Developments

US Supreme Court Rules on Affirmative Action in Admission in Fisher v. University of Texas at Austin et al. – Abigail Fisher sued the University of Texas at Austin alleging that UT’s use of race as a factor in admissions decisions was unconstitutional. The lower courts dismissed her claim citing the US Supreme Court’s 2003 ruling in Grutter v. Bollinger that allowed the use of race as one factor among many “plus” factors in admissions practices that consider the overall contributions of each individual applicant. On June 24, 2013 the US Supreme Court ruled that while colleges and universities were entitled to deference in making admissions decisions, the use of race as a factor is subject to “strict scrutiny.” This decision does not impact Penn’s admissions practices and policies; however the University continues to follow the case closely. See http://www.supremecourt.gov/opinions/12pdf/11-345_l5gm.pdf). The amicus brief signed by the University is available at http://www.utexas.edu/vp/irla/Documents/ACR%20Brown%20University%20et%20al.pdf.

US Supreme Court Rules on Workplace Harassment in Vance v. Ball State University, et al. – An African American female employee sued her employer, Ball State University, alleging that a co-worker had created a racially hostile work environment in violation of Title VII of the Civil Rights Act of 1964. The US Supreme Court affirmed its earlier rulings that employers are only liable for the discriminatory actions of co-workers if they are negligent in controlling working conditions. For purposes of invoking liability under Title VII, the Court said that a “supervisor” must be “empowered by the employer to take significant employment action against the person making the complaint. Penn’s Principles of Responsible Conduct (including the Respectful Workplace and Sexual Harassment Policies) outline the University’s expectations for supervisors and co-workers. See http://www.supremecourt.gov/opinions/12pdf/11-556_11o2.pdf).

US Supreme Court Rules the Defense of Marriage Act Unconstitutional in US v. Windsor – Edith Windsor married her partner in Canada in 2007 and their marriage was recognized by the State of New York. When her partner died, Ms. Windsor sought a refund of federal estate taxes based on an exemption allowed for surviving spouses. The IRS denied her claim citing the Defense of Marriage Act (DOMA). Ms. Windsor’s claim was successful in the lower courts which ruled that DOMA was unconstitutional and ordered the IRS to issue a refund. The Supreme Court affirmed the decision of the lower courts noting that “by history and tradition the definition and regulation of marriage has been treated as being within the authority and realm of the separate States.” Penn Law Professor Roosevelt Kermit said the Court’s decision “did not impose same-sex marriage on anyone; no couple that could not legally marry yesterday can do so today as a result of that decision. It merely required the federal government to recognize marriages valid under state law.” As a result of the decision, the US Department of Labor issued guidance confirming that the FMLA extends coverage to married same-sex couples in jurisdictions that recognize same-sex marriages in the same manner as for married heterosexual couples. See http://www.dol.gov/whd/regs/compliance/whdfs28f.pdf

US Supreme Court Rules on Voting Rights Law Shelby County, Alabama v. Holder – The Supreme Court’s ruled that Section 5 of the Voting Rights Act, which required states and municipalities with a history of racial discrimination to seek “pre-clearance” from the federal government prior to changing voting procedures, to be unconstitutional. See: http://www.supremecourt.gov/opinions/12pdf/96_6k47.pdf
Title IX of the Educational Amendments Act of 1972

Title IX provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.” Title IX provides for a number of exemptions from its coverage, including admission to fraternities and sororities. Title IX is most widely known for increasing participation in athletics for women and girls; however, the law also applied to other aspects of campus life, including admissions, healthcare, housing and other services and resources offered by the University and prohibiting sexual harassment. As a recipient of federal funds, Penn is subject to the provisions of Title IX and has designated Sam Starks, Executive Director of OAA/EOP, as its Title IX Officer. For additional information about Title IX in particular or sex discrimination in general, please contact the Office of Action and Equal Opportunity Programs at (215) 898-6993.

The Violence Against Women Reauthorization Act

On March 7, 2013 President Obama signed the reauthorization of the Violence Against Women Act (VAWA), which expands protections for victims of domestic abuse and sexual assault (see http://www.ovw.usdoj.gov/). The renewal of the 1994 legislation, championed by Vice President Biden (who also sponsored the original legislation), makes it easier to prosecute crimes against women, including domestic violence, sexual assault and trafficking. The Act also extends protections to gays and lesbians and women. VAWA also imposes new obligations and clarified existing requirements that colleges and universities report domestic or dating violence and stalking; adopt student discipline procedures; and adopt policies to prevent campus sexual violence. The University’s Sexual Violence and Sexual Harassment policies provide guidance and additional information is available from the Offices of Affirmative Action, Human Resources, Provost, Special Support Services and the Penn Women’s Center.

Penn Increases Yellow Ribbon Contributions

The Yellow Ribbon Program is a provision of the Post-9/11 Veterans Educational Assistance Act of 2008 (see www.gibill.va.gov). The Veterans Administration funds the tuition expenses for eligible veterans. The University recently increased the total number of spaces for veterans participating in the Yellow Ribbon program from 164 to 187. For additional information about the program, please see http://www.upenn.edu/registrar/yellow-ribbon.html or send email inquiries to vetsfs@exchange.upenn.edu.

Philadelphia Passes LGBT Rights Ordinance

On May 9, 2013, Philadelphia Mayor Nutter signed into law an ordinance “focused on strengthening and expanding lesbian, gay, bisexual and transgender rights” (http://cityofphiladelphia.wordpress.com/2013/05/10/mayor-nutter-signs-bill-on-lgbt-rights/). Among other things, the bill offers the first “Equality Tax Credit” in the nation for employers who offer health benefits to same-sex partners, life partners, and transgender employees. It also provides for gender neutrality in certain City forms and websites; access to public accommodations based upon an individual’s gender identity; gender neutral restrooms in City-controlled buildings; the right to dress consistently with one’s gender identity; and ensures the right of transgender individuals to request name and gender changes on pertinent records. This bill brings the City into line with many of the policies already in existence at Penn, including the availability of gender neutral housing and restrooms, same-sex partner health benefits, and the inclusion of gender identity in the University’s Equal Opportunity Policy (http://www.upenn.edu/almanac/volumes/v55/n18/aapolicy.html).
The Office of Affirmative Action & Equal Opportunity Programs:

On October 12, 1971 the University submitted its first Affirmative Action Plan for increasing the representation of women and people of color on its faculty and staff. This plan was created by the University’s then Personnel Office and its Equal Opportunity Office. Though Penn had long maintained a policy against discrimination, by July 1974, compliance reporting and grievance procedures for faculty and staff were formally organized under the Office of Equal Opportunity — the precursor to the Office of Affirmative Action and Equal Opportunity Programs. As issues related to equality, social change, and discrimination have changed dramatically, these changes have necessitated that the OAA/EOP take on an ever-evolving role in accordance with new policies and legislation. In looking back at the history of affirmative action at Penn, specific focal points have changed from year to year, but the core goal of ensuring equality remain the same.

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<th>40 Years of Leadership at OAA/EOP</th>
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<tr>
<td>James H. Robinson, 1971-1980</td>
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<td>David Hopkins Ramey, 1980-1985</td>
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<td>Harold “Hask” Haskins, 1985-1986</td>
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<td>Joann Mitchell, 1986-1993</td>
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<td>Sharon Moorer Aylor, 1993-1995</td>
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<td>Valerie Hayes, 1997-2004</td>
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<td>Jeanne Arnold, 2004-2007</td>
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<td>Sam Starks, 2010—present</td>
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Unconscious Bias: Bias By Any Other Name by Ralph De Lucia

The nature of discrimination today is dramatically different from the overt discrimination that existed when the Civil Rights Act of 1964 was passed. While advocates of the 1964 Civil Rights Act championed the need to protect minorities and women from intentional discrimination that limited their employment opportunities, the discrimination that civil rights advocates are challenging today is of a more subtle nature. This discrimination originates in deeply rooted in stereotypes as well as implicit and explicit negative messages about people based on race, gender, sexual orientation, religion, disability, or other protected class statuses and results in unconscious thoughts that distort the way we view and/or treat other people. The result of this unconscious bias has worked to the systematic disadvantage of women, people of color and others in protected classes.

Unconscious biases also stem from opinions and judgments that are based on stereotypes, which may originate in the media or popular culture. Despite the ubiquitous nature of prejudice and the lack of any ready roadmap for undoing discrimination, history shows us that attitudes and beliefs can change. The first step in addressing unconscious biases is to acknowledge our own biases and to work to overcome them. Widening one’s circle of friends and learning about the histories and experiences of other groups is another way to reduce our own biases and to ensure that they do not inadvertently effect our interactions with or judgments about other people. On campus, we can work to ameliorate hidden attitudes before they are expressed through behavior by paying attention to language, explicit and implicit messages and body language, and other behaviors and the impact it has on other people. In 2006, the Provost’s Office commissioned a memorandum on racial and gender bias in the workplace that provides insights and links to research on the impact of bias on people of color and women (please see, http://provost.upenn.edu/uploads/media_items/gender-racial-bias.original.pdf).
**The Civil Rights Act of 1964**

Enacted on July 2, 1964, The Civil Rights Act of 1964 is a landmark US law that prohibits employment discrimination based on race, color sex, religion, and national origin. Next year will be the 50th anniversary of the passage of what was then a revolutionary piece of legislation. This federal legislation was the model for state and local laws that prohibit employment discrimination. To learn more, visit: http://www.eeoc.gov/laws/statutes/titlevii.cfm or http://www.archives.gov/education/lessons/civil-rights-act.

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**Definitions of Family among Women of Color: Past, Present, and Future Definitions**

**FRIDAY, NOVEMBER 1, 2013**

- **Time:** 9:00 a.m. until 3:00 p.m.
- **Location:** Irvine Auditorium (34th and Spruce Streets)
- **Cost:** 10.00 (includes lunch)
- **Information:** AARC at 215-898-0104

http://www.upenn.edu/aarc/wocap/events.html

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**Introducing**

**Eve J. Higginbotham, MD**

Vice Dean for Diversity and Inclusion at PSOM

Dr. Eve J. Higginbotham has been named the first vice dean for diversity and inclusion at Penn’s the Perelman School of Medicine. And Professor of Ophthalmology. Her appointment was effective on August 1, 2013. Previously, Dr. Higginbotham held numerous academic leadership roles, including senior vice president and executive dean for health sciences at Howard University and dean and senior vice president for academic affairs at Morehouse School of Medicine in Atlanta. See more at: http://www.upenn.edu/almanac/volumes/v60/n01/higginbotham.html
**TIMELINE:**

**TITLE IX**

**June 23, 1972** - Title IX of the Education Amendments bans sex discrimination in schools. It states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance."

**1974** - The U.S. Senate passes, but the House fails to pass, an amendment that would exclude revenue-producing sports from Title IX.

**1975** - Original date schools were given to comply with Title IX protocol. Schools would have three years from this date to get their programs up to speed with the regulatory provisions outlined in Title IX.

**1978** - The Department of Health, Education and Welfare provides final guidelines for schools; outlines three-prong test for Title IX compliance. Formal regulation of Title IX begins.

**October 29, 2002** — Upon the death of Congresswoman Patsy Mink, one of the original sponsors of Title IX, the legislation was named in her honor — The Patsy T. Mink Equal Opportunity in Education Act.

**April 2011** - The U.S. Department of Education issues a “Dear Colleague” letter to thousands of federally funded educational institutions with guidelines on how to proactively combat occurrences of sexual violence, sexual harassment and bullying.

**September 2011** - The U.S. Government implements its repeal of “Don’t ask, don’t tell” which allows gay and lesbian citizens to serve openly in the military.

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**Upcoming Events**


The Caroline Zelaznik & Joseph S. Gruss Lecture in Talmudic Civil Law by Professor Chaim Saiman, Gruss Professor of Talmudic Law at Penn Law & Professor of Law at Villanova Law School, October 15, 2013 5:30 p.m., Bernard Segal Moot Court Room (Silverman Hall, Room 245A) [https://www.law.upenn.edu/newsevents/calendar.php#event_id/46767/view/event](https://www.law.upenn.edu/newsevents/calendar.php#event_id/46767/view/event).

**Women in the Civil War**, October 26, 2013, 2:00 p.m. to 3:30 p.m., Penn Museum (3260 South Street) [http://www.penn.museum/events-calendar/details/1117-civil-war-women.html](http://www.penn.museum/events-calendar/details/1117-civil-war-women.html).

GSE’s Race in the Academy Series presents: Dr. Grace Kao: Social Exclusion of Immigrant Youth: Are Asian Males Especially Vulnerable? November 5, 2013, 5:30 p.m. until 6:30 p.m. Terrace Room • Cohen Hall

**Penn Humanities Forum: Inequality and Violence, Lars-Erik Cederman**, Professor of International Conflict Research, ETH Zürich; November 13, 2013, 5:00 p.m. until 6:30 p.m., Class of 1978 Pavilion, 6th Floor, Van Pelt Library.

**It’s Complicated: The Relationship Between Native Americans and Museums** — Reflections about finding balance between educating others and ourselves about Native communities via museum collections and supporting the federal Native American Graves Protection and Repatriation Act on the other. The Native American Voices exhibit at the Penn Museum opens in March 2014...

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**Introducing**

**Nancy C Tkacs, PhD, RN**  
Associate Professor of Nursing and Assistant Dean for Diversity and Cultural Affairs

Penn Nursing's Office of Diversity and Cultural Affairs supports the advancement, development, translation, and integration of culturally sensitive knowledge into nursing science, education, and practice. Penn Nursing promotes a climate that attracts, retains, and promotes a critical mass of faculty, students, and staff from underrepresented populations.