LEGAL CONSIDERATIONS PERTAINING TO DIVERSITY ADMISSIONS IN HIGHER EDUCATION

ABSTRACT

This article presents a review of the state of diversity admission practices in higher education and exposes problems with admissions practices that do not extend beyond the admissions landscape. Efforts to increase minority enrollment numbers should be followed up with programs that cultivate meaningful interaction across racial backgrounds of the student body. This paper calls for enhancing institutional practices to align and mitigate potential legal suites that extend beyond admission. Several perspectives and approaches are synthesized and landmark cases are referenced. This discussion is timely as the Supreme Court precedence for race admission programs is up for re-evaluation and the issue is ripe.

Keywords: Diversity, admission practices, interactional diversity, equity, inclusion

1. INTRODUCTION

This paper will explore legal issues relating to diversity in the higher education setting. In an attempt to promote diversity, Universities began adopting admission practices that utilize race conscious procedures to create opportunities for minority and underrepresented students. Several landmark Supreme Court cases will be presented and recommendations will be made for institutions to carry out in the future. This paper makes the argument that Universities that adopt race preference programs have a duty and responsibility to assess the efficacy of their policies beyond the admissions phase. Efforts to increase minority enrollment numbers should be followed up with programs that cultivate meaningful interaction across racial backgrounds of the student body. It is not sufficient for institutions to meet critical mass numbers in enrollment, and then abandon the goal (and compelling state interest) of promoting diversity thereafter. Institutions that use race preference admissions programs should be keeping detailed data on their program outcomes and the efficacy of the admission policies. Additionally, Universities are encouraged to administer surveys gauging campus climate and interactions across races, since they have identified racial diversity as a compelling state interest. The narrow tailoring of these programs should include the efforts that the university has taken to promote diverse interactions beyond the admissions process. This paper will also explore the other side of the debate, which asserts that race preference programs violate the equal protection clause of the 14th amendment. Several recommendations will be made on how Universities may negotiate this sensitive issue to improve diversity climate on their campuses while narrowly tailoring their programs to their identified compelling state interests.

1.1. LANDMARK CASES

The Diversity Rationale. In the landmark decision of *Grutter v. Bollinger* (2003), the Supreme Court permitted Universities to use race as one factor in the admission process in promoting a compelling state interest of diversifying admissions to promote and achieve a diverse student body composition at the University of Michigan Law School (*Grutter v. Bollinger*, 2003). The court reasoned that promoting diversity on college campuses is a compelling state interest because it would promote opportunities for disadvantaged and underrepresented groups. The court also affirmed that the University's efforts to maintain increased numbers of minority students is constitutional and does not violate the 14th amendment. However, the court specified some restrictions on these programs and required such programs to be narrowly tailored to that compelling state interest with the goal of promoting the benefits of a diverse campus (*Grutter v. Bollinger,* 2003). Furthermore, the court emphasized the importance of evaluating applicants as individuals with race being only one component (*Grutter v. Bollinger,* 2003). Justice Sandra Day O'Connor placed a twenty-five-year time limit on these race preference programs and indicated that the subject will be re-evaluated in the future.

In the instant case, the plaintiff Ms. Barbara Grutter, a white female applicant at the University of Michigan Law School, filed suit alleging that her 14th amendment rights were violated when she was denied admission to the law school. The University of Michigan Law School is a highly ranked program that receives an average of 3,500 applications to fill 350 seats. The plaintiff, Ms. Grutter, a resident of Michigan, who applied to the law school in 1996 with a 3.8 GPA and 161 LSAT score. Initially, Grutter was placed on a waiting list, and eventually was denied admission at the law school (*Grutter v. Bollinger*, 2003). Grutter alleged that she was denied admission due to the University used race as a "predominant factor" which causes students from diverse backgrounds to have a favorable edge over white students. In addition, Grutter alleged that The University of Michigan, "had no compelling

interest to justify their use of race in the admissions process" (*Grutter v. Bollinger,* 2003). Grutter requested compensatory and punitive damages, an order requiring the law school to grant her admission to the law school, and an injunction requesting that the law school cease from racially discriminatory practices in their admissions process (*Grutter v. Bollinger,* 2003).

The district court found that the law school's use of race in the admission decisions was an unlawful practice. The district court applied strict scrutiny and found that the law school's interest in diversifying the admitted class was not compelling mainly because it was "not a remedy for past discrimination" (*Grutter v. Bollinger,* 2003*)*. The decision was appealed and reversed in the Sixth Circuit. The appellate court indicated that Justice Powell's opinion regarding diversity rationale was applicable to the instant case. The appellate court also held that the law school's use of race in the admission's process was narrowly tailored because race was used as a "potential plus factor." The appellate court found that the University of Michigan's admission's practice was not a quota system and used race as one factor in a flexible way (a 'plus factor') in the same manner as a previous case Regents of the University of California v. Bakke involving a medical school applicant.

Regents of the University of California v. Bakke

In *Regents of the University of California v. Bakke* (1978) a male student applicant alleged that his constitutional rights were violated when he was denied admission to medical school twice. He claimed that the medical school accepted less qualified applicants because of the sixteen spaces that were devoted to minority students and that these sixteen students had lower GPA and test scores than white applicants. The Supreme Court found in the *University of California v. Bakke* (1978) that the race conscious policy was unconstitutional, because reserving a certain number of seats (a quota system) for minority students was not narrowly

tailored. The Supreme Court reversed the lower court's ruling that "race could never be considered a factor in admission programs."

Diversity in higher education has been a subject of much controversy, primarily due to the "the diversity rationale" which Justice Powell established in Bakke and was re-affirmed in *Grutter v. Bollinger* (2003). The diversity rationale suggests that Higher Education institutions may use affirmative action policies and admissions procedures to promote diversity as a compelling state interest. Following Grutter, institutions have struggled to apply the diversity rationale in different disciplines, including law school admissions (Noble-Allgire, 2003). Lower courts have had difficulty applying Justice Powell's diversity rationale as a "binding precedent." Justice O'Connor points out that diversity in the admissions process has become a compelling state interest that can justify using race in university admissions processes (Noble-Allgire, 2003).

Five Part Test

In the Grutter (2003) the court outlined 5 questions to test whether a school's policy is constitutional:

1. Does the program offer a competitive review of all applicants without quotas and separate tracks that insulate minorities?
2. Whether the program provides flexible, individualized consideration of applicants to ensure race is only one of several factors being considered.
3. Whether the institution considered workable race neutral alternatives to the program.
4. Whether the program unduly burdens non-minority applicants.
5. Whether the program is limited in time, with a logical end point. (*Gutter v. Bollinger,* 2003).

The Supreme court applied this five-step test in Grutter and found that the Equal Protections Clause of the 14th amendment did not prohibit the Law School's narrowly tailored use of race in furthering its goal of diversity for educational benefit (Richman, 2010).

Richman (2010) points out that in Grutter, the court did not place any requirements for the university to assess the efficacy of their admissions policies. This is a critical area for improvement for Higher Education InstitutionsRobust Exchange of Ideas

In her remarks, Justice O'Connor indicates that diversity in university bodies will promote the "the robust exchange of ideas" and this becomes of "paramount importance" relating to the missions of higher education institutions. Justice O'Connor also highlights the role that diversity plays in providing educational benefits that extend to the workforce, military, and businesses (*Grutter v. Bollinger*, 2003).

The diversity rationale from the Grutter decision is just the first stage in addressing the diversity issue in higher education admissions to promote robust exchange of ideas (Noble-Allgire, 2003). Noble-Allgire suggests two key areas to improve diversity initiatives: 1. The need to diversify faculty at higher education institutions, 2. the need for diversity conscious curricula that create "stimulating and safe environment for exchanging different viewpoints" on campuses (Noble-Allgire, 2003). Noble-Allgire also notes the need for training faculty on how to use appropriate teaching techniques to allow for enriched discussions.

that diversity is crucial in order to train future leaders and initiated the "diversity rationale."

1.3 HIGHER EDUCATION ADMISSION PRACTICES

A Harvard Law 2010 journal titled *Educational Benefits Realized: Universities' Post-Admissions Policies and the Diversity Rationale* explores the legal issues that arise when affirmative action is implemented in admission practices. The article suggests that achieving diversity in colleges is one of the most controversial legal issues plaguing modern American History. The author sheds light on the lack of research regarding the connection between the

critical mass of minority students to the positive results of interactional diversity. Achieving diversity through college admission is not enough: colleges must design ways to diversify campuses beyond the admissions practices. The piece recommends mandating post-admission policies to promote interactional diversity. It is not sufficient to simply increase numbers of minority students to meet a critical mass index, without taking measures to promote that diversity after the admissions process to cultivate interactional diversity. The journal mentions several examples of post admission programs including removing barriers to roommates from different races. The journal warns that if institutions fail to adopt post admission policies, this may be construed as violating the narrow tailoring prong (Harvard Review, 2010). The journal suggests that interactional diversity is the only category that implicates a compelling governmental interest (Harvard Law Review, 2010).

1.4 INTERACTIONAL DIVERSITY

Justice O'Connor stated, "it is necessary that the path to leadership be visibly open." Therefore, it is important for colleges to go beyond admission practices, but also foster opportunities for students to engage in diversity related activities on campus. The mere presence of minorities on campus is not sufficient, there is a need to create opportunities for engaging students in meaningful activities beyond admission. On campuses, whites tend to gravitate towards white students and prefer to become roommates with other white students. Similarly, minorities gravitate to one another and form residential communities and fraternities. Some institutions even offer affiliated housing, giving students the option to house with members of their same race. These examples demonstrate that despite numerical diversity, colleges have ample room for improvement in terms of maximizing interactional diversity. If universities are committed to diversity, and consider it a compelling governmental interest, then campuses ought to be to critically investigating their campuses to determine if the institution is maximizing interactional diversity in good faith. The journal

also makes several recommendations on how campuses should proceed in promoting interactional diversity and that the school's use of affirmative action is narrowly tailored to this goal.

1.5 BENEFITS OF DIVERSITY

There are substantial benefits to promoting diversity in college campuses including engaging classroom discussions, preparing students for the work place, and encouraging differences in ideas, and equalizing opportunities for minorities (Richman, 2010). The educational benefits resulting from diversity on college campuses calls for more than just increasing the numbers of enrolled minority students. Therefore, institutions have a responsibility to promote diverse interaction on their campuses (Richman, 2010). If institutions are to rely solely on the diversity rationale from the Grutter case, these institutions will inevitably open themselves to legal battles due to their failure to formulate post admission policies and practices to cultivate diverse interactions, which questions the sincerity of the institution's compelling interest for diversity and the "narrow tailoring" of their programs. (Harvard Law Journal, 2010, Educational Benefits Realized). Legal scholars argue that using affirmative action in admission practices and procedures, but not implementing any post admission practices to promote and cultivate that diversity beyond admissions, calls into question the sincerity of the institution's state interest (Richman, 2010). Thus, students may file a suit claiming that their 14th amendment rights were violated as a result of race preference programs.

2. LEGAL IMPLICATIONS

Legal scholars point out a controversial aspect of college admissions known as legacy admission practices, which are advantageous to white applicants. Scholars have called for eliminating legacy admission practices. Therefore, the courts should recognize when

institutions do not put in the efforts or are not devoted sustaining diversity after admissions, and thus should put the institution's goals towards diversity into question. Therefore, when courts examine an institution's "true motives," universities that do not articulate post-admissions plans to promote interactional diversity could open themselves up to legal challenges in terms of their affirmative action admission practices.

Another legal consideration is whether there will be a need for affirmative action in 25 years (Richman, 2010). Justice O'Connor placed a 25-year time limit on racial preference policies in *Grutter v. Bollinger* (2003). In her remarks, Justice O'Connor's provided characteristics of a "properly devised admissions program." (Richman, 2010). Beyond race, the Michigan Law School took into account the applicants' personal statements, letters of recommendation, and essays describing contributions towards diversity at the Law School, which Justice O'Connor cited as being narrowly tailored to the University's policy to its diversity goals. Additionally, the minority applicants were qualified and race was used as a mere plus factor (*Grutter v. Bollinger,* 2003). Justice O'Connor also clarified that narrowly tailoring does not translate to exhausting every race neutral option, but rather that the Institution exemplifies serious good faith consideration of race neutral alternatives to achieve diversity (Richman, 2010). Justice O'Connor placed a time limit of 25 years on the ruling, reasoning that the 14th amendment prevents governmentally imposed discrimination based upon race. According to Justice O'Connor, race conscious admission policies must have an expiration date, which she referred to as the "termination point."

2.1 CRITICAL MASS INDEX

During Grutter, Justice Scalia asked an important question: "How much diversity is enough?" Studies have shown that diversity encourages stimulation that cannot be achieved with a homogenous class composition (Richman, 2010). Additionally, students are more likely to engage with students from diverse backgrounds when the compositional diversity of

the campus increases (Richman, 2010). Richman (2010) cites a Harvard and New York University study that found that racial prejudice arises from a fear of the unknown. By increasing the diversity of a student body, institutions will create positive exposure to people from other races, ultimately enriching the college experience. Richman (2010) argues that there are tremendous societal gains that may result from diversity on campuses. However, there is no magic number to achieve diversity that has been recommended by courts, institutions, or recommended by prior research (Richman, 2010). Richman warns that the lack of diversity and homogenous white campuses limit the opportunities for cross-racial interactions, which also may lend to tokenism of minority students, who may be called upon to testify on behalf of the experience of their racial/ethnic group.

Additionally, Richman demonstrates her point by placing an anecdotal scenario that she had with students at a homogenous black school. She asked her students if they would leave their underfunded school with classrooms housed in trailers, few Advanced Placement courses, and little to no college advising to attend a predominately white school that will increase their chances of getting admitted to a university. However, the only trade off would be that only 10% of the students at the new school would be black. Six out of the fourteen students present in her class volunteered to switch schools. She then changed the scenario to 5% of students at the new school would be of the same racial group, and only two out of the fourteen students volunteered to attend. Richman indicates that this scenario demonstrates an important concept about the critical mass issue. She states that minority students are hesitant to go to a campus that does not assure a colorful student body, and that students would "sacrifice academic opportunity for comfort" (Richman, 2010). Therefore, it is important to go beyond admission practices and creating plans to sustain the diversity on campus post-admission instead of ignoring the issue of diversity after students are enrolled.

2.2 DIVERSITY CATEGORIES

The Sociology field classifies two broad diversity categories: Structural diversity and interactional diversity. Structural diversity refers to the numerical amount of minority students represented from racial and ethnic groups in a student body. The second category, interactional diversity, focuses on exchanges between students across racially and ethnically diverse persons, ideas, information, and experiences. The purpose of diversity programs is to mitigate the negative effects of discrimination against minority groups (Blau & Winkler, 2005). This paper focused on interactional diversity which constitutes a compelling state interest.

2.3 SINCERITY AND NARROWLY TAILORED PRECEDENT

A school's failure to formulate diversity maximization plans following the admissions process calls into question the narrow tailoring of the school's program to the compelling interest of diversity benefits for the institution. To explore this idea further, there must be a compelling state interest, and the efforts must be narrowly tailored towards that compelling interest. The Supreme Court limits how institutions may use race conscious admissions policies, and that institutions may not use these policies indefinitely. The Supreme Court indicated that the issue of affirmative action would be re-evaluated in the future, and a 25-year time limit was specified.

3. RECOMMENDATIONS FOR INSTITUTIONS

3.1 MONITORING CAMPUS CLIMATE

Richman (2010) explores options for schools to practice after the admission practices to promote and sustain diversity benefits. Researchers recommend monitoring campus climate through surveys and interviews with the student body to generate data on interactions across racial groups (Richman, 2010). The survey findings could be published in the school newspaper to "dispel negatively perceived images of the racial climate" which would be

replaced with the responses from the actual students' experiences. Therefore, Richman argues that schools must do more than just increase racial numbers on campus to meet the goal of diversity. She offers a finding from the University of California Los Angeles that found positive results from residing with students from diverse backgrounds (Richman, 2010). Jim Sidanius, a Harvard Scholar, recommends that schools randomly assign roommates to "deliberately mix race and ethnicity of roommates to make sure students don't end up rooming in ethnic enclaves." (Richman, 2010, p.82). Richman suggests that schools that seek to achieve diverse campuses cannot focus solely on compositional diversity (Richman, 2010) and calls for multi-dimensional diversity initiatives.

Additionally, Richman (2010) recommends randomized roommates as one of the simplest ways a college can promote interactional diversity. This way, students end up with diverse roommates, which is optimal for promoting interactional diversity. This method is more beneficial than racially affiliated housing, which is a practice of many institutions. Yale and Harvard have adopted a method that randomizes roommates beyond freshman year to prevent racial clustering (Richman, 2010).

3.2 DIVERSITY CONSCIOUS CURRICULUM

There is a compelling need for universities to strive to reach the goals outlined by Justice Powell with respect to faculty diversity as well as promoting learning environments that stimulate race discussions. Instructors tend to steer away from race discussion, even when the case being studied is centered upon race (Noble-Allgire, 2003). Some students may feel that race is not being discussed enough while other students may feel that too much time is devoted to race discussions. For example, a class may have four students from diverse backgrounds, while the rest of the class is white, and there is pressure for the four students to testify upon an entire category of people's experience (Noble-Allgire, 2003). Noble-Allgire suggests that "Nonetheless, there is a substantial probability that minorities of all cultures,

generations, and classes have experienced life in vastly different ways from the majority and, therefore, have formed views that are substantially different from those of their white colleagues."

3.3 COOPERATIVE LEARNING STRATEGIES

Faculty members are encouraged to adopt active learning practices, which are positively linked with diversity goals. Some schools adopt cooperative learning and group-oriented projects, which encourage students to interact across racial groups in the classroom. Finally, some researchers have found that increasing structural diversity will fail to achieve its goals if not coupled with "student centered" teaching and learning. Universities should offer guidance and encouragement to make faculty aware of the benefits of incorporating these practices. Minority students bring their own experiences to the forefront of classroom discussions, which will promote a dialogue. Increasing the admission of racially diverse students also buffers the effects of tokenism (Noble-Allgire, 2003). Increasing the numbers of racially diverse students in university admissions, allows for students of color to voice and speak for their own individual experience rather than trying to represent an entire racial group (Noble-Allgire, 2003).

The University of Michigan's law school admission has adopted a system to admit a "critical mass" of underrepresented students, which they describe as, "a number sufficient to enable under-represented minority students to contribute to classroom dialogue without feeling isolated" (Noble-Allgire, 2003). Noble-Allgire describes some reasons professors choose to be silent on issues of race, mainly the potential for students to feel ostracized. Students as well as faculty may remain silent about racial and diversity issues to maintain comfort and protection in their classrooms.

3.4 THE COLOR BLIND APPROACH

Nguyen & Ward (2017) discuss the notion of "color blind approach" and how some individuals feel that we live in a post racial world, and race should not be used in our admission practices. However, the Supreme Court Case Fisher v. University of Texas at Austin where the Supreme Court held that race conscious admission practices are valid and permissible (Nguyen & Ward, 2017). There have been several legal cases implicating Harvard and the University of North Carolina in a movement to eliminate race from college admission practices. However, the research done by the American Psychological Association (APA) dispels the notion that we live in a post racial world and that racism is real and rampant in society. The APA filed an amicus curie brief to support the University of Michigan's position in the case of Grutter v. Bollinger (2003). The APA cites three elements in their brief: 1. "Research shows that racial and ethnic discrimination and prejudice persist in American society; 2. Research also shows that many people who believe themselves to be free of prejudice actually harbor attitudes that can lead to subtle discriminatory behaviors; and 3. Research shows that such underlying prejudice and stereotyping may be ameliorated through contact between students of different racial and ethnic backgrounds." Finally, the APA's brief concludes that diversity in higher education will promote cultural competence (Brief Amicus Curie of the APA in Support of Respondents. Nos. 02-241 & 02-516. Retrieved from: http://www.apa.org/about/offices/ogc/amicus/grutter.pdf).

4. OPPOSING VIEWS: RACE CONSCIOUS POLICIES

Critics of the race conscious admissions practices assert that these programs violate the equal protections clause of the fourteenth amendment (Nguyen & Ward, 2017) because race is used as a determining factor in admission decisions. Strict scrutiny is the standard that the court must use to decide if the race conscious programs are constitutional. Strict scrutiny is also the standard used by courts with cases involving discrimination on the basis of national

origin or religion (Nguyen & Ward, 2017). In order to pass the strict scrutiny standard, the government must demonstrate that there is a "compelling governmental interest" in treating people differently. The next element is that the Supreme Court must find that racially conscious admission procedures are "narrowly tailored."

4.1 RACE NEUTRAL ALTERNATIVES TO AFFIRMATIVE ACTION

In the past, three states banned affirmative action policies, namely Texas, California, and Florida (Richman, 2010). Instead, these states devised "state mandated percent plans" as race neutral alternatives to affirmative action (Richman, 2010). These percent plans guaranteed admission to a public state university for students that graduated in the top designated percent of their class in public or private accredited high schools. Richman suggests that these percent plans must be evaluated for their effectiveness, and the results indicate their failure. She states that research from Washington, Texas and Florida demonstrates that these policies were ineffective. Namely, in California and Texas, there was an immediate decrease in their minority enrollments after the banning of affirmative action (Richman, 2010, p. 85). The University of California, Berkley saw a 66% decrease in African American enrollment, and Latinos dropped by 53% (Richman, 2010). The University of California at Los Angeles and the University of Texas at Austin both experienced significant drops averaging 33.8% of minority enrollment after the first year of the ban on affirmative action policies (Richman, 2010). In 2003, Texas was forced to lift its ban in light of the Grutter decision. Richman concludes that race neutral programs that were explored in the past have failed.

Richman (2010) possess a critical question: "Will race based admission policies still be necessary to achieve diversity 25 years after Grutter?" The United States population is projected to grow more diverse by 2050 due to increases from immigration and birth rates (Richman, 2010, p. 88). In 1996, the white population was 83%, researchers project that minorities will rise from one in every four Americans to one in every two Americans by 2050

(Richman, 2010). Therefore, the dramatic increase in minorities aligns with Justice O'Connor's prediction of 25 years, and there will be a much larger applicant pool of minority students, thus minimizing the need for affirmative action policies.

Richman (2010) also points out the differences in minority students SAT performance, the underperformance of minorities in suburban regions, and an underrepresentation of blacks and Hispanics in Elite schools across the country. Therefore, Richman (2010) asserts that race-based policies maintain a compelling government interest in promoting diversity. Richman concludes, "this shift will only be possible if more is done over the next twenty-five years than for colleges to simply throw diverse students into the same environment and hope for the best." Institutions of higher education need to implement and formulate more plans to promote diversity after admissions and move beyond the numbers and critical mass theory. Schools should become more concerned with improving the quality and quantity of interactions between races on campuses.

4.2 RACE NEUTRAL STATE PERCENT PLANS

Long (2003) suggests that race neutral alternative percentage plans used in Texas, Florida and California place emphasis on class rank. However, she points out the problems with this approach, mainly that if a school is not racially diverse, the minority students may not make the top percent, and this would inhibit their chances of securing admission to a state or public University. Long (2003) points out that one alternative to affirmative action is to make changes to the criteria used in admission decisions. Percentage plans emphasize one measure, class rank, but institutions could change the weight of factors like standardized test scores (Long, 2003). Long suggests that colleges could "discount factors that are negatively related to race while elevating activities positively correlated with race."

4.3 CLASS VERSUS RACE BASED AFFIRMATIVE ACTION

There are distinctions that need to be made between affirmative action programs by class versus race. Students may be members of a racial minority, but they may come from affluent backgrounds (class). Schwarzschild (2013) cites a cogent example of President Barack Obama, who was asked about how he would classify his two daughters, he explained that his daughters should probably be treated as advantaged, even though they identify as blacks. Schwarzschild (2013) warns about the dangers of racial preference and suggests that class preference would be more equitable than racial preference admission policies. Schwarzschild (2013) indicates that affirmative action based upon race includes minorities coming from affluent families, however, if affirmative action were based upon class, it would be preferential to the less privileged and focus on those who are truly disadvantaged. Schwarzschild (2013) argues that affirmative action based upon class would be "a more direct and a more consistent way of achieving it."

5. CONCLUSION

In conclusion, diversity and inclusion in higher education is a controversial issue with the potential for legal ramifications. Universities have adopted racial preferences in their admission practices to promote diversity as a compelling state interest. However, institutions have the responsibility to narrowly tailor their programs and policies to their compelling interest of achieving diversity. Evidently, Universities have historically placed more emphasis on increasing their numbers of minority groups, without placing that same conviction towards programs to sustain these students after the admissions process. Several recommendations have been made for institutions to diversify faculty, utilize race conscious curricula, and train faculty to be culturally competent. Recommendations have been made encouraging interaction across races by random assignment of roommates. Race conscious curriculum will also help cultivate positive interaction across racial backgrounds. Moreover,

increasing diversity among faculty is an area that has great potential to improve interactional diversity on college campuses. Minorities may have an easier time contributing to discussions and feel more validated by diverse faculty members. Affirmative action programs should be framed with preference to class instead of race, as this would be more equitable and promote opportunities for students from disadvantaged backgrounds. Finally, institutions should consistently administer surveys to gage the campus climate regarding diversity interaction across races. Collectively, these recommendations may help protect an institution from future legal dilemmas regarding the constitutionality of their programs. Justice O'Connor placed a 25-year limit on affirmative action admission practices and thus the issue is ripe at the present time. It has been suggested that with immigration patterns and birth rate increases of minorities, minorities will become the majority, which will minimize the need for affirmative action programs in the future. At the present time, Universities that use race in their admission practices have ample areas for improving the narrow tailoring of their programs. Institutions are urged to put forth the same conviction towards increasing the number of enrolled students towards devising programs to engage their student bodies in diverse interactions among all students. Diverse interactions in the undergraduate and graduate studies will better prepare students for real world experiences in when they enter the workforce.

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