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DIVERSITY MATTERS: RACE, GENDER, AND ETHNICITY IN LEGAL EDUCATION

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I. INTRODUCTION

Legal education has traditionally been a white male affair, to which women and people of color have only recently gained entry. For many years, white male dominance of legal education was maintained through admission policies consciously designed to exclude women, members of disfavored ethnic groups, and the economically disadvantaged.Within the last quarter century, the composition and complexion of law school student bodies have changed as historically underrepresented groups have been admitted to law school in greater numbers, chiefly as the beneficiaries of race and gender conscious admission programs.[2] These race and gender conscious admissions programs, generally referred to as "affirmative action" plans, have always been controversial and have been the target of a growing number of court challenges, anti-affirmative action voter initiatives, and legislative and executive counter efforts.[3]

The legal status of affirmative action in higher education admission programs was clarified by the Supreme Court's recent decision in *Grutter v. Bollinger*.[4] *Grutter* involved a challenge to the University of Michigan Law School's affirmative action admission policy by a white applicant whose application was rejected. The white applicant claimed she was denied admission due to her race.[5] The Michigan law school admissions process was designed to create a diverse student body.[6] The law school claimed student body diversity provided unique pedagogical benefits that would enhance the legal education it provided to its students.[7] In addition, the law school claimed it could not admit a "critical mass" of students of color without the conscious consideration of race.[8] In a 5-4 decision, the Supreme Court agreed with the University of Michigan Law School's

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1. *See infra* text accompanying note 37.

2. *See* William C. Kidder, *Silence, Segregation, and Student Activism at Boalt Hall*, 91 CAL. L. REV. 1167, 1171 (2003); Edward J. Littlejohn & Leonard S. Rubinowitz, *Black Enrollment in Law Schools: Forward to the Past?*, 12 T. MARSHALL L. REV. 415, 433-44 (1987).

3. *See generally* William C. Kidder, *Does the LSAT Mirror or Magnify Racial and Ethnic Differences in Educational Attainment?: A Study of Equally Achieving "Elite" College Students*, 89 CAL. L. REV. 1055, 1059-60 (2001).

4. 123 S. Ct. 2325 (2003).

5. *Id.* at 2332.

6. *Id.* at 2333-34.

7. *Id.*

8. *Id.*

claims. The Supreme Court held that "the Law School has a compelling interest in attaining a diverse student body"[9] and that the means used by the law school to produce a diverse student body passed constitutional muster.[10]

In her opinion for the majority, Justice O'Connor approved of the law school's diversity goals, writing that "attaining a diverse student body is at the heart of the Law School's proper institutional mission."[11] According to Justice O'Connor, a diverse student body provides "substantial" education benefits.[12] When students are diverse, "classroom discussion is livelier, more spirited, and simply more enlightening and interesting."[13] In addition, "student body diversity promotes learning outcomes . . ., better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals."[14] Not least of all, the *Grutter* majority found that diversity "promotes cross-racial understanding, helps to break down racial stereotypes, and enables students to better understand persons of different races."[15]

Although the *Grutter* majority found that the pursuit of a diverse student body was a compelling state interest, it still required that the means used to reach that interest meet the strict scrutiny standard of constitutional review.[16] To pass strict scrutiny, the Court required that the means chosen to accomplish the state's interest be narrowly tailored.[17] For an admissions program to be narrowly tailored, it cannot establish a quota for certain racial groups nor put members of those groups on a separate admissions track.[18] Instead, a narrowly tailored race conscious admissions plan must provide for individual consideration of each applicant and be applied in a flexible, holistic way.[19] According to the Court, "an admission program must be flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant, and place them on the same footing for consideration, although not necessarily according

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9. *Grutter*, 123 S. Ct. at 2339.

10. *See infra* text accompanying notes 16-23.

11. *Grutter*, 123 S. Ct. at 2339.

12. *Id.*

13. *Id.* at 2340 (internal quotations omitted).

14. *Id.* (internal quotations omitted).

15. *Id.* at 2339-40 (internal quotations and brackets omitted).

16. The strict scrutiny standard of constitutional review applies to government classifications affecting race, national origin, or "fundamental rights." Clark v. Jeter, 486 U.S. 456, 461 (1988). For actions subject to strict scrutiny, the government must demonstrate a compelling state interest and the action taken must be necessary to serve that interest. *See* ERWIN CHEMERINSKY, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES 529 (1997).

17. *Grutter*, 123 S. Ct. at 2341.

18. *Id.* at 2342.

19. *Id.* at 2342-43.

them the same weight."[20] Finally, the Supreme Court required the "good faith consideration of workable race-neutral alternatives"[21] and that the affirmative action program be a temporary measure, limited in time, for it to be narrowly tailored. [22] The Court concluded that the Michigan Law School admission plan met these requirements and therefore declared the plan to be constitutional.[23]

Grutter was not a total victory for supporters of racial and gender diversity in legal education. First, the decision adopted a broad definition of diversity, one that is likely to dilute efforts to admit significant numbers of students who are members of historically underrepresented groups. [24] The Court found it persuasive that the law school took into account "a wide variety of characteristics besides race and ethnicity that contribute to a diverse student body."[25] Second, although Justice O'Connor's opinion does not directly address this point, the decision appears to disapprove of race and gender conscious admission programs designed to eliminate societal discrimination.[26] Third, the opinion does not embrace race and gender conscious admission programs as much as it tolerates them. Race and gender conscious admissions programs are, according to Justice O'Connor, "potentially . . . dangerous" [27] because of the possibility that they may harm "innocent" whites.[28]

The most significant critique of *Grutter*, however, is that the U.S. Supreme Court once again applied its jurisprudence of formal equality to address law school admissions.[29] This jurisprudence presumes that race, ethnicity, and gender are generally irrelevant to government decision-making and that individuals who differ only in respect to their race, ethnicity, or gender should be treated the same. In effect, formal equality requires individuals to be treated equally (procedural equality) whether or not they are in fact equal by social, economic, or political measures

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20. *Id.* at 2342. In the companion case of *Gratz v. Bollinger*, the Supreme Court held that the University of Michigan's undergraduate admissions program was not narrowly tailored because applicants were allocated a fixed number of points for their race in a point system that counted toward admission. Gratz v. Bollinger, 123 S. Ct. 2411 (2003).

21. *Grutter*, 123 S. Ct. at 2345.

22. *Id.* at 2346.

23. *Id.* at 2347.

24. *Id.* at 2332, 2343-44.

25. *Id.* at 2344.

26. *See Grutter*, 123 S. Ct. at 2336 (discussing Powell's *Bakke* opinion). The Supreme Court has previously held that correcting societal discrimination was not a permissible goal for affirmative action programs. *See* Wygant v. Jackson Bd. of Educ., 476 U.S. 267, 276 (1986) ("societal discrimination, without more, is too amorphous a basis for imposing a racially classified remedy").

27. *See Grutter*, 123 S. Ct. at 2346.

28. *See id.* at 2336 (discussing Powell's concern over harm to "innocent third parties").

29. *See generally* United States v. Virginia, 518 U.S. 515 (1996); Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995); City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989).

(substantive equality). As a consequence, formal equality makes it difficult for the government to address societal discrimination or preexisting inequalities due to race, ethnicity, or gender.

Critical theorists, particularly those associated with Critical Race Theory, have questioned the soundness of formal equality as a theoretical support for the legal treatment of social injustice. The colorblindness critique developed by Critical Race Theory argues that formal equality's failure to recognize racial difference masks inequality and white dominance.[30] Traditional civil rights proponents have also challenged the assumptions of formal equality.[31] They have asserted that legal means to confront inequality must be grounded in context and not approached through some beguiling abstraction that has no meaning in the real world. Feminist theorists have similarly critiqued formal equality as not only masking and reinscribing inequality, but sometimes providing new tools for those who have benefitted from gender, race, and class privilege to sustain privilege, rather than promote equality.[32]

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30. *See generally* CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado ed., 1996); CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberle Crenshaw et al. eds., 1995); MELVIN L. OLIVER & THOMAS M. SHAPIRO, BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY (1995); Anthony V. Alfieri, *Prosecuting Race*, 48 DUKE L.J. 1157 (1999); John O. Calmore, *Race/ism Lost and Found: The Fair Housing Act at Thirty*, 52 U. MIAMI L. REV. 1067 (1998); Sheryll D. Cashin, *Middle Class Black Suburbs and the State of Integration: A Post-Integrationist Vision for Metropolitan America*, 86 CORNELL L. REV. 729 (2001); Henry L. Chambers, Jr., *Colorblindness, Race Neutrality, and Voting Rights*, 51 EMORY L.J. 1397 (2002); Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination*, 85 CAL. L. REV. 1395 (1997); Phyliss Craig-Taylor, *To Be Free: Liberty, Citizenship, Property, and Race*, 14 HARV. BLACKLETTER L.J. 45 (1998); Neil Gotanda, *A Critique of "Our Constitution Is Color Blind,"* 44 STAN. L. REV. 1 (1991); Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993); Tanya Kateri Hernandez, *"Multiracial" Disclosure: Racial Classifications in an Era of Color Blind Jurisprudence*, 57 MD. L. REV. 97 (1998); Deborah Kenn, *Institutionalized, Legal Racism: Housing Segregation and Beyond*, 11 B.U. PUB. INT. L.J. 35 (2001); Ian Haney Lopez, *Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory*, 85 CAL. L. REV. 1143 (1997); Kenneth B. Nunn, *Rights Held Hostage: Race, Ideology and the Peremptory Challenge*, 28 HARV. C.R.-C.L. L. REV. 63 (1993); Gary Peller, *Frontier of Legal Thought III: Race Consciousness*, 1990 DUKE L.J. 758 (1990); John A. Powell, *As Justice Requires/Permits: The Delimitation of Harmful Speech in a Democratic Society*, 16 LAW & INEQ. 97 (1998).

31. *See, e.g.*, City of Richmond v. J.A. Croson Co., 488 U.S. 469, 528-62 (1989) (Marshall, J., dissenting); Richard Thompson Ford, *Geography and Sovereignty: Jurisdictional Formation and Racial Segregation*, 49 STAN. L. REV. 1365 (1997); *see also* Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1843 (1994).

32. *See, e.g.*, MARTHA FINEMAN, THE ILLUSION OF EQUALITY: THE RHETORIC AND REALITY OF DIVORCE REFORM (1991); CATHERINE A. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE (1989); Kathryn Abrams, *The Pursuit of Social and Political Equality Complex Claimants and Reductive Moral Judgments: New Patterns in the Search for Equality*, 57 U. PITT. L. REV. 337 (1996); Kimberle W. Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black*

The Supreme Court did not need to consider law school admission programs in a way that was devoid of context. A growing body of literature exists that both describes and contextualizes the law school experience.[33] Based on surveys of law students and alumni, narratives, and other data, this literature describes a law school experience that may be formally equal, but that is culturally unequal. According to these sources, a significant differential in experience, comfort, and challenge exists for those who are latecomers and outsiders to legal education, especially women and people of color. The law school, then, may be described as a complex cultural institution that presents different challenges for different people. In the cultural setting of legal education, race and gender differences operate differently and also sometimes interactively, providing examples of the multidimensional nature of self and the complex layers of prejudice.[34]

This Article presents more evidence of the inequality that persists in legal education for students. Based on a survey of University of Florida law students conducted in 2001,[35] this study reaffirms the existence of differential experience and an inegalitarian culture in legal education.[36] However, it also demonstrates the importance of diversity and the recognition by a significant majority of students of the value of race and gender pluralism. In our view, these competing findings provide a clear guide to the future direction of legal education.

Rather than continuing to wonder if formerly segregated institutions that are formally desegregated are truly equal, the Florida survey suggests that the focus must instead be on developing legal education that serves all

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Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, 1989 U. CHI. LEGAL F. 139; Mary Eaton, *At the Intersection of Gender and Sexual Orientation: Toward Lesbian Jurisprudence*, 3 S. CAL. REV. L. & WOMEN'S STUD. 183 (1994); Susan Estrich, *Rape*, 95 YALE L.J. 1087 (1986); Martha Albertson Fineman, *The Neutered Mother*, 46 U. MIAMI L. REV. 653 (1992); Martha L.A. Fineman, *Masking Dependency: The Political Role of Family Rhetoric*, 81 VA. L. REV. 2181 (1995); Catherine A. MacKinnon, *Reflections of Sex Equality Under the Law*, 100 YALE L.J. 1281 (1991); Mari Matsuda, *Standing Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, *in* WHERE IS YOUR BODY? AND OTHER ESSAYS ON RACE, GENDER AND THE LAW 61 (1996); Linda G. Mills, *Killing Her Softly: Intimate Abuse and the Violence of State Intervention*, 113 HARV. L. REV. 550 (1999); Nancy Polikoff, *We Will Get What We Ask For: Why Legalizing Gay and Lesbian Marriage Will Not Dismantle the Legal Structure of Gender in Every Marriage*, 79 VA. L. REV. 1535 (1993); *see also* MARTHA CHAMALLAS, AN INTRODUCTION TO FEMINIST LEGAL THEORY (2d ed. 2003); CRITICAL RACE FEMINISM: A READER (Adrien Katherine Wing ed., 1997); FEMINIST LEGAL THEORY: AN ANTIESSENTIALIST READER (Nancy E. Dowd & Michelle S. Jacobs eds., 2003); GLOBAL CRITICAL RACE FEMINISM: AN INTERNATIONAL READER (Adrien Katherine Wing ed., 2000).

33. *See infra* section III.B (prior surveys of law students).

34. *See generally* FEMINIST LEGAL THEORY: AN ANTIESSENTIALIST READER, *supra* note 32.

35. *See* Appendix: Levin College of Law: Race and Gender Experience Survey.

36. *See infra* section III (Florida survey).

students equally well by being conscious of differences, context, and culture. To accomplish this goal, we must consider both how, in the short-term, we deliver equal legal education to students that come with different assets and experiences through an educational structure admittedly significantly unequal, and also how, in the long-term, legal education might function within a truly equal educational structure and provide a model for equality.

Part II of this Article describes the background for the Florida survey. First, we discuss the history and current context of gender and racial diversity at the University of Florida College of Law. Next, we summarize the literature on the experiences of women and people of color in law schools that was available before we began this study.

Part III of this Article details the genesis of the survey conducted on race, gender, and ethnicity at the University of Florida, and the survey results. The Florida survey is unique because it is not limited to gender analysis, but also includes quantitative data on the impact of race and ethnicity on law students' experiences. The survey that is reported in this Article began as a student project at the University of Florida in 1999. In 2001, the law school surveyed all students then enrolled in the law school, and approximately 300 (or 20%) responded.

Part IV of this Article discusses the implications of the Florida survey and, more broadly, the implications of difference and inequality for legal education. We argue that enough evidence exists of the presence of inequality to move on from asking whether inequality exists. We need to stop asking whether legal education dispassionately trains all the qualified students who enter. Rather, we argue, we need to focus on solutions for the inequalities that have been consistently documented. The renewed emphasis on issues of admission to law school in the Supreme Court, coupled with the challenges over the past decade to admissions policies, have led, in our view, to an overemphasis on formal equality goals of admitting minorities and women without considering that more than mere admission is needed. Certainly that position is not very controversial either, as the formal equality consequences of desegregation of elementary and secondary schools have been to reinscribe inequality rather than reduce it.[37] We hope to contribute to the shape of legal education by thinking through some solutions, or at least some directions, for transforming a culture of difference. Thus, "how do we change culture?" becomes the question we must pose.

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37. *See generally* Wendy Parker, *The Future of School Desegregation*, 94 NW. U. L. REV. 1157 (2000); Wendy Parker, *The Supreme Court and Public Law Remedies: A Tale of Two Kansas Cities*, 50 HASTINGS L.J. 475 (1999); John A. Powell, *The Tensions Between Integration and School Reform*, 28 HASTINGS CONST. L.Q. 655 (2001); Mary Jane Lee, Note, *How Sheff Revives Brown: Reconsidering Desegregation's Role in Creating Equal Educational Opportunity*, 74 N.Y.U. L. REV. 485 (1999).

II. THE CONTEXT

A. *Legal Education, the Profession, and Legal Services*

Historically, legal education was limited to white males; the profession and legal services were limited to white male lawyers and predominantly white male clients.[38] Race and gender desegregation of formal admissions policies began only in the twentieth century, and white male law schools did not see significant numbers of students of color or of women until the 1980s.[39] The increase in the proportion of women students and women in the profession has risen more dramatically than the proportion of students and lawyers of color.[40] The delivery of services is less racialized and gendered, but the pattern has not disappeared. Formal, express inequality laced with explicit prejudice and subordination has formally disappeared; however, real equality and valuing of pluralism and diversity, along with equalization in the profession and the delivery of legal services, remains a goal yet to be attained.[41]

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38. *See generally* CYNTHIA FUCHS EPSTEIN, WOMEN IN LAW 13-22 (1981); KAREN BERGER MORELLO, THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA, 1638 TO THE PRESENT 88-107, 143-72 (1986); Roland Acevedo et al., *Race and Representation: A Study of Legal Aid Attorneys and Their Perceptions of the Significance of Race*, 18 BUFF. PUB. INT. L.J. 1 (2000); Peggy Davis, *Popular Legal Culture Law as Microaggression*, 98 YALE L.J. 1559 (1989); Michelle S. Jacobs, *Pro Bono Work and Access to Justice for the Poor: Real Change or Imagined Change?*, 48 FLA. L. REV. 509 (1996); Donald E. Lively & Stephen Plass, *Equal Protection: The Jurisprudence of Denial and Evasion*, 40 AM. U. L. REV. 1307 (1991).

39. *See* Data on Admission of Women and Minorities, American Bar Association, *available at* http://www.abanet.org/legaled/statistics/minstats.html (last visited May 12, 2003).

40. Nancy E. Dowd, *Resisting Essentialism and Hierarchy: A Critique of Work/Family Strategies for Women Lawyers*, 16 HARV. BLACKLETTER L.J. 185, 193, 196 (2000).

41. *See, e.g.*, ABA COMM'N ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION, MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION (1999); *see generally* Valerie Fontaine, *Progress Report: Women and People of Color in Legal Education and the Legal Profession*, 6 HASTINGS WOMEN'S L.J. 27 (1995); Alex M. Johnson, Jr., *The Underrepresentation of Minorities in the Legal Profession: A Critical Race Theorist's Perspective*, 95 MICH. L. REV. 1005 (1997); J. Clay Smith, *Black Women Lawyers: 125 Years at the Bar; 100 Years in the Legal Academy*, 40 HOW. L.J. 365 (1997); David B. Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CAL. L. REV. 493 (1996); Linda E. Davila, Note, *The Underrepresentation of Hispanic Attorneys in Corporate Law Firms*, 39 STAN. L. REV. 1403 (1987); ABA COMM'N ON WOMEN IN THE PROFESSION/COMM'N ON OPPORTUNITIES FOR MINORITIES IN THE PROFESSION, THE BURDENS OF BOTH, THE PRIVILEGES OF NEITHER: A REPORT OF THE MULTICULTURAL WOMEN ATTORNEYS NETWORK (1994); ABA COMM'N ON WOMEN IN THE PROFESSION, UNFINISHED BUSINESS: OVERCOMING THE SISYPHUS FACTOR 27 (1995). "Time alone, and women's relatively recent admission to the profession, cannot explain the extent of sex-based inequalities. In law, as in life, women are underrepresented at the top and overrepresented at the bottom." Deborah Rhode, *Gender and the Profession: The No-Problem Problem*, 30 HOFSTRA L.

Most institutions of higher education reflect this history and the persistent problem of inequality. The University of Florida is no exception. The founding legislation for the University specified that the University shall admit "no person . . . except white male students."[42] White women were admitted to the College of Law beginning in 1925, and coeducation was legally permitted as of 1947. Women, solely white until the early 1970s, were a very small part of the student body, numbering roughly 2% of the student population.[43] In the 1980s, the proportion of women in the population climbed to 25%, and by the new millennium women accounted for roughly 49% of the student body. White males continued to dominate the ranks of men in the law school even in 2000, when they constituted slightly over 75% of all male students, but they were no longer even a bare

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REV. 1001, 1002 (2002); *see* Cynthia Grant Bowman, *Bibliographical Essay: Women and the Legal Profession*, 7 AM. U. J. GENDER SOC. POL'Y & L. 149, text at n.133-37 (1998) (giving an overview on women in the legal profession); Ann Gellis, *Great Expectations: Women in the Legal Profession, A Commentary on State Studies*, 66 IND. L.J. 941 (1991); Jeannette F. Swent, *Gender Bias at the Heart of Justice: An Empirical Study of State Task Forces*, 6 S. CAL. REV. L. & WOMEN'S STUD. 1, 12 (1996) (giving an overview on state gender bias reports and citations to the studies). Thirty-five states and several judicial circuits had issued gender bias reports as of 1998. *See* Rhode, *supra*, at 1003 (referencing bias on the basis of sexual orientation and disability). The presence of race bias in the legal system has been documented in numerous studies and legal challenges, and has been the subject of a similar wealth of state studies. One author has identified approximately twenty-seven task forces established by state supreme courts to address racial and ethnic bias. *See* Myra C. Selby, *Examining Race and Gender Bias in the Courts: A Legacy of Indifference or Opportunity?*, 32 IND. L. REV. 1167, 1170 n.13, App. (1999); *see also* Tony A. Freyer & Paul M. Pruitt, Jr., *Reaction and Reform: Transforming the Judiciary Under Alabama's Constitution, 1901-1975*, 53 ALA. L. REV. 77 (2001); *Report of the Working Committees to the Second Circuit's Task Force on Gender, Racial and Ethnic Fairness in the Courts*, 1997 ANN. SURV. AM. L. 124 (1997). Some gender studies have included a race component. *See, e.g., Report of the Gender Bias Study of the Supreme Judicial Court, Commonwealth of Massachusetts (1989)*; *Report of the Florida Supreme Court Gender Bias Study Commission*, 42 FLA. L. REV. (1990); *Report of the Missouri Task Force on Gender and Justice*, 58 MO. L. REV. 485 (1993); OHIO JOINT TASK FORCE ON GENDER FAIRNESS: A FINAL REPORT 72 (1995); ACHIEVING EQUAL JUSTICE FOR WOMEN AND MEN IN THE CALIFORNIA COURTS: FINAL REPORT 121 (Gay Danforth & Bobbie L. Welling eds., 1996); REPORT OF THE OREGON SUPREME COURT/OREGON STATE BAR TASK FORCE ON GENDER FAIRNESS 55 (1998).

42. Betty W. Taylor, *A History of Race and Gender at the University of Florida Levin College of Law 1909-2001*, 54 FLA. L. REV. 495, 497 (2002) (citing 1905 Fla. Laws ch. 5384 § 23); *see generally* Mark R. Brown, *Affirmative Inaction: Stories from a Small Southern School*, 75 TEMP. L. REV. 201 (2002) (recounting the history of Florida's oldest private law school at Stetson University); Symposium: *Report and Recommendations of the Florida Supreme Court Racial and Ethnic Bias Study Commission*, 19 FLA. ST. U. L. REV. 591 (1992) (giving the recent status of race and gender in the Florida legal system); Ricci Lewis Tanner, *Report of the Florida Supreme Court Gender Bias Commission*, 42 FLA. L. REV. 827 (1990).

43. Taylor, *supra* note 42, at 503.

majority of all law students, constituting 32.1% of the student body, which was roughly equally divided between men and women.[44]

African-American students were barred from admission until nine years of litigation by Virgil Hawkins succeeded in removing the race barrier to the law school, as well as the rest of the University, in 1958.[45] The first African-American male to enroll graduated in 1962; the first African-American female to enroll graduated in 1973.[46] African-American students constituted roughly 12% of the law school in 2000.[47] The history of Hispanic students at the law school is more difficult to trace, since some students with Spanish surnames attended the law school since its founding.[48] In 2000, Hispanic students were 12% of the student population.[49] Minority law students constituted 24-28% of students between 1997 and 2000; African-American students and Hispanic students constituted roughly 11-12% in that time period.[50]

The faculty, as with the students, was composed exclusively of white males when the law school was founded, and this remains the predominant group of the faculty. The first full-time white female faculty member was hired in 1969, and the number of women on the full-time tenure track faculty remained in single digits until the 90s. The first African-American woman was hired in 1993.[51] The first ever African-American faculty member was hired in 1969 but left after threats were made to him and his family.[52] A total of twelve African-Americans have been hired from 1969 to 2001 for both tenure track and nontenure track positions. The numbers from 1997 to 2000 ranged from 6 to 9, comprising 7-12% of the

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44. *Id.* at 498.

45. Hawkins v. Bd. of Control of Fla., 162 F. Supp. 851, 853 (1958); *see* Brown, *supra* note 42, at 210-19 (recounting the Virgil Hawkins story).

46. Taylor, *supra* note 42, at 509-10.

47. *Id.* at 510.

48. *Id.* at 513. The law school also participated in a program to assist practicing Cuban lawyers to obtain a U.S. degree in order to practice law after coming to the United States in the 1960s. *Id.* at 515-18.

49. *Id.* at 513.

50. *Id.* African-American enrollment increased from under 1% of all law students in 1965 to 7% of the total enrollment of accredited law schools in 1998. Brown, *supra* note 14, at 219 n.134. African-American enrollment ranged from 0% to just over 12% at all Florida law schools in 1998, although Stetson remained below 10% at under 6%. *Id.* at 221 n.147. The University of Florida had the highest percentage of African-American enrollment in 1998. By the time 2000 enrollment figures were reported in 2002, the percentage at the University of Florida had dropped to 10%. *Id.* at 221.

51. Taylor, *supra* note 42, at 512.

52. *Id.* at 511.

faculty.[53] The first Hispanic faculty member was hired in 1990, and as of 2000 there were 4 Hispanic faculty, constituting 5% of the faculty.[54]

While Florida was segregated by race and gender under legislative mandate, the same pattern of segregation was typical of legal education generally until the 1960s and 1970s, and persisted beyond formal barriers into the 1980s.[55]

B. *Prior Surveys/Studies*

As students of color and women began to enroll in law schools in significant numbers beginning in the 1970s, studies began to be done to determine both whether they would succeed (were they in fact the equal of white men?) and whether legal education was a fair, egalitarian education (do women and students of color experience legal education differently?). By far, the greater number of surveys and studies focused on gender alone.[56] This reflects both the greater increase in the proportion of women

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53. *Id.* at 513.

54. *Id.* at 514-15.

55. *See* Statistics, *available at* http://www.abanet.org/legaled/statistics/stats.html (last visited May 14, 2003) (giving general statistics on gender and race in American law schools, as well as comparisons with selected private and public schools).

56. *See generally* Taunya Lovell Banks, *Gender Bias in the Classroom*, 38 J. LEGAL EDUC. 137 (1988) (survey of 765 students of a western school, a southwestern school, a midwestern school, and two northeastern schools); Janette Barnes, *Women and Entrance to the Legal Profession*, 23 J. LEGAL EDUC. 276 (1970) (survey of twenty-two of fifty women then attending the University of Virginia Law School); *Elusive Equality: The Experiences of Women in Legal Education*, *in* ABA COMM'N ON WOMEN IN THE PROFESSION, DON'T JUST HEAR IT THROUGH THE GRAPEVINE: STUDYING GENDER QUESTIONS AT YOUR LAW SCHOOL (1998) (ABA Commission on Women in the Profession examination of gender issues in law schools); Judith A. Fischer, *Portia Unbound: The Effects of a Supportive Law School Environment on Women and Minority Students*, 7 UCLA WOMEN'S L.J. 81 (1996) (survey of Chapman University students shortly after the school was opened in fall of 1994); Paula Gaber, *"Just Trying to Be Human in This Place": The Legal Education of Twenty Women*, 10 YALE J.L. & FEMINISM 165 (1998) (open-ended interviews of twenty randomly chosen women at Yale Law School); Marsha Garrison et al., *Succeeding in Law School: A Comparison of Women's Experiences at Brooklyn Law School and the University of Pennsylvania*, 3 MICH. J. GENDER & L. 515 (1996) (replication of Pennsylvania study at Brooklyn Law School where academic performance data were examined for the graduating classes of 1990-1993 and current classes of 1994 and 1995); Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League School*, 143 U. PA. L. REV. 1 (1994) (study of law students enrolled at University of Pennsylvania between 1987 and 1992 analyzing quantitative academic performance data from 981 students, survey responses from 366 students, and qualitative data from written narratives from 104 students and group interviews with 80 students); Suzanne Homer & Lois Schwartz, *Admitted But Not Accepted: Outsiders Take an Inside Look at Law School*, 5 BERKELEY WOMEN'S L.J. 1 (1988) (race and gender survey at Boalt Law School of 667 respondents); Alice D. Jacobs, *Women in Law School: Structural Constraint and Personal Choice in the Formation of Professional Identity*, 24 J. LEGAL EDUC. 462 (1972) (survey of 60% of the female and 15% of the male students at a small unidentified southwestern law school); Joan M. Krauskopf, *Touching*

attending law school and a capability of performing statistical analysis with a larger pool of students than was the case with race.[57] The qualitative empirical literature, which focused on personal experiences and stories, included both gender and race data, but still was skewed toward gender.[58]

The literature on gender and race experiences, drawn from both self reported and observational sources, discloses significant differences in the degree of law school classroom participation between genders. Women

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the Elephant: Perceptions of Gender Issues in Nine Law Schools, 44 J. LEGAL EDUC. 311 (1994) (study commissioned by Joint Task Force of the Ohio Supreme Court and the Ohio State Bar Association to explore whether there was gender unfairness in Ohio's law schools; surveys sent to 800 female and 800 male students randomly drawn from nine Ohio law schools with 437 women and 397 men responding); Elizabeth Mertz et al., *What Difference Does Difference Make? The Challenge for Legal Education*, 48 J. LEGAL EDUC. 1 (1998) (study of contracts course at eight different law schools); E.R. Robert & M.F. Winter, *Sex-Role and Success in Law School*, 29 J. LEGAL EDUC. 449 (1978) (questionnaire sent to the 107 women students and 100 men randomly chosen from 217 male students with follow-up interviews of a small group of respondents); Janet Taber et al., *Project: Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209 (1988) (1987 study conducted at Stanford Law School based on questionnaire given to the 516 students enrolled, as well as to all 764 female graduates and random sample of 764 male graduates; examined experiences in law school — attitudes and performance, experiences in legal profession, beliefs about legal rules, personal background, and lifestyle); Lee E. Teitelbaum et al., *Gender, Legal Education, and Legal Careers*, 41 J. LEGAL EDUC. 443 (1991) (examination of career patterns of men and women at the University of New Mexico Law School through questionnaire sent to 1975 through 1986 alumni with 602 responding); Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299 (1988) (two to four-hour interviews of twenty women at Yale Law School); Linda Wightman, *Women in Legal Education: A Comparison of the Law School Performance and Law School Experiences of Women and Men*, *in* ABA COMM'N ON WOMEN IN THE PROFESSION, DON'T JUST HEAR IT THROUGH THE GRAPEVINE: STUDYING GENDER QUESTIONS AT YOUR LAW SCHOOL (1998) (Law School Admission Council gender survey of American law schools based on credentials, grades, and surveys); Lisa A. Wilson & David H. Taylor, *Surveying Gender Bias at One Midwestern Law School*, 9 AM. U. J. GENDER SOC. POL'Y & L. 251 (2001) (study commissioned to examine anecdotal evidence that law school climate was "chilly" for women through questionnaire distributed to all 284 students enrolled at Northern Illinois University College of Law in 1998).

57. Gary Orfield & Dean Whitla, *Chapter 6: Diversity and Legal Education: Student Experiences in Leading Law Schools*, *in* DIVERSITY CHALLENGED: EVIDENCE ON THE IMPACT OF AFFIRMATIVE ACTION (Gary Orfield & Michal Kurlaender eds., 2001) (study of 1820 students at Harvard Law School and the University of Michigan Law school of the impact of diversity on students' educational experiences); Homer & Schwartz, *supra* note 56 (race and gender survey at Boalt Law School); Krauskopf, *supra* note 56 (results of survey of gender unfairness in Ohio's law schools that might affect general attitudes or practices in the courts and the profession, grouped by men, women, and women of color); Mertz et al., *supra* note 56 (study of contracts courses at eight different law schools included race analysis, showing strong correlation between race of the professor and student reaction).

58. *See supra* notes 56 and 57 (qualitative studies).

appear to participate less in classroom settings than do men.[59] Although there is limited data available, it appears that non-white students also participate less in classroom discussions. The lower level of participation of women and people of color appears to be linked to their perceptions of comfort and acceptance in classroom settings.[60] In addition, teaching methods utilized in law school classrooms seem to have a differential impact, with white male students reacting most positively to traditional, Socratic teaching methods.[61] The most recent comprehensive literature review by Elizabeth Mertz summarizes these findings in a recent article.[62] She concludes:

> [B]oth survey and observational research have indicated that, in some law schools at the present time, students seem to be responding differently to teaching along lines of gender, race, and class. In both kinds of studies, however, we also find interesting cross-currents: women reporting the same or better response to law teaching, men of color responding better than women of all races to some aspects of law training, and effects of instructor gender working in different ways in different classrooms. When we combine the law school results with those from studies in other educational settings, we can also begin to see a clustering of variables affecting classroom discourse through which we can examine these cross-currents empirically: numbers of turns taken by different students, time spent in speaking by different students and teachers, the persistent issue of students' volunteering.[63]

III. THE UNIVERSITY OF FLORIDA SURVEY[64]

A. *Design*

Inspired by Lani Guinier's study, *On Becoming Gentlemen*, which detailed gender differences in legal education at the University of Pennsylvania, Tamara Wenzel, a student in Nancy Dowd's "Gender and the Law" class, replicated part of the Guinier study on a small scale in the fall of 1999. Based on those results, she suggested a survey be done of the entire student body. With Dowd's support, she presented a proposal to the law school administration in the spring of 2000. The proposal was strongly

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59. Mertz et al., *supra* note 56, at 16-32 (reviewing studies).

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.* at 32.

64. The data and commentary contained in this section are based on the data and findings of the survey, a copy of which is on file with the authors. No separate footnoting is included in this section for data contained in the survey results. Also on file is a copy of the questionnaire sent to the students.

supported by then-Dean Jon Mills, and at his suggestion and that of then-Associate Dean Kenneth Nunn, it was decided that the survey would cover both gender and race. The survey project was jointly taken on by Dowd and Nunn, as Wenzel was graduating.

Initially, it was assumed that we would simply ask the same questions about race as Guinier and her colleagues had asked about gender. In the process of developing the survey, however, we confronted several methodological issues. First, should the same questions be asked about both gender and race? Second, did we want to modify the survey? Third, what statistical and survey issues did we need to address apart from the content of the survey?

During the 1999-2000 academic year, a team of research assistants collected and evaluated available surveys and constructed a survey instrument. Our project was unique because it included a survey of both race and gender experiences of students. The exclusion of race from surveys commonly was tied to the small number of non-white students in J.D. programs. Thus, the search for a survey that could be replicated was fruitless. Constructing a new survey proved to be a challenging task. Including race and gender in the same document, while not making the survey unwieldy and impossibly lengthy, was difficult after fine-tuning the subject matter of the questions and the language of the questions to create a more coherent document, our co-author and expert with respect to statistics and survey methods, Dr. Jane Pendergast, helped us to construct the survey in form and length in a manner that would maximize survey response, and to maximize evaluation of the results.

The survey was sent to all law students attending the College of Law in November 2001. The distribution of the survey was delayed to distance the distribution of the survey from the impact of reaction to events at the law school in the 2000-2001 academic year. During that year, Nunn resigned from his position in protest of racism in the faculty hiring process, and more broadly, inattention to issues of race in the law school.

In November 2001, when the survey was distributed, the demographics of the law school were as follows: by gender, 621 men (52%) and 569 women (48%); by race, 150 African-American (13%); 159 Hispanic (13%); 37 Asian (3%); 9 American Indian (1%); 835 white (70%). Among racial groups, women outnumbered men for African-Americans and American Indians, but men outnumbered women for whites; for all others, the genders were roughly equal.[65] There were 1190 students enrolled in the J.D. program that semester; of those, 314 students returned the surveys, but only 297 of these were usable. This was a return rate of 20%, a respectable return rate for this type of survey and distribution method. The demographics of those who returned the survey were 178 women and 119 men. Of the 178 women, 32 were African-American; 13 were American

65. University of Florida Survey, apps. A, A-1 (on file with authors).

Indian/Alaskan Native, Asian/Pacific Islander, or some other race; and 133 were white. Of the 119 men, 9 were African-American, 9 were other, and 101 were white. As compared to the race and gender demographics of the law school at the time the survey was distributed, this was not a proportional representation of the law school community. White women were overrepresented, constituting almost 42% of respondents, and were the largest single group that replied to the survey. White men were underrepresented (32% of respondents); African-American men were representative (3% of respondents); and African-American women were slightly overrepresented (10% of respondents). Hispanic men and women were overrepresented (respectively 7% and 9% of respondents). It is a well understood principle of surveys that those most interested in a topic are most likely to respond. Nevertheless, even with these caveats, the response rate and distribution of responses represent a large proportion of the student body.

B. *Summary of Survey Results*

1. Themes/Patterns

Three overriding themes were apparent from the survey results. First, diversity matters. A huge proportion of the respondents verified the value of student and faculty diversity. Almost 70% of students agreed or strongly agreed that racial/ethnic and gender diversity "enhances how students think about problems and solutions in class [and] enhances my ability to get along better with members of other races." The same high percentage of students rejected the idea that diversity adversely affects the range of class discussion, the level of intellectual challenge, or the consideration of alternate views. A substantial number of students also expressed the view that additional minority and/or female faculty members would be desirable as role models and representatives of diverse viewpoints. The configuration of tenure track faculty at the University of Florida at the time of the survey was 34 white males, 12 white females, 2 African-American males, 2 African-American females, 2 Hispanic males, and 2 female Hispanics.[66] When asked if the present composition of the faculty provides sufficient role models of ethnic/racial minorities and women, over 40% of students felt there were insufficient professors of color, and just over 35% of students felt that there were insufficient female faculty.

Second, the way in which students experience law school varies by race, ethnicity, and gender, both alone and in combination. The level of comfort and acceptance, and the perception of fairness and neutrality were

66. E-mail from Doris Perron, Administrative Assistant to Dean Jon Mills, University of Florida Levin College of Law, to Nancy E. Dowd, Chesterfield Smith Professor of Law, University of Florida Levin College of Law (Apr. 14, 2003, 16:34:00EST) (on file with authors).

strongest among white males. Race differences were strongest, although gender differences were strong on certain questions. Across the board, students did not report that their experiences in law school were exemplified by bias or discrimination. On virtually every question that one would expect concerns about bias or discrimination to materialize, students' initial responses showed little reason for concern. For example, 58% of students disagreed that questions or discussions in class were inappropriate or made them feel uncomfortable; over 61% of students believed that a student's race, ethnicity, or gender did not affect the way they were treated in the classroom; and most students, over 62%, agreed that their fellow students respected what they had to say in class. In addition, students did not agree that most students expected competent teachers to be white or male or that professors' grading may be consciously or unconsciously influenced by students' race or gender.

On the surface, these results might suggest that race, gender, and ethnic disparities did not exist at the College of Law and that students' experiences were essentially neutral in regard to these particular identity categories. However, on closer analysis this hypothesis fails. As we discuss in greater detail below, answers related to student experiences varied greatly when parsed out according to the race or gender of the student respondents. For example, when asked if they agreed or disagreed that questions or discussions in class made them feel uncomfortable, almost 43% of African-American respondents stated they agreed with the statement, whereas only 28% of whites and 27% of others agreed with the statement.[67] What was surprising was the degree to which white females at the law school provided answers that were quite similar to those given by white males and which seemed to suggest an atmosphere devoid of bias. For example, 65% of white females disagreed that gender affected the way students are treated in the classroom, close to the 70% of white males who disagreed with the statement. By comparison, only 39% of African-Americans and 41% of others disagreed with the assertion that gender affected the way students are treated. The greater integration of women in the law school, as compared to racial minorities, might explain the differences in experiences and the perception of law school culture.

Third, the survey captures the intersection of race and gender. Much prior research has argued that the intersections of race/ethnicity and gender were as important as looking at those categories alone. Because this survey, unique among the research on legal education, evaluated responses based on race, ethnicity, and gender, the interrelation of these factors in the experience of students is apparent.

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67. Interestingly enough, a greater percentage of white males (32%) agreed with this statement than white females (25%).

2. Detailed Summary

The following summary of differences by race, gender, and race/gender interactions illustrates these three broad patterns.

a. Race Differences

African-Americans and whites consistently responded differently on the survey. Those classified as "other" (with respect to race) were in between, sometimes responding more similarly to African-Americans and sometimes more similarly to whites.

The majority of whites did not think that their race mattered in the classroom. They disagreed that they were more likely to speak in a classroom taught by a same-race professor, that they would be more comfortable with a same-race professor, or that a student's race affects the way the student is treated in the classroom or is graded. They disagreed that they were more comfortable out of class with same-race professors. They recognized that there were sufficient role models by race of their same racial group, but disagreed with each other significantly over whether more minority professors were needed (one-third thought there were sufficient numbers, one third thought the opposite, and one-third were split). The majority of whites also saw gender as irrelevant to their treatment in the classroom or grading, and did not think students coming to law school expected a competent law professor to be male.

In contrast, the majority of African-Americans thought differently. They were more likely to agree that they were more likely to speak in a classroom taught by a same-race professor; agreed that they were more comfortable with the teaching approach of a same-race professor; and agreed that the race/ethnicity of a student affects the way the student is treated in the classroom. They were concerned that race may consciously or unconsciously affect grading. They were more comfortable with professors of their own racial/ethnic group outside the classroom, and thought there were not enough professors of their own race to provide sufficient role models. As compared to whites regarding gender issues, African-Americans again saw gender as having more significance in the law school than did whites. They were more likely to agree that the gender of a student affects the way the student is treated in the classroom, that the gender of a student affects grading, and that many students come to the Levin College of Law expecting a competent law professor to be male.

Those who were racially identified as "other" split between the pattern of white and African-American respondents. The majority disagreed that they were more likely to speak in a classroom taught by a member of the same ethnic or racial group (consistent with whites), and disagreed that they were more comfortable with the teaching approach of a professor of the same racial/ethnic group (consistent with whites, but not as strong). They were not concerned that knowledge of race/ethnicity may consciously or unconsciously affect grading (consistent with whites, but not as strong).

On the other hand, a majority agreed that the student's race/ethnicity affects the way he/she is treated in the classroom (consistent with African-Americans, but not as strong), and generally disagreed (46%) with the statement that they were more comfortable with professors of their own race or ethnic group outside the classroom (more consistent with African-Americans than whites), but tended to be more neutral on this question than either African-Americans or whites. "Others" disagreed that there were enough law professors of their race/ethnic group to provide sufficient role models and disagreed that there were enough racial and ethnic minority law professors to serve as role models (consistent with African-Americans, but not as strong). With respect to gender issues, "other" race students disagreed that a student's gender affects the way he/she is treated in the classroom (consistent with whites, but less strong), were not concerned that knowledge of their gender may affect a student's grades (consistent with whites, but less strong), and disagreed that many students come to the Levin College of Law expecting a competent law professor to be male (consistent with whites, but less strong).

With respect to interactions with professors, the majority of all respondents are comfortable talking with their professors, but a higher proportion of those who are not comfortable doing so were non-whites. The majority in all race groups agreed that gender diversity enhances their ability to get along with members of other genders, but this opinion was expressed with a higher frequency for African-Americans than for whites and others. When asked about racial/ethnic diversity, a higher proportion of African-Americans agreed that this enhanced their ability to work effectively than did whites and others (African-Americans: 78%; whites: 39%; and "others": 32%). Approximately one-third of the white and "other" respondents disagreed with the statement that racial diversity enhanced their ability to work effectively, while another 29% of the whites and 36% of the "others" were neutral. In contrast, only 5% of the African-American respondents disagreed, and 78% thought racial and ethnic diversity enhanced their ability to work effectively. Generally speaking, the respondents did not feel very strongly about the racial/ethnicity and gender mix in student leadership positions and in student organizations.

In the section of the survey that asked students to characterize their class experiences and perception of whether racial dynamics exist in the classroom, African-Americans and whites have significantly different responses on a number of questions. It is important to note that the questions regarding race/ethnicity experiences ask the students to perform a complex task, so these responses must be viewed with some caution.[68]

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68. The questions concerning students' experiences in class and perceptions of class dynamics on the basis of race/ethnicity are difficult for students to answer because they require the respondent to build off a model in which they (1) know the proportions of law students falling into different racial and ethnic groups, and (2) can answer within that theoretical framework of a

Between two-thirds and three-fourths of African-Americans think that whites ask more questions (73%), that whites get called upon more frequently (66%), that whites get more class attention (73%), and that whites received more tolerance (70%). By comparison, the most frequent response of whites was that there is no difference by race in who asks more questions (49%), in who gets called on more frequently (71%), in who receives more class attention (70%), and in who receives more tolerance (62%). However, a substantial proportion of white respondents agreed that there was a difference weighted toward whites. Those classified as "other" were generally not significantly different in their responses from either African-Americans or whites on these questions, but fell somewhere in between.

The students were asked similar questions with respect to gender experiences in the classroom, assuming that the class mix of men and women was proportionate to that of the law school student body. [69] Significant differences in the responses among race groups existed with respect to gender experiences in the classroom. The majority of both whites and non-whites reported no difference as to which gender was called on more frequently (75% whites, 62% non-whites). Thirty-six percent of African-Americans (who were predominately women) thought men were called on more frequently, while only 18% of whites thought men were called on more frequently.

The majority of both African-Americans and whites thought that there was no difference in gender among those that were asked more difficult questions, but the proportion was significantly higher for whites than African-Americans (84% of whites and 58% of African-Americans). In addition, 37% of African-Americans thought that men were asked more

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perfectly proportional representation in a class. For example, Asian women comprise 3.2% of the female law student body, and Asian men are similarly represented at 3.1% of the male law students. African-American women comprise 18.3% of the female law students and African-American men 7.4% of the males. In contrast, white women account for 63.1% of the female law students and white men are 76.6% of the male law students. When the proportions of students of color are small relative to the majority group, it is hard to "sense" or appreciate what it really means to ask questions or be called on in class proportionally. A proportional representation for an Asian man (or woman) would be to ask a question or be called upon about 3 times out of 100, and for African-American women 18 times out of 100 (or 9 out of 50), when only considering questions asked by or calls to women law students. If you considered all questions asked by students or calls to any law student, one would only expect an Asian (male or female) to be in the spotlight 3 out of 100 times and an African-American student 13 times out of 100. Those are small (but proportionate) numbers, and in the opinion of our statistician, it would be very difficult to estimate accurately using recall. It is much more likely that someone who was in a numerical minority would perceive that their group was not called on very often (which could be true) and would presume that the rate of such was (proportionately) too low (which may not be true).

69. Since those true proportions are much closer to half and half and gender is easily identifiable, this would be an easier task than asking with respect to race or ethnicity group.

difficult questions. Those classified as "other" responded similarly to whites, with 73% responding "no difference" and 18% responding "males."

b. Race and Gender Responses

Two kinds of interactions were possible for the interplay of race and gender. One is "race by gender" and the second is "race and gender differences." "Race by gender" observations demonstrated the intersection of race and gender in responses; "race and gender differences" indicated that responses were significantly different between genders and between racial groups.

The responses on two questions indicated a significant "race by gender" interaction. One question stated "I feel more comfortable with a female professor's approach to teaching." Among the African-American respondents, there was a large difference between the males and females. African-American women disagreed with the statement 47% of the time, were neutral 44% of the time, and agreed only 9% of the time, whereas none of the African-American men (n = 9, which is small) disagreed, 44% were neutral, and 56% agreed. The pattern among whites was significantly different than that of African-Americans, and did not show such strong differences between the responses of men and women. White women disagreed 47% of the time, were neutral 28% of the time, and agreed 26% of the time. White men disagreed 51% of the time, were neutral 37% of the time, and agreed 13% of the time. Overall, white women were somewhat more likely to agree with the statement than African-American women (and less likely to be neutral).

The second question showing "race by gender" responses asked whether the present composition of the faculty, in terms of gender, limits the respondent's perspective on legal issues. Both gender and race differences were found. Generally speaking, whites disagreed with this statement more often than did non-whites, with African-Americans and "others" responding more similarly. However, white men disagreed more strongly than did white women (84% vs. 61%) and agreed less often (9% vs. 23%). Non-white women were equally split between agreeing and disagreeing (47% disagreed, 47% agreed). Non-white men were more similar to non-white women than were white men and women to each other, with 50% of the non-white men disagreeing and 39% agreeing. Thus, we see less of a gender difference between non-white males and females than we do between white men and women.

Both race and gender difference in responses were seen on six questions. Two questions asked whether the respondent feels more comfortable outside the classroom with a professor of the same or different gender. While 28% of the women were neutral and another 43% disagreed that they were more comfortable with a female professor, 29% did agree. In contrast, a very small proportion of the men (6%) agreed that they were

more comfortable outside the classroom with a male professor. Another 45% of the men were neutral and the largest proportion (49%) disagreed. When the women were asked if they were more comfortable outside the classroom with a male professor, the vast majority were either neutral (45%) or disagreed (44%). While the vast majority of males were also either neutral (36%) or disagreed (55%) with the statement of being more comfortable with a female professor outside the classroom, they leaned more toward disagreeing than being neutral.

Race differences were seen as well regarding students' comfort level with a professor of the same gender. Regarding comfort level with a professor of the same gender, African-Americans were most likely to agree (32%), followed by others (23%), and then whites (17%). A large percentage of all respondents were neutral (42% African-Americans, 41% others, 33% whites), and another large group disagreed (27% African-Americans, 36% others, 49% whites). The higher tendency of the whites to disagree relative to the higher proportion of African-Americans to agree with being more comfortable with a professor of the same gender was the main force behind the significant race effect.

When asked about feeling comfortable with a professor of a different gender, again, the whites were the most likely to disagree (55% as compared to 32% of others and 37% of African-Americans). African-Americans were most likely of the three groups to simply be neutral (51% as compared to 41% for others and 38% for whites).

One question asked if there were enough female professors at the law school to provide sufficient role models. Most men thought there were or were neutral (43% agreed; 43% were neutral), whereas most women disagreed or were neutral (55% disagreed, 36% were neutral). Among the race groups, whites and others were more likely to agree than were African-Americans (44% whites and 32% others, as compared to 15% of African-Americans) and less likely to disagree (29% whites, 41% others, 68% African-Americans).

Another question asked whether the present composition of the faculty in terms of race/ethnicity limited the respondent's perspective on legal issues. Women were more likely to agree that it did and men more often said that it did not. (Women agreed 48% of the time as compared to 27% of men; men disagreed 60% of the time, as compared to 39% for the women.) African-Americans were more likely to agree that it did (85% as compared to 31% of whites and 41% of "others"), whereas over half of "others" and whites disagreed (55% of "others" and 54% of whites, compared to 7% of African-Americans).

c. Gender Differences in Responses

The responses on six of the questions showed differences between the genders, but not among the race groups. One question asked whether the respondent agreed that his/her peers respect what that person had to say in

class. While the majority of both men and women either agreed or were neutral, a higher proportion of men agreed (74% of the men compared to 55% of the women), and a lower proportion were neutral (19% of men, 30% of women). Only 7% of the men actively disagreed, as did 15% of the women. The proportion of both men and women disagreeing with the statement about being more likely to speak in a class taught by a male professor was the same (48% of men; 49% of women), but more men were neutral (40% compared to 25%), and more women agreed (26% compared to 13% of men).

Gender diversity was more important to women than to men. Eighty-five percent of women thought that it enhanced how students think about problems and solutions and 93% disagreed that it detracted from the range of class discussion. In comparison, 58% of the men agreed it was an enhancement to thinking and a large, but smaller, proportion disagreed that limited the range of class discussion (82%). On the opposite end of the scale, 24% of the men disagreed that it enhanced how students think about problems, as compared to only 6% of the women. Over 80% of both men and women disagreed that gender diversity had the negative effect of lowering the intellectual challenge in the class (82% of men, 96% of women). Among the others, 14% of the men were neutral, and 3% thought it did, whereas 4% of the women were neutral, and no females agreed.

Finally, half of both men and women thought neither males nor females asked more questions, but 31% of the men thought women did, and 33% of the women thought men did. The remaining 18%-20% thought their own gender asked more questions.

When students were asked to respond about their experiences in class assuming the class was proportionately distributed as to gender, one question asked which gender receives more class time and another asked which received more tolerance with respect to in-class comments. The majority of both men and women thought it made no difference (to both questions), but a higher proportion of men than women responded in such manner. With respect to class time, men said "no difference" 75% of the time, while women responded as such 64% of the time. The rest of the men were equally split between "females" and "males" (12% and 13%, respectively), but the women were more likely to say "men" (32% of the women compared to 13% of the men). With respect to receiving more tolerance, 74% of the men thought it made no difference as compared to 59% of the women. Again, the remainder of the men were equally split in their responses (12% answered "females" and 14% answered "males"), but again the women were more inclined to say that men received more tolerance (35%, as compared to the 14% of the men). About 90% in all 3 race groups either answered "males" or "no difference." Seventy-one percent of the whites thought it made no difference, compared to 50% of the "others," and 41% of the African-Americans. In contrast, 54% of the African-Americans thought males received more tolerance, along with

41% of the "others." In contrast, only 20% of the whites thought males received that advantage.

d. Ethnicity Differences in Responses

Differences among the Hispanic and non-Hispanic student responses (but not among genders) were seen on some questions. The majority of both Hispanics and non-Hispanics disagreed that they were more likely to speak in a class taught by a professor who is a member of their ethnic or racial group, but the proportion was higher among non-Hispanics (67% compared to 53%). About 25% of both groups were neutral, and thus the proportion of Hispanics agreeing was higher than non-Hispanics (23% vs. 9%).

When asked about being more comfortable with the teaching approach of a professor of their own racial or ethnic group, again the majority of both Hispanics and non-Hispanics disagreed, but again the proportion was higher for non-Hispanics (70% vs. 53%). No more than 2% of either group agreed which then implies that the proportion that was neutral was higher for Hispanics (45% as compared to 30% for non-Hispanics).

The majority of Hispanics and non-Hispanics disagreed on whether students come to law school expecting a competent law professor to be white. Fifty-seven percent of the Hispanics disagreed, whereas 55% of the non-Hispanics thought that they did come with that expectation.

While there were significant differences among Hispanics and non-Hispanics on the question regarding ethnic and racial mix in student organizations, they are mainly driven by a higher proportion of non-Hispanics being neutral. Hispanics agreed, were neutral, and disagreed 31%, 31%, and 38% of the time, respectively. In comparison, 23% of non-Hispanics agreed, 50% were neutral, and 28% disagreed. Thus, there is really no strong trend here, where either group felt very strongly about this question.

In regard to classroom dynamics (questions assuming a class was proportionally distributed with respect to racial and ethnic groups), 59% of the Hispanics thought whites volunteered more answers and 26% thought there was no difference. In comparison, non-Hispanics thought whites volunteered more answers 49% of the time and thought it made no difference 46% of the time. Hispanics thought African-Americans volunteered more answers 14% of the time, whereas only 5% of the non-Hispanics agreed.

e. Ethnicity Differences Dependent on Gender

The majority of both Hispanics and non-Hispanics thought that it made no difference as to who is asked more difficult questions, but the magnitude of differences between the men and women were not the same for Hispanics and non-Hispanics. Among the Hispanics, 89% of the women, but 64% of the men, thought it made no difference. Among the

non-Hispanics, the gap is not quite as large and is reversed (74% of the women and 85% of the men). There were a substantial number of people that thought there was a difference. Thirty-six percent of the Hispanic men thought whites were asked more difficult questions and 11% of the Hispanic women agreed. Fewer non-Hispanic men (14%) and 23% of non-Hispanic women thought whites were asked more difficult questions. It may be interesting that none of the Hispanics or non-Hispanics responded that either Hispanics or Asians were asked more difficult questions.

C. *Summary*

The survey demonstrates, consistent with prior quantitative and qualitative data, that race, ethnicity, and gender significantly affect students' experience of legal education, and that diversity of faculty and students enhances their educational experience. Classroom culture, methods, teacher-student interactions, student-student interactions, evaluation methods, and other factors make the experience and quality of legal education significantly different on the basis of race, ethnicity, and, to a lesser extent, gender. The interaction of race and gender also operates to remind us that even our analysis of the culture and quality of legal education can embed the very stereotypes and inequalities that we aim to eliminate. The intersectional patterns in the survey remind us of the complexity of culture and the danger of assuming that all within a category respond alike. It also reminds us that the playing out of race and gender is sometimes parallel, and sometimes different, and that the intersection of those factors complicates the picture even further. It is tempting, in the face of such complexity, to simply say "everyone is different, everyone is an individual," and refuse to think in terms of inequities on race, ethnic, or gender lines (alone or in combination). Instead, we suggest that the intersectional patterns simply remind us to be attentive in constructing solutions: be open to questions, changes, and revisions, rather than a fixed, one-time reorientation of legal education. Equally as important, race and gender sometimes operate the same and sometimes operate differently. But given that women have numerical equality while racial minorities have largely stalled in terms of their presence in the legal academy, that difference in context is a critical one to the implementation of meaningful strategies of equality.

IV. IMPLICATIONS AND ISSUES

A. *Changing the Culture of Legal Education*

Issues of equality in legal education have largely focused on questions of admission to law school. Whether the criteria for admission are fair, what they measure, their relationship to professional models, and how they

achieve diversity have been at the forefront. The current focus on law school admission policies following the U.S. Supreme Court's decision in *Grutter* mirrors this emphasis on what happens at the doorstep of legal education.[70]

These entry issues are important for several reasons.[71] They require reflection about the equality of the educational process that precedes law school, and the significant equality issues in elementary, secondary, and undergraduate education.[72] They also focus attention on the claim to neutrality of so-called objective tests, what those tests measure, and their ability to fairly evaluate.[73] Because admission standards relate both to the

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70. *See supra* text accompanying notes 4-28.

71. *See* William G. Bowen & Neil L. Rudenstine, *Race-Sensitive Admissions: Back to Basics*, CHRON. HIGHER EDUC., Feb. 7, 2003 (reviewing the importance of affirmative action). In addition to documenting the necessity and success of affirmative action and the importance of diversity, the authors also emphasize that race is singular: "Race matters profoundly in America: it differs fundamentally from other 'markers' of diversity and it has to be understood on its own terms." *Id.*; *see also* R. Richard Banks, *Meritocratic Values and Racial Outcomes: Defending Class-Based College Admissions*, 79 N.C. L. REV. 1029 (2001); WILLIAM G. BOWEN & DEREK BOK, THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS (1998); Clark D. Cunningham et al., *Passing Strict Scrutiny: Using Social Science to Design Affirmative Action Programs*, 90 GEO. L.J. 835 (2002); Richard Delgado, Hugo L. Black Lecture: *Ten Arguments Against Affirmative Action – How Valid?*, 50 ALA. L. REV. 135 (1998); Jack Greenberg, *Affirmative Action in Higher Education: Confronting the Condition and Theory*, 43 B.C. L. REV. 521 (2002); Samuel Issacharoff, *Law and Misdirection in the Debate over Affirmative Action*, 2002 U. CHI. LEGAL F. 11; Jean Stefancic, *Affirmative Action: Diversity of Opinions: An Overview of the Colorado Law Review Symposium*, 68 U. COLO. L. REV. 833 (1997); Mark R. Killenbeck, *Pushing Things Up to Their First Principles: Reflections on the Value of Affirmative Action*, 87 CAL. L. REV. 1299 (1999); Michael A. Olivas, *Affirmative Action: Diversity of Opinions: Constitutional Criteria: The Social Science and Common Law of Admissions Decisions in Higher Education*, 68 U. COLO. L. REV. 1065 (1997); Daria Roithmayr, *Deconstructing the Distinction Between Bias and Merit*, 85 CAL. L. REV. 1449 (1997); Sharon Elizabeth Rush, *Sharing Space: Why Racial Goodwill Isn't Enough*, 32 CONN. L. REV. 1 (2000); Rachel Mason, *Diversity and Its Discontents: The End of Affirmative Action at Boalt Hall*, 88 CAL. L. REV. 2241 (2000); Abiel Wong, *"Boalting" Opportunity: Deconstructing Elite Norms in Law School Admissions*, 6 GEO. J. ON POVERTY L. & POL'Y 199 (1999).

72. *See supra* note 37 (on elementary and secondary education); Pamela J. Smith, *Our Children's Burden: The Many Headed Hydra of the Educational Disenfranchisement of Black Children*, 42 HOW. L.J. 133 (1999); Gilda R. Williams, *Key Words for Equality*, A.B.A. J., Feb. 1999, at 64-65. One could argue, as some scholars have, that the differential in the experience of women and minorities is tied to a persistent inequality in their educational preparation. *See* Morrison Torrey et al., *What Every First-Year Female Law Student Should Know*, 7 COLUM. J. GENDER & L. 267, 294-98 (1998) (arguing with respect to women). A similar argument could be made with respect to the even more deplorable inequity in education with respect to race. *See supra* note 37.

73. *See* Michel Selmi, *Testing for Equality: Merit, Efficiency, and the Affirmative Action Debate*, 42 UCLA L. REV. 1251 (1995) (critiquing standardized testing); Susan Sturm & Lani Guinier, *The Future of Affirmative Action: Reclaiming the Innovative Ideal*, 84 CAL. L. REV. 953

ability to succeed in legal education and, ultimately, the ability to succeed in the profession, admission standards also inevitably raise the question of the purpose, model, and methods of legal education, and, ultimately, the model of the profession and practice of law.[74] While not denying the importance of admissions standards, a focus on admissions, nevertheless, can deter consideration of what happens once students are inside the door.[75]

The goals of changing the culture and content of legal education are the core implication of this survey. Our assumption is that education by its terms is not "neutral" or "objective," but that its objects, students, should receive equal opportunity and benefit from legal education. In other words, the content and pedagogy should not be raced or gendered. Affirmatively, every student should be supported to achieve the model of graduate education and professional training, with only a narrow band of expected accomplishment, since all students arrive with close, outstanding credentials. In order to achieve equality of experience and opportunity, being conscious of diversity and structuring legal education with diversity in mind are essential.

Instead of focusing on formal equality by eliminating explicit race and gender barriers and slightly reorienting admissions standards, the implications of this survey and others that have preceded it are that legal

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(1996); *see also* Daria Roithmayr, *Barriers to Entry: A Market Lock-In Model of Discrimination*, 86 VA. L. REV. 727 (2000) (critiquing law school standards).

74. *See generally* Lani Guinier, *Law School Affirmative Action: An Empirical Study Confirmative Action*, 25 LAW & SOC. INQUIRY 565 (2000).

> [A]ffirmative action could well become confirmative action, in that many of the criteria used to select its beneficiaries should be confirmed and broadened to select all incoming law students. In other words, affirmative action should not be understood simply as a race-based exception to the general admission rule of rank ordering test scores and grades. Instead, it is an experiment that succeeded so well at the University of Michigan Law School it might be used to rethink how that school admits everyone. Rather than ban affirmative action, its critics might urge this law school in particular and other similar institutions more generally to expand their practice and revamp the entire admissions criteria for all incoming law students.

Id. at 566.

75. Indeed, one cannot simply recruit "a diverse student body and [neglect] the intellectual environment in which students interact. To do so would be irresponsible." Patricia Gurin, *Wood and Sherman: Evidence for the Education Benefits of Diversity in Higher Education: Response to the Critique by the National Association of Scholars of the Expert Witness Report of Patricia Gurin in* Gratz, et al. V. Bollinger, et al. *and* Grutter v. Bollinger, et al., *available at* http://www.umich.edu/~urel/admissions/research/gurin.html (last visited Nov. 19, 2003); *see also* Cruz Reynoso & Cory Amron, *Diversity in Legal Education: A Broader View, a Deeper Commitment*, 52 J. LEGAL EDUC. 491 (2002). An analogy can be made to the priorities and focus of those concerned with women's rights. A significant amount of energy has focused on the enduring battle over abortion, to the detriment of a comprehensive look at women's choices and opportunities, the social context of the abortion decision, and sexual issues that impact on becoming pregnant.

education must acknowledge and move away from a model of education that is grounded in the experience and socialization of white males, a model that provides the greatest comfort and support for success of white males in a racially and sexually diverse classroom. There is a continuing value to empirical research and surveys that strive to understand the culture, but we need to move on from the question of whether the culture is unequal.[76] It is. The nearly equal numbers of women and men in law school tell us that the problem of equality in legal education is not going to go away with numbers alone. This is not to say that numbers do not have an impact; the greater accomplishments of women in legal education and in the profession, in a rapid time frame, are undoubtably linked to sheer presence as students and faculty. But the impact of numbers has not generated a sense of comfort, belonging, or support, as evidenced by our survey results and those of others. Furthermore, our understanding of women's place when their numbers were fewer is a means for further understanding the position of racial and ethnic groups whose numbers are comparable to the earliest decade of women in legal education. Even if those numbers change, the likelihood of proportionality similar to that of women in legal education is highly unlikely. Thus, any assumption that numbers alone are sufficient would assist women only to a limited extent and would do so at the expense of people of color.

The desired goal, then, is an equal environment for learning, irrespective of race, gender, and ethnicity. An equal educational environment benefits all, not simply those who currently are disproportionately disadvantaged by its inequalities. The strategies for changing culture may range from "little" things like the pictures on the walls that convey the images of who belongs and of what the environment is intended to be, or the presence or absence of sufficient bathrooms for women in a building built only for men, or the ways in which early pioneers or "outsiders" are honored, to huge undertakings, like reorienting both the formal methods of teaching, and the informal transmission of legal culture and values. Several scholars have articulated a typology of responses to diversity, from exclusion, quantitative diversity, and retooling the newcomers, to gaining an understanding of exclusion and dominance, valuing difference, achieving qualitative diversity, and ultimately creating a new synthesis.[77] Various law schools are at various points along that continuum, but more are still focused on quantitative diversity rather than

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76. Ann Bartow, the originator of the Penn study, has argued that we must accept and get beyond hard data, but also continue to collect it to support reforms of legal education and equality goals. Ann Bartow, *Still Not Behaving Like Gentlemen*, 49 U. KAN. L. REV. 809, 814-15 (2001); *see also* Cecil J. Hunt, II, *Guests in Another's House: An Analysis of Racially Disparate Bar Performance*, 23 FLA. ST. U. L. REV. 721, 726-29 (1996) (arguing for the necessity of collecting data on the bar exam).

77. Sarah Berger et al., *Hey! There's Ladies Here!!*, 73 N.Y.U. L. REV. 1022, 1026-33 (1998).

on moving toward a more meaningful, real equality that would require understanding, and rejecting dominance in favor of true egalitarian pluralism.[78]

All students will benefit from the support of meaningful equality. This is the logical outcome of Guinier's concept of the miner's canary: just as the canary was kept in the mines to forewarn miners of toxic gases, so the complaints of women and minorities indicates problems and toxicity in law school culture that harm all students.[79] The negative impact of the unequal and debilitating culture of legal education even affects those most privileged: according to one study of the Harvard Law School class of 1969, white males in the class with tremendous promise were so undermined by the perceived message of mediocre grades in law school that they lived lives of "mediocre men."[80] Larry Kreiger has assembled the overwhelming data about the negative impact of legal education on students and the profession, and both Kreiger and Gerald Hess have articulated the alternative approaches that would serve students.[81] The differences in the experiences of women and people of color in law school, therefore, must be viewed against a context of significant dissatisfaction and real harm in the law school environment to the disadvantage of all students. As compared to those traditionally privileged, traditional "outsiders" appear to be harmed to an even greater degree, as well as subject to the playing out of prejudice as a separate factor.

A range of strategies should be considered to achieve meaningful equality in legal education. We do not mean to suggest here a comprehensive list, or a particular order of priorities, but rather a range of possibilities suggested by the survey data and by what we can learn from critical analysis of the existing curriculum and pedagogy, as well as the

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78. They suggest a range of methods in a reoriented legal education. *Id.*

79. *See* Susan P. Sturm, *From Gladiators to Problem-Solvers: Connecting Conversations About Women, the Academy, and the Legal Profession*, 4 DUKE J. GENDER L. & POL'Y 119, 126 n.37 (1997) (explaining the development of Guinier's metaphor); *see also* Lani Guinier, *Lessons and Challenges of Becoming Gentlemen*, 24 N.Y.U. REV. L. & SOC. CHANGE 1 (1998); Bartow, *supra* note 76; Susan Daicoff, Presentation: Making the Practice of Law Therapeutic for Lawyers: Therapeutic Jurisprudence, Preventive Law, Lawyer Distress and Lawyer Personality, Paper Presented at a Joint Program of the Sections on Law and Mental Disability and Alternative Dispute Resolution at the Annual Meeting of the Association of American Law Schools, New Orleans, LA (Jan. 1999) (concerning patterns of distress within the profession); DEBORAH L. RHODE, COMM'N ON WOMEN IN THE PROFESSION, BALANCED LIVES: CHANGING THE CULTURE OF LEGAL PRACTICE (2001).

80. Hunt, *supra* note 76, at 784.

81. Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75 (2002); Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112 (2002).

possibility of models from other graduate programs as well as undergraduate institutions.

B. *Strategies for Equality in Legal Education*

1. Pedagogy

The methods of law school teaching, and the goals of those methods, should be evaluated and analyzed with the diversity of the student population in mind. To the extent particular methods appear to disproportionately disadvantage students along gender and race lines, it should be a matter not only of concern, but of creative solutions and strategies based on knowledge of effective adult education.

Participatory, cooperative, collaborative methods that actively involve students in the learning process appear to be particularly critical, both to benefit from diversity in the classroom and to ensure equal learning opportunities and outcomes. Rather than a "one size fits all" approach modeled on the Socratic method or some modification of that method, every pedagogical approach needs to be evaluated for its fairness on gender and race grounds as well as its effectiveness in achieving defined educational and professional goals. Much like the evaluation of employment policies and practices for their job relatedness,[82] both in terms of means and ends, so too the pedagogies of legal education need to be examined and defended both in terms of the goals they intend to achieve and whether the methods truly achieve those goals in a way that fairly advances the opportunities of all students.[83] A primary object of evaluation is the classic Socratic or modified Socratic method of traditional law school teaching, particularly in the first year, and the prevalence of lecture-style teaching in classes beyond the first year. In addition, class size and whether methods focus on individualistic performance versus collaborative learning should also be examined. Moreover, teaching methods that focus disproportionately on the abstract presentation of ideas and concepts should be reconsidered. In their place, professors should be encouraged to use examples and analogies that can be readily grasped. Finally, connected

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82. Job relatedness is a concept in employment discrimination law that requires that a facially neutral policy or practice that disproportionately affects historically disadvantaged groups protected by Title VII of the 1964 Civil Rights Act (race, sex, religion, national origin) must be justified as a business necessity. Business necessity requires a showing that the policy or practice is job related, meaning that it measures something that is demonstrably necessary or essential to the job, and that the policy or practice does so in the least discriminatory way. *See generally* Griggs v. Duke Power Co., 401 U.S. 424 (1971).

83. Guinier, *supra* note 79, at 15-16. Guinier calls this "strategizing backwards," looking at the way that law is actually practiced and valued and then examining the goals of legal education and the culture and pedagogy to achieve those goals. *Id.* at 8.

to pedagogy is the process of evaluation and testing, including providing meaningful feedback to students as well as fairly evaluating them.[84] If students are to be evaluated on their understanding or use of particular knowledge or skills, including data selection, employment of technical lexicons, and use of rhetorical structures, then such information should be explicitly taught. Classroom methods must be supported by a strong academic and counseling support structure with the philosophy of valuing all students.[85]

Linked to issues of pedagogy, of course, are issues of our professional models. The dominant law school model is of the adversarial, litigation-oriented lawyer, a model that emphasizes combativeness, winning at all costs, individual effort, and narrowly defined issues. An alternative that may better serve clients and more accurately reflect professional needs, as well as more strongly support the development of critical analytical and psychological skills, is a problem-solving, holistic approach.[86]

The impact of pedagogy on the differential in the experience of law school education for women and minorities cannot be overemphasized. Our core thesis is that the differences in socialization and experience of women and minorities as a group situates them differently in relation to traditional law school teaching methods. But it also should be noted that a shift in pedagogy would benefit traditionally privileged white males as well. Larry Krieger most recently has catalogued the studies that tell us that law school has an overwhelmingly negative impact on the psyche and mental health of many students.[87] That is linked, according to Krieger, to the methods and teaching styles characteristic of legal education. "[C]ore attitudes and beliefs at the foundation of our educational culture would be threatened by an open look at what is going on," according to Krieger.[88] He identifies as suspect several paradigms basic to the classic Socratic, competitive, individualistic, hierarchical emphasis of traditional legal education: "the top ten percent tenet, the contingent worth paradigm," defining success in terms of external trappings of success, and "thinking

84. Berger et al., *supra* note 77.

85. Hunt talks about the necessity of a culture of "wise schooling," which he defines as "a commitment by faculty and administrators to communicate to minority students that they 'see value and promise in [them] and to act accordingly.'" Hunt, *supra* note 76, at 787; *see* Claude M. Steele, *Race and the Schooling of Black Americans*, ATLANTIC MONTHLY, Apr. 1992, at 68, 75. It is critical that support for the particular vulnerabilities faced by minorities and women be recognized and addressed, by incorporation of strategies that value and support all students as well as provide assistance without stigmatizing. *See generally* Darlene C. Goring, *Silent Beneficiaries: Affirmative Action and Gender in Law School Academic Support Programs*, 84 KY. L.J. 941 (1995); Chris K. Iijima, *Separating Support from Betrayal: Examining the Intersections of Racialized Legal Pedagogy, Academic Support, and Subordination*, 33 IND. L. REV. 737 (2000).

86. *See generally* Sturm, *supra* note 79, at 119.

87. Krieger, *supra* note 81, at 112-15.

88. *Id.* at 117.

like a lawyer."[89] He identifies as a core result of traditional legal education that students lose self-confidence and self-esteem, and that fundamental lack of security affects both their well-being and their academic accomplishment.[90]

Gerald Hess similarly documents the negative impact of legal education on students: stress, alienation, depression, and substance abuse.[91] Summarizing several models drawn from the wealth of data on higher education, Hess sets out a list of four models of good learning environments from which he draws eight characteristics of good teaching. The elements are: respect, expectation, support, collaboration, inclusion, engagement, delight, and feedback. Hess provides a wealth of concrete examples of how these elements could be incorporated in law teaching.[92]

One final link is that between methods and substance. Curricula and subject matter within particular course areas deserves our examination. Learning for all students must be contextualized. That is, students learn best about subjects that are interesting, familiar, and relevant to their life experiences. For law school to be relevant to women and people of color, the subject matter, examples, and stories of the law cannot revolve solely around white men. Nor should the law predominantly address the legal concerns of the wealthy, to the exclusion of the interests of middle class Americans or the poor. If legal education is to be meaningful, then it must include what Professor Martha Fineman calls "uncomfortable conversations": challenges to both traditional analysis but also the critiques of traditional analysis; talking about difficult issues and assumptions regarding class, race, ethnicity, and gender; not privileging any perspective by immunizing it from critical consideration and ensuring that all voices in the room are heard and respected.[93]

To the extent legal education focuses on the study of American law, the legal accomplishments of women and people of color should be explicitly included in the curriculum. The contributions of African-American legal scholars and practitioners to the development of constitutional law through the struggle for civil rights is an example of the type of information that should be included in the law school curriculum, but is often overlooked. The importance of the handling of particular topics within courses also

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89. *Id.*

90. *Id.* at 120.

91. Hess, *supra* note 81, at 76-81.

92. *Id.* at 87-110; *see also* Gerald Hess, *Monographs on Teaching and Learning for Legal Education*, 35 GONZ. L. REV. 63 (2000).

93. Fineman has fostered feminist scholarship for twenty years, first at Wisconsin and currently at Cornell, by engaging a multidisciplinary, multigenerational group of scholars in ongoing workshops. She began some years ago to foster workshops that she called "uncomfortable conversations," discourses between those frequently at odds with each other or the focal point of critique, to use differences as a basis for new synergy and pragmatic solutions. *See generally* Martha Albertson Fineman, *Symposium: Contract and Care*, 76 CHI.-KENT L. REV. 1403 (2001).

deserves evaluation. For example, the topic of rape continues to be a challenging one that must be addressed rather than avoided.[94]

Changes in method alone will not resolve race and gender differences. The data that we have presented here suggest that race and gender differences in legal education is a complex problem with many different causes. Thus, pedagogy cannot be our only strategy.

2. Faculty Diversity Training and Study

The differential in experience of women and students of color is linked to their interactions with faculty and other students, and with their perceptions about the fairness of the environment of law school, the classroom, and the evaluation process by which they are graded and ranked. The faculty of the law school and the student body remains predominantly white. Gender predominance, in sheer numbers, has disappeared among the student body, although it remains in the faculty. The hierarchy of the faculty, moreover, remains strongly gendered; nontenure track positions are predominantly female and almost exclusively white, while tenure track faculty are male and somewhat less predominantly white.[95] By seniority and other measures of value, white males still predominate, although the faculty, like the student body, is moving more quickly to integrate by gender than by race.

Race and gender attitudes are powerful in our society.[96] By any marker, both race and gender experiences and attitudes, as well as challenges, remain significantly different. There is no reason to believe that faculty and students in law schools are somehow immune from conscious and

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94. Torrey et al., *supra* note 72, at 304, 308; *see also* Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 CAL. L. REV. 1512 (1991); Steven W. Bender, *Silencing Culture and Culturing Silence: A Comparative Experience of Centrifugal Forces in the Ethnic Studies Curriculum*, 5 MICH. J. RACE & L. 913 (2000); Judith G. Greenberg, *Erasing Race from Legal Education*, 28 U. MICH. J.L. REFORM 51 (1994); Francesco Valdes, *Barely at the Margins: Race and Ethnicity in Legal Education—A Curricular Study with LatCritical Commentary*, 13 LA RAZA L.J. 119 (2002).

95. Nancy Levit, *Keeping Feminism in Its Place: Sex Segregation and the Domestication of Female Academics*, 49 KAN. L. REV. 775, 778 (2001); Deborah Jones Merritt & Barbara F. Reskin, *Sex, Race and Credentials: The Truth about Affirmative Action in Law Faculty Hiring*, 97 COLUM. L. REV. 199, 259 (1997); *see generally* Okianer Christian Dark, *Just My 'Magination*, 10 HARV. BLACKLETTER L.J. 21 (1993); Deborah J. Merritt & Barbara F. Reskin, *The Double Minority: Empirical Evidence of a Double Standard in Law School Hiring of Minority Women*, 65 S. CAL. L. REV. 2299 (1992).

96. *See generally* PATRICIA WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS (1991); CORNEL WEST, RACE MATTERS (1993); Jerome McCristal Culp, Jr., *Water Buffalo and Diversity: Naming Names and Reclaiming the Racial Discourse*, 26 CONN. L. REV. 209 (1993); Robert L. Hayman Jr. & Nancy Levit, *Thinking Critically About Equality: Government Can Make Us Equal*, 4 HARV. LATINO L. REV. 67, 72 (2000); Charles R. Lawrence, III, *The Id, the Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

unconscious racism and sexism, and one might expect that those who have operated in segregated or dominantly single race or gendered environments might be least able to confront and deal with their own attitudes and experiences. In our survey, we did not measure the race and gender experience of our students, but the Harvard and Michigan diversity surveys did, and the differential was striking.[97] There were significant differences with respect to within-race and cross-race experiences; whites rarely have experienced being even a numerical minority and even less so a cultural or political minority.[98] In other surveys, respondents noted differentials in participation and treatment by faculty that indicate that methodology or pedagogy is not the issue, but rather the signals consciously or unconsciously conveyed of the value of students.[99]

All of this would suggest that faculty would benefit from diversity training and study, to unearth both conscious and unconscious prejudices that serve as barriers to their students. One example of this type of training might be that done by Peggy McIntosh, the author of an influential piece on racial privilege.[100] Another model would be to expand on workshops and training to combat sexual harassment, both to include race and sexual harassment, but also to explore critical issues beyond what might be labeled harassment but which nevertheless interfere with the learning opportunities of women and minorities.[101] The premise of faculty training is simple acknowledgment of the presence of biases as well as the desire to teach to all the students in the room. That premise is a volatile and challenging place to reach. We are not optimistic that many faculties will take on this goal as a group. Our pessimism is grounded in the lack of response to the data that have come before our survey. Denial is strong, protective, and defended. During the University of Florida survey process, one student provided an example of faculty resistance. One professor, when confronted by students about the harshness of his teaching methods and the discomfort felt in his class, particularly by women, responded, "It's tough out there; I'm doing you a favor treating you harshly." Such self-justification serves as justification to reject self-analysis. Nevertheless, despite our pessimism, it is clear that faculty training is a strategy that is essential, whether it is done individually, in small groups, or, most ideally, as an entire faculty.

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97. Orfield & Whitla, *supra* note 57.

98. *Id.*

99. Berger et al., *supra* note 77.

100. PEGGY MACINTOSH, WHITE PRIVILEGE: UNPACKING THE INVISIBLE KNAPSACK (Working Paper No. 189, 1990) (describing workshop project, funded by proceeds from her article on race and gender privilege).

101. *See generally* Lisa A. Wilson & David H. Taylor, *Surveying Gender Bias at One Midwestern Law School*, 9 AM. U. J. GENDER SOC. POL'Y & L. 251 (2001).

Diversity training for lawyers who will serve a diverse clientele is equally essential. One could begin by building from the core valuing of diversity so strongly expressed by students, to considering the challenges of serving diverse clients.[102] Orientation is the place where acculturation begins and should express the value of diversity and the challenges of diversity as core values. In addition, mentoring is a means to support all students.[103] Finally, to the extent that faculty fail to take on the project of embracing the challenges of diversity and their own conscious and unconscious attitudes, students must be given the knowledge and tools to deal with the presence of biases among their colleagues and the faculty, and suggestions for confronting and dealing with such issues in the profession as well.

3. Faculty Composition and Culture

Diversity in the faculty, and a commitment to long-term development of diversity, is essential to achieving equality of opportunity for racial and ethnic minorities and women.[104] Minority and female faculty are essential as role models and bring greater diversity in pedagogy and perspectives in the classroom. The survey clearly reflects this perception.

The straightforward goal of attaining a diverse faculty continues to be difficult; that difficulty needs to be carefully examined. Because of relatively low turnover, the composition of applicant pools, and the criteria associated with academic qualifications, this remains a long-term goal that requires constant monitoring and self-conscious effort. Just as law school

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102. *See, e.g.*, Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G*, 38 BUFF. L. REV. 1 (1990). Clinical faculty in particular have long argued the importance of learning skills of interviewing, counseling, mediation, negotiation, and litigation. In addition, skills training requires effective communication and psychological skills that include talking and responding across gender, race, and ethnic lines. *See* Pearl Goldman & Leslie Larkin Cooney, *Therapeutic Jurisprudence/Preventative Law and Law Teaching: Beyond Core Skills and Values: Integrating Therapeutic Jurisprudence and Preventive Law into the Law School Curriculum*, 5 PSYCHOL. PUB. POL. & L. 1123 (1999); Marjorie A. Silver, *Therapeutic Jurisprudence/Preventative Law and Law Teaching: Emotional Intelligence and Legal Education*, 5 PSYCHOL. PUB. POL. & L. 1173 (1999).

103. Guinier, *supra* note 79.

104. *See, e.g.*, Heather A Carlson, *Faculty Mentoring as a Way to End the Alienation of Women in Legal Education*, 18 B.C. THIRD WORLD L.J. 317 (1998) (reviewing LANI GUINIER ET AL., BECOMING GENTLEMAN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE (1997)). Carlson emphasizes the authors' points about the importance of women faculty as mentors for students and increasing the comfort of women and minority students in law school culture. Greater faculty hiring is also critical for retention of faculty who are currently represented only in token numbers. *See generally id.* Morrison Torrey, Jennifer Ries, and Elaine Spilopoulos also note the importance of increasing faculty diversity as a long-term goal, although the focus of their article is on strategies within the existing construct of legal education. *See* Torrey et al., *supra* note 72; *see generally* Merritt & Reskin, *supra* note 95.

admissions has been a site of struggle, so too the hiring and retention of women and minorities to the tenure track faculty has continued to be a struggle.[105]

There are at least two different stories that might be told about the reason for the slow process in diversifying the faculty. One story is that allegedly "objective, neutral" criteria for selection and evaluation are anything but objective and neutral. The criteria change or the value attached to evaluation change when outsiders are evaluated. Qualifications increase; previously valued institutions, evaluators, and even grades are discounted or disbelieved. Qualitative, nonacademic factors like collegiality or the perception of a presentation evidencing a lack of teaching or research capability are used to disqualify a candidate, although they are not evenly applied nor cogently articulated as a standard to which all candidates will be held. This scenario makes it impossible for minorities and women to succeed even if they meet the standards imposed, however much those standards might change as they come to the door to be evaluated.

The alternative story, however, is that this has nothing to do with race or gender. Rather, changes in qualifications or evaluation reflect a school's advancement up the ladder to becoming a "better" school. More senior faculty acknowledge that they would not have been hired under current standards, because those standards have far exceeded prior expectations. Because of the school's advancing reputation and quality, reliance on outside experts, even well-known scholars, is less necessary, so reliance on inside expertise, even if it contradicts well-known scholars, can be explained as recognition of the value of one's own colleagues and a rejection of the elitism of the academy. Finally, differentials in the evaluation of presentations or interviews are explained as the inevitable result of the latitude allowed faculty to evaluate each other, and thus collegiality is invoked to respect differences and reject the idea that colleagues might be acting from other motives. Alternatively, if the faculty is split among factions, differentials are explained as factional fights, not as reflections of race, ethnic, or gender bias.

One might argue that regardless of motive, one should simply look at the patterns and the bottom line. In addition, faculty diversity needs to be defined, so that one can measure the patterns and bottom line against an articulated goal. For a long time, minorities and women were so uncommon in the academy that the goal was simply to add "any" or "some." Indeed, some faculties arguably still have not attained that goal and some may not be able to sustain it. But beyond tokenism is real diversity, and for many law faculties, diversity is ill-defined. The lack of clear articulation may generate some invisible but understood limitations, much like the understood limit faced by Derrick Bell's fictional Geneva

105. *See supra* note 95.

Crenshaw in the *Chronicle of the Divine Gift*. In Bell's story, Crenshaw, a member of an elite law school, is given the resources to find and recruit outstanding minority faculty, but when she is too successful and passes some faculty tipping point, she is told to stop her efforts.[106]

A second part of faculty diversity is faculty culture. As with admissions, creating a diverse faculty by hiring is a form of formal equality; it is the culture of the faculty, its support for all faculty, that makes for meaningful diversity. Several components might be considered as factors that contribute to faculty diversity. The same attitudinal issues that affect classroom culture also affect faculty culture, which includes both formal and informal interaction, mentoring, and evaluation. Valuing scholarship and supporting innovative scholarship are important to minorities and women, because some of the most critical scholarship has come from historic outsiders. It is also well documented that minorities and women shoulder a disproportionate service burden, which has an impact on their ability to achieve scholarship expectations.

In addition to tenure track faculty, the structure and composition of the entire teaching staff and administrators must be evaluated. There are well-known "ghettos" in law teaching, predominantly staffed by women.[107] The perpetuation of those patterns sends clear messages of expectations to both students and faculty. By the same token, law school administration, particularly at the top of the hierarchy, has been predominantly white male. At most law schools, a female dean or a dean of color is still a "first," and particular associate or assistant deans are predictably male or female and remain predominantly white.[108] Law schools in this respect arguably are far behind the composition of their student bodies as well as the changing composition of law practice and the leadership of bar associations.[109]

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106. In the story, the fictional Geneva Crenshaw is visited by the law dean at the fictional elite law school when her recruitment of minority faculty is approaching 25% of the faculty. "We do appreciate your recruitment efforts, Geneva, but a law school of our caliber and tradition simply cannot look like a professional basketball team." Derrick Bell, *The Civil Rights Chronicles*, 99 HARV. L. REV. 4, 42 (1985); *see also* DERRICK BELL, FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM (1992).

107. *See* Marina Angel, *Women in Legal Education: What It's Like to Be a Part of the Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMP. L. REV. 799, 804 (1988). "Law Schools have created a new caste system, and the lowest caste is comprised of women." *Id.*

108. Harvard Law School, for example, has just appointed its first female dean. Sam Dillon, *First Woman Is Appointed as Dean of Harvard Law*, N.Y. TIMES, Apr. 4, 2003, at A18.

109. Faculty and administrative composition do not reflect the proportionate changes in students. *See* Mary L. Clark, *The Founding of the Washington College of Law: The First Law School Established by Women for Women*, 47 AM. U. L. REV. 613, 615 (1998); *see generally* Elizabeth Chambliss, *Organizational Detriments of Law Firm Integration*, 46 AM. U. L. REV. 669 (1997) (top positions at elite firms still not accessible to women & minorities); Hunt, *supra* note 76; Johnson, *supra* note 41; Merritt & Reskin, *supra* note 95; Lateef Mtima, *The Road to the Bench: Not Even Good (Subliminal) Intentions*, 8 U. CHI. L. SCH. ROUNDTABLE 135 (2001);

4. Top-Down and Bottom-Up Leadership

Achieving equality in legal education requires both top-down and bottom-up leadership. Top-down leadership means that deans and senior faculty must embrace the task of achieving meaningful equality and, within the scope of their power generated by their position, take steps to value and support efforts to ensure true equality in legal education and meaningful legal education for all. Leaders must pay attention to what they value to what hierarchies they endorse, to the expectations they set for those who look to them for leadership, and to the reward structure of the culture they lead.[110]

Bottom-up leadership means that a true change in culture cannot be imposed, it must be embraced. The strong message of this survey is that most students embrace the value of diversity and would support the strengthening of the benefits of diversity. The message of other surveys about the impact of current legal education structures and pedagogies is that continuing negative impacts will dissuade bottom-up leadership and contribute to negative outcomes in the profession. A shift to egalitarian goals will benefit not only those historically outsiders but also the historically privileged.

V. CONCLUSION

The race and gender survey of students at the University of Florida Levin College of Law supports much of the data collected in prior surveys that substantiates the inequality in educational experience of minorities and women in legal education. Rather than more surveys, we should focus on strategies for change. Broader patterns of dissatisfaction and negative outcomes of existing models of legal education tell us that strategies that include historical outsiders can lead to more meaningful and successful professional education for all.

Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools' Dirty Little Secrets*, 16 BERKELEY WOMEN'S L.J. 1 (2001).

110. *See generally* Harris, *supra* note 30; Martha Mahoney, *Whiteness and Remedy: Under-Ruling Civil Rights in* Walker v. City Mesquite, 85 CORNELL L. REV. 1309 (2000); Patricia J. Williams, *Essay: Spare Parts, Family Values, Old Children, Cheap*, 28 NEW ENG. L. REV. 913 (1994).

Appendix: Levin College of Law: Race and Gender Experience Survey

Gender: ☐ Female ☐ Male

Race: ☐ White ☐ Black ☐ American ☐ Asian/Pacific Indian/Alaskan ☐ Other Islander

Ethnicity: ☐ Hispanic ☐ Non-Hispanic

Semester in Law School: ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 or more

1. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I am comfortable with my level of voluntary participation in class.	☐ SA	☐ A	☐ N	☐ D	☐ SD
My peers respect what I have to say in class.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I am comfortable talking with my professors.	☐ SA	☐ A	☐ N	☐ D	☐ SD
There have been questions or discussions in class that made me feel uncomfortable or which I thought were inappropriate.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel that a student's gender affects the way students are treated in the classroom.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel that a student's race/ethnicity affects the way students are treated in the classroom.	☐ SA	☐ A	☐ N	☐ D	☐ SD

I am concerned that knowledge of my gender may consciously or unconsciously influence professors' grading.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I am concerned that knowledge of my race/ethnicity may consciously or unconsciously influence professors' grading.	☐ SA	☐ A	☐ N	☐ D	☐ SD
2. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I am more likely to speak in a class taught by a female professor.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I am more likely to speak in a class taught by a male professor.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel more comfortable with a female professor's approach to teaching.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel more comfortable with a male professor's approach to teaching.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Outside of the classroom, I am more comfortable with professors of my gender.	☐ SA	☐ A	☐ N	☐ D	☐ SD

Outside of the classroom, I am more comfortable with professors of a different gender.	☐ SA	☐ A	☐ N	☐ D	☐ SD
There are enough female professors at the law school to provide me with sufficient role models in the field of law.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I believe many students come to the Levin College of Law expecting a competent law professor to be male.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel that the present composition of the faculty, in terms of gender, limits my perspective on legal issues.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Student organizations and activities are important to me.	☐ SA	☐ A	☐ N	☐ D	☐ SD
The gender mix in student organizations is representative of the student body at the Levin College of Law.	☐ SA	☐ A	☐ N	☐ D	☐ SD
The gender mix in student leadership positions is representative of the student body at the Levin College of Law.	☐ SA	☐ A	☐ N	☐ D	☐ SD

3. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I am more likely to speak in a class taught by a professor who is a member of my ethnic or racial group.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I am more likely to speak in a class taught by a professor who is a member of a different ethnic or racial group.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel more comfortable with a professor of my ethnic or racial group approach to teaching.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel more comfortable with a professor of a different ethnic or racial group approach to teaching.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Outside of the classroom, I am more comfortable with professors of my ethnic or racial group.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Outside of the classroom, I am more comfortable with professors of a different ethnic or racial group.	☐ SA	☐ A	☐ N	☐ D	☐ SD

There are enough professors at the law school who are members of an ethnic or racial minority to provide me with sufficient role models in the field of law.	☐ SA	☐ A	☐ N	☐ D	☐ SD
There are enough professors of my race/ethnicity at the law school to provide me with sufficient role models in the field of law.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I believe many students come to the Levin College of Law expecting a competent law professor to be white.	☐ SA	☐ A	☐ N	☐ D	☐ SD
I feel that the present composition of the faculty, in terms of race/ethnicity, limits my perspective on legal issues.	☐ SA	☐ A	☐ N	☐ D	☐ SD
The ethnic and racial mix in student organizations is representative of the student body at the Levin College of Law.	☐ SA	☐ A	☐ N	☐ D	☐ SD
The ethnic and racial mix in student leadership positions is representative of the student body at the Levin College of Law.	☐ SA	☐ A	☐ N	☐ D	☐ SD

4. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Racial and ethnic diversity enhances how students think about problems and solutions in class.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Racial and ethnic diversity enhances my ability to work effectively.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Racial and ethnic diversity enhances my ability to get along better with members of other races.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Racial and ethnic diversity detracts from the range of class discussion.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Racial and ethnic diversity lowers the level of intellectual challenge in the class.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Racial and ethnic diversity impairs the way alternative points of view are considered.	☐ SA	☐ A	☐ N	☐ D	☐ SD
5. How strongly do you agree or disagree with the following statements?	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Gender diversity enhances how students think about problems and solutions in class.	☐ SA	☐ A	☐ N	☐ D	☐ SD

Gender diversity enhances my ability to work effectively.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Gender diversity enhances my ability to get along better with members of other genders.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Gender diversity detracts from the range of class discussion.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Gender diversity lowers the level of intellectual challenge in the class.	☐ SA	☐ A	☐ N	☐ D	☐ SD
Gender diversity impairs the way alternative points of view are considered.	☐ SA	☐ A	☐ N	☐ D	☐ SD

6. Assuming a class was proportionately distributed among racial and ethnic groups present at the law school, which race:

	Whites	Blacks	Asians	Hispanics	No Difference
Asks more questions?	☐	☐	☐	☐	☐
Volunteers more answers?	☐	☐	☐	☐	☐
Gets called on more frequently?	☐	☐	☐	☐	☐
Receives more class time?	☐	☐	☐	☐	☐
Gets asked more difficult questions?	☐	☐	☐	☐	☐

Receives more tolerance from students with respect to in-class comments?	☐	☐	☐	☐	☐

7. Assuming a class was proportionately distributed as to gender, which gender:

	Females	Males	No Difference
Asks more questions?	☐	☐	☐
Volunteers more answers?	☐	☐	☐
Gets called on more frequently?	☐	☐	☐
Receives more class time?	☐	☐	☐
Gets asked more difficult questions?	☐	☐	☐
Receives more tolerance from students with respect to in-class comments?	☐	☐	☐

We welcome your additional comments below (and you may continue on the reverse side), and thank you for your participation in this important survey.

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