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Change from Within: Using Task Forces and Best Practices to Achieve Gender Equity for University Faculty

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I. INTRODUCTION

This article will focus on the search for gender equity among women faculty in the university setting. It stems in part from my recent work on behalf of a gender equity task force formed by the Saint Louis University Faculty Senate. It also reflects results of my research on best practices to advance the status of women faculty that have been developed over the past two decades by gender equity task forces at other U.S. universities, by professional organizations representing university faculty and senior administrators, and by academic researchers. Through this research, I have learned that gender equity among faculty has not yet been achieved within U.S. universities and remains a distant goal for many professors.

In this article, I advocate for the use of university task forces and the institutionalization of best practices for achieving gender equity as means to remove the persistent barriers to professional advancement experienced by many women faculty. My thesis is that use of such task forces and best practices are helpful tools for higher education institutions seeking to uncover and begin to address gender inequities in faculty employment. Discriminatory treatment of faculty based on gender may be hidden and remain unacknowledged in some universities. For this reason, the process of uncovering such treatment and formulating recommendations for change is an important first step in the process of creating a work environment that is both fair and inviting to women.

Many universities have achieved positive outcomes for faculty through the use of gender equity task forces and the implementation of best practices. Such an approach has the advantage of being collaborative and non-confrontational and encourages change in a positive manner. It also has the potential to benefit a wider group of women in a more targeted fashion than alternative approaches to seeking gender equity in the university, such as through the use of government agency proceedings and litigation.

Both state and federal laws prohibit discrimination on the basis of gender in employment in the university setting. Some examples of federal laws include Title VII of the Civil Rights Act of 1964[1] and Title IX of the Education Amendments of 1972.[2] Most states also have laws prohibiting discrimination in employment.[3] For example, the Missouri Human Rights Act prohibits discrimination based on sex, race, religion, national origin, ancestry, sex, disability or age.[4] Some university faculty members have sought redress for claims of gender discrimination in such areas as unfair pay, tenure and promotion denials, and pregnancy discrimination through litigation in federal and state courts or through proceedings in federal and state government agencies, such as the Equal Employment Opportunity Commission or state Human Rights Commissions. Such litigation does not always succeed and even if it does, it only benefits the individuals or small groups of persons making such claims.[5]

While I recognize that some strides that have been made through government agency proceedings and litigation for women seeking to

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1. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (1964).

2. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (2013).

3. *See* State Laws on Employment-Related Discrimination, NATIONAL CONFERENCE OF STATE LEGISLATURES, http://www.ncsl.org/research/labor-and-employment/discrimination-employment.aspx (last visited July 19, 2018).

4. MO. REV. STAT. § 213.055 (2016); *see also* Discrimination in Employment, DEP'T OF LABOR AND INDUS. RELATIONS, https://labor.mo.gov/mohumanrights/Discrimination/employment (last visited July 19, 2018).

5. *See*, *e.g.*, Colleen Flaherty, *Denied Tenure for Being a Woman?*, INSIDE HIGHER ED (Sep. 20, 2016), https://www.insidehighered.com/news/2016/09/20/jury-finds-saint-louis-u-denied-tenure-female-professor-based-her-gender#.V-V15Wbp9Js.gmail; Joel Currier, *Former SLU Professor Wins $367,000 Sex Discrimination Suit Against University*, ST. LOUIS POST DISPATCH (Sept. 17, 2016), http://www.stltoday.com/news/local/crime-and-courts/former-slu-professor-wins-sex-discrimination-suit-against-university/article_cbbb643e-93b8-5ed8-810e-662ab5d8af9a.html; Press Release, U.S. Equal Emp't Opportunity Comm'n, Chapman University Settles EEOC Sex Discrimination Case for $175,000, (June 6, 2012), https://www.eeoc.gov/eeoc/newsroom/release/6-6-12b.cfm.

challenge the status quo of gender inequity, I have concluded that a different approach is needed within universities, where gender inequity is often endemic. Many women will not bring a lawsuit because they do not want to sue their employers for fear of being seen as troublemakers and losing their jobs. While litigation may advance the interests and improve the work situation for some women, it often results in only incremental gains and not sweeping changes. In spite of some successes in gender discrimination litigation involving universities,[6] gender equity has not been achieved for a wide swath of the population of female university professors. Pursuing gender equity through a more broad-based strategy holds the promise of an alternative approach that has wider impact and can be used to supplement a litigation approach.

This article will focus on mechanisms for institutional change instead of litigated cases alleging gender discrimination. My goal in this article is to propose a model structure and process for gender equity task forces based on observed practice at universities that have successfully navigated through these waters, as well as to identify and to analyze emerging best practices for supporting women faculty in their employment. I have utilized elements of this model structure and process in my own work on a task force on my campus and have advocated for changes that follow best practices. However, when I embarked on an investigation into the status of women faculty at my university, I did not have a readily available source of guidance on the issues treated in this article. My hope is that this article will fill what I perceive as a gap in the literature on the employment status of female faculty in U.S. universities and will prove useful to others seeking to mainstream gender issues within their institutional structures.

This article will be structured as follows: Section II will examine trends in employment of women faculty in U.S. universities. Through the use of gender equity indicators, I will document the existence of faculty gender inequity in academia. Section III will explore some possible explanations for why such inequities exist and persist over time. Section IV will propose several reasons that such gender inequities should be eliminated. Section V will critically examine the use of university task forces to uncover and examine gender inequity among faculty and to make recommendations for structural changes. It will also propose a

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6. *See Legal Advocacy Fund Cases*, AM. ASS'N OF UNIV. WOMEN, http://www.aauw.org/what-we-do/legal-resources/strategic-case-support/laf-cases/ (last visited July 19, 2018).

model framework for a successful task force. Section VI identifies key areas of concern for women often noted by such gender equity task forces and analyzes best practices that have emerged to address such concerns. Section VII will conclude with some thoughts on additional steps necessary to advance faculty gender equity on university campuses.

It is important to note that this article addresses only part of the process that is needed, namely investigation and formulation of recommendations by a gender equity task force. Further steps are required to implement such recommendations and to monitor progress towards achieving equitable treatment on an ongoing basis. These next steps usually involve changes to institutional policies, practices, and structures, including establishment of accountability mechanisms. Such mechanisms include the use of permanent committees on the status of women faculty, diversity officers at the central administration level, and university offices of the ombuds, and involve the ongoing support and cooperation of university administrators. Such next steps are not treated in this article.

A note on coverage and terminology: This article focuses only on women faculty in U.S. universities. The term "university" is used to refer to post-secondary educational institutions, including those granting associates, bachelors, masters, and doctoral degrees. Although there may be similar developments occurring at universities in other countries, this article does not address such developments or take a comparative approach. This article focuses primarily on full-time faculty and does not fully address all of the significant status issues experienced by part-time and adjunct faculty. It should be recognized that staff and students in U.S. universities may also experience discrimination based on their gender and their gender identities. There are serious issues facing these groups that are not discussed in this article but that should be addressed by universities. There are also important issues for many of these groups that arise as a result of the intersection of multiple identities, e.g. race and gender. However, such issues go beyond the scope of this article and will not be addressed. I use the term "gender equity" to mean fair treatment regardless of gender. It may or may not mean the same thing as "gender equality," since there are some instances where women may need special treatment due to their gender, such as in the case of pregnancy and maternity, and not equal treatment compared to men.

II. STATUS OF WOMEN FACULTY IN HIGHER EDUCATION: USE OF GENDER EQUITY INDICATORS TO ESTABLISH THE EXISTENCE OF GENDER INEQUITIES IN EMPLOYMENT

Many women faculty in U.S. universities experience inequitable treatment in their employment on account of their gender. This statement can be substantiated through the use of gender equity indicators. This Section II documents relevant trends on enrollment of female students at U.S. universities, as well as trends among women faculty in five areas: full-time employment status, tenure status, full professor rank, average salary for full-time faculty, and women's leadership positions. The statistics presented in this Section II are drawn from the work of the U.S. Department of Education, the American Association of University Professors ("AAUP"), a national organization of university faculty,[7] and the American Council on Education ("ACE"), a national organization of university presidents.[8]

A. Women's Proportion of Earned Degrees

First, I will present some statistics on women's proportion of earned degrees in U.S. colleges and universities. As shown in Figure 1 and Table 1, women's enrollment has been gradually increasing over time and women now make up the majority of students earning degrees in both undergraduate and graduate programs.[9] As Figure 1 and Table 1 show, women now earn the majority of degrees at U.S. institutions, at each level

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7. *Organization of the AAUP*, AM. ASS'N OF UNIV. PROFESSORS (AAUP) https://www.aaup.org/about/mission-1 (last visited July 19, 2018) ("The mission of the American Association of University Professors (AAUP) is to advance academic freedom and shared governance; to define fundamental professional values and standards for higher education; to promote the economic security of faculty, academic professionals, graduate students, post-doctoral fellows, and all those engaged in teaching and research in higher education; to help the higher education community organize to make our goals a reality; and to ensure higher education's contribution to the common good.").

8. *About the American Council on Education*, AM. COUNCIL ON EDUC. (ACE), http://www.acenet.edu/about-ace/Pages/default.aspx (last visited July 19, 2018) ("ACE is the major coordinating body for the nation's colleges and universities. We represent nearly 1,800 college and university presidents and the executives at related associations, and are the only major higher education association to represent all types of U.S. accredited, degree-granting institutions: two-year and four-year, public and private.").
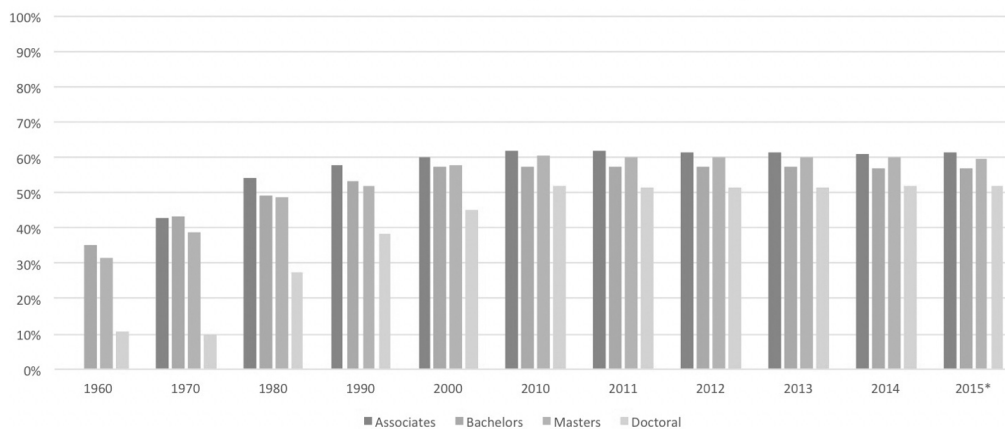
9. *See* John W. Curtis, *Persistent Inequity: Gender and Academic Employment*, AM. ASS'N. OF UNIV. PROFESSORS (2011), https://www.aaup.org/NR/rdonlyres/08E023AB-E6D8-4DBD-99A0-24E5EB73A760/0/persistentinequity.pdf [hereinafter *Persistent Inequity*] (Containing a detailed analysis of the status of women faculty in U.S. universities).

TABLE 1. WOMEN'S PROPORTION OF EARNED DEGREES CONFERRED BY DEGREE-GRANTING INSTITUTIONS, 1960-2015

	Associates	Bachelors	Masters	Doctoral
1960		35%	32%	11%
1970	43%	43%	39%	10%
1980	54%	49%	49%	27%
1990	58%	53%	52%	38%
2000	60%	57%	58%	45%
2010	62%	57%	60%	52%
2011	62%	57%	60%	51%
2012	62%	57%	60%	51%
2013	61%	57%	60%	51%
2014	61%	57%	60%	52%
2015	61%	57%	60%	52%

Source: Table 318.10. Degrees conferred by postsecondary institutions, by level of degree and sex of student: Selected years, 1969–70 through 2025–26, DIGEST OF EDUC. STATISTICS, NAT'L CTR. FOR EDUC. STATISTICS (2015), https://nces.ed.gov/programs/digest/d14/tables/dt14_318.10.asp [hereinafter *Table 318.10*] (Data for 2015 was projected at the time of the data collection).

Figure 1. Women's Proportion of Earned Degrees Conferred by Degree, 1960 - 2015

Source: *Table 318.10. Degrees conferred by postsecondary institutions, by level of degree and sex of student: Selected years, 1869-70 through 2025-26,* DIGEST OF EDUCATION STATISTICS, National Center for Education Statistics (2015)

of award.[10] The available data, seen in Figure 1 and Table 1, shows that in 1970, only 43% percent of associates' degrees, 43% of bachelors' degrees, 39% of masters' degrees and 10% of doctoral degrees were earned by women.[11] However, this number has steadily increased so that

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10. *See Table 318.10.*
11. *Id.*

by 2015, 61% of associates' degrees, 57% of bachelors' degrees, 60% of masters' degrees, and 52% of doctoral degrees were granted to women.[12] As a 2011 AAUP report noted, the increase in the proportion of degrees earned by women has been especially dramatic for first professional degrees such as those in law and medicine, rising from only 3 percent in 1960-61 to approximately 51 percent as of 2011.[13]

While progress has been made in the number of women completing university degree programs, the progress for women faculty has lagged far behind. As a consequence, the predominantly female student body at many U.S. colleges and universities cannot find a proportionate number of female faculty members available to teach and mentor them.[14]

If one thinks of universities as being leaders in innovation, one might expect such institutions to be leaders in promoting gender equity. Many who are outsiders to the academic enterprise might be surprised to learn that, rather than promoting gender equity, many institutions in fact perpetuate gender inequities similar to those that prevail in the larger community outside the academy.

This trend can be documented by reference to various gender equity indicators, all of which support the existence of gender inequity. The statistics presented here paint a stark picture of unequal treatment of female faculty compared to their male counterparts. A recent report published by ACE's Center for Policy Research and Strategy noted that "women in academia make up more than half of all college students, but only slightly more than a quarter of all full professors and less than 15% of the presidents at doctoral degree-granting institutions."[15] The gender equity indicators most commonly used to assess the status of women in academia are discussed in greater detail below.

A large amount of data on this topic has been collected in recent years. The National Center for Education Statistics ("NCES"), the primary federal entity for collecting and analyzing data related to education,

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12. *Id.*

13. *Persistent Inequity*, *supra* note 9, at 1.

14. *Persistent Inequity*, *supra* note 9.

15. Heather L. Johnson, *Pipelines, Pathways, and Institutional Leadership: An Update on The Status of Women in Higher Education*, AM. COUNCIL ON EDUC. AND CTR. FOR POLICY RES. AND EDUC. (2016), http://www.acenet.edu/news-room/Documents/Higher-Ed-Spotlight-Pipelines-Pathways-and-Institutional-Leadership-Status-of-Women.pdf [hereinafter 2016 ACE Report].

which is part of the U.S. Department of Education,[16] publishes statistics on various characteristics of university faculty on an annual basis.[17] The AAUP collects, analyzes, and publishes data of interest to its membership, including an annual faculty salary survey.[18] This survey has included gender specific salary data since the late 1970's.[19] In addition, the AAUP Committee on Women in the Academic Profession published a study in 2006 focusing on faculty gender equity indicators: employment status (full-time and part-time); tenure status for full-time faculty; promotion to full professor rank; and average salary for full-time faculty ("2006 AAUP Study").[20] ACE has also tracked the number of women in university leadership positions.[21] ACE's work builds upon reports on the leadership roles played by women in ten sectors of the workforce in the United States, including academia.[22] As a result of such data collection efforts, it is possible to assess the status of women university faculty as it has changed over time.

B. Full-Time and Part-Time Employment Status of Faculty

Figure 2 depicts the composition of full-time faculty by gender over the last 26 years. It shows that there is a gap in full-time faculty employment between women and men.[23] In 1989, 73.6% of full-time

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16. *About Us*, NAT'L CTR. FOR EDUC. STATISTICS, http://nces.ed.gov/about/ (last visited July 19, 2018).

17. *See Integrated Postsecondary Education Data System*, NAT'L CTR. FOR EDUC. STATISTICS, https://nces.ed.gov/ipeds/ (last visited July 19, 2018) (All data collected from these surveys can be downloaded or searched year-by-year.).

18. Martha S. West & John W. Curtis, *AAUP Faculty Gender Equity Indicators 2006: Organizing Around Gender Equity,* AM. ASS'N. OF UNIV. PROFESSORS, 4, https://www.aaup.org/NR/rdonlyres/ 63396944-44BE-4ABA-9815-5792D93856F1/0/AAUPGenderEquityIndicators2006.pdf (last visited July 19. 2018) [hereinafter *AAUP Faculty Gender Equity Indicators*]

19. *AAUP Faculty Gender Equity Indicators*, *supra* note 18.

20. *See id*.

21. *See* 2016 ACE Report, *supra* note 15.

22. *See*, *e.g.*, THE WHITE HOUSE PROJECT, THE WHITE HOUSE PROJECT REPORT: BENCHMARKING WOMEN'S LEADERSHIP, (2009), https://www.in.gov/icw/files/benchmark_wom_leadership.pdf; TIFFANI LENNON, BENCHMARKING WOMEN'S LEADERSHIP IN THE UNITED STATES, UNIVERSITY OF DENVER: COLORADO WOMEN'S COLLEGE (2013), https://womenscollege.du.edu/media/documents/ BenchmarkingWomensLeadershipintheUS.pdf.

23. AAUP, *The Annual Report on the Economic Status of the Profession*, ACADEME (Selected Years) (presenting data in Percentage Distribution of Full-Time Faculty Members by Category, Affiliation, Academic Rank, and Gender Table) [hereinafter Percentage Distribution of Full-Time Faculty].

Figure 2. Percentage Distribution of Full-Time Faculty by Gender, Selected Years, 1989-2015
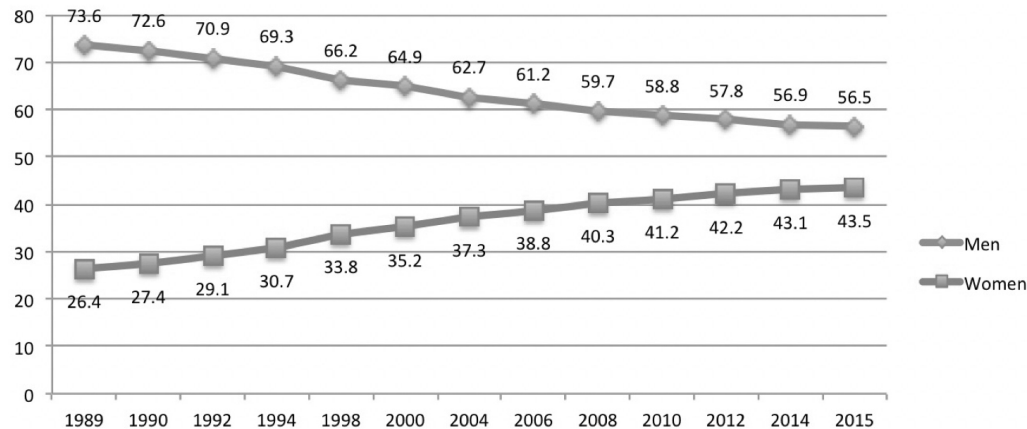
faculty were male and 26.4% of full-time faculty were female.[24] As of 1989, there was a 47.2% difference between the number of male and female faculty members.[25] Slow progress in closing this gender gap has been made over time. However, the gap is still large. By 2015, 56.5% of full-time faculty were male and 43.5% of faculty were female.[26] As of 2015, there was still a 13% difference between the number of male and female full-time faculty members.[27]

The AAUP has published reports, including the 2006 AAUP Study, covering trends in part-time faculty employment. They have noted that there is a gap between women and men, with women representing a higher proportion of part-time employees, and that difference has persisted over time.[28] According to such AAUP reports, although the percentage of faculty employed part-time has risen over time, the gender gap has not closed.[29] This is a significant finding because part-time employment is far less secure than full-time employment. In this respect, women are disadvantaged compared to men.

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24. *Id.*
25. *Id.*
26. *Id.*
27. *Id.*
28. *AAUP Faculty Gender Equity Indicators*, *supra* note 18, at 6; Figure 2. *See also Persistent Inequity*, *supra* note 9, at 2; Figure 3.
29. *Persistent Inequity*, *supra* note 9, at 2; *see also infra* Figure 3.

C. Tenure Status of Full-Time Faculty

The goal of many university faculty is to secure tenure, which carries with it the benefit of employment security. For that reason, tenure status is another significant aspect of faculty employment. The AAUP reports mentioned above have noted that the proportion of non-tenure track, full-time faculty members has steadily increased in the past several decades.[30] The proportion of women in such contingent positions is larger than the proportion of men and the disparity has increased.[31] The 2006 AAUP Study noted that "[w]omen are significantly over-represented in these non-tenure track positions, the least secure, least remunerative, and least prestigious jobs among the full-time faculty."[32] While some faculty may prefer to work in non-tenure track faculty positions for a variety of reasons, the lack of job security and other negative features associated with such positions appear to place the large proportion of women in this job category at a particular disadvantage.

As Figure 3 indicates, as more faculty members have been appointed to non-tenure track positions, the proportion of all full-time faculty with tenure has declined.[33] And, as Figure 3 also shows, the percent of women who are tenured is smaller than the percent of men who are tenured.[34] In 1981, 70% of full-time male faculty members were tenured and only 49% of full-time female faculty members were tenured, a difference of 21%.[35] In 2015, 61.6% of full-time male faculty members were tenured and only 45% of full-time female faculty members were tenured, a difference of 16.6%.[36] The difference has not shrunk significantly over this 35-year period, indicating that women are still disadvantaged in attaining tenure.

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30. *AAUP Faculty Gender Equity Indicators*, *supra* note 18, at 8.
31. *Persistent Inequity*, *supra* note 9, at 2; *infra* Figure 4.
32. *AAUP Faculty Gender Equity Indicators*, *supra* note 18, at 9.
33. *See* AAUP, *Annual Report on the Economic Status of the Profession*, ACADEME (Selected Years) (presenting data in Percentage of Faculty Members with Tenure Status Table) [hereinafter Percentage of Faculty Members with Tenure Status].
34. *See id.*
35. *Id.*
36. *Id.*

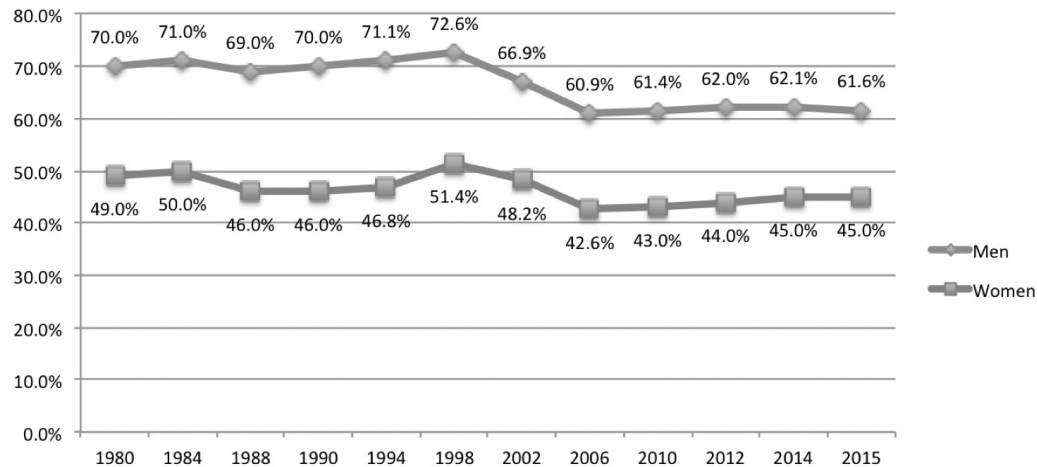**Figure 3. Full-Time Faculty With Tenure, By Gender Selected Years, 1980 -2015**

Source: *Annual Report on the Economic Status of the Profession*, ACADEME (Selected Years) (presenting data in Percentage of Faculty Members with Tenure Status Table).

D. Promotion to Full Professor Rank

As Figure 4 shows, there are fewer women faculty members with the rank of full professor than there are men at such rank.[37] In 1989, 14% of full professors were women and 86% of full professors were men.[38] In 2015, 42% of full professors were women and 58% of full professors were men.[39] This is an increase of 28% over a 26-year period in the proportion of full professors who are women, indicating slow progress towards achieving equality in this area.[40] However, women are still disadvantaged when it comes to promotion to the highest rank in U.S. colleges and universities.
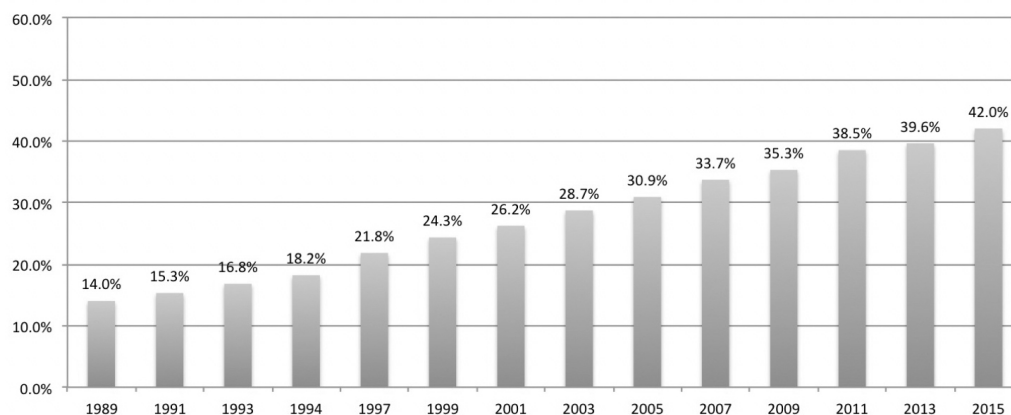
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37. *See* Percentage Distribution of Full-Time Faculty, *supra* note 23.
38. *Id.*
39. *Id.*
40. *Id.*

**Figure 4. Proportion of Full Professors Who Are Women
Selected Years, 1989-2015**

Source: The Annual Report of the Economic Status of the Profession, Academe, (Selected Years) (presenting data in Percentage Distribution of Full-Time Faculty Members by Category, Affiliation, Academic Rank, and Gender Table).

E. Average Salary for Full-Time Faculty

Table 2 and Figure 5 illustrate that, on average, women earn less than men at each faculty rank. There has been little change in these differentials over time. As of 2014, female assistant and associate professors earned between 91% to 93% of their male counterparts.[41] In the most highly paid category of full professor, women are at the greatest disadvantage when it comes to salary, earning on average 87% of men's salaries as of 2014.[42] Looking at the trend line for all ranks combined, it appears that women earn approximately 80% of men's salaries.[43] This has been attributed to the fact that women are overrepresented at the lowest ranks and at the lowest-paying institutions.[44]

Figure 6 illustrates that women's average salaries are lower than men's average salaries regardless of the type of university. At institutions granting associates' degrees, women earned 90.3% of men's salaries in 1978-79 and that increased to 96% in 2015-16.[45] At baccalaureate

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41. AAUP, *The Annual Report on the Economic Status of the Profession*, ACADEME, (Selected Years) (presenting data in Weighted Average Salaries for Men and Women by Category, Type of Affiliation, and Academic Rank Table) (Data for "All Ranks" was not provided between the years of 1981 and 2003) [hereinafter Weighted Average Salaries].

42. *Id.*

43. *See id. See also* Figure 5.

44. *Persistent Inequity*, *supra* note 9, at 4.

45. Weighted Average Salaries, *supra* note 41.

TABLE 2. FULL-TIME FACULTY, WOMEN'S AVERAGE SALARY AS A PERCENT OF MEN'S, BY RANK, 1978 TO 2015, SELECTED YEARS

	Professor	Associate Prof.	Assistant Prof.	All Ranks
1978	91.20%	95.10%	95.10%	79.90%
1980	90.72%	94.73%	94.62%	79.45%
1982	89.02%	93.40%	92.86%	
1984	88.12%	92.86%	91.92%	
1986	88.19%	92.74%	90.56%	
1988	88.35%	93.06%	91.34%	
1990	88.52%	92.96%	91.77%	
1992	88.19%	92.98%	92.29%	
1994	88.49%	92.96%	92.99%	
1996	88.12%	92.88%	93.82%	
1998	87.72%	93.07%	93.67%	
2000	88.32%	92.70%	92.70%	
2002	88.82%	93.08%	92.43%	
2004	87.94%	93.00%	92.38%	80.41%
2006	87.72%	93.23%	93.22%	80.65%
2008	88.16%	93.39%	93.24%	80.80%
2010	87.60%	93.28%	93.11%	80.93%
2012	87.26%	92.94%	92.29%	80.37%
2014	86.97%	93.03%	91.93%	80.74%

Source: *The Annual Report on the Economic Status of the Profession*, ACADEME, AAUP (Selected Years) (presenting data in Weighted Average Salaries for Men and Women by Category, Type of Affiliation, and Academic Rank Table) (Data for "All Ranks" was not provided between the years of 1981 and 2003) [hereinafter Weighted Average Salaries].

Figure 5. Full-Time Faculty, Women's Average Salary as a Percent of Men's, by Rank, 1978 to 2015, Selected Years
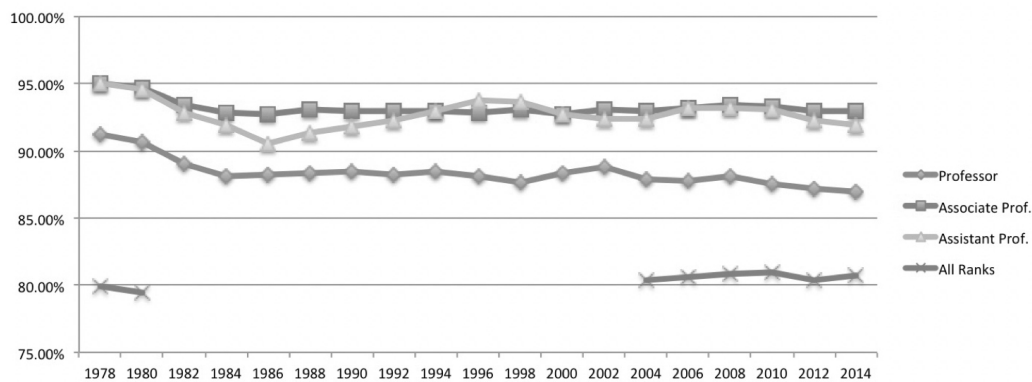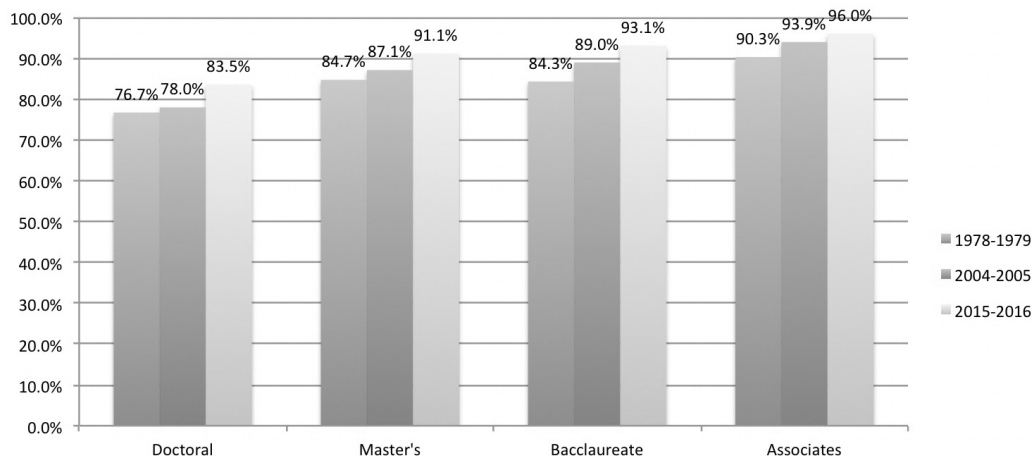
Source: *The Annual Report on the Economic Status of the Profession*, ACADEME , AAUP (Selected Years) (presenting data in Weighted Average Salaries for Men and Women by Category, Type of Affiliation, and Academic Rank Table).

granting institutions, women earned 84.3% of men's salaries in 1978-79 and that increased to 93.1% in 2015-16.[46] At masters' degree granting

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46. *Id.*

Figure 6. Full-Time Faculty, Women's Average Salary as a Percent of Men's by Type of Institution, Selected Years, 1978-1979 to 2015-2016

institutions, women earned 84.7% of men's salaries in 1978-79 and that increased to 91.1% in 2015-16.[47] As of 2015-16, the gap between women's and men's salaries is highest in doctoral universities, at 16.5%.[48] Women teaching in such institutions earned 76.7% of men's salaries in 1978-79 and only 83.5% of men's salaries in 2015-16.[49]

F. Women in University Leadership Positions

A final metric that will be considered for assessing gender equity in the university is the number of women who serve in leadership positions. ACE published findings on the status of women in higher education in its 2016 report on *Pipelines, Pathways, and Institutional Leadership: An Update on the Status of Women in Higher Education* ("2016 ACE Report").[50] This report tracks some of the same gender equity indicators as the AAUP. The 2016 ACE Report findings confirm the trends discussed above. The report also includes statistics on women in leadership.

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47. *Id.*
48. *Id.*
49. *Id.*
50. *See* 2016 ACE Report, *supra* note 15.

TABLE 3. PROPORTION OF COLLEGE PRESIDENTS WHO ARE WOMEN, BY TYPE OF INSTITUTION, SELECTED YEARS 1986-2011

	1986	1998	2001	2006	2011
Doctoral	3.8	13.2	13.3	13.8	22.3
Master's	10	18.7	20.3	21.5	22.8
Baccalaureate	16.1	20.4	18.7	23.2	22.9
Associate's	7.9	22.4	26.8	28.8	33
Special Focus	6.6	14.8	14.8	16.6	20.5
All Institutions	9.5	19.3	21.1	23	26.4

Source: Am. Council on Educ., The American College President 2012 11 tbl. 4 (2012) (the table referenced, "Percentage of Presidencies Held by Women, by Institutional Type: Selected Years, 1986 to 2011" includes data points for the years 1986, 1998, 2001, 2006, and 2011); American College President Study, Am. Council On Educ. (June 14, 2018), http://www.aceacps.org/summary-profile-dashboard/ (the chart referenced, "College Presidents by Gender," includes data points for the years 2001, 2006, 2011, and 2016); Future Leadership Shaped by the Numbers, Am. Council On Educ. 9 (April 2015), http://www.napicaacc.com/docs/April2015-ACEpresentation.pdf (the chart referenced, "Women Presidents by Institution Type: 1986 to 2011," includes data points for the years 1986, 1990, 1995, 1998, 2001, 2006, and 2011).

Figure 7. Proportion of College Presidents Who Are Women, by Type of Institution, Selected Years 1986-2011
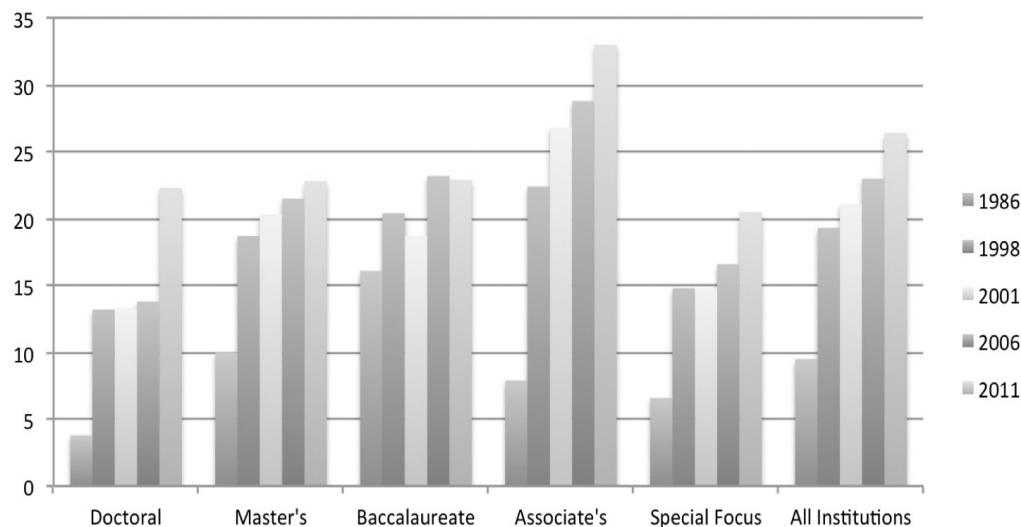
Source: AMERICAN COUNCIL ON EDUCATION, THE AMERICAN COLLEGE PRESIDENT 11 (2011).

Women's progress in attaining college and university presidencies has been slower than women's success in attaining faculty positions. Table 3 and Figure 7 show that women's representation among presidents of all institutions has increased significantly over the 25-year time period, yet

it remains low.[51] In 1986, 9.5% of college presidents were women and in 2011, 26.4% of college presidents were women.[52] The presence of women in other senior academic leadership positions is somewhat greater than it is among college presidents, but women are still not equally represented. The 2016 ACE Report noted that as of 2013, women were 43.6% of all chief academic officers (for both public and private universities).[53] In 2008, the ACE reported that in that year, 38% of all chief academic officers, 50% of "central senior academic affairs officers" (e.g., associate provost or dean of graduate studies), and 36% of academic deans were women.[54] A further statistic is telling, namely women's representation on governing boards and as board chairs. Men outnumber women on both public and private governing boards by more than 2 to 1.[55] This difference has remained fairly constant for the past twenty years.[56] For board chairs, the number of women has increased since 2010 and is slightly higher at public institutions compared to private institutions, but still remains at 24% compared to men who hold 76% of chair positions.[57] This data leads to the conclusion that women are underrepresented in leadership roles in U.S. colleges and universities.

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51. AM. COUNCIL ON EDUC., THE AMERICAN COLLEGE PRESIDENT 11 tbl. 4 (2012) (the table referenced, "Percentage of Presidencies Held by Women, by Institutional Type: Selected Years, 1986 to 2011" includes data points for the years 1986, 1998, 2001, 2006, and 2011); *American College President Study*, AM. COUNCIL ON EDUC. (June 14, 2018), http://www.aceacps.org/ summary-profile-dashboard/ (the chart referenced, "College Presidents by Gender," includes data points for the years 2001, 2006, 2011, and 2016); *Future Leadership Shaped by the Numbers*, AM. COUNCIL ON EDUC. 9 (April 2015), http://www.napicaacc.com/ docs/April2015-ACEpresentation.pdf (the chart referenced, "Women Presidents by Institution Type: 1986 to 2011," includes data points for the years 1986, 1990, 1995, 1998, 2001, 2006, and 2011).

52. *See* THE AMERICAN COLLEGE PRESIDENT, *supra* note 51.

53. 2016 ACE Report, *supra* note 15, at 22; *see also* 2016 ACE Report, *supra* note 15, at Table 4 (reporting that public had 47.69% and private had 37.66%).

54. JACQUELINE E. KING & GIGI G. GOMEZ, AMERICAN COUNCIL ON EDUCATION, ON THE PATHWAY TO THE PRESIDENCY: CHARACTERISTICS OF HIGHER EDUCATION'S SENIOR LEADERSHIP, 16 (2008).

55. 2016 ACE Report, *supra* note 15 at 13, 24 (Showing that private governing boards reported women 30.2% and men 69.8%, while public governing boards reported women 28.4% and men 71.6%).

56. *See id.*

57. *Id.*

III. REASONS FOR THE EXISTENCE OF FACULTY GENDER INEQUITY IN THE UNIVERSITY

In Section II, I presented evidence of gender inequity among university faculty through data based on gender equity indicators. Such data reveals that female faculty members in U.S. universities are disadvantaged compared to their male counterparts when it comes to full-time employment status, tenure status, full professor rank, average salary for full-time faculty, and leadership positions. In this Section III, I will discuss some of the reasons for the existence of such inequity.

Various reasons have been advanced for the existence of gender inequity among university faculty. Based on my research, I believe that the most compelling explanations can be found in the history, tradition, and culture of male leadership that exist at many universities, as well as the phenomenon of implicit gender bias. For much of the history of the United States, women were excluded from the higher educational system both as students and as professors.[58] Women started entering the academy in increasing numbers in the 1970s, but many universities have not yet changed their established traditions of male faculty leadership and the male-centric culture that has long prevailed on some campuses. As a consequence, some women faculty have experienced difficulties in achieving parity with men performing the same jobs. In the past, such problems resulted from overt discrimination based on female gender in such areas as recruitment, hiring, tenure and promotion, salary, and access to university resources, among others.[59] While overt discrimination still occurs, it is likely not the primary problem that women faculty experience these days. Instead, the problem is more likely to be implicit gender bias in which unconscious gender stereotyping and gender role expectations operate to interfere with the advancement of women faculty.

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58. Peter D. Eckel & Jacqueline E. King, *An Overview of Higher Education in the United States: Diversity and the Role of the Marketplace*, *in* The International Handbook of Higher Education (J. Forest & P. Altbach eds., 2007).

59. *See* VIRGINIA VALIAN, WHY SO SLOW? THE ADVANCEMENT OF WOMEN 211–49 (The MIT Press ed., 1998).

A. Implicit Gender Bias and Gender Schemas

Implicit gender bias has been advanced in recent years as an explanation for why women fail to enter or to advance in certain academic fields. One widely cited source on this topic is the work of psychologist Virginia Valian. In her book entitled *Why So Slow? The Advancement of Women*, Valian explores what she calls "gender schemas" and how they impact women's progress in various professional fields, including academia.[60] Other writers have noted that implicit gender bias, and the discriminatory behavior it generates, is the direct result of the operation of gender schemas.[61]

Valian's central thesis is that "gender schemas," which she defines to mean "a set of implicit, or nonconscious, hypotheses about sex differences," play a central role in shaping men's and women's professional lives.[62] She uses the term "schema" instead of the term "stereotype," which she believes "tend[s] to connote an inaccurate and negative view of a social group."[63] In contrast, schemas are "cognitive frameworks that help us perceive and categorize new individuals and provide explanations of people's actions; they also give rise to expectations about others' future actions."[64] According to Valian, schemas may be positive, negative or neutral, and while they may contain errors, they are indispensable to our understanding of the world.[65]

In Valian's view, gender schemas are acquired in childhood and are held to an equal extent by both women and men.[66] In the American white middle-class, the gender schema for men includes "being capable of independent, autonomous action (agentic, in short), assertive, instrumental, and task-oriented."[67] In contrast, the gender schema for women is different and includes being "nurturant, expressive, communal,

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60. *See* VIRGINIA VALIAN, WHY SO SLOW? THE ADVANCEMENT OF WOMEN (The MIT Press ed., 1998).

61. NAT'L ACAD. OF SCIENCES & NAT'L ACAD. OF ENG'G, BEYOND BIAS AND BARRIERS: FULFILLING THE POTENTIAL OF WOMEN IN ACADEMIC SCIENCE AND ENGINEERING 135, (2007) (The full PDF of this book is available online at https://www.nap.edu/catalog/11741/beyond-bias-and-barriers-fulfilling-the-potential-of-women-in/).

62. VALIAN, *supra* note 60, at 2.

63. *Id*. at 104.

64. *Id*.

65. *Id*.

66. *Id*. at 2.

67. *Id*. at 13.

and concerned about others."[68] Valian proposes that the cognitive processes that give rise to gender schemas greatly oversimplify the differences between women and men and are responsible for creating and maintaining inequalities.[69]

Gender schemas operate to mold societal expectations for men and women and, in a professional setting, impact the type of work that is deemed appropriate for women and men and how their work is evaluated and rewarded. Such gender schemas operate to disadvantage women seeking to enter fields traditionally dominated by men, such as business, law, medicine, and academia. Valian notes that our oversimplified gender schemas lead us to conclude that "the professions are suitable for men, and men are suitable for the professions."[70] Citing to empirical research, she notes that, "without exception, every prestigious or high paying profession in the United States is dominated by men, dominated numerically and in terms of who wields power."[71] In contrast, a woman entering a profession is viewed by both men and other women as unsuited to that profession, because her gender does not fit.[72] This will result in lower expectations of a woman's potential achievement as a professional and that will impact evaluations of her work.[73]

Valian notes that, in a professional setting, the most important impact of gender schemas is that men are consistently overrated, while women are consistently underrated.[74] To use her words: "whatever emphasizes a man's gender gives him a small advantage, a plus mark . . . whatever accentuates a woman's gender results in a small loss for her, a minus mark."[75] Valian suggests that even small differences in evaluation and treatment due to such gender schemas can add up to large disadvantages over time in salary, promotion, and prestige.[76] In other words, women entering professional life start out at a disadvantage and gradually fall farther and farther behind as they move through their careers. In essence, they can never catch up.

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68. *Id.*
69. *Id.*
70. *Id.* at 14.
71. *Id.*
72. *Id.* at 15.
73. *Id.*
74. *Id.* at 3.
75. *Id.* at 2.
76. *Id.* at 3.

Valian examines the status of women through use of data analysis in a variety of professions, including business, law, medicine, and academia.[77] She concludes that, in every profession she examined, men earn more money than women and achieve higher status.[78] While some of the difference may be explained by reference to differential investment in human capital, namely education, experience, and other qualifications necessary for success, some differences can be attributable only to gender.[79] In her view, gender schemas discount women's achievements and women are required to meet a higher standard than men in order to attain the same level of professional success.[80] Her proposed solution to the problem of women's slow advancement is to acknowledge and address the existence of gender schemas and how they hinder women's accumulation of advantage.[81]

Valian devotes an entire chapter of her book to discussing women in academia.[82] She uses data analysis to assess the status of women and to determine the reasons for women's slow advancement in universities, in terms of the number of women professors and their ranks and salaries, compared to men.[83] Her findings, which are based on her use of data that was current at the time of the writing of her book, are generally consistent with the data presented in Section II of this article.[84] She observes that, while there is an increasing number of women within academia, they are underrepresented at the higher ranks and at more elite institutions and are overrepresented in lower ranks, in low status jobs, and in untenured positions.[85] They are paid less and are promoted and tenured more slowly.[86] In Valian's views, these differences cannot be explained by differences in performance and are therefore, attributable to the operation of gender schemas.[87] For this reason, she believes that "parity will not be achieved without special effort."[88]

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77. *Id.* at Chapter 10: Women in the Professions.
78. *Id.* at 214.
79. *Id.* at 190, 214.
80. *Id.* at 214, 215.
81. *Id.* at 216.
82. *See id.* at 217–49.
83. *See id.*
84. *See id. See also supra* pp. 299-310.
85. VALIAN, *supra* note 60, at 225–26, 235.
86. *Id.* at 248.
87. *Id.* at 249.
88. *Id.* at 246.

Implicit gender bias has been explored by other writers as an explanatory factor for the slow advancement of women in such male-dominated academic fields as STEM (Science, Technology, Engineering, and Mathematics) and Philosophy.[89] In 2006, the National Academy of Sciences, a non-profit organization of science and engineering scholars dedicated to promoting science and technology and its practical application, published a research study of the reasons for the low numbers of women scientists and engineers in the United States.[90] That study, which was entitled *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering* ("*Beyond Bias and Barriers*"), concluded that one of the explanations for the lack of women in STEM fields was the existence of implicit gender bias, which colors the perception of women's abilities in those fields.[91] The study states, in relevant part:

> A substantial body of evidence establishes that most people—men and women—hold implicit biases. Decades of cognitive psychology research reveals that most of us carry prejudices of which we are unaware but that nonetheless play a large role in our evaluations of people and their work. An impressive body of controlled experimental studies and examination of decision-making processes in real life show that, on the average, people are less likely to hire a woman than a man with identical qualifications, are less likely to ascribe credit to a woman than to a man for identical accomplishments, and, when information is scarce, will far more often give the benefit of the doubt to a man than to a woman. Although most scientists and engineers believe that they are objective and intend to be fair, research shows that they are not exempt from those tendencies.[92]

More specifically, the study notes that such implicit gender bias has resulted in discrimination against women in STEM fields in such areas as recruitment, hiring, tenure and promotion, and conditions of employment, including disadvantages relating to salary, allocation of institutional resources, and flexible work schedules.[93]

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89. NAT'L ACAD. OF SCIENCES, *supra* note 61; Saul, *infra* note 94.
90. *See* NAT'L ACAD. OF SCIENCES, *supra* note 61.
91. *See id.*
92. *Id.* at 3.
93. *Id.*

In the field of academic philosophy, which has traditionally been dominated by males, a similar observation of implicit gender bias has been made. While philosophy is traditionally considered part of the humanities, it appears that the status of women in this field is more akin to that of women in science and engineering, namely that women are underrepresented.[94] In a 2013 essay entitled *Implicit Bias, Stereotype Threat, and Women in Philosophy*, philosopher Jennifer Saul explores the notion that the lack of women in academic philosophy may be attributable to implicit gender bias rather than women's lack of aptitude or interest in the subject matter or the type of reasoning used in philosophy, which is in turn due to their innate nature or socialization.[95] She posits that women are underrepresented in her field due to the phenomenon of implicit gender bias, which negatively affects the evaluation of women's academic work.[96] In her view, even academics who claim to hold egalitarian beliefs and even women themselves fall prey to such bias, in which favorable traits such as originality, excellence, leadership, and intellectual ability are more frequently associated with men than women.[97] As support for her assertion, Saul cites empirical research relating to the negative impacts of female gender on the evaluation of journal article submissions and the *curricula vita* of applicants for academic jobs.[98]

In addition to implicit gender bias, other reasons have been advanced for women's slow progress in the academy. Some of the most frequently encountered explanations are noted below.

B. The "Pipeline Problem"

Some commentators explain the lack of women in faculty positions and university leadership roles as the product of a "pipeline problem," meaning that there are too few qualified women.[99] This implies that there

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94. Jennifer Saul, *Implicit Bias, Stereotype Threat, and Women in Philosophy in* WOMEN IN PHILOSOPHY: WHAT NEEDS TO CHANGE 39 (Katrina Hutchison & Fiona Jenkins eds., 2013).
95. *Id.*
96. *Id.* at 40.
97. *Id.* at 41.
98. *Id.*
99. Virginia Valian, *Beyond Gender Schemas: Improving the Advancement of Women in Academia*, 20 HYPATIA 198, 206 (2005) [hereinafter *Beyond Gender Schemas*] (noting that the "pipeline problem" is a common explanation for gender disparities in science, engineering, and technology).

are too few women with the requisite degrees or experience. Critics of this view note that there are more than enough qualified women, citing the large increase in female student populations since the 1970s, with women now earning more degrees at every level of higher education.[100] The 2016 ACE Report, discussed in Section II(F) above, sought to debunk what is termed the "pipeline myth" with respect to women in university leadership by noting that "there are more than enough qualified women to fill available leadership positions" and stating further that "the pipeline is preparing women at a greater rate than it does men."[101] The same argument could be made about the "pipeline problem" as it relates to representation of women on university faculties since women have earned more than 50% of all doctoral degrees in U.S. universities since 2006.[102]

With respect to women in STEM disciplines, the National Academy of Sciences addressed the "pipeline problem" in its 2006 *Beyond Bias and Barriers* study.[103] The study notes that there is a "pipeline leakage" problem in STEM fields, namely the fact that women who originally express an interest in science or engineering careers are lost at every educational transition point, from high school through college, graduate school, and at the point of entry into their academic careers.[104] However, with respect to the sheer number of women attaining doctoral degrees, the study notes that "[t]he problem is not simply the pipeline [since] in several fields, the pipeline has reached gender parity."[105] Yet, the percentage of women at top research institutions who reach full professor status does not reflect this fact.[106]

The study states that another reason for the lack of women is discrimination in the fields of science and engineering, noting that there is empirical research to support the proposition that there are "barriers limiting the appointment, retention, and advancement of women faculty."[107] Some of the problems mentioned in the study include

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100. Section II, Table 1, and Figure 1 of this article also discuss such trends.
101. 2016 ACE Report, *supra* note 15, at 2.
102. *Id*. at 3; Similar trends are also discussed in Section II, Table 1, and Figure 1 of this article.
103. NAT'L ACAD. OF SCIENCES, *supra* note 61, at 2.
104. *Id*.
105. *Id*.
106. *See supra* Section II (D).
107. NAT'L ACAD. OF SCIENCES, *supra* note 61, at 3.

continuous questioning of the abilities of women to do science and mathematics and to commit to an academic career, failure to receive the same opportunities and encouragement provided to men to develop their interests and abilities to the fullest, use of work evaluation criteria containing arbitrary and subjective components that disadvantage women, and academic organizational structures and rules that may appear neutral on their face, but in fact function in a way that leads to differential treatment and produces differential outcomes for men and women.[108]

As further support for the proposition that the "pipeline problem" is not the sole reason for the underrepresentation of women in the academy, *Beyond Bias & Barriers* cites to an empirical study of women in academic medicine that found that there are many reasons for the slow advancement of women in that field, but the "pipeline problem" was not among them.[109] Rather, this study found that it was "the culture of academic medicine, not the numbers of available women, [that] drives the lopsided numbers."[110] Examples of such cultural issues that were cited include "a lack of high-ranking female role models; gender stereotyping that works to limit opportunities; exclusion from career development opportunities; differences in workplace expectations for men and women; social and professional isolation; and gender differences in the amount of funding, space, and staff support provided."[111]

It appears, therefore, that the "pipeline problem" is no longer a valid explanation for the low numbers of women in academia.

C. Unfortunate "Career Choices"

Some commentators seek to explain differences in the employment status of female versus male faculty members as the result of the "choices" women make, taking them down a path of career disadvantage.[112] For example, women "choose" to act as family caregivers, therefore leaving less time to devote to their careers. As a consequence, they take part-time or non-tenure track positions. Or if they do enter tenure track positions, they may take a longer time than men to

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108. *Id*. at 3–4.

109. *Id*. at 83 (citing Ann J. Brown, William Swinyard, & Jennifer Ogle, *Women in Academic Medicine: A report of focus groups and questionnaires, with conjoint analysis,* 12 J. OF WOMEN'S HEALTH 999, 999–1008 (2003)).

110. *Id*.

111. *Id*.

112. *See Persistent Inequity*, *supra* note 9, at 7.

meet the tenure and promotion standards and so advance in their careers at a slower pace than men. Based on this type of reasoning, women themselves are responsible for their lower status or lower pay because they have made unfortunate "career choices" and those "choices" have resulted in negative consequences.

Critics of this argument cite to the work of writers like law professor Joan C. Williams, who has written extensively about women in the workplace.[113] In her 2010 book entitled, *Reshaping the Work-Family Debate: Why Men and Class Matter*, Williams writes that women are pushed out of demanding professions due to unrealistic expectations for their job performance, lack of public policies that provide support for caregivers, and lack of support from their partners for childcare or household work.[114]

Writing about women in STEM, Virginia Valian, whose views are discussed in Section III(A) above, has noted that many women do not have the benefit of joint childcare arrangements with their partners and few institutions offer high-quality day care to their faculty.[115] She concludes that "[w]hen childcare is seen as women's work rather than humans' work, there is a clear cost to women, to science, and to society."[116]

On this view, expressed by writers like Williams and Valian, women are not really "choosing" lower status, lower paid jobs, or a slower track to tenure and promotion.[117] Instead, they may not have better career options and are forced into such positions because they are viewed as being primarily responsible for childcare and other family duties. More flexibility in work arrangements allowing female faculty members to accommodate both their work and family responsibilities, as well as more support for women as caregivers, would help to mitigate this problem.

D. Failure to Negotiate

Others argue that women are responsible for their own lower pay and other lesser employment benefits because they failed to negotiate as

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113. *See* JOAN C. WILLIAMS, RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER 26-41 (2010).
114. *See id.*
115. *See Beyond Gender Schemas*, *supra* note 99, at 206.
116. *Id.* at 207.
117. *See Beyond Gender Schemas*, *supra* note 99; *see also* WILLIAMS, *supra* note 113.

vigorously as a similarly situated male.[118] Linda Babcock and Sara Laschever document in their book entitled *Women Don't Ask: Negotiation and the Gender Divide* that women negotiate much less frequently than men, with men renegotiating job offers three to four times more often than women.[119] Since future increases are usually awarded as a percentage of current salary, such reluctance to negotiate exacerbates the gender wage gap that has been observed in the university setting.[120] When women do negotiate, it has been observed empirically that they may experience "backlash" for initiating negotiations and find that they are worse off.[121]

Valian has noted that such failure to negotiate effectively is the product of women's lower sense of entitlement in work situations than men.[122] She notes that "women work harder and more efficiently than men for the same pay and accept as fair less pay for the same work."[123] She states that such behavior is related to the operation of gender schemas, which affects women's perceptions of themselves. Another byproduct of this lack of entitlement is the phenomenon of women being asked to perform what she terms institutional "housework" or "labors of love," namely "low-visibility, low-power, low-reward, and labor-intensive tasks."[124] These are often university service activities that result in no tangible benefit for female faculty members.[125] Another byproduct is the allocation to women of teaching loads that may involve extra course preparations and little payoff in terms of scholarly development.[126] Commentators correctly point out that failure to negotiate successfully for valuable institutional resources such as pay, research support, and allocation of workload to

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118. *See* Catherine Conrad, *The Womanly Art of Negotiation,* THE CHRONICLE OF HIGHER EDUCATION (July 22, 2005), http://www.chronicle.com/article/The-Womanly-Art-of-Negotiation/45032/.

119. *See* LINDA BABCOCK & SARA LASCHEVER, WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE 1-3 (2003).

120. *Id*. at 6.

121. Sara McLaughlin Mitchell & Vicki L. Hesli, *Women Don't Ask? Women Don't Say No? Bargaining and Service in the Political Science Profession*, 46 PS: POLITICAL SCIENCE AND POLITICS 355, 357 (2013); *see also* Christine Exley, Muriel Niederle, & Lise Vesterlund, *New Research: Women Who Don't Negotiate Might Have a Good Reason*, HARVARD BUSINESS REVIEW (Apr. 12, 2016), https://hbr.org/2016/04/women-who-dont-negotiate-their-salaries-might-have-a-good-reason/.

122. *See Beyond Gender Schemas*, *supra* note 99, at 205.

123. *Id.*

124. *Id.*

125. *Id.*

126. *See id.* at 206.

allow time for scholarly activity, which may be based on a perceived lack of entitlement, works to the detriment of women faculty members. One institutional solution to this observed phenomenon would be to offer standard starting packages to female and male faculty members rather than permitting such packages to be individually negotiated.

IV. REASONS TO INCREASE FACULTY GENDER EQUITY IN THE UNIVERSITY

The rationale for striving to achieve gender equity for university faculty may be self-evident to those who are proponents of this viewpoint. However, the fact that gender inequity has persisted even as more and more women have entered academia suggests that not everyone understands the benefits of promoting gender equity in this context. This Section IV sets forth some of the arguments that have been advanced for seeking to redress faculty gender inequity in the university.

A. Fairness

Notions of justice and fairness argue in favor of eliminating discrimination against female university faculty based on their gender. Women who are capable of performing, and do perform, the same academic work as their male counterparts are entitled to equivalent opportunities and treatment in their employment.[127] Distinctions in the allocation of rewards and access to resources should be based on merit-based performance criteria and not gender.

B. Mirroring Student Body Demographics

As detailed in Sections II(A) and II(B) above, the majority of students earning degrees at all levels within U.S. colleges and universities are now women, while the majority of full-time faculty are men. Many commentators have argued that the composition of the faculty should mirror the composition of the student body to a greater extent than

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127. *See* NAT'L ACAD. OF SCIENCES, *supra* note 61, at 218. As the authors of that study noted, a sense of ethics dictates that "[m]en and women should have an equal opportunity to serve society, work in rewarding jobs, and earn a living."

currently exists.[128] While such arguments are very often raised in favor of greater racial and ethnic diversity, the same reasoning can be used with respect to the lack of female faculty members within universities.[129] If the gender composition of university faculties were rebalanced to better reflect the gender composition of the student populations at those institutions, there would be positive effects on students, who would have new role models with more diverse viewpoints.[130]

Such gender rebalancing would likely also produce benefits for women faculty members. As Valian has pointed out, once a critical mass of women exists, performance expectations for women become more positive and their gender becomes less of a negative feature.[131] This can lead to an improved university climate for women.

C. Institutional and Societal Benefits of Faculty Gender Diversity

Several proponents of faculty gender equity have emphasized that gender inequity places serious limitations on the success of educational institutions. As Martha S. West and John W. Curtis have argued, universities err when they fail to take advantage of the widest talent pool by discriminating on the basis of gender in recruitment and hiring, or when they fail to mentor and promote women who are hired.[132] Such actions, in addition to leading to gendered wage differentials, signal that women's work is not valued and may discourage talented candidates from pursuing an academic career. If women are missing from faculty ranks, the important perspective they would bring as a result of their teaching, research or service goes missing and the university as a whole is poorer as a result.

Writing in a similar vein about benefits to the university that would result from adopting a gender equity approach, Valian has also argued that equity will result in the hiring of the best faculty by universities since

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128. *See* Roxane Harvey Gudeman, *College Missions, Faculty Teaching, and Student Outcomes in a Context of Low Diversity, in* AMERICAN COUNCIL ON EDUCATION AND AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, DOES DIVERSITY MAKE A DIFFERENCE? THREE RESEARCH STUDIES ON DIVERSITY IN COLLEGE CLASSROOMS, 37 (2000), https://www.aaup.org/NR/rdonlyres/97003B7B-055F-4318-B14A-5336321FB742/0/DIVREP.PDF/.

129. *See Persistent Inequity*, *supra* note 9, at 1.

130 *See Beyond Gender Schemas*, *supra* note 99, at 209.

131. VALIAN, *supra* note 60, at 139.

132. *AAUP Faculty Gender Equity Indicators*, *supra* note 18, at 4.

including more women in searches will expand the candidate pool.[133] She also counts as additional benefits to the university an upswing in innovations in teaching, scholarship, and research that will result from the inclusion of diverse faculty and their diverse viewpoints.[134] Finally, she notes that gender equity would result in a stronger university since it would boost an institution's reputation for fairness by building loyalty from within and attracting underrepresented groups.[135]

Finally, there are also commentators who suggest gender equity will benefit not only students, faculty members, and universities, but also society at large. An example can be found in the National Academy of Sciences 2006 *Beyond Bias and Barriers* study, in which the authors state that a more diverse and inclusive group of scientists and engineers is necessary to maintain the global competitiveness of the United States.[136] As the study notes:

> America's technological advances, its standard of living, and ultimately its prosperity and security depend on global pre-eminence in science and engineering. Other countries are making strong gains emulating the successes of the United States by investing heavily in science and technology. To remain competitive in a fast-changing global economy, the United States needs to make optimal use of its scientific and engineering talent.[137]

D. Faculty Health and Well-Being

Women faculty may suffer psychological stress, in some cases producing anxiety and depression, when they are forced to contend with inequitable treatment in their workplace on account of their gender.[138] This can arise for such faculty in a variety of contexts that may be colored by gender bias. These include lack of sufficient flexibility to allow proper balancing of work and family responsibilities, receipt of an unfavorable tenure or promotion decision, a workload allocation that emphasizes

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133. *Beyond Gender Schemas*, *supra* note 99, at 208.
134. *Id*. at 208-09.
135. *Id*. at 209.
136. NAT'L ACAD. OF SCIENCES, *supra* note 61, at 217-18.
137. *Id*. at 4, 217-18.
138. Belinda Hewitt, Anne Kavanagh & Allison Milner, *The Gender Pay Gap is Harming Women's Health*, THE CONVERSATION (Dec. 13, 2016) https://theconversation.com/the-gender-pay-gap-is-harming-womens-health-68919; Tara Kuther, *Gender, Work, Stress and Health*, SCIENCE (Oct. 11, 2002) www.sciencemag.org/careers/2002/1-/gender-work-stress-and-health.

undervalued activities such as teaching or service and leaves little time to produce scholarship, a salary that is not commensurate with contributions, inadequate research support or resources, and denial of opportunities to serve on important committees or to serve in leadership roles, among others.[139] Such stress can negatively impact the lives of women. Moreover, when such negative impacts affect a large group of women faculty, a type of multiplier effect can occur and there can be deleterious consequences for the overall climate within the university.[140]

E. Faculty Productivity

Women faculty are more likely to use their time efficiently and are more productive when they are not dealing with gender inequity in the workplace. Such issues can be a distraction for women faculty and shift their focus away from their academic work to their employment problems. The enhanced faculty productivity that would result if these burdensome issues for women faculty were eliminated or alleviated would result in gains for universities in terms of enhanced scholarly reputations and an improved university climate.

F. The Law

Both state and federal laws prohibit discrimination on the basis of gender in employment in the university setting.[141] Examples include federal laws such as Title VII of the Civil Rights Act of 1964[142] and Title IX of the Education Amendments of 1972,[143] as well as various state laws prohibiting discrimination in employment on such grounds as sex, race, religion, national origin, ancestry, sex, disability or age.[144]

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139. Kuther, supra note 138; 2016 ACE Report, *supra* note 15.

140*. See infra* Section VI(A).

141*. See* NAT'L ACAD. OF SCIENCES, *supra* note 61, at 189-95 (discussing relevant federal laws). *See supra* Section I.

142. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. (1964).

143. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (2013).

144*. See Discrimination in Employment*, DEP'T OF LABOR AND INDUS. RELATIONS, https://labor.mo.gov/mohumanrights/Discrimination/employment/ (last visited July 19, 2018).

V. USE OF UNIVERSITY GENDER EQUITY TASK FORCES TO ASSESS THE STATUS OF WOMEN FACULTY: STRUCTURE AND PROCESS

As documented in Section II above, the status of female faculty members in U.S. universities appears to be very different from that of male faculty members. Women tend to be disadvantaged with respect to their opportunities for full-time faculty employment, their tenure status, their rank, their salary, and their access to leadership opportunities, to name but a few areas. The status of female faculty members may vary from university to university and the status of any individual will depend on the particular job held by such woman within her university. However, the trends indicated by the data presented in Section II above suggest that many women face pervasive and seemingly systemic barriers to their advancement in universities.

This Section V will analyze the structure and process used by university gender equity task forces to address such inequities. Beginning in the late 1990's, both public and private universities established work groups to study the status of women faculty. Some of these initiatives were directed at the particular issues faced by women in the STEM fields, but very often they were broad-based initiatives tasked with examining the working conditions of women faculty teaching in a wider range of academic disciplines and in all type of university programs, whether undergraduate, graduate, or professional. Although many different approaches were developed, all such work groups shared a common goal of improving the status of women faculty on campus. Such groups, often called "gender equity task forces," seek to raise awareness of issues negatively impacting female faculty and propose solutions for positive change. Gender equity task force assessments consist of an empirical investigation of issues faced by female faculty. They are often viewed as a necessary first step in understanding the situation of women faculty on a campus with the goal of making recommendations for improvement based on identified problems. On some campuses, an initial gender equity task force report may be followed by further studies conducted on a periodic basis to determine if the benchmarks used to assess gender equity have changed over time.

Gender equity task forces are usually formed at the request of faculty leaders and they work with the approval and support of high-level

university administrators, often the provost, chief academic officer or the president. Although each university that has formed such a task force has developed its own plan of action and process based upon its unique circumstances, there are certain common elements that emerge upon examination of these task forces.

This Section V will discuss some of these common elements relating to structure and process. Section VI will identify some of the common themes and areas of concern that emerge from an examination of task force reports and will also propose which emerging best practices for achieving faculty gender equity can be used to address such concerns. In both Sections V and VI, I will illustrate these common features by reference to historical examples of gender equity task force reports from a variety of universities, both public and private. The information presented in Sections V and VI is drawn from the task force reports themselves, which are often publicly available and can be accessed from university websites, as well as from other academic sources. The gender equity task reports cited by no means constitute a random sample of such reports. However, I believe the reports that I draw upon represent examples of successful faculty gender equity assessments.

Section V will begin by analyzing two particularly noteworthy examples of gender equity task forces, namely those at Massachusetts Institute of Technology ("MIT") and Marquette University ("Marquette"), to determine the structures and processes that have worked well in addressing the complex challenges of identifying and seeking to remedy gender inequity. This discussion will be followed by the presentation of a proposed model framework for the structure and process of a successful gender equity task force. Such framework draws on the most salient features of the MIT and Marquette task forces, as well as some common elements from other university task forces that I examined.

A. Two Noteworthy Examples of Successful Gender Equity Task Forces

One of the most frequently cited and influential task force reports was issued in 1999 by MIT and was entitled "A Study on the Status of Women

Faculty in Science at MIT" ("1999 MIT Report").[145] This report focused exclusively on women faculty in the MIT School of Science. However, a later report issued in 2002 reported on the status of women in the School of Engineering, as well as in the faculties of Architecture and Planning; Humanities, Arts, and Social Sciences; and the Sloan School of Management.[146] In 2011, MIT issued an update entitled "A Report on the Status of Women Faculty in the Schools of Engineering and Science at MIT, 2011" ("2011 MIT Report") reporting progress that had been made and areas that needed continued attention in promoting the status of women in those two faculties.[147] The 1999 MIT Report was lauded by the Chair of the MIT faculty as "a model that can be used by the Institute as a whole to decrease the inequities that still exist, both in terms of numbers and in treatment."[148] It has been cited by other reports on the status of women faculty in the STEM fields.[149]

Like many other such university task forces, the MIT task force that produced the 1999 MIT Report was initiated by female faculty concerned about the quality of their professional lives and was motivated by a recognition that "gender had probably caused their professional lives to differ significantly from those of their male colleagues."[150] Upon the request of such faculty members for an initiative to improve the status of women faculty in the School of Science, the dean of such faculty established a committee to analyze the status of women faculty in six departments in the School.[151] The committee was composed primarily of tenured female faculty members and also included male faculty members.[152] Information was collected from two sources – data that was

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145. Committees on Women Faculty in the School of Science, *A Study on the Status of Women Faculty in Science at MIT* (THE MIT FACULTY NEWSLETTER), March 1999, http://web.mit.edu/faculty/reports/sos.html/.

146. NANCY HOPKINS ET AL., THE STATUS OF WOMEN FACULTY AT MIT: AN OVERVIEW OF REPORTS FROM THE SCHOOLS OF ARCHITECTURE AND PLANNING; ENGINEERING; HUMANITIES, ARTS, AND SOCIAL SCIENCES; AND THE SLOAN SCHOOL OF MANAGEMENT (2002), https://facultygovernance.mit.edu/sites/default/files/reports/2002-03_Status_of_Women_Faculty-All_Reports.pdf.

147. MASS. INST. OF TECH., A REPORT ON THE STATUS OF WOMEN FACULTY IN THE SCHOOLS OF ENGINEERING AND SCIENCE AT MIT (2011), http://news.mit.edu//sites/mit.edu.newsoffice/files/documents/women-report-2011.pdf.

148. Committees on Women Faculty in the School of Science, *supra* note 145, at 3.

149. *See* NAT'L ACAD. OF SCIENCES, *supra* note 61, at 81.

150. Committees on Women Faculty in the School of Science, *supra* note 145, at 5.

151. *Id.* at 4, 6.

152. *Id.*

made available from the university administration and interviews with women faculty and department heads.[153] The data collection effort was directed at determining whether the number of female faculty members, which was very small, was increasing, and whether women and men faculty shared equally in material resources and rewards.[154] The interview process was directed at assessing women faculty's perceptions of their status and that of their faculty colleagues.[155]

Among the significant conclusions reached in the 1999 MIT Report based on the data analysis was that "the percent of women faculty had not changed in at least 10, and probably 20 years, and there was no indication that there would be any change in the foreseeable future."[156] Such data analysis also led to the conclusion that some, but not all, women faculty experienced inequitable distributions of work space, salary, teaching assignments, awards and distinctions, and inclusion on important committees and assignments.[157] The analysis of interview responses suggested that most senior women faculty felt marginalized and excluded and that this marginalization increased as women progressed through their careers at MIT.[158] Such analysis also revealed that junior faculty members experienced extraordinary difficulties in combining family and work.[159]

In examining the data that emerged from the investigative phase of its work, the task force concluded that what happened to senior women in science at MIT should be viewed as discrimination.[160] The report explained that the women faculty themselves initially failed to recognize that what happened to them was discrimination, because "it is not what they thought discrimination looked like and they believed that civil rights laws and affirmative action had solved gender discrimination."[161] Upon sharing information with other female faculty however, they gradually realized that what had happened to them was not due to their own special

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153. *Id.* at 7.
154. *Id.* at 8.
155. *Id.*
156. *Id.*
157. *Id.*
158. *Id.* at 4, 8.
159. *Id.* at 8.
160. *Id.* at 10.
161. *Id.*

circumstances but instead represented a pattern across departments.[162] The 1999 MIT Report stated that "[t]he tenured women faculty, acting as a group through the committee, together with the Dean, made a discovery.… They found that discrimination consists of a pattern of powerful but unrecognized assumptions and attitudes that work systematically against women faculty even in the light of obvious goodwill."[163]

Once the investigative phase of data collection and analysis was completed, the committee, along with other tenured women faculty, made a set of proposals to the MIT administration to achieve equity and improve the status of senior women faculty, to improve the quality of the professional lives of junior women faculty, and to increase the number of women faculty.[164] Such recommendations were wide-ranging and ambitious in scope and included the following, among others: establishing a standing committee on women faculty to monitor equity data on an annual basis, taking action to promote women into administrative roles such as department heads and chairs of important committees, taking steps to prevent the isolation and marginalization of women faculty after tenure, promoting integration and preventing the isolation of junior women faculty, addressing family-work conflict issues such as adopting a uniform policy on maternity leave and tolling the tenure clock, and by taking steps to increase the number of women faculty through improved recruitment and hiring practices.[165]

After issuance of the 1999 MIT Report, steps were taken to implement some of the Report's recommendations. Such Report stated that the MIT administration "moved swiftly to improve the status and equitable treatment of senior women faculty and to increase the number of women faculty."[166] Measures were adopted to redress inequities in the allocation of resources and to include women in significant department activities.[167] In addition, efforts were made to identify and recruit women at all faculty ranks.[168] The results of these actions were felt immediately, with the Report noting that such actions had improved the morale and the

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162. *Id.* at 11.
163. *Id.*
164. *Id.* at 14-15.
165. *Id.*
166. *Id.* at 13.
167. *Id.* at 9.
168. *Id.*

professional and personal lives of many senior women faculty and had increased the number of women faculty.[169]

Twelve years later, the 2011 MIT Report noted that "remarkable" progress had been made in the School of Science since the 1999 MIT Report, finding that the number of women faculty had nearly doubled, there was a more equitable distribution of resources and salary, and several women faculty were serving in senior administrative roles.[170] In addition, advances for junior faculty women were made by making the use of family leave policy standard practice for all faculty throughout MIT, allowing extension of the tenure clock by one year for women who have a child on the tenure track, opening a new day care center, and adopting uniform policies for mentoring junior faculty.[171] These changes had contributed to an improved climate among both tenured and untenured women faculty.[172]

Notwithstanding the progress that had been made, the 2011 MIT Report noted that important issues remained to be addressed and new issues had emerged that could negatively impact women faculty.[173] There were persistent issues regarding faculty search procedures, childcare issues, stereotypes of women's expected behavior that negatively impacted interactions by women faculty with their colleagues and students, high levels of service interfering significantly with faculty research accomplishments, exclusion from departmental decision-making, lack of respect for junior women faculty, and lack of accessibility to mentoring.[174] As a consequence, the 2011 MIT Report included a series of further recommendations to address such continuing and new issues.[175]

This finding illustrates an important conclusion regarding university faculty gender equity task forces, namely that advances may take place slowly and incrementally and that continuous monitoring is a necessary element. As the 2011 MIT Report noted, "[t]he most important conclusion of this report is that the efforts of central administration,

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169. *Id.*
170. MASS. INST. OF TECH., *supra* note 147, at 5, 12.
171. *Id.* at 12.
172. *Id.* at 5, 14.
173. *Id.* at 6.
174. *Id.*
175. *Id.* at 18.

working collaboratively with women faculty, need to be continued for the foreseeable future."[176]

In addition to the 1999 MIT Report and the 2011 MIT Report, I also consulted reports issued by gender equity task forces at Marquette University, University of Houston, University of Iowa, University of Texas at Austin, and State University of New York, Potsdam to determine best practices for such task forces.[177] In contrast to the 1999 and 2011 MIT Reports, this group of task force reports included an analysis of the status of women faculty in both STEM and non-STEM disciplines.

Among this group of task force reports, I found particularly compelling a comprehensive and detailed report prepared in 2001 by a Marquette faculty task force ("Task Force") chaired by Professor Phoebe Williams of the Marquette University Law School ("2001 Marquette Report").[178] The high quality of this report suggested to me that it could be used as a model for the work of gender equity task forces at other universities, including my own. In addition, I found several parallels between the culture of Marquette and the university at which I teach, both of which are Jesuit institutions. Therefore, I chose to import some of the features of the 2001 Marquette Report in my work on behalf of a gender equity task force at my home institution.

The President of Marquette University, Robert A. Wild, S.J., formed the Task Force on Gender Equity in 1999 in response to concerns expressed by women faculty over a period of years about issues of gender equity.[179] Some of the concerns expressed included the low numbers of women faculty, the low number of women faculty holding full professor rank, perceived gender bias and discriminatory attitudes and behavior towards women, lack of women in positions of authority, and the high

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176. *Id.* at 6.
177. *See e.g.* MARQUETTE UNIV., REPORT OF THE PRESIDENT'S TASK FORCE ON GENDER EQUITY (2001) (on file with the author); UNIV. OF HOUSTON COMMISSION ON WOMEN, THE STATUS OF WOMEN AT THE UNIVERSITY OF HOUSTON: STUDENTS, STAFF, AND FACULTY (2007) (on file with the author); UNIV. OF IOWA, GENDER EQUITY AT THE UNIVERSITY OF IOWA: FINAL REPORT OF THE GENDER EQUITY TASK FORCE (2006) (on file with the author); J. STROTHER MOORE & GRETCHEN RITTER, UNIV. OF TEX. AT AUSTIN, FINAL REPORT OF THE GENDER EQUITY TASK FORCE (2008) (on file with the author); POTSDAM STATE UNIV. OF N.Y. REVISED FINAL REPORT OF THE TASK FORCE ON THE STATUS OF WOMEN (2015), https://www.potsdam.edu/sites/default/files/documents/about/administration/ president/REVSTATUS-of-WOMEN.pdf.
178. MARQUETTE UNIV., *supra* note 177.
179. *Id.* at 8.

turnover rates of women faculty.[180] President Wild issued a charge to the Task Force ("Charge") that asked the members (1) to investigate faculty perceptions of gender inequity, (2) to analyze data to determine if faculty were treated equitably in recruitment, hiring, appointment, workload distribution, allocation of leadership responsibilities, compensation, and promotion, and (3) to prepare a report with findings and conclusions, recommendations, and a plan of action to address gender inequities.[181]

A definition of gender equity was later adopted to guide the work of the Task Force, which definition referred to the "equal treatment of women and men in the workplace."[182] The definition also attempted to ground the work of the Task Force in the Jesuit tradition of the university by referring to *Decree 14 of Congregation 34 of the Society of Jesus* entitled "Jesuits and the Situation of Women in Church and Civil Society," which referred to "the equal dignity of women created with men in the image of God."[183]

Investigation into gender equity by the Task Force was limited to an exploration of issues affecting faculty, and did not extend to staff and students.[184] The Task Force was comprised of eighteen faculty members, some of whom also served in administrative roles, drawn from across the university and from a variety of disciplines.[185] The Executive Summary of the 2001 Marquette Report stated that "[t]he membership represented a diverse group of individuals who brought to bear a variety of disciplinary perspectives and ranges of experience on matters concerning gender equity."[186] In addition, the members possessed expertise in areas related to the work of the Task Force, including gender analysis, statistics and quantitative data analysis, qualitative data analysis, development of surveys, marketing, communications, higher education administration, and law.[187]

In order to fulfill the Charge from the university president, the Task Force conducted a wide-ranging empirical study of full-time faculty using

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180. *Id.*
181. *Id.*
182. *Id.*
183. *Id.*
184. *Id.* at 2.
185. *Id.* at 17.
186. *Id.*
187. *Id.*

both quantitative and qualitative data.[188] Regarding part one of the Charge, relating to perceptions of gender inequity, the Task Force designed, administered and analyzed a university-wide faculty climate survey, which measured perceptions of organizational fairness, exclusions from formal positions of power, devaluation, personal comfort with those who are different, diversity value, gender and sexual harassment, informal social exclusion, and work-family conflict.[189] In addition, the Task Force reviewed statements of individuals who had complained to the university about unfair treatment due to their gender in order to determine if such individuals perceived inequitable treatment based on gender.[190]

In order to address part two of the Charge, relating to empirical evidence of gender differences along a variety of measures, the Task Force used quantitative methods to examine salary, promotion, and tenure decisions.[191] Data was collected using the results of a faculty survey along with other university data on student assessment of teaching, teaching assignments, workloads, research productivity, rank, and compensation.[192] The Task Force also used qualitative data obtained by surveying and interviewing administrators on issues related to recruitment, hiring, and appointment of faculty, workload distribution, allocation of leadership responsibilities, some aspects of compensation, and promotions.[193] In addition, academic chairs were surveyed on perspectives and initiatives on gender equity, recruitment and hiring of faculty, compensation, allocation of teaching and advising responsibilities, mentoring for new faculty, retention, career advancement, and gender diversity of departmental committees.[194] At a later date, deans and vice-presidents were interviewed to discuss the findings of the chairs' survey.[195]

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188. *See* MARQUETTE UNIV., *supra* note 177.
189. *Id.* at 22.
190. *Id.* at 23.
191. *Id.* at 9.
192. *Id.*
193. *Id.*
194. *Id.*
195. *Id.* at 9, 26.

The work of the Task Force was conducted through a subcommittee structure.[196] Two subcommittees were established.[197] A Perceptions Measurement Subcommittee was charged with determining what perceptions to measure, designing a survey instrument, recommending other sources of information, and addressing related issues.[198] A Quantitative Data Subcommittee was charged with identifying collectible data, designing a survey instrument, recommending sources of data, and addressing concerns about longitudinal data.[199] At a later stage in the work of the Task Force, additional subcommittees and work groups were developed to collect and analyze data from other sources.[200]

The data collection and analysis conducted by these subcommittees and work groups resulted in the preparation of reports which included findings, recommendations, and plans of action, and which were responsive to part three of the Charge.[201] The 2001 Marquette Report listed extensive and detailed findings of problems experienced by faculty that were traceable to gender.[202] However, the Report identified several of these as key findings, namely that female faculty members received significantly lower starting salaries than men resulting in lower current salaries, women were less likely to obtain tenure and the rank of associate professor, women were significantly less likely to receive administrative appointments such as departmental chair, and women who held administrative appointments received lower compensation than men for such work.[203] The Report also identified problems with a lack of transparent and standardized policies relating to recruitment, mentoring, salary, annual reviews, and tenure and promotion standards, as well as a lack of understanding of gender equity, a lack of faculty input in evaluating chairs and deans, significant levels of gender-based treatment sometimes constituting harassment, and a lack of a university office to report grievances related to gender.[204]

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196. *Id.* at 18.
197. *Id.*
198. *Id.*
199. *Id.*
200. *Id.*
201. *Id.* at 27-46.
202. *See id.* at 14–47 ("Introduction to the Report of the President's Task Force on Gender Equity").
203. *Id.* at 9.
204. *Id.*

In order to further fulfill part three of the Charge, the Task Force developed extensive and detailed recommendations in order to address its findings on the status of women faculty at the university.[205] These recommendations were wide-ranging and comprehensive, covering all of the issues identified as key findings as well as additional areas of concern that went beyond such key findings.[206] They focused on the need for increased attention to gender equity issues, the development of new policies and procedures to address entrenched gender inequities, and ongoing review and evaluation of progress to remedy such inequities.[207]

Such recommendations based on the key findings included providing funds to eliminate salary differences attributable to gender, adopting written policies for distributing merit increases, reviewing salaries for gender differences, implementing mentoring programs, adopting written procedures and criteria for tenure and promotion and appointment to administrative positions, tracking progress on the tenure and promotion of women faculty and their appointment to senior administrative positions, developing educational programs to inform faculty and administrators about gender equity issues, and appointing a university ombudsman to handle gender equity grievances.[208] Many other recommendations were adopted that addressed additional issues not specifically identified in the key findings.[209] These included adopting family friendly policies such as paid parental leave in the event of the birth or adoption of a child, increasing recruitment and hiring of women faculty by adopting best practices in that area, and demonstrating greater support for programs dealing with women's issues, including women's studies.[210]

The Task Force expressed its wish that gender equity issues be recognized and addressed at all levels within the university through recommendations that required the distribution of the 2001 Marquette Report to all faculty and administrators and placement of the report on the university website, the creation of an Implementation Task Force on

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205. *See id.* at 10–13.
206. *See id.*
207. *See id.*
208. *See id.* at 27–46.
209. *See id.*
210. *See id.*

Gender Equity, and the inclusion in the university's strategic plan of a commitment to faculty gender equity.[211]

Part three of the Charge also required the Task Force to develop a plan of action based on its findings and recommendations that included specific actions that were to be taken on a detailed timeline.[212] This was accomplished through a consultative process involving the central university administration, which had final say over the gender equity initiatives it was willing to support and the feasibility of accomplishing them.[213] The four phases of the plan of action were to continue over a time period of approximately eighteen months.[214] Some of the salient features of the plan of action included identifying initiatives involving a commitment of resources that the central administration was willing to support, such as faculty salary adjustments, recruitment and retention of faculty, lengthening of paid leave to address work-family conflicts, hiring of a university ombudsman, creating an Implementation Task Force on Gender Equity, reviewing or developing of policies and procedures for recruitment, tenure and promotion decisions, allocating of merit increases, and monitoring of progress towards achieving gender equity in identified areas of concern.[215]

At the time of its publication, the 2001 Marquette Report was heralded by President Wild as an outstanding achievement and he is later reported to have called it one of the most important achievements of his tenure as President.[216] Although the Report was endorsed at the highest level by the university administration and work on the plan of action continued through the Implementation Task Force on Gender Equity and university administrators, no follow-up report was issued. A news report that appeared some eight years after issuance of the 2001 Marquette Report quoted faculty members who believed that some progress had been made on the issue of inequitable salary differentials based on gender but that additional work needed to be done on that issue and on monitoring progress on gender equity.[217]

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211. *Id.* at 14–47.
212. *Id.* at 10–13.
213. *Id.*
214. *Id.*
215. *Id.*
216. *See id.* at 2; Telephone Interview with Phoebe Williams, Emerita Professor of Law, Marquette University (July 21, 2014).
217. Tori Dykes, *Looking at Salary Differences by Gender*, Marquette Wire (Dec. 10, 2009), https://marquettewire.org/3761020/tribune/tribune-news/looking-at-salary-differences-by-gender/.

B. A Model Framework for a Successful Gender Equity Task Force

Based on the examples of successful university faculty gender equity task forces in the preceding Section V(A), this Section V(B) will set forth a recommended framework covering the structure and process for such task forces. In my work on behalf of a gender equity task force at my university, I have utilized many elements of the structure and process described here because I believe these elements to represent a form of best practice in this area.

1. Scope of Task Force

First, it is essential that the scope of the task force be established at the very beginning of the process. Some task forces focus on gender issues faced not only by faculty, but also by staff and students. While such an approach may at first glance seem attractive due to its inclusive nature, it may not be as successful as an approach focused solely on the status of women faculty. While female faculty, staff, and students may face some common problems on account of their gender, women faculty face several unique problems that are quite different from the challenges facing staff and students. The predominance of men on university faculties and among university administrators and the hierarchical nature of the university system of faculty tenure are among the reasons that account for the special challenges faced by women faculty. Because I believe that women faculty face distinct issues not shared by staff and students, the work that I have conducted for a gender equity task force in my university has focused on women faculty and specifically, full-time women faculty since that was the charge delivered to such task force. What I describe here relates to a task force focused on full-time women faculty. Issues that relate specifically to part-time and adjunct women faculty are not explored in this article.

2. Composition of Task Force

It is important that the task force have broad-based representation drawn from a variety of disciplines and from as many of the schools and colleges of the university as possible. Faculty should include members of various ranks, status, and levels of seniority. The purpose of broad-based representation is to ensure "buy-in" by various faculty constituencies. It also allows a variety of perspectives and approaches to gender equity to be considered and included in the work of the task force.

Due to the complexity of gender equity issues for university faculty, it is essential that the task force include members who possess a wide range of expertise and analytical skills. Task force members should have a strong interest in gender equity issues across the university, possess strong analytical and writing skills, and have expertise in one or more of the following areas: gender analysis, women's and gender studies, statistics and quantitative data analysis, qualitative data analysis, development of surveys, marketing, communications, higher education administration, and law.

Task force members should be willing to acknowledge the special concerns of women of color, members of the LGBTQ community, and persons with disabilities. Intersectionality issues are often little understood and therefore overlooked by university faculty and administrators and gender equity task forces should be sensitive to these issues.

It is useful to have a job description that can be sent to prospective task force members to apprise them of the nature of the work they will be undertaking should they choose to accept an appointment. Since task forces of this type frequently require at least one to two years to complete their research and analysis, it is important the task force members be willing to make a multiyear commitment to the investigation and recommendation phase of the task force.

3. Development of Task Force Mission Statement and Delivery of Task Force Charge

The task force should have a clear focus, which is best expressed through development of a mission statement. This should be the first order of business and should be completed soon after the task force is formed. It is helpful to ask a senior university administrator, usually the president, to endorse the mission by delivering a charge to the task force. Often, such a mission statement/charge will ask the task force (1) to investigate faculty perceptions of gender inequity, (2) to analyze data to determine if female faculty are treated equitably with respect to salary, recruitment and hiring, tenure and promotion, workload distribution, allocation of leadership responsibilities, and the opportunity to balance family and work responsibilities, and (3) to prepare a report with findings and conclusions, recommendations, and a plan of action to address gender inequities. Asking the university president to endorse the task force's mission helps to ensure the legitimacy of the task force.

4. Support of Senior University Administrators

Gender equity task forces typically develop out of concerns expressed by faculty about inequitable treatment on account of gender. Often those concerns are voiced through a representative body of the faculty, such as through a faculty senate or faculty assembly. While such task forces should be directed by faculty, it is critical that the support of senior administrators, such as the university president, provost or other chief academic officer, deans, and chairs, be enlisted in support of this effort. Ultimately, the gender equity task force can only be successful if it is viewed as a collaborative process among faculty and the university administration. Cultivating good working relationships with senior administrators may help in obtaining access to the information and resources needed to actualize the task force's mission. Since the final report and recommendations of the task force will be delivered not only to faculty but to university administrators for implementation, both faculty leaders and senior administrators should be actively involved in, or at least adequately informed about, the activities of the task force.

5. Stages of Work

Upon formation, the work program conducted by such task forces often consists of four phases: first, investigating perceived gender equity issues involving faculty through a process of data collection and analysis and preparing written reports setting forth the results of such empirical work; second, developing recommendations to the university administration that address problems identified in the fact-finding phase; third, implementing recommendations that the university administration deems appropriate and achievable within a reasonable time frame; and fourth, putting in place a framework for monitoring compliance with such recommendations and undertaking future assessments, including anchoring gender equity within the strategic plan of the university. This article covers the first and second stages of work.

6. Development of Work Plan and Time Line

The investigative phase of most task forces consists of a complex research project. It involves the collection and evaluation of both quantitative and qualitative evidence, which may include statistical data, surveys, focus groups, interviews, and individual listening sessions. Task

force members must be willing to make a multiyear commitment to the project for it to be successful. Many task forces spend a minimum of one to two years on the investigative phase of their work. It is important to manage the process by specifying a work plan and projected time frame for completion. A timeline specifying what can be reasonably accomplished within this time period helps to keep the task force on track.

7. Task Force Leadership and Use of Committees

Task forces are usually chaired by faculty members with expertise on gender issues. Such leadership is often tasked with developing the task force charge, work plan, and timeline, as well as planning and chairing task force meetings, handling communication with university faculty leadership and senior administrators, and bearing ultimate responsibility for the reports and recommendations advanced as a result of the task force's work.

Much of the empirical work during the fact-finding stage will be done through a committee structure. For example, some task forces designate one committee to investigate faculty perceptions of gender inequity ("perceptions committee") and a second committee to collect and analyze university data on such topics as faculty gender demographics (including a gender breakdown by department, tenure status, and rank), faculty salaries, faculty hiring and recruitment patterns, tenure and promotion patterns, and distribution of leadership positions, among other things ("quantitative data committee"). In some cases, smaller work groups may be formed within such committees to focus on specific tasks that are needed to answer a research question posed by such committee. The work of such committees may involve regular meetings, preparation of written analyses of various types of information and data collected, writing of reports containing the results of such information and data analysis, and formulation of recommendations. If such a committee structure is used, committee leadership should be asked to report on progress made on their various research questions at periodic meetings of the full task force.

8. Sources of Data and Other Information; Methodology Used

Gender equity task forces must be able to collect or have access to both qualitative and quantitative data about university faculty, some of which

may be sensitive and should be held in confidence by task force members during the investigative phase. Task force members should be reminded of this fact and be asked to respect such confidentiality. Steps should be taken to maintain the anonymity of individual faculty members with respect to salary data and other personal information.

Members of a task force "perceptions" committee should be well-versed in qualitative data collection and analysis. Information on faculty perceptions of gender inequity is often collected through use of a faculty climate survey covering many different aspects of job satisfaction, although sometimes faculty surveys focusing only on gender equity issues are used. Such surveys may be developed and administered by university central administration such as a provost's office or by a consultant. Survey response information can be analyzed through data analysis focusing on differences in responses between female and male faculty members. In addition, if there are free response questions included in such surveys, it is possible to analyze such qualitative data through use of keywords and by looking for trends and patterns within the free responses that are submitted. In addition to the use of surveys, perceptions committees often collect additional information through interviews with faculty members and administrators and through focus groups. Such "anecdotal evidence" can be analyzed using qualitative data analysis techniques.

Members of a task force "quantitative data" committees should be familiar with quantitative data collection and analysis. The data analysis technique most often used by such committees involves a statistical breakdown and development of multiple regression statistical models. Data on faculty gender demographics, faculty salaries, faculty hiring and recruitment patterns, faculty tenure and promotion patterns, and distribution of administrative and other leadership positions may often be collected at the central university level. If a collaborative working relationship has been established between the gender equity task force and senior administrators, it is common for university administration to provide such data to the task force. In some cases, such data may not be collected at the central university level. In those cases, some task forces have sought to obtain such information from deans and chairs of individual colleges and schools. The gender equity task force may well serve as the impetus for central administration to collect better data on such faculty issues in the future.

9. Delivery of Task Force Reports and Recommendations

The culmination of the investigative phase of the work of a gender equity task force is the preparation and delivery of a report with findings and recommendations for addressing gender inequities. Such report typically is composed of the following sections: an explanation of the reason for the establishment of the task force, including a brief history of its activities; a listing of the committee faculty membership and their affiliations within the institution; the task force's mission and charge; copies of committee reports describing the research questions that were posed and the data collection and analysis that was undertaken to answer such questions; a list of task force findings regarding faculty gender equity within the university; and a set of recommendations to address findings of gender inequities. These reports are typically addressed to both faculty and senior university leadership. Frequently, the university president or chief academic officer will ask to include a statement endorsing such report.

The gender equity task force reports that I reviewed and analyzed in connection with this article were ambitious in scope. They signal to me that the depth of gender equity problems uncovered in the investigative phase of the task forces' work were numerous and often involved complicated issues that were difficult to solve. This was reflected in the extremely detailed findings and recommendations incorporated in such reports.

Generalizing across a wide range of such documents, I note the following recommendations are ones that are frequently advanced by gender equity task forces: (1) eliminate salary differences attributable to gender; (2) review existing policies and either revise or adopt new written policies in the following areas to provide for equitable treatment for women, and to apply such policies on a transparent, consistent, and uniform basis: criteria for setting initial salaries and distributing merit increases, criteria for distribution of other university resources (such as laboratory space, equipment, and research support), criteria for recruitment and hiring to increase faculty gender diversity, standards for tenure and promotion, appointment to administrative and other senior leadership positions, and adoption of mentoring programs to assist women faculty; (3) adopt family friendly policies such as paid parental leave and tolling of the tenure clock in the event of the birth or adoption of a child, and assistance in obtaining childcare. These are generic

examples of the types of recommendations that have been developed by gender equity task forces. However, it should be noted that the unique circumstances present within specific university settings inevitably give rise to much more nuanced recommendations. There is no single set of solutions to the problem of gender inequity in the university setting.

VI. USE OF UNIVERSITY GENDER EQUITY TASK FORCES TO ASSESS THE STATUS OF WOMEN FACULTY: AREAS OF CONCERN AND BEST PRACTICES

Although gender equity issues may vary among universities, a review of a sample of university gender equity task force reports, along with related academic studies on the topic of gender equity among university faculty, led me to conclude that there were a set of common themes and areas of concern that emerged from such studies. This Section VI will generalize about some of these common themes and areas of concern and will also analyze emerging best practices to address such areas of concern.

A. University Climate

An important first step for many gender equity task forces is to conduct a faculty climate survey. Such surveys can be used to determine whether female faculty members perceive gender inequity in their workplaces that should be explored further and addressed. Such climate surveys are not unique to the work of gender equity task forces. Climate surveys are often used by employers, including universities, to assess organizational climate. The term "organizational climate" refers to an "individual's perceptions of the organization's policies, practices, and procedures."[218] Such perceptions are important because they "shape employees' work behavior and their feelings about the organization," even though such perceptions may not always accurately reflect or may even distort the realities of the workplace.[219]

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218. Isis H. Settles et al., *The Climate for Women in Academic Science: The Good, The Bad, and The Changeable*, 30 PSYCHOL. OF WOMEN Q. 47, 48 (2006).
219. *Id.*

Climate surveys typically consist of a questionnaire distributed to employees containing both standardized and free response questions designed to collect a broad range of data on "attitudes, opinions, values, beliefs, and experiences" of employees.[220] In some instances, employers may conduct follow-up focus group sessions among a smaller group of employees in order to prepare a more fine-grained analysis of the responses to the questionnaire. Such data on perceptions can be used to assess workplace conditions and identify problem areas that need to be addressed. The data can also be used to determine the impact of remedial programs that an employer might put in place to improve workplace climate.

Such surveys are routinely undertaken by both public and private universities.[221] The president of one large public university system that distributed a climate survey to all of its campuses explained that such survey provided a cost-effective way to collect a broad range of data from demographic groups consistently across multiple locations, which would produce a "representative picture of the attitudes and characteristics of such groups."[222] Such surveys were also said to provide greater confidentiality than other data collection efforts.[223] In addition, the use of standardized questions allowed comparison among various groups included in the climate survey study.[224] Some universities may seek to assess staff and student perceptions, as well as faculty perceptions, through the use of climate surveys.[225]

The name of the instrument that is used may vary from institution to institution. Names like climate survey, faculty feedback survey, and job satisfaction survey are some of the names used. While specialists in behavioral psychology may detect nuanced differences among instruments bearing such names, this Section VI(A) will refer in general terms to "climate survey" as an assessment tool used to identify attitudes

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220. U.C., Office of the President, *Campus Climate Survey: FAQs*, http://campusclimate.ucop.edu/faq/#faq-20/ (last visited May 19, 2018) [hereinafter U.C., *Campus Climate Survey*].
221. *See* UCLA, AN ASSESSMENT OF THE ACADEMIC CLIMATE FOR FACULTY AT UCLA: GENDER EQUITY COMMITTEE ON ACADEMIC CLIMATE (April 2003) (on file with author); WASHINGTON UNIVERSITY IN ST. LOUIS, WASHINGTON UNIVERSITY FACULTY WORK LIFE SURVEY (2015) (on file with author).
222. U.C., *Campus Climate Survey*, *supra* note 220.
223. *Id.*
224. *Id.*
225. *Id.*

towards work and perceptions of inequitable and/or discriminatory practices.

The impact of climate on women faculty has been examined through empirical studies and theoretical literature. The literature is full of examples of the "chilly" climate that is experienced by many female faculty, which is a term used to describe the marginalization, exclusion from informal networks and decision-making processes, and devaluation of women.[226] Climate surveys represent one technique to detect and measure such "chilly" climate. Some researchers have hypothesized that campus climate may be of great importance to women in assessing their job satisfaction, since women are often socialized to value interpersonal relationships.[227] This topic has been studied as it relates to the job satisfaction and retention of female faculty, often in the context of STEM disciplines and academic medicine, which are areas in which there are fewer women faculty members and a high attrition rate.[228] One of the first such studies was the 1999 MIT Report discussed in Section V(A) above, which received international attention when it was released due to the description of the "chilly" climate of exclusion and marginalization experienced by senior women scientists.[229]

For gender equity task forces, faculty climate surveys can be used to assess whether women experience discriminatory attitudes and behaviors in areas ranging from interpersonal dealings with faculty, administrators, and students, to their treatment on career issues like tenure and promotion, allocation of workload, and availability of leadership opportunities, among others.[230] Another important feature of climate surveys is that they can be used to assess the level of job satisfaction experienced by faculty. For example, the literature on career satisfaction among women scientists in academia reveals that female faculty who

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226. Cheryl Maranto & Andrea Griffin, *The Antecedents of a Chilly Climate for Women Faculty in Higher Education*, 64 HUMAN RELATIONS 139, 139 (2011).

227. Ronda Roberts Callister, *The Impact of Gender and Department Climate on Job Satisfaction and Intentions to Quit for Faculty in Science and Engineering Fields*, 31 THE J. OF TECH. TRANSFER 367, 369 (2006).

228. Settles et al., *supra* note 218, at 48; Callister, *supra* note 227, at 369; *see* Sharon Dannels et al., *Medical School Dean's Perceptions of Organizational Climate: Useful Indicators for Advancement of Women Faculty and Evaluation of Leadership Programs Impact*, 84 ACAD. MED. 67 (2009); S. Lynn Shollen et al., *Organizational Climate and Family Life: How Those Factors Affect the Status of Women Faculty at One Medical School*, 84 ACAD. MED. 87 (2009).

229. Maranto & Griffin, *supra* note 226, at 139.

230. Bronstein & Farnsworth, *infra* note 313.

perceived a positive or supportive departmental climate enjoyed higher levels of job satisfaction and productivity, while those who perceived their departmental climate to be sexist reported lower levels of job satisfaction.[231] This is relevant to the issue of retention of faculty, an important topic for universities since there are high costs associated with losing faculty due to the lack of a supportive environment.[232] Job satisfaction is also closely linked to faculty productivity.[233] The literature on women in science describes the exclusion of women from informal social networks within their departments as having a negative impact on their scholarly productivity because such social networks also operate as information networks in which research ideas are generated and opportunities for publication are shared.[234]

Best Practice: Best practice in this area suggests that universities should conduct climate surveys periodically to assess whether female faculty members perceive gender inequity and lack of procedural fairness based on gender in their work lives. The results of such climate surveys should be used to develop programs and policies that will address such perceptions. Universities frequently use the results of an initial climate survey assessing perceptions of gender equity as baseline data for later climate surveys in order to determine whether progress has been made in fostering an inclusive and welcoming university atmosphere.

Faculty perceptions of gender equity can be assessed through a climate survey on equity issues only or as part of a larger university climate survey that assesses other aspects of campus life, such as perceptions of the effectiveness of university leadership or university programs and policies. Such surveys typically consist of a questionnaire with Likert scale response options and sometimes also contain the opportunity to provide free responses or comments. Such surveys are typically distributed to all faculty on an anonymized basis and the survey results are then aggregated and evaluated by a gender equity task force or university administrators such as the chief academic officer or provost, deans, and department chairs. In some cases, focus groups or interviews with individuals may be used to supplement such survey data.

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231. Settles, et al., *supra* note 218, at 54.
232. Callister, *supra* note 227, at 367; *see* Louise August & Jean Waltman, *Culture, Climate and Contribution: Career Satisfaction Among Female Faculty*, 45 RESEARCH IN HIGHER EDUC. 177 (2004).
233. Settles et al., *supra* note 218, at 48.
234. *Id.* at 47–48.

There is no one-size-fits-all approach to such surveys, since the specific gender-related issues experienced by faculty differ from university to university and are the product of the culture of particular institutions. Nevertheless, there are certain recurring themes that are addressed in these surveys, and they typically relate to perceptions of gender equity in the following areas:

1. Evaluation of work performance.
2. Distribution of pay and other scarce university resources, such as research grant support, equipment, and lab space.
3. Recruitment and hiring practices.
4. Tenure and promotion practices.
5. Allocation of leadership opportunities.
6. Workload allocation, especially course load and service responsibilities.
7. Recognition of achievements.
8. Involvement in decision-making that affects work.
9. Scheduling flexibility to fulfill family responsibilities.
10. Alteration of desired family plans due to the tenure clock.
11. Experiences with inappropriate behaviors or comments based on gender.

Differences in negative versus positive responses between female and male faculty members may signify areas of perceived gender inequity that should be further explored and addressed by the university. Comments submitted in connection with free response questions or in focus group sessions constitute additional data that is important in pinpointing the sources of perceived gender inequity.

B. Faculty Salaries and Gender Pay Equity

As documented in Section II above using data from the AAUP, women faculty at U.S. universities on average earn about 80% of what men earn, with a lower percent of women falling into the top wage earner category of full professor.[235] The AAUP Committee on Women in the Academic Profession began collecting salary data disaggregated by gender in its 1975 annual faculty compensation survey in order to highlight the

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235. Weighted Average Salaries, *supra* note 41.

challenges facing academic women.[236] According to the AAUP, this comparative disadvantage has remained virtually unchanged since the AAUP began collecting such separate salary data for women and men faculty.[237] Such gender-based pay disparities have attracted widespread attention in recent years and faculty groups have called on university administrators to reduce these disparities with varying degrees of success.[238] In addition to concerns about lower salaries, some women faculty also express concerns about the allocation of other scarce university resources needed for research, such as laboratory space, equipment, and research support.[239] This Section VI(B) will focus on disparities in salary between women and men faculty because this is the issue that has been studied most often and for which most data is available.

Focusing on the salary issue, there are a number of reasons that have been offered for these disparities.[240] Women may be hired into faculty positions in disciplines that have lower market salaries than for men.[241] Women are more likely to hold faculty positions at institutions that pay lower salaries.[242] Women may be offered lower starting salaries than men, even in the same discipline and at the same university.[243] Even if merit raises are awarded, over time the disparity will continue to persist and may never be erased. Slower rates of tenure and promotion for women provide yet another explanation.[244] As reported in Section II, women are less likely than men to hold senior faculty rank, which is the highest paid faculty position.[245] Since academic salaries are tied to rank, women who remain in lower rank positions longer than men suffer a salary disadvantage. This salary disadvantage will persist over time even if the faculty member eventually moves to a higher rank. Finally, women

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236. Mary W. Gray, *The AAUP and Women*, ACADEME, Jan.-Feb. 2015, https://www.aaup.org/article/aaup-and-women#.WLOnyRIrK8o/.

237. *AAUP Faculty Gender Equity Indicators*, *supra* note 18, at 11.

238. *Id*.

239. *Id*.

240. LOIS HAIGNERE, PAYCHECKS: A GUIDE TO CONDUCTING SALARY EQUITY STUDIES FOR HIGHER EDUCATION FACULTY 18 (2d ed. 2002).

241. *Id*.

242. *Id*.

243. *Id*.

244. *Id*.

245. Percentage of Faculty Members with Tenure Status, *supra* note 33.

predominate in the category of non-tenure track positions, which often carry lower salaries.[246]

It is important to note that the data presented in Section II of this article is national aggregated data and does not reflect the situation at each and every college and university in the United States. Some universities may follow the national trend but others may not. The best way to assess whether there is a disparity in faculty salaries attributable to gender in a particular college or university is by conducting a gender pay equity study using best practice methodology, as discussed below.

Best Practice: It is common practice in U.S. universities to conduct gender pay equity studies on a periodic basis to determine whether there is a disparity in faculty salaries attributable to gender. The gender equity task forces described in this article frequently conduct such pay equity studies as part of a broad-based inquiry into the status of women faculty. In other cases, such studies may be conducted on a stand-alone basis at the request of a representative body of the faculty like a faculty senate, a faculty union, or the university administration. In many cases, such studies emerge from collaborative efforts of faculty and administrators.[247] In some universities, such studies are repeated on a regular basis, ranging from three to five years, to determine if progress has been made in eliminating a gender pay gap detected in an initial study or if new problems are developing.[248] These studies involve statistical analyses of data, which may be conducted by a faculty statistics expert or, alternatively, by a paid outside consultant. In most cases, a designated group of faculty interested in gender pay equity issues and conversant with statistical analysis is charged with interpreting the results of the data analysis.[249] Such interpretation of the data is then presented to the faculty and university administrators, often including the provost or chief academic officer and the president, as well as deans and department heads.

Gender pay equity studies are typically conducted using a multiple regression analysis that is able to sort out how gender impacts salary when

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246. Percentage Distribution of Full-Time Faculty, *supra* note 23.

247. HAIGNERE, *supra* note 240, at 19.

248. John W. Curtis, *Faculty Salary Equity: Still a Gender Gap?*, 39 ON CAMPUS WITH WOMEN (2010) 1, http://archive.aacu.org/ocww/volume39_1/feature.cfm?section=2.

249. *See* HAIGNERE, *supra* note 240.

other possible determinants of pay are held constant.[250] Such multiple regression analysis is universally acknowledged to be the most important statistical method available to study gender pay equity.[251] As one commentator has noted, "multiple regression's strength is in revealing group effects. . . . That is why it is the method of choice for studying systemic bias."[252] Hundreds of U.S. universities have conducted faculty gender pay equity studies using such methodology starting in the 1970s.[253] In a large number of these studies, it was found that even while controlling for variables that might legitimately explain a wage differential, there still remained an unexplained wage gap that could only be attributed to gender.[254]

Statistician Elizabeth Scott at the University of California Berkeley wrote a comprehensive manual on conducting gender pay equity studies using statistical analysis entitled *Higher Education Salary Evaluation Kit,* which was published by the AAUP in 1977.[255] Her stated purpose was "to provide a method for flagging women and minority faculty members whose salary appears to be low compared to the salary of white males in the same faculty who have the same attributes and experience."[256] She had used statistical analysis to study faculty salaries at her home institution, in which she measured the influence of various legitimate factors such as experience and productivity on salaries of women and men.[257]

In 2002, the AAUP published an even more detailed guidebook written by Lois Haignere and several collaborators entitled *Paychecks: A Guide to Conducting Salary Equity Studies for Higher Education Faculty* ("*Paychecks*").[258] This guidebook was intended to serve as a resource for

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250. *See id.*
251. *Id.* at 37.
252. *Id.* at 9.
253. *Id.* at 2. For a sample of universities that conducted gender pay equity studies *see* HAIGNERE, *supra* note 240, at 48, n. 1; *see also* WASH. UNIV., GENDER PAY EQUITY: FINAL REPORT OF THE SENATE COUNCIL GENDER PAY EQUITY COMMITTEE FOR ARTS AND SCIENCES AND ALL OTHER SCHOOLS EXCEPT THE MEDICAL SCHOOL (2000) (on file with the author); ROBERT K. TOUTKOUSHIAN, UNIV. OF MO., INTERNAL SALARY EQUITY STUDY FOR THE UNIVERSITY OF MISSOURI (2015) (on file with the author).
254. *AAUP Faculty Gender Equity Indicators*, *supra* note 18, at 12.
255. ELIZABETH SCOTT, HIGHER EDUCATION SALARY EVALUATION KIT (1977); *see also* Mary W. Gray & Elizabeth L. Scott, *A "Statistical" Remedy for Statistically Identified Discrimination*, 66 ACADEME 174 (1980).
256. SCOTT, *supra* note 255, at 1.
257. Gray, *supra* note 255.
258. HAIGNERE, *supra* note 240.

those conducting statistical analyses of gender bias in university faculty salaries or interpreting the results of such studies.[259] *Paychecks* presents a comprehensive review of the benefits and pitfalls of the multiple regression approach.[260] There are various types of multiple regression models that have been reported in the literature on gender pay equity studies.[261] Three of these, the total population-actual salary analysis, the natural logarithm of salary analysis, and the white-male-population salary analysis model, are described in detail in *Paychecks*.[262] Gender pay equity studies may employ one or more of these models. While the authors seem to prefer the total population-actual salary analysis approach, they recognize that each such approach has both advantages and disadvantages.[263] They also suggest using all three methods and then examining the consistency of the results.[264]

Whichever model is chosen, in conducting a gender pay equity study, faculty salary will always be the dependent variable in the analysis and it will be necessary to determine which independent variables should be included. Such independent variables represent factors that might explain legitimate differences in pay. The variation in pay between female and male faculty members that cannot be explained with reference to such independent variables is referred to as the gender pay gap.

Some of the independent variables frequently used in gender pay equity studies include highest degree, completion date for highest degree, years since highest degree at time of hire, date of hire at university under study, current rank, date of promotion to current rank, contract length, and discipline, in addition to gender.[265] According to *Paychecks*, race is also an essential variable since underrepresented minorities may themselves experience pay equity problems and including such individuals with white males will skew the data used in the analysis.[266] It will also be necessary to determine the coefficient for each such variable,

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259. *Id.* at 2.
260. *See* HAIGNERE, *supra* note 240.
261. *Id.* at 41–46.
262. *Id.*
263. *Id.* at 10.
264. *Id.*
265. *Id.* at 19–23.
266. *Id.* at 20.

which indicates the weight to be accorded to such variable in the analysis.[267]

How successful the independent variables chosen for the analysis along with their respective coefficients will be in assessing gender pay equity can be determined through statistical analysis. The measure used to assess how well a set of independent or predictor variables accounts for the variation in the dependent variable of salary is called the adjusted R^2.[268] According to *Paychecks*, most gender pay equity studies have an adjusted R^2 above 0.50 and values above 0.70 are common.[269] In cases where such independent variables and coefficients are determined to inadequately explain differences in pay, there may be a need to change the independent variables and coefficients in order to achieve a more statistically valid result.[270]

The results of a gender pay equity study will be influenced by certain subjective choices that are made by those conducting such study. For example, the inclusion or exclusion of a specific independent variable and the choice of coefficients for each independent variable will impact whether or not a gender pay gap is detected and the magnitude of such gap, if one exists. It is important for those conducting such studies to understand that these choices are not solely methodological in nature but may in fact involve judgments that impact the accuracy of the results and may have important political consequences in some cases. The literature refers to "tainted variables" meaning predictor variables that are themselves biased, such that use of such variables in a multiple regression model may mask true gender pay differences because pay differentials will be attributable to such tainted variable rather than gender.[271] One widely reported example of this phenomenon is the use of current rank as a predictor variable.[272] Rank in the academy may be the result of gender bias since it has been noted that women are tenured and promoted more slowly than their male counterparts.[273] It is possible to determine through statistical analysis whether or not such bias in fact exists, thus making such predictor variable a tainted variable. The authors of *Paychecks*

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267. *Id.*
268. *Id.* at 6.
269. *Id.*
270. *Id.*
271. *Id.* at 51.
272. *Id.* at 52.
273. *Id.*

recommended that current rank be included as a variable in the regression analysis, but that those who interpret the data must assume that the results will underestimate the magnitude of the gender pay gap.[274]

Another important decision is what faculty population's data should be included in the study. Some commentators have suggested that non-tenure track faculty, which typically includes many women and minorities, should be included in the analysis so that such groups will be considered for any salary adjustments that may be made as result of the study.[275] Other commentators have suggested that race and ethnicity should be included since faculty members in minority groups may experience the same pay inequities and in some cases, there may be interactions between gender and race or gender and ethnicity.[276]

A final area that should be examined is whether to exclude outliers in the gender pay equity study, namely those whose salaries are more than two standard deviations from the mean.[277] The decision to drop or retain outliers requires the exercise of judgment on the part of those conducting the gender pay equity study. Some have argued that inclusion of outliers may distort the statistical results.[278] Others claim that excluding outliers can fail to reveal the existence of gender bias.[279] There are statistical techniques that can be used to make this determination in advance of running the multiple regression analysis.[280]

A gender pay equity study alone will not automatically end inequities. Remedial action to address the gender pay gap is a further step that is needed to achieve that goal. There are some historical examples in which universities have taken action to eliminate gender pay gaps discovered through pay equity studies by making salary adjustments for faculty.[281] In *Paychecks*, Lois Haignere discusses a case study involving the State University of New York in which faculty members affected by salary bias received across the board adjustments.[282] In addition to awarding salary increases to affected faculty, other approaches to addressing the problem

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274. *Id.*
275. *Id.* at 49–50.
276. *Id.*
277. *Id.* at 51.
278. *Id.* at 45.
279. *Id.*
280. *Id.* at 95.
281. *Id.* at 61.
282. *Id.*

of inequity include adopting standardized and transparent methods of determining initial salaries, merit increases, and special awards, rather than determining compensation primarily through private individual negotiations or exercise of administrative discretion.[283]

Unfortunately, shedding a light on salary differences has not led to an elimination of the gender wage gap in many cases. Some common pitfalls that have been noted are the tendency of university administrators to underfund remedies for inequities, to focus only on the worst cases, or to require faculty members to negotiate individual resolutions.[284] Another objection is to claim that even if salary differences exist, they may not always be statistically significant differences.[285] The response by experts in the field is that statistical significance is not relevant to pay equity studies which examine the entire faculty population at a university.[286] The concept of statistical significance, which measures probability levels, is appropriately used in academic analysis using sample data in which inferences about a whole population are drawn based on a sample. This is not the case with most faculty pay equity studies.[287]

Paychecks includes some suggestions about activist strategies that may be helpful in gaining the cooperation of university administrators in designing a gender pay equity study or addressing a gender pay gap that may be found.[288] Some of the strategies include widely publicizing the results of pay equity studies among faculty members, alumni, and other members of the university community, using university grievance procedures or collective-bargaining procedures, and meeting with individual members of the university administration and the board of trustees to discuss possible solutions.[289]

C. Recruitment and Hiring

As documented in Section II above using data from the AAUP, women represent a smaller percentage of full-time faculty and full-time faculty

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283. *Persistent Inequity*, *supra* note 9, at 11.

284. Curtis, *supra* note 248.

285. *Persistent Inequity*, *supra* note 9, at 11.

286. *Id.*

287. *Id.*; HAIGNERE, *supra* note 240, at 63.

288. Maita Levine, *Activist Strategies When All Else Fails*, *in* HAIGNERE, *supra* note 240, at 90.

289. *Id.*

with tenure than men, even though women now outnumber men when it comes to university degrees earned.[290] This lack of gender diversity has caused concern and focused increased attention on the need for more inclusive recruitment and hiring practices.[291] While some commentators may suggest as a counter argument that university faculties will achieve gender parity through the mere passage of time as more women enter the academy, it has been estimated that it would take 50+ years for women to make up 50% of university full-time faculty at current rates of progress.[292] Many in the university would agree that such a timeline is unacceptable and that proactive measures to increase gender diversity are needed. Another motivating factor for a more inclusive approach is the fear of legal liability for employment discrimination on the basis of sex.[293]

Best Practice: The AAUP and faculty task forces at various universities seeking to diversify their faculties by recruiting more women have developed guidelines on conducting an inclusive faculty recruitment

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290. Percentage Distribution of Full-Time Faculty, *supra* note 23; Percentage of Faculty Members with Tenure Status, *supra* note 33; *Table 318.10.*

291. *See Gender Equity Guidelines For Department Chairs*, AAUP, https://www.aaup.org/ issues/women-higher-education/gender-equity-guidelines-department-chairs [hereinafter *Gender Equity Guidelines For Department Chairs*]; Diana Bilimoria & Kimberly Buch, *The Search is On: Engendering Faculty Diversity Through More Effective Search and Recruitment*, 42 CHANGE 27 (2010); Christy Glass, *Recruiting and Hiring Women in STEM Fields*, 3 J. OF DIVERSITY IN HIGHER EDUC. 218 (2010); Melinda Morton et al., *Improving the Recruitment and Hiring Process for Women Faculty*, 206 J. OF THE AM. COLLEGE OF SURGEONS 1210 (2008); A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #5: Inclusive Recruitment and Hiring*, STRATEGIC TOOLKIT STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE (2014), at 2, https://www.colorado.edu/eer/sites/default/files/attached-files/5_ inclusivehiringbrief123015.pdf [hereinafter *Strategic Intervention Brief #5*]; *Effective Practices for Recruiting and Retaining Women in Physics,* AMERICAN PHYSICAL SOCIETY, http:///www.APS.org/programs/women/reports/bestpractices/ (last visited July 19, 2018); The College of Sciences and Humanities Task Force on Diversity, *A Guide To Recruiting And Retaining A More Diverse Faculty*, BALL STATE UNIVERSITY (Dec. 2008), https://cms.bsu.edu/- /media/www/departmentalcontent/csh/pdf/unit%20resources/guide%20to%20recruiting%20and% 20retaining%20a%20more%20diverse%20faculty.pdf?l a=en; *Women In Neuroscience, Changing The Face Of Academia: Recruitment Practices Can Make A Difference*, SOCIETY FOR NEUROSCIENCE, https://www.sfn.org/Careers-and-Training/Women-in-Neuroscience/ Department- Chair-Training-to-Increase-Diversity/Faculty-Recruitment/Changing-the-Face-of-Academia- Recruitment-Practices-Can-Make-a-Difference (last visited July 19, 2018).

292. Robyn Marschke et al., *Demographic Inertia Revisited: An Immodest Proposal To Achieve Equitable Gender Representation Among Faculty In Higher Education*, 78 J. OF HIGHER EDUC. 1 (2007).

293. Ann Springer, *How To Diversify The Faculty*, AAUP (March 2006), https://www.aaup.org/issues/diversity-affirmative-action/diversify-faculty.

process.[294] Two common themes emerge from a review of such guidelines: the need to educate hiring committees about the impact of implicit gender bias on decision-making regarding which candidates to recruit, interview and hire, and the need to adopt policies and practices for how faculty searches are conducted to mitigate possible implicit gender bias.[295] The best practices for recruiting women faculty are similar in some respects to those developed to diversify faculty from underrepresented minorities, and some of the guidelines developed for that purpose may be useful here also.[296] However, this Section VI(C) will focus specifically on best practices directed at recruiting more women faculty.

Some universities have found it productive as a first step to focus on adopting an institutional commitment to diversity in the hiring process. It may also be useful to shift the conversation from talk about discriminatory behavior to a more evidence-based discussion of implicit gender bias, which can be overcome through education and by improving and standardizing procedures.[297]

Some universities have acknowledged that changes are needed to each of the steps leading to a faculty hire, namely, forming and educating search committees about the need for diversity and the problem of implicit gender bias, conducting an open search process that seeks to attract a diverse pool of candidates, reviewing applications and interviewing candidates with an open mind and an eye to diversity, and making an offer with the same benefits package that would be offered to a male candidate.[298] Some universities take steps to monitor the process to ensure that an equitable search is being conducted, such as by appointing an equity advisor whose approval is needed to progress to the next phase of the hiring process.[299] Other universities require departments

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294. *See Gender Equity Guidelines For Department Chairs*, *supra* note 291; Bilimoria, *supra* note 291; Glass, *supra* note 291; Morton et al., *supra* note 291; *Strategic Intervention Brief #5*, *supra* note 291; AMERICAN PHYSICAL SOCIETY, *supra* note 291; BALL STATE UNIVERSITY, *supra* note 291; SOCIETY FOR NEUROSCIENCE, *supra* note 291.

295. *See generally id.*

296. Springer, *supra* note 293.

297. BALL STATE UNIVERSITY, *supra* note 291, at 2-3.

298. SOCIETY FOR NEUROSCIENCE, *supra* note 291.

299. U.C. Hastings College of Law, *Effective Policies and Programs for Retention and Advancement of Women in Academia*, WORKLIFE LAW, at 14-15 (2013), http://www.worklifelaw.org/wp-content/uploads/publications/Effective-Policies-and-Programs-for-Retention-and-Advancement-of-Women-in-Academia.pdf.

to collect and submit demographic information about their search processes, including interviews, offers, and hires, or hold department heads accountable for progress on diversity as part of their annual reviews.[300]

Search committees should include women and members of underrepresented groups, and also should include members with a background in and commitment to increasing faculty diversity. In preparing for a new faculty search, some universities take steps at this stage to educate faculty about the empirical research demonstrating the negative impact of implicit gender bias on such hiring practices as review of applications, preparation of letters of recommendations, and starting salary offers.[301] Implicit gender bias training can take various forms, including online training such as that offered by law professor Joan Williams through her WorkLife Law project.[302]

An open search process is also a key element of increasing faculty gender diversity. Some key elements of best practice include eliminating gender-specific terms from position descriptions and broadening descriptions of job qualifications to widen the pool of potential job applicants, adding inclusive language regarding the institution's commitment to diversity, advertising the position with organizations and through media targeting a diverse audience, and developing professional networks that can be used to actively recruit diverse faculty members.[303] Some universities may require that candidate pools include more than one female and/or minority candidate to interview, which increases the likelihood that a diverse candidate will be hired.[304]

In reviewing applications to identify candidates, search committees should seek to avoid excluding candidates who may have different educational backgrounds and perspectives and therefore do not "look like" the majority members of the search committee. Some recruitment guidelines suggest not dismissing candidates whose experiences and achievements may signal academic diversity, even though their credentials may not look like those of candidates whose records have

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300. *Strategic Intervention Brief #5*, *supra* note 291, at 3-4.
301. SOCIETY FOR NEUROSCIENCE, *supra* note 291.
302. GENDER BIAS LEARNING PROJECT, http://www.genderbiasbingo.com/ (last visited July 19, 2018).
303. *Gender Equity Guidelines For Department Chairs, supra* note 291.
304. SOCIETY FOR NEUROSCIENCE, *supra* note 291.

traditionally signaled professional success.[305] The AAUP recommends that candidates whose resumes may contain gaps corresponding to their childbearing years should not be penalized.[306]

In interviewing candidates during campus visits, search committees should avoid illegal, biased, and overly personal interview questions.[307] Questions should focus on the relevant qualifications of applicants and not matters such as family status.[308] Some universities adopt a standard interview protocol containing questions that focus on the purpose and goals established for the new faculty hire, include questions allowing the candidate to address their diversity-related experience and expertise, avoid questions prohibited by law, and avoid topics that have no bearing on job performance.[309]

In order to succeed in hiring a qualified female candidate, best practice is to offer a salary and benefits package that is comparable to one that would be offered to a male with similar qualifications, including a reasonable salary, access to research space and equipment, an equitable teaching load, reduced service commitments at the beginning of the appointment, and a mentoring plan.[310] In offering salary and benefit packages to new hires, universities should be cognizant of the fact that women typically do not negotiate as aggressively as men in this context. As discussed in Section VI(B) above, some commentators note that faculty gender pay gaps may be traceable to the lower initial starting salaries often offered to women.[311] Since merit increases that may be subsequently awarded will be based upon a faculty member's current salary, the initial salary disadvantage experienced by a new faculty hire who is female will gradually widen over time and that woman will likely never catch up to her male counterpart's salary.

D. Tenure and Promotion

As shown in Section II above using data from the AAUP, women represent a smaller percentage of full-time faculty with tenure and of full-

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305. BALL STATE UNIVERSITY, *supra* note 291, at 5.
306. *Gender Equity Guidelines for Department Chairs*, *supra* note 291.
307. *Strategic Intervention Brief #5*, *supra* note 291, at 3.
308. SOCIETY FOR NEUROSCIENCE, *supra* note 291.
309. BALL STATE UNIVERSITY, *supra* note 291, at 7.
310. SOCIETY FOR NEUROSCIENCE, *supra* note 291.
311. HAIGNERE, *supra* note 240.

time faculty who have earned the rank of full professor.[312] It is well-documented that this is due not only to lack of diversity in faculty hiring practices leading to the relative scarcity of female faculty but is also due to barriers in the tenure and promotion processes at some universities.[313] Some women work part-time or as adjunct faculty or in non-tenure track positions and are not eligible for tenure and promotion to full tenured professor. For women faculty on the tenure track, they are not always tenured and promoted on the same timeline as men, with women showing a slower time to tenure and promotion.[314] Some women never achieve tenure and must then either leave the academy or move to another university.[315] Even women who do receive tenure may fail to take the next step to promotion to full professor.[316] In fact, in some universities, there is a large cohort of faculty who are "stuck" at the associate professor level and many of these are women.[317]

There is a rich academic literature that explores the reasons for the slow advancement of women in the academy.[318] There are numerous factors that contribute to this complex problem. Some of these factors include lack of clarity about the standards for tenure and promotion, including the heavy emphasis placed on scholarly productivity, too much involvement by female faculty in teaching and service activities that take time away from scholarly productivity, lack of support and mentoring from department chairs and other colleagues, a university climate that devalues women and their academic achievements, and difficulty in

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312. Percentage of Faculty Members with Tenure Status, *supra* note 33; Percentage Distribution of Full-Time Faculty, *supra* note 23.

313. Barbara Mandleco, *Women In Academia: What Can Be Done to Help Women Achieve Tenure?*, 2010 FORUM ON PUB. POL. ONLINE 1, 1-2 (2010); Phyllis Bronstein & Lori Farnsworth, *Gender Differences in Faculty Experiences of Interpersonal Climate and Processes for Advancement*, 39 RESEARCH IN HIGHER EDUC. 557 (1998).

314. Mandleco, *supra* note 313; Bronstein & Farnsworth, *supra* note 313.

315. *Id.*

316. *Id.*

317. Kiernan Matthews, *Perspectives On Midcareer Faculty And Advice For Supporting Them,* THE COLLABORATIVE ON ACADEMIC CAREERS IN HIGHER EDUC. (2014), http://scholar.harvard.edu/files/kmathews/files/coache_matthewsmidcareerfaculty_20140721.pdf.

318. Aimee L. Terosky et al., *Enabling Possibility: Women Associate Professors' Sense of Agency in Career Advancement*, 7 J. OF DIVERSITY IN HIGHER ED. 58 (2014); Mandleco, *supra* note 313; Bronstein & Farnsworth, *supra* note 313; Matthews, *supra* note 317; Mary Bonawitz & Nicole Andel, *The Glass Ceiling is Made of Concrete: The Barriers to Promotion and Tenure of Women in American Academia*, 2009 FORUM ON PUB. POL. ONLINE; Ines S. Shaw, *Issues After Tenure*, 19 NWSA J. 7 (2014).

combining the heavy academic workload associated with university faculty positions and family responsibilities.[319]

Some women report that the guidelines for tenure and promotion are vague and may be applied in a subjective fashion because such guidelines vest considerable discretion in faculty personnel committees.[320] Lack of understanding of the significance of scholarly productivity as the primary criterion for tenure and promotion is another problem cited in the literature.[321] In addition, some women report that they are required to show a higher level of achievement than men to receive tenure or promotion to full professor.[322]

University faculty members are expected to divide their work among three components: research, teaching, and service. However, in some universities, women bear a disproportionate share of the workload related to teaching and service compared to men.[323] Some female faculty report that they are assigned heavier teaching, student advising, and service responsibilities than their male colleagues, making it difficult to engage in the scholarly activity that is the coin of the realm in academia.[324] A number of empirical studies in recent years have documented this trend and noted that the disproportionate amount of time spent on teaching and service activities interfered with the ability of female associate professors to be promoted to full professor.[325] In a 2011 study conducted at the University of Massachusetts Amherst, the researchers noted that, although associate professors of both sexes worked similar amounts of time overall, women associate professors taught, mentored, and spent more time on service activities than men.[326] Men on the other hand spent more time on research than women.[327] Although women and men

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319. Terosky et al., *supra* note 318; Mandleco, *supra* note 313; Bronstein & Farnsworth, *supra* note 313; Matthews, *supra* note 317; Bonawitz & Andel, *supra* note 318.

320. A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #6: Equitable Processes of Tenure and Promotion*, STRATEGIC TOOLKIT: STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE 1, 2 (2014), http://www.colorado.edu/eer/research/documents/6_tenurePromotionBrief123015.pdf [hereinafter *Strategic Intervention Brief #6*].

321. Mandleco, *supra* note 313, at 2.

322. *Strategic Intervention Brief #6, supra* note 320, at 2.

323. *Persistent Inequity*, *supra* note 9, at 5 (citing to various empirical studies that support this conclusion).

324. *Id*.

325. Joya Misra et al., *The Ivory Ceiling of Service Work*, 97 ACADEME 22 (2011), https://www.aaup.org/article/ivory-ceiling-service-work#.WzE4P1VKipo.

326. *Id.*

327. *Id.*

expressed a preference for research, women felt particularly pressured to accept additional service, mentoring, and teaching assignments.[328]

Another barrier to advancement is the lack of support and mentoring provided by department leaders and colleagues.[329] This can contribute to the problem of lower rates of tenure and promotion since it is through mentoring that women receive clear advice about meeting the standards for tenure and promotion and encouragement to apply for advancement. Mentoring can also help female faculty in navigating workload distribution and institutional politics.[330] Some women report that they encounter a hostile work environment in which they feel isolated and closed out of informal networks populated by their male colleagues.[331]

Such isolation and lack of networking opportunities, which can hinder women's advancement, has been linked in the literature to the "chilly" climate that some female faculty experience.[332] While some of the problems associated with women's advancement are attributable to their own choices and behaviors, there is evidence cited in the literature suggesting that at least part of the problem is traceable to the work environment itself.[333] Feminist theorists have attributed the problems experienced by women in the professional arena to broader social forces established to uphold male power and privilege.[334] On this theory, it is typically men who hold positions of authority in the wider culture and women who hold subordinate roles, making it difficult for women in an academic environment to navigate relationships with their peers and to move up in the power and status hierarchy.[335] This theory seems consistent with the data showing that women carry disproportionately higher workloads in teaching, service, and lower-level administrative

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328. *Id.*
329. A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #3: Mentoring and Networking Activities*, STRATEGICTOOLKIT: STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE (2014), http://www.colorado.edu/eer/research/document3_Mentoring NetworkingBrief123015.pdf [hereinafter *Strategic Intervention Brief #3*].
330. Terosky et al., *supra* note 318, at 65–66.
331. *Strategic Intervention Brief #3, supra* note 329, at 1; Terosky et al., *supra* note 318, at 59–60.
332. *See supra* Section VI(A).
333. Bronstein & Farnsworth, *supra* note 313, at 559.
334. *Id.* at 560.
335. *Id.*

functions, which are thought of as women's work, and that such contributions are undervalued in the tenure and promotion process.[336]

Yet another factor frequently cited in the literature as a barrier to women faculty's advancement relates to work-life issues. As many women faculty have experienced, their tenure and promotion timelines often coincide with their peak child-bearing years. Lack of job flexibility in the university setting often interferes with women's ability to fulfill the requirements for advancement at the same time that they must take care of family responsibilities.[337] This problem, along with related best practices, is further discussed in Section VI(F) below on "Work-Life Issues."

Best Practice: In order to address the problems discussed above, best practice suggests both changes to institutional practices and the adoption of a proactive approach by individual women faculty members on managing the demands of their academic careers.

The following list contains suggestions for changing institutional practices that are grounded in the academic literature:

1. Analyze institutional data to determine if there are differences in rates of tenure and/or promotion to full professor based on gender.[338]

2. Clarify and standardize tenure and promotion processes to ensure greater fairness. Criteria for advancement and the process to be followed should be clearly articulated and uniformly communicated to faculty candidates for tenure and promotion. Criteria for advancement should be objectively applied to faculty candidates. Faculty candidates should receive accurate signals about their progress towards promotion on a regular basis using a standard timeline.[339]

3. Allocate teaching, student advising, and service more equitably among female and male faculty members rather than forcing such activities on female associate professors, thereby impeding their possible promotion to full professor status.[340] Women seeking tenure and promotion should be offered lightened teaching and

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336. Terosky et al., *supra* note 318, at 60.
337. *Id*. at 60–61.
338. *Strategic Intervention Brief #6*, *supra* note 320, at 1.
339. *Id*.
340. *Gender Equity Guidelines for Department Chairs*, *supra* note 291.

service loads in order to fulfill their scholarship requirements. In addition, women should be given credit for the teaching and service work that they undertake.[341] Some commentators have noted that universities fail to measure, much less reward, all of the important things that associate professors do.[342]

4. Adopt mentoring programs at the departmental level that focus on the tenure and promotion process. Department leaders and colleagues can help faculty candidates to develop a plan of action for meeting tenure and promotion criteria, along with a timeline for achieving such goal.[343] Mentors also can assist faculty candidates with preparation of tenure and promotion materials.[344]

5. Educate department chairs and other university leaders about gender schemas that negatively impact the evaluation of female faculty members and the assignment of workloads that are misaligned with criteria for promotion.[345] Such leaders should take steps to address factors that hinder the advancement of women faculty, such as equitable workload distribution as well as transparency and uniform application of standards for tenure and promotion.[346]

In addition to recommending changes in institutional practices, the literature on this topic suggests that individual women faculty members adopt proactive strategies for their own career advancement. Some commentators have advocated for an enhanced awareness by women faculty of their own agency in the promotion process, rather than taking a reactive stance to an institutional structure that has hindered their progress.[347] Some strategies that individual women faculty can adopt include negotiating for resources and time to complete scholarship needed for promotion, seeking out mentors and professional networks, refusing service assignments that interfere with research productivity and do not count towards tenure and promotion criteria, and not taking on additional teaching or supervisory assignments unless mandated.[348]

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341. Shaw, *supra* note 318, at 9.
342. Matthews, *supra* note 317, at 5.
343. *See Strategic Intervention Brief #5*, *supra* note 291, at 3.
344. *Gender Equity Guidelines For Department Chairs*, *supra* note 291, at 3.
345. Terosky et al., *supra* note 318.
346. *Id*. at 71.
347. *See id*. at 70.
348. Bonawitz & Andel, *supra* note 318, at 7-8.

E. Leadership Roles

As documented in Section II above using data from ACE, women are often missing from the most senior ranks of college and university administrators, such as the roles of president and provost or chief academic officer.[349] Women are also missing from the membership of university governing boards, such as boards of trustees or boards of curators.[350] However, the problem of lack of women is not restricted to the highest levels of leadership. Gender equity task force reports often note that women are not represented in lower administrative positions, including the roles of dean, department head, and chair of faculty and university committees.[351] One commentator coined the phrase "the higher, the fewer" to highlight this absence of women within the ranks of university leaders.[352] This phenomenon has been observed by ACE even though, as the 2016 ACE Report notes, women now have higher education attainment levels than men.[353] The 2016 ACE Report also notes that "[t]the data shows that women are not ascending to leadership roles, given that they hold a greater share of the entry-level, service, and teaching-only positions than their male counterparts. This is true for all women when looking across degree-granting postsecondary institutions; the trend is exacerbated for women of color."[354]

The absence of women in leadership roles in higher education is not due to lack of qualified female candidates, but rather to other factors, including lack of opportunity, mentoring, and training. Various reasons have been advanced to explain this lack of women in such positions, including explicit and implicit gender bias, lack of effective mentoring, insufficient self-promotion, lack of attractiveness of leadership positions for women seeking to achieve work-life balance, stereotypes favoring masculine traits in leaders and devaluation of the leadership styles of women, exclusion from informal support networks available to male colleagues, lack of opportunities for women to enter the hierarchical structure of university administration, and lack of recognition and

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349. *See supra* Section II(F).

350. *See id.*

351. Committees on Women Faculty in the School of Science, *supra* note 145, at 8, 14; MARQUETTE UNIVERSITY, *supra* note 177, at 9.

352. 2016 ACE Report, *supra* note 15, at 6.

353. *Id.*

354. *Id.* at 4.

rewards for women who have successfully demonstrated a capacity for leadership.[355] Some commentators also note that the absence of women leaders is also traceable to the smaller pool of women candidates who may be available to fill administrative positions because of recruitment and hiring practices that disfavor women candidates for faculty and leadership positions and a lack of institutional commitment to diversity.[356]

This phenomenon is, and should be, of concern to higher education experts and leaders. The 2009 White House Project Report ("White House Report"), which documented the continuing gap in women's leadership in various employment sectors including higher education, noted that "the presence or absence of female academic leaders can have far ranging influences not only in the institutions themselves, but beyond that on the scope of research and knowledge that affects us all."[357] Such report referenced empirical work concluding that the presence of women leaders can positively impact the nature and findings of academic research studies, can demonstrate to male colleagues the value of gender balance in the workplace, and can serve the important function of providing powerful role models for younger women starting out on the path to leadership.[358]

Best Practice: Best practice suggests that women should be encouraged to assume leadership roles through a strategy that combines leadership development programs and a support system that encourages women to become candidates for leadership positions.[359] Such a strategy will result in the creation of a pool of candidates who are capable of handling the complex challenges faced by university administrators and who are eager to assume such roles because they perceive that their contributions will be valued.

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355. *See generally* Francesca Dominici, Linda P. Fried, & Scott L. Zeger, *So Few Women Leaders,* 95 ACADEME 25 (2009); Josefina Castillo Baltodano et al., *Networking to Leadership in Higher Education: National and State-Based Programs and Networks for Developing Women*, 14 ADVANCES IN DEVELOPING HUMAN RESOURCES 62, 65 (2012); Margaret Madden, *Gender Stereotypes of Leaders: Do They Influence Leadership in Higher Education?*, 9 WAGADU: A JOURNAL OF TRANSNATIONAL WOMEN'S & GENDER STUDIES 55, 63–66 (2011); Hornsby et al., *Leadership Development for Faculty Women at the Ohio State University; The President and Provost's Leadership Institute*, 14 ADVANCES IN DEVELOPING HUMAN RESOURCES 96, 97 (2012).

356. LENNON, *supra* note 22, at 26–27.

357. THE WHITE HOUSE PROJECT, *supra* note 22, at 16.

358. *Id.*; *see also* LENNON, *supra* note 22, at 15–29 (updating findings from the 2009 White House Project in various employment sectors, including academia).

359. *See* Baltodano et al., *supra* note 355, at 63.

In recent years, various organizations within the higher education field, as well as individual universities, have taken steps to institute programs that seek to develop and promote women as university leaders. Such programs can serve a number of purposes, depending on the preferences of the university, including advancing individual women faculty, changing university culture to become more inclusive by seeking to redress the imbalance of men over women in leadership roles, and effecting major organizational change.[360] For that reason, the format and content of leadership development programs for women faculty may vary depending on the needs of the particular institution. Some universities may develop homegrown programs based on an assessment of their needs, while others may borrow from successful models used in other institutions or rely on organizations that offer such programs to train their own faculty.

Some examples of leadership development programs for women faculty are discussed below.[361] Common elements that emerged from my review of a sampling of such programs included: individual faculty assessments of skills and leadership potential, workshops on topics of importance to university administrators (such as conflict management and negotiation skills, developing and managing faculty and staff, leading change, strategic planning, budgeting and finance in higher education), presentations and discussions with university and community leaders, and opportunities to develop professional networks with current and prospective university leaders. Some programs also sought to evaluate the

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360. A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #4: Development of Institutional Leaders*, STRATEGIC TOOLKIT STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE (2014), https://www.colorado.edu/eer/sites/default/files/attached-files/4_leadershipbrief123015.pdf [hereinafter *Strategic Intervention Brief #4*].

361. In addition to these leadership development programs offered specifically for university women, other leadership training programs are available for women through business schools and nonprofits. One prominent example of a nonprofit sponsored program is the leadership development offerings of Catalyst. Catalyst describes itself as the leading nonprofit organization with a mission to accelerate progress for women through workplace inclusion, which offers a variety of training programs for women in different sectors of the economy. It offers online leadership training programs through edX, an online learning platform founded by MIT and Harvard. These online programs are offered free of charge to a worldwide audience as MOOCS (massive open online courses) at http://www.catalyst.org/catalyst-inclusive-leadership-learning-experiences. An example of a women's leadership program sponsored through business school is the women's leadership forum at Washington University in St. Louis. Washington University in St. Louis Olin Business School, *Cohort Certificate: Women's Leadership Forum*, https://olin.wustl.edu/docs/ExecProg/womens-leadership-certificate.pdf/ (last visited July 19, 2018).

outcomes of participation through use of focus groups, interviews, and tracking progression to leadership positions.

Some of the organizations within higher education offering such programs include ACE, Higher Education Resource Services ("HERS"), and the National Science Foundation's ADVANCE program ("NSF ADVANCE"). ACE sponsors numerous leadership training programs for university personnel at various levels, from presidents and chief academic officers to faculty who aspire to administrative positions.[362] Several of these programs focus on training women to become university leaders, such as the National Women's Leadership Forum for senior-level women administrators seeking a college or university presidency, vice presidency, or deanship, as well as a Regional Women's Leadership Forum for mid-level women administrators, such as department chairs and associate deans, who seek to advance in higher education administration.[363] Such leadership training programs are part of a larger ACE initiative to promote gender equity, as well as diversity and inclusion, in higher education administration.[364] Examples of such ACE initiatives include "Moving the Needle: Advancing Women in Higher Education Leadership," a multi-association collaboration aimed at increasing national awareness of the need to achieve gender parity and proposing practices to achieve the goal of equal representation of women in higher education senior leadership, and the ACE Women's Network, which facilitates networking by women interested in pursuing leadership opportunities in higher education through a nationwide system of state organizations.[365]

HERS has offered leadership development programs for university faculty and administrators for the past forty years.[366] It describes its mission as "creating and sustaining a community of women leaders through leadership development programs and other strategies with a

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362. These training institutes are described on the ACE website. *See* AM. COUNCIL ON EDUC., http://www.acenet.edu/leadership/Pages/default.aspx (last visited July 19, 2018).

363. *Gender Equity*, AM. COUNCIL ON EDUC., http://www.acenet.edu/higher-education/topics/Pages/Gender-Equity.aspx (last visited July 19, 2018).

364. *Id.*

365. *Moving the Needle: Advancing Women in Higher Education Leadership*, AM. COUNCIL ON EDUC., http://www.acenet.edu/leadership/programs/Pages/Moving-the-Needle.aspx (last visited July 19, 2018); *Gender Equity: ACE Women's Network*, AM. COUNCIL ON EDUC., http://www.acenet.edu/news-room/Pages/ACE-Womens-Network.aspx (last visited July 19, 2018).

366. *About HERS*, HERS, https://hersnet.org/about/ (last visited July 19, 2018).

special focus on gender equity within the broader commitment to achieving equality and excellence in higher education."[367] The curriculum follows a three-pronged leadership development model consisting of self-knowledge, networking, and institutional awareness.[368] The purpose of the HERS Institute is to train women in higher education in new methods for transforming higher education and to promote the development of new professional networks leading to greater awareness of all aspects of higher education, "preparing them to return to their respective campuses as leaders of institutional change."[369]

The NSF ADVANCE program has also supported initiatives by universities and non-profits to promote women in leadership in STEM fields.[370] Such support is part of the broader NSF goal "to increase the representation and advancement of women in academic science and engineering careers, thereby contributing to the development of a more diverse science and engineering workforce."[371] Through the ADVANCE program, NSF has invested $270 million over the past seventeen years to support program initiatives at more than one hundred higher education institutions and STEM-related non-profits in the United States.[372] Researchers Ann Austin of Michigan State University and Sandra Laursen at the University of Colorado Boulder wrote a series of "Strategic Intervention Briefs" as part of a StratEGIC Toolkit funded by the NSF ADVANCE program.[373] Strategic Intervention Brief #4, entitled "Development of Institutional Leaders," presents strategies and case studies of successful leadership development programs that have been funded at various NSF ADVANCE institutions.[374]

While some universities have developed leadership development programs for women through NSF ADVANCE grant funding, other institutions have implemented such programs as a result of their own internal strategies to diversify their faculties and university leadership.

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367. *Id.*

368. *Leadership Institute: Three Locations, One Curriculum*, HERS, https://hersnet.org/institutes/what-are-the-institutes/ (last visited July 19, 2018).

369. *Id.*

370. *See ADVANCE Program Information*, NATIONAL SCIENCE FOUNDATION, https://www.nsf.gov/funding/pgm_s umm.jsp?pims_id=5383 (last visited July 19, 2018).

371. *ADVANCE at a Glance*, NATIONAL SCIENCE FOUNDATION, https://www.nsf.gov/crssprgm/advance/ (last visited July 19, 2018).

372. *Id.*

373. *Strategic Intervention Brief #3*, *supra* note 329.

374. *Strategic Intervention Brief #4*, *supra* note 360, at 2–5.

Among university programs, those offered by Ohio State University and Case Western Reserve University are often cited as examples of successful programs.[375]

Ohio State University created a President and Provost's Leadership Institute in 2005 to develop a pool of potential leaders from among faculty that are traditionally underrepresented in leadership roles, especially department chairs and school directors.[376] Participation is open to all tenure-track and clinical faculty not currently in significant leadership positions and who might move into leadership positions within two to five years.[377] While men are invited to participate, eighty-five percent of the participants are women and underrepresented minority faculty.[378] The curriculum was designed around the results of a needs assessment to determine the skills needed for faculty to become leaders and also incorporates some elements of other leadership programs such as the HERS Institute.[379] The program is intended to develop leaders defined broadly and is not limited to administrators.[380] While some program graduates do assume formal leadership positions and the program has been called a "quasi-succession planning program," leadership is defined broadly.[381] Successful participation by graduates may consist of becoming "better departmental citizens, committee members, committee chairs or informal leaders."[382]

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375. Many other universities seek to develop women faculty as leaders. For example, Washington University in St. Louis offers a Women Faculty Leadership Institute which provides "skill development in critical areas of leadership…include[ing] negotiation, strategic communication, managing conflict, managing and building teams, university finances, and mentoring." In addition to building capacity for leadership, such Institute also allows participants to "build their capacity for leadership and expand their professional network by developing connections with women leaders across disciplines . . . ." *Women Faculty Leadership Institute*, WASHINGTON UNIVERSITY IN ST. LOUIS, https://diversity.wustl.edu/initiatives/leadership-development/women-faculty-leadership-institute/ (last visited July 19, 2018); *Strategic Intervention Brief #4*, *supra* note 360.

376. *Leadership Programs*, THE WOMEN'S PLACE AT OHIO STATE UNIVERSITY, https://womensplace.osu.edu/initiatives-and-programs/leadership-programs (last visited July 19, 2018).

377. *Id.*

378. Eunice Ellen Hornsby et al., *Leadership Development for Faculty Women at the Ohio State University: The President and Provost's Leadership Institute*, 14(1) ADVANCES IN DEVELOPING HUM. RESOURCES 96, 100 (2012).

379. *Id.* at 99.

380. *Id.* at 101.

381. *Id.*

382. *Id.* at 105.

Case Western Reserve University has developed a Women Faculty Leadership Development Institute offering various programs that support and empower women faculty of all academic ranks, including early stage tenure-track faculty, non-tenure track faculty, and mid-career faculty seeking to exercise greater leadership in their academic units.[383] Such programs include leadership competencies assessments, guest speakers, expert panel presentations, small group discussions, and individual coaching sessions.[384] A unique feature of the Case Western model is the use of an executive coaching program drawing on expertise in the university's management school, which provides specially trained coaches to work with deans and chairs, as well as women faculty, to support them in achieving their organizational goals.[385]

In addition to leadership development programs for women faculty, other emerging best practices in this area focus on ensuring institutional commitments to diversity and adopting policies and practices that favor a diverse pool of candidates including women and women of color in faculty and senior leadership recruitment and hiring. In a 2013 report, entitled "Benchmarking Women's Leadership in the United States," researchers at the University of Denver's Colorado Women's College proposed a series of steps to achieve this goal including an annual review by the university's governing board to review the institution's commitment to diversity and to evaluate the effectiveness of such commitment, requiring that pools of candidates for faculty and senior leadership positions be diverse, and diversifying search committees for faculty and senior leadership positions, among other recommendations.[386]

F. Work-Life Issues

A frequent theme for women employees in all employment settings is achieving "work-life" balance. The phrase "work-life" will be used here to refer to the manner in which employees balance their professional, personal, and family responsibilities. In the university setting, it can be said that work-life issues are not unique to women faculty. Male colleagues may also struggle with achieving balance. However, the

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383. *Women Faculty Leadership Development Institute*, CASE WESTERN RESERVE UNIVERSITY, https://case.edu/centerforwomen/programs/women-faculty-leadership-development-institute/ (last visited July 19, 2018).

384. *Id.*

385. *Strategic Intervention Brief #4*, *supra* note 360.

386. LENNON, *supra* note 22, at 26–27.

problems are particularly acute for women for at least two reasons. First, for women faculty members who desire to have children, their biological clocks and their tenure clocks often coincide. Women who enter the academy during their childbearing years are under pressure to meet the rigorous standards that have been set for achieving tenure at the same time as they are under biological pressure to bear and care for children. Second, research has shown that women on average may be more engaged with family responsibilities than men.[387] A 2013 study by the Pew Research Center reported that "mothers were much more likely than fathers to report experiencing significant career interruptions in order to attend to their families' needs."[388] Such study reported that women spend more time on childcare and housework than men. Women are more likely than men to have reduced their work hours in order to care for a child or other family member, such as an aging and infirm parent, at some point in their career.[389] Women are also more likely to have taken a significant amount of time off from work or to have quit a job in order to care for a family member.[390] Women who had experienced these interruptions were much more likely than men to say that this had a negative impact on their career.[391] This study indicates that women may experience more difficulties in balancing their family and career responsibilities than similarly situated men.[392]

While faculty women seek equality in their university employment, they also must have room in their lives for their family responsibilities. If university policies are inflexible and do not recognize the need for work-life balance, women may be disadvantaged as a result. They may take part-time or non-tenure track positions thinking that they will achieve better work-life balance. They may also delay going up for tenure or

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387. A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #9: Practical Family-Friendly Accommodations*, STRATEGIC TOOLKIT STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE 1, 1 (2014), http://www.colorado.edu/eer/research/documents/9_familyFriendlyBrief123015.pdf [hereinafter *Strategic Intervention Brief #9*].

388. Kim Parker, *Women More than Men Adjust Their Careers for Family Life,* PEW RESEARCH CENTER (Oct. 1, 2015), http://www.pewresearch.org/fact-tank/2015/10/01/women-more-than-men-adjust-their-careers-for-family-life/.

389. *On Pay Gap, Millennial Women Near Parity – For Now*, PEW RESEARCH CENTER (Dec. 11, 2013), http://www.pewsocialtrends.org/2013/12/11/on-pay-gap-millennial-women-near-parity-for-now/#the-balancing-act.

390. *Id.*

391. *Id.*

392. *Id. See also Statement of Principles on Family Responsibilities and Academic Work,* AAUP 339, 339–40 (2001), https://www.aaup.org/file/Family_and_Academic_Work.pdf.

promotion at the scheduled time in order to accommodate their caregiving responsibilities. Some may postpone their childbearing plans to accommodate the tenure clock or may not take advantage of policies allowing the stopping of the tenure clock. None of these scenarios are optimal and they reveal the difficult choices that women in academic employment may face.

Another phenomenon that has been noted is that women are more likely than men to be impacted negatively if their spouses are also academics and the couple is seeking to be hired by the same institution.[393] Women are more negatively impacted by such dual-career hiring because more academic women than men have academic spouses and women are more likely than men to refuse a job offer because they have not found a suitable position for their partner.[394]

The arguments in favor of programs intended to further better work-life balance focus on the benefits to the individual faculty members who are eligible for such university programs, as well as the benefits that inure to the university as a whole. Such programs allow individual faculty members to do a better job with both their work and family lives. For example, research has shown that "paid parental leave improves children's health [and] improves economic conditions of families."[395] Such programs may also improve faculty job satisfaction and lead to higher productivity because such programs allow faculty members to focus on their jobs and not on solving problems in their personal lives, such as arranging for childcare or eldercare.[396] In addition to improving the lives of the faculty beneficiaries of these programs, universities also stand to gain. Universities that offer such programs may be able to increase the applicant pool for open faculty positions and hire the most qualified candidates available because these institutions will be seen as desirable places to work by job candidates.[397] They will also have an easier time of retaining faculty members since such individuals will experience higher job satisfaction and an improved campus climate.[398]

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393. WORKLIFE LAW, *supra* note 299 at 7.
394. *Id.*
395. Melanie Hill, Alison Nash, & Maryalice Citera, *Parenthood In Academia: What Happens When There Is No Policy?*, 9 WAGADU 113, 128 (2011).
396. WORKLIFE LAW, *supra* note 299, at 3.
397. *Strategic Intervention Brief #9*, *supra* note 387, at 1.
398. *Id.*

This enables universities to reduce the high costs of faculty attrition.[399] It has also been noted that offering family-friendly work arrangements has symbolic value that translates into institutional benefits by sending the positive message that the university is interested not only in the professional, but also in the personal needs and interests of faculty.[400]

Best Practice: Best practice suggests that universities should offer flexibility in working arrangements to faculty, especially women faculty, in order to accommodate the need for better work-life balance. Women should not be forced to choose between a career as an academic and their family responsibilities. However, in order to accommodate both parts of their lives, female academics must perform a difficult balancing act. The AAUP's 2001 "Statement of Principles on Family Responsibilities and Academic Work" ("AAUP 2001 Principles") suggests that due to the flexibility of academic schedules there is tremendous potential for faculty to be able to achieve a healthy work-life balance.[401] But it is such inherent flexibility and independence afforded by such jobs that may also create difficulties for faculty trying to achieve balance. Because the nature of the work can become unbounded, occupying most of the time of academics as they seek to juggle their responsibilities of teaching, scholarship and service, it may be difficult to integrate work and personal life.[402]

The AAUP 2001 Principles note that transforming the academic workplace to allow faculty to achieve work-life balance requires not only substantial changes in policy but even more significant changes in academic culture.[403] Academic culture in U.S. universities has traditionally been built around the needs of male faculty members who often relied on a partner to attend to family needs.[404] Since women are relative newcomers to the academy, their needs as child-bearers and caregivers have not been recognized nor given the proper attention in many cases. Faculty may feel that a stigma attaches to taking maternity leave, stopping the tenure clock, or taking advantage of other university programs intended to permit work-life balance.[405] Part of the solution to

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399. WORKLIFE LAW, *supra* note 299, at 3.
400. *Strategic Intervention Brief #9*, *supra* note 387 at 6.
401. AAUP, *supra* note 392, at 340.
402. *Id.*
403. *Id.*
404. Hill, Nash, & Citera, *supra* note 395, at 116.
405. AAUP, *supra* note 392, at 343.

this problem is to change negative attitudes to remove the stigma that may be attached to women's roles as child-bearers and caregivers to children and other family members.[406] This is a needed change, but one that may only be achieved in the long-term. Other shorter-term solutions are needed and have been developed by many universities as detailed below.[407]

Developing university programs to address faculty work-life balance will require as standard practice a needs assessment to determine if adequate policies exist, whether existing policies are being used, and, if not, whether there is a need for improvement in those policies.[408] In developing such policies, universities should be sensitive to the fact that there are many different types of families, and that family structures and needs may change over time.[409] Once policies have been developed, it is necessary that they be universally applied, adequately publicized, and fully incorporated in the standard operating procedure within the university.[410]

There is no one-size-fits-all set of family-friendly accommodations for university faculty since the needs of faculty will vary from institution to institution. However, a review of such policies that have been adopted and implemented by a sampling of universities with successful programs suggests that there are some common features among them, including the following:

1. An adequate maternity leave policy, preferably one that treats pregnancy leave the same as other kinds of disability leave.[411]

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406. *Id.*

407. Numerous examples of successful work life integration policies in universities are noted in the literature. *See*, *e.g.*, Hill, Nash, & Citera, *supra* note 395, at 129; A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #8: Flexible Work Arrangements*, STRATEGIC TOOLKIT STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE (2014), https://www.colorado.edu/eer/sites/default/files/attached-files/9_familyfriendlybrief123015.pdf [hereinafter *Strategic Intervention Brief #8*]; *Strategic Intervention Brief #9*, *supra* note 387; A.E. Austin & S.L. Laursen, *Strategic Intervention Brief #10: Support For Dual Career Couples*, STRATEGIC TOOLKIT STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE (2014), https://www.colorado.edu/eer/sites/default/files/attached-files/10_dualcareerbrief123015.pdf [hereinafter *Strategic Intervention Brief #10*]; WORKLIFE LAW, *supra* note 299.

408. WORKLIFE LAW, *supra* note 299.

409. AAUP, *supra* note 392, at 340.

410. Hill, Nash, & Citera, *supra* note 395, at 130.

411. WORKLIFE LAW, *supra* note 299, at 4.

2. A parental leave policy linked to caregiver status, not sex. Some universities offer parental leave to anyone who has had or adopted a child.[412] Some policies may condition the availability of leave on acting as the sole caregiver of a child for a specified number of hours per week.[413]

3. A family leave policy to cover short-term or long-term absences for other family responsibilities, such as caring for a sick child or an elderly parent.[414]

4. A policy that allows tolling of the tenure clock in the event of the birth or adoption of a child and without penalty for the extra time taken to arrive at tenure review.[415] Some university policies automatically extend the tenure clock in these circumstances unless the faculty member declines such additional time ("opt-out").[416] Other policies require faculty to apply to stop or extend the tenure clock ("opt-in").[417]

5. Development of flexible work arrangements, such as a reduced workload or a teaching release, and scheduling classes and meetings so that faculty can accommodate their caregiving responsibilities.[418] Some institutions offer a part-time tenure-track alternative for faculty with significant family responsibilities.[419]

6. Availability of child care and elder care on campus or provision of alternatives, including assistance with finding such resources off campus and financial assistance.[420]

7. Work-life grants to support faculty during major life transitions, such as the birth or adoption of a child or serious illness in the family.[421] Such grants are intended to be used for childcare expenses incurred

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412. *Id.*

413. *Id.*

414. AAUP, *supra* note 392, at 341.

415. *Id*. at 342–43.

416. *Strategic Intervention Brief #8, supra* note 407, at 2–3; WORKLIFE LAW, *supra* note 299, at 5–6.

417. *Id*.

418. AAUP, *supra* note 392, at 343-44; *Strategic Intervention Brief #8, supra* note 407, at 1–2.

419. AAUP, *supra* note 392, at 343; *Strategic Intervention Brief #8, supra* note 407, at 2; WORKLIFE LAW, *supra* note 299, at 12–13.

420. *Strategic Intervention Brief #9*, *supra* note 387, at 4–5.

421. Austin & Laursen, *Strategic Intervention Brief #2: Grants to Individual Faculty*, STRATEGIC TOOLKIT STRATEGIES FOR EFFECTING GENDER EQUITY AND INSTITUTIONAL CHANGE (2014), at 2, https://www.colorado.edu/eer/sites/default/files/attached-files/2_individualgrantsbrief123015.pdf [hereinafter *Strategic Intervention Brief #2*]; *Strategic Intervention Brief #9, supra* note 387, at 2–3; WORKLIFE LAW, *supra* note 299, at 11–12.

while the faculty member is engaged in field research or attending professional meetings, hiring a graduate assistant to help with research, or buying out release time to attend to family matters, among other things.[422]

8. Support for women who are breast-feeding, such as providing lactation rooms.[423]

9. Use of cafeteria plans that have a flexible benefits component, providing for a specified dollar amount to be used for childcare or eldercare, allowing employees to save time and enhance productivity.[424]

10. Support for dual-career couples, including developing policies on pursuing dual-career hires and providing university assistance to partners of new hires in finding positions on campus or in the community.[425]

VII. CONCLUSION: IMPLEMENTING AND MONITORING GENDER EQUITY TASK FORCE RECOMMENDATIONS

The picture that I have painted in this article is a bleak one. As I have shown, many women faculty in U.S. universities experience discrimination in employment on account of their gender, often in multiple aspects of their work life. While not all female faculty may experience such discrimination, for many women, gender inequity is the rule and not the exception. One approach to this problem is to pursue legal remedies by litigating the issue of discrimination on the basis of gender under existing law. However, this article argues for a different approach, namely the use of gender equity task forces and the development of best practices in employment for female faculty.

Addressing gender inequity is a daunting task on many college campuses due to an ingrained culture as well as institutional policies and practices that operate to disadvantage women. Typically, there are four stages in a successful work program to address such gender inequity: (1) investigation of gender equity issues involving female faculty; (2) formulation of recommendations to university administrators to address

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422. *Strategic Intervention Brief #2*, *supra* note 421; *Strategic Intervention Brief #9*, *supra* note 387, at 2–3; WORKLIFE LAW, *supra* note 299, at 11–12.

423. *Strategic Intervention Brief #9*, *supra* note 387, at 4.

424. WORKLIFE LAW, *supra* note 299, at 19.

425. Austin & Laursen, *Strategic Intervention Brief #10, supra* note 407, at 2–3; WORKLIFE LAW, *supra* note 299, at 7–9.

problems identified in the fact-finding phase; (3) implementation by university administrators of recommendations deemed appropriate and achievable in consultation with faculty; and (4) construction of a framework for monitoring compliance with such recommendations and undertaking future assessments of gender equity.

An important first step in this process is the formation of a gender equity task force. The role of such a task force is to research gender equity issues among faculty on campus and make recommendations to address gender inequity that is discovered in the process. Because each university's culture, policies, and practices are unique, there is no single structure or process used by such task forces, although there are some similarities among them. Similarly, there is no uniform set of recommendations used by all task forces, although there is an evolving set of best practices upon which such recommendations are frequently based. My project in this article was to develop a framework for a successful gender equity task force, drawing on some common features of structure, process, and use of best practices that I discovered through my research. I have used this model framework in the work that I have done on behalf of a gender equity task force on my own university campus.

The work conducted by the gender equity task forces analyzed in this article comprises only the first two stages of a successful program to address gender inequity among university faculty. Two additional steps are required, namely implementation of the recommendations and monitoring of such implementation. Such steps are critical to ensure that the problems experienced by women faculty are not only recognized but also acted upon. While the first two stages can take one to two years to accomplish, the latter two stages can take even longer. Such additional steps require an even deeper institutional commitment of faculty and administrator time and institutional resources than the first two steps.

While the implementation of task force recommendations is often viewed as a responsibility of administrators, it should be viewed as a responsibility of faculty as well. The task of determining which recommendations are feasible and the timeline for implementation should be a collaborative process between faculty and university administrators.

The final stage, monitoring compliance with task force recommendations, should also be a cooperative effort between faculty and the university administration. By monitoring, I refer primarily to ongoing assessments of gender equity using the initial report prepared by

a campus gender equity task force to provide baseline data. In some cases, this may entail performing periodic climate surveys and gender pay equity studies of the type documented in Section VI(A) and (B) above. In other cases, it may involve a more broad-based approach touching on a wider range of issues, such as that used in the 2011 MIT Report discussed in Section V(A) above, which reported on progress that had been made since the date of the 1999 MIT Report, as well as areas that needed continued attention in promoting the status of women.[426] Monitoring also means ensuring that suitable policies and practices continue to be developed and implemented in response to such ongoing assessments.

While the first three phases I have described, namely investigation, formulation of recommendations, and implementation may fall within the purview of a gender equity task force, the last stage of monitoring will likely not be conducted by such group.[427] This is due to the fact that the gender equity task forces discussed in this article are usually ad hoc faculty committees set up to investigate the status of women on university campuses. Once the first two, and in some cases three, phases are completed, such task forces usually disband. However, many faculty members will remain concerned with the question of whether progress toward gender equity is being pursued and achieved in the future.

In order to address the concern about moving the gender equity agenda forward, permanent faculty committees on many university campuses may continue to monitor the status of women. These committees typically vary in their mission, structure, and programming, making it difficult to generalize about them. However, all such committees focus on improving the status of women in a variety of ways. Other institutional structures that have been introduced on some university campuses include a gender diversity officer who may report to the provost or chief academic officer, and an office of the ombuds, which is staffed by a university official to serve as a point of contact for faculty concerns related to inequitable treatment in pay or other employment-related matters on a confidential, independent, impartial, and informal basis.[428] Permanent faculty committees on the status of women are becoming common practice on

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426. MASS. INST. OF TECH., *supra* note 147.

427. In some cases, the third phase of implementation will be handled by a separately constituted implementation committee.

428. *See generally*, CHARLES L. HOWARD, THE ORGANIZATIONAL OMBUDSMAN: ORIGINS, ROLES, AND OPERATIONS-A LEGAL GUIDE 1-78 (2010).

many university campuses, and gender diversity officers and offices of the ombuds are also gaining currency in the academy.[429] Use of such structures represents yet another form of best practice in the area of gender equity for university faculty.

This article has been inspired by my recent work on behalf of a gender equity task force of the Saint Louis University Faculty Senate. As of the writing of this article, such task force is nearing the end of the investigation and recommendation phases of its work. The implementation and monitoring phases still lie ahead of us. Therefore, I cannot claim with any degree of certainty that this process will yield the results that we were seeking when we embarked on this project. However, there is a glimmer of hope in that our work has attracted the interest of university administrators who understand the importance of promoting faculty gender equity. We remain confident that our work will make a meaningful contribution towards our goal of raising the status of women faculty on our university campus. Our hope is inspired by the examples of successful gender equity task forces analyzed in this article, whose members' tireless work and persistence have helped to improve the working lives of women faculty members at U.S. universities.

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429. *See generally*, Hoppe et al., *Nuts And Bolts: Establishing And Operating A College Or University Ombudsman Office*, INTERNATIONAL OMBUDSMAN, https://www.ombudsassociation.org/IOA_Main/media/SiteFiles/Nuts-and-Bolts-for-Establishing-a-New-Ombudsman-Office.pdf (last visited July 19, 2018).