Opportunities and Challenges of
Workplace Diversity

THEORY, CASES AND EXERCISES

Third Edition

Kathryn A. Cañas | Harris Sondak

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OPPORTUNITIES AND CHALLENGES OF WORKPLACE DIVERSITY

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For Luke, Rhea, and Neah

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PREFACE

DIVERSITY AND THE WORKPLACE: CREATING A DIALOGUE OF OPPORTUNITY

Teaching diversity management—whether to students or managers—is both challenging and rewarding. The topic of diversity management is engaging and dynamic as significant developments emerge daily from well-known organizations such as Abercrombie & Fitch, Nike, the NFL, Cracker Barrel, Ford Motor Company, Verizon, Kraft Foods, and MasterCard Worldwide.

MasterCard's diversity management philosophy is represented in the image of the "diversity butterfly" that is featured on the cover of this textbook. Through this symbol, MasterCard depicts diversity as transformative within their company; just as each butterfly is different, so is every employee at Mastercard: "When different people come together, it's not just beautiful, it's priceless." MasterCard supports their diversity philosophy with a combination of practical initiatives: a Global Diversity and Inclusion Council, a Global Diversity Office, eight Employee Resource Groups, a Supplier Diversity Program, a chief diversity officer position, and an Executive Women's Initiative. According to Mastercard's chief diversity officer, Donna Johnson, diversity is an essential component of Mastercard's success as a global company; she explains that diversity—is at the root of their innovation, enhances their relationship with customers and stakeholders, empowers employees by building a culture that values different perspectives, and plays a critical role in the achievement of their strategic vision.

As we teach about companies such as MasterCard and others, we emphasize that while diversity management is a thought-provoking subject, it also poses some challenges for instructors because it is a complex and sometimes paradoxical organizational topic that involves conversations about emotionally charged issues such as racism, sexism, and ageism. Teaching diversity management is rewarding as the classroom has the potential to become a place in which knowledge is constructed through dialogue—through active student engagement, respectful debate, and continuous conversations about both historical and current diversity management business issues and cases. Essential to our purpose is the notion of dialogue as it represents the overarching pedagogical philosophy that frames our motivation for writing this textbook.

By writing this textbook, we hope to invite and create a dialogue of opportunity about the topic of workplace diversity with scholars, managers, consultants, and students. With a number of diversity practitioners and academics who have contributed to this textbook, we engage in dialogue about the intersection of diversity and the workplace. We believe that the most effective method for teaching diversity management is to join multiple perspectives, narratives, and voices that unite to co-create a comprehensive resource about the opportunities and challenges of managing diversity.

New to This Edition

- New Chapter on Prominent Diversity Business Leaders
- New Corporate Response to Abercrombie & Fitch Case Study
- New Essay on Today's Multigenerational Workforce
- New Case Study on Sports and Diversity (NFL, NASCAR, PGA, NBA)
- New Case Study on AT&T and Age Discrimination
- New Case Study on Nike and LGBT Workplace Issues

- New Feature: Diversity Case Updates (Augusta National, Mother's Work, Inc.)
- New Feature: Diversity Snapshots (Best Employer's for Workers Over 50, Coming "Out" at Work, Herb Carnegie)

Having a diverse workplace is indeed a business opportunity, but only when its complexities are managed successfully, which requires that they are both acknowledged and understood. Without understanding diversity as a complex phenomenon, it is difficult to gain a comprehensive understanding of what it means to manage a diverse workforce effectively. In essence, we hope to contribute a significant and unique perspective to today's conversation about diversity in the workplace by encouraging and engaging in open dialogue.

As we discuss diversity as an opportunity, we hope to help our readers become more effective and responsible organizational members. The underlying argument supported throughout our discussion is that organizations that manage their diverse workforce effectively will have a competitive advantage over organizations that do not. That is, we believe that managing diversity well will lead to increased organizational performance. A diverse workforce is more likely to gain a competitive advantage when diversity is implemented through an integrated approach; diversity must be understood and valued as an essential component of every aspect of the organization rather than incorporated sporadically within it. Organizations that are able to accomplish this will have more opportunity to excel in all areas.

Part 1   In light of our goal to offer a more comprehensive framing of diversity management, we have expanded Part 1. Specifically, we have updated both Chapters 1 and 2, and have added more depth to Chapter 3, "An Integrated Approach to Managing Diversity in Organizations." New to this edition is the material in Chapter 4; here we highlight some of the most prominent diversity management leaders, describe exemplary organizations in diversity management, and include a comprehensive essay that highlights how IBM's former CEO, Lou Gerstner, helped to turn IBM around by implementing an integrated approach to diversity management.

Part 2   In Part 2 our main goal is to provide examples of businesses that have both succeeded and struggled to manage diversity. To accomplish this goal, we include a new case study that examines the role of diversity in professional sports including NFL, NASCAR, PGA, and NBA; and we include two new cases: the first describes AT&T's mismanagement of older workers; and the second tells the story of Nike's historical and current support of LGBT workplace issues. Further, we include two new essays; the first examines today's multigenerational workplace and the second grapples with the complex topic of spirituality in the workplace. In addition, we have added two new features: "Diversity Case Updates" and "Diversity Snapshots." Finally, we have enthusiastically incorporated a response to our Abercrombie and Fitch case study written by Abercrombie executive, senior vice president and global chief diversity officer, Todd Corley. We embrace Abercrombie's desire to communicate its successes as it transforms itself to a top diversity management organization.

Part 3   Using exercises in the classroom gives students the opportunity to grapple with issues of diversity and diversity management. In this section, we have added the following exercises: the Diversity Journal, Understanding the Multigenerational Workforce, Analyzing Bias in Internal Business Communication, Analyzing Nike's Branding and Outreach to the LGBT Community, and Ten Question Assessment: Does Your Organization Represent an Equal Workplace for LGBT Employees?

Three-Tiered Structure for Understanding

Our discussion unfolds in three stages. In our first stage, we provide a theoretical and legal foundation for understanding diversity management as well as present the integrated approach as a model of effective diversity management. Second, we provide detailed case studies of US businesses that have both managed and mismanaged diversity. Third, we incorporate multiple exercises that help students examine diversity on personal, group, and organizational levels.

In Part 1, "Uncovering the Complexities of Workplace Diversity," our goal is to help explain the complexities of workplace diversity from both managerial and legal perspectives. Managers in today's dynamic workplace need to understand how these two perspectives interact—specifically, how one informs the other in the context of a complex workplace. In Chapter 1, we examine diversity from a managerial and pedagogical point of view and discuss the following important considerations for understanding diversity in American business: multiple alternative definitions of diversity and important principles to acknowledge when defining diversity; four diversity management paradigms; and the strengths and weaknesses of the business case for diversity. In Chapter 2, P. Corper James outlines the legal aspects of managing diversity in his explication of the classes of people protected by law, the legal definition of sexual harassment, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and so forth. In addition, he offers general legal advice for both managers and employers on the topic of diversity management. In Chapter 3 we provide a model of the integrated approach to managing diversity in which diversity is comprehensively incorporated throughout an organization as a business strategy. In Chapter 4 we highlight eight prominent diversity business leaders and ten top-ranked diversity companies. Further, we include an in depth analysis of IBM's use of diversity as a competitive advantage.

In Part 2, Managing and Mismanaging: Case Studies on American Businesses, we illustrate organizational successes and mistakes of American businesses. This section reflects our belief that understanding diversity is facilitated through detailed examination of real case studies. Our collection of comprehensive case studies focuses on how familiar organizations have grappled with diversity management. Our examples of organizations include Augusta National, Mothers Work, Abercrombie and Fitch, Texaco, Denny's, Ford Motor Company, AT&T, Tom's of Maine, Cracker Barrel Restaurants, Nike, IBM, General Motors, Cisco, and sports organizations including NFL, NASCAR, PGA, and NBA. In particular, we discuss how these organizations have managed diversity issues related to gender, race and national origin, age, religion and spirituality, sexual orientation and gender identity, and disabilities in the workplace.

In Part 3, Developing Three Essential Skills, our goal is to encourage our readers to examine their own relationship with diversity, assess how organizations manage diversity, and better understand the intersection of diversity and work. These exercises invite students to engage in energized, intelligent dialogue on the many intricacies of diversity in the workplace.

Terms and Concepts that Frame Our Discussion

DIVERSITY   A primary objective of our textbook is to illuminate the complexities of workforce diversity. We understand workplace diversity as a constellation of dynamic and interrelated identity group memberships that operate on both primary and secondary dimensions as they continuously interact and unite to represent a person in his or her entirety at a particular time in his or her life. These identity group memberships reflect personal characteristics—both visible (e.g., race and gender) and less visible (e.g., religion and marital status)—that differ from whatever is considered the societal norm or standard; as a member of one of these identity groups, an individual is vulnerable to negative employment consequences such as discrimination.

Primary dimensions—those that most profoundly define us—include gender, race and national origin, age, religion and spirituality, sexual orientation and identity, and disabilities. Secondary dimensions—often just as important as the primary dimensions but more likely to change—include military experience, parental status, educational background, and social location/economic status. While all dimensions are significant when defining oneself, we choose to focus mostly on the primary dimensions of diversity, although a number of the secondary dimensions are discussed throughout the articles, essays, cases, and exercises.

In addition to understanding diversity as having two interrelated dimensions, we believe that the following five principles are critical to understanding the complexities of diversity: (1) diversity is expansive but not without boundaries, (2) diversity is fluid, (3) diversity is based on both similarities and differences, (4) diversity is rooted in nonessentialist thought, (5) and diversity is directly related to how one approaches work. In our opening, essay we offer a detailed explanation of each of these principles in addition to delineating other definitions of diversity by a variety of diversity scholars.

AFFIRMATIVE ACTION, VALUING DIVERSITY, DIVERSITY MANAGEMENT   Diversity scholars often articulate three stages to understanding how workplace diversity has changed over time: *affirmative action*, *valuing diversity*, and *diversity management* (or *managing diversity*). The phrase "valuing diversity" is a movement beyond the affirmative action position of amending wrongs done in the past to those Americans—most specifically African Americans and women—who have been underrepresented in positions of organizational power. Diversity initiatives that represent the second stage, valuing diversity, are, according to scholar and consultant R. Roosevelt Thomas, "designed to enhance the individual's awareness, understanding, and acceptance of differences between people." And, by contrast to diversity management, "valuing differences does not involve the changing of corporate culture and systems."[2]

Diversity management, however, represents a movement beyond valuing diversity and a managerial approach in which diversity is viewed as both a competitive advantage and the right thing to do; diversity is linked to strategic goals and is understood as directly influencing the way employees approach work. Within this framework, diversity becomes integrated throughout the organization. Thomas describes this stage as "a holistic approach to creating a corporate environment that allows all kinds of people to reach their full potential in pursuit of corporate objectives."[3] Further, he explains that diversity management approaches diversity from a management perspective, that is, how best to manage the company's human resources given the fact that those resources are now far more diverse than in earlier times. It is not about leveling the playing field to give minorities and women an extra advantage; it is about maximizing the contributions of all employees.[4]

The focus of our text is primarily on the third stage, managing diversity, because we believe it is this framework that American businesses should strive toward. We do not ignore the other stages, however, and we provide discussions of affirmative action and valuing diversity in the opening essays.

INTEGRATED APPROACH TO MANAGING DIVERSITY   An *integrated approach to managing diversity*, as presented in detail in Chapter 3, occurs when diversity is not simply described as an organizational value but is articulated in relation to the organization's overall business strategy. Within this framework, diverse employees and diversity initiatives have the ability to influence and affect work outcomes. For diversity to become integrated within an organization, seven diversity management components must be achieved: (1) authentic leadership commitment, (2) clear organizational communication, (3) inclusive recruitment practices, (4) long-term retention

strategies, (5) the incorporation of diversity into the main work of the organization, (6) diversity management metrics, and (7) expansive external relationships.

DOMINANT AND NONDOMINANT GROUPS Underlying any discussion of diversity in American business—whether affirmative action, valuing diversity, or diversity management— is the recognition that some groups have had and continue to have more power than others. Those with power represent the *dominant* group and control the construction and dissemination of knowledge, make decisions, and allocate burdens and rewards and thus hold the more influential positions in the workplace. White men have historically held most positions of power in the workplace and thus typically constitute the dominant group in most organizations. In addition, there are groups of people, located on the periphery of power, who have historically been disempowered or *nondominant*. These less powerful groups of people include, but are not limited to: women, people with disabilities, older workers, people of color, people of different ethnicities, and members of the LGBT community.

Although less powerful, subordinate groups often possess the ability—especially when working together—to negotiate successfully with the dominant group. And although we focus largely on the nondominant groups of people in our discussion of diversity, we believe white men constitute a critically important component of diversity management because, as organizational leaders, they often have the ability to make decisions that directly affect the role of diversity in the workplace. Moreover, we often forget that white men are themselves a diverse group—whether, for example, in terms of age, religion, sexual identity, disability, or parental status. Further, unless both the dominant and nondominant groups work together, it is impossible for diversity to become a competitive advantage in the workplace.

PREJUDICE AND DISCRIMINATION An important objective of this text is to encourage the readers to reflect on the ways in which diversity affects them. While using this textbook, we hope that students will gain a better understanding of how they may be *prejudiced*, often unknowingly, against groups of people they may view as different, seeing them through preconceived notions as lesser or deficient in some way. In addition, we hope that students will understand, specifically from the case study section, that *discrimination*—denying opportunities, resources, or access to a person because of his or her group identity—is, unfortunately, often a business reality. The case studies that illustrate discrimination represent uniquely helpful resources because organizations that have made serious management errors can provide powerful lessons.

STEREOTYPING AND ESSENTIALIZING Other significant, interrelated concepts that encourage self-reflection include *stereotyping* and *essentializing*. We ask our readers the question: What are the potential effects of stereotyping and essentializing in the workplace? Stereotypes are particularly powerful, as they are formed when we ascribe exaggerated beliefs or generalizations to people based on their group identities rather than seeing each person as an individual (e.g., a professor might expect all athletes to be irresponsible students). Stereotypes are common and often arise from incomplete or incorrect information and restricted experience with a particular group of people.

Just as serious is assuming that a characteristic or set of characteristics is the essence— the essential nature—of all members of a group (e.g., people might expect that women are, by nature, better nurturers than men). Although it may be a human tendency to stereotype or essentialize others, it is important to remember both the inaccuracy of doing so and the potentially devastating effects of these generalizations on individuals' realities in their daily lives.

DIVERSITY PARADIGMS   Diversity paradigms, first discussed by Harvard scholar, Dr. David Thomas, are leadership approaches to managing diversity in the workplace that can serve as conceptual categories for diagnosing the status and efficacy of organizations in terms of their approach to managing diversity. The four paradigms include: the resistance paradigm, the discrimination-and-fairness paradigm, the access-and-legitimacy paradigm, and the integration-and-learning paradigm (see Chapter 1 for definitions of each). The integration-and-learning paradigm is the most progressive, productive model for managing diversity, and represents, in essence, the integrated approach to managing diversity.

THE BUSINESS CASE FOR DIVERSITY   The business case for diversity argues that there are persuasive business reasons for investing in diversity and diversity management initiatives within an organization. In short, the business case suggests that a diverse workforce creates a competitive advantage for companies. More specifically, it maintains that diverse organizations and organizations that manage diversity effectively will realize cost savings, recruit the best talent, and have high rates of growth. Chapter 1 provides a detailed explication of both the strengths and weaknesses of the business case.

INSTRUCTOR'S MANUAL   Because the majority of our textbook is based on teaching diversity through case studies, we have dedicated much of the instructor's manual to the same. To enhance students' learning, each case study is accompanied by a detailed Teaching Note and set of PowerPoint slides. The instructor's manual also includes example syllabi, responses to discussion questions, comprehensive exercise instructions, and suggestions for individual and group assignments.

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Notes

1. The concepts of primary and second dimensions of diversity are adapted from Marilyn Loden, *Implementing Diversity* (New York: McGraw-Hill, 1996).
2. R. Roosevelt Thomas, Jr., *Beyond Race and Gender: Unleashing the Power of Your Total Work Force by Managing Diversity* (New York: AMACON, 1991), 169.
3. Ibid., 167.
4. Ibid., 168.

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Uncovering the Complexities of Workplace Diversity

In this part, "Uncovering the Complexities of Workplace Diversity," our goal is to explore the complexities of workplace diversity from both managerial and legal perspectives. In Chapter 1 "Diversity in the Workplace: A Theoretical and Pedagogical Perspective," we examine diversity from a managerial point of view and discuss the following important considerations for understanding diversity in American business: the changing US demography; multiple alternative definitions of diversity and important principles to acknowledge when defining diversity; four paradigms or approaches for diversity management; and the complexities of the business case for diversity.

In Chapter 2, "Diversity in the Workplace: A Legal Perspective," P. Corper James outlines the legal aspects of managing diversity in his explication of the classes of people protected by law, the legal definitions of sexual harassment, the Americans with Disabilities Act (ADA), and the Age Discrimination in Employment Act (ADEA). In addition, he offers general legal advice for both managers and employers on the topic of diversity management.

In Chapter 3, we present, in detail, the integrated approach to diversity management and explicate its seven diversity components. In Chapter 4, we grapple with the question: What constitutes effective diversity management? In particular, we highlight prominent diversity leaders, exemplary organizations for managing diversity, and a case study, "Diversity as Strategy," that explicates how IBM manages diversity using an integrated approach.

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Diversity in the Workplace
A Theoretical and Pedagogical Perspective

Diversity education is big business. In corporate America and higher education, diversity training has become a multibillion-dollar industry, with a wide variety of diversity summits, workshops, toolkits, books, training videos, e-learning programs, executive coaching sessions, and leadership academies.

With what might seem like an excess of diversity management tools, the importance of managing workplace diversity can easily be reduced to an overhyped workplace trend. The belief that diversity management is nothing more than a transitory phenomenon may in fact represent an organizational ideology that educators are forced to confront when teaching about workplace diversity in both business and academics. It is this misperception combined with other challenges related to diversity education that help to underscore the importance of our goal of creating a pedagogical approach that will allow students and managers to examine more effectively and therefore understand better the complexities of diversity and managing diversity in organizations.

In this chapter we examine what it means to teach diversity management, analyze the opportunities and challenges related to teaching diversity management, and present an innovative pedagogical approach that we believe will facilitate the teaching of diversity management. The motivation behind understanding how to manage workforce diversity is twofold: it is the right and ethical thing to do, and it can enhance an organization's competitive advantage. The issue is not whether the workforce is or is not diverse; diversity is a business reality, is here to stay, and ought to be embraced. The issue, then, is whether organizations lack the knowledge to unleash the power of their diverse employees through effective diversity management and, if so, how to correct this problem.

Although we illuminate some of the limitations of diversity management education, we uphold a prodiversity position, support organizations that invest in diversity management initiatives as a way to empower employees, and agree that "[O]rganizations that invest their resources in taking advantage of the opportunities that diversity offers should outperform those that fail to make such investments."[1] Our position about diversity in general is that diversity can become an exciting business opportunity, but only when it is managed effectively at all levels

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of an organization and understood in terms of both its advantages and disadvantages. To explain this position, we first define what it means to manage diversity.

DIVERSITY MANAGEMENT

Diversity management is an organizational commitment and integrated approach that moves beyond compliance with legal requirements and statements that simply express the organization's claims to value diversity. We describe effective diversity management as integrated because its dimensions are incorporated throughout the inner workings of a business and linked to strategic business goals. As Michàlle Barak suggests, diversity management is "the voluntary organizational actions that are designed to create through deliberate policies and programs greater inclusion of employees from various backgrounds into the formal and informal organizational structures."[2] Diversity management is distinct from equal opportunity legislation and affirmative action programs because it "is proactive and aimed at creating an organization in which all members can contribute and achieve to their full potential."[3] The purpose of such organizational actions and policies is to incorporate diversity into the main work of the organization so that diverse perspectives influence processes such as decision making, problem solving, and marketing; company image; methods of communication; and product design, as well as have a direct impact on the organization's mission, values, and goals.

A required component of an effective diversity management policy is a steadfast commitment from organizational leadership. Business leaders play a crucial role in how diversity is perceived and implemented in their organizations, and without authentic commitment from the executive ranks, diversity will remain a stagnant or even festering organizational issue. Leaders must be able to express clearly how diversity is defined and what role diversity plays in their corporate culture; they must commit themselves to recruiting and retaining diverse employees, incorporating diverse perspectives into the main work of the organization, implementing supplier diversity initiatives, linking diversity to financial success, and using some type of metrics for measuring the successes (or failures) of their diversity initiatives. Further, it is also necessary for leaders to understand that although diversity challenges may arise, they cannot be ignored but rather recognized and resolved.

Because of the comprehensive nature of diversity management, teaching its complexities is no easy task, and it is not surprising that implementing an effective approach to teaching this topic poses pedagogical challenges for both educators and students. Diversity management is not all about difficulties, however, as we describe a few of the opportunities related to teaching about diversity in organizations.

OPPORTUNITIES TO TEACH DIVERSITY MANAGEMENT

The enthusiasm surrounding the issue of diversity in organizations in both business and academia is palpable. This enthusiasm encourages lively discussion about thought-provoking, progressive classroom topics as students see familiar businesses embrace diversity and publicly declare their allegiance to promoting diversity as an organizational strategy.

American Express, for example, maintains that "the connection between the diversity of our workforce and our overall performance quality is clearly valued."[4] Marriott International enthusiastically describes its commitment to diversity as "absolute" and asserts that diversity "is more than a goal...it's our business. From our global workforce to our suppliers, owners and franchisees, and customers and communities, we thrive on the differences that give our company its strength and competitive edge."[5] Boldly claiming that "diversity is who we are," Starbucks Coffee Company describes diversity as "a way of life" and "the core of our culture

and a foundation for the way we conduct business."[6] Verizon boasts that "[W]e have made diversity an integral part of our business, from workforce development and supplier relationships to economic development, marketing, and philanthropy."[7] Businesses such as these do more than just post their diversity missions on posters, pamphlets, and Web sites; by contrast, they are committed to giving diversity a legitimate voice in executive decision-making processes by creating positions such as chief diversity officer; senior vice president of external affairs and global diversity officer; and vice president of workplace culture, diversity, and compliance.

Like businesses, many universities value diversity, often promoting it as a critical component of their success and identity as an organization. Reflecting this trend, the University of North Carolina describes diversity as a "key component" in its "academic plan" and its "pursuit of excellence."[8] In addition to universities at large, business schools are independently communicating their value of diversity. The Kellogg School of Management at Northwestern University highlights specific dimensions of diversity in its diversity philosophy, and it works to solidify its commitment by offering the graduate elective Managing Workforce Diversity. Similarly, Rutgers Business School offers the graduate elective Managing Organizational Diversity within the concentration of Management and Global Business. On an undergraduate level, examples include the business schools at the University of California, the University of Connecticut, the University of Illinois, and the University of Utah, which all offer diversity management courses. Mirroring corporate America, universities are also moving toward implementing executive positions such as chief diversity officer and associate vice president for diversity.

Student enthusiasm for learning about diversity management comes from their own experiences in relation to the reality of today's diverse workforce. Leaders of businesses and universities have realized that although there may be differing opinions about diversity management, one aspect of diversity cannot be disputed: The American workforce and classroom are becoming increasingly heterogeneous. In the organizations in which they work, students, many of whom are taking classes in addition to working in either part-time or full-time jobs, see the emergence of diversity issues—such as the prevalence of older workers in the workforce, employees who want to express themselves spiritually during work hours, or the formation of employee resource groups. Further, students become increasingly engaged as they realize that the dynamic workforce demographics do not simply represent a more diverse workforce but also highlight some unexpected realities within these demographic trends.

One demographic that students may be familiar with is the record numbers of women and minorities entering the US workforce. According to the U.S. Bureau of Labor Statistics, women now account for 46 percent of all full-time and part-time workers. While this fact may be obvious to students, not as obvious is the fact that despite their increased numbers in the workforce, women and minorities still receive a disproportionately low share of the rewards allocated by US businesses. For example, women occupy only about 8 percent of executive vice president positions (and above) at Fortune 500 companies.[9] In addition, African Americans and Latinos represent approximately 25 percent of the US population yet hold fewer than 5 percent of senior-management positions.[10] In response to these demographics, we ask our students to grapple with the following question: Why is the increasing profusion of diverse workers not being matched by similarly expanded opportunities in the executive suites?

Perhaps more interesting for students to discover is that in some cases efforts to increase opportunities have been associated with actual declines. The number of people with disabilities entering the workforce, for example, seems to have decreased overall in the last decade, despite the passage of the Americans with Disabilities Act (ADA) in 1990, which was supposed to provide better access for them.[11] Furthermore, various minority groups continue to suffer discrimination beyond restricted access to employment or low pay. In the case of gay and lesbian workers,

nearly two out of five say they consistently face some form of hostility or harassment on the job.[12] And despite the fact that 95 percent of Americans say they believe in God, and 48 percent say they talk about their religious faith at work, the EEOC reports a 29 percent spike since 1992 in the number of religion-based discrimination charges.[13] In light of statistics such as these, we ask students to contemplate why these workplace inconsistencies occur.

When teaching students about diversity management, the pedagogical opportunities are based in the students' own experiences as they are witnesses to diversity's dominant presence and dynamic quality in the workplace and classroom. While diversity represents a significant and obvious component of today's workforce, diversity management is a somewhat nascent organizational concept; because of this, teaching about managing diversity can pose pedagogical challenges.

CHALLENGES OF TEACHING DIVERSITY MANAGEMENT

Although there is a clear movement in corporate America and academia to embrace diversity, not so clear is the public acknowledgment and dialogue about the challenges associated with diversity management education. Students need to realize that diversity management is sometimes a difficult process with often uncertain results; even skilled managers with the best intentions can fail to anticipate and resolve the problems that managing diversity presents. The diversity paradox represents the potential challenges or inconsistencies that diversity may raise. An illustration of such a challenge is that while diversity is a proven source of creativity and innovation in organizations, it is also a cause of misunderstanding and conflict.[14]

As students grapple with the idea that sometimes diversity within an organization can be paradoxical, they begin to understand the complexity of diversity management. An organization that illuminates a diversity paradox is Xerox. Xerox, a progressive leader in diversity management, has won a long string of diversity-related awards and has been rated as one of the top ten companies in hiring minorities, women, people with disabilities, and gay and lesbian employees by *Fortune*, *Forbes*, *Working Mother*, *Latina Style*, and *Enable Magazine*.[15] Xerox's approach to managing diversity has been clear and consistent; Chairman and Chief Executive Officer Anne M. Mulcahy states: "Diversity breeds creativity. Maybe it's because people with different backgrounds challenge each other's underlying assumptions, freeing everybody from convention and orthodoxy."[16] Nonetheless, diversity management at Xerox has had its problems. Not only was evidence found that suggested the clear lack of promotional opportunity and equal pay for African Americans, but Xerox employees "fashioned a workplace display of African American dolls with nooses around their necks, igniting a lawsuit against the company in 2002."[17] Although Xerox has been a model of diversity management for over forty years, it represents a diversity paradox as it recently was charged with blatant, systemic discrimination of African Americans.

For the diversity management educator, illuminating problematic aspects of diversity is just as important as illuminating diversity's strengths. Another challenge facing the diversity educator is effectively teaching the business case for diversity. Despite the organizational intricacies of having and managing a diverse workforce, many business leaders and educators unconditionally embrace the main premise of the business case for diversity: having a diverse workforce will improve financial performance. The business case for diversity is, in effect, "a management- focused, economic argument to promote corporate investments in workforce diversification. The business case links investments in organizational diversity initiatives to improvements in productivity and profitability."[18] The business case for diversity asserts that a diverse workforce creates a competitive advantage by decreasing overall costs while enhancing creativity, problem solving capability,

recruitment and marketing strategies, overall productivity, leadership effectiveness, global relations, and organizational flexibility.[19] The business case discourse is powerful and pervasive as it has spread not only within the United States, but also globally throughout the United Kingdom, Australia, Canada, the Netherlands, South Africa, and Scandinavia.[20]

Nonetheless, it is the diversity educator's responsibility to illuminate that although the business case argument may well be appealing on an ideological level and represents a popular position on workforce diversity, it fails to take into account the challenges associated with a diverse workforce such as the potential of more conflict and misunderstanding because of people's differences. While some researchers have discussed the flaws of the business case,[21] this cautionary conversation goes mostly unrecognized in diversity training programs and college courses. Popular books that are used in both training and college courses, for example, often dedicate very little discussion to the lack of research supporting the business case for diversity.[22] We believe that failing to recognize the problematic nature of diversity and taking the business case for diversity for granted, however, leaves students and managers less well equipped than necessary to handle the potential challenges, pitfalls, and paradoxes associated with diversity.

We believe that when teaching about diversity management, the pedagogical framework must take into account real complexities and challenges that diversity may present. We have developed a three-phase pedagogical framework to help diversity educators navigate diversity's complexities and create a more accurate and therefore more useful conversation about diversity and diversity management. The first phase is to grapple with the definition of diversity. As diversity educators and students alike often ask the question, "What is diversity?" educators should encourage a conversation about definitions that illuminate diversity's complexities. The second phase facilitates an understanding of diversity management from an organizational leadership perspective. In the third phase, diversity educators should present in detail the arguments of the business case for diversity and encourage an examination of the validity of the assumptions supporting these arguments.

We believe that the pedagogical framework presented here facilitates a method through which diversity educators can begin a more accurate and helpful conversation about diversity management in business and academia. The main goal of this three-phase framework is to make teaching more effective—to create a more meaningful, honest, and dynamic dialogue about diversity in the workplace. We first begin with a detailed explication of phase one: defining diversity.

DEFINING DIVERSITY

When teaching students and managers about managing diversity, it is important to know what diversity means. Diversity educators should explain the various ways in which diversity is defined by scholars, practitioners, and organizations as a way to illuminate the breadth of interpretations and then to encourage students to determine what they view as the most representative or useful definition. In this section, after we present some of these definitions—by examining their weaknesses and highlighting their strengths—we present principles that will enhance a more comprehensive understanding of diversity.

Society for Human Resource Management

The Society for Human Resource Management (SHRM), a leading professional association, recognizes that although diversity "is often used to refer to differences based on ethnicity, gender, age, religion, disability, national origin and sexual orientation," it also encompasses an "infinite range"

of "unique characteristics and experiences, including communication styles, physical character such as height and weight, and speed of learning and comprehension."[23]

Marilyn Loden

Marilyn Loden, a nationally recognized organizational change consultant, emphasizes the importance of an all-encompassing definition of diversity, because, as she believes, when any group—white men, for example—is excluded, managing diversity may create division rather than inclusion. To "avoid widescale opposition," corporations should define diversity such that "everyone's diversity is valued."[24] Because of this need for widespread endorsement from organizational members, Loden views diversity as "important human characteristics that impact individuals' values, opportunities, and perceptions of self and others at work."[25] Loden's widely embraced model of diversity, as represented in Figure 1-1, explicates diversity as having both primary and secondary dimensions.
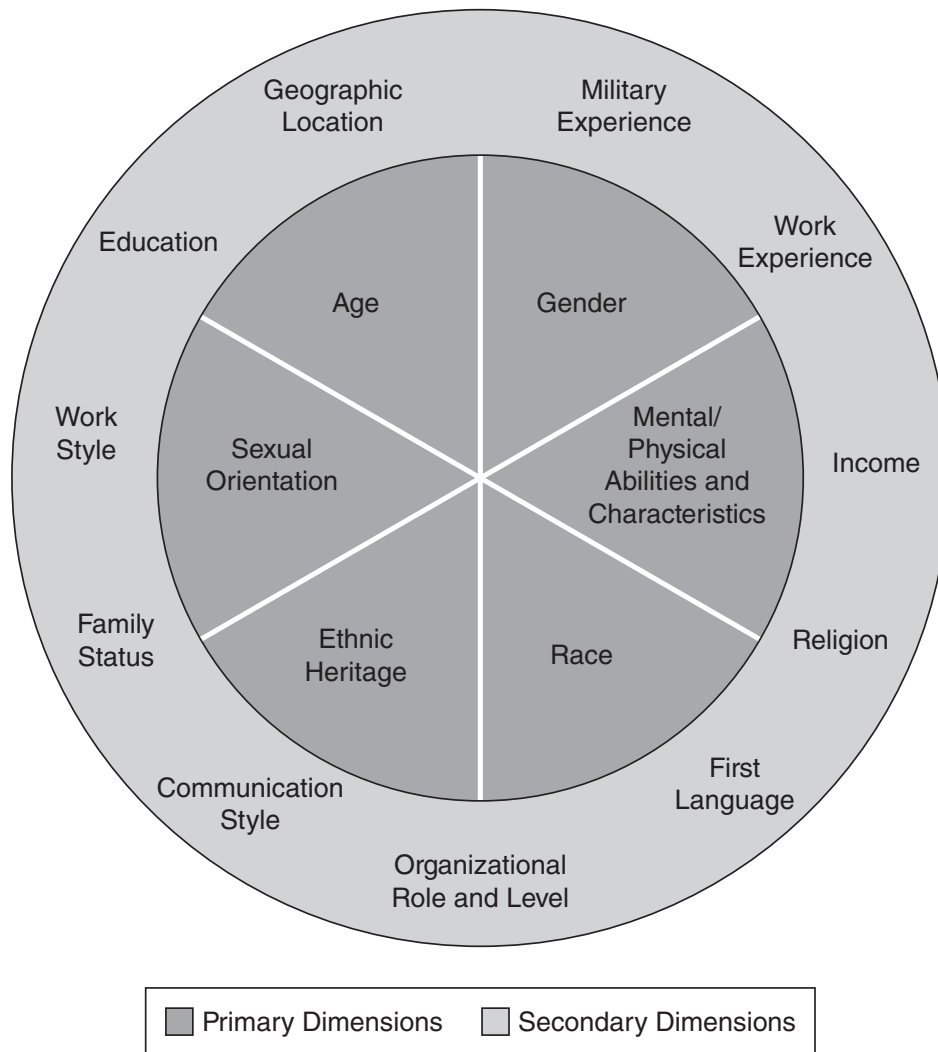
FIGURE 1-1   The Diversity Wheel

Loden Associates designs innovative models such as the diversity wheel to facilitate understanding of a broad range of the primary and secondary dimensions of diversity.   *Source:* Figure adapted from *Implementing Diversity: Best Practices for Making Diversity Work in Your Organization* by Marilyn Loden. Copyright © 1996 by Marilyn Loden. Reprinted with permission of McGraw-Hill Companies, Inc.

Loden's primary dimensions of diversity are "interlocking segments of a sphere" that represent the core of each individual's identity while the secondary dimensions are "more mutable, less visible to others around us, and more variable."[26] Loden explains that because the secondary dimensions are more dynamic, their power is "less constant" and "more individualized than is true for the core dimensions."[27] In effect, the dimensions work in tandem to give definition to people's lives "by contributing to a synergistic, integrated whole—the diverse person."[28]

Anita Rowe and Lee Gardenswartz

Anita Rowe and Lee Gardenswartz, human resource experts on managing workforce diversity, embrace Loden's definition of diversity but add two additional dimensions as represented in Figure 1-2—one, personality, in the center and the other, organizational membership, on the periphery. According to Rowe and Gardenswartz, at the center of the diversity model is "personality" which is "the innately unique aspect" that "permeates all other layers" and unites them.[29]
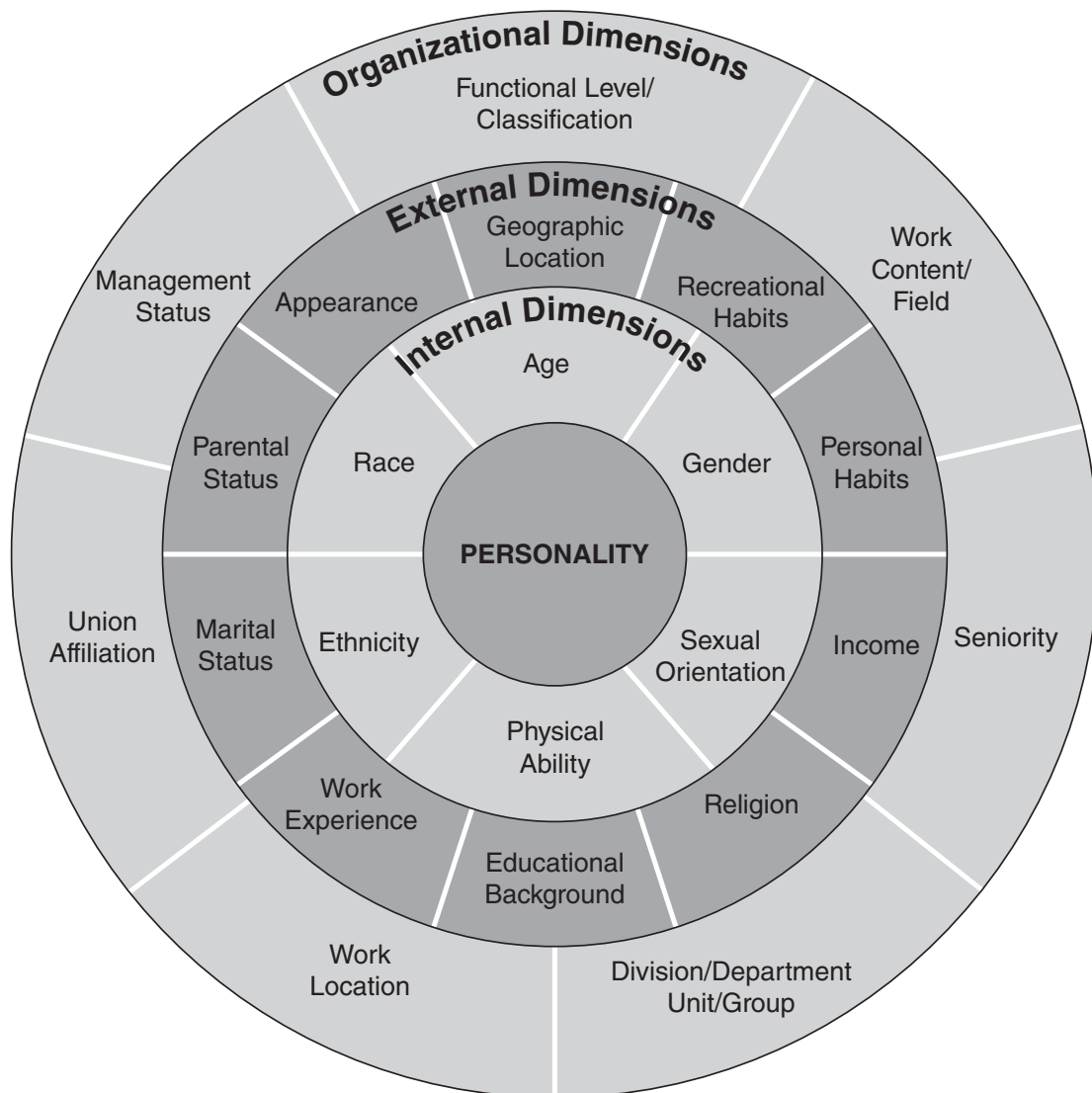
FIGURE 1-2   Four Layers of Diversity

Internal Dimensions and External Dimensions are adapted from Marilyn Loden and Judy Rosener, *Workforce America!* (Business One Irwin, 1991).   *Source:* Figure adapted from Workforce America! Managing Employee Diversity as a Vital Resource by Marilyn Loden and Judy Rosener. Copyright © 1991 by Loden and Rosener. Reprinted with permission of McGraw-Hill Companies, Inc.

The next layer is "internal dimensions" (Loden's primary dimensions) which is then followed by "external dimensions" (Loden's secondary dimensions).[30] The outermost layer consists of organizational characteristics such as union affiliation, management status, and work content or professional field. In sum, these four layers of diversity come together to form one's "diversity filter."[31]

R. Roosevelt Thomas, Jr.

The definition of diversity articulated by R. Roosevelt Thomas, Jr., CEO of R. Thomas & Associates, Inc. and founder and president of the American Institute for Managing Diversity, emphasizes the relationship between diversity and individuals' similarities rather than their differences. Thomas maintains that diversity is "any mixture of items characterized by differences and similarities"[32] and explains that when business leaders make decisions, they must deal with both differences and similarities among members of their workforce simultaneously. In addition, Thomas emphasizes that diversity must be viewed as inclusive insofar as "if you are concerned about racism, you include all races; if you're concerned about gender, you include both genders; or if you're concerned about age issues, you include all age groups."[33]

Some diversity scholars would argue that the strength of these definitions, as presented by SHRM's Diversity Forum, Loden, Rowe and Gardenswartz, and Thomas, is their inclusiveness—the way in which they tend to make room for all members of an organization within the framework of diversity. Diversity, in this sense, becomes broad and all-encompassing. Yet we believe that by avoiding the creation of boundaries for the definition of diversity in organizations, these definitions imply that all organizational members are diverse. This assumption creates a situation whereby diversity management risks losing its special meaning and significance as it becomes simply management in general. When discussing definitions such as these, diversity educators should encourage a dialogue on the strengths and weaknesses of all-inclusive definitions of diversity. They should also introduce scholars who, through their definitions of diversity, attempt to put boundaries around the meaning of diversity in organizations.

Myrtle P. Bell

Myrtle P. Bell directly addresses the issue of the expansion of the notion of diversity. For Bell, the areas of diversity include only race, ethnicity, sex, religion, age, physical and mental ability, sexual orientation, work and family status, and weight and appearance. She emphasizes these specific areas of difference because they "are based on power or dominance relations between groups, particularly 'identity groups,' which are the collectivities people use to categorize themselves and others."[34] In addition, these areas are "often readily apparent, strong sources of personal identity, and stem from historical disparities in treatment, opportunities, and outcomes." Further, she explains that while other areas of difference are indeed important because they affect "people's organizational experiences," such as values and attitudes, "they are rarely readily apparent or strong sources of personal identity and generally do not stem from historical disparities in treatment, opportunities, or outcomes."[35] Using the strength of this definition Bell creates meaningful boundaries when defining diversity, specifically in the context of power relations and historical inequities.

David A. Thomas and Robin J. Ely

David A. Thomas and Robin J. Ely focus on how diversity affects work as they define diversity as "the varied perspectives and approaches to work that members of different identity groups

bring."[36] Diversity is thus "not simply a reflection of the cosmetic differences among people, such as race and gender; rather, it is the various backgrounds and experiences that create people's identities and outlooks."[37] Further, the authors explain how diverse groups bring not only their "insider information" but also "different, important, and competitively relevant knowledge and perspectives about how to actually do work," for example, how to set and achieve goals, design organizational processes, frame tasks, communicate, and work effectively in teams.[38] If an organization truly embraces the value of diversity, it will allow diverse employees to challenge basic assumptions about an organization's inner workings. This freedom will enable employees to "identify more fully with the work they do," thereby "setting in motion a virtuous circle."[39] The authors use the significance of this definition to frame diversity in terms of how it affects the way that employees approach and do work—that employees' diversity directly impacts the very essence of their organizations.

Michàlle E. Mor Barak

Michàlle E. Mor Barak extends the discussion of diversity across national and cultural boundaries. With diversity having different interpretations in different countries, she admits that "generating a definition of workforce diversity that will be relevant in different countries and applicable in various cultural and national contexts proves to be a challenge."[40] Thus, she maintains that workforce diversity refers to "the division of the workforce into distinction categories that (a) have a perceived commonality within a given cultural or national context, and that (b) impact potentially harmful or beneficial employment outcomes such as job opportunities, treatment in the workplace, and promotion prospects—irrespective of job-related skills and qualifications."[41] Barak argues that this definition works in the global context for two main reasons. First, "it provides a broad umbrella that includes any distinction categories that may be relevant to specific cultural or national environments" without imposing the categories onto the culture but rather allowing the categories to emerge from within the specific culture. Second, it works because it highlights the significance of the "consequences of the distinction categories," thus overcoming "the limitation of the broad definitions that include benign and inconsequential characteristics in their diversity categories."[42]

Five Principles for an Improved Definition of Diversity

When teaching about diversity, diversity educators should encourage students to reflect on the usefulness of various definitions and should remind students that an organization's definition of diversity represents the beginning, foundational steps for how the organization will manage diversity. Reflecting on and building upon the various definitions we have reviewed here, we rely on the following principles when defining and discussing diversity: (1) diversity is expansive but not without boundaries; (2) diversity is fluid and dynamic; (3) diversity is based on both differences and similarities; (4) diversity is rooted in nonessentialist thought; and (5) diversity is directly related to how one approaches work.

DIVERSITY IS EXPANSIVE BUT NOT WITHOUT BOUNDARIES   The principle that diversity is expansive but has boundaries challenges two commonly held, contrary assumptions about diversity. Too narrow is the assumption that diversity is limited to one's obvious demographic characteristics such as gender and skin color. We include other dimensions of diversity in our conception, including, for example, single parents and people who embrace spirituality. If these less easily observed dimensions are omitted, distinctions among people may be so broad that

important conceptions of core identity are ignored. Too broad, however, is the way in which some definitions extend diversity to the individual level of personality and organizational position. When organizations are described as having nearly unlimited layers of diversity—for example, including an employee's functional area, formal division, or work location—diversity gets overextended so that almost any imaginable organizational or social structure and context are considered diverse. We think that understanding an individual's experience is important, but that is true for management in general, not just for managing diversity. It seems to us that if the concept of diversity were to include every characteristic of every individual in any workplace, it would lack both clarity and usefulness and so we tie the notion of diversity to the people and groups of people who work in organizations. Our goal is to help students and managers develop the ability to distinguish between more or less diverse organizations and groups.

DIVERSITY IS FLUID   Often overlooked in diversity management education is diversity's characteristic of fluidity. Although diversity affiliations are often portrayed as absolute and clearly distinct, they are, we believe, fluid, continuous, and indefinite. Consider race, for example. The Census Bureau identifies race as a "socio-political" construct rather than a biological one. Thus, it should not be surprising that people's conception of race is complex and variable. About six percent of Americans say that they do not belong to any of the races identified by the Census Bureau, and more than two percent say they belong to at least two races simultaneously.[43] As organizational scholar Deborah R. Litvin explains, "The categories constructed through the discourse of workforce diversity as natural and obvious are hard-pressed to accommodate the complexity of real people."[44]

In addition, the lines of diversity overlap, as most individuals associate themselves with a number of social category dimensions. An example we use in class is a disabled woman of Christian Lebanese descent who might define herself in terms of various constellations of gender, religion, national origin, or disability. Also, we remind students that employees often move in and out of diversity categories—a single parent may get married, a man assumed to be straight may come out as gay, an able-bodied employee may have an accident and become disabled, or an employee may newly require a flexible schedule to care for an ailing parent.

DIVERSITY IS BASED ON BOTH DIFFERENCES AND SIMILARITIES   Diversity's dynamic quality is often ignored because of our tendency to define ourselves in terms of differences. Thus, we believe that organizations should reconceptualize diversity so that it is understood in terms of both differences and similarities. In this approach to diversity, affiliations will no longer represent rigid categories; individuals will view themselves as having qualities in common rather than narrowly defining themselves in terms of how they differ, and the advantages of diversity can be realized while its potential disadvantages can be avoided or minimized.[45]

Furthermore, we encourage students and managers to consider that not only do people identify with multiple dimensions of diversity simultaneously, but the combinations of their multiple demographic categories influence group processes and outcomes. Demographic category memberships may be aligned by individuals or not; when they are, they create deeper divisions within groups than when they are not. Thus, when a number of dimensions of diversity align they can create strong "faultlines" in a group.[46] For example, consider the workgroup represented in Table 1-1. In Panel A, the group is divided along categories of sex, race, age, and function, so that a strong faultline separates the men from the women (also the whites from the Asians, the young from the midcareer, and the finance analysts from the marketers). In Panel B, however, no strong subgroups are likely to form, because the dimensions of diversity are aligned

TABLE 1-1 Examples of Strong and Weak Faultlines				
A: Strong Faultline				
Group Member	**Sex**	**Race**	**Age**	**Functional Expertise**
1	Male	White	26	Finance
2	Male	White	30	Finance
3	Male	White	27	Finance
4	Female	Asian	47	Marketing
5	Female	Asian	53	Marketing
B: Weak Faultline				
Group Member	**Sex**	**Race**	**Age**	**Functional Expertise**
1	Male	White	53	Finance
2	Male	White	30	Marketing
3	Male	Asian	27	Finance
4	Female	White	47	Marketing
5	Female	Asian	26	Finance

neither with each other nor with functional areas. The strength of faultlines, and not just the amount of diversity in a group, may affect group morale, conflict, and performance.[47]

DIVERSITY IS ROOTED IN NONESSENTIALIST THOUGHT   When defining diversity in terms of specific categories like race or age, it is easy to fall into the trap of essentialist thinking. Categorizing people or inviting them to categorize themselves can lead to essentializing them— making the assumption that a characteristic, or set of characteristics, is the essential nature of all members of a group. Essentialism, as discussed by Litvin, is damaging because it "encourages individuals to immediately attribute their colleagues' thoughts and behaviors to their demographic category membership."[48] Students and managers need to understand this danger so they can avoid it.

An example of essentialist thinking is presuming that because someone is a woman, it is in her nature to want children. Although it may be true that most women have at least one child,[49] it is not the case that maternal desires are necessarily part of what it means to be a woman. Other examples of essentializing members of particular groups include assumptions such as the following: Asian Americans are strong quantitative thinkers; women use a relationship-based communication style; and men are persuaded by hard facts rather than emotional appeal. Although it is much easier simply to categorize people as members of groups, a nonessentialist framework transcends such generalizations while encouraging us to see the specific character of each individual.

DIVERSITY IS DIRECTLY RELATED TO HOW ONE EXPERIENCES WORK   In discussions, of workplace diversity, diversity should be examined in the context of how it informs the way in which one approaches his or her job. Unfortunately, however, diversity is often incorporated superficially in organizations, for instance, being simply mentioned in a mission statement or articulated as a value and pursued only in terms of numbers of diverse employees. It should,

by contrast, be considered in terms of its direct relationship with how employees perceive and perform their work and interact with both their colleagues and those outside their organizations. As explained by Thomas and Ely, companies that effectively manage diversity have developed "an outlook on diversity that enables them to incorporate employees' perspectives into the main work of the organization and to enhance work by rethinking primary tasks and redefining markets, products, strategies, missions, business practices, and even cultures."[50]

In sum, these five principles will help students and managers understand the complexities of diversity and how important it is for an organization's definition of diversity to capture these complexities. We point out that diversity educators and organizational leaders might struggle not only to define diversity but also to formulate an approach to direct and shape their philosophy on diversity. What follows next is a discussion of leadership-based approaches to managing diversity that will help students to determine the level of effectiveness at which organizations are managing diversity.

UNDERSTANDING LEADERSHIP-BASED ORGANIZATIONAL PARADIGMS FOR MANAGING DIVERSITY

Organizational leaders have embraced various paradigms, or approaches, to understanding and managing diversity.[51] These diversity management paradigms can serve as conceptual categories to help students, and managers diagnose the status and effectiveness of an organization in terms of diversity management. These paradigms include: resistance, discrimination-and-fairness, access-and-legitimacy, and integration-and-learning. When discussing these paradigms we ask the students to examine the strengths and weaknesses of each diversity management approach. We suggest that working in tandem with these paradigms are the rhetorics of resistance, affirmative action, valuing diversity, and diversity management. The rhetoric that represents each of the approaches is developed primarily by the language used by leaders within organizations and functions to constitute and reconstitute the characteristics within each of the paradigms.

Although these paradigms developed, in turn, prior to the Civil Rights era (resistance paradigm) to the present day (integration-and-learning paradigm), we make it clear to our students that their history should not be seen as a continuous trend toward improved diversity management in American business. To assume that one approach has built on another and that progress has been made through this development does not account for the diversity inconsistencies that often exist in today's workplace. For example, paradigms may coexist in organizations (such as Xerox) so that progressive organizations that incorporate diversity management integratively (integration-and-learning paradigm) may still contain pockets of serious refusal or defiance (resistance paradigm) against diversity management. Thus, although we discuss the following approaches as they appeared chronologically, we take time to explain that their manifestations in real organizations do not always follow such a clear, progressive trajectory.

Resistance Paradigm

The resistance paradigm is based on the rejection and evasion of diversity and diversity-promoting initiatives. Although this perspective was more commonly expressed in the United States prior to the civil rights movement, it continued into the 1970s and beyond. For many years, management in a number of industries and occupations consisted of largely homogeneous groups of white men; diversity remained misunderstood and unappreciated.[52] Much of the workforce was made up of immigrants and/or ethnic minorities, but in an effort to maintain privilege, established majorities both among managers and blue-collar workers resisted changes in workplace

demographic diversity—particularly in terms of color of skin and gender—because of outright prejudice or because they believed that minority groups might gain power and influence.[53]

RHETORIC OF RESISTANCE   As the resistance paradigm considers diversity as more of a threat than an opportunity, the discourse of resistance takes the form, for example, of "defiant assertions that changes are inefficient or unacceptable to shareholders because they increase costs and reduce profits."[54] A powerful example of this kind of argument that we use in the classroom is the case of Cracker Barrel Restaurants and its founder Dan Evins. Cracker Barrel was accused of blatantly discriminating against gays and lesbians working in its restaurants. Reflecting the rhetoric of resistance, Cracker Barrel and its leadership maintained that because Cracker Barrel was "founded upon a concept of traditional American values" it was deemed "inconsistent with our concept and values and...with those of our customer base, to continue to employ individuals...whose sexual preferences fail to demonstrate normal heterosexual values which have been the foundation of families in our society."[55] Although this example of resistance happened in 1991, students are still surprised, and some shocked, that this level of blatant discrimination was and continues to be legal in some states.

Discrimination-and-Fairness Paradigm

The discrimination-and-fairness paradigm, often adopted in the late 1960s and 1970s, is based on accommodating the legal responsibilities of diversity, often in terms of federal mandates. The underlying philosophy of this paradigm is described by Thomas and Ely as follows: "Prejudice has kept members of certain demographic groups out of organizations" and "[a]s a matter of fairness and to comply with federal mandates, we need to work toward restructuring the makeup of our organizations to let it more closely reflect that of society."[56] The appeal of this approach is that it makes efforts to recruit and, to some extent, to retain diverse employees, but this approach treats all people within a given social demographic category as the same. In other words, the paradigm's weakness is that it does not "allow employees to draw on their personal assets and perspectives to do their work more effectively."[57] Unsurprisingly, organizations that embrace this paradigm have no real strategy for managing diversity, since they believe that the minority view should "conform to the expectations of the organization's existing culture."[58]

RHETORIC OF AFFIRMATIVE ACTION   Because the discrimination-and-fairness paradigm is reflected in the rhetoric of affirmative action, we use this discussion to teach about this emotionally charged, often misunderstood topic. We explain that the intentions behind affirmative action were sound as it was grounded in moral and social responsibility, with the goal of amending wrongs done in the past to those Americans—minorities and women in particular—who were underrepresented in positions of organizational and political power. The phrase "affirmative action" was first used in 1961 when President John F. Kennedy issued Executive Order 10925 which created the Committee on Equal Employment Opportunity and mandated that federal funds be used to take affirmative action to ensure that hiring and employment practices were free of racial bias. Then, in 1965, President Lyndon Johnson issued Executive Order 11246 requiring federal contractors to take affirmative action to ensure that employees are treated during employment without regard to their race, creed, color, or national origin. In 1967 Johnson expanded the order to include affirmative action requirements to benefit women.

Although affirmative action was created as a temporary remedy to equalize discrimination that had persisted despite constitutional promises, it became, for many, synonymous with

language such as "preferential treatment" and "quotas," which worked quickly to dishonor the policy's fundamental purpose. Affirmative action has been strongly challenged in both political and judicial contexts. An example is the historic 2003 case involving the University of Michigan's admissions policies, whereby the Supreme Court upheld the University's law school affirmative action policy—to continue to consider race as one element when selecting their students. In this situation, the court found that "diversity is a compelling interest in higher education, and that race is one of a number of factors that can be taken into account to achieve the educational benefits that flow from a diverse student body."[59] This groundbreaking decision was negated in 2005, however, when the state of Michigan passed an initiative prohibiting preferential treatment based on skin color or gender in public contracting, public employment, and public education.

Access-and-Legitimacy Paradigm

Companies operating from the access-and-legitimacy paradigm, common in the 1980s and early 1990s, emphasize bottom-line reasons for incorporating diversity. In this approach, companies "accept and celebrate differences so they can better serve their diverse pool of customers."[60] The underlying philosophy of this paradigm is that because of diverse demographics in various markets, "new ethnic groups are quickly gaining consumer power" so organizations need "a demographically more diverse workforce to help...gain access to these differentiated segments."[61] Employees who are multilingual, for example, will help organizations to understand and serve customers better, thereby gaining legitimacy with them.

   This model creates opportunities for people from less-represented groups to enter new positions in business because their diversity is, at least on some levels, valued by the organization. The paradigm's most serious limitation is clear: When a business regards employees' experience as useful only to gain access to narrow markets, those employees are, and are likely to feel, marginalized. In effect, the diverse employees and their work are pigeonholed rather than integrated systemically throughout the organization.

RHETORIC OF VALUING DIVERSITY   The rhetoric of valuing diversity, as used in the access-and-legitimacy paradigm, extends beyond the discourse of affirmative action by embracing "awareness, education, and positive recognition of the differences among people in the workforce."[62] Leaders who use this rhetoric are not just trying to satisfy federal guidelines under anti-discrimination law but rather claim to value the contributions that diverse employees make in an effort to create a profitable or effective organization.

   We point to Avon's former CEO, Andrea Jung, illustrating how organizations can leverage diversity as a competitive advantage. The once-struggling Avon boasts not only increased profits and innovations but also having more women in management positions than any other Fortune 500 company; in addition, people of color make up a third of Avon's workforce.[63] The company's famous direct-selling method now has a corps of 3.9 million independent sales representatives worldwide, many of whom are women of color selling products to a diverse clientele. Furthermore, Avon has been actively developing Latina-geared cosmetics called *Avon Eres Tu* (Avon Is You) and has launched ad campaigns featuring women of color, including tennis champions Venus and Serena Williams and actress Salma Hayek. John Fleming, regional vice president for Avon West, sums up Avon's diversity philosophy: "Avon is committed to diversity. The marketplace is becoming more and more diverse each year, thus the diversity we see in the marketplace must be reflected in our representative ranks and in our management ranks."[64]

Integration-and-Learning Paradigm

The fourth paradigm, the integration-and-learning paradigm, which largely emerged in the 1990s, reflects characteristics of both the discrimination-and-fairness paradigm and the access-and-legitimacy paradigm but goes beyond them by embracing the business case for diversity and "by concretely connecting diversity to approaches to work."[65] Leaders who adopt this approach recognize that employees frequently make decisions and choices at work that draw upon their identity-group affiliations.[66] Executives actively recruit and retain their diverse workforce, invest in diversity training, and expect that having a diverse workforce and management team will lead to better decisions and an enhanced bottom line.

Organizational leaders who adopt this paradigm are proactive about learning from diversity, encourage people to use their cultural experience at work, fight forms of dominance and subordination based on demographic categories, and ensure that conflicts related to diversity are acknowledged and resolved with sensitivity.[67] When using this approach, leadership "must recognize both the learning opportunities and the challenges that the expression of different perspectives presents for an organization."[68] Not only should leaders understand the challenges, but they must be able to communicate easily and clearly their message about diversity and diversity management within their company. Employees within these organizations should have a clear understanding of the critical and integrative role that diversity plays within the organization.

RHETORIC OF DIVERSITY MANAGEMENT   The integration-and-learning paradigm is reflected in the rhetoric of diversity management. This rhetoric is different from both the rhetoric of affirmative action and the rhetoric of valuing diversity, specifically because it maintains that effective diversity management creates not only a competitive advantage in consumer markets but an environment in which differences are "valued and allowed to influence positively [organizational members'] experience in and contribution to the work of the organization."[69] Diversity management seeks to align the skills and personal experiences of the individual members of the organization with its mission and strategy.

A business example that represents this approach is IBM. Former CEO of IBM Louis V. Gerstner's rhetoric of diversity management was the catalyst for IBM's philosophical shift from "minimizing differences to amplifying them and to seizing on the business opportunities they present."[70] Gerstner and IBM's vice president of Global Workforce Diversity, Ted Childs, created eight diversity task forces made up of the following demographic executive-led constituencies: Asians, African Americans, gays/lesbians/bisexuals/transgender (GLBT) individuals, Hispanics, white men, Native Americans, people with disabilities, and women. After receiving feedback from these constituencies, Gerstner allowed diversity perspectives to influence the main work of IBM; by doing this, he encouraged diversity to have systematic influence throughout IBM. IBM indeed looks different today than it did in 1995 at the beginning of Gerstner's tenure, with, for example, a 370 percent increase in the number of female executives worldwide, a 733 percent increase of GLBT executives, and a tripling of the number of executives with disabilities. According to Thomas, IBM succeeded in managing diversity because it had put in place four "pillars of change": IBM demonstrated leadership support, engaged employees as partners, integrated diversity with management practices, and linked diversity goals to business goals.[71]

Although the diversity management model presents a progressive way of understanding diversity in the workplace, one of its underlying assumptions is the validity of the business case for diversity. We believe that the diversity educator should lead an open discussion on why this assumption is potentially problematic. For the past decade, many proponents of the business case

for diversity have maintained that a diverse workforce yields a competitive advantage to organizations. The business case is unclear, however, as shown in the academic literature, even though we believe that it is often taught without presenting many qualifications to students.[72] Because of the emotion often associated with diversity issues, this critically important discussion of the weaknesses of the business case for diversity has been inadvertently avoided or actively silenced in diversity education.

UNDERSTANDING THE BUSINESS CASE FOR DIVERSITY

The Business Case for Diversity

Even though there are questions about the soundness of some of the arguments in favor of the business case for diversity, it is important for students to understand the assertions of the case, specifically because organizations are making significant diversity-related decisions (i.e., management, training, and recruiting) based on assumptions about its validity. Those who support the business case for diversity argue that diverse organizations will realize cost savings, recruit the best talent, and have high rates of growth.

COST SAVINGS   The business case suggests that by embracing the value of diversity and diversity management, an organization will reduce costs and create a competitive advantage.[73] For example, if employees believe they are respected, they will stay with the company longer while maintaining strong accountability and productivity. The Society for Human Resource Management (SHRM) reminds us of the commonsense argument that a company's return on investment "is reduced when commitment and productivity are lost because employees feel disregarded, time is wasted with conflicts and misunderstandings, and money is spent on legal fees and settlements."[74] The business case for diversity assumes that managing diversity will lead to lower turnover among women and minorities, higher commitment from them, and fewer lawsuits. Lowering these factors should reduce costs to the company and, in turn, raise profits.

WINNING THE COMPETITION FOR TALENT   An organization with a strong reputation for managing its diverse workforce will be more likely to attract and recruit the most talented workers. It is, therefore, a competitive advantage to be ranked in one of the "top diversity lists"—such as *Fortune's* "Best Companies for Minorities," *DiversityInc's* "Top Companies for Diversity," or *Working Mother's* "The 100 Best Companies for Working Mothers List." In addition, it is now common for talented recruits to "ask about an organization's diversity initiative and factor that into their employment decision."[75]

DRIVING BUSINESS GROWTH   The business case for diversity frames business growth in terms of marketing, creativity and problem solving, and flexibility and global relations. In light of the increasingly global and diverse consumer market, one commonly heard business case argument is that the "cultural understanding" needed to market to specific demographic niches "resides most naturally in marketers with the same cultural background."[76] In fact, some scholars suggest that "[i]n some cases, people from a minority culture are more likely to give patronage to a representative of their own group" and "[f]or at least some products and services, a multicultural sales force may facilitate sales to members of minority culture groups."[77]

The argument of the business case is that when employees feel that their diverse backgrounds and perspectives are recognized and appreciated, the quality of problem solving and creativity is

likely to improve. There is evidence to suggest that heterogeneous groups perform well in terms of making well-considered decisions.[78] Researchers have suggested that "minority views can stimulate consideration of nonobvious alternatives in task groups" and that "persistent exposure to minority viewpoints stimulates creative thought processes."[79] According to the business case, diverse workforces have the potential to solve problems better because of several factors: a greater variety of perspectives brought to bear on the issue; a higher level of critical analysis of alternatives; and, because there is a lower probability of groupthink, a higher probability of generating creative solutions.[80]

According to the business case, the skills of flexibility and adaptability that are learned in a diverse workplace will extend generally and enhance the employee's ability to communicate across national and organizational cultures. Thus, diverse companies should be able to compete more successfully in a complex and global economy. Research suggests, for example, that companies with greater diversity make better business partners and merge more smoothly with other companies. The transition is less difficult for diverse companies because they are familiar with accepting the differences among people and within cultures.[81] Scholars argue that this characteristic of adaptability will enhance a company's ability to communicate more effectively when faced with developing and maintaining relations internationally.[82]

Assessing the Business Case for Diversity

We believe that the business case for diversity represents an important yet incomplete step toward understanding the intersection of diversity and the workplace. In an effort to advance the understanding of the principles of diversity management and the integration-and-learning paradigm, we illuminate several assumptions underlying the business case and pose some questions about them. Because organizations are basing their diversity-related decisions on the business case, it is important for diversity educators to review carefully the strengths and weaknesses of the business case for diversity.

A DIVERSE WORKFORCE AND PRODUCTIVITY   Thomas A. Kochan, codirector of the Institute for Work and Employment Research at MIT's Sloan School of Management, and his colleagues maintain that "The diversity industry is built on sand...The business case rhetoric for diversity is simply naïve and overdone. There are no strong positive or negative effects of gender or racial diversity on business performance."[83] This statement is based on the findings of a five-year research project led by the Diversity Research Network and published in the journal *Human Resource Management*.[84]

Unfortunately, perhaps, one cannot assume that a diversity program will benefit an organization; in fact, "[p]oorly managed diversity programs can be as harmful as well-run ones can be beneficial."[85] And, adding even more complexity, "[e]ven when diversity is managed well, the results are mixed. The best organizations can overcome the negative consequences of diversity, such as higher turnover and greater conflict in the workplace, but that still does not mean that there are positive outcomes."[86]

MEASURING THE RESULTS OF DIVERSITY EFFORTS   Human resources executives often do not demand documented evidence proving the bottom-line value of diversity initiatives because, in many cases, it is both difficult and costly to obtain. Kochan and his colleagues advise that "[h]uman resource managers and other professionals in charge of diversity efforts should take a more analytical approach in performing their roles. Sophisticated data collection and analyses are needed to understand the consequences of diversity within organizations, and to monitor an

organization's process in managing diversity."[87] According to Laura Liswood, senior advisor to Goldman Sachs on diversity issues and a scholar at the University of Maryland's Academy of Leadership, it is difficult to create valid measures of increased organizational performance because of diversity: "There is a connection between diversity and financial success, but typical profit-and-loss systems don't capture the benefits that diversity creates."[88] It is one thing to measure diversity in terms of recruitment, promotion, or turnover rates; but it is entirely different to measure the full strategic or financial impact of diversity initiatives.

SUPPORT OF DIVERSITY INITIATIVES BY DIVERSE EMPLOYEES   Because one of the goals of diversity initiatives is to empower diverse employees, a discussion of resistance by diverse employees is often omitted from discussion of the business case for diversity. It is important to have this discussion nonetheless because, as one study found, "[m]any employees, even women and other minority groups, think corporate diversity programs benefit only black employees."[89] Also intriguing is that, in the same study, African American employees were also critical of corporate diversity efforts.[90] Given these findings, organizations should keep in mind that just because employees may fall into a group affiliation that is considered diverse, they may not support the initiatives that are implemented in support of the business case for diversity.

DIVERSITY TRAINING AND ADDED VALUE   Diversity training programs are sometimes questioned and have even been charged with hampering an organization's efforts to understand diversity and use diversity management as a business advantage.[91] Some diversity training efforts can indeed be counterproductive, specifically with the result being a decrease in the number of women and minorities in managerial positions.[92] According to David Tulin of Tulin and Associates, a diversity-consulting firm in New York City, diversity training may raise expectations by increasing "the minorities' anger and frustration" while increasing "the white males' isolation and exclusionary behavior."[93] Training programs aimed at addressing subtle forms of discrimination and exclusion often do not lead to long-term changes in behaviors.[94] Instead, "group members and leaders must be trained to deal with group process issues, with a focus on communicating and problem-solving in diverse teams."[95]

Despite large investments in diversity training (it is an estimated 8 billion dollar industry), the total number of discrimination charges filed with the EEOC have increased steadily since 1996—hitting a seven-year high in 2002—within the categories of race, sex, national origin, religion, age, and disability.[96] This trend may represent increased dissatisfaction because of organizational failures despite the efforts of managers and consultants, or increased expectations; alternatively, increased awareness of these issues may simply have made it easier to recognize problems and enter complaints. In other words, factors leading to the increase of filings with the EEOC may include real failure, higher expectations, or increased awareness.

DIVERSE EMPLOYEES AND DIVERSE MARKETS   One of the most frequently made business case arguments is that by hiring diverse employees, organizations will be able to capitalize on diverse markets. This claim rests on the assumption that customers desire to be served by those who physically resemble themselves. Evidence to support this argument, however, is lacking. The Diversity Research Network, for example, "finds no consistent evidence that most customers care whether the salespeople who serve them are of the same race or gender."[97] In short, there is no clear proof that diversity causes better market performance. Indeed, the causal relationship between diversity and performance may be the reverse: Better-performing companies may simply attract the best talent among all groups of workers.[98]

WHITE MEN AND DIVERSITY   Some diversity scholars use an expansive definition of diversity so that members of no group—in particular, white men—feel excluded, whereas other scholars fail even to address the relationship between the dominant group (typically, white men) and diversity. Sondra Thiederman, president of Cross-Cultural Communications, a San Diego-based consulting firm for workplace diversity and cross-cultural business practices, believes that one common mistake that diversity advocates make is failing to incorporate white men in their strategies.[99] According to DiversityInc.com, one important role of the diversity manager/trainer is to help the white-male employee understand and embrace the diversity movement by reassuring him that he is not targeted as the enemy; helping him to see his position of privilege; and explaining how diversity is not only a societal value but also a competitive advantage.[100] Another approach is to invite white-male employees to become part of the organization's diverse culture by, for example, participating in a diversity-strategy group, mentoring and coaching people from nondominant groups, or organizing the minority development programs or minority recruitment.[101]

Most discussions of diversity neglect any recognition of the diversity within the "white male" category. When looked at from a nonessentialist perspective, white-male employees might affiliate themselves just as strongly with their religion, sexual identity, parental status, or age, as with their race. For example, a white man may experience discrimination because he is Jewish, gay, a single parent, or an older worker. Lost in the business case rhetoric is a discussion of the multiple layers of diversity within the category "white male," a clear method for making the white-male voice legitimate in the conversation about managing diversity, and acknowledgment that white males also represent a protected class under the categories "color of skin" and "race" as defined by the federal government.

CONCLUSION

We believe that a learning opportunity is represented in the pedagogical framework that we have presented in this essay. The first phase—crafting a definition of diversity—invites students and/or managers to grapple with a definition that is inclusive enough to account for diversity's complexities while not being so expansive as to imply that each individual is uniquely "diverse." This phase forces students and/or managers to reflect on the process of defining diversity so that a more representative, meaningful definition can be crafted. The second phase—examining leadership-based paradigms of diversity and the paradigms that support them—helps to create a framework for diagnosing and examining stages of diversity management in organizations. In one of our class assignments, the students write a detailed analysis of a national organization known for its effective or ineffective diversity-management practices through the lens of the diversity-management paradigms. Through this assignment, students discover that many organizations are in the process of transitioning between paradigms, are stuck in a less effective paradigm, or are taking diversity management seriously as they strive toward the integration-and-learning paradigm. After the students examine the organization through the lens of the diversity management paradigms, they are able to diagnose strategies for the organization to implement in order to make diversity management an integrative force and competitive advantage.

The third phase—understanding and assessing the arguments of the business case for diversity—is necessary because these arguments represent the premise on which American businesses make their decision to invest millions of dollars in diversity training and initiatives. The widely believed and taught business case for diversity holds that managing diversity well can lead

to improved organizational performance. This relationship may hold true under some conditions, but it is clear that managing diversity poorly can lead to disastrous results. If managers lead a diverse organization poorly, they will engender high levels of interpersonal conflict and low levels of group cohesion, employee morale, and organizational commitment. Carefully examining the weaknesses of the business case for diversity helps to determine where diversity management and management research need to be strengthened. Challenging diversity principles that are often accepted as truth can be controversial. We realize how raising these sensitive issues might make teaching about diversity and diversity management more challenging, yet we encourage diversity educators to take what we believe is a worthwhile and productive pedagogical risk.

Indeed, the US workforce is more diverse than ever before and will become more so with increasing globalization and immigration. There are no easy answers about how to manage effectively in general, let alone managing a diverse workforce effectively. Managers and students should recognize the complexity of this task and embrace it as a learning opportunity for themselves and their organizations. Managing diversity well depends on many of the same skills as managing effectively in general. In this essay, we have argued that students and managers need to understand the complexity of managing diversity, alternative models for thinking about how to do so, and some of the issues that make that task challenging. Management is difficult, fraught with much uncertainty, and recognizing the complexities that increase that uncertainty is important in helping students and managers learn how to recognize effective management.

Discussion Questions

1. What do you believe is the most significant demographic change facing the American workplace? Why?
2. Why is it important for an organization to have a clear definition of diversity?
3. What principles are the most important in defining and understanding diversity?
4. What organizations can you identify that exemplify each of the diversity management paradigms: resistance, discrimination-and-fairness, access-and-legitimacy, and integration-and-learning?
5. Which dimensions of the business case for diversity are the most persuasive? Why?
6. What are the strengths and weaknesses of the business case for diversity?

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2

Diversity in the Workplace
A Legal Perspective

Some might argue that "diversity in the workplace" is a concept created by the federal legislature. Whether the American workplace would have evolved to its current level of diversity without government intervention is an interesting question, but there is no doubt that federal laws prohibiting discrimination and harassment in the workplace based on certain characteristics at least aided some of the social change that has occurred in this country over the past half century. In fact, until the federal government required businesses and organizations to become more diverse by enacting legislation—including executive orders, laws, and judicial decisions— prohibiting employment discrimination and harassment, there was almost no incentive to hire a diverse staff. The first federal laws regarding employment pertained to labor unions and child labor, but over time as labor unions became less common, federal laws were enacted by the legislature to protect employees in the workplace. After reading this chapter, readers should have a comprehensive understanding of US legislation related to diversity in organizations. Imagine if these laws requiring fair workplace treatment had never been passed. Would our society have changed and become more inclusive the way it has on its own?

Workplace discrimination and harassment law has evolved to include prohibitions against various types of conduct based on certain characteristics. In the nearly 50 years since the enactment of the prohibition of unlawful discrimination, common beliefs surrounding discrimination law have emerged. Whereas most people in today's society are aware that certain forms of discrimination and harassment in the workplace violate the law, they are often surprised to find that many types of discrimination and harassment—while impolite, boorish, or crude—are not illegal, and that in many cases an employee has no legal recourse for being mistreated.

Many parts of the law are simple and easy to understand. For example, a person cannot be treated differently or poorly in the workplace based on his or her age, as long as the employee is over 40. The analysis for such an "age-based" claim is not much more complicated than that. However, many parts of discrimination and harassment law are very difficult to digest and comprehend.

For example, not only was the Americans with Disabilities Act (ADA) of 1990 difficult for employers and employees to understand, but very few attorneys could

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explain all its nuances; the federal courts have struggled for years to determine the ADA's proper scope and interpret its difficult language. The federal legislature's response to the confusion, at least in part, was to pass the Americans with Disabilities Act and Amendments Act (ADAAA) of 2008, but it will still take years to determine the scope of the acts. For that reason, in this essay I spend more time on some issues than on others. The cases chosen as examples for this essay are often the seminal cases in each category but are sometimes just among the most interesting. The cases represent, in some way, the foundation of some particular piece of the law and sometimes the surprising and interesting claims and findings that result. In addition, I have also included a brief outline for cases and federal acts, called "historical perspective," to give the reader a better framework of the evolution of the law when applicable to the larger protected class categories.

The demographics of the American workforce, and how an employer can run his or her business, changed with the passage of Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin in employment-related matters.[1] Title VII is the most sweeping and important civil rights legislation ever enacted in this country. The act applies to employers with 15 or more employees, because, it is assumed, that companies of that size are likely to engage in interstate commerce and therefore be subject to federal regulation due to the Commerce Clause of the United States Constitution. The Commerce Clause states that the federal government can regulate interstate commerce. Therefore, if an employer has more than 15 employees, it likely engages in interstate commerce and is therefore compelled to comply with Title VII and other federal employment laws.

With the passage of Title VII, the U.S. Congress intended to eliminate both employment discrimination as well as the broader economic and social effects of discrimination. However, gathering enough votes to pass Title VII was a difficult task. The notes and legislative history of the act show that it was "sold" to skeptical members of congress and the public as a sound economic policy, not as an important social or moral policy. According to congressional leaders at the time, "The failure of our society to extend job opportunities to the Negro is an economic waste. The purchasing power of the country is not being fully developed."[2]

Title VII outlaws discrimination in hiring, promoting, and the general treatment of employees. In addition, the law has since been expanded to in some instances include protection for vendors and patrons of businesses. When Title VII was first proposed, it included protection against discrimination based on race, national origin, color of skin, and religion. It did not originally include protection against gender-based discrimination.

In an attempt to kill Title VII, Representative Howard W. Smith from Virginia included a ban on gender discrimination. Smith assumed that the inclusion would encourage fellow representatives to oppose the legislation. Congress passed Title VII despite the amendment, and gender became a part of the law. Women's groups such as the National Women's Party had unsuccessfully lobbied for the inclusion of gender in Title VII, and Smith, in an attempt to kill the law, ironically accomplished what they could not.

ADMINISTRATION OF THE LAW

Title VII is administered by the Equal Employment Opportunity Commission (EEOC), an independent executive agency consisting of five presidentially appointed members who serve five-year terms. Violations of Title VII are brought to the EEOC through agency investigation and individual complaints. A complaint or "charge" must be filed with the EEOC within 180 days after the occurrence of the alleged unlawful employment practice, unless there is a state or local organization operating under a similar state or local statute, in which case the claim can be placed with that organization.

If the claim is filed with a state or local agency, an EEOC claim may be filed up to 300 days after the alleged discrimination occurs, or 30 days after the local proceedings end, whichever occurs first. The investigating organization determines whether the charge has merit, or is "meritorious." If the charge is deemed meritorious, the EEOC attempts conciliation with the offending organization. If the charge is deemed nonmeritorious or no conciliation has been reached within 180 days, the EEOC notifies the person who filed the complaint in a "right to sue" letter. The charging party then has 90 days after receiving the letter to bring a civil action in federal court under Title VII.

AMENDMENTS TO TITLE VII

Title VII was expanded in 1967 with the Age Discrimination in Employment Act (ADEA), 29 United States Code, Sections 621–634; in 1974 with the Vietnam Veterans Readjustment Assistance Act of 1974, 38 United States Code, Section 2011; in 1978 with the Pregnancy Discrimination Act; and in 1990 with the ADA, 42 United States Code, Section 12101. The ADA was amended by the ADA Amendments Act of 2008.

Today there are eight "protected classes." The protected classes comprise characteristics for which the United States Supreme Court and the United States Congress have determined employees have suffered a disproportionate share of discrimination as a result of that characteristic. An employee who is able to demonstrate discrimination or harassment as a result of some protected class is therefore entitled to bring a federal lawsuit against an employer. However, before an individual may file a lawsuit in federal court, he or she must first file a claim with the EEOC.

THE PROTECTED CLASSES

Race

Title VII does not specifically define race, and distinguishing among races is a difficult task. In general when filling out forms, people choose their race based on the categories found on federal or state employment applications. Some of the general categories are familiar to most Americans: Caucasian/White, Asian, African American/Black, Pacific Islander/Native Hawaiian, American Indian/Alaskan Native. For the purposes of Title VII and employment discrimination, an employer may not treat an employee or applicant differently or poorly on the basis of race, generally based on those federal categories.

Historical Perspective

- *Dred Scott v. Sandford*[3] (1857): United States Supreme Court decides 7–2 that African descendants are not and cannot be citizens of the United States even if they live in nonslave states.
- **Emancipation Proclamation/Thirteenth Amendment** (1863/1868): Effectively abolishes slavery in the United States.
- **Fourteenth Amendment to the United States Constitution** (1868): Post-Civil War amendment overturns Dred Scott allowing African descendants full citizenship.
- *Plessy v. Ferguson*[4] (1896): Declares "separate but equal" public accommodations for blacks and whites constitutional.
- **Executive Order 8802** (1941): Prohibits discrimination based on race for federal employers, primarily national defense; represents the first workplace antidiscrimination law in the United States.
- *Brown v. Board of Education*[5] (1954): Overturns "separate but equal" doctrine and declares that all public accommodations—including schools and trains—must be accessible to all people regardless of race.

- **Title VII of the Civil Rights Act of 1964**: Prohibits discrimination and ultimately harassment in the workplace on the basis of race, color, national origin, gender, and religion.
- *Loving v. Virginia*[6] (1967): Decriminalizes mixed-race marriage.
- *Griggs v. Duke Power Co.* (1971): Creates "disparate impact" theory (even where an employer is not motivated by discriminatory intent. Title VII prohibits an employer from using a facially neutral employment practice that has an unjustified adverse impact on members of a protected class) for race cases.
- *Ricci v. DeStefano*[7] (2009): Called into question, the "disparate impact" theory developed in a case where a test given to firefighters seeking a promotion effectively excluded applicants of color since they almost universally scored low on the exam. The Supreme Court determined there was no evidence that the test was itself discriminatory, even if it seemingly disparately impacted applicants based on race and national origin.

Griggs v. Duke Power Co.

An early case entitled *Griggs v. Duke Power Co.*[8] illustrates how Title VII can be applied in the workplace. It also illustrates how employers may try to circumvent the act. *Griggs,* a North Carolina power company required employees to have a high school diploma or to pass a standardized general intelligence test as a condition of employment or transfer to jobs that were categorized as more demanding than general labor. Traditionally, African American employees were not promoted beyond the general labor class of jobs. The company argued that the intelligence test was required for all employees regardless of race and therefore the company's policy did not violate Title VII. The United States Supreme Court determined that even though the test requirements were neutral at face value in terms of race, the requirements were not related to a "legitimate business purpose" and had an unfair or "disparate" impact on African Americans. In essence, the court held that the power company was unable to demonstrate how compliance with the requirements translated to successful performance of the jobs. As a result, the court ruled that the requirements were a violation of Title VII.

National Origin

National origin is a large and somewhat general category that includes a person's country of birth, ethnicity, ancestry, or culture. Although race and national origin may seem to be the same, they are in fact different. There are many people of the same race but from different cultures, ethnicities, and countries. For example, not all Americans are Caucasians, and not all Hispanics were born in Mexico. An employer cannot treat an employee or applicant differently or poorly based on his or her country of birth, ethnicity, ancestry, or culture.

Fragante v. Honolulu

In *Fragante v. Honolulu,*[9] a Filipino applicant was rejected despite good qualifications and scores on a preemployment exam. The applicant spoke English with a thick Filipino accent. The position required the clerk to deal with 330 angry, English-speaking customers per day by telephone. The applicant sued claiming national origin discrimination. The federal appeals court ultimately held that the requirement that clerks be able to communicate effectively in English was necessary to the job and thus was a bonafide occupational qualification that satisfied a legitimate business purpose under Title VII. Therefore, the city's rejection of the applicant was not a violation of Title VII.

Color of Skin

Color of skin can be distinguished from race and national origin. Two people may be from the same country and of the same race, but may still have different colors of skin. Title VII makes it illegal for an employer to treat an employee or applicant differently or poorly based on his or her color of skin—regardless of the color. Some people struggle with this category because this classification does not apply to only one color of skin; it applies to all colors of skin.

Equal Employment Opportunity Commission v. Trailways, Inc.

In *Equal Employment Opportunity Commission v. Trailways, Inc.,*[10] an African American employee filed a discrimination charge with the EEOC based on color of skin and race alleging that his employer's prohibition of beards had a disparate impact on African Americans who suffer from a disease known as pseudofolliculitis barbae (PFB). For people with PFB, shaving can cause serious physical consequences including infection and facial scarring. The EEOC found for the employee and brought the lawsuit against the company claiming that PFB is a condition unique to African Americans and based on their color of skin, and that therefore the company's policy had a disparate impact on African American employees. The court found for the EEOC and held that the evidence demonstrated that the 25 percent of the male African American workforce who suffer from the condition were effectively excluded from the company's job market as a class because of their color of skin and this racial trait.

Religion

Religion could be considered the first protected class given the role religious freedom played in the early stages of the founding of the United States. According to Title VII, the religion category includes all aspects of religious observance and practice, as well as belief. Title VII defines belief broadly to include almost any belief system, or lack of belief in any particular traditional belief system, including agnosticism and atheism. In the employment context, an employer may not treat an employee or applicant differently or poorly because of his or her beliefs. In addition, the act requires that an employer accommodate an employee's or applicant's observance of his or her religious beliefs when reasonable. An accommodation is reasonable when it does not cause undue hardship on the employer's business.

> **Historical Perspective**
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> - **Establishment Clause of the First Amendment of the United States Constitution**: Dictates that Congress shall make no law respecting the establishment of a religion. The clause prohibits: (1) the establishment of a national religion by Congress, or (2) the preference of one religion over another or the support of a religious idea with no identifiable secular purpose.
> - **Free Exercise Clause of the First Amendment of the United States Constitution**: Establishes that Congress can make no law prohibiting the free practice of religion.
> - **Title VII of the Civil Rights Act of 1964**: Prohibits discrimination and ultimately harassment in the workplace on the basis of race, color, national origin, gender, and religion.
> - ***Corporation of the Presiding Bishopric of the Church of Jesus Christ of Latter-Day Saints v. Amos*** (1987): Creates exemption from Title VII for religious organizations in dealing with employees.