
Access & Diversity Toolkit

A RESOURCE FOR HIGHER EDUCATION PROFESSIONALS



TOOL 1

The Diversity Imperative: The Compelling Case

The Issue

In 2003, the U.S. Supreme Court resolved the issue that had been the subject of contentious litigation and debate for decades: whether the educational benefits of diversity could ever justify the limited consideration of race or ethnicity when conferring educational opportunities, such as in admission and financial aid decisions. Their answer, affirmed by all nine justices of the Court only four years later, was a clear "yes."

The resulting central questions for higher education institutions are: Are diversity interests central to their ability to achieve their education goals? And, if so, how should those interests be framed and pursued as a matter of institution-specific policy?

The Policy Context

The foundations for developing effective and sustainable diversity-related policies are principally based on social science, as well as institutional research and experience. (See "Selected Resources.") As illustrated in *Grutter* (2003), these foundations are also essential when making the case regarding the "compelling interests" that may support institutional policies when they are race or ethnicity conscious.

THE EDUCATIONAL AND ECONOMIC RATIONALES

- Benefits of a diverse student population (including, but not limited to, racial and ethnic diversity) include promoting cross-racial understanding, breaking down racial stereotypes, and promoting livelier and more enlightening classroom discussion.
- A college student's diversity experience is associated with higher-learning outcomes such as enhanced critical thinking skills, more involvement in community service, and a greater likelihood for retention and graduation.
- Efforts to prepare students to interact with and serve diverse populations in their career field upon graduation directly implicate diversity-related policies. For example, racial and ethnic diversity within U.S. medical schools is linked to successfully preparing medical students to meet the needs of an increasingly diverse population.
- Today's U.S. minority populations are tomorrow's majorities and, if our minorities continue educational attainment at the same rate, the U.S. will no longer be an economic global leader. The table below illustrates this point.

Table 1: Demographic Trends and Educational Attainment

Demographic	2008 Percent of Population	2050 Projected Percent of Population	2002 Estimated High School Graduation Rate*	2000 Bachelor's Degree or Higher Attainment Rate
White	66%	46%	78%	26%
Black	14%	15%	56%	14%
Hispanic	15%	30%	52%	10%

*All national high school graduation rates are estimates as there is not a standard formula for calculation among states.

THE CIVIC AND NATIONAL SECURITY RATIONALES

- As the United States becomes increasingly diverse, higher education institutions must prepare their students for citizenship—viewed by the U.S. Supreme Court as “pivotal to ‘sustaining our political and cultural heritage’ ... [and] in maintaining the fabric of society.”
- National security requires a diverse group of educated citizens able to defend our nation in all parts of the globe. The military cannot maintain a highly qualified and diverse officer corps if cadets and other students in colleges, ROTCs, and academies that prepare such officer candidates don’t have a diverse student body.

“ On the Record:

The Compelling Educational Benefits Associated with Student Diversity

The “educational benefits that diversity is designed to produce ... are substantial, ... important and laudable. ... [S]tudent body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals. ... These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas and viewpoints.”

JUSTICE SANDRA DAY O’CONNOR

in *Grutter v. Bollinger* (2003), citing in part briefs of major corporations, including General Motors Corp. and 3M.

SELECTED RESOURCES

The Benefits of Diversity

1. Expert Report of Patricia Gurin in *Bollinger* litigation at www.vpcomm.umich.edu/admissions/legal/expert/gurintoc.html
2. Palmer, “A Policy Framework for Reconceptualizing the Legal Debate Concerning Affirmative Action in Higher Education” in *Diversity Challenged: Evidence on the Impact of Affirmative Action* (G. Orfield and M. Kurlaender, Eds., 2001).
3. Gurin et al., “Diversity and Higher Education: Theory and Impact on Educational Outcomes,” *72 Harvard Educational Review* 3, (2002) at <http://her.hepg.org/content/01151786u134n051/?p=17e07b44228be4e4ead0003c80d4245f6&pi=1>
4. Milem et al., “Making Diversity Work on Campus: A Research-Based Perspective,” in *Making Excellence Inclusive* (Association of American Colleges and Universities, 2005) at www.siher.stanford.edu/AntonioMilemChang_makingdiversitywork.pdf

Key Action Steps

- 1 Assess core education goals in light of research, experience, and U.S. Supreme Court findings—ultimately determining which of the interests generally recognized specifically apply to the higher education institution.
- 2 Evaluate the connections between student diversity and the institution’s ability to achieve core education goals.
- 3 Where those connections exist, evaluate (and pursue, as appropriate) the development and implementation of policies that will promote that diversity, as one set of strategies designed to achieve success.

Access and Diversity: Related but Distinct Concepts

The Issue

The terms “access” and “diversity” are often used interchangeably. And, although they are clearly related concepts, the important distinctions between the two should inform the development of institutional policies. It also goes without saying that the extent to which these distinct but related interests may apply to any higher education institution depends on the unique circumstances of the particular institution. An important question, therefore, relates to the precise interests a college or university seeks to advance, and how it develops and implements strategies to achieve those goals.

Notably, whether policies advancing institutional goals are centered on diversity or access aims (or some combination thereof), they should be supported by strong empirical evidence. This evidence will most often range from relevant social science research regarding the educational importance of achieving institutional goals, to documentation of the institution’s actual experience in (and value of) achieving those goals over time.

The Policy Context

Diversity (defined in additional detail in Tool 3) is a concept that is best understood as a means to an educational end—with an institution-centric focus on enhancing educational outcomes for all students. Informed by the extensive body of social science research that demonstrates the connection between a diverse learning environment and positive educational outcomes, as well as relevant case law that recognizes and values this connection, the conceptualization of “diversity” on any campus should be driven by that institution’s particular history, its education goals, and its relative status in achieving those goals. Diversity is, in other words, often inextricably linked to the kind of success that institutions may seek as they focus on the composition of their classes and the kinds of pedagogical strategies they employ (in light of that composition) to achieve their mission-related goals. Diversity-related policies should always reflect the close

relationship between compositional (or structural) diversity (e.g., the backgrounds, characteristics, and qualities that the student body, as a whole, reflects) and the educational aims for all students in the relevant institution.

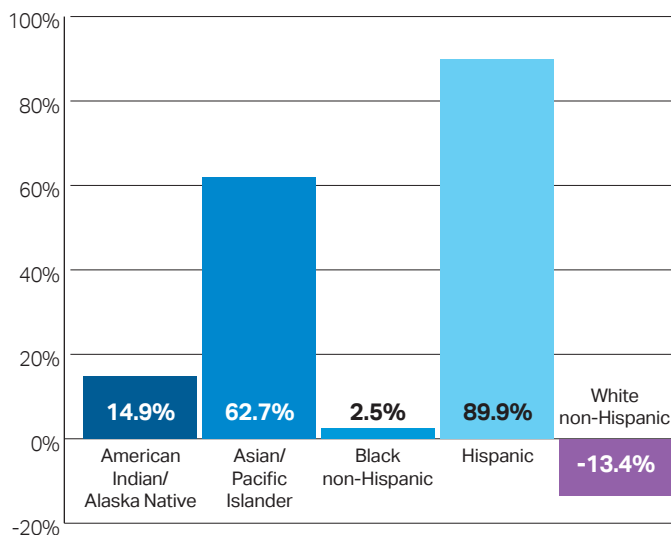
Although diversity interests will vary from institution to institution (as they may from department to department), these interests tend to reflect a number of common principles across most institutions. Central among them is the overarching focus on the question that drives the diversity discussion: What kinds of students do I want to enroll and educate—and what sort of diversity should they reflect—in order to meet core institution-related mission interests?

Access, while closely related to diversity interests in several ways, tends to include more of a focus on the broader set of access and equal opportunity (sometimes characterized as “social justice”) interests that many institutions seek to advance—principally in order to correct for inequities in (relevant) current and recent historical education systems. In relative terms, access goals tend to reflect less of an emphasis on the precise composition of an incoming class or the kind of instructional strategies that might be pursued (though those often are related benefits). Access goals often center on expanding a pipeline of qualified and interested students aspiring to pursue postsecondary education—frequently with attention to individuals within groups that have been historically underrepresented in relevant educational programs. In short, the precise policy aims regarding “access” shouldn’t be confused with those typically associated with “diversity” interests.

National and regional demographic trends and projections are central to discussions around access, given that the number of historically underrepresented students (based on race and ethnicity) in high school graduating classes is slated to grow at a much faster rate than the number of white students. Therefore, higher education institutions must prepare to serve the influx of racially and ethnically diverse students due to a rapidly changing population demographic. For example, Hispanics are projected to

be the fastest-growing ethnic group between 2006 and 2016, growing by 29.9%. By 2016, Hispanics will continue to constitute an increasing proportion of the labor force, growing from 13.7% to 16.4%.

Graph 1: Projected Cumulative Percent Change in U.S. Public School Graduates—From 2004–2005 to 2019–2020 by Race/Ethnicity



Notably, in this context, evidence indicates that in 12 of the 20 fastest-growing occupations from 2006 to 2016, an associate degree or higher is required of most workers.¹

“On the Record: The Imperative Regarding Access and Equal Opportunity

“[T]he diffusion of knowledge and opportunity through public institutions of higher education must be accessible to all individuals regardless of race or ethnicity ... [E]nsuring that public institutions are open and available to all segments of American society, including people of all races and ethnicities, represents a paramount government objective. ... And, [n]owhere is the importance of such openness more acute than in the context of higher education.’ Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized.”

JUSTICE SANDRA DAY O’CONNOR

in *Grutter v. Bollinger* (2003), premised in part on the Supreme Court’s unanimous *Brown v. Board of Education* decision in 1954.

Key Action Steps

- 1 Frame institutional goals clearly, with particular attention to distinctions and points of commonality associated with access and diversity interests.
- 2 Ensure that access and diversity interests are defined in relation to institutional context—including relevant demographic trends and projections.
- 3 Ensure that policies and programs designed to advance access and diversity interests are fully aligned (in design and operation) with institution-specific interests.

SELECTED RESOURCES

1. *Grutter v. Bollinger*, 539 U.S. 306 (2003).
2. *Roadmap to Diversity: Key Legal and Educational Policy Foundations for Medical Schools* (Association of American Medical Colleges, 2008).
3. “Leading Institutional Change: Key Elements and Strategies for Promoting Access and Diversity Goals,” Access & Diversity Power Point Presentation developed for 2008-09 National Seminars for Higher Education Officials at www.collegeboard.com/accessanddiversity
4. U.S. Census Press Release from August 14, 2008, on National Population Projections (www.census.gov).

CITATIONS

1. See <http://www.bls.gov/news.release/ecopro.t06.htm>

Key Terms and Concepts: Knowing the Basics

The Issue

Language surrounding access and diversity policies can often be confusing and highly charged. To help avoid debates that result in little more than “two (or more) ships passing in the night,” as well as unnecessary polarization among key stakeholders, it’s important to identify, clearly define, and frame key terms that are typically integral to institution-specific policy development on access and diversity issues.

Terms and Concepts

Affirmative Action

Historically, “affirmative action” has referred to remedial and social justice policies designed to cure the problems of the past. Although not definitively addressed by the courts, strong arguments exist that the term “affirmative action” isn’t an appropriate characterization of mission-driven, forward-looking, access- and diversity-related student policies that include some consideration of race or ethnicity. Moreover, the ambiguities inherent in the term “affirmative action” (everyone has their own definition) should cause one to pause and consider the value of maintaining a label that means very different things to different people and that, in any event, tends to be a lightning rod term. At a minimum, the term lacks precision, is inherently ambiguous, and is often used effectively by those whose aim is to confuse and obfuscate meaningful, educationally grounded policy discussions regarding access- and diversity-related issues.

POLICY TIP: It’s best to stay away from using the term “affirmative action” as part of your institution’s vernacular regarding student access and diversity. In any event, focus on describing your institution’s precise policy aims and operations.

Diversity

“Diversity” must be defined in relation to a specific institution as its meaning is derived from the goals an institution establishes for itself. Further, as a matter of federal law, “diversity” can’t be defined only with reference

to race and/or ethnicity. Otherwise, it reflects more of an interest in racial balancing than in promoting authentic educational diversity, an interest that has been uniformly rejected by federal courts. The term must encompass the range of student backgrounds, talents, skills, and experiences needed to ensure full access or advance the benefits of student diversity on campus. This array of characteristics may be (and frequently is) wide ranging, including, for instance, first-generation status (or, similarly, those whose backgrounds reflect a significant “distance traveled” in reaching the doors of higher education), socioeconomic status, racial and ethnic background, artistic talents (for instance, piano virtuosos), athletic skills and accomplishment, fluency in certain languages, unique life experiences (ranging from notable volunteer activities to having lived in areas that tend to be underrepresented on campus), and more.

POLICY TIP: The use of the term “diversity” should be premised upon a shared, clear understanding of what the term means for a specific institution.

Critical Mass

Social science research reflects that a minority group (especially one that has been historically discriminated against) is easily marginalized when it’s only a small presence in a larger population. “As the group’s presence and level of participation grows, at a particular point the perspective of members of the minority group and the character of relations between minority and nonminority changes qualitatively. ... The discrete point [at which this occurs] is known as ‘critical mass’” (Etkowitz et al., 1994). “Critical mass” is premised on the need to attract sufficient numbers of underrepresented students who will advance education goals based on institution-specific research and experience.

POLICY TIP: “Critical mass” should be understood and defined as a contextual benchmark relative to a particular student body, rather than as a particular number or percentage of students and rigid quota.

Quota

Much like “affirmative action,” the term “quota” can be a lightning rod term that obfuscates rather than enlightens. “Quota” has a very specific legal definition: According to the U.S. Supreme Court, quotas impose “a fixed number or percentage [of students and/or faculty] which must be attained, or which cannot be exceeded” (*Grutter v. Bollinger*, 2003). The use of quotas is not a legally acceptable method for achieving the educational benefits of diversity.

POLICY TIP: “Quotas,” as defined in federal law, can’t drive access and diversity policies—at least to the extent that they’re associated with the racial, ethnic, and gender composition of a class.

“Race Conscious” and “Race Neutral”

Federal law establishes two categories of policies that may bear on access and diversity goals: “race-conscious” policies, which trigger a heightened review by courts, and “race-neutral” policies, which do not. Although not definitively settled (see Resource 3), race-conscious policies are ones that involve explicit racial classifications, as well as those that are neutral on their surface but that are motivated by a racially discriminatory purpose, principally resulting in racially discriminatory effects. Race-neutral policies are those that, with respect to both language and intent, are neutral, as well as those that expand efforts to generate additional applicant interest, which may be “race conscious” in intent, but which don’t confer material benefit to the exclusion of nontargeted students.

POLICY TIP: Language in a policy isn’t the only thing that can result in a policy being characterized as “race conscious” and therefore subject to heightened judicial review. The intent behind a facially neutral policy can also trigger this probing scrutiny.

SELECTED RESOURCES

1. Etkowitz et al., “The Paradox of Critical Mass for Women in Science: Change in Workplace Structure Needed to Integrate Women Successfully in Academic Science Departments,” *Science* 266 (1994): 51.
2. Coleman, Palmer, and Winnick, *Race-Neutral Policies in Higher Education: From Theory to Action* (The College Board, 2008) at www.collegeboard.com/accessanddiversity (This paper explains in depth the concepts of “race-conscious” and “race-neutral” under federal law.)
3. *Admissions and Diversity After Michigan: The Next Generation of Legal and Policy Issues* (The College Board, 2006) at www.collegeboard.com/accessanddiversity (Chapter 4 of this manual addresses the concepts of “critical mass” and “underrepresented students,” and how arguments regarding critical mass were successfully framed in the University of Michigan litigation.)

Underrepresented Students

In the context of race- and ethnicity-related diversity policies, consideration should be given to defining this term with respect to groups of students for whom there are insufficient numbers to establish a critical mass that will advance the educational benefits of diversity. Who qualifies as an “underrepresented student” will vary by institution.

POLICY TIP: Defining those who qualify as “underrepresented students” should be done with specific reference to an individual institution’s current and historical student body composition. Importantly, identifying and/or targeting “underrepresented students” doesn’t mean ensuring that the student body is proportional to its relevant service area (community, state, or national). If there is a goal associated with the aim of increasing “underrepresented students,” it should be framed in the context of achieving a critical mass, as defined above—at least to the extent that institutional leaders intend to align their policies with the central elements of those successfully defended by the University of Michigan in *Grutter v. Bollinger*.

Key Action Steps

- 1 Review all policies, website materials, and other publications to ensure coherence, consistency, and transparency on the institution-specific meaning of key terms.
- 2 Ensure that key enrollment and external relations staff are trained on the correct definitions of key terms and concepts—and that they can connect them to their work.

4. *Roadmap to Diversity: Key Legal and Educational Policy Foundations for Medical Schools* (Association of American Medical Colleges, 2008) at www.aamc.org
5. Brief of the American Educational Research Association, et al., filed in *Grutter v. Bollinger* at www.civilrightsproject.ucla.edu/policy/legal_docs/michigan.php
6. *Grutter v. Bollinger*, 539 U.S. 306 (2003).

Mythbusters: Correcting Common Misunderstandings

The Issue

Despite many efforts to promote a rational, evidence-based dialogue on issues of access and diversity (particularly where race, ethnicity, and gender preferences may be at issue), campus discussions often devolve into polarizing, rhetorical exchanges that aren't grounded in reality—and that generate more heat than light. These mythbusters are intended to address some of the central myths that tend to erroneously drive higher education policy discussions, and to provide a number of on-point resources that may promote a more meaningful policy discourse.

Table 2: Myths and Mythbusters

Myth	Mythbuster	Points of Reference
<p>1 “Diversity” is code for policies that focus only on race and ethnicity preferences in higher education.</p>	<p>FALSE. Properly understood, “diversity” is a concept that reflects institutional interests in an array of student backgrounds, characteristics, and interests—of which race and ethnicity may be two factors among many.</p>	<ul style="list-style-type: none"> ▪ The U.S. Supreme Court in <i>Grutter v. Bollinger</i> (2003) affirmed that true educational diversity implicated more than race and ethnicity; otherwise, it was likely to mean little more than racial and ethnic balancing. ▪ Although often reflecting many common elements across similarly situated higher education institutions, “diversity” is an inherently institution-specific value that should reflect institution-specific, mission-driven interests. ▪ See generally <i>Admissions and Diversity After Michigan: The Next Generation of Legal and Policy Issues</i> (The College Board, 2006).
<p>2 The consideration of race and ethnicity in admission and financial aid leads to unqualified or underqualified students receiving benefits to which others are entitled.</p>	<p>FALSE. Properly considered in the admission and financial aid process: [1] race and ethnicity operate along with a mix of other legitimate factors in shaping complex and inherently academic judgments about who to admit; and [2] as “tipping point” factors in some individual decisions, race and ethnicity preferences don’t lead to the admission of unqualified or underqualified students.</p>	<ul style="list-style-type: none"> ▪ The pursuit of higher education interests in diversity—to achieve educational, economic, and other core goals—is a strategy that is fully aligned with (and often indispensable to) the pursuit of educational excellence. ▪ See <i>Grutter v. Bollinger</i> (2003): <ul style="list-style-type: none"> ♦ “... all underrepresented minority students admitted by the [University of Michigan] Law School have been deemed qualified.” ♦ “We also find that ... the race-conscious admission program adequately ensures that all factors that may contribute to student body diversity are meaningfully considered.” ▪ See generally <i>A 21st-Century Imperative: Promoting Access and Diversity in Higher Education</i>, the College Board and American Council on Education (2009) at www.collegeboard.com/accessanddiversity.

3 Standardized test scores and grade point averages are the only basis upon which the merit of a student should be judged when making admission decisions.

FALSE. The inherently academic judgments regarding who is qualified for admission and who should be admitted typically involve an assessment of an array of factors—some more objective and some less so. Teacher recommendations, student interests, records of major accomplishments (including, for some, “distance traveled”), particular skills, backgrounds, and life experiences shape judgments about a student’s likely success at a particular institution and, as importantly, the ways in which the student is likely to contribute to its learning environment.

- Consistent with universally recognized principles regarding test use, numerous higher education organizations explicitly recognize that admission tests, although helpful in predicting student success, shouldn’t be the only factor in assessing a student’s potential for success at an institution, or the student’s likely capacity for contribution at that institution.
- For example,
 - ♦ Regarding the SAT®, see *Appendix B: College Board Guidelines in Preserving the Dream of America: A Message to a Community of Educational Leaders (2008)*: “Test scores should always be used in conjunction with other components of a candidate’s portfolio ... [and] should only be used as a[n] ... approximate indicator of a student’s preparation for college-level work rather than a fixed or exact measure”; and
 - ♦ Regarding the LSAT, see www.lsac.org/AboutLSAC/LSATFairness-Procedures.asp: “The LSAT does not measure every discipline-related skill necessary for academic work, nor does it measure other factors important to academic success.”
- See generally Standard 13.7 in *Standards for Educational and Psychological Testing (1999)*: “In educational settings, a decision or characterization that will have major impact on a student should not be made on the basis of a single test score. Other relevant information should be taken into account if it will enhance the overall validity of the decision.”

4 Federal nondiscrimination rules related to admission practices are identical to those related to financial aid and scholarships.

FALSE. Although the general legal standard applied to such higher education enrollment practices is the same (for race- and ethnicity-conscious practices, “strict scrutiny”; for gender-conscious practices, “intermediate scrutiny”), the nature of the benefit conferred (e.g., admission or aid) and the manner in which it’s conferred affect the precise application of relevant legal standards.

- Justice O’Connor said it best, and most simply: “Context matters.” Elaborating, she observed: “Not every decision influenced by race is equally objectionable, and strict scrutiny is designed to provide a framework for [the evaluation of challenged practices].”
- See also *Nondiscrimination in Federally Assisted Programs; Title VI of the Civil Rights Act of 1964*, Final Policy Guidance 59, Fed. Reg. No. 36, p. 8756 (U.S. Department of Education, Feb. 23, 1994). In interpreting Title VI, “the Department agrees that there are important differences between admission and financial aid.” Reproduced in Appendix C of *Federal Law and Financial Aid: A Framework for Evaluating Diversity-Related Programs* (College Board, 2005).

5 Federal nondiscrimination rules completely and categorically bar race-, ethnicity-, and gender-exclusive financial aid and scholarship practices.

FALSE. No federal rule—based on U.S. Supreme Court rulings or U.S. Department of Education regulations and policy—categorically proscribes race-, ethnicity-, or gender-exclusive aid practices.

- No U.S. Supreme Court decision has ever addressed the merits of a race-, ethnicity-, or gender-conscious financial aid or scholarship policy designed to help achieve the educational benefits of diversity.
 - The U.S. Department of Education in Title VI regulatory policy has stated that “it may be necessary for a college to set aside financial aid to be awarded on the basis of race or national origin in order to achieve a diverse student body.” See *Nondiscrimination in Federally Assisted Programs; Title VI of the Civil Rights Act of 1964*, Final Policy Guidance 59, Fed. Reg. No. 36, p. 8761 (U.S. Department of Education, Feb. 23, 1994).
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SELECTED RESOURCES

1. Lee Bollinger, “Seven Myths About Affirmative Action in Universities,” 38 *Willamette Law Review* 535 (Fall 2002) at <http://www.columbia.edu/cu/president/printable/docs/communications/2002-2003/021016-SevenMyths.html>

2. *Myths and Tradeoffs: The Role of Tests in Undergraduate Admissions* (National Research Council, 1999) at www.nap.edu

Making Connections: A Holistic View of Key Strategies

The Issue

Part of the challenge in developing and implementing enrollment-related policies is one of perspective. Specifically, on what basis is any particular policy appropriately evaluated and refined over time? Although not specifically or explicitly addressed in any meaningful way by federal court precedent, the logic of the governing federal standards applied to claims of discrimination (and the actual scope of inquiry reflected in numerous U.S. Department of Education Office for Civil Rights investigations¹) strongly indicates that each relevant strand of enrollment policy (e.g., recruitment, admission, financial aid, retention) should be assessed holistically—not in isolation. Such an approach can result in a more integrated, educationally sound, sustainable, and efficient system that supports access and diversity goals.

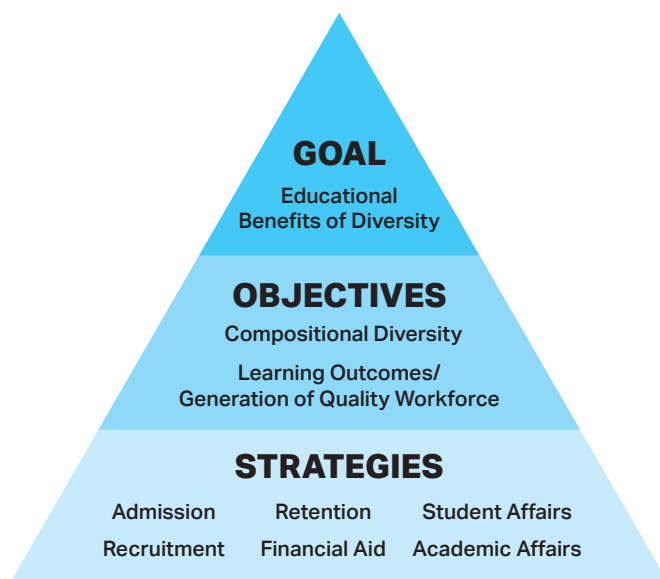
The Policy Context

Examining the institutional investment in and effectiveness of the array of policies designed to principally affect the enrollment of students is a critical step toward success, irrespective of whether the law is implicated in those policies. With legal issues typically implicated in a number of access and diversity policies, this practice becomes even more critical. Often referred to as “enrollment management,” this holistic approach typically involves:

- An integrated process pursuant to which relevant recruitment, admission, financial aid, and student support policies are coordinated and aligned in their development and implementation.
- A multidisciplinary process that brings together key policymakers (and “doers”) from relevant disciplines/offices to ensure the development of:
 - ♦ Clear goals and objectives reflecting agreement regarding the desired size and composition of the student body, as a foundation for meeting mission-driven education goals;

- ♦ An ongoing assessment of successes and challenges in achieving those goals, with a focus on key points of influence that are likely to advance progress toward goals over time;
- ♦ An understanding of the role and expected action of each department/individual to achieve success, and their relationship to others that are also essential to success; and
- ♦ A more informed basis for evaluating the investment and cost (e.g., time, money) associated with particular policies and their relative impact over time (in light of institutional goals).

Graph 2: Multidisciplinary process example



Educationally sound and legally defensible race- /ethnicity-conscious practices must be the product of a well-designed, institutionally aligned, and integrated process.

Key Points of Inquiry

Consider the following questions regarding the array of potential strategies pursued:²

- 1** Recruitment—Is your institution investing in vigorous and effectively targeted outreach and recruitment, and attracting a sufficient diversity of applicants consistent with institutional aims?
- 2** Admission—Is your institution selecting students who are likely to be successful at your institution and meaningfully contribute to teaching and learning, based on their particular backgrounds and experiences?
- 3** Financial aid—Is your institution providing sufficient financial support for qualified students with diverse backgrounds and experiences who need that support?
- 4** Retention—Is your institution providing students, once enrolled, the necessary support they need that will help ensure their success?
- 5** Overall—Have you assessed the big picture with respect to policy design, implementation, and impact, so that you're taking advantage of synergies and not working inefficiently—or worse, at cross-purposes?

SELECTED RESOURCES

1. Don Hossler, *Creating Effective Enrollment Management Systems* (The College Board, 1986).
2. *Roadmap to Diversity: Effective, Efficient and Sustainable Enrollment Management Policies that Promote Mission-Related Goals*, Chapter 1 (Association of American Medical Colleges, manuscript).
3. Jim Black, *The Strategic Enrollment Management Revolution* (AACRO, 2001).

CITATIONS

1. See, e.g., Appendix D: Sample OCR Data/Information Request in *Federal Law and Financial Aid: A Framework for Evaluating Diversity-Related Programs* (The College Board, 2005).
2. Adapted from *Roadmap to Diversity: Effective, Efficient and Sustainable Enrollment Management Policies that Promote Mission-Related Goals*, Chapter 1 (Association of American Medical Colleges, in press).

Admission: Exploring Key Strategies for Achieving Success

The Issue

Over the course of nearly three decades, the U.S. Supreme Court has addressed issues of higher education admission designed to advance access and diversity goals in three landmark cases: *Regents of the University of California v. Bakke* (1978), *Grutter v. Bollinger* (2003), and *Gratz v. Bollinger* (2003). The challenge for higher education institutions that include the consideration of race, ethnicity, or gender (in particular) in their admission policies is to ensure that they both advance core educational aims while doing so in ways that are within the proscriptions of these significant cases.

The Policy Context

The goals and processes associated with the selection of students to attend higher education institutions vary greatly from institution to institution. Those differences notwithstanding, there are several principles that tend to characterize the work of admission officers, regardless of the institution at which they serve. Most notably, the admission process is often a complex process that reflects in each institution a “unique compromise among competing values and priorities.”¹ When the values and priorities include creating a class that will provide the educational benefits of diversity, the following principles should be kept in mind:

- Institutional, mission-driven foundations should inform the scope and substance of admission policies.
- Admission policies should provide for the holistic assessment of the merit of students the institution seeks to admit, with a focus on all relevant qualifications and characteristics—those related to academic preparation and potential, and those related to other student qualities that the institution values, as set forth in mission-related policies.
- All applicants who are admitted, regardless of background, must be qualified.
- Good educational and psychometric foundations should inform judgments regarding students who are deemed qualified and those who aren’t similarly evaluated.
- Admission policies should be integrated and aligned with related enrollment policies.
- The weighting of race, ethnicity, and gender (among other factors) shouldn’t fundamentally undercut the value of individualized holistic review; or create rigid or quota-like mechanisms as part of the admission process.
- Qualified, nonminority applicants who bring particular attributes associated with diversity must have the opportunity to be admitted over minority applicants with higher grades and scores.
- Admission decisions should reflect consideration of the race, ethnicity, or gender of applicants only where it has been determined that such consideration is necessary in order to achieve institutional diversity-related goals.

Key Action Steps

- 1 Establish and refine over time a process of individualized, holistic review through which candidates are evaluated with respect to their likely ability to succeed if admitted, as well as their likely ability to contribute to the vitality of the institution (e.g., spurring more robust learning among peers, as well as better teaching, and promoting nonacademic experiences that will benefit their peers).
- 2 Meaningfully evaluate, over time, admission processes and standards based on data, ranging from objective data to information gleaned through surveys, interviews, etc.
- 3 Stay current regarding the research and institutional foundations that shape knowledge and perceptions of institutional diversity—and ensure that those foundations inform policies over time.

SELECTED RESOURCES

1. *Admissions and Diversity After Michigan: The Next Generation of Legal and Policy Issues* (The College Board, 2006) at www.collegeboard.com/accessanddiversity (This manual significantly expands upon the points addressed in this tool.)
2. *Navigating a Complex Legal Landscape to Foster Greater Faculty and Student Diversity in Higher Education* (American Association for the Advancement of Science, October 2009) [in press].
2. Rigol, *Admissions Decision-Making Models: How U.S. Institutions of Higher Education Select Undergraduate Students* (The College Board, 2003).
4. Perfetto et al., *Toward a Taxonomy of the Admissions Decision-Making Process* (The College Board, 1999).
5. Blackburn, *Assessment and Evaluation in Admission* (The College Board, 1990).

CITATIONS

1. Perfetto et al., *Toward a Taxonomy of the Admissions Decision-Making Process* (The College Board, 1999); see also *Best Practices in Admissions Decisions* (The College Board, 2002).

Financial Aid and Scholarships: Exploring Key Strategies for Achieving Success

The Issue

In contrast to the significant body of U.S. Supreme Court (and related federal) case law regarding higher education admission, which provides meaningful guidance regarding diversity-related admission practices, there is a dearth of similar guidance regarding financial aid and scholarships. Where does one turn, and what are the key points that should inform the development or refinement of financial aid and scholarship policies?

The Policy Context

The U.S. Department of Education in 1994 issued final policy guidance intended to guide higher education institutions in their efforts to develop and refine financial aid and scholarship policies in a manner consistent with Title VI of the Civil Rights Act of 1964 (applicable to recipients of federal funding)—a federal law with standards that track those of the Equal Protection Clause of the 14th Amendment to the U.S. Constitution (applicable to public or “state” actors).

The following policy parameters, some of which are the same as those associated with the admission process (discussed in Tool 6), should guide the development of effective financial aid and scholarship policies.

IN GENERAL

1. Institutional, mission-driven foundations should inform the scope and substance of financial aid and scholarship policies.
2. Financial aid and scholarship policies should be integrated and aligned with related enrollment policies.
3. The race, ethnicity, and gender of applicants should be criteria considered in financial aid and scholarship decisions only where it has been determined that such consideration (including the degree or weight of such consideration) is necessary in order to achieve institutional access or diversity-related goals.
4. Race-, ethnicity-, and gender-conscious scholarships should be evaluated individually and in the context of other aid policies of which they’re a part. Their effectiveness (To what degree are they actually advancing identified goals?) and their potential adverse impact on nonqualifying students (How significant is the impact on students in nonpreferred subgroups?) must be carefully assessed.

SPECIFIC CONTEXTS

5. Principles described above apply fully to race-, ethnicity-, and gender-exclusive aid. Such exclusive policies should be maintained only in cases where their effectiveness is demonstrably related to the achievement of institutional goals and there are substantial bases for concluding that race-, ethnicity, or gender-as-a-factor aid wouldn’t as effectively achieve their desired results.
6. Race-, ethnicity-, and gender-conscious scholarships that are funded by private, nonuniversity/noncollege sources should be carefully evaluated by higher education institutions in cases where those institutions administer or significantly assist in the administration of those private funds.

“On the Record:

Race- and Ethnicity-Exclusive Aid

“...a college or university may use race or national origin as a condition of eligibility in awarding financial aid if this is ... necessary to further its interest in diversity and does not unduly restrict access to financial aid for students who do not meet the race-based eligibility criteria.

... there are important differences between admissions and financial aid. ... [Unlike in the admissions context, t]he use of race-targeted [i.e., exclusive] financial aid does not, in and of itself, dictate that a student would be foreclosed from attending a college solely on the basis of race.”

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Title VI of the Civil Rights Act of 1964, Final Policy Guidance 59, Fed. Reg. No. 36, pp. 8761-62 (U.S. Department of Education, Feb. 23, 1994).

Key Action Steps

- 1 Inventory all university-funded and administered race-, ethnicity-, and gender-conscious policies and programs (including access- and diversity-related policies and programs that may be facially neutral, as well as those that are privately funded), and establish a process for evaluation over time.
- 2 Ensure that the evaluation of policies and programs is focused both on the individual policies and programs in question, as well as the ways in which they operate in light of the entire pool of financial aid and scholarship funding made available by or through the university.
- 3 Assess all written policies and descriptions of specific financial aid and scholarships to ensure that they accurately reflect the actual operation of those policies, and that those descriptions reflect their operation within the context of total institutional funding available.

SELECTED RESOURCES

1. *Nondiscrimination in Federally Assisted Programs; Title VI of the Civil Rights Act of 1964*, Final Policy Guidance 59, Fed. Reg. No. 36, p. 8756 (U.S. Department of Education, Feb. 23, 1994) at www.ed.gov/about/offices/list/ocr/docs/racefa.html

2. *Federal Law and Financial Aid: A Framework for Evaluating Diversity-Related Programs* (The College Board, 2005) at www.collegeboard.com/accessanddiversity (This manual significantly expands upon the points addressed in this tool.)

3. *Information on Minority-Targeted Scholarships* (General Accounting Office Report to Congressional Requesters, No. 94-77, January 14, 1994) at http://gao.gov/docsearch/app_processform.php

4. “Leading Institutional Change: Key Elements and Strategies for Promoting Access and Diversity Goals,” Access & Diversity Collaborative PowerPoint Presentation developed for 2008-09 National Seminars for Higher Education Officials at www.collegeboard.com/accessanddiversity

Getting from Here to There: Managing the Process of Policy Change

The Issue

Following a structured process is critical when attempting to shape institutional diversity and access policies. Not only will it help institutional leaders leverage stakeholder support, it will provide legal support for the policies the institution ultimately adopts. A structured policy process will ensure that policy goals will be related to the institution's mission, connected with other similar institutional policies, and undergo periodic rigorous review. (Although it may not always be linear, the process of policy change should maintain some overall structure in order to ensure that all stakeholders are included and that all policy areas are covered.)

The Policy Context

Under federal nondiscrimination law, one of the “nonnegotiables” regarding the design and implementation of race- and ethnicity-conscious policies is the requirement that institutions with such policies review, evaluate, and (as appropriate) modify those policies over time. In short, higher education institutions must ensure that such policies in their design and implementation are both effective in achieving established goals and minimally discriminatory with respect to students who, because of their race or ethnicity, may not benefit under those policies.

Key Action Steps

Although each institution is unique and has special policy considerations, the steps below outline a framework that institutions can follow.

1 INVENTORY: Know Your Programs.

The first phase of any effective programmatic review will involve the collection and assembly of all relevant information. In this case, the relevant information will pertain to the institution's diversity-related policies and practices.

- Include individuals who have relevant institutional experience to ensure the development of a comprehensive, fact-based initial inventory.
- Include all policies and practices designed to support institutional diversity goals.
- Don't forget to mine admission, financial aid, outreach, recruitment, and retention policies that bear on diversity goals.

- Include externally funded race- and ethnicity-conscious programs in cases where the higher education institution supports—through, for example, the administration of the program—the operation of those programs. These may include programs that are funded by private sources, as well as programs that are authorized by or funded pursuant to federal or state law.

2 ASSEMBLE: Establish an Interdisciplinary Team

The right people are key to an effective initial inventory and assessment of diversity-related programs. Therefore, institutions should assemble (both in the short term and as part of a longer-term strategic planning process) an interdisciplinary team representative of many facets of the institution that can effectively evaluate the relevant policies and programs in light of institutional goals (and legal requirements).

- Include representatives from the institution's top administrative levels.
- Include representatives of specific programs and of institutional perspectives that have a bearing on diversity-related goals and strategies (from the top down).
- Include individuals who can help assemble the research bases upon which policies can be evaluated.
- Include attorneys with an understanding of federal and state legal compliance in relevant areas.
- Consider including communication experts to help anticipate engaging the public should the institution decide to go that route.

3 JUSTIFY: Ensure the Existence of Clearly Defined, Mission-Driven Diversity Goals Supported by Evidence

As federal law makes abundantly clear, race- and ethnicity-conscious policies will only survive under strict scrutiny if the justifications for those policies are well developed and supported by substantial evidence.

Institutions should ensure that goals are:

- Clearly stated and understood;
- Specific regarding what kind of student body the institution wants to attract and why (in relation to diversity goals);
- Clear on how the institution conceptualizes (or defines) its goals and objectives; and
- Clear on how success in reaching goals is assessed.

Sources of evidence can include:

- Institution-specific policies (e.g., mission statements and strategic goals);

- Institution-specific research and analyses (e.g., student surveys, student data) including information that reflects assessments about the relative need for and success of the policies in question;
- Social science research (e.g., educational benefits of diversity); and
- Statements or opinions by institutional leaders, professors, students, and employers, based on actual experience and that shed light on the educational justifications that support the institution's diversity-related goals.

4 ASSESS: Evaluate the Design and Operation of the Policies in Light of Institutional Goals

The design and operation of the policies gathered in these steps should be evaluated in light of narrow tailoring standards, with the overarching aim of ensuring that the use of race or ethnicity is as limited as possible, given the compelling institutional interests that those policies promote.

Policies should be:

- As flexible as possible with regard to the use of race or ethnicity, given institutional aims;
- Necessary, in light of possibly viable race-neutral (or less race-restrictive) alternatives; and
- Of minimal burden to nonqualifying students, based on race or ethnicity

5 ACT: Take Necessary Action Steps

Once these steps have been completed, the path should be clear to begin implementation of new or revised institutional access and diversity policies.

- Institutions should consider ways to address key stakeholder groups in order to facilitate their understanding about the policymaking process and key decisions.
- Policies should be periodically reviewed and evaluated for effectiveness—and modified as appropriate over time.

SELECTED RESOURCES

Admissions and Diversity after Michigan: The Next Generation of Legal and Policy Issues (The College Board, 2006) at www.collegeboard.com/accessanddiversity (Significant points of elaboration on this tool can be found in Chapter 2, from which this tool is derived.)

Beyond Federal Law: State Voter Initiatives and Their Consequences

The Issue

In addition to federal law regarding access and diversity issues in higher education, there are rules in certain states that can affect how access and diversity policies are developed and implemented. State laws and executive orders are examples of potential methods of state expression related to access and diversity.

Notably, nothing in the Supreme Court’s diversity-related opinions applying federal nondiscrimination law specifically prohibits the enactment of state constitutional, statutory, or regulatory provisions that forbid the use of race or ethnicity in public higher education. In short, federal law establishes a “floor” upon which state law may, in appropriate circumstances, “build.” Thus, in several states, voter (or executive) initiatives have given effect to policy preferences that forbid public higher education institutions from conferring benefits or opportunities based on race, ethnicity, and gender.

The Policy Context

The following map and table provide an overview of relevant state initiatives prohibiting race-, ethnicity-, and gender-conscious policies among public higher education institutions.

Graph 3: State activity regarding public institutions’ consideration of race, ethnicity, and gender when conferring educational benefits for students.

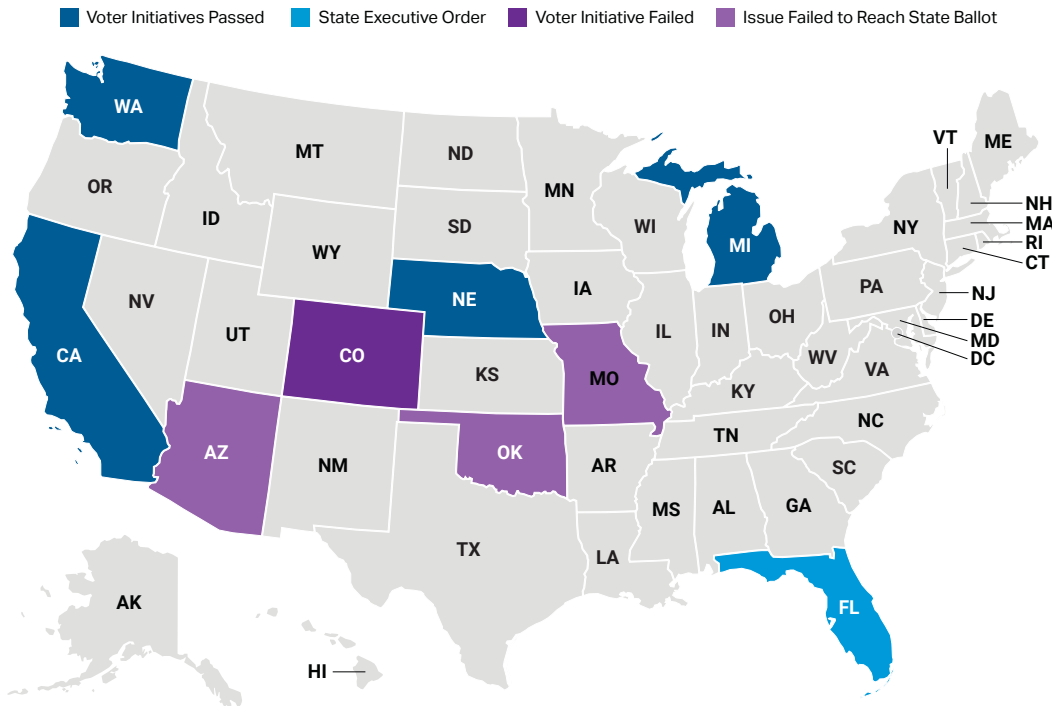


Table 3: State Initiatives

	Action Resulting in Ban	Percent of Voters Approving Initiative	Type of Amendment	Scope of Ban
California (1996)	Voter ballot initiative	54%	State constitution	Applies to all operations in public institutions of higher education
Washington (1998)	Voter ballot initiative	58%	State statute	Applies to all operations in public institutions of higher education
Florida (1999)	Executive order	N/A	Executive order/ regulation adopted by Board of Regents and approved by State Board of Education	Applies to admission in public institutions of higher education
Michigan (2006)	Voter ballot initiative	58%	State constitution	Applies to all operations in public institutions of higher education
Nebraska (2008)	Voter ballot initiative	58%	State constitution	Applies to all operations in public institutions of higher education

Key Action Steps

If building a diverse campus is important to your institution, the following actions may help to build public and political will to support your agenda:

- 1 Build broad-based coalitions to inform policy development and provide support, with the right leadership (higher education, business, military, government, etc.) advocating the educational, economic, civic, and security interests advanced by diverse student bodies.
- 2 Convey a common-sense description of what the research and experience show regarding the relative benefits and costs associated with diversity, with a focus on the benefits of diversity that inure to all individuals, as well as the rationale and need for considering race in certain cases when making admission and related decisions.
- 3 Pursue public education campaigns associated with the benefits of diversity, focusing on the importance of higher education institutions preserving their full array of policy options consistent with federal law when making mission-driven decisions that have major institutional, economic and societal consequences.

SELECTED RESOURCES

Coleman et al., *From Federal Law to State Voter Initiatives: Preserving Higher Education's Authority to Achieve the Educational, Economic, Civic, and Security Benefits Associated with a Diverse Student Body* (The College Board, 2007) at www.collegeboard.com/accessanddiversity (This policy paper significantly expands on the central points covered in this tool.)

Taking a Stand: Higher Education Leadership for the 21st Century

The Issue

The successful development and implementation of access and diversity policies depend on many interrelated factors, none of which is more important than the strength of the institutional leadership at the helm.

Institutions of higher education have many items competing for their attention: academics, budgets, personnel, campus safety, athletics, and more. Stakeholders seeking support in each of these areas (and others) clamor for the institutional leaders' time and attention. With a finite amount of available resources, leaders must limit their agenda to the most important and timely items. Having an understanding of the vital contribution that student diversity may make to the institution's overall success is, therefore, a vital point of focus.

Leader's Checklist

Five fundamental foundations indicative of effective leadership relating to institution-specific access and diversity goals are:

1. Enrolling and educating a diverse class of students is central to the institution's educational mission.
2. Policy statements that articulate the precise benefits associated with a diverse student body, including with respect to race and ethnicity, are developed and effectively implemented.
3. A well-managed, annual process for evaluating institutional access and diversity goals, as well as the ways in which institutional policies are designed (and actually work) to achieve those goals, is firmly in place.

4. In cases where those policies reflect consideration of race or ethnicity when making enrollment-related decisions (such as selection in admission and awarding scholarships), the institution ensures that:
 - ♦ The consideration of race and ethnicity is demonstrably necessary to achieve its access and diversity goals.
 - ♦ The consideration of race and ethnicity materially advances the achievement of its access and diversity goals.
5. Institutional leaders, policymakers, and faculty members are equipped to talk to internal and external stakeholders about the importance of access and diversity to their institution's core goals.

“On the Record: Higher Education's Mission

“[A] university ... must attempt to interpret the times in which it lives in order to meet the developing needs of the society which it serves. ...[I]t must be a comprehending observer of the present and, in so far as possible, a vehicle of understanding for the future. This is the great social mission of education in a free society. In the language of Disraeli, ‘A university should be a place of light, of liberty and of learning.’”

JAMES P. ADAMS

University of Michigan Provost, June 1950 speech, quoted in *Defending Diversity: Affirmative Action at the University of Michigan* (University of Michigan Press, 2004).

SELECTED RESOURCES

1. Coleman, Palmer, Rippner, and Riley, *A 21st Century Imperative: Promoting Access and Diversity in Higher Education* (The College Board and American Council on Education, 2009) at www.collegeboard.com/accessanddiversity

2. Kezar and Eckel, *Leadership Strategies for Advancing Campus Diversity* (American Council on Education, 2005).

3. Williams and Wade-Golden, *The Chief Diversity Officer: A Primer for College and University Presidents* (American Council on Education, 2007).