup>86</sup>

The prior U.S. Supreme Court cases examining race in admissions, set precedent that has a significant impact on race and diversity in higher education.<sup>87</sup> Despite these decisions, Whites have still questioned “whether their rights were being violated by these practices and sought to limit these mechanisms in the courts.”<sup>88</sup> *Fisher v. University of Texas at Austin*, in 2013, again confirmed the use of race in admissions.<sup>89</sup> The plaintiff, who was White, was denied admission to UT-Austin even though she was not among the top 10% of her class (which would have automatically granted her admission). The Supreme Court ruled that Texas’ admissions plan “clearly reconciled the pursuit of diversity with the constitutional promise of equal treatment and dignity.”<sup>90</sup>

To this point, the litany of “reverse discrimination” court cases regarding higher education admissions processes (i.e. *Gratz*, *Grutter*, *Fisher*), which is a regular discrimination claim against people of color in the public discourse, have not been successful at the U.S. Supreme Court. However, a new case, *Students for Fair Admissions v. Harvard*, was filed in 2014 on behalf of Asian

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<sup>86</sup> See Derek W. Black, *supra* note 68, 113 (2013).

<sup>87</sup> *Grutter v. Bollinger*, 539 U.S. 306 (2003).

<sup>88</sup> Heilig, *supra* note 81.

<sup>89</sup> *Fisher v. Univ. of Tex.*, 136 S. Ct. 2198 (2016).

<sup>90</sup> See Julian Vasquez Heilig, *What Other Universities Should Learn from UT: The Main Takeaway From the Supreme Court’s Decision on Affirmative Action*, HOUSTON CHRON. (June 24, 2016), <https://www.houstonchronicle.com/local/gray-matters/article/What-other-universities-should-learn-from-UT-8321830.php> [<https://perma.cc/UB7B-YEBD>].

Americans by Edward Blum, the same conservative activist that filed *Fisher*.<sup>91</sup> In this case, it is argued that Asian Americans are presumably “being discriminated against in the college-admission process, and among those taking their spots were the primary beneficiaries of affirmative action, like African Americans and Hispanics.”<sup>92</sup> The reverse discrimination litigation approach in *Students for Fair Admissions* positions one set of students of color against others and is a novel attack strategy to oppose the concepts of multiculturalism and “diversity.”<sup>93</sup>

Moreover, in August 2017, the administration of President Donald Trump ordered the Department of Justice’s civil rights division to move “toward investigating and suing universities over affirmative action admissions policies deemed to discriminate against White applicants.”<sup>94</sup> In July 2018, the U.S. Departments of Education and Justice rescinded seven President Barack Obama-era policy guidelines on affirmative action and have also filed amici in support of the Asian American litigants in *Students for Fair Admissions*.<sup>95</sup> Potentially, the hostility of the Trump administration and a new conservative majority on the U.S. Supreme Court may influence the case against Harvard University and threaten the consideration of diversity in higher education hiring and admissions decisions.<sup>96</sup>

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<sup>91</sup> See Hua Hsu, *The Rise and Fall of Affirmative Action. With a Lawsuit Against Harvard, Asian-American Activists Have Formed an Alliance with a White Conservative to Change Higher Education*, THE NEW YORKER MAG. (2018).

<sup>92</sup> *Id.*

<sup>93</sup> Halley Potter, *What Can We Learn from States That Ban Affirmative Action?* THE CENTURY FOUND. (June 26, 2014), <https://tcf.org/content/commentary/what-can-we-learn-from-states-that-ban-affirmative-action/> [https://perma.cc/B224-7K3B].

<sup>94</sup> Charlie Savage, *Justice Dept. to Take on Affirmative Action in College Admissions*, N.Y. TIMES (Aug. 1, 2017), <https://www.nytimes.com/2017/08/01/us/politics/trump-affirmative-action-universities.html?searchResultPosition=1> [https://perma.cc/8KMQ-5A48].

<sup>95</sup> Erica L. Green, Matt Apuzzo & Katie Benner, *Trump Officials Reverse Obama’s Policy in Affirmative Action in Schools*, N.Y. TIMES (July 3, 2018), <https://www.nytimes.com/2018/07/03/us/politics/trump-affirmative-action-race-schools.html?searchResultPosition=1> [https://perma.cc/D6XF-SAMJ].

<sup>96</sup> Anemona Hartocollis & Stephanie Saul, *Affirmative Action Battle has a New Focus: Asian-Americans*, THE NEW YORK TIMES (Aug. 2, 2017), <https://www.nytimes.com/2017/08/02/us/affirmative-action-battle-has-a-new-focus-asian->

C. State Executive Orders, Legislation and Propositions

Arizona, California, Florida, Nebraska, New Hampshire, Oklahoma, and Washington are the seven states that have statewide bans on race-based affirmative action at public universities.<sup>97</sup> While most states passed bans through referenda, Florida's Gov. Jeb Bush issued an executive order. Executive Order 99-281 of 1999, known as One Florida, which eliminated affirmative action in admissions, government employment and state contracting. In Georgia, the University System of Georgia dropped affirmative action in 2000 after it lost *Johnson v. Board of Regents of the University System of Georgia* and the university decided not to appeal.<sup>98</sup> Together, these states inform the national discourse on pursuing diversity without the consideration of race and have influenced the national discourse about student and faculty diversity.<sup>99</sup>

California, historically the most ethnoracially diverse state in the U.S., was the first to experience pushback against affirmative action. First was *Bakke*, then in 1995, before Proposition 209, the Board of Regents of the University of California system passed resolution SP-1 abolishing the use of affirmative action in the University's employment and contracting practices with a direct influence on faculty diversity.<sup>100</sup> California then passed the first statewide initiative that banned affirmative action. The California Civil Rights Initiative, also known as Proposition 209 of 1996, went into effect in 1998. It was the first state law of its kind as it prevented the use of race, ethnicity, national origin, and sex in

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[americans.html?searchResultPosition=4](https://perma.cc/L4YW-NKXD) [https://perma.cc/L4YW-NKXD].

<sup>97</sup> See Mark C. Long: *Affirmative Action and Its Alternatives in Public Universities: What Do We Know?* 67 PUB. ADMIN. REV. 315 (2007).

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> Regents Policy 4401: *Policy on Future Admissions, Employment, and Contracting (Resolution Rescinding SP-1 and SP-20)*.

university admissions.<sup>101</sup> This proposition also affected employment in public universities and resultantly the number of women and faculty of color declined.<sup>102</sup>

In 1999, the University of California Board of Regents responded to the limitations on diversity from *Bakke* and Proposition 209 by approving a race-neutral admissions policy approach called the Top-4% plan that went into effect in 2001. The plan guaranteed admission to at least one school in the University of California system for students graduating in the statewide Top-4% of GPAs in UC-required courses. Later the regents approved a Top-9% plan that was effective with the class of 2012 that included additional caveats such as test scores, honors courses, and school quality.<sup>103</sup> Similar to the Texas Top 10% plan, both the Top-4% and the Top-9% plans, are considered to be permissible race-neutral admissions policies because they do not utilize racial or ethnic preferences in admissions.

After California, five more states passed initiatives banning affirmative action. The state of Washington Initiative 200, passed in 1998, eliminated affirmative action in admissions, financial aid, and recruiting of all public universities in the state.<sup>104</sup> Similar to California, this law prohibits “state and local agencies from granting preferential treatment to any individual or group on the basis of ethnicity or national origin in public education, public employment and public contracting.”<sup>105</sup> In Michigan, Proposal 2 prohibited state institutions from granting preferential treatment based on race and ethnicity, among other factors in 2006. Nebraska Initiative 424 of 2008 eliminated affirmative action programs

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<sup>101</sup> See BERKELEY LAW, THELTON E. HENDERSON CENTER FOR SOCIAL JUSTICE, PROPOSITION 209 AND PUBLIC EMPLOYMENT IN CALIFORNIA: TRENDS IN WORKFORCE DIVERSITY (2008).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> See Long, *supra* note 97.

<sup>105</sup> Berkeley Law, *supra* note 101.

at state colleges and universities. More recently, the same happened in Arizona and Oklahoma with measures passed in 2010 and 2012, respectively, prohibiting all preferential treatment based on race.<sup>106</sup>

In 2011, the New Hampshire Legislature passed House Bill 623 that prohibits preferential treatment by race in public sector recruiting, hiring, promotions and university admissions. As a result, all state agencies, public universities and community colleges were disallowed from the consideration of race, sex, national origin, religion, or sexual orientation. New Hampshire is the only state to have enacted such a measure by legislative vote.

Considering the benefits and challenges of diversity and the varying legal landscape state to state, the next section seeks to understand the magnitude of faculty diversity in U.S. college and universities' intellectual communities using national data. We compare Baccalaureate, Master's and Doctoral granting institutions to examine the magnitude of diversity and whether gender and ethnoracial faculty diversity has changed in recent years.

### III. MEASURING FACULTY DIVERSITY

The magnitude and improvement of faculty diversity in higher education has been an important area of study in academic literature. Mary A. Armstrong and Hannah Steward-Gambino in their research *Building Curricular Diversity Through a "Social Movement": How Faculty Networks Support Institutional Change*, suggested that increasing faculty diversity is an important element for the education and preparation of American college and university students.<sup>107</sup> Considering this, we now seek to examine the overall faculty diversity by tenure status within institutions of different types in higher education across the US.

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<sup>106</sup> See Long, *supra* note 97.

<sup>107</sup> Mary A. Armstrong *supra* note 12.

### A. Data and Methodology

In view of the legal landscape and the academic literature noted in previous sections, we now turn to a quantitative analysis of gender and ethnoracial diversity across U.S. Data for the current study was downloaded from the public Integrated Postsecondary Education Data System (IPEDS).<sup>108</sup> The data represent all U.S. institutions granting bachelor's, master's and doctoral degrees. To understand diversity, variables for gender and ethnoracial categories were utilized, including the category "race or ethnicity unknown."<sup>109</sup> In the following section, we detail findings about the percentages in 2017 and the differences in gender and ethnoracial faculty diversity between the years 2013 and 2017. Results are divided by institutional status based on Carnegie Classifications. The classifications analyzed in this article are Baccalaureate, Master's, and Doctoral institutions.<sup>110</sup>

### B. Results and Findings

The first area explored by this quantitative analysis is the overall diversity

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<sup>108</sup> See IES: National Center for Education Statistics, <https://nces.ed.gov/ipeds/about-ipeds> (last visited June 9, 2019), [<https://perma.cc/84ND-ZPB9>]. "IPEDS is the Integrated Postsecondary Education Data System. It is a system of interrelated surveys conducted annually by the US Department of Education's National Center for Education Statistics (NCES). IPEDS gathers information from every college, university, and technical and vocational institution that participates in federal student financial aid programs. The Higher Education Act of 1965, as amended, requires that institutions that participate in federal student aid programs report data on enrollments, program completions, graduation rates, faculty and staff, finances, institutional prices, and student financial aid."

<sup>109</sup> We excluded from this analysis the category "2 or more races" because this category encompasses too many confounding factors which could convolute our findings.

<sup>110</sup> See <http://carnegieclassifications.iu.edu> [<https://perma.cc/99RL-KEGV>]. Baccalaureate institutions where baccalaureate or higher degrees represent at least 50 percent of all degrees but where fewer than 50 master's degrees or 20 doctoral degrees are awarded. Master's institutions generally include institutions that awarded at least 50 master's degrees and fewer than 20 doctoral degrees. Doctoral institutions that awarded at least 20 research/scholarship doctoral degrees and also institutions with below 20 research/scholarship doctoral degrees that awarded at least 30 professional practice doctoral degrees in at least 2 programs.

profile for institutions of higher education which are Baccalaureate institutions.

*Table 1: Diversity Profile for Baccalaureate Status Institutions 2017 (percent)*

	Tenured	Tenure Track	Instructional Faculty
<b>Men</b>	57.36	47.52	53.23
<b>Women</b>	42.64	52.48	47.77
<b>American Indian/Alaskan Native</b>	.24	.38	.32
<b>Asian</b>	5.64	6.78	5.38
<b>Black/African American</b>	5.21	9.70	7.05
<b>Hispanic/Latino</b>	6.60	5.24	6.00
<b>Native Hawaiian/Other Pacific Islander</b>	0.12	.15	.19
<b>White</b>	78.90	69.52	75.85
<b>Race/Ethnicity Unknown</b>	1.92	3.07	3.27

As shown in Table 1, the major findings for these institutions is that 9.7% of Black/African American faculty members are on the tenure track and are 7.05% of instructional faculty— more than Master’s or Doctoral institutions. Results also indicated that Hispanic/Latinos are more often tenured than tenure track in Baccalaureate institutions. Other findings include that men make up the majority of tenured and instructional faculty, but the on-tenure track data show a greater percentage of women.

These numbers also demonstrate that the two largest ethnoracial identities are not equally represented in tenured and tenure track when comparing the population of the U.S. and faculty demographics. *The American Community Survey* indicates that Black/African Americans represent 12.7% of the overall population but the IPEDS data show representation at 5.21% of tenured



faculty and 9.7% of on-tenure track faculty.<sup>111</sup> Similarly, this data shows that Hispanics/Latinos represent 17.6% of the population of the US but, as indicated by our data, make up only 6.6% of tenured faculty and 5.24% of on-tenure track faculty.<sup>112</sup>

*Table 2: Change in Diversity Profile for Baccalaureate Status Institutions 2013-2017  
(percent)*

	<b>Tenured</b>	<b>Tenure Track</b>	<b>Instructional Faculty</b>
<b>Men</b>	-1.92	-1.95	-1.74
<b>Women</b>	+1.92	+1.95	+1.74
<b>American Indian/Alaskan Native</b>	+.01	0	-.01
<b>Asian</b>	+1.02	+.31	+.68
<b>Black/African American</b>	+.49	+.83	+.12
<b>Hispanic/Latino</b>	-.05	+.61	+.25
<b>Native Hawaiian</b>	-.02	+.02	0
<b>White</b>	-1.76	-2.29	-1.47
<b>Race/Ethnicity Unknown</b>	+.20	+.12	+.93

As demonstrated in Table 2, recent changes in the gender and ethnoracial diversity profile of Baccalaureate institutions include the percentage of White faculty, and male faculty decreasing from 2013 to 2017 regardless of tenure status. Despite this decrease, the IPEDS data indicate that the entire change was not reflected in increases in other races and ethnicities in the

<sup>111</sup> 2013-2017 American Community Survey 5- year estimates, U.S. Census Bureau, <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (Select Community Facts in top bar, 2017 American Community Survey “Demographic & Housing Estimates”)[<https://perma.cc/7C7K-DYAD>] (last visited June 18, 2019).

<sup>112</sup> *Id.*

tenured, tenure track and instructional faculty. This discrepancy may be due to the exclusion of the “2 or more races” category from our analysis, or the possibility that faculty may be less likely to report their ethnoracial background as White in recent years. It’s notable that ethnoracial diversity between Baccalaureate institution tenured, tenure track and instructional faculty has not improved appreciably since 2013 (ranging from 0 to 1.02%)—the largest increase being among tenured Asians. For gender, a binary category in federal data, decreases in male faculty can directly be accounted for by increases in women faculty members (ranging from 1.74 to 1.95%).

The next area explored in our analysis is the overall diversity profile for Master’s institutions. As shown in Table 3, major findings for this area include that more Black/African American faculty members are tenure track compared instructional faculty or tenured status, with 6.84% falling into this category. Comparing institutional types, the data shows that Master’s institutions contained the greatest percentage of women faculty members on the tenure track. Other findings include, men make up the majority of tenured and instructional faculty, but the on-tenure track data shows a greater percentage of women.

Similar to Baccalaureate institutions, these numbers also show that the largest ethnoracial identities are not represented at a rate in Master’s tenured and tenure track faculty that is similar to their representation in the U.S. population. *The American Community Survey* indicates that Black/African Americans represent 12.7% of the overall population but IPEDS data shows representation at 5.59% of tenured faculty and 6.84% of on-tenure track faculty.<sup>113</sup> Similarly, Hispanics/Latinos represent 17.6% of the population of the U.S. but, as indicated by our data, only make up about 5.01% of tenured faculty and 4.92% of on-tenure track faculty.<sup>114</sup>

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<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

Table 3: Diversity Profile for Master's Status Institutions 2017 (percent)

	<b>Tenured</b>	<b>Tenure Track</b>	<b>Instructional Faculty</b>
<b>Men</b>	56.93	46.94	50.15
<b>Women</b>	43.07	53.06	49.85
<b>American Indian/Alaskan Native</b>	0.43	0.40	.42
<b>Asian</b>	8.82	8.71	7.24
<b>Black/African American</b>	5.59	6.84	6.29
<b>Hispanic/Latino</b>	5.01	4.92	5.07
<b>Native Hawaiian/Other Pacific Islander</b>	0.16	0.17	0.17
<b>White</b>	76.76	68.20	74.96
<b>Race/Ethnicity Unknown</b>	1.40	3.22	2.42

Table 4: Change In Diversity Profile for Master's Status Institutions 2013-2017 percent)

	<b>Tenured</b>	<b>Tenure Track</b>	<b>Instructional Faculty</b>
<b>Men</b>	-1.76	-0.83	-1.86
<b>Women</b>	+1.76	+0.83	+1.86
<b>American Indian/Alaskan Native</b>	+0.02	-0.09	-0.02
<b>Asian</b>	+1.24	+0.56	+0.67
<b>Black/African American</b>	+0.07	-0.32	+0.05
<b>Hispanic/Latino</b>	+0.64	+0.43	+0.62
<b>Native Hawaiian/Other Pacific Islander</b>	+0.01	-0.04	-0.01
<b>White</b>	-2.11	-2.62	-2.15
<b>Race/Ethnicity Unknown</b>	-0.42	0.35	-0.01

As demonstrated in Table 4, another major finding from Master’s institutions is that the percentage of White and male faculty is decreasing regardless of tenure status. Despite this decrease, results indicate that the numbers are not being accounted for by increases in other races and ethnicities— the potential reasons for this we discussed earlier. It’s notable that ethnoracial diversity among Master’s institution tenured, tenure track and instructional faculty has also not improved appreciably since 2013 (ranging from 0.01 to 1.24%)—the largest increase being among tenured Asians. However, for gender, decreases in male faculty can directly be accounted for by increases in women faculty members (ranging from 0.08 to 1.86%).

*Table 5: Diversity Profile for Doctoral Status Institutions 2017 (percent)*

	<b>Tenured</b>	<b>Tenure Track</b>	<b>Instructional Faculty</b>
<b>Men</b>	67.37	54.93	58.04
<b>Women</b>	32.63	45.07	41.96
<b>American Indian/Alaskan Native</b>	0.33	0.34	0.32
<b>Asian</b>	12.82	14.12	12.08
<b>Black/African American</b>	4.05	5.26	4.48
<b>Hispanic/Latino</b>	4.60	5.19	4.93
<b>Native Hawaiian/Other Pacific Islander</b>	0.07	0.13	0.10
<b>White</b>	74.20	57.27	69.95
<b>Race/Ethnicity Unknown</b>	1.74	5.08	3.00

As shown in Table 5, Doctoral institutions are the least diverse across tenure status. The major findings for this area include that White faculty members are more often tenured and instructional, with 74.20% and 69.95% falling into these categories respectively. Notably, the disparities for Women

faculty teaching in Doctoral institutions are readily apparent as 41.96% are instructional faculty, nearly half of women are tenure track (45%) and only 32.63% are tenured.

The IPEDS data also demonstrates that faculty from the largest ethnoracial identities are underrepresented relative to the population of the U.S. *The American Community Survey* indicates Black/African Americans represent 12.7% of the overall population but our data shows representation at 4.05% of tenured faculty and 5.26% of on-tenure track faculty.<sup>115</sup> Similarly, this data shows that Hispanics/Latinos represent 17.6% of the population of the U.S. but, as indicated by our data, only make up about 4.6% of tenured faculty and 5.19% of on-tenure track faculty.<sup>116</sup> Notably, Asian Americans are overrepresented in faculty demographics when compared to the U.S. population across all institutional types and faculty status. This finding is especially salient in Doctoral institutions as Asians represent 5.4% of the entire U.S. population, but represent 12.82% of tenured faculty, 14.12% of tenure track faculty, and 12.08% of all instructional faculty.<sup>117</sup>

Similar to Baccalaureate institutions, the percentage of White and male faculty at Doctoral institutions is decreasing regardless of tenure status (See Table 6). Despite this decrease, results indicate that the numbers are again not accounted for by increases in other races and ethnicities. It's notable that ethnoracial diversity among Doctoral institution tenured, tenure track and instructional faculty has also not improved appreciably since 2013 (ranging from 0 to 1.94%)—the largest increase being among tenured Asians. For gender, decreases in male faculty can directly be accounted for by increases in women faculty members (ranging from 1.07 to 2.27%). Another interesting finding is that while Doctoral institutions are currently the least diverse of the three

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<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

Carnegie institution types, the data shows that they have decreased their number of White and male faculty percentages at a higher rate than other institutions since 2013 (See Table 6).

*Table 6: Change In Diversity Profile for Doctoral Status Institutions 2013- 2017 (percent)*

	<b>Tenured</b>	<b>Tenure Track</b>	<b>Instructional Faculty</b>
<b>Men</b>	-1.99	-1.07	-2.27
<b>Women</b>	+1.99	+1.07	+2.27
<b>American Indian/Alaskan Native</b>	-0.01	-0.05	-0.02
<b>Asian</b>	+1.94	+0.54	+1.23
<b>Black/African American</b>	+0.10	+0.30	+0.22
<b>Hispanic/Latino</b>	+0.65	+0.59	+0.69
<b>Native Hawaiian/Other Pacific Islander</b>	+0.01	0	+0.02
<b>White</b>	-3.17	-3.89	-2.91
<b>Race/Ethnicity Unknown</b>	+0.31	+0.67	+0.36

## CONCLUSION

Considering the educational benefits of faculty diversity and our nation's rapidly changing demographics, it is important that colleges and universities of different types seek to address the ongoing barriers that are preventing ethnoracial and gender diversity of tenured, tenure track and instructional faculty. It is also essential that our nation's universities centrally value explicit and carefully crafted priorities that fit within the framework of the law and the influences surrounding the legal context of affirmative action in admissions processes, to hire and retain faculty to buttress university communities that are diverse along many dimensions. While some progress has been made toward

gender equity, one of the biggest challenges that we noted in the national data is that ethnoracial diversity among tenured faculty continues to lag across institutional types. This is occurring despite that fact that the U.S. Supreme Court has allowed diversity in admissions processes as a plus factor—operating in most states where it is not explicitly banned.

College and university leaders have espoused the values of diversity in the public discourse and institutions of higher education have advanced programming, administrative positions, and academic discourse around race, ethnicity, and gender. However, as our analyses of national data show, U.S. colleges and universities have not realized much progress toward ethnoracial and gender faculty diversity in recent years—the exception being a modest increase (between 1-2%) in tenured Asians across institutional types. While diversity, equity and inclusion are often widely promoted in the higher education discourse, there is much more institutional action necessary to improve the ethnoracial and gender demographics of the faculty in U.S. colleges' and universities' intellectual communities to positively impact educational practices and outcomes.