About the Access & Diversity Collaborative

The Access & Diversity Collaborative was established by the College Board in 2004 — in the wake of the University of Michigan U.S. Supreme Court decisions — to assist colleges and universities in developing and implementing their access- and diversity-related policies in light of core institutional goals and federal nondiscrimination law. More than 30 institutions of higher education and four national organizations are sponsors of the Collaborative; six other organizations also support the work of the Collaborative.

The Collaborative has provided extensive training to higher education institutions nationwide. More than 30 national seminars (with more than 1,000 representatives from over 300 institutions and organizations in attendance) have been conducted; and numerous guides and policy briefs that address key strategic planning and policy development issues have been published and widely distributed.

These publications, which serve as important background reading relevant to the topics of this manual, may be downloaded from the Collaborative website at www.collegeboard.com/accessanddiversity.

About the Authors

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A Note of Gratitude and Acknowledgment

The contribution of one individual, in particular, to this publication is second to none. We want to thank Gretchen Rigol for her vision, depth of knowledge and tireless commitment to making higher education enrollment decisions the best that they can be. Without her, this document would not have seen the light of day. (Indeed, you will note throughout this Blueprint a number of references to models-related publications that Rigol authored and edited, which guided our thinking and shaped this resource.) Her fingerprints are not only found throughout this resource, they are (and will continue to be) visible in all that the Access & Diversity Collaborative accomplishes. For her leadership, stewardship and friendship, we are most grateful.
A Diversity Action Blueprint:
Policy Parameters and Model Practices for Higher Education Institutions

A Resource with Mission, Admission and Evaluation Policy Guidance and Illustrations
Foreword

Purpose of the Diversity Action Blueprint

This Action Blueprint builds upon several publications of the College Board’s Access & Diversity Collaborative, which provide higher education officials with guidance regarding the development of policies designed to advance institutional access and diversity goals. It is informed by federal court rulings and federal policies that have addressed issues of race, ethnicity and gender preferences in education; by a review of numerous higher education policies of relevance; and by countless conversations with higher education personnel who are charged with the effective development and implementation of those policies on campus.

This Blueprint’s principal aim is to serve as a tool to advance institutional policy development and to facilitate institution-specific discussions regarding educationally and legally sound policies that can promote the achievement of goals associated with a diverse class of students. Points of focus highlighted throughout the Blueprint are intended to call attention to a number of the interconnected issues regarding policy development that educators inevitably encounter: the educational soundness of policies (including their research foundations), effective communications regarding policy objectives and meanings, and the legal soundness of policies that are developed and pursued.

To achieve these goals, Chapters II and III of this Action Blueprint illustrate important practical considerations in the development of mission and admission policies through a discussion of recommended policy parameters and actual policy illustrations that are annotated to highlight key relevant points of legal and educational importance. Similar considerations are discussed in Chapter IV with respect to relevant evaluation models and strategies.

Background on the Development of the Action Blueprint

This Diversity Action Blueprint is a product of collaboration — among institutional leaders and policymakers, enrollment management officials, researchers, and lawyers. It was conceived as a publication three years ago when the College Board’s Access & Diversity Collaborative launched a series of “models” national seminars. Those seminars addressed key legal and research principles and their direct implication for access and diversity policy development — all in the context of group discussions regarding actual higher education policies. That idea — and the framework in which the relevant materials were presented — caught fire, giving rise to this publication.

This Blueprint is designed to provide a laser-like focus on the actual principles that, at a minimum, should guide the development of higher education mission and admission policies, and inform the development of evaluation policies and protocols. It is not intended to be a comprehensive, from A to Z, resource — although you will note that each chapter provides “On Point” background references (often designating sections within those references), which amplify and expand upon the operative legal, policy and research principles discussed in the Blueprint. Neither is it intended to suggest that there are silver bullet, cookie-cutter answers for those officials who work to develop and refine institutional policies. As with the diversity interests themselves, which are inherently institution-specific, institutional policies should reflect the particular values, aims and histories of the institutions with which they are associated. These model practices are intended to help facilitate those judgments and to provide ideas and examples that may be adaptable in different settings.

And, to address that inevitable question — How did we select the models included in this publication? — perhaps it is most accurate to say that the process resembled the college admission process on so many campuses! The selection of the models was based on a number of factors that were part of a “holistic review” process where no formula or specific weighting existed. The selection of the models was a product of rigorous reading and analysis, as well as the all-important discussions and brainstorming. More substantively, these models reflect key legal principles and education foundations that have emerged from a growing body of law, research and experience; specific federal court guidance clearly aligned with key points within the models; diversity in kinds of institutions producing the policies; variety in depth and breadth of policy documents that might be appropriate at a given institution; and a good, old-fashioned sense of soundness, based on our collective experience (including our experience using these models, among several others, at the “models” seminars described above).

This Blueprint has been written to serve as a resource (1) for individuals who are working to understand and use key principles associated with effective policy development designed to achieve institutional access and diversity goals; and (2) to support institutional team discussions and professional development workshops designed to enhance understanding of the key principles that will advance institutional access and diversity goals in lawful, educationally sound ways. We hope that this Blueprint succeeds in meeting those objectives.

Art Coleman, Scott Palmer, Jeff Milem and Kate Lipper, April 2010
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I. Legal and Policy Overview

Key Principles

There are a number of key principles that should inform the development and implementation of any higher education policy associated with access and diversity goals. They include the following:

Federal and State Laws. A number of federal and state laws — as well as related system or institutional policies — may be implicated in the development and implementation of access- and diversity-related policies. Despite the range of legal issues that may surface (which require institution-specific analysis and counsel), there are a number of federal legal issues that are nearly universally applicable, which have helped shape the national policy discourse regarding higher education’s efforts to enhance access and diversity goals. These issues, which form an important baseline for policy development, are the major legal points of focus reflected in this Blueprint.

Goals and Objectives. Both as a matter of sound educational policy and of federal law, the implementation of student enrollment management policies should be preceded by a clear vision of the educational goals that those policies are designed to serve, and how those particular policies work individually and collectively to best achieve those goals. The focus on institutional goals was a key foundation for the Grutter Court’s deference to inherently academic judgments about the value of diversity at the University of Michigan. Correspondingly, institutional goals should be framed in light of measurable objectives that can be evaluated over time. It is not enough to declare that, with respect to the definition and benefits of diversity, “I know it when I see it.” Rather, benchmarks for gauging success should be established — and are, as a matter of federal law, required to the extent that access and diversity policies confer certain benefits upon students based on their race or ethnicity. (Federal law inquires about the positive material benefits that race- and ethnicity-conscious policies achieve, and insists that the operation of those policies include race and ethnicity preferences only to the extent necessary — in both scope and time — in achieving those benefits.)

Evidence. The U.S. Supreme Court’s deference in Grutter to the University of Michigan regarding its judgment that diversity was “essential to its educational mission” did not obviate the need for the University of Michigan to produce relevant evidence that established the connections between a diverse student body and core educational benefits important to the university. Indeed, just as the University of Michigan produced evidence regarding the “substantial” and “real” educational benefits of diversity — improved teaching and learning, enhanced civic values, and better preparation of students for a 21st-century workforce — higher education institutions seeking to justify race- and ethnicity-conscious policies in connection with their access and diversity policies should be prepared to do the same. That evidence can, as in Grutter, reflect institution-specific and broader social science evidence, just as it includes quantitative and qualitative data and individual perspectives.

Process. To ensure the continuing strong foundations that compel institutional action on issues of access and diversity (and, to satisfy federal legal standards with respect to race- and ethnicity-conscious practices, in particular), higher education institutions should ensure that they maintain a process involving key institutional stakeholders through which access and diversity policies — including mission statements and the like — are periodically evaluated and, as appropriate, refined.
IN A NUTSHELL:
Federal Nondiscrimination Law and Strict Scrutiny

Based upon federal constitutional principles (which apply to public higher education institutions) and identical principles of Title VI of the Civil Rights Act of 1964 (which apply to any recipient of federal funding, public or private), race- and ethnicity-conscious admission policies must satisfy “strict scrutiny” standards in order to withstand any legal challenge. Strict scrutiny is the most rigorous standard of judicial review. It is applicable to race- and ethnicity-conscious decisions that confer opportunities or benefits, because distinctions based on race and ethnicity are “inherently suspect” under federal law. To satisfy strict scrutiny, institutional policies must serve a “compelling interest” and be “narrowly tailored” to achieve that interest.

- **A compelling interest** is the end that must be established as a foundation for maintaining lawful race- and ethnicity-conscious programs that confer opportunities or benefits. Federal courts have expressly recognized a limited number of interests that can be sufficiently compelling to justify the consideration of race or ethnicity in a higher education setting. These include a university’s interest in promoting the educational benefits of a diverse student body.

- **Narrow tailoring** refers to the requirement that the means used to achieve the compelling interest must “fit” that interest precisely, with race or ethnicity considered only in the most limited manner possible — but, at the same time, in a way that will have demonstrable impact. Federal courts examine several interrelated criteria in determining whether a given program is narrowly tailored, including the flexibility of the program, the necessity of using race or ethnicity, the burden imposed on nonbeneficiaries of the racial/ethnic preference, and whether the policy has an end point and is subject to periodic review.

Taken together, an understanding of these principles can help colleges and universities identify the policies and programs that should be subject to an institution-specific analysis, and ensure that their race- and ethnicity-conscious policies and programs promote their diversity-related educational goals and minimize institutional legal risk — which are complementary, not competing goals.
ON POINT:
Legal, Policy and Research Resources

Publications


Case Law


II. Mission-Related Policy Statements

“The Law School’s educational judgment that … [student body] diversity is essential to its educational mission is one to which we defer. … Our conclusion that the Law School has a compelling interest in a diverse student body is informed by our view that attaining a diverse student body is at the heart of the Law School’s proper institutional mission.”


There is little doubt that the clarity and authenticity of the University of Michigan’s educational diversity mission-driven goals established the cornerstone for the University of Michigan’s legal success in Grutter v. Bollinger. But that legal success — and the promise that it holds for other higher education institutions — is only one reason for seriously examining institutional mission statements and related policy statements. Other equally important reasons for higher education institutions to thoughtfully reflect upon and develop their mission statements (and related policies) exist.

At their core, mission statements are about institutional values that drive (or that should drive) institutional action. Thus, as a foundation for policy coherence within (often large) educational systems, a well-developed mission statement can operate as a vital polestar — aligning personnel around a set of common goals, and providing clarity with respect to values that should be a guiding force in all facets of institutional action, including policy development. In turn, effective implementation of such statements can, over time, lead to significant institutional efficiencies and cost savings.

<table>
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<tr>
<th>Policy Guidelines</th>
<th>Illustrations</th>
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<tr>
<td>Well-developed mission statements and related policies should reflect:</td>
<td>The University of Maryland adopted a policy on diversity in its educational programs in 2006 (which is reproduced in its entirety below). Obviously tailored to the specific institutional mission and history of the University of Maryland, this policy statement reflects a particularly good illustration of the multiple elements that should be found in comprehensive policies aligned with federal law. A brief analysis of these elements is included within the policy itself, below. The policy is accessible at <a href="http://www.president.umd.edu/policies/docs/iii_900a.pdf">http://www.president.umd.edu/policies/docs/iii_900a.pdf</a>.</td>
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<td>• The benefits of diversity, which are a core institutional value and priority</td>
<td>The University of Chicago issued a “Diversity Statement” under the auspices of a schoolwide “Dear Colleague” letter in 2004. (In 2010, this statement was adopted and republished as a Diversity Statement from the president; and as a Diversity Statement from the deputy provost for research and minority issues.) The statement strives to integrate student, faculty, staff and community issues of relevance into one comprehensive statement of vision and commitment. Notably, the discussion of key diversity issues includes institutional historical events of relevance, a predominant focus on the pedagogical relevance of diversity (including educational research and the delivery of professional services associated with degree programs), and the university’s commitment to serve its surrounding community. A brief analysis of these elements is included with the policy itself, below. The policy is accessible at <a href="http://www.uchicago.edu/diversity/2004diversitystatement.shtml">http://www.uchicago.edu/diversity/2004diversitystatement.shtml</a>, <a href="http://www.uchicago.edu/diversity/zimmer.shtml">http://www.uchicago.edu/diversity/zimmer.shtml</a>, and <a href="http://www.uchicago.edu/diversity/warren.shtml">http://www.uchicago.edu/diversity/warren.shtml</a>.</td>
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<td>• A clear articulation of the benefits of diversity — including educational, civic, economic/workforce and national security benefits, as appropriate</td>
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<td>• The importance of multiple facets of diversity in achieving institutional goals (e.g., not just a focus on race and ethnicity)</td>
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<td>• Any unique institutional history that may bear on the institution’s mission regarding access- and diversity-related goals, such as a history of segregation that it may have overcome</td>
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<td>• As applicable, the process leading to policy approval, including the role of faculty and students</td>
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**UNIVERSITY OF MARYLAND**  
**Policy on Diversity in Educational Programs**  
(Approved by the President, April 5, 2005)

### I. Policy and Definition

The University of Maryland is a publicly funded land grant institution and the flagship institution of the University System of Maryland. As set forth in the University’s Mission Statement, the University is committed to achieving excellence as the State’s primary center for research and graduate education, and the institution of choice for undergraduate students of exceptional ability and promise.

Consistent with this Mission and the 2000 Strategic Plan, the University is an inclusive educational community that attracts a diverse population of academically talented students. This community has resulted, in part, from the University’s previous initiatives to overcome its history of State-enforced racial segregation, to enhance gender equity, and to provide equal educational opportunities to students with a broad variety of personal characteristics. As the community has become more heterogeneous, the University has determined that a diverse student population enhances the educational experience and is an integral component of educational excellence.

Consistent with this academic judgment, the University shall continue to recruit, admit, retain and graduate students who meet the University’s requirements for academic success and who bring to the University a variety of talents, backgrounds, experiences and personal characteristics, including but not limited to race, gender, ethnicity, socioeconomic background and geographic origin. The means of achieving and promoting this diversity shall remain flexible, and the manner in which race, ethnicity and gender are to be considered shall meet standards evolving in federal and state law.

The University’s measure of what constitutes a diverse student body may, and should, change. Accordingly, to achieve its educational goals, the University has rejected selection processes for admission and for other academic programs that do not permit individualized assessments. Instead, the University engages in holistic processes that evaluate each student as an individual, using a number of criteria to identify those who can best contribute to, and benefit from, membership in the academic community and its various programs.

### Legal and Policy Commentary

- The Policy Parameter provides commentary that associates guidelines, described above, with specific, underlined text.
- The Case Law Connection provides commentary that associates key legal principles with specific, underlined text.

### Policy Parameter

Maryland provides a clear articulation of its goals and objectives. It acknowledges a unique institutional history that grounds its commitment to student diversity, and specifically to racial diversity, as it reaffirms its commitment to diversity as a core institutional value and priority. Further, Maryland notes the multiple facets of diversity, from race and gender to “a broad variety of personal characteristics.” Finally, Maryland articulates clearly the educational benefits of diversity.

### Case Law Connection

The diversity Maryland seeks encompasses a far broader array of qualifications and characteristics than race or ethnicity. *Bakke*, 438 U.S. at 315. See also *Grutter*, 539 U.S. at 324-25.

### Case Law Connection

Maryland recognizes the importance of flexibility in its construction of student diversity, *Bakke*, 438 U.S. at 317, and commits to a holistic process of individualized assessment, *Grutter*, 539 U.S. at 337.
II. Educational Benefits of a Diverse Community

The University counts a diverse academic community to be among its greatest strengths, and so aspires to achieve a broadly diverse faculty, staff and student body. Opinions rendered by a diverse community further the University’s educational goals by challenging traditional educational practices and arrangements, and by contributing new perspectives to the curriculum and other scholarly pursuits. The University expects the impact of a diverse community on academic programming to be beneficial to the individual, the institution and the environment in which both function.

For example, research and everyday experience show different perspectives, particularly in discourse, enhance the learning environment for everyone, and benefit students, staff and faculty individually by advancing a variety of educational outcomes. Students who interact with diverse peers and take courses that advance multicultural perspectives show enhanced critical thinking skills; tend to be more engaged in learning; report higher self-assessments of their academic, social and interpersonal skills; are more likely to be involved in community service programs; and are more likely to remain enrolled, and to aspire to advanced degrees after graduation. A diverse student body promotes cross-cultural understanding, and exposes students to common goals and values critical to many occupations, particularly those based on teamwork and mentoring. It also helps students understand why people of diverse backgrounds interpret the same information differently. These outcomes, in turn, benefit society by preparing students for professional careers and positions of leadership, and for successful and productive participation in a heterogeneous democracy and global economy.

In this regard, the University recognizes that while some attention to numbers is necessary to produce educational benefits, diversity’s positive effects do not automatically accrue from a simple focus on numerical representations of various populations in an admitted class. Rather, diversity produces benefits through thoughtfully structured policies and programs designed to support and facilitate interaction among students as part of the academic experience. These include outreach and enrichment; recruitment; financial aid; scholarships; general education diversity course requirements; programs designed to improve retention, and to cultivate a learning environment, in and out of the classroom, which enhance the individual and collective experiences of the campus community.

Policy Parameter
Maryland connects diversity to core teaching and learning benefits.

Case Law Connection
Maryland cites both research evidence and everyday experience to buttress its commitment to diversity, outlining the educational benefits of diversity. *Grutter*, 539 U.S. at 329-30 (summarizing research that points to the educational benefits that flow from student body diversity).

Policy Parameter and Case Law Connection
This evidence connects the goal of a diverse student body with core educational benefits, enhanced civic values, and better preparation for the 21st-century workforce and citizenship skills. See *Grutter*, 539 U.S. at 330-31.

Policy Parameter
Maryland acknowledges a number of mechanisms beyond the admission decision that can be employed to address and support diversity initiatives.
# III. Periodic Review

Diversity is not an end result, but a means of achieving a concrete set of educational objectives. Accordingly, the University shall periodically review its diversity-related policies and programs to determine their achievements, and to adjust them as necessary to further those objectives.

The Provost shall direct this review, which shall evaluate the extent to which diversity impacts learning outcomes, and otherwise advances the University’s educational goals. The review may take into account scholarly educational research as well as institutional self-assessment. The review also shall consider the viability of race-neutral approaches to meet the institution’s academic goals; the extent to which the use of race-conscious policies place a burden on nonminorities; and any areas in which changes should be made.

## Case Law Connection

Maryland commits to periodic review of its diversity initiatives and establishes a framework and procedure for the review. *Grutter*, 539 U.S. at 342.

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<th>UNIVERSITY OF MARYLAND</th>
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The University over the past years has made some clear strides toward our goal of a more diverse community. After a year’s work by the Provost’s Initiative on Minority Issues (PIMI), this is the right moment to restate and explain our goals, and to reaffirm as a priority of this administration the goal of far more progress along the lines stated in PIMI’s report (PDF). The character of our University will be powerfully shaped by our successes or failures.

A commitment to diversity has profoundly shaped the course of research and education at the University throughout its history. From its beginning, the University was open to women as well as men. The first black woman to earn a doctorate in the United States, Georgiana Simpson, earned that distinction in 1921 at the University of Chicago. One of the first black tenured faculty members at a major nonhistorically black university was the University of Chicago's Professor Allison Davis. The University’s refusal to set quotas made it accessible to Jews in the mid-twentieth century when other elite institutions practiced discrimination. Our intellectual preeminence across a variety of disciplines has derived from the commitment and the ability of our scholars to engage, understand and, when appropriate, ameliorate the myriad differences that constitute the human condition. We celebrate our proud tradition of inclusion even as we acknowledge the need for marked improvement.
II. Mission-Related Policy Statements

UNIVERSITY OF CHICAGO
Diversity Statement from the President (2010)
Diversity Statement from the Deputy Provost for Research and Minority Issues (2010)

Legal and Policy Commentary
- The Policy Parameter provides commentary that associates guidelines, described above, with specific, underlined text.
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Students

The composition of our student body, undergraduate and graduate, deeply influences the educational experience that they receive at Chicago, as was argued in the amicus brief cosigned by the University and other leading institutions in the cases brought against the University of Michigan. “Students are both recipients and providers of the learning that takes place at universities, and [universities] have a vital interest in what students bring to the task of educating each other. … Diversity helps students confront perspectives, other than their own and thus to think more vigorously and imaginatively; it helps students learn to relate better to persons from different backgrounds; it helps students become better citizens. The educational benefits of student diversity include the discovery that there is a broad range of viewpoint and experience within any given minority community — as well as learning that certain imagined differences at times turn out to be only skin deep.” On the basis of both research and personal experience, we believe that classes of students from diverse backgrounds, taught by faculty of varied backgrounds, will be a richer and better educational experience. The quality of exchange depends not only on the intelligence and talent of individual students, but also the experiences and values they bring to the table. Homogeneity perpetuates unchallenged assumptions — the very antithesis of what the University stands for. In addition, effective education entails the ability to communicate with those of different backgrounds. To take one simple and obvious example, in order to take accurate case histories from patients, our medical students need to be trained to communicate with people who speak different dialects and start from different cultural assumptions.

The University of Chicago has a responsibility as a member of a tiny group of the most elite institutions of higher education to extend our opportunities beyond the wealthy majority. Today, the underrepresented include not only Blacks and Latinos, but also all Americans with incomes below the median. In this respect, Chicago does better than most of its peers in recruiting from less well-off families, but more resources need to be made available to provide more aid for more of these students. Although the numbers for minority admissions have improved to the point that last year’s matriculating College class has 16 percent African Americans and Hispanics, and 14 percent Asian Americans, our ambition is to have a more representative body of students at all levels. To that end, our Collegiate Scholars Program is designed in part to enlarge the pool of applicants by enrolling 60 Chicago Public School students each year in summer classes on campus through their high school years.
### UNIVERSITY OF CHICAGO

#### Diversity Statement from the President (2010)

#### Diversity Statement from the Deputy Provost for Research and Minority Issues (2010)

### Legal and Policy Commentary

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### Conclusion

Over the past year, a group of faculty, administrators and students have been reviewing the University’s present situation and formulating recommendations to improve diversity. Their report summarizes the rationale for their mission in the following words:

“We recall the Norton Report and its conviction that diversity is essential to the mission of the University of Chicago in order to remark that the existence of the Provost’s Initiative on Minority Issues (PIMI) stands both as a testament to the progress the University has made over that past two decades in addressing minority issues and as an admonishment that much work remains yet to be done if the University is to fulfill its broader mission. A commitment to diversity is not merely or even primarily a matter of public relations. The production and the testing of knowledge for the benefit of all demand intellectual and social restlessness. We must be willing to ask whether or not those things that appear true and good to us, and to those we deem like us, appear likewise to those who seem different from us. We must be willing to hear from a variety of sources to determine if our research agendas and priorities suffer from unintended biases rather than reflect a proper estimation of the state of knowledge in our respective fields. We must understand that we do not exist outside of the society we study but that we act within it and upon it, and that part of our responsibility as an institution for reflection and research is to be aware of and to assess how what we do affects the world around us. All of these activities and responsibilities presume diversity as a necessary condition of their fulfillment. To fail to ensure social and intellectual diversity at the University of Chicago is to fail to realize our educational and research missions.

The report offers a number of recommendations to which we are committed. In the wake of the Norton Report the University made some progress; we now need to raise our aspirations, to monitor our improvements, and to confront our shortcomings. Our higher aspirations will be met only with the focused effort of the whole campus community.
ON POINT:
Mission-Related Policy Resources

- Tool 1 — The Diversity Imperative: The Compelling Case
- Tool 5 — Making Connections: A Holistic View of Key Strategies
- Tool 10 — Taking a Stand: Higher Education Leadership for the 21st Century

- Section I, Part 2 — Key Strategies and Action Steps

- Chapter 3 — The Educational Value of Diversity

The goals and processes associated with the selection of students to attend higher education institutions vary greatly from institution to institution. As such, “there is no ‘best practice’ that would apply in all situations” when making admission decisions: “Each institution has a unique mission and institutional goals.”¹ Despite institutional differences, there are several related elements that tend to characterize the work of admission officers.

The admission process is a complex process that reflects in each institution a “unique compromise among competing values and priorities.”² Moreover, the task of admission officers is not simply to decide which applicants offer the strongest credentials as separate candidates for college; the task, rather, is to assemble a total class of students, all of whom will possess basic qualifications, but who will also represent, in their totality, an interesting and diverse amalgam of individuals who will contribute through their diversity to the quality and vitality of the overall educational environment.

In other words, for colleges and universities, the evaluative criteria typically associated with admission decision making are both individually focused and institutionally focused. With respect to the individual, admission committees will typically examine a student’s capacity to perform and to benefit from the contemplated educational experience at their campuses. With respect to the institution, admission committees will often examine a student’s potential to contribute to the learning environment of all and, correspondingly, assess the teaching and learning dynamics that a particular “mix” of students may foster.

This dual lens is an important foundation for considering the issues most directly associated with the achievement of diversity-related goals. Specifically, to the extent that higher education institutions seek to achieve the educational benefits of diversity (as the University of Michigan did), then they must, by definition, remain focused on the mix of students they admit — to ensure that the mix significantly contributes to the educational outcomes which the institutions seek inside and outside of the classroom. The robust array of factors that may be considered to achieve such mission-related goals provides a clear rebuttal to any claim that (as to those institutions) the merit of an applicant can be judged entirely with reference to “objective factors” such as test scores and grade point averages. The admission programs described below provide important illustrations and powerful evidence that confirm that reality.

III. Admission Policy Statements

“Upon the unanimous adoption of the [faculty] committee’s report by the Law School faculty, it became the Law School’s official admissions policy. The hallmark of that policy is its focus on academic ability coupled with a flexible assessment of applicants’ talents, experiences, and potential ‘to contribute to the learning of those around them.’”


### Policy Guidelines

Well-developed admission policies:

- Are integrated and aligned with related enrollment policies
- Define the merit of students the institution seeks to admit holistically, with a focus on all relevant qualifications and characteristics — those related to academic preparation and potential, and those related to other student qualities that the institution values
- Establish clear criteria for judging the academic qualifications of applicants and ensure that all students offered admission are academically qualified
- Consider the race and/or ethnicity of applicants only where it has been determined that such consideration is necessary in order to achieve institutional diversity-related goals, and in such cases:
  - Reflect a process of individualized, holistic review, through which candidates are evaluated based on their background and record
  - Ensure that diversity-related attributes are not limited to race and ethnicity
  - Ensure that neither race nor ethnicity operates as a driving force in selection such that the admission of all minimally qualified minority students is explainable by the consideration of race or ethnicity in the selection process
  - Are periodically evaluated for effectiveness in the achievement of diversity-related goals, as a foundation for policy changes (as appropriate)
- Reflect the evolution of changing circumstances, including shifts in applicant pools and the evolution of institutional goals

### Examples


- **Rice University**, discussing the philosophy and evaluation of its undergraduate admission plan: [http://futureowls.rice.edu/futureowls/Philosophy_and_Evaluation.asp](http://futureowls.rice.edu/futureowls/Philosophy_and_Evaluation.asp)

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3. Notably, such practices are not lawful in all jurisdictions. See *Access & Diversity Toolkit*, Tool 9 (*Beyond Federal Law: State Voter Initiatives and Consequences*).
The Harvard Undergraduate Policy

Among the most important models to consider when designing or refining admission policies is a policy that was never the target of a legal challenge leading to a U.S. Supreme Court decision. Harvard College’s admission policy gained prominence in legal circles when it was described by parties who filed a “friend of the court” brief in connection with *Regents of the Univ. of California v. Bakke*, 438 U.S. 265 (1978), in an effort to demonstrate how (in contrast to the challenged University of California at Davis Medical School policy) race might appropriately be used in an admission setting. That policy description was attached as an appendix to Justice Powell’s *Bakke* opinion, as, in his words, an “illuminating example” demonstrating that the “assignment of a fixed number of places to a minority group is not a necessary means toward” the goal of achieving the educational benefits of diversity. As importantly, the Harvard policy was cited 25 years later in Justice O’Connor’s majority opinion in *Grutter v. Bollinger* — just as it was cited in Chief Justice Rehnquist’s opinion in *Gratz v. Bollinger* — as a foundation upon which to evaluate the lawfulness of challenged policies at the University of Michigan.

Simply stated, if there is anything that nine Justices would appear to agree upon with respect to race-conscious higher education admission policies (at least as of 2003), it is this: The Harvard policy is an important point of consideration when addressing the legal sustainability of admission policies.

Overview of the Harvard Undergraduate Policy

In general. The policy reflected that the admission decision involved both the evaluation of the student and consideration of how best to create the desired educational experience for all admitted students.

Academic criteria. The policy focused on academic criteria — test scores, high school records and teacher recommendations — that were determinative of who had “the academic ability to do adequate work ... and perhaps to do it with distinction.” Those criteria, however, were not determinative of who should be admitted. Rather, Harvard distinguished between academically qualified students and the smaller group of students who should be admitted to Harvard College.

Other criteria. Harvard’s policy provided for the consideration of multiple factors when making judgments about which students to admit, based on the “belief ... that if scholarly excellence were the sole or even predominant criterion, Harvard College would lose a great deal of its vitality and intellectual excellence and that the quality of the educational experience offered to all students would suffer.” Those factors included student interests, talents, backgrounds and career goals. In addition, diversity “add[ed] an essential ingredient to the educational process” and was a factor in the admission selection process. Specifically, race could operate as one factor among many in some admission decisions and in some cases might “tip the balance” in favor of an applicant. Correspondingly, criteria “associated with” but not “dependent on” race were considered.

Key Points Regarding the Harvard Undergraduate Policy

- The policy reflected what was, in essence, a two-dimensional admission process by which students were first screened based on their academic qualifications and, then, for those deemed qualified, evaluated pursuant to an expanded array of criteria (including but not limited to those associated with diversity goals) relevant to ultimate admission decisions.
- The consideration of race/ethnicity — as factors among other diversity factors considered — was sufficiently flexible to place all applicants “on the same footing,” although not with all diversity-related factors accorded “the same weight” for all applicants.
- Race and ethnicity might have been outcome determinative for many minority students (essentially tipping the balance for those students) but did not operate to virtually guarantee admission for all minimally qualified minority students.

For the past 30 years Harvard College has received each year applications for admissions that greatly exceed the number of places in the freshman class. The number of applicants who are deemed to be not “qualified” is comparatively small. The vast majority of applicants demonstrate through test scores, high school records and teachers’ recommendations that they have the academic ability to do adequate work at Harvard, and perhaps to do it with distinction. Faced with the dilemma of choosing among a large number of “qualified” candidates, the Committee on Admissions could use the single criterion of scholarly excellence and attempt to determine who among the candidates were likely to perform best academically. But for the past 30 years the Committee on Admissions has never adopted this approach. The belief has been that if scholarly excellence were the sole or even predominant criterion, Harvard College would lose a great deal of its vitality and intellectual excellence and that the quality of the educational experience offered to all students would suffer. Final Report of W.J. Bender. Chairman of the Admission and Scholarship Committee and Dean of Admissions and Financial Aid, pp. 20 et seq. (Cambridge. 1960). Consequently, after selecting those students whose intellectual potential will seem extraordinary to the faculty — perhaps 150 or so out of an entering class of over 1,100 — the Committee seeks:

> Variety in making its choices. This has seemed important in part because it adds a critical ingredient to the effectiveness of the educational experience [in Harvard College]. ... The effectiveness of our students’ educational experience has seemed to the Committee to be affected as importantly by a wide variety of interests, talents, backgrounds and career goals as it is by a fine faculty and our libraries, laboratories and housing arrangements. (Dean of Admissions Fred L. Glimp, Final Report to the Faculty of Arts and Sciences, 65 Official Register of Harvard University No. 25, 93, 104–106 (1968) (“Final Report”) (emphasis supplied).

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**Case Law Connection**

The Harvard Plan sets criteria for determining who is **academically qualified** to study at Harvard. The criteria are race-neutral and do “not insulate the individual from comparison with all other candidates.” *Bakke*, 438 U.S. at 317.

**Policy Parameter**

Harvard emphasizes the educational outcomes driving its admission process.

**Case Law Connection**

Harvard seeks diversity that extends beyond race or ethnicity. *Grutter*, 539 U.S. at 325; *Bakke*, 438 U.S. at 315.

**Case Law Connection**

Harvard recognizes the complexity of student diversity, identifying numerous factors that contribute to its desired educational outcomes. *Grutter*, 539 U.S. at 337.

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The belief that diversity adds an essential ingredient to the educational process has long been a tenet of Harvard College admissions. Fifteen or twenty years ago, however, diversity meant students from California, New York and Massachusetts; city dwellers and farm boys; violinists, painters and football players; biologists, historians and classicists; potential stockbrokers, academics and politicians. The result was that very few ethnic or racial minorities attended Harvard College. In recent years Harvard College has expanded the concept of diversity to include students from disadvantaged economic, racial and ethnic groups. Harvard College now recruits not only Californians or Louisianans but also blacks and Chicanos and other minority students. *Contemporary conditions in the United States mean that if Harvard College is to continue to offer a first-rate education to its students, minority representation in the undergraduate body cannot be ignored by the Committee on Admissions.*

In practice, this new definition of diversity has meant that race has been a factor in some admissions decisions. *When the Committee on Admissions reviews the large middle group of applicants who are “admissible” and deemed capable of doing good work in their courses, the race of an applicant may tip the balance in his favor just as geographic origin or a life spent on a farm may tip the balance in other candidates’ cases.* A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a black student can usually bring something that a white person cannot offer. The quality of the educational experience of all the students in Harvard College depends in part on these differences in the background and outlook that students bring with them.

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In Harvard College admissions the Committee has not set target-quotas for the number of blacks, or of musicians, football players, physicists or Californians to be admitted in a given year. At the same time the Committee is aware that if Harvard College is to provide a truly [heterogeneous] environment that reflects the rich diversity of the United States, it cannot be provided without some attention to numbers. It would not make sense, for example, to have 10 to 20 students out of 1,100 whose homes are west of the Mississippi. Comparably, 10 or 20 black students could not begin to bring to their classmates and to each other the variety of points of view, backgrounds and experiences of blacks in the United States. Their small numbers might also create a sense of isolation among black students themselves and thus make it more difficult for them to develop and achieve their potential. Consequently, when making its decisions, the Committee on Admissions is aware that there is some relationship between numbers and achieving the benefits to be derived from a diverse student body, and between numbers and providing a reasonable environment for those students admitted. But that awareness does not mean that the Committee sets a minimum number of blacks or of people from west of the Mississippi who are to be admitted. It means only that in choosing among thousands of applicants who are not only “admissible” academically but have other strong qualities, the Committee, with a number of criteria in mind, pays some attention to distribution among many types and categories of students.

The further refinements sometimes required help to illustrate the kind of significance attached to race. The Admissions Committee, with only a few places left to fill, might find itself forced to choose between A, the child of a successful black physician in an academic community with promise of superior academic performance, and B, a black who grew up in an inner-city ghetto of semiliterate parents whose academic achievement was lower but who had demonstrated energy and leadership as well as an apparently abiding interest in black power. If a good number of black students much like A but few like B had already been admitted, the Committee might prefer B; and vice versa. If C, a white student with extraordinary artistic talent, were also seeking one of the remaining places, his unique quality might give him an edge over both A and B. Thus, the critical criteria are often individual qualities or experience not dependent upon race but sometimes associated with it.
The University of Michigan Law School Policy

Perhaps second only to the Harvard policy, the University of Michigan’s Law School policy merits significant attention for several reasons. First, although that policy was upheld in 2003 by a 5 to 4 vote in Grutter, all Members of the Court in 2007 affirmed the Grutter ruling as binding precedent. As important, just as Grutter significantly expands on the central tenets of Justice Powell’s Bakke opinion, Michigan’s Law School policy constitutes an expansive and analytical policy statement that builds on those same principles. Indeed, its power is perhaps derived as much from its transparency and comprehensiveness, as it is from its having been upheld by the U.S. Supreme Court in 2003. In sum, Michigan’s Law School policy may provide the most comprehensive and illuminating “roadmap” upon which to evaluate the legal and educational foundations and parameters of a diversity-focused admission policy.

Overview of the University of Michigan Law School Policy

In general. The University of Michigan Law School admission policy, developed through a process that included faculty, involved the individualized review of all applications, with a focus on academic criteria, likely contributions to the institution, and contributions to diversity designed to enrich the education of all students. The policy required an examination “beyond grades and test scores to other criteria that are important to the Law School’s educational objectives.”

Academic criteria. The policy provided for the consideration of grades and test scores, the strength of recommendations, the quality of the undergraduate institution, and the areas/difficulty of the undergraduate course selection. In addition, the policy provided that “no applicant should be admitted unless we expect that applicant to do well enough to graduate with no serious academic problems.” At the same time, high scores did not guarantee admission and low scores did not “automatically disqualify an applicant.”

Other criteria. The policy provided for the consideration of multiple diversity factors, including race/ethnicity, travel/residence abroad, language fluency, overcoming hardship, community service and successful careers in other fields. Personal statements, letters of recommendation and essays were ways in which students could highlight their potential diversity contributions. In addition, the Law School reviewed daily tracking reports reflecting the race, ethnicity, gender and residency of the admitted class, but that review did not affect the weight afforded race or ethnicity in the admission process.

Key Points Regarding the University of Michigan Law School Policy

- Applicants’ files in the admission process were appropriately subject to a “highly individualized, holistic review,” with “serious consideration” to “all the ways an applicant might contribute to a diverse educational environment.”

- Data demonstrated the authenticity of the consideration of multiple diversity factors. For example, the Law School’s frequent acceptance of nonminority applicants with grades and test scores lower than underrepresented minority applicants demonstrated that non-race/ethnicity diversity factors could “make a real and dispositive difference for nonminority applicants,” notwithstanding the outcome determinative nature of race for those who were not in the upper range of test scores and grades.

III. Admission Policy Statements

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Our goal is to admit a group of students who individually and collectively are among the most capable students applying to American law schools in a given year. As individuals we expect our admittees not only to have substantial promise for success in law school but also to have a strong likelihood of succeeding in the practice of law and contributing in diverse ways to the well-being of others. Michigan has many alumni who are esteemed legal practitioners, leaders of the American bar, significant contributors to legal scholarship and/or selfless contributors to the public interest. Those we admit should have the potential to follow in these traditions.

Collectively, we seek a mix of students with varying backgrounds and experiences who will respect and learn from each other. We hope our students will find in their peers both rich resources for learning and the kind of sustaining friendships that help in getting over hard times and make the good times yet more pleasant. We hope professors will see in their students one of the rewards of teaching at this school. In the classroom setting the educational experience depends in large measure on the quality of student performance. Many law school classes depend on prepared and articulate students to advance the discussion, and in all classes perceptive, original observations can teach both faculty and students alike. We also recognize that much that is educationally valuable occurs not in the classroom but in informal conversations and in the more formal activities of numerous student organizations such as Michigan’s many law journals, various ethnic-, religious- and gender-focused groups, numerous practice-oriented and law specialty societies, and diverse political groups of the left, right and in between. As a group our students have the responsibility for maintaining and changing this vibrant extracurricular life in ways that respond to their own needs and concerns. At the admissions stage we value people who have shown the capacity to be self-educating and to contribute to the learning of those around them.

Policy Parameter
Michigan states its broad goals for its students – “success” and “contribution” — and recognizes that these can be achieved in widely diverse domains of endeavor. It thus endorses the view that the admission process entails an assessment of an individual’s “promise” or “potential” to succeed and contribute.

Policy Parameter
Michigan then connects these broad goals to its diversity interests, acknowledging a learning environment comprised of the qualities of individual students and the group dynamic of a mix of students.

Case Law Connection
Michigan connects its dedication to diversity to core educational benefits in teaching and learning. Grutter, 539 U.S. at 329-30 (summarizing research that points to the educational benefits that flow from student body diversity).
The question we confront then is how to achieve these goals. A minimal criterion is easy to state as is one important constraint that we confront. The minimal criterion is that no applicant should be admitted unless we expect that applicant to do well enough to graduate with no serious academic problems. The constraint is that we are part of a publicly funded university. As such we feel that a reasonable proportion of our places should go to Michigan residents, even if some have qualifications lower than those of some applicants from outside Michigan. The challenge is to meet our goals while ensuring that all who enter can succeed here and honoring the special claims of Michigan residents to a Michigan Law School education.

We begin with the individual and the goal of maximizing competence. Our most general measure, and for some students our only good measure, of the likelihood of a distinguished legal career is success in law school as operationalized by graded law school performance. Our most general measure predicting graded law school performance is a composite of an applicant’s LSAT score and undergraduate grade point average (UGPA) (which we shall call the “index”). However, each of these measures is far from perfect. The asserted connection between graded law school performance and the likelihood of success in practice is based more on faith and anecdote than it is on rigorous research findings. Such research as exists on this topic is inconclusive, for reasons that do not disconfirm our assumption of the relevance of law school success, but that make it difficult to confirm it. The connection between the index and graded law school performance can be statistically shown. At Michigan the index for three of the four most recently admitted classes explained on average 27 percent of the variance in first-year graded performance.*

Policy Parameter
Michigan explains its admission policy with a focus on important but limited predictors of “law school performance,” as well as other factors, including diverse perspectives and experiences and racial and ethnic diversity (discussed below). As described more completely below, it observes weights to be given to various academic qualities of candidates; relates these considerations to the interest in having a diverse class and the interest in having a racially diverse class within the framework of the broader educational interest.
### University of Michigan Law School Policy
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In short, the index does not do all the predictive work that an admissions committee might wish. Yet it should not be ignored. In particular, as the size of the differences in applicant index scores increases, the value of the index as a predictor of graded law school performance increases as well. Thus, while there may be little reason to expect that an applicant with an index score of “N” will have a higher law school grade point average (hereafter “LGPA”) than an applicant with an index score of “0.98 N,” there may be considerable reason to believe that she will have a higher LGPA than an applicant with a score of “0.80 N.” Moreover, while there may be only a moderate connection between the index and LGPA within the range where most of our admissions are made, there is good reason to believe that attention to the index will increase the validity of LGPA predictions based on such intuitively appealing information as the level of praise in letters of recommendation, the kind of college an applicant has attended, or the quality of an applicant’s essay.

The Committee draws the following conclusions from these facts. Bluntly, the higher one’s index score, the greater should be one’s chances of being admitted. The lower the score, the greater the risk the candidate poses. And when scores are extremely low, it is extremely difficult for us reliably to pick out those who would be successful at Michigan and in the practice of law. So we expect the vast majority of those students we admit to have high index scores.

Still, even the highest possible score ought not guarantee admission: imagine an applicant whose undergraduate course selection seems relentlessly dull, whose personal statements and LSAT essay are thin or incoherent, and whose letter(s) of recommendation damn with faint praise. And even a quite low score ought not automatically deny a candidate admission: for again one can imagine dramatically offsetting considerations.
### University of Michigan Law School Policy Report and Recommendations of the Admissions Committee

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When the differences in index scores are small, we believe it is important to weigh as best we can not just the index but also such file characteristics as the enthusiasm of recommenders, the quality of the undergraduate institution, the quality of the applicant’s essay, and the areas and difficulty of undergraduate course selection. These “soft” variables not only bear on the applicant’s likely graded performance but also have the additional benefit that they may tell us something about the applicant’s likely contributions to the intellectual and social life of the institution. Thus an applicant who has performed well in advanced courses in a demanding subject may have more to offer both faculty and students than an applicant with a similarly high average achieved without ever pursuing in depth any area of learning. Other information in an applicant’s file may add nothing about the applicant’s likely LGPA beyond what may be discerned from the index, but it may suggest that the applicant has a perspective or experiences that will contribute to the diverse student body that we hope to assemble. The applicant may for example be a member of a minority group whose experiences are likely to be different from those of most students, may be likely to make a unique contribution to the bar, or may have had a successful career as a concert pianist or may speak five languages.

The preceding paragraph corresponds to the way admissions decisions seem to have been made for some time, although it does not precisely square with the details of the “pool system” as that system has been described in past faculty documents. (In fact, it would be impossible fully to implement the pool system as described, if for no other reason than that in the admissions process both the receipt and the completion of files, and the offering and acceptance of places, occurs over a span of many months.) The result of the actual decision making has been that the pattern of our admissions decisions may be nicely visualized in terms of a grid with LSAT score along one axis and UGPA along the other. (See Figure One, p.15) Most of our admitted students have had LSAT scores and UGPAs that placed them in the upper right-hand portion of the grid. Applicants located at the extreme upper right-hand corner of the grid where the highest LSAT scores overlap with the highest UGPAs are very likely to be admitted, although not all are offered admission. The further applicants are from the upper right corner the less likely they are to be offered admission. Thus we may think of the upper right portion of the grid as indicating the combinations of LSAT and UGPA that characterize the overwhelming bulk of students admitted. **
At the same time, as Figure One makes clear, considerable discretion is exercised in the admissions process. Even controlling for residency status, people in inferior grid positions are accepted while those who seem to have more attractive credentials are denied admission. As we explained above, this pattern of decision making is sensible, for many qualities not captured in grades and test scores figure in the evaluation of an application. This discretion should continue. The issue that confronts us is how shall that discretion be exercised and by whom.

In the recent past, up until about two years ago, this discretion was exercised almost entirely by the Dean of Admissions and his staff with little formal input from the faculty. This sometimes led to faculty complaints about admissions decision making and led our previous Dean of Admissions to complain that he often felt that he did not know exactly what kinds of applicants the faculty wanted to attract. During the last two years, the Dean of Admissions has consulted with the faculty on a portion of the admissions decisions. This has allowed the faculty as represented by its Admissions Committee to tell its Dean of Admissions how a mix of faculty evaluate the different kinds of strengths and weaknesses that are found in applicant files. The Dean of Admissions can in turn keep these considerations in mind in dealing with files that only he and his staff read. We believe that this kind of continuing faculty input is quite valuable and propose that the Admissions Committee continue to read files and advise the Dean of Admissions. In particular, we recommend that the members of the Admissions Committee read approximately 50 applications a year from the applicants whose position on the grid is within the range from which most of our admissions come. Some may be chosen randomly and others with regard to the particular matters they illustrate or the issues they pose. The faculty views on these files should be discussed with the Dean of Admissions and with such other members of the admissions staff as the Assistant Dean and the committee chair agree should be included.
### University of Michigan Law School Policy

#### Report and Recommendations of the Admissions Committee

(Adopted by Faculty on April 24, 1992)

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As we have noted, some students will qualify for admission despite index scores that place them relatively far from the upper right corner of the grid. There are two principal types of reasons for such admissions. First, there are students for whom we have good reason to be skeptical of an index score based prediction. The usual candidate who fits this description will be a student like “X” whom the committee voted to admit to next year’s class.

X, a Michigan resident, had a 3.57 UGPA at Brown University, with a dual major in history and German. His transcript revealed that he had taken many challenging courses, and his recommenders spoke of his intelligence and praised his intellectual ability. However, X’s application was weakened substantially by an LSAT score at the 68th percentile and a resulting low index. The LSAT was not fatal to the application in this instance because the Admissions Committee noted that as a college applicant, X had had an SAT score that placed him in the bottom decile of all Brown admittees. Concluding that X’s performance on standardized tests was likely to be a poor predictor of his later academic success, the Committee voted to admit X on the basis of his strong undergraduate record and with the expectation that this record would be a better predictor of X’s performance at Michigan than his LSAT score.

We believe that we should continue to be receptive to students of this sort, but that faculty input into the discretion exercised in such cases is important. Thus we recommend that the Dean of Admissions seek the advice of the Admissions Committee on a representative sample of cases which involve students who are expected to perform substantially better than their index would suggest. We also recommend that all such students admitted be flagged and their law school grades reported each year to the Admissions Committee so that we can learn whether the predictions made about their performance were correct.

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### Policy Parameter and Case Law Connection

Michigan provides concrete examples of its methodology of holistic review of individual applicants. *Grutter*, 539 U.S. at 337. As such, the policy provides not only key data points but also aligned illustrations regarding students’ profiles that demonstrate the wisdom of the policy, in light of institutional goals.

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### Policy Parameter

Michigan’s commitment to student diversity is connected to core educational benefits in the teaching and learning environment.
The second sort of justification for admitting students with indices relatively far from the upper right corner is that this may help achieve that diversity which has the potential to enrich everyone’s education and thus make a law school class stronger than the sum of its parts. In particular, we seek to admit students with distinctive perspectives and experiences as well as students who are particularly likely to assume the kinds of leadership roles in the bar and make the kinds of contributions to society discussed in the introduction to this report. (We reiterate, however, that no student should be admitted unless his or her file as a whole leads us to expect him or her to do well enough to graduate without serious academic problems.)

There are many possible bases for diversity admissions. During the past year for example the Admissions Committee, influenced by diversity considerations, has recommended the admission of students like the following:

X is a 27-year-old applicant who came to the United States for his college education after working on literacy and world hunger projects during grade school and high school in his native Bangladesh. He completed his undergraduate work at Harvard in 1991, where his grade point average was 2.67 (8th percentile of those applying for law school). He scored only a 31 (46th percentile) and 152 (56th percentile) on two administrations of the LSAT. But the candidate amassed outstanding references from Ken Prewitt at the SSRC, from Derek Bok and from other professors at Harvard and people within the international community. All refer to his truly exceptional record of extracurricular activity and subsequent employment in international development issues, to the quality of his mind, and to his capacity for contribution to the school and the profession. He presently is working for UNICEF in Zimbabwe.
### University of Michigan Law School Policy

**Report and Recommendations of the Admissions Committee**

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Y came to the United States from Argentina in 1982 at the age of 21, single and six months pregnant. Within a few years she went from an administrative secretary for NCR to Director of Sales for a major Cincinnati hotel, winning four promotions in as many years. She returned to school full time at the University of Cincinnati in an honors Political Science curriculum in January 1988, receiving nothing less than “A” grades, and amassing glowing references about the quality of her intellect. She will graduate summa cum laude and Phi Beta Kappa. Her LSAT, however, was only 151 (52nd percentile). Both her personal statement and essay were well-written and insightful. She is fluent in four languages and has been active in numerous student groups. All of her accomplishments have been gained while raising her child (now age 8) alone.

Z had a 3.99 GPA from the University of Florida and a 41 (90th percentile) LSAT. She has majored in Political Science, with three minors: Classics, Economics and Latin American Studies. The daughter of two Greek immigrants, she has been immersed in a significantly ethnic home life. She has traveled to Greece during the summers, but also has studied in Spain and the Netherlands. She is fluent in English, Greek and Spanish. Her personal statement and essay are both well-written and provocative, and her faculty references extremely strong. This candidate’s credentials bring her within the range of applicants from which we make a reasonable number of offers. Her file illustrates how diversity considerations may considerably strengthen good but not exceptional numerical credentials.
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Other bases for such admissions decision will also come readily to mind, although different faculty members will, no doubt, think of different achievements or characteristics they would value. One might, for example, give substantial weight to an Olympic gold medal, a Ph.D. in physics, the attainment of age 50 in a class that otherwise lacked anyone over 30, or the experience of having been a Vietnamese boat person. Precisely which characteristics should be valued is a matter left to the Dean of Admissions and the Admissions Committee as specified below. No doubt the kinds of conditions that make for valued diversity will change to some degree each year as the composition of the Admissions committee changes. The varied perspectives from which different Committees will interpret the concept “diversity” should further enrich our school.

There is, however, a commitment to one particular type of diversity that the school has long had and which should continue. This is a commitment to racial and ethnic diversity with special reference to the inclusion of students from groups which have been historically discriminated against, like African Americans, Hispanics and Native Americans, who without this commitment might not be represented in our student body in meaningful numbers. These students are particularly likely to have experiences and perspectives of special importance to our mission.

Over the past two decades, the law school has made special efforts to increase the numbers of such students in the school. We believe that the racial and ethnic diversity that has resulted has made the University of Michigan Law School a better law school than it could possibly have been otherwise. By enrolling a “critical mass” of minority students, we have ensured their ability to make unique contributions to the character of the Law School; the policies embodied in this document should ensure that those contributions continue in the future.

Case Law Connection

The Law School acknowledges the concept of critical mass and defines critical mass by reference to the educational benefits of diversity. Grutter, 539 U.S. at 329-30.
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Report and Recommendations of the Admissions Committee
(Adopted by Faculty on April 24, 1992)

Legal and Policy Commentary

• The Policy Parameter provides commentary that associates guidelines, described above, with specific, underlined text.
• The Case Law Connection provides commentary that associates key legal principles with specific, underlined text.

While one of our goals is to have substantial and meaningful racial and ethnic diversity, we do not, as we have already indicated, mean to define diversity solely in terms of racial and ethnic status. Nor are we insensitive to the competition among all students for admission to this law school. Speaking generally, the faculty believes that the admissions process has functioned well in recent years, producing classes both diverse and academically outstanding, classes made up of students who promise to continue the tradition of outstanding contribution by Michigan graduates to the legal profession.

Our object in this memorandum is therefore as much to ratify what has been done and to reaffirm our goals as it is to announce new policies. We do expect that in the foreseeable future the proportion of students we admit from the upper right portion of the index grid will either stay constant or will increase with broad improvements in our applicant pool; it is also worth noting, in connection with those goals which concern the overall composition of the class, such as adequate representation of Michigan residents, or diversity, that the more people we admit without reference to residency or diversity-relevant characteristics who nonetheless are Michigan residents or have particular diversity-relevant characteristics, the fewer other people will be aided significantly in the admissions process by residency or by those same diversity-relevant characteristics. This is obviously not a ceiling on the admission of residents or members of any other group. It merely reflects the fact that at some point the relevance of residency as such, or of the possession of various diversity-relevant characteristics as such may be greatly diminished or exhausted.

Case Law Connection
The Law School affirms that its conception of diversity is complex and flexible. Bakke, 438 U.S. at 317.
In the course of regular consultation as the admissions year progresses, the Dean of Admissions should keep the Admissions Committee informed of the profile of offers and acceptances to date and of the evolving make-up of the class. Also, the Admissions Committee should read a representative sample of all files of students who are admitted from outside the upper right portion of the grid. The Committee should be consulted in any cases that present novel issues or raise general policy questions. And finally, as we have already noted concerning one particular sort of case, all students with relatively low indices should have their transcripts flagged so that each year’s Committee may receive reports on such students’ academic success. Such reports may help in further refinement of the selection process.

We believe that the policies and procedures specified above should each year yield a richly diverse class that is as capable as that to be found at any American law school. To this end, we recommend adoption of this report.

*The location of out-of-state admittees as a group would, if plotted separately, be higher and closer to the upper right corner than the location of all admittees since the group of nonresident admittees is on the whole somewhat stronger on the plotted dimensions than the group of resident admittees.

**First-semester grade point averages were used for the class beginning in 1991. We did not calculate the correlation between index scores and first-year performance for the class beginning in 1989. We have no reason to believe that this correlation would differ substantially from the correlations we calculated.
FIGURE ONE*
University of Michigan Grid 1991
All Applicants Applicants/Offers Average LSAT Score

<table>
<thead>
<tr>
<th>GPA</th>
<th>No LSAT</th>
<th>10-13</th>
<th>14-17</th>
<th>18-21</th>
<th>22-25</th>
<th>26-29</th>
<th>30-33</th>
<th>34-37</th>
<th>38-41</th>
<th>42-45</th>
<th>46-48</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;3.74</td>
<td>0/0</td>
<td>0/0</td>
<td>0/0</td>
<td>1/0</td>
<td>3/0</td>
<td>19/0</td>
<td>48/3</td>
<td>103/1</td>
<td>276/41</td>
<td>340/170</td>
<td>202/165</td>
<td>994/380</td>
</tr>
<tr>
<td>3.74-3.50</td>
<td>0/0</td>
<td>0/0</td>
<td>1/0</td>
<td>2/0</td>
<td>13/0</td>
<td>36/0</td>
<td>92/5</td>
<td>209/6</td>
<td>499/36</td>
<td>544/136</td>
<td>241/169</td>
<td>1637/352</td>
</tr>
<tr>
<td>3.49-3.25</td>
<td>0/0</td>
<td>3/0</td>
<td>2/0</td>
<td>6/0</td>
<td>14/0</td>
<td>58/0</td>
<td>145/5</td>
<td>260/17</td>
<td>463/27</td>
<td>477/54</td>
<td>183/56</td>
<td>1611/159</td>
</tr>
<tr>
<td>3.24-3.00</td>
<td>0/0</td>
<td>1/0</td>
<td>5/0</td>
<td>19/0</td>
<td>27/0</td>
<td>73/0</td>
<td>132/2</td>
<td>186/12</td>
<td>319/14</td>
<td>249/9</td>
<td>89/16</td>
<td>110/53</td>
</tr>
<tr>
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<td>0/0</td>
<td>5/0</td>
<td>20/0</td>
<td>41/0</td>
<td>65/1</td>
<td>85/0</td>
<td>108/2</td>
<td>154/5</td>
<td>103/8</td>
<td>37/2</td>
<td>618/18</td>
</tr>
<tr>
<td>2.74-2.50</td>
<td>0/0</td>
<td>2/0</td>
<td>3/0</td>
<td>21/0</td>
<td>31/0</td>
<td>42/0</td>
<td>60/0</td>
<td>65/0</td>
<td>58/0</td>
<td>34/0</td>
<td>13/0</td>
<td>329/0</td>
</tr>
<tr>
<td>2.49-2.25</td>
<td>0/0</td>
<td>1/0</td>
<td>7/0</td>
<td>10/0</td>
<td>18/0</td>
<td>43/0</td>
<td>38/0</td>
<td>31/1</td>
<td>18/0</td>
<td>11/0</td>
<td>3/0</td>
<td>180/1</td>
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<tr>
<td>2.24-2.00</td>
<td>0/0</td>
<td>1/0</td>
<td>7/0</td>
<td>6/0</td>
<td>14/0</td>
<td>19/0</td>
<td>15/0</td>
<td>4/0</td>
<td>6/0</td>
<td>7/0</td>
<td>1/0</td>
<td>80/0</td>
</tr>
<tr>
<td>&lt;2.00</td>
<td>0/0</td>
<td>1/0</td>
<td>1/0</td>
<td>0/0</td>
<td>1/0</td>
<td>6/0</td>
<td>2/0</td>
<td>1/0</td>
<td>2/0</td>
<td>0/0</td>
<td>0/0</td>
<td>14/0</td>
</tr>
<tr>
<td>NO GPA</td>
<td>38/0</td>
<td>3/0</td>
<td>3/0</td>
<td>3/0</td>
<td>5/0</td>
<td>11/0</td>
<td>9/0</td>
<td>11/0</td>
<td>13/0</td>
<td>4/1</td>
<td>3/2</td>
<td>103/3</td>
</tr>
<tr>
<td>TOTAL</td>
<td>38/0</td>
<td>12/0</td>
<td>34/0</td>
<td>88/0</td>
<td>169/0</td>
<td>372/1</td>
<td>626/15</td>
<td>978/39</td>
<td>1808/123</td>
<td>1469/378</td>
<td>722/410</td>
<td>6666/966</td>
</tr>
</tbody>
</table>

11/21/91 revised

*877 of the applicants we admit have LSAT scores and UGPAs that place them in the upper-right portion of the grid, as marked off by the solid line.
Rice University Policy

Rice University's philosophy and evaluation statement reflects many of the same kinds of important elements as discussed in the models above. At the same time, however, the format of this policy statement is different — it incorporates many of the model practices identified in a more vision-oriented (and, as the name suggests, philosophical) framework. There are many ways in which higher education institutions may attempt to communicate their mission-driven values and their strategies and methods for achieving them. This policy statement may provide important illustrative language to guide others in their quest.

<table>
<thead>
<tr>
<th>Rice University Philosophy and Evaluation</th>
<th>Legal and Policy Commentary</th>
</tr>
</thead>
</table>
| **Case Law Connection**  
Rice grounds its philosophy on diversity to **concrete educational benefits**. See *Grutter*, 539 U.S. at 329-30.  
**Policy Parameter**  
Rice acknowledges the dual lens through which an admission team works, focusing both on the individual applicant and the class it is assembling. |  
**The Policy Parameter** provides commentary that associates guidelines, described above, with specific, underlined text.  
**The Case Law Connection** provides commentary that associates key legal principles with specific, underlined text. |

Dating back to the founding of Rice University, our first president, Edgar Odell Lovett, mandated that we aspire to be a world-class university of the highest standing. Dr. Lovett challenged us “to assign no upper limit to our educational endeavor.” He envisioned students and faculty as a community of scholars, their minds exercised by spirited discourse. Therefore, as an integral part of the University’s mission, we seek a broadly diverse student body where educational diversity increases the intellectual vitality of education, scholarship, service and communal life at Rice. We seek students, both undergraduate and graduate students, of keen intellect and diverse backgrounds who not only show potential for success at Rice, but who will contribute to the educational environment of those around them. Rice determines which group of applicants, considered individually and collectively, will take fullest advantage of what we have to offer, contribute most to the educational process at Rice, and be most successful in their chosen fields and in society in general. Our evaluation process employs many different means to identify these qualities in applicants. History shows that no single gauge can adequately predict a student’s preparedness for a successful career at Rice. For example, we are cautious in the use of standardized test scores to assess student preparedness and potential. An applicant’s entire file is considered and each applicant is considered in competition with all other applicants. In making a decision to admit or award financial aid, we are careful not to ascribe too much value to any single metric, such as rank in class, grade point average, the SAT®/ACT or Graduate Record Exam.
### Rice University Philosophy and Evaluation

We use a broader perspective that includes such qualitative factors as the overall strength and competitive ranking of a student’s prior institution, the rigor of his or her particular course of study, letters of recommendation, essays, responses to application questions, and (where required) auditions and portfolios. Taken together with a student’s academic record and test scores, these additional factors provide a sound basis to begin assessing the applicant’s potential on all levels.

Beyond indicators of academic competence, we look for other qualities among applicants such as creativity, motivations, artistic talent, and leadership potential. We believe that students who possess these attributes in combination with strong academic potential will contribute to, and benefit from, a more vibrant, diverse educational atmosphere. Through their contributions and interactions with others, students will enrich the educational experience of all faculty and students. These qualities are not revealed in numerical measurements, but are manifest in the breadth of interests and the balance of activities in their lives.

Rice University strives to create on its campus a rich learning environment in which all students will meet individuals whose interests, talents, life experiences, beliefs, and worldviews differ significantly from their own. We believe that an educated person is one who is at home in many different environments, and at ease among people from many different cultures, and willing to test his or her views against those of others. Moreover, we recognize that in this or any university, learning about the world we live in is not by any means limited to the structured interaction between faculty and students in the classroom, but also occurs through informal dialogue between students outside the classroom.

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### Case Law Connection

**Rice describes a holistic review of individual applicants, based on multiple factors.** See *Grutter*, 539 U.S. at 337.

**Rice expressly connects the benefits of diversity to its learning environment.** See *Grutter*, 539 U.S. at 330.

**Rice connects diversity to teaching and learning exchanges, as well as the enhancement of citizenship values.**
To encourage our students’ fullest possible exposure to the widest possible set of experiences, Rice seeks through its admissions policies to bring bright and promising students to the University from a range of socioeconomic, cultural, geographic and other backgrounds. We consider an applicant’s race or ethnicity as a factor in the admission process and believe that racial and ethnic diversity is an important element of overall educational diversity. Though race or ethnicity is never the defining factor in an application or admission decision, we do seek to enroll students from underrepresented groups in sufficient and meaningful numbers as to prevent their isolation and allow their diverse voices to be heard. We also seek students whose parents did not attend college, as well as students from families with a well-established history of college-level education. Rice places a premium on recruitment of students, regardless of their races or ethnicities, who have distinguished themselves through initiatives that build bridges between different cultural, racial and ethnic groups. In so doing, we endeavor to craft a residential community that fosters creative, intercultural interactions among students, a place where prejudices of all sorts are confronted squarely and dispelled.

In assessing how well an applicant can contribute to enlivening the learning environment at Rice, we also try to determine the relative challenges that he or she may have faced. For economically disadvantaged students, this may mean achieving a high level of scholastic distinction while holding down a job in high school. For a first-generation student, it might mean achieving high standards for academic success within an environment relatively indifferent to intellectual attainment. Or it might mean overcoming a disability to excel in sports, music or forensics. For students who do not have particular disadvantages, we also look at whether they chose a more challenging road than the normal path through high school. This might mean an especially strenuous course of study, a prolonged, in-depth engagement in a school project, or a particularly creative and wide-ranging set of extracurricular activities.

Rice reaffirms the importance of racial and ethnic student diversity but only as one component of student diversity, highlighting the importance of other measures of diversity. Grutter, 539 U.S. at 337-38.
### Rice University Philosophy and Evaluation

Rice does not view offers of admission as entitlements based on grades and test scores. Our admission process combines an examination of academic ability with a flexible assessment of an applicant’s talents, experiences and potential, including potential diversity contributions; it precludes any quick formula for admitting a given applicant or for giving preference to one particular set of qualifications without reference to the class as a whole. Rice is a highly selective institution, and receives many more applications from viable candidates than it has available spaces. An inevitable consequence of Rice’s approach is that some highly accomplished students will not be admitted. However, by selecting a wide range of matriculants of all types, the admissions process seeks to enrich the learning environment at Rice, and thus improve the quality of a Rice education for all students.

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ON POINT:
Admission Policy Resources

- Tool 4 — Mythbusters: Correcting Common Misunderstandings
- Tool 6 — Admission: Exploring Key Strategies for Achieving Success

- Chapter 1 - The Admissions Committee and Implementing Holistic Review
- Chapter 2 - Incorporating Holistic Review into Admissions Policies and Processes

- Section Two, Part III — Admission Policies
- Section Two, Part IV — Critical Mass
- Section Two, Part V — The Educational Benefits of Diversity, and More
- Section Two, Part VI — Race-Neutral Alternatives

Keith, J. L., and A. L. Coleman, eds. Navigating a Complex Landscape to Foster Greater Faculty and Student Diversity in Higher Education: The Law Governing Effective Faculty and Student Body Diversity Programs in STEM and Related Disciplines … and Its Implications for Institutional Policy. Washington, DC: American Association for the Advancement of Science, 2010.


- The Individual and the Institutional Context, 7–8
- Models Commonly Used to Select a Freshman Class, 39–44
- Institutional Statements Regarding Admissions Policies and Institutional Enrollment Goals, 57–60

- Different Approaches to Individualized Review, 3–8
- The Economics of Individualized Review, 23–26
A Diversity Action Blueprint:
Policy Parameters and Model Practices for Higher Education Institutions

IV. Evaluation Models

“In the context of higher education, the durational requirement can be met by sunset provisions in race-conscious admissions policies and periodic reviews to determine whether racial preferences are still necessary to achieve student body diversity.”


Good evaluation practices are a critical part of the successful development and implementation of diversity-related policies. In fact, evaluation practices are specifically called for by federal law, with respect to race and ethnicity policies: such policies must be periodically assessed and modified, as appropriate, to ensure that any race- or ethnicity-conscious elements continue to meet their intended goals, and that they are not weighted too heavily (or too little) in light of those goals.

In addition, the question of what to evaluate — and how — highlights a vital point: The benefits of diversity do not automatically accrue in an environment that is compositionally diverse. The information gleaned from meaningful evaluation activities should be used to improve, enhance or initiate the conditions that must be in place for the benefits of diversity to be achieved on campus. Correspondingly, meaningful evaluation practices require that higher education officials be as prepared to learn what they are not doing well as what they are doing well — and to act on those results.

Finally, the conditions in which diversity policies are enacted do matter a great deal; and careful consideration should be given to the kinds of diversity (and diversity policies) that are being evaluated. At least three types, or dimensions, of diversity may have an impact on student outcomes. The first, compositional diversity, refers to the numerical and proportional representation of students from different racial/ethnic groups in the student body. A second type involves diversity-related initiatives (i.e., cultural awareness workshops, core diversity requirements in general education courses, ethnic studies courses and so forth) that occur on college and university campuses. Although demographic shifts or changes in the compositional diversity of campuses frequently provide the stimulus for diversity-related initiatives, some colleges and universities incorporate these types of initiatives even though their campuses are racially and ethnically homogeneous. The final dimension, diverse interactions, is characterized by students’ exchanges with racially and ethnically diverse people as well as with diverse ideas, information and experiences — a reflection that people are influenced by their interactions with diverse ideas and information as well as with diverse people.
### IV. Evaluation Models

<table>
<thead>
<tr>
<th>Policy Guidelines</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well-developed evaluation frameworks and tools should encompass dual strands integral to achieving the educational benefits of diversity:</td>
<td>Assessing Progress in Achieving Diversity Goals. Models with important frameworks to consider when establishing evaluation strategies and measures include:</td>
</tr>
<tr>
<td><strong>1. Racial and Ethnic Diversity Among Students</strong></td>
<td><strong>The James Irvine Foundation. The Campus Diversity Initiative Evaluation Project</strong> was a five-year project to increase diversity initiatives on 28 campuses and foster institutional change with respect to diversity; it included four institutional indicators (access and success, climate and intergroup relations, education and scholarship, and institutional viability and vitality) designed to assess the overall impact of the project. The project outline provides a useful framework that can inform institutional evaluation efforts, which includes attention to compositional diversity, the benefits associated with diversity, and ways of managing and promoting success toward diversity goals. <a href="http://www.irvine.org/assets/pdf/pubs/education/CDI_Impact.pdf">http://www.irvine.org/assets/pdf/pubs/education/CDI_Impact.pdf</a> and <a href="http://www.irvine.org/assets/pdf/pubs/education/cdi_Eval_Impact_Study.pdf">http://www.irvine.org/assets/pdf/pubs/education/cdi_Eval_Impact_Study.pdf</a></td>
</tr>
<tr>
<td>• Criteria reflective of critical mass (or related) objectives, which represent the necessary but not sufficient condition of having racial and ethnic diversity in the student population (“compositional diversity”), and that</td>
<td><strong>Western Association of Colleges and Universities (Self-Assessment, Standard 1)</strong> incorporates diversity issues within a broader accreditation framework, with a worksheet for preliminary self-review under WASC’s standards, which include one on diversity and require institutions to demonstrate institutional commitment to the principles enunciated in the WASC Statement on Diversity. <a href="http://www.wascsenior.org/findit/files/forms/Policy_Manual_current.pdf">http://www.wascsenior.org/findit/files/forms/Policy_Manual_current.pdf</a></td>
</tr>
<tr>
<td>- Are considered along with other (sometimes competing) institutional objectives as part of the enrollment management process, and</td>
<td><strong>The Michigan Student Study (MSS).</strong> In 1990, this study began as an initiative to undertake a comprehensive examination of the impact on students of the University of Michigan’s commitment to foster campus diversity efforts and educational excellence. The ultimate purpose of the study was to contribute to the campus community’s understanding of factors that foster and inhibit making the increasing diversity at Michigan an intellectually challenging and broadening experience for all student groups in the campus community. Although its major emphasis is on racial and ethnic diversity, the study is also concerned with the students’ reactions to issues related to gender and sexual orientation. Over the life of the Michigan Student Study, information has been shared with numerous higher education associations, colleges and universities. MSS utilized multifaceted techniques (qualitative and quantitative) to examine students’ responses to diversity in a single institutional setting over their four years in college. The data that were collected as part of MSS were important in the analyses presented in defense of the University’s 2003 lawsuits. <a href="http://www.oami.umich.edu/mss/index.htm">http://www.oami.umich.edu/mss/index.htm</a></td>
</tr>
<tr>
<td>- Do not operate as rigid objectives that consistently “trump” other enrollment management objectives</td>
<td></td>
</tr>
</tbody>
</table>
ON POINT:
Relevant Resources on Evaluation Models


- Tool 8 — Getting from Here to There: Managing the Process of Policy Change
- Tool 10 — Taking a Stand: Higher Education Leadership for the 21st Century


- Chapter 6 — Evaluating the Effectiveness of Holistic Review Policies and Processes


- Evaluating Success and Refining the Process, 29–31


- Chapter 4 — Reaching the Destination: A Management Strategy and Plan for Enhancing Diversity at Your Medical School (including a self-assessment worksheet)


- Best Practices, 51–52
- Evaluations and Processing Models, 52–54
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