

THE ROLE OF RESEARCH IN ADVANCING DIVERSITY, EQUITY AND INCLUSION IN HIGHER EDUCATION

January 28 – 29, 2016 | Ann Arbor, Michigan



THE ROLE OF RESEARCH IN ADVANCING DIVERSITY, EQUITY AND INCLUSION IN HIGHER EDUCATION

NATIONAL CENTER FOR INSTITUTIONAL DIVERSITY

The National Center for Institutional Diversity (NCID) seeks to strengthen and integrate research about diversity, equity and inclusion in education and society, and to promote its effective use in addressing contemporary issues. They promote cross-disciplinary scholarship by engaging in its direct production, supporting the work of others, and disseminating promising findings from affiliated scholars, faculty, and graduate students. The NCID develops leaders and promotes effective leadership programs that make use of diversity related research.

AMERICAN COUNCIL ON EDUCATION

The American Council on Education (ACE) is the nation's most visible and influential higher education association. They represent the presidents of U.S. accredited, degree-granting institutions, which include two- and four-year colleges, private and public universities, and nonprofit and for-profit entities. Their strength lies on a loyal and diverse base of more than 1,700 member institutions, 75 percent of which have been with ACE for over 10 years. ACE convenes representatives from all sectors to collectively tackle the toughest higher education challenges, with a focus on improving access and preparing every student to succeed.

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WELCOME!

The National Center for Institutional Diversity (NCID) at the University of Michigan and the Center for Policy Research and Strategy (CPRS) at the American Council on Education (ACE) welcomes you to this national strategic meeting on “The Role of Research in Advancing Diversity, Equity and Inclusion in Higher Education.”

Over the course of the next two days we are excited to come together and pose a series of aspirational and strategic questions to defend and prioritize diversity in higher education, and to mobilize the next generation of scholars to continue this important work. During this meeting, we seek to accomplish the following:

1. Bring forward a comprehensive research agenda across institutions, employing different methods and reflecting a range of scholarly perspectives that will inform, protect and defend our commitments to diversity, equity and inclusion in our institutions and across higher education.
2. Translate research into multiple formats that can be used to inform new, emerging, and effective practices across institutions; build capacity among individual institutions to develop and assess their own practices; and assess the collective impact of these efforts within higher education and society.
3. Create, mobilize, and sustain an intergenerational commitment to programs of research that will inform the defense of diversity in higher education. In this regard, we want to make a point of recognizing that the work started by one group of scholars must be understood, interpreted and ultimately bettered by those succeeding them.

This is an ambitious agenda and not one that can be fulfilled in a single meeting. A small committee has been working to develop an approach to clarify and achieve these goals led by NCID staff and Drs. Lorelle Espinosa (American Council on Education); Liliana Garces (Pennsylvania State University); Jeffrey F. Milem (University of Arizona); and Awilda Rodriguez (University of Michigan).

We eagerly anticipate the ideas and recommendations that will emerge from the discussions and thank you in advance for your contributions.



Lorelle L. Espinosa, Assistant Vice President
Center for Policy Research and Strategy
American Council on Education



John C. Burkhardt, Director
National Center for Institutional Diversity
University of Michigan

AGENDA

Thursday, January 28, 2016

Rackham Building, Assembly Hall, 915 E. Washington St., Ann Arbor, MI 48109

9:30 AM - 10:00 AM

Breakfast

10:00 AM - 10:30 AM

Introductions and Context

John C. Burkhardt

Director, National Center for Institutional Diversity
University of Michigan

Lorelle L. Espinosa

Assistant Vice President,
Center for Policy Research and Strategy
American Council on Education

PLENARY DISCUSSION ONE: COMMITMENTS, OPPORTUNITIES AND CONSTRAINTS

10:30 AM - 11:45 AM

Moderator

Martha S. Jones

Arthur F. Thurnau Professor, Law School
University of Michigan

Introductory Remarks

Art Coleman

Managing Partner and Co-Founder
EducationCounsel

Timothy G. Lynch

Vice President and General Counsel
University of Michigan

Liliana Garces

Assistant Professor of Higher Education
Pennsylvania State University

11:45 AM - 12:00 PM

Break

12:00 PM - 1:00 PM

Lunch

PLENARY DISCUSSION TWO: CONNECTING CONTEMPORARY CAMPUS PRESSURES TO GAPS IN DIVERSITY, EQUITY AND INCLUSION

1:00 PM - 2:15 PM

Moderator

Jeffrey F. Milem

Ernest W. McFarland Distinguished Professor in Leadership
for Education Policy and Reform
University of Arizona

Introductory Remarks

Ronald L. Jackson II

Professor of Communication
University of Cincinnati

Julie J. Park

Assistant Professor of Education
University of Maryland

Marvin Krislov

President
Oberlin College

PLENARY DISCUSSION THREE: CHANGING DEMANDS FOR RESEARCH

2:15 PM - 3:30 PM

Moderator

Liliana M. Garces

Assistant Professor of Higher Education
Pennsylvania State University

Introductory Remarks

Teresa (Terri) E. Taylor

Senior Policy and Legal Advisor
EducationCounsel

Lorelle L. Espinosa

Assistant Vice President, Center for Policy Research and Strategy
American Council on Education

Stella M. Flores

Associate Professor of Higher Education
New York University

3:30 PM - 3:45 PM

Wrap Up

3:45 PM - 4:00 PM

Break

PUBLIC EVENT

FACING THE CHALLENGE:

THE CONTINUED COMMITMENT TO DIVERSITY IN HIGHER EDUCATION

Rackham Building, Amphitheater, 915 E. Washington St., Ann Arbor, MI 48109

4:00 PM - 5:30 PM

Welcome

Robert M. Sellers

Vice Provost for Equity, Inclusion, and Academic Affairs
University of Michigan

Special Remarks

Mark S. Schlissel

President
University of Michigan

Moderator

Louis Soares

Vice President, Center for Policy Research and Strategy
American Council on Education

Panelists

Nancy “Rusty” Barceló

Retired President
Northern New Mexico College

Nancy Cantor

Chancellor
Rutgers University—Newark

Laura Castillo-Page

Senior Director, Diversity, Policy and Programs
Association of American Medical Colleges

Art Coleman

Managing Partner and Co-Founder
EducationCounsel

Kedra B. Ishop

Associate Vice President for Enrollment Management
University of Michigan

Julie J. Park

Assistant Professor of Education
University of Maryland

5:30 PM - 6:30 PM

Reception

Rackham Building, Assembly Hall, 915 E. Washington St., Ann Arbor, MI 48109

6:30 PM - 8:30 PM

Dinner

Executive Residence Dining Room, 710 E. University Ave., Ann Arbor, MI 48109

FRIDAY, JANUARY 29, 2016

Michigan League, Vandenberg Room, 911 N. University Ave., Ann Arbor, MI 48109

8:30 AM - 9:00 AM

Breakfast

9:00 AM - 9:30 AM

Synthesizing Themes from Day One

Eugene M. Thirolf

Attorney Consultant

U.S. Department of Justice, Retired

Christopher J. Nellum

Senior Policy Research Analyst

American Council on Education

PLENARY DISCUSSION FOUR: OPPORTUNITIES FOR THE FUTURE

10:30 AM - 11:45 AM

Moderator

John C. Burkhardt

Director, National Center for Institutional Diversity

University of Michigan

Introductory Remarks

Awilda Rodriguez

Assistant Professor of Higher Education

University of Michigan

Lorelle L. Espinosa

Assistant Vice President, Center for Policy Research and Strategy

American Council on Education

10:30 AM - 11:30 PM

Strategic Planning Discussions

11:30 PM - 12:00 PM

Future Commitments and Wrap Up

MODERATORS AND SPEAKERS



NANCY "RUSTY" BARCELÓ

Retired President
University of Northern New Mexico

Nancy "Rusty" Barceló has served as Northern New Mexico College's president since July 2010. She is known nationally for her work in academics and diversity. Barceló received her BA in Social Work from Chico State College, her MA in Recreational Education from the University of Iowa, and her PhD in Higher Education Administration from the University of Iowa. Barceló's teaching experience is extensive; she has served as an affiliate faculty, affiliate assistant professor, adjunct faculty, and adjunct assistant professor. She is also currently a full professor. Prior to her appointment as President of Northern, she served as Vice President and Vice Provost for Equity and Diversity at the University of Minnesota. From 2001 to 2006 Barceló served as Vice President and Vice Provost for Minority Affairs and Diversity at the University of Washington and from 1996 to 2001 she served as Associate Vice President for Multicultural and Academic Affairs at the University of Minnesota. She is recognized nationally for her excellent professional presentations. She has received many awards, including the NACCS 2012 Scholar award (National Association for Chicana and Chicano Studies), and the New Mexico Hispano Round Table "Walk the Talk" award. Barceló or "Rusty," as she is known, is very active and can often be seen walking the campus at Northern, talking to students, staff and faculty and striking up a conversation with anyone who approaches her.



JOHN C. BURKHARDT

Director, National Center for Institutional Diversity
University of Michigan

John C. Burkhardt is the director for the National Center for Institutional Diversity and a professor of clinical practice in Higher and Postsecondary Education at the University of Michigan. He is the former director of the National Forum on Higher Education for the Public Good (National Forum), which he led from 2000 to 2013. Previous to establishing the National Forum, Burkhardt was program director for leadership and higher education at the W.K. Kellogg Foundation, where he led several major initiatives focused on transformation and change in higher education and participated in a comprehensive effort to encourage leadership development among college students. Burkhardt's research focuses on leadership and transformation, organizational culture, and the role of philanthropy in U.S. society.



NANCY CANTOR

Chancellor
Rutgers University – Newark

Nancy Cantor is Chancellor of Rutgers University – Newark. An internationally known social psychologist, she has a long and distinguished record as a leader in higher education. She is widely recognized for advocating for universities to be not traditional “ivory towers” removed from the problems of the world, but to be anchor institutions in their communities that collaborate with partners from all sectors to fulfill higher education’s promise as an engine of discovery, innovation, and social mobility, as well as a cultivator of democratic practice. Cantor is invited to lecture and write extensively on this theme, as well as on other crucial issues in higher education such as rewarding public scholarship, sustainability, liberal arts education, the status of women in the academy, and racial justice and diversity. She previously was chancellor and president of Syracuse University; chancellor of the University of Illinois at Urbana-Champaign; and provost and executive vice president for academic affairs at the University of Michigan, where she was closely involved in the university’s defense of affirmative action in the cases Grutter and Gratz, decided by the Supreme Court in 2003. Cantor co-edits with Earl Lewis, the *Our Compelling Interests* book series for the Andrew W. Mellon Foundation.



LAURA CASTILLO-PAGE

Senior Director, Diversity Policy and Programs
Association of American Medical Colleges

Laura Castillo-Page is senior director of Diversity Policy and Programs and Organizational Capacity Building at the Association of American Medical Colleges (AAMC). Castillo-Page is responsible for strategic planning, setting priorities, staff professional development, and for managing the day-to-day operations of the Diversity Policy and Programs unit. Castillo-Page also leads the organizational capacity building portfolio of work to promote the infusion of diversity and inclusion throughout academic medicine to support member institutions through services, tools, and resources that strengthen their policies and processes and address diversity issues at the institutional level. Previously at the AAMC, as Director of Research, Castillo-Page was responsible for developing and implementing a research strategy and agenda to make the case for diversity in academic medicine. Additionally, she oversaw all data publications and was a lead staff member in enhancing and expanding minority faculty professional development offerings. Before coming to the AAMC, Castillo-Page was a research scientist at the American Institutes for Research (AIR), where she was responsible for various aspects of analyzing and examining education practice and policy and served as co-project director of the Bill and Melinda Gates Foundation Early College High School Initiative evaluation. She received her BA from Fordham University, MA in political science from the University at Albany, SUNY, and MS and PhD in educational administration and policy studies from the University at Albany, SUNY.



ART COLEMAN

Managing Partner and Co-Founder
EducationCounsel

Art Coleman is a managing partner and co-founder of EducationCounsel, an affiliate of Nelson Mullins Riley & Scarborough LLP. With a background in providing legal, policy, strategic planning, and advocacy services to educators, Coleman addresses issues of access, accountability and completion in elementary, secondary and post-secondary education. Coleman's work centers on the development of college and career-ready policy development, with a focus on issues of accountability and assessments, accreditation and systems improvement, and access for students with disabilities and English language learners. The development of higher education access and diversity policies, including a focus on enrollment-related and employment policies designed to enhance access and the educational benefits of diversity. The design of strategies and the implementation of plans to support non-profit organizations that seek to align their educationally focused goals with policy, demographic, and related trends and developments. Coleman provides legal advice and institutional guidance regarding federal non-discrimination laws, including those that provide protections against race, ethnicity, sex, disability and language-based discrimination. Previous Professional Experience Served as Deputy Assistant Secretary of the U.S. Department of Education's Office for Civil Rights (June 1997 – January 2000) following his three-and-a-half year tenure as Senior Policy Advisor to the Assistant Secretary for Civil Rights Responsibility for the development of federal civil rights policy in education and enforcement of relevant federal laws centered on issues relating to standards reform, test use, students with disabilities, English language learners, affirmative action, desegregation, sexual and racial harassment, and gender equity in athletics. Coleman is a "recovering litigator," having begun his legal career as a lawyer with Nelson Mullins Riley & Scarborough (1984 – 1993).



LORELLE L. ESPINOSA

Assistant Vice President, Center for Policy Research & Strategy
American Council on Education

Lorelle L. Espinosa serves as assistant vice president for ACE's Center for Policy Research and Strategy, where she is responsible for the co-development and management of the center's research agenda which focuses on issues of diversity and equity in 21st century higher education, public finance and higher education systems, and transformational leadership. Espinosa has served the higher education profession for nearly 20 years, beginning in student affairs and undergraduate education at the University of California, Davis; Stanford University; and the Massachusetts Institute of Technology (MIT). At MIT, she held the positions of associate director of admissions and director of undergraduate recruitment with an emphasis on enrolling women and underrepresented minority students. Espinosa has contributed opinion and scholarly works to peer-reviewed journals, academic volumes, and industry magazines on a variety of topics. Her most recent report, *Race, Class, and College Access: Achieving Diversity in a Shifting Legal Landscape*, examines how legal challenges to race-conscious admissions are influencing contemporary admissions practices at colleges and universities nationwide. Prior to ACE, Espinosa served as a senior analyst for Abt Associates, Inc. and as director of policy and strategic initiatives for the Institute for Higher Education Policy. Espinosa holds an MA and PhD in higher education and organizational change from the University of California, Los Angeles; a BA from the University of California, Davis; and an AA from Santa Barbara City College.



STELLA M. FLORES

Associate Professor of Higher Education
New York University

Stella M. Flores is an Associate Professor of Higher Education at the Steinhardt School of Culture, Education, and Human Development at New York University. She is also Director of Access and Equity at the Steinhardt Institute for Higher Education Policy at NYU. Flores holds an EdD in administration, planning, and social policy from Harvard University, an EdM from Harvard University, an MPAff from The University of Texas at Austin, and a BA from Rice University. In her research she employs large-scale databases and quantitative methods to investigate the effects of state and federal policies on college access and completion rates for low-income and underrepresented populations. Flores has written about Minority Serving Institutions, immigrant students, English Language Learners, the role of alternative admissions plans and financial aid programs in college admissions in the U.S and abroad, demographic changes in U.S. education, and Latino students and community colleges. In 2010, she was named a National Academy of Education/Spencer Postdoctoral Fellow. Her research has been funded by the Bill & Melinda Gates Foundation, the National Academy of Education, the Spencer Foundation and the Educational Testing Service. Prior appointments before NYU include Associate Professor at Vanderbilt University as well as positions as a program evaluator for the U.S. General Accountability Office and a program specialist for the U.S. Economic Development Administration.



LILIANA M. GARCES

Assistant Professor of Higher Education
Pennsylvania State University

Liliana M. Garces is an assistant professor of higher education, co-director of the Center for Education and Civil Rights, research associate in the Center for the Study of Higher Education at Pennsylvania State University. Her research, focused on the dynamics of law and education, examines access policies for underrepresented populations in higher education and the use and influence of research in court cases. Her scholarship is published in a variety of outlets, including top peer-reviewed education journals, law journals, policy reports, and books. Most recently, she co-edited *Affirmative Action and Racial Equity: Considering the Fisher Case to Forge the Path Ahead* (Routledge, 2015). Combining her expertise in law and education, she has served as counsel of record for the research community in four different amicus curiae briefs filed in the U.S. Supreme Court, including a second amicus brief filed in *Fisher v. University of Texas* (2015) by 823 social scientists. Her work has been featured nationally in National Public Radio, The New York Times, Chronicle of Higher Education, Inside Higher Ed., and other media outlets. Her article, “Understanding the impact of affirmative action bans in different graduate fields of study” won the American Educational Research Association’s Palmer O. Johnson Memorial Award as a contribution of outstanding importance to education research in 2013. In 2015, she received the Association for the Study of Higher Education Early Career Award. She holds a PhD in education from Harvard University, a JD from the University of Southern California School of Law, and a BA from Brown University.



KEDRA B. ISHOP

Associate Vice President for Enrollment Management
University of Michigan

Kedra Ishop is the first associate vice president for enrollment management at the University of Michigan – Ann Arbor. She is a nationally-recognized expert and speaker on issues in higher education admissions and enrollment, serving on multiple national and international committees and advisory boards related to diversity, affordability, assessment, and admissions and enrollment. Ishop joined U-M in fall 2014, after a 17-year career in admissions at the University of Texas at Austin. With responsibility at U-M for undergraduate admissions, financial aid, new student programs, and the registrar; the office of enrollment management (OEM) focuses on U-M's core values of diversity, excellence, affordability, and access. OEM orients these centrally-administered units to lead U-M's enrollment functions in a student-centered effort across the institution, utilizing data and analysis to shape strategic directions and ensure an optimal enrollment experience.



RONALD L. JACKSON II

Professor of Communication
University of Cincinnati

Ron Jackson is Professor in the Department of Communication at University of Cincinnati. Founder of AcademicCareerCoach.com (sponsor of the Academic Writing Institute, a 5-day intensive dissertation, thesis, and untenured professors' publications boot camp), he is also CEO and Founding Principal Consultant of Cinspire Consulting and Coaching, a management consulting firm specializing in communication, team building, strategic transformation, as well as diversity and inclusion. Jackson has been engaged in training, research, and education for over 20 years. He is one of the leading communication and identity scholars in the nation, and is author of fourteen books including *Scripting the Black Masculine Body in Popular Media*, *Interpreting Tyler Perry* (with Jamel Bell; Routledge), the 2014 Comic-Con Eisner Award winning book *Black Comics: Politics of Race and Representation* (with Sheena Howard; Bloomsbury), and the award-winning two-volume *Encyclopedia of Identity*. His research has won numerous awards including the National Communication Association's Franklyn Haiman Award and the Eastern Communication Association's Everett Lee Hunt Award.



MARTHA S. JONES

Arthur F. Thurnau Professor
University of Michigan

Martha Jones is Arthur F. Thurnau professor at the University of Michigan where she is a member of the faculties in history, African-American studies, and at the law school. At U-M she is a co-director of the Law School's Program in Race, Law & History, and a senior fellow with the Michigan Society of Fellows. Professor Jones is a specialist 19th century US history with a focus on African Americans, slavery, race and law. She is author of the 2007 *All Bound Up Together: The Woman Question in African American Public Culture*, and an editor of the just-released *Toward an Intellectual History of Black Women*, both from the University of North Carolina press. Jones is also a distinguished public historian through exhibitions that include *Reframing the Color Line* and *Proclaiming Emancipation*, both in collaboration with the William L. Clements Library. Prior to joining the U-M faculty, Jones was a public interest attorney in New York City where she worked with organizations including the HIV Law Project, MFY Legal Services, and the New York Civil Liberties Union. Her work as a lawyer was recognized in 1995 with a Charles H. Revson Fellowship on the Future of the City of New York, at Columbia University. Today, Jones is completing a history of race and citizenship in the pre-Civil War era: *Birthright Citizens: A History of Race and Rights in Antebellum America* which is forthcoming from Cambridge University Press in 2017.



MARVIN KRISLOV

President
Oberlin College

Marvin Krislov became the 14th President of Oberlin College in the summer of 2007. Since arriving at Oberlin, Krislov has led collaborative, consensus-driven efforts to make the College and Conservatory of Music more rigorous, diverse, inclusive, and accessible to students from every socio-economic background. While serving as president, Krislov has continued to teach and be active in public service. He has taught advanced courses every semester at the College on aspects of law and public policy. In November 2009, he was appointed to the National Council on the Humanities, the 26-member advisory board of the National Endowment for the Humanities. Through his writings, his speeches and public appearances, and his membership on the National Council on the Humanities, Krislov has raised Oberlin's international and national profile while championing the value of liberal arts education. His op-ed pieces on topics including his commitment to teaching, student voting rights, colleges' role in driving sustainable economic development, and student mental health have been published in the *Washington Post*, *USA Today*, the *Columbus Dispatch*, the *Chronicle of Higher Education*, and *Crain's Cleveland Business*. He also co-edited *The Next Twenty-five Years—Affirmative Action in Higher Education in the United States and South Africa*, published by The University of Michigan Press in December 2009. Krislov came to Oberlin from the University of Michigan, where he had been vice president and general counsel since 1998. During his tenure there, he led the U-M's legal defense of its admission policies, resulting in the 2003 Supreme Court decision recognizing the importance of student body diversity. Krislov received a BA, *summa cum laude*, from Yale University in 1982, and was named a Rhodes Scholar. He received MA degrees from Oxford University and Yale, and a JD from Yale Law School in 1988.



TIMOTHY G. LYNCH

Vice President and General Counsel
University of Michigan

Timothy G. Lynch is the University of Michigan's Vice President and General Counsel. He joined the University from the United States Department of Energy, where he was designated by the President to serve as Acting General Counsel and the Deputy General Counsel for Litigation and Enforcement. He came to the Energy Department from the United States Securities & Exchange Commission, where he was an Assistant Chief Litigation Counsel. He joined the SEC after serving for seven years as an Assistant United States Attorney in the United States Attorney's Office for the District of Columbia, where he was a senior prosecutor in the Fraud & Public Corruption Section. Before moving to Michigan, he served as a Lecturer at the University of Virginia Law School, where he taught white-collar crime. He was also an adjunct professor at Georgetown University Law Center, where he taught evidence. Earlier in his career, Lynch was an attorney at the Washington, D.C., law firm of Shea & Gardner. After graduating from law school, where he was Editor-in-Chief of the Georgetown Law Journal, he clerked in Detroit for Judge Cornelia G. Kennedy of the United States Court of Appeals for the Sixth Circuit. Lynch is licensed to practice in Michigan, New York, and the District of Columbia. He is married to Lisa Gallin Lynch and has three children (Seamus, Fiona, and Caitlin).



JEFFREY F. MILEM

Ernest W. McFarland Distinguished Professor in
Leadership for Education Policy and Reform
University of Arizona

Jeffrey F. Milem is the Ernest W. McFarland Distinguished Professor in Leadership for Educational Policy and Reform in the College of Education at the University of Arizona. He is a Fellow of the American Educational Research Association and has been awarded the American College Personnel Association's Contributions to Higher Education award. He is a Professor in the Center for the Study of Higher Education and has an appointment in the Department of Medicine at the University of Arizona. Milem is Director of the Arizona Medical Education Research Institute (AMERI)—a collaborative venture between the Colleges of Education and Medicine at the University of Arizona that investigates topics pertaining to medical education, diversity, climate and access to medical school. Previously, he served as Associate Dean for Academic Affairs in the College of Education. Milem just complete a two-year term as a Faculty Fellow at the University of Michigan's National Center for Institutional Diversity. He is Past President of the Association for the Study of Higher Education—the major professional research organization for scholars of higher education. Before coming to the University of Arizona, Milem was a faculty member at the University of Maryland and at Vanderbilt University. He earned his BA in political science from Michigan State University, his MEd from the University of Vermont, and his PhD from UCLA. Professor Milem's current research focuses on the ways in which colleges and universities can be organized to enhance equity, access, and success for all students; the racial context within higher education; and the relationship between how colleges and universities organize themselves and student outcomes and faculty role performance.



CHRISTOPHER J. NELLUM

Senior Policy Research Analyst, Center for Policy Research and Strategy
American Council on Education

Christopher J. Nellum is a Senior Policy Research Analyst at the American Council on Education's Center for Policy Research and Strategy, where he monitors and responds to emerging policy and legislation. His research interests include analysis of educational pipelines and transitions from secondary and community college settings into regional and minority-serving colleges and universities, with a focus on access, equity, and data-driven decision making. Prior to joining ACE, Nellum was a researcher for the National Forum on Higher Education for the Public Good and the National Center for Institutional Diversity where he worked on projects intended to ensure equitable opportunities and outcomes for underrepresented students who access postsecondary education via a community college or Hispanic-serving institution. He earned a PhD in higher education policy from the Center for the Study of Higher and Postsecondary Education at the University of Michigan.



JULIE J. PARK

Assistant Professor of Education
University of Maryland, College Park

Julie J. Park is assistant professor of education at the University of Maryland, College Park. Her research addresses race, diversity, and equity in higher education. She is the author of *When Diversity Drops: Race, Religion, and Affirmative Action in Higher Education* (Rutgers University Press, 2013), an examination of how universities are affected by bans on affirmative action. A research advisory board member for the National Commission on Asian American and Pacific Islander Research in Education, her work has been featured in venues such as the Washington Post, Huffington Post, and the Chronicle of Higher Education.



AWILDA RODRIGUEZ

Assistant Professor of Higher Education
University of Michigan

Awilda Rodriguez is an assistant professor in the Center for the Study of Higher and Postsecondary Education. Her research is at the intersection of higher education policy, college access and choice, and the representation of Black, Latino, low-income and first-generation students in postsecondary education. Her most recent project examines issues of equity in access to rigorous high school coursework. Along with many policy reports and contributions to edited volumes, Rodriguez's work has been published in *Research in Higher Education*, *Educational Policy*, *Diverse Issues in Higher Education*, and *The Chronicle of Higher Education*. She received her doctorate from the University of Pennsylvania Graduate School of Education and previously worked as a research fellow at American Enterprise Institute's Center for Higher Education Reform and as a research associate at The National Center for Public Policy and Higher Education.



MARK S. SCHLISSEL

President
University of Michigan

Mark S. Schlissel is the 14th president of the University of Michigan and the first physician scientist to lead the institution. He became president in July 2014. Schlissel previously was provost of Brown University. A graduate of Princeton University, he earned both MD and PhD degrees at the Johns Hopkins University School of Medicine. Schlissel began his career as a faculty member at the Johns Hopkins University School of Medicine and later moved to the Department of Molecular and Cell Biology at the University of California–Berkeley as associate professor, advancing to full professor. His research has focused on the developmental biology of B lymphocytes, the cell type in the immune system that secretes antibodies. His work has contributed to a detailed understanding of genetic factors involved in the production of antibodies and how mistakes in that process can lead to leukemia and lymphoma.



ROBERT M. SELLERS

Vice Provost for Equity, Inclusion, and Academic Affairs
University of Michigan

Robert Sellers is the Vice Provost for Equity, Inclusion, and Academic Affairs as well as the Charles D. Moody Collegiate Professor of Psychology and Education. Sellers works with the provost and executive vice president for academic affairs on matters related to diversity at the university as well as a broad range of academic issues including the budget, faculty tenure and promotions, and student enrollment. He oversees operations of five central administrative units. Sellers attended Howard University where he earned All-America honors in football. After graduating cum laude with a BS in psychology, he went on to earn a PhD in personality psychology from the University of Michigan. Sellers has served as an Assistant and an Associate professor in the Department of Psychology at the University of Virginia and served four years as the Associate Chair of the Department of Psychology at the U-M before serving as Department Chair from 2011-2014. Sellers' primary research activities have focused on the role of race in the psychological lives of African Americans. His research has examined the ways in which African Americans suffer from and often cope with experiences of racial discrimination. Sellers is one of the founders of the Center for the Study of Black Youth in Context. The center conducts state-of-the-art, action-oriented research on the healthy development of African American youth as well as provides an important training ground for future researchers.



LOUIS SOARES

Vice President, Center for Policy Research and Strategy
American Council on Education

Louis Soares joined the American Council on Education in June 2013 as vice president for policy research and strategy and head of ACE's Center for Policy Research and Strategy (CPRS). Soares most recently served as the director of the postsecondary education program and fellow at the Center for American Progress (CAP). Prior to CAP, he served as director of business development under Rhode Island Gov. Donald L. Carcieri and as director of education and training for the Rhode Island Technology Council. Additionally, he was a small business consultant with the U.S. Peace Corps in Romania. Soares was appointed by Secretary of Education Arne Duncan to serve on the National Board of the Fund for the Improvement of Postsecondary Education in November 2011. He holds a MA in public administration from Harvard University and a BA in business economics from Brown University.



TERESA (TERRI) E. TAYLOR

Senior Policy & Legal Advisor
EducationCounsel

Terri Taylor is a Senior Policy & Legal Advisor at EducationCounsel. Her portfolio focuses on projects related to access and diversity in higher education on behalf of the College Board's Access & Diversity Collaborative, the Association of American Medical Colleges, and leading institutions of higher education, among others. She was a co-author of the amicus brief submitted by the College Board, AACRAO, LSAC, and NACAC in the U.S. Supreme Court's new hearing of *Fisher v. University of Texas*. She also works on issues related to federal accountability for colleges and universities, new models for delivering quality instruction to K-12 students, and data and privacy. Taylor earned her BA from the University of Virginia, with distinction, and her JD from Georgetown University Law Center. Before law school, she taught English to migrant students in Virginia and to 7-12 grade students in the Kyrgyz Republic as a Peace Corps Volunteer.



EUGENE M. THIROLF

Attorney Consultant
U.S. Department of Justice, Retired

Eugene M. Thirolf completed his service as the Director of the Office of Consumer Litigation, U.S. Department of Justice, in May 2011. Since his retirement, Thirolf has acted as a consultant on legal and regulatory issues involving the Consumer Product Safety Commission, the Food and Drug Administration, and the Federal Trade Commission. Thirolf has continued to practice law but only on a limited basis. In 1978, Thirolf joined the Department of Justice's Office of Special Investigations, which investigated and litigated cases involving Nazis and Nazi collaborators who illegally immigrated to the United States. Thirolf received an award for his successful prosecution of the Bishop Valerian Trifa case in 1980. He has also received the Attorney General's Award for Distinguished Service and other Justice honors. Between 1987 and 2007, Thirolf was the recipient of four FDA Commissioner's Special Citations. In 2011, he received the HHS Inspector General's Integrity Award. Thirolf also was an active leader in Maryland's Montgomery County Public Schools, serving numerous times as a PTA president and as head of the Committee to Save Our Services. Thirolf received his BA in philosophy from St. Louis University and his JD from its law school.

FRAMING THE ISSUE

Introduction

In November 2015, the U.S. Supreme Court heard arguments in the continuation of *Fisher v. University of Texas at Austin* (2013). While the decision the court reaches will be of obvious importance, the very fact that we find ourselves waiting for the results of yet another judicial review reminds us that the fight to defend the use of a full range of effective remedies to achieve diversity in higher education will undoubtedly continue beyond this case. It is only reasonable, given history and given the fundamental social and institutional transformation at stake, that we anticipate many cases and many tests as we try to deliver on our commitments to full participation in a changing society. In fact, in a recent *Washington Post* article, the University of Michigan (U-M) made public its evidence that colorblind admissions protocols are simply ineffective as a means of fostering campus diversity, hinting that our sense of the institution's responsibilities may require further efforts to challenge the legal constraints in which it has been placed.¹

One lesson of *Fisher* and the cases which have led up to it is that there will always be another legal hurdle. The court room is one of the most effective weapons available to affirmative action's opponents, useful not only for limiting the scope of diversity practices and constraining the policies adopted by institutions, but also for increasing anxiety and despair among its supporters and those affected by issues of educational access. We are faced with the challenge of determining how to navigate and win amidst these ongoing legal machinations, and also to explore other avenues that will lead to a more diverse, equitable, and inclusive higher education system in the U.S. Some part of successfully meeting this challenge will

inevitably depend on the vision, courage and commitment of individuals and institutions. For us to succeed in the long run, however, there is work we can only do together.

Twelve years ago, the U.S. Supreme Court issued landmark rulings on two cases (*Gratz v. Bollinger et al.*, 2003; *Grutter v. Bollinger et al.*, 2003), amending the precedence for affirmative action set by such previous cases as *Regents of the University of California v. Bakke* (1978) and *Hopwood v. Texas* (1996) (see Figure 1). *Gratz* and *Grutter* both revolved around race-conscious admissions policies at the U-M and were then seen as the culmination of years of affirmative action cases. But here we are again: a decade later, the Court reviewed the case of *Fisher*, while many institutions of higher education were still in the midst of working to comply with the U-M findings. While the newest rulings in many ways reiterate aspects of *Gratz* and *Grutter*, they have also sounded a warning for those who believe that the surest course to ensure a diverse populace at institutions of higher education must incorporate policies that consider race as one of many factors in the admissions process.

Although *Grutter v. Bollinger* made it clear that racial and ethnic diversity is a compelling interest for colleges and universities because of the associated educational benefits,² race-conscious admissions are under fire: eight states (including Michigan) have since banned the consideration of race; while *Fisher* affirmed the *Grutter* decision, it also emphasized the requirement that institutions question the necessity of race-conscious practices and use them only if race-neutral strategies (admissions practices that do not and cannot specifically look at or consider the race and ethnicity of the applicant) are demonstrated

¹ Robert Barnes, "University of Michigan Offers to be Test Case for Race Admissions," *The Washington Post*, December 8, 2015, accessed January 4, 2016, https://www.washingtonpost.com/politics/courts-law/u-of-michigan-offers-self-as-test-case-for-considering-race-in-admissions/2015/12/08/ae93e596-92db-11e5-a2d6-f57908580b1f_story.html?postshare=2251449679726620&tid=ss_mail.

² The essential arguments for the educational importance of diversity in higher education can be found in Patricia Gurin's work carried out over many years at the University of Michigan. This body of evidence is effectively summarized in her most recent book with Biren Ratnesh A. Nagda and Ximena Zúñiga, *Dialogue across difference: Practice, theory, and research on intergroup dialogue*, Russell Sage Foundation, 2013.

LANDMARK LITIGATION IN AFFIRMATIVE ACTION

Case	Year	Major Implications
<i>Regents of the University of California v. Bakke</i>	1978	Specific quotas violate 14th Amendment, race as part of admissions is constitutional
<i>Hopwood v. Texas</i>	1996	Overtured Bakke in certain states
<i>Gratz v. Bollinger</i>	2002	Point systems unconstitutional, holistic approach required
<i>Grutter v. Bollinger</i>	2003	Narrow tailoring required
<i>Proposal 2, Michigan</i>	2006	Prohibited affirmative action by public institutions based on race, sex or religion
<i>Parents v. Seattle, Meredith v. Jefferson</i>	2007	Public school systems cannot maintain integration through measures that take race into account
<i>Fisher v. University of Texas</i>	2013	Court of Appeals failed to apply strict scrutiny
<i>Schuetz v. Coalition to Defend Aff. Action</i>	2014	State may amend constitution to remove race from admissions processes without violating 14th Amendment
<i>Students for Fair Admissions v. UNC & Harvard</i>	2014	Decision Pending
<i>Fisher v. University of Texas</i>	2015	

Figure 1.

unworkable; and two universities (Harvard and North Carolina) were named in federal affirmative action lawsuits in 2014. Furthermore, the prospect of a *Fisher* ruling carries the potential that the Court will be seeking to further clarify or even further restrict race-conscious policies.

It is not only in the court of law that the case against insufficient campus diversity is being heard. Evidence is collected every day on campuses (and in communities) across the country. Headlines document a powerful argument made by students, such as those at the University of Missouri where protests decrying

racism on campus led to the resignations of the school's president and chancellor. A running list of 74 campuses where protests against campus racism have occurred, ranging from UCLA to Bard College, has garnered national attention as students continue to publicly articulate their demands for racial justice.³ Demographics make it clear and our students make it painfully obvious that we have a long ways to go to fulfill our commitment to diversifying our campuses compositionally, must less effectively preparing future leaders for a dynamic, changing society. What has been previously difficult now seems to becoming untenable.

³ Alia Wong and Adrienne Green, "Campus Politics: A Cheat Sheet," *The Atlantic*, December 8, 2015, accessed January 12, 2016, <http://www.theatlantic.com/education/archive/2015/12/campus-protest-roundup/417570/>

While *Fisher* is one proximate impetus for this convening, it is not necessarily its central point. We want to engage individuals who fully understand that we are *collectively* somewhere in the middle of a long and historically significant effort. The long term implications of this effort, coupled with the interplay of pushing and resisting influences means that we will be challenged to continually reframe and reassert

It is in this context that the National Center for Institutional Diversity at the University of Michigan, in partnership with the American Council on Education is inviting scholars, researchers, policy experts and key decision makers to come together to: take the next steps in constructing a strategy capable of **informing and shaping public opinion**; organize existing and **cultivating needed new research**; support **multi-faceted arguments** in the defense of diversity in higher education; and begin to **mobilize the next generation of scholars and activists** to continue this important work.

the important issue of diversity in higher education in shifting social, educational and legal contexts. In doing so, we can look back to the U-M rulings, show solidarity for University of Texas, University of North Carolina and Harvard University (and other institutions challenged on their practices and policies), take note of the discourses surrounding education, diversity, inclusion and opportunity in our society, and fully

acknowledge and collectively prepare for the long road yet ahead.

Background

Many, but not all, higher education and policy scholars and practitioners agree that race-conscious policies are a sound way to ensure racial and ethnic diversity. As Justice Ruth Ginsburg opines, even race-neutral strategies should be driven by race-consciousness.⁴ Indeed, we have witnessed steep declines in racial and ethnic diversity in the states that have banned race-conscious policies and practices.⁵ But U.S. higher education is on borrowed time in regards to race-conscious options, both because the court reflects political considerations (of the five justices who participated in both *Grutter* and *Fisher*, four have changed sides⁶), and because changes in the courts of law cause changes in the court of public opinion even as they shape attitudes, perceptions and practices on campuses as well.

Garces and Cogburn report that campus diversity officers have seen evidence of morale issues, fear in campus communities, and perceptions of decreased commitment to institutional diversity as institutions move to adapt to recent legal decisions.⁷ Our own research documents patterns of growing risk-aversion in administrative practices as leaders operate in contentious or ambiguous environments.⁸

This political shift away from race-conscious admissions does not denote a marked improvement in how our colleges and universities collectively do diversity: “Those institutions that enroll more low-income and minority students are, by and large, the most under-resourced.”⁹ While sixty percent of the

⁴ John Schwartz, “Between the Lines of the Affirmative Action Opinion,” *The New York Times*, June 24, 2013, accessed August 12, 2015, http://www.nytimes.com/interactive/2013/06/24/us/annotated-supreme-court-decision-on-affirmative-action.html?_r=0.

⁵ Liliana M. Garces and Courtney D. Cogburn, “Beyond Declines in Student Body Diversity: How Campus-Level Administrators Understand a Prohibition on Race-Conscious Postsecondary Admissions Policies,” *American Educational Research Journal*, July 30, 2015: 1-33.

⁶ Richard D. Kahlenberg, “Introduction,” in Richard D. Kahlenberg (Ed.), *The Future of Affirmative Action*, (New York: The Century Foundation Press, 2014): 1-24.

⁷ Garces and Cogburn, “Beyond Declines.”

⁸ Burkhardt, J. C., Ortega, N., Vidal-Rodriguez, A., Frye, J. R., Nellum, C. J., Reyes, K. A., Hussain, O., Kovacheff-Badke, L., & Hernandez, J. (2012). Reconciling federal, state, and institutional policies determining access for undocumented students: Implications for professional practice. Ann Arbor, MI: National Forum on Higher Education for the Public Good.

⁹ Lorelle L. Espinosa, Matthew N. Gaertner, and Gary Orfield, “Race, Class, and College Access,” (Washington, DC: American Council on Education, 2015): 1.

most selective institutions consider race in admissions,¹⁰ institutional practices have meant that the majority of our nation's highest-achieving students of color undermatch—not even applying to the country's 238 most selective colleges.¹¹ Despite the fact that African-American and Hispanic enrollment in higher education institutions has increased at a faster rate than White students, White students are still vastly overrepresented at selective and the most well-funded institutions.¹² A recent analysis by The Education Trust found that graduation rates for both underrepresented minority students and White students improved at many public institutions over the last decade, yet longstanding gaps continue to exist in the graduation rates between underrepresented minority students and White students at these institutions.¹³ As the demographics of the nation change—"Ninety-two percent of America's population growth in the last decade occurred within communities of color, and by 2050 these communities will be in the majority"¹⁴—the implications arising from these inequalities will loom even larger. And, we can't simply *count* diversity—affirmative action is not just about the numbers of students admitted, but rather a *process* through which we foster a positive campus racial climate.¹⁵

Today, we are seeing the proliferation of what are described to be race-neutral admissions policies. This was presaged by Fisher, which stated, "The reviewing court must ultimately be satisfied that no workable race-neutral alternatives would produce the educational benefits of diversity. If 'a nonracial approach... could

promote the substantial interest about as well and at tolerable administrative expense'... then the university may not consider race."¹⁶ Higher education leaders must now focus first and primarily on race-neutral policies even when aiming to increase diversity.¹⁷ A 2013 admissions survey conducted by *Inside Higher Ed* uncovered that 92% of institutions felt that their admissions practices already met *Fisher's* narrow tailoring stipulations and therefore had no need to adapt. Only one percent of institutions said that they were very likely to change.¹⁸ While those who support the termination of race-conscious admissions policies often argue that their demise will spur the creation of more creative race-neutral strategies that will ultimately diversify student bodies, ACE found that "those that do not consider race are also less likely to use a broad array of diversity strategies."¹⁹

The proliferation of race-neutral policies and the decrease of race-conscious strategies are partially explained and probably exacerbated by *legal pluralism*: legal challenges of federal affirmative action laws in different states and in different courts lead to multiple live interpretations of those same laws that influence practice.²⁰ These legal challenges over time shape meaning, influence behavior and foster further ambiguity. These *polysemous*—discourses containing multiple levels or layers of viable meaning and interpretation²¹—constructions of affirmative action law, as well as the proliferating barrage of lawsuits against institutions that may or may not "go too far" with race-conscious practices, also result in risk aversion. Public institutions, fearing that their

¹⁰ Ibid.

¹¹ Kahlenberg, "Introduction."

¹² Allie Bidwell, "Higher Education Creates 'White Racial Privilege'" U.S. News & World Report, July 21, 2013, accessed August 13, 2015, <http://www.usnews.com/news/articles/2013/07/31/report-higher-education-creates-white-racial-privilege>

¹³ Kimberlee Eberle-Sudré, Meredith Welch, and Andrew Howard Nichols, "Rising Tide: Do College Grad Rate Gains Benefit All Students?" (Washington, DC: The Education Trust, 2015): 1.

¹⁴ Espinosa et al, "Race," 1.

¹⁵ Jeffrey F. Milem, Mitchell J. Chang, and Anthony Lising Antonio, "Making Diversity Work on Campus: A Research-Based Perspective," Association of American Colleges and Universities, 2005: 4.

¹⁶ In Espinosa et al., "Race," 3.

¹⁷ Ibid, 4.

¹⁸ Ibid.

¹⁹ Ibid, 30.

²⁰ Lauren B. Edelman, "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law," *American Journal of Sociology* 97 (6), May 1992: 1531-76..

²¹ Leah Ceccarelli, "Polysemy: Multiple Meanings in Rhetorical Criticism," *Quarterly Journal of Speech* (84) 4, 1998: 394-414.

interpretation of a certain legal standard will be the one that is challenged in court, may reasonably take a path of less resistance and act conservatively in order to avoid being sued. For instance, one study of how the University of Michigan's administrators responded to the ban of affirmative action (via *Proposal 2* in 2006) found that the impulse to be risk averse is so strong that administrators resisted even talking about race-conscious efforts for fear of legal retribution.²²

While the efficacy of race-neutral strategies is not fully known, some argue that those focusing on students based on wealth and parental education would effectively produce racial and ethnic diversity,²³ while others contend that race-neutral strategies focusing on socioeconomic status result in a more diverse student body in terms of SES, but not in terms of race,²⁴ arguing that class-based admissions policies "should not be contorted into elaborate proxies for race."²⁵ Other promising practices are being given careful empirical investigation. Two of note exist in highly visible institutional settings and include the Texas "ten percent" plan (though it may only function in conjunction with race-conscious strategies), and "holistic review," whereby, as the University of California, Berkeley, put it, institutions "hug your application"²⁶ via a careful read of an applicant's full file. Measures such as holistic review may become increasingly necessary as they become the only legal way to find out about a student's background. Holistic review is, as of yet, understudied. Some worry that it is simply not tenable for large public institutions.

Understanding race-neutral strategies is crucial because, given the current judicial frame, they may be the best hope for cultivating, achieving, and sustaining racial and ethnic diversity in institutions

of higher education. As the Associate Vice-President for Enrollment Management at U-M, Kedra Ishop, puts it, "The battle is long and the ground is tenuous... The challenge for institutions is to proactively continue the work to find race-neutral alternatives that still support the goal. Diversity doesn't become less important because the court limits how we achieve it."²⁷ But, as it stands, higher education institutions use race-neutral strategies at different frequencies and with different effectiveness. Furthermore, as ACE data show, "Some of the most widely discussed diversity strategies, including those covered by the media and taken up by researchers, are in fact some of the least utilized on the ground."²⁸ What these data show is that race-conscious and race-neutral strategies are best used in combination with one another, yet our understanding of how they work together, and at what intensity a given strategy is best employed, is still quite limited.

Framing the Convening

We believe that the key framing for this convening, as conveyed in Figure 2, lies at the intersection of practice, policy and discourse, with the implication and understanding that all of these key areas of investigation must be driven by, supported by, and in the service of, research. As the recent ACE report points out, even if Fisher is upheld in 2016, it is clear that we still need to understand not just how race-neutral strategies can most effectively be implemented, but how race-neutral and race-conscious processes might function together.²⁹ Our understanding of the efficacy of race-neutral policies is still somewhat limited, yet it is apparent that we probably need *both* in order to fully achieve and yield the educational benefits of institutional diversity, and to survive the

²² Garces and Cogburn, "Beyond Declines," 18.

²³ Dalton Conley, "The Why, What, and How of Class-Based Admissions Policy," in Richard D. Kahlenberg (Ed.), *The Future of Affirmative Action*, (New York: The Century Foundation Press, 2014): 203-212.

²⁴ Marta Tienda, "Striving for Neutrality," in Richard D. Kahlenberg (Ed.), *The Future of Affirmative Action*, (New York: The Century Foundation Press, 2014): 91-98.

²⁵ Matthew N. Gaertner, "Advancing College Access with Class-Based Affirmative Action," in Richard D. Kahlenberg (Ed.), *The Future of Affirmative Action*, (New York: The Century Foundation Press, 2014): 175-186, 176.

²⁶ Espinosa et al, "Race," 31.

²⁷ In *ibid.*, 36.

²⁸ In Espinosa et al., "Race," 20.

²⁹ Espinosa et al, "Race."

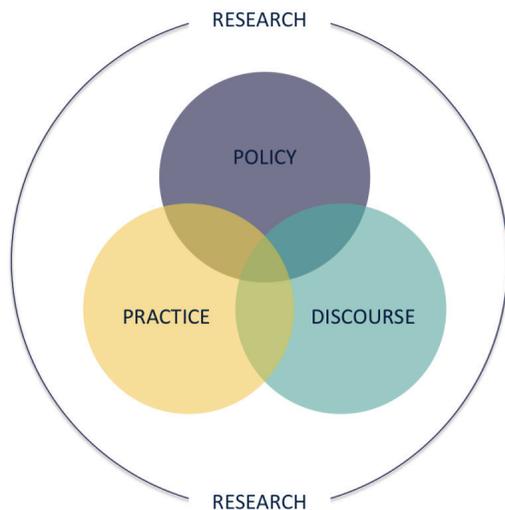


Figure 2.

constant legal battle against affirmative action. Many policies that proliferated post-*Fisher* and –*Schuetz* have been quite successful—yet we have also not truly seen how well they can work together, how legitimate adaptations to the *Fisher* rulings will work, or how institutions will financially afford them.³⁰ Context matters here as well. Some more-financially-endowed institutions are able to implement certain race-neutral strategies that other schools could not possibly entertain.³¹

Legal developments over the last decade plus have spurred a rewarding introspection, demonstrating to some researchers that we have not been doing *enough* for our potentially diverse student populace, and that some, such as socioeconomically disadvantaged students, are falling by the wayside when we separate their economic backgrounds without consideration of the intersection with race.³² There is currently a lacuna of knowledge—even where explicitly considering race is not an option, institutions of higher education are not fully taking advantage of race-neutral strategies. We do not really, fully, know which

methods work.

That many institutions have not made substantive changes to their admissions practices post-*Fisher* is important not only because it helps explain the relative paucity of research and data on race-neutral policies, but because of the implications for the continuation of the *Fisher* ruling.³³ This lack of change betrays both the managerialization of law (whereby legal ideas become transformed by organization practices), and of the loose interpretations of law. While laws influence institutional practice, they do not ultimately determine them.³⁴ Higher education professionals must negotiate the tension between laws, mission related commitments, public responsibilities and the impact on those the laws effect. While laws have structural and normative effects, and shape values and beliefs of higher education institutions, legal language has multiple interpretations. Affirmative action rulings have been perfect examples. For instance, how do we know when institutions have achieved a “critical mass” or have “exhausted” race-neutral options? As noted earlier, legal challenges in multiple states, as well as varying interpretations of the resultant rulings, lead both to *legal pluralism* and to *risk aversion*.

How institutions interpret, and represent the law must be understood and researched in order to forecast and adapt institutional responses to new affirmative action laws.³⁵ Just as important as understanding of the laws is an understanding of the reactions to them.³⁶ As Garces and Cogburn note in their study of the fallout of Michigan’s Proposal 2, and how it was *interpreted* by admissions officers at the University of Michigan, adaptations to legislation tend to happen in a *bottom-up* fashion, whereby it is middle or lower-level managers who interpret laws, guided by their professional associations, their training, their experiences or nothing obvious. This leads to a rather personalized form of legal pluralism.³⁷ Unfortunately, as is always the case with discourse, their interpretations

³⁰ The Lumina Foundation and The Century Foundation, “The Future of Affirmative Action,” 2014.

³¹ Espinosa et al, “Race.”

³² Gaertner, “Advancing College Access,” 186.

³³ Espinosa et al, “Race.”

³⁴ The National Forum on Higher Education for the Public Good, “Reconciling Federal, State, and Institutional Policies Determining Educational Access for Undocumented Students,” February, 2012.

³⁵ Lauren B. Edelman, Sally Riggs Fuller, and Iona Mara-Drita, “Diversity Rhetoric and the Managerialization of Law,” *American Journal of Sociology* 106 (6), May 2001: 1589-1641.

³⁶ *Ibid.*, 1618.

³⁷ Garces and Cogburn, “Beyond Declines,” 5.

of these laws are not—*cannot* be—without valence or subjectivity. Thus, campus bureaucrats’ work becomes imbued with their personal assumptions and beliefs. *Proposal 2* in the State of Michigan affected the areas in which these administrators previously had discretion, effectively neutering policies and practices that attended “to the influence of race and racism on the experiences of students across campus and within the classroom.”³⁸ Importantly, because of legal pluralism, linguistic ambivalence, bottom-up mechanisms and so on, schools implement policies that go far beyond the law in managing genuine discourses about race within professional relationships, about professional practices and eventually it might be expected, in personal spheres as well. It is worth remembering, that change occurs at many levels simultaneously. The fact that affirmative action legislation works, and changes, differently at the federal, state, and institutional levels, is affected by individual actions and beliefs, and that these are all interconnected and fluid, reminds us that research and action must also occur at multiple different levels concurrently (see Figure 3).

In addition to understanding the policy and practice implications, it is essential to research and consider the further discursive implications of affirmative action legislation. Perhaps the most popular—and naively positive—meta-narrative of our current era, possibly heralded by the election of President Obama, and now lauded by the chorus of voices proclaiming that *All Lives Matter*, is the supposition of a post-racial discourse.³⁹ This ideology, one of the most repeated, and “most persuasive lies of this current era,”⁴⁰ is “the utopian notion that we are now in an era in which race is inconsequential, and therefore racism does not exist.”⁴¹ This discourse is not without consequence:

³⁸ *Ibid.*, 24.

³⁹ Ronald L. Jackson II and Jamie E. Moshin, “Complexities of Masculinity and Male Privilege: An Introduction,” in Ronald L. Jackson II and Jamie E. Moshin (Eds.), *Communicating Marginalized Masculinities: Identity Politics in TV, Film, and New Media*, (New York: Routledge, 2013).

⁴⁰ *Ibid.*, 3.

⁴¹ *Ibid.*, 4.

⁴² Crispin Thurlow, “Speaking of Difference: Language, Inequality and Interculturality,” in Thomas K. Nakayama and Rona Tamiko Halualani (Eds.), *The Handbook of Critical Intercultural Communication*, (Oxford: Blackwell Publishing, 2010): 227-247, 228.

⁴³ Aaron David Gresson III, *America’s Atonement: Racial Pain, Recovery Rhetoric, and the Pedagogy of Healing*, (New York: Peter Lang, 2004).

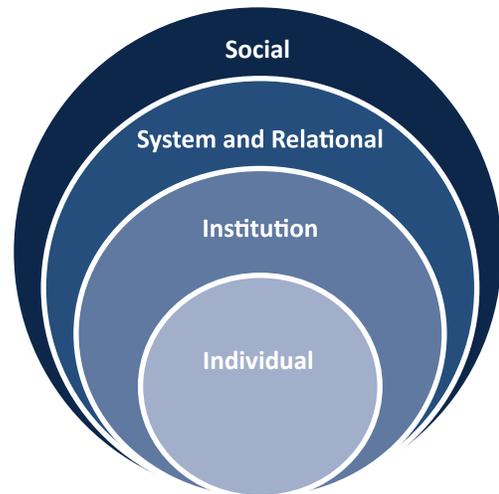


Figure 3.

“language really does matter”—language is a powerful social agent, imbued with ideology, “capable of creating and recreating social realities that feels so concrete and ‘natural.’”⁴²

This particular characterization of a national discourse is damaging in its ramifications. First there is a clear tie-in to the very notion of “race-neutral” policies, the idea that we could be or would desire to be “colorblind,” and to pretend that race does not, or should not matter. Second, as Aaron Gresson III points out, one result of policies such as affirmative action is a concurrent rise of discourses of “reverse racism,” in which People of Color are framed as the undeserving beneficiaries, and White people as the victims.⁴³ Finally, there is a sociopolitical push and concordant mediated response calling for the end of a policy that (supposedly) no longer truly matters and is no longer

necessary, as we have seen in the two, very recent, iterations of Fisher. Indeed, the notion that “25 years” after *Grutter v. Bollinger* affirmative action would “no longer be necessary”—iterated and reiterated by both sides of the Court⁴⁴—is a post-racial one. Institutions of higher education believe that by being color blind they are being just, celebrating the “diversity” of the individual while keeping things “neutral” at the level of institutional policy.⁴⁵ The media is a truly powerful voice in this, and further research on mediated discourses surrounding affirmative action is essential: as ACE discovered, institutions of higher education are as likely to get guidance from the media as from legal experts, and, of course, the media is not without power, an agenda, or an interest.⁴⁶

“Race”, and “post-race”, as discourses, become even more politically-charged and controversial following affirmative action legislation, and as discussions about race—particularly in the venue of admissions—are silenced.⁴⁷ One result is that serious talk about race or racism *under the purview of ethnic/racial diversity and higher education* is seen as being dangerous, inappropriate, or unnecessary. In the case of U-M, “The effect of silencing discussions about race and structural racism left individuals feeling disempowered to advocate on behalf of racial diversity and made it more difficult for the institution to capitalize on an institutional history that successfully defended the constitutionality of affirmative action in *Grutter*.”⁴⁸ This affects not just the university itself, but the university’s place within the community, as the institution becomes less likely to participate in discourses about race. It also affects the students—the notion of adhering to “race-neutral” policies creates a rift between the administrators and faculty who are upholding (or think they are upholding) a colorblind policy, and thus are seen as post-racial. Students of color, and in fact all students, all faculty and all others in the United States live very different realities.

In light of the multitude of different discourses—and

many levels of meaning contained therein—surrounding affirmative action policies, we may need to be reminded that there are a number of ways to defend diversity in higher education (see Figure 4). In fact, it is our belief that this must be one of the commitments to follow from this convening; in order for us to protect the territory of diversity in higher education—not only ensuring that prerogatives are not eaten away, but that we carry on protecting, enhancing and vitalizing diversity, equity and inclusion in higher education, *regardless* of the specific legal challenges—we must learn how to do so on multiple fronts and in the context of multiple frameworks. The legal front is not only temporarily unyielding (it once was the underpinning for far more progressive policy and practice), it is also nebulous. We should be prepared to not only address the legal and political arguments, but those from all five frames in which



Figure 4.

⁴⁴ Milem, Chang, and Antonio, “Making Diversity Work”

⁴⁵ Daryl G. Smith, *Diversity’s Promise for Higher Education*, (Baltimore: The Johns Hopkins University Press, 2009).

⁴⁶ Espinosa et al, “Race.”

⁴⁷ Garces and Cogburn, “Beyond Declines.”

⁴⁸ *Ibid.*, 23.

diversity is commonly articulated: moral and philosophical, economic and competitive, educational and mission-related, and democratic and constituency-driven. It behooves us to be prepared with the best research and the best arguments on all these fronts, in order that to fully engage in this ongoing debate (for a list of the key arguments addressed within the Fisher amicus briefs, as well as the research that informed these arguments, please refer to Appendix A).

Key Frames Guiding the Defense of Diversity in Higher Education

Goals for this Convening

Over the past two decades, the policies, practices and discourses surrounding affirmative action have changed drastically, and while important research has been conducted in attempt to keep pace, we need to gather scholars, researchers, policy experts and key decision makers to inform and shape public opinion, share and cultivate new research, frame an agenda in this new era of affirmative action, prepare well-rounded argumentation in the defense of diversity in higher education, and to mobilize next generations of scholars to continue this important work. In an effort to attain better alignment of policy, practice, and discourse, via research, this convening has the following goals:

1. Bring forward a comprehensive research agenda across institutions, employing different methods and reflecting a range of scholarly perspectives that will inform, protect and defend our commitments to diversity, equity and inclusion in our institutions and across higher education.
2. Translate research into multiple formats that can be used to inform new, emerging, and effective practices across institutions; build capacity among individual institutions to develop and assess their own practices; and assess the collective impact of these efforts within higher education and society.

3. Create, mobilize, and sustain an intergenerational commitment to programs of research that will inform the defense of diversity in higher education. In this regard, we want to make a point of recognizing that the work started by one group of scholars must be understood, interpreted and ultimately bettered by those succeeding them.

Our ultimate goal in this convening is, via research, to enhance diversity on college campuses through better alignment of policy, practice, and discourse. We must remember, as Jeff Milem and others have pointed out, that diversity is a process, not an outcome;⁴⁹ this convening is intended to be part of that process. No matter the legal ramifications of Fisher—and the lawsuits that may follow—we must be prepared to continue fighting for diversity, equity and inclusion in higher education. Because of the values and commitments we share, knowledge may be our most powerful tool in this effort.

This framing paper was developed by a team of researchers at the National Center for Institutional Diversity, led by Dr. Jamie Moshin. For questions or additional information please contact ncidinfo@umich.edu.

⁴⁹ Milem, Chang, and Antonio, “Making Diversity Work”

APPENDIX A

Tracing the Social Science Research That Informs *Fisher II* Amicus Briefs: A Summary of Key Themes⁵⁰

Joanna R. Frye, Ph.D.

⁵⁰ The full list of amicus briefs are located at <http://www.scotusblog.com/case-files/cases/fisher-v-university-of-texas-at-austin-2/>

1. Current research continues to support higher education's compelling interest in racial and ethnic diversity:

- Racially diverse educational environments foster important outcomes such as cross-racial understanding, cognitive development, and civic orientation.
- Educational environments that are not sufficiently diverse can lead to unwelcome campus climates and harmful experiences for minority students such as racial isolation, stereotype threat, and tokenism.
- Diversity within racial and ethnic groups (such as socioeconomic status) is also important in maximizing the educational benefits of diversity.

Key Studies

Apfelbaum, E. P., Pauker, K., Sommers, S. R., & Ambady, N. (2010). In blind pursuit of racial equality? *Psychological Science*, 21(11), 1587-1592.

Bowman, N. A. (2010). College diversity experiences and cognitive development: A meta-analysis. *Review of Educational Research*, 80(1), 4-33.

Bowman, N. A. (2011). Promoting participation in a diverse democracy: A meta-analysis of college diversity experiences and civic engagement. *Review of Educational Research*, 81(1), 29-68.

Carbado, D. W. (2013). Intra-racial Diversity. *UCLA Law Review*, 60(5).

Chang, M. J., Denson, N., Saenz, V., & Misa, K. (2006). The educational benefits of sustaining cross-racial interaction among undergraduates. *The Journal of Higher Education*, 77(3), 430-455.

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2. Current research supports important national interests in diversity:

- Greater campus diversity promotes the development of attributes necessary for meaningful participation in a diverse society, such as critical thinking and problem solving skills, and cross-cultural competencies.
- Increased enrollment of minority students in key professional fields such as medicine, law, and business is necessary to meet critical national needs and reduce social disparities.

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3. Race-neutral admissions strategies have been found to be ineffective alternatives to race-conscious strategies with regard to increasing racial and ethnic diversity:

- Admissions strategies that focus on socioeconomic status as an alternative to race have not yielded levels of racial and ethnic diversity comparable to levels achieved by race-conscious policies.
- Race-neutral strategies to achieve diversity (such as the Percent Plan in Texas) have not ameliorated college enrollment gaps between White students and underrepresented minority students.
- Policies that ban the consideration of race in admissions may serve to discourage minority students from applying or enrolling in college.

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4. Arguments against the use of race-conscious admissions policies have cited research related to “mismatch” and stigmatizing effects of affirmative action on racial and ethnic minorities:

- “Mismatch” theory posits that race-conscious admissions policies encourage some minority students to enroll in colleges in which they are not academically competitive, leading to racial stigmatization and reinforcement of harmful stereotypes.
- Recent social science research has largely disproven the mismatch hypothesis, finding little evidence to support the argument that affirmative action systemically harms minority students.

Key Studies

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