

Appendix C

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Theories of Discrimination

In Chapter 3, we developed a two-part definition of racial discrimination: differential treatment on the basis of race that disadvantages a racial group and treatment on the basis of inadequately justified factors other than race that disadvantages a racial group (differential effect). We focus our discussion on discrimination against disadvantaged racial minorities. Our definition encompasses both individual behaviors and institutional practices.

To be able to measure the existence and extent of racial discrimination of a particular kind in a particular social or economic domain, it is necessary to have a theory (or concept or model) of how such discrimination might occur and what its effects might be. The theory or model, in turn, specifies the data that are needed to test the theory, appropriate methods for analyzing the data, and the assumptions that the data and analysis must satisfy in order to support a finding of discrimination. Without such a theory, analysts may conduct studies that do not have interpretable results and do not stand up to rigorous scrutiny.

The purpose of this chapter is to help researchers think through appropriate models of discrimination to guide their choice of data and analytic methods for measurement. We begin by discussing four types of discrimination and the various mechanisms that may lead to such discrimination. The first three types involve behaviors of individuals and organizations: intentional discrimination, subtle discrimination, and statistical profiling. The fourth type involves discriminatory practices embedded in an organizational culture. Next, we compare these discriminatory behaviors and institutional practices with existing legal standards defining discrimination in the courts

(as delineated in Chapter 3). We then discuss how these discriminatory behaviors and practices might operate within the domains of education, employment, housing, criminal justice, and health. Finally, we discuss concepts of how cumulative discrimination might operate across domains and over time to produce lasting consequences for disadvantaged racial groups. This chapter is not concerned with identifying the relative importance of the various types of discrimination; rather, it is designed to present a set of conceptual possibilities that can motivate and shape appropriate research study designs.

TYPES OF DISCRIMINATION

Most people's concept of racial discrimination involves explicit, direct hostility expressed by whites toward members of a disadvantaged racial group. Yet discrimination can include more than just direct behavior (such as the denial of employment or rental opportunities); it can also be subtle and unconscious (such as nonverbal hostility in posture or tone of voice). Furthermore, discrimination against an individual may be based on overall assumptions about members of a disadvantaged racial group that are assumed to apply to that individual (i.e., statistical discrimination or profiling). Discrimination may also occur as the result of institutional procedures rather than individual behaviors.

Intentional, Explicit Discrimination

In 1954, Gordon Allport, an early leader in comprehensive social science analysis of prejudice and discrimination, articulated the sequential steps by which an individual behaves negatively toward members of another racial group: verbal antagonism, avoidance, segregation, physical attack, and extermination (Allport, 1954). Each step enables the next, as people learn by doing. In most cases, people do not get to the later steps without receiving support for their behavior in the earlier ones. In this section, we describe these forms of explicit prejudice.

Verbal antagonism includes casual racial slurs and disparaging racial comments, either in or out of the target's presence. By themselves such comments may not be regarded as serious enough to be unlawful (balanced against concerns about freedom of speech), but they constitute a clear form of hostility. Together with nonverbal expressions of antagonism, they can create a hostile environment in schools, workplaces, and neighborhoods (Essed, 1997; Feagin, 1991).

Verbal and nonverbal hostility are first steps on a continuum of interracial harm-doing. In laboratory experiments (see Chapter 6 for detailed discussion), verbal abuse and nonverbal rejection are reliable indicators of

discriminatory effects, in that they disadvantage the targets of such behavior, creating a hostile environment. They also precede and vary with more overtly damaging forms of treatment, such as denial of employment (Dovidio et al., 2002; Fiske, 1998; Talaska et al., 2003). For example, an interviewer's initial bias on the basis of race will likely be communicated nonverbally to the interviewee by such behaviors as cutting the interview short or sitting so far away from the interviewee as to communicate immediate dislike (Darley and Fazio, 1980; Word et al., 1974). Such nonverbal hostility reliably undermines the performance of otherwise equivalent interviewees. In legal settings, verbal and nonverbal treatment are often presented as evidence of a discriminator's biased state of mind; they may also constitute unlawful discriminatory behavior when they rise to the level of creating a hostile work environment.

Avoidance entails choosing the comfort of one's own racial group (the "ingroup" in social psychological terms) over interaction with another racial group (the "outgroup"). In settings of discretionary contact—that is, in which people may choose to associate or not—members of disadvantaged racial groups may be isolated. In social situations, people may self-segregate along racial lines. In work settings, discretionary contact may force outgroup members into lower-status occupations (Johnson and Stafford, 1998) or undermine the careers of those excluded from informal networks.

Becker (1971) describes a classic theory about how aversion to interracial contact—referred to as a "taste for discrimination"—can affect wages and labor markets (more complex versions of this model are provided by Black, 1995; Borjas and Bronars, 1989; and Bowlus and Eckstein, 2002). Laboratory experiments have measured avoidance by assessing people's willingness to volunteer time together with an outgroup individual in a given setting (Talaska et al., 2003). Sociological studies have measured avoidance in discretionary social contact situations by report or observation (Pettigrew, 1998b; Pettigrew and Tropp, 2000). In legal settings, avoidance of casual contact can appear as evidence indicating hostile intent.

Avoidance may appear harmless in any given situation but, when cumulated across situations, can lead to long-term exclusion and segregation. It may be particularly problematic in situations in which social networking matters, such as employment hiring and promotion, educational opportunities, and access to health care. Avoiding another person because of race can be just as damaging as more active and direct abuse.

Segregation occurs when people actively exclude members of a disadvantaged racial group from the allocation of resources and from access to institutions. The most common examples include denial of equal education, housing, employment, and health care on the basis of race. The majority of Americans (about 90 percent in most current surveys; Bobo, 2001) support laws enforcing fair and equal opportunity in these areas. But the remaining

10 percent who do not support civil rights for all racial groups are likely to exhibit intentional, explicit discrimination by any measure. The data indicate that these hardcore discriminators view their own group as threatened by racial outgroups (Duckitt, 2001). They view that threat as both economic, in a zero-sum game, and as value based, in a contest of “traditional” values against nonconformist deviants. Moreover, even the 90 percent who report support for equal opportunity laws show less support when specific remedies are mentioned (see Chapter 8).

Physical attacks on racial outgroups have frequently been perpetrated by proponents of segregation (Green et al., 1999) and are correlated with other overt forms of discrimination (Schneider et al., 2000). Hate crimes are closely linked to the expression of explicit prejudice and result from perceived threats to the ingroup’s economic standing and values (Glaser et al., 2002; Green et al., 1998; for a review of research on hate crimes, see Green et al., 2001).

Extermination or mass killings based on racial or ethnic animus do occur. These are complex phenomena; in addition to the sorts of individual hostility and prejudice described above, they typically encompass histories of institutionalized prejudice and discrimination, difficult life conditions, strong (and prejudiced) leadership, social support for hostile acts, and socialization that accepts explicit discrimination (Allport, 1954; Newman and Erber, 2002; Staub, 1989).

Our report focuses more on the levels of discrimination most often addressed by social scientists. In most cases involving complaints about racial discrimination in the United States, explicit discrimination is expressed through verbal and nonverbal antagonism and through racial avoidance and denial of certain opportunities because of race. Racial segregation is, of course, no longer legally sanctioned in the United States, although instances of de facto segregation continue to occur.

Subtle, Unconscious, Automatic Discrimination

Even as a national consensus has developed that explicit racial hostility is abhorrent, people may still hold prejudicial attitudes, stemming in part from past U.S. history of overt prejudice. Although prejudicial attitudes do not necessarily result in discriminatory behavior with adverse effects, the persistence of such attitudes can result in unconscious and subtle forms of racial discrimination in place of more explicit, direct hostility. Such *subtle prejudice* is often abetted by differential media portrayals of nonwhites versus whites, as well as de facto segregation in housing, education, and occupations.

The psychological literature on subtle prejudice describes this phenom-

enon as a set of often unconscious beliefs and associations that affect the attitudes and behaviors of members of the ingroup (e.g., non-Hispanic whites) toward members of the outgroup (e.g., blacks or other disadvantaged racial groups). Members of the ingroup face an internal conflict, resulting from the disconnect between the societal rejection of racist behaviors and the societal persistence of racist attitudes (Dovidio and Gaertner, 1986; Katz and Hass, 1988; McConahay, 1986). People's intentions may be good, but their racially biased cognitive categories and associations may persist. The result is a modern, subtle form of prejudice that goes underground so as not to conflict with antiracist norms while it continues to shape people's cognitive, affective, and behavioral responses. Subtle forms of racism are indirect, automatic, ambiguous, and ambivalent. We discuss each of these manifestations of subtle prejudice in turn (Fiske, 1998, 2002) and then examine their implications for discriminatory behavior.

Indirect prejudice leads ingroup members to blame the outgroup—the disadvantaged racial group—for their disadvantage (Hewstone et al., 2002; Pettigrew, 1998a). The blame takes a Catch-22 form: The outgroup members should try harder and not be lazy, but at the same time they should not impose themselves where they are not wanted. Such attitudes on the part of ingroup members are a manifestation of indirect prejudice. Differences between the ingroup and outgroup (linguistic, cultural, religious, sexual) are often exaggerated, so that outgroup members are portrayed as outsiders worthy of avoidance and exclusion. Indirect prejudice can also lead to support for policies that disadvantage nonwhites.

Subtle prejudice can also be unconscious and *automatic*, as ingroup members subtly unconsciously categorize outgroup members on the basis of race, gender, and age (Fiske, 1998). People's millisecond reactions to outgroups can include primitive fear and anxiety responses in the brain (Hart et al., 2000; Phelps et al., 2000), negative stereotypic associations (Fazio and Olson, 2003), and discriminatory behavioral impulses (Bargh and Chartrand, 1999). People have been shown to respond to even subliminal exposure to outgroups in these automatic, uncontrollable ways (Dovidio et al., 1997; Greenwald and Banaji, 1995; Greenwald et al., 1998; Kawakami et al., 1998; for a review, see Fazio and Olson, 2003; for a demonstration of this effect, see <https://implicit.harvard.edu/implicit/> [accessed December 5, 2003]). However, the social context in which people encounter an outgroup member can shape such instantaneous responses. Outgroup members who are familiar, subordinate, or unique do not elicit the same reactions as those who are unfamiliar, dominant, or undifferentiated (Devine, 2001; Fiske, 2002). Nevertheless, people's default automatic reactions to outgroup members represent unconscious prejudice that may be expressed nonverbally or lead to racial avoidance, which, in turn, may create a hostile, discrimina-

tory environment. Such automatic reactions have also been shown to lead to automatic forms of stereotype-confirming behavior (Bargh et al., 1996; Chen and Bargh, 1997).

The main effect of subtle prejudice seems to be to favor the ingroup rather than to directly disadvantage the outgroup; in this sense, such prejudice is *ambiguous* rather than unambiguous. That is, the prejudice could indicate greater liking for the majority rather than greater disliking for the minority. As a practical matter, in a zero-sum setting, ingroup advantage often results in the same outcome as outgroup disadvantage but not always. Empirically, ingroup members spontaneously reward the ingroup, allocating discretionary resources to their own kind and thereby relatively disadvantaging the outgroup (Brewer and Brown, 1998). People spontaneously view their own ingroups (but not the outgroup) in a positive light, attributing its strengths to the essence of what makes a person part of the ingroup (genes being a major example). The outgroup's alleged defects are used to justify these behaviors. These ambiguous allocations and attributions constitute another subtle form of discrimination.

According to theories of ambivalent prejudice (e.g., for race, Katz and Hass, 1988; for gender, Glick and Fiske, 1996), the *ambivalence* of subtle prejudice means that outgroups are not necessarily subjected to uniform antipathy (Fiske et al., 2002). Outgroups may be disrespected but liked in a condescending manner. Versions of the “Uncle Tom” stereotype are a racial example. At other times, outgroups may be respected but disliked. White reactions to black professionals can exemplify this behavior. Some racial outgroups elicit both disrespect and dislike. Poor people, welfare recipients, and homeless people (all erroneously perceived to be black more often than white) frequently elicit an unambivalent and hostile response.

The important point is that reactions need not be entirely negative to foster discrimination. One might, for example, fail to promote someone on the basis of race, perceiving the person to be deferential, cooperative, and nice but essentially incompetent, whereas a comparable ingroup member might receive additional training or support to develop greater competence. Conversely, one might acknowledge an outgroup member's exceptional competence but fail to see the person as sociable and comfortable—therefore not fitting in, not “one of us”—and fail to promote the person as rapidly on that account.

All manifestations of subtle prejudice—indirect, automatic, ambiguous, and ambivalent—constitute barriers to full equality of treatment. Subtle prejudice is much more difficult to document than more overt forms, and its effects on discriminatory behavior are more difficult to capture. However, “subtle” does not mean trivial or inconsequential; subtle prejudice can result in major adverse effects.

For example, Bargh and colleagues (1996) demonstrated how categori-

zation by race can activate stereotypes and lead to discriminatory behavior. In their study, the experimenter first showed white participants either black or white young male faces, presented at a subliminal level. The experimenter then either did or did not provoke the participant by requiring that the experiment be started over because of an apparent computer error. Compared with other participants, those who saw the black faces and were also provoked by the experimenter behaved with more hostility as revealed in a videotape of their immediate facial expressions and in their subsequent behavior, as rated by the experimenter.

Generally, an emerging pattern of results from laboratory research (see, e.g., Dovidio et al., 2002) suggests that explicit measures of prejudice (e.g., from responses to attitudinal questionnaires) predict explicit discrimination (verbal behavior), whereas implicit measures of prejudice (e.g., speed of stereotypic associations) predict subtle discrimination (such as nonverbal friendliness). In any event, the implicit measures have been shown to be statistically reliable (Cunningham et al., 2001; Kawakami and Dovidio, 2001).

Some of these laboratory findings have been generalized to the real world—for example, in contrasting subtle and explicit forms of prejudice (Pettigrew, 1998b) and in research on specific phenomena, such as ingroup favoritism (Brewer and Brown, 1998). The discussion of experimental methods in Chapter 6 elaborates on this point.

Statistical Discrimination and Profiling

Another process that may result in adverse discriminatory consequences for members of a disadvantaged racial group is known as *statistical discrimination* or *profiling*. In this situation, an individual or firm uses overall beliefs about a group to make decisions about an individual from that group (Arrow, 1973; Coate and Loury, 1993; Lundberg and Startz, 1983; Phelps, 1972). The perceived group characteristics are assumed to apply to the individual. Thus, if an employer believes people with criminal records will make unsatisfactory employees, believes that blacks, on average, are more likely to have criminal records compared with whites, and cannot directly verify an applicant's criminal history, the employer may judge a black job applicant on the basis of group averages rather than solely on the basis of his or her own qualifications.

When beliefs about a group are based on racial stereotypes resulting from explicit prejudice or on some of the more subtle forms of ingroup-versus-outgroup perceptual biases, then discrimination on the basis of such beliefs is indistinguishable from the explicit prejudice discussed above. Statistical discrimination or profiling, properly defined, refers to situations of discrimination on the basis of beliefs that reflect the actual distributions of

characteristics of different groups. Even though such discrimination could be viewed as economically rational, it is illegal in such situations as hiring because it uses group characteristics to make decisions about individuals.

Why might employers or other decision makers employ statistical discrimination? There are incentives to statistically discriminate in situations in which information is limited, which is often the case. For example, graduate school applicants provide only a few pages of written information about themselves, job applicants are judged on the basis of a one-page resume or a brief interview, and airport security officers see only external appearance. In such situations, the decision maker must make assessments about a host of unknown factors, such as effort, intelligence, or intentions, based on highly limited observation.

Why is information limited in such cases? The decision maker typically views an individual's own statements about himself or herself as untrustworthy (e.g., "I will work hard on this job" or "I am not a terrorist") because they can be made as easily by those for whom they are not true as by those for whom they are true. Instead, decision makers look for signals that cannot easily be faked and are correlated with the attributes a decision maker is seeking. Education is a prime example. If an employer checks a job applicant's education credentials and finds that he or she has a degree from a top-rated college and a 4.0 grade point average, that individual likely has a proven track record of intellectual ability and effort. It is difficult to "fake" this information (short of outright lying about one's education credentials) because it really does take effort to accumulate such a record.

Only so much information can be transmitted, however, and many aspects of a person's record and qualifications are difficult to document even if the individual should be committed to doing so truthfully. Hence, decision makers must regularly make judgments about people based on the things they do know and decide whether to invest in acquiring further information (Lundberg, 1991). In the face of incomplete information, they may factor in knowledge about differences in average group characteristics that relate to the individual characteristics being sought. The result is statistical discrimination: An individual is treated differently because of information associated with his or her racial group membership.

Faced with the possibility of statistical discrimination, members of disadvantaged racial groups may adopt behaviors to signal their differences from group averages. For example, nonwhite business people who want to signal their trustworthiness and belonging to the world of business may dress impeccably in expensive business suits. Nonwhite parents who want their children to get into a first-rate college may signal their middle-class background by sending their children to an expensive private school. An implication of statistical discrimination is that members of a disadvantaged racial group for whom group averages regarding qualifications are lower

than white averages may need to become better qualified than non-Hispanic whites in order to succeed (Biernat and Kobrynowicz, 1997). Thus, the practice of statistical discrimination can impose costs on members of the targeted group even when those individuals are not themselves the victims of explicitly discriminatory treatment.

Moreover, statistical discrimination may be self-perpetuating, since today's outcomes may affect the incentives for tomorrow's behavior (Coate and Loury, 1993; Loury, 1977; Lundberg and Startz, 1998). If admissions officers at top-ranked colleges believe, on the basis of group averages to date, that certain groups are less likely to succeed and admit few members of those groups as a result, incentives for the next generation to work hard and acquire the skills necessary to gain admittance may be lessened (see Loury, 2002:32–33, for a more extensive discussion of this example). Similarly, if black Americans are barred from top corporate jobs, the incentives for younger black men and women to pursue the educational credentials and career experience that lead to top corporate jobs may be reduced. Thus, statistical discrimination may result in an individual member of the disadvantaged group being treated in a way that does not focus on his or her own capabilities. It can affect both short-term outcomes and long-term behavior if individuals in the disadvantaged group expect such discrimination will occur.

Organizational Processes

The above three types of racial discrimination focus on individual behaviors that lead to adverse outcomes and perpetuate differences in outcomes for members of disadvantaged racial groups. These behaviors are also the focus of much of the current discrimination law. However, they do not constitute a fully adequate description of all forms of racial discrimination. As discussed in Chapter 2, the United States has a long history as a racially biased society. This history has done more than change individual cognitive responses; it has also deeply affected institutional processes. Organizations tend to reflect many of the same biases as the people who operate within them. Organizational rules sometime evolve out of past histories (including past histories of racism) that are not easily reconstructed, and such rules may appear quite neutral on the surface. But if these processes function in a way that leads to differential racial treatment or produces differential racial outcomes, the results can be discriminatory. Such an embedded institutional process—which can occur formally and informally within society—is sometimes referred to as *structural discrimination* (e.g., Lieberman, 1998; Sidanius and Pratto, 1999). In Chapter 11, we discuss the interactions among these processes that occur within and across domains.

One clear example of this phenomenon occurs in the arena of housing.

In the past, overt racism and explicit exclusionary laws promoted residential segregation. Even though these laws have been struck down, the process by which housing is advertised and housing choices are made may continue to perpetuate racial segregation in some instances. Thus, real estate agents may engage in subtle forms of racial steering (i.e., housing seekers being shown units in certain neighborhoods and not in others), believing that they are best serving the interests of both their white and their nonwhite clients and not intending to do racial harm. Likewise, banks and other lending institutions have a variety of apparently neutral rules regarding mortgage approvals that too often result in a higher level of loan refusals for persons in lower-income black neighborhoods than for equivalent white applicants. Research also suggests that ostensibly neutral criteria are often applied selectively. Credit history irregularities that are overlooked as atypical in the case of white mortgage applicants, for example, are often used to disqualify blacks and Latinos (Squires, 1994; Squires and O'Connor, 2001).

Another example of this sort of biased institutional process that has been debated in the courts is the operation of hiring and promotion networks within firms. Many firms hire more through word-of-mouth recommendations from their existing employees than through external advertising (Waldinger and Lichter, 2003). By itself such a practice is racially neutral, but if existing (white) employees recommend their friends and neighbors, new hires will replicate the racial patterns in the firm, systematically excluding nonwhites. Such practices do not necessarily entail intentional discrimination, but they provide a basis for legal action when the outcome is the exclusion of certain groups. Seniority systems that give preference to a long-established group of employees can produce similar racially biased effects through promotion or layoff decisions, even though the Supreme Court has ruled that seniority systems are generally not subject to challenge under Title VII on this basis.¹

Institutional processes that result in consistent racial biases in terms of who is included or excluded can be difficult to disentangle. In many cases, the individuals involved in making decisions within these institutions will honestly deny any intent to discriminate. In dealing with such cases in the courts (disparate impact cases; see Chapter 3), weighing the benefits to an organization of a long-established set of procedures against the harm such procedures might induce through their differential racial outcomes is a complex and difficult process. Thus the panel does not wish to condemn any specific organizational process. In most cases, each situation needs to be

¹International Brotherhood of Teamsters v. United States, 431 U.S. 324 (1977) (the “routine application of a bona fide seniority system” is not unlawful under Title VII).

analyzed with regard to the particular history and reasonable organizational needs of a specific institution. But we do want to emphasize that facially neutral organizational processes may function in ways that can be viewed as discriminatory, particularly if differential racial outcomes are insufficiently justified by the benefits to the organization. We noted above that large and persistent racial differentials, although not direct evidence of discrimination, may provide insight on where problems are likely to exist. In this way, persistent racial differences in access to or outcomes within institutions (e.g., hiring or promotions) can be used to provide information on which processes and which institutions may deserve greater scrutiny.

COMPARISON OF LEGAL STANDARDS WITH THE FOUR TYPES OF DISCRIMINATION

As discussed in Chapter 3, the legal definition of discrimination includes two standards: disparate treatment discrimination, whereby an individual is treated less favorably because of race, and disparate impact discrimination, whereby treatment on the basis of nonracial factors that lack sufficiently compelling justification has an adverse impact on members of a disadvantaged racial group. The quintessential case of disparate treatment discrimination involves intentional behavior motivated by explicit racial animus. However, disparate treatment applies in other types of discrimination as well. For instance, a black cab driver who refuses to pick up blacks may be acting without racial animus but may be engaging in statistical discrimination by making probabilistic predictions about the risk of being victimized by crime, of receiving a lower tip, or of ending up in a distant neighborhood from which the prospect of receiving a return fare is small. Employers and police officers who profile job candidates or security risks can be motivated by similar beliefs or concerns, and their probabilistic assessments may be correct or completely inaccurate. In any event, as noted above, this type of statistical discrimination is considered intentional differentiation on the basis of race and falls squarely in the category of unlawful disparate treatment discrimination. In evaluating a job applicant, for example, it is unlawful to consider what the “average” black worker would be like and then to treat individual blacks in conformity with this stereotypical prediction.

In short, although vexing issues of proof complicate real-world cases, the law has clearly identified the theoretically prohibited discriminatory actions that emanate from either racial animus or the rational calculation of risk using race as a proxy. More subtle types of discrimination, however, are more difficult to deal with legally. As discussed above, there may be no conscious bias or rational calculation that prompts someone to treat whites differently from nonwhites. Such precognitive patterns of conduct have been

well documented and are in practice treated as cases of unlawful disparate treatment discrimination if they are found to generate differential treatment of blacks. Note, however, that issues of proof make it more difficult to establish these unconscious forms of discriminatory behavior, although statistical approaches are commonly used to ferret out just such unconscious bias. Indeed, the legal requirement that unlawful disparate treatment discrimination must involve intentional discrimination may result in many indirect, subtle, and ambiguous types of discrimination being overlooked. In some cases, nonetheless, an organization has been found guilty of intentional discrimination for failing to compensate for the unconscious, automatic discrimination of its employees.

DOMAINS IN WHICH DISCRIMINATION OPERATES

As discussed in Chapter 1, this report focuses on the measurement of discrimination in specific domains: labor markets and employment, education, housing and mortgage lending, criminal justice, and health care. The focus on these areas reflects the expertise of the members of this panel. There are a variety of other domains, such as civic participation, in which racial differences in outcomes are large, and discrimination is a valid social concern. We believe that our comments about assessing discrimination, although directed at the domains and examples with which we are most familiar, may be useful and applicable in other arenas as well. In this section, we briefly review some of the key points at which the forms of discrimination delineated above may operate within the domains on which we focus.

Table 4-1 shows how discrimination might operate across the five domains of labor markets, education, housing, criminal justice, and health care at three broadly defined points. The first point is discrimination in access to the institutions within a domain; examples are racial differentials in hiring in the labor market, racial steering in housing, financial aid for schooling, arrest rates or policing activity within communities, and access to certain medical institutions or procedures. The second point is discrimination while functioning within a domain; examples are racial differentials in wages, mortgage loan pricing, placement into special education programs, assignment of pro bono legal counsel, and quality of health care. Closely related is discrimination in movement or while progressing within a domain from one activity to another; examples are racial differentials in job promotions, home resale value, grade promotion in schools, sentencing or parole rates, and medical referrals or follow-up health care. Of course, such discrimination often follows discriminatory behavior at an earlier point in time. Finally, the table lists possible actors within each domain who may discriminate on the basis of race. These actors include employers, customers, and coworkers in the labor market; teachers, administrators, and students

TABLE 4-1 A Map of the Potential Points of Discrimination Within Five Domains

Source Points for Discrimination	Labor Markets	Education	Housing/ Mortgage Lending	Criminal Justice	Health Care
Access to institutions or procedures	<ul style="list-style-type: none"> • Hiring • Interviewing • Unemployment 	<ul style="list-style-type: none"> • Acceptance —Into college —Into special education programs • Financial aid 	<ul style="list-style-type: none"> • Steering • Mortgage redlining 	<ul style="list-style-type: none"> • Policing behaviors • Arrests 	<ul style="list-style-type: none"> • Access to care • Insurance
While functioning within a domain	<ul style="list-style-type: none"> • Wages • Evaluation • Work environment 	<ul style="list-style-type: none"> • Track placement • Ability grouping • Grades and evaluations • Learning environment • Per-pupil expenditure • Special education placement 	<ul style="list-style-type: none"> • Loan pricing 	<ul style="list-style-type: none"> • Police treatment • Quality of legal representation 	<ul style="list-style-type: none"> • Quality of care • Price
Movement through a domain	<ul style="list-style-type: none"> • Promotion • Layoffs • Rehiring 	<ul style="list-style-type: none"> • Promotion and graduation • Retention 	<ul style="list-style-type: none"> • Resale value • Wealth accumulation 	<ul style="list-style-type: none"> • Parole • Sentencing 	<ul style="list-style-type: none"> • Referrals
Key actors	<ul style="list-style-type: none"> • Employers • Customers • Coworkers 	<ul style="list-style-type: none"> • Teachers • Administrators • Fellow students 	<ul style="list-style-type: none"> • Landlords • Sellers • Lenders • Neighbors 	<ul style="list-style-type: none"> • Police • Prosecutors • Judges • Juries • Parole boards 	<ul style="list-style-type: none"> • Health care workers • Administrators • Insurance companies

NOTE: We provide a selected bibliography of research on discrimination within the domains listed above at the end of this report.

in schools; landlords, sellers, lenders, and neighbors in housing; police officers, judges, and juries in criminal justice; and health care professionals, insurance companies, and administrators in the health care system.

At any of the points shown in the table, one might observe direct adverse behavior or aversion to contact with racial minorities, unconscious or subtle biases, statistical discrimination, or institutional processes that result in adverse outcomes. The remainder of this report addresses the methods that are used to investigate possibly discriminatory behavior within the various cells of this matrix.

We do not attempt to provide a comprehensive review of the literature on racial discrimination within each of the categories and domains listed in Table 4-1. Several extensive articles and reports review the literature within specific domains. We provide a selected bibliography of major papers from the theoretical and empirical literature at the end of this report. This bibliography includes research that demonstrates the methods used to assess discrimination within particular domains. Although in Part II of our report we do not discuss specific methods applied in each domain in turn, we do examine the broad approaches used to measure the types of discrimination outlined above. We also discuss where alternative approaches may be implemented more easily within one domain than another. In some cases, we suggest that specific methods should be applied in domains where they have not yet been used.

MOVING FROM EPISODIC TO DYNAMIC DEFINITIONS OF DISCRIMINATION: THE ROLE OF CUMULATIVE DISADVANTAGE

Much of the discussion of the presence of discrimination and the effects of antidiscrimination policies assumes discrimination is a phenomenon that occurs at a specific point in time within a particular domain. For instance, discrimination can occur in entry-level hiring in the labor market or in loan applications in mortgage lending. But this episodic view of discrimination occurring may be inadequate. Here we explore the idea, noted in Chapter 3, that discrimination should be seen as a dynamic process that functions over time in several different ways.

First, the effects of discrimination may cumulate across generations and through history. For instance, impoverishment in previous generations can prevent the accumulation of wealth in future generations. Similarly, learned behavior and expectations about opportunities and life possibilities can shape the behaviors and preferences of future generations for members of different racial groups.

Second, effects of discrimination may cumulate over time through the course of an individual's life across different domains. Outcomes in labor

markets, education, housing, criminal justice, and health care all interact with each other; discrimination in any one domain can limit opportunities and cumulatively worsen life chances in another. For instance, children who are less healthy and more impoverished may do worse in school, and in turn, poor education may affect labor market opportunities. The possibility that the effects of discrimination cumulate over an individual's lifetime is rarely discussed in the literature on the measurement of discrimination. Yet even small initial disadvantages, experienced at key points in an individual's life, could well have long-term cumulative effects.

Third, effects of discrimination may cumulate over time through the course of an individual's life sequentially within any one domain. Again, small levels of discrimination at multiple points in a process may result in large cumulative disadvantage. For instance, children who do not learn basic educational skills in elementary school because of discrimination may face future discrimination in the way they are tracked or the way their test scores are interpreted in secondary school. Small effects of discrimination in job search (e.g., application or interviewing stages), job retention, job promotion, and wage setting may result in large differences in labor market outcomes when these effects cumulate over time, even if no further discrimination occurs.

There are many instances in which the application of neutral rules harms a member of a disadvantaged racial group because of discrimination at some other time or place in the social system. However, there is presently no case law that addresses these broad social effects; the law frequently will not deem the challenged conduct to be unlawful if it merely transmits, rather than expands, the extent of racial discrimination. Similarly, the law does not hold any agents or institutions responsible for problems outside their legitimate purview. Discrimination occurring in other domains or in society generally need not be remedied; hence, cumulative discrimination is not a legal issue. An employer who needs highly educated workers can hire them as he or she finds them, even if doing so means that only a small percentage of black or Hispanic workers will be hired because prior discrimination in educational opportunities limited the number of members of these groups with the requisite skills.

Whether cumulative discrimination is important across generations, across a lifetime in different domains, and over time within a specific domain are empirical questions. However, these questions have not been addressed to any great extent by empirical social scientists. In Chapter 11, we return to the issue of the importance of developing methods focused not just on measuring discriminatory behavior at a particular point in time in a specific process but also on understanding the cumulative and dynamic effects of discrimination over time and across processes.

SUMMARY

Discrimination manifests itself in multiple ways that range in form from overt and intentional to subtle and ambiguous, as well as from personal to institutional, whether through statistical discrimination and profiling or organizational processes. Discrimination also operates differently in different domains and may cumulate over time within and across domains. Regardless of which form it takes, discrimination can create barriers to equal treatment and opportunity and can have adverse effects on various outcomes. Clear theories about how discriminatory behavior may occur are important in order to develop models that help identify and measure discrimination's effects.

Although discrimination is sometimes still practiced openly, it has become increasingly socially undesirable to do so. Consequently, such discrimination as exists today is more likely to take more subtle and complex forms. Subtler forms of discrimination can occur spontaneously and ambiguously and go undetected, particularly at the institutional level. Although legal standards address specific forms of unlawful intentional or statistical discrimination, subtler forms are more difficult to address within the law. Thus, shifts in kinds of discriminatory behavior have implications for the measurement of discrimination. As we discuss in the next chapter, some types of discrimination may be more difficult to identify and may require collecting new and different data and the further development of new methods of analysis.

Appendix D

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Index

A

- Academic careers. *See* Career building
- Academic institutions. *See* College attendance; Universities
- Academic medicine, 82–84
culture of, 83
- Academic milestones, 228
- Academic Workforce Survey, 89–90
- Acceptance, 185
- Access to resources, 122
- Accountability
and evaluation, 150, 155–159
methods for changing institutional processes to combat bias, 229–232
- Action blueprint, 219–241
changing institutional processes to combat bias, 219–225
- Adelman, Cliff, 55
- ADVANCE program, 144–145, 155, 196–197, 211
- Advising, 221
- Age of Discrimination Act of 1975, 191
- Agenda for Excellence: Creating Flexibility in Tenure-Track Faculty Careers*, 201, 209
- Alfred P. Sloan Awards, for faculty career flexibility, 198
- Allport, Gordon, 260
- Ambiguous and ambivalent prejudice, 264
- American Academy of Arts and Sciences, 124
- American Association of University Women (AAUW), 191, 207–208
- American Chemical Society, Directory of Graduate Research, 89–90, 104
- American Council on Education (ACE), 9, 163, 198–199, 201, 209, 233
- American Institute of Physics, Academic Workforce Survey, 89–90
- American Philosophical Society, 124
- American Physical Society (APS), 177, 202, 212
- American Psychological Association (APA), 205–206
- American Society for Cell Biology (ASCB), 126–127, 203
- Americans with Disabilities Act (ADA), 194
- Anti-discrimination laws
discrimination types banned under, 195
federal agencies enforcing, 11, 164–165
primer on, 192–194
- Antiracists, 263
- Applicant pool, 195
in physical sciences, mathematics, and engineering, and faculty positions, 88
- Aronson, Josh, 46
- Assimilation, of outsiders, 186

Association for Women in Science (AWIS), 202
Association of American Medical Colleges (AAMC), Faculty Roster, 79, 89–90
Association of American Universities, 9, 163, 233
Attainment, vs. intention, 63
Attrition. *See* Faculty attrition
Automatic discrimination, 262–265
Avoidance, as intentional discrimination, 261, 263
Awards, 52

B

Bachelors degrees. *See* Science and engineering undergraduate degree programs
Backlash, 184, 188
Barriers to success in science and engineering, identifying, 200–205
Berg, Jeremy, 131
Bias avoidance behaviors, 179
Biases. *See also* Subtle bias and discrimination
 against caregivers, and family obligations, 174–175
 effects on evaluation, top research articles on, 158
 evidence establishing that most men and women hold implicit, findings concerning, 3
 moving beyond, 159
 specific steps for overcoming, 158, 242
 against women, 114, 215
Biological, Social, and Organizational Components of Success for Women in Academic Science and Engineering, xiii, 19, 22
Biology, 37–42
 brain structure and function, 37–38
 evolutionary psychology, 41–42
 hormonal influences on cognitive performance, 38–39
 and learning and performance, 37–42
 psychological development in infancy, 39–41
Blinded peer review, 146–147
Blueprint for action, 219–241
 changing institutional processes to combat bias, 219–225

Boring, EG, 42
Brain structure and function, 25, 37–38
Building Engineering and Science Talent (BEST) Initiative, 20–21, 57
Talent Imperative: Diversifying America's Science and Engineering Workforce, 21
Bullying behavior, 181, 242

C

Call to action, 12, 241–243
Career building, 117–125
 models of, 160
 productivity, 117–120
 progress in, 113
 recognition, 123–125
 sex differences in publication productivity, 121–123
 success and its evaluation in science and engineering, 117–125
Career flexibility, Alfred P. Sloan Awards for faculty, 198
Career Lunch Table program, 203
Caregivers, family obligations and the bias against, 161, 164–165, 174–175
Carnegie Mellon University, Women in Computer Science Program, 68
Ceilings. *See* Glass ceiling; “Polycarbonate ceiling”
Census Bureau, current nomenclature of ethnicity, 15n
Center for Research on Learning and Teaching (CRLT) Theater Program, 226
 NSF ADVANCE program at the University of Michigan, 144–145
Chait, Richard, 18
Changes needed, xiv, 217–218
 building, 196–205
 to combat bias in institutional processes, 219–241
 coordinating body, 232–237
 creating methods for evaluation and accountability, 229–232
 creating new institutional structures, 225–229
 economic reasons, 218
 ethical reasons, 218
 federal standards and compliance issues, 238–240

- global competitiveness, 217–218
- identifying barriers to success in science and engineering, 200–205
- institutional constraints bringing, 196–205
- legal reasons, 218
- possible unintended consequences, 239–241
- and sanctions, 239
- scorecard for continuous evaluation, 238
- small-win experiments, 197–200
- systemic, 155
- Chemistry departments, academic, building strong, through gender equity, 226–227
- Chemistry faculty
 - case study, 104–109
 - chemistry doctorates who obtain positions at Research I institutions, 108
 - comparison of the number of men and women at RI institutions, 107
 - by country of doctorate, 106
 - by sex and rank, 107
- Chemistry research, major federal funders of, 224, 226–227
- Child-care
 - costs of covered by grants or reimbursements from scientific and professional societies to members, 231
 - on-site, from scientific and professional societies, at a supplemental rate using a high-quality provider, 231
- Child Care Grant Subsidy (CCGS), 230
- Childbirth policy, for female graduate students, 72, 228–229
- Childcare Voucher Program, 230
- Children, socialization of, 43–44
- Civil Rights Act of 1964, 192, 238
 - pressures associated with, 81
- Clare Boothe Luce (CBL) program, 211–212
- Climate Workshops for Department Chairs, 224–225
- Cognition, 28–37
 - hormonal influences on performance, 38–39
 - and learning and performance, 28–37
 - longitudinal manifestation of differences in, 36–37
 - mathematical and spatial performance, 29–32
 - verbal and written performance, 32–36
- Cohen, Jacob, 27
- Cohort analysis, 93
- College attendance
 - examining persistence and attrition, 61–66
 - graduate school persistence and attrition, 66–76
 - and majors, 61–66
 - social factors influencing undergraduate attrition, 63–66
 - undergraduate persistence to degree, 61–63
- Collegiality, 153
- Columbia University, xi, 97, 208
- Commission on the Status of Women, 204
- Commitment, sustaining, 220
- Committee on Maximizing the Potential of Women in Academic Science and Engineering, xii, 1, 19
- Committee on Science, Engineering, and Public Policy, xii, 1
- Committee on the Advancement of Women Chemists (COACh), 125, 132, 180, 197, 226–227
- Committee on Women in Science and Engineering (CWSE), 19
 - Gender Differences in the Careers of Science, Engineering, and Mathematics Faculty*, 19, 22
 - To Recruit and Advance Women Students and Faculty in US Science and Engineering*, 19
- Competence, 143, 153
 - presumed, benefits of, 216
- Competitiveness, consequences of failure to act as detrimental to the nation's, findings concerning, 4, 241
- Compliance, 164–165, 240
- Composite information, funding agencies and foundations collecting, storing, and publishing, 10, 116
- Conclusions, 4–6
 - on institutional constraints, 212–213
 - on learning and performance, 49
 - on persistence and attrition, 109–112
 - on success and its evaluation in science and engineering, 159

Conflicts between personal and professional life, 84
and faculty retention, 97
Congenital adrenal hyperplasia, 38
Congress, recommendations to, 12, 165
Congressional Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology (CAWMSET) Project, building science and engineering talent with, 15, 20–21
Congruence, 135. *See also* Role congruity theory
Conspiracy of silence, about minority-group women faculty, breaking, 210–211
Constitutional claim, of equal protection, 193
Continuous evaluation scorecard, in changing institutional processes to combat bias, 238
Contracts, for leadership positions, 129
Controversies, 23
the evolution of motivation, 42
models of faculty representation, 56–58
Convergence, 187
Coordinating body, in changing institutional processes to combat bias, 232–237
Cornell University, Child Care Grant Subsidy, 230
Course selection, in high school, and persistence and attrition, 59–61
Cover up. *See* Conspiracy of silence
Creativity, increasing, 153
“Critical mass,” 187
CRLT Players, 144
Cross-institutional strategy, 224, 226–227, 242
Culture. *See also* Society and culture
of academic medicine, 83
auditing, 156
within departments, 225
Cumulative disadvantage, 272–273
across generations and through history, 272
over time through the course of an individual’s life across different domains, 272–273
over time through the course of an individual’s life sequentially within any one domain, 273
Curricula vitae, 145–146

D

Dartmouth University, 208, 229
childbirth policy for female graduate students, 72
David and Lucille Packard Foundation, Packard Fellowship for Science and Engineering, 231
Deans, recommendations for, 8, 52, 115–116, 257
Decision making, 266
departmental, 206
Decreasing isolation, in the Johns Hopkins Department of Medicine Task Force study, 222
Defining issues. *See* Dynamic definitions of discrimination; Issues defined
Degrees. *See* Science and engineering doctorate recipients; Science and engineering undergraduate degree programs
Deloitte and Touche Leadership in Industry Case Study, 200, 202, 207
Department chairs, recommendations for, 8, 52, 115–116, 257
Department of Agriculture, 12, 165
Department of Defense, 12, 165, 192, 239
Department of Education, 12, 32, 164–165, 192, 239
Office of Civil Rights, 239
Department of Energy (DOE), 12, 132, 165, 224, 226
national laboratories leadership positions, 129
Department of Justice, 11, 164, 238n, 239
Department of Labor, 11–12, 164–165, 193
Office of Federal Contract Compliance Programs, 238n
Departmental decision making, 206
Departments
academic, building strong, through gender equity, 226–227
climate within, and faculty retention, 97–98, 105
vs. centers, 99
Dependent care expenses, funding agencies and foundations enabling use of grant monies for, 10
Dependent Care Fund for Conference Travel, 230
Differences in salaries between groups, and faculty retention, 95–96

- Directory of Graduate Research (DGR), 89–90
 - Disciplinary endogamy, 177
 - Discrimination
 - federal agencies evaluating whether universities have engaged in any types of, 11
 - within five domains, map of potential points of, 271
 - understanding, 150–151
 - Discrimination cumulating over time
 - through the course of an individual's life
 - across different domains, 272–273
 - sequentially within any one domain, 273
 - Discrimination law, 267
 - Discrimination types, 260–269
 - intentional, explicit discrimination, 260–262
 - organizational processes, 267–269
 - statistical discrimination and profiling, 265–267
 - subtle, unconscious, automatic discrimination, 262–265
 - Discrimination types banned under anti-discrimination laws, 195
 - disparate impact discrimination, 195
 - failure to maintain required policies and procedures, 195
 - intentional discrimination, 195
 - retaliation, 195
 - sexual harassment, 195
 - Disparities
 - disparate impact discrimination banned, 195
 - root causes of, 214–217
 - Diversity
 - capturing workforce talent, 154, 166
 - the case for, 153–155
 - within departments, 105
 - faculty development and, 221
 - federal agencies encouraging and providing technical assistance on achieving, 11–12
 - making it work, 156–157
 - among women, 18–19
 - Division of Genetics and Developmental Biology, 131
 - Doctorate degrees. *See* Science and engineering doctorate recipients
 - Domains
 - map of potential points of discrimination within five, 271
 - in which discrimination operates, 270–272
 - Dual-career marriages, 170
 - Duke University, 94
 - Women's Initiative, 203–204
 - Dynamic definitions of discrimination
 - effects of discrimination as cumulating across different domains, 272–273
 - effects of discrimination as cumulating across generations and through history, 272
 - effects of discrimination as cumulating sequentially within any one domain, 273
 - moving to, from episodic, 272–273
- E**
- Economics
 - impact of faculty attrition, 100–104 and the necessity of change, 218
 - Education, 44–45
 - documenting, 266
 - in the Johns Hopkins Department of Medicine Task Force study, 222
 - Effect size, 27
 - “Elephants in the room,” 242
 - Employers for Work-Life Balance, 207
 - Engineering. *See* Science and engineering
 - Episodic definitions of discrimination, moving to dynamic, 272–273
 - Equal Employment Opportunity Commission (EEOC), 11–12, 164–165, 192, 194–195, 238n
 - Equal Pay Act of 1963, 190, 193
 - Equal protection, a constitutional claim, 193
 - Ethics, and the necessity of change, 218
 - Evaluation. *See also* Monitoring and evaluation
 - criteria for often containing arbitrary and subjective components that disadvantage women, findings concerning, 3–4
 - of leaders, 129–135
 - Evaluation of success in science and engineering, 135–159
 - accountability and, 155–159

the case for diversity, 153–155
gender bias in, 143–150
subtle, implicit, or unexamined bias, 151–153
understanding discrimination, 150–151
Evolution of motivation, controversy over, 42
Evolutionary psychology, 41–42
Exclusion, as intentional discrimination, 261
Executive Order 11246, 190, 193, 195, 238
Experimental psychology, 42
Experiments and strategies, 23
breaking through the “polycarbonate ceiling,” 132
building strong academic chemistry departments through gender equity, 226–227
Carnegie Mellon’s Women in Computer Science Program, 68
Center for Research on Learning and Teaching Theater Program, 144–145
climate workshops for department chairs, 224–225
Committee on the Advancement of Women Chemists, 132
Deloitte and Touche Leadership in Industry Case Study, 200
financial support for dependent care, 230–232
improving the retention of junior faculty case study, 222–223
National Science Foundation ADVANCE Program, 196–197
Pioneer Award, 130–131
searching for excellence and diversity, 148–150
speaker representation at scientific and professional society meetings, 126–127
specific steps for overcoming bias, 158
Stanford University’s childbirth policy for female graduate students, 228–229
Task Force on the Retention and Promotion of Junior Faculty, Yale Women Faculty Forum, 100–101
University of Washington Faculty Retention Toolkit, 105
Women in Cell Biology, 203

Women in Science and Engineering Leadership Institute, 224–225
workshops for search committee chairs at the University of Wisconsin-Madison, 148–150
Explicit discrimination, 260–262
Extermination, as intentional discrimination, 262

F

Faculty Advising Faculty Handbook, 145
Faculty attrition, 50–112. *See also* Chemistry faculty case study of chemistry, 104–109
chapter highlights, 50–51
college attendance, and majors, 61–66
college to graduate school, 66–76
conclusion, 109–112
course selection in high school, 59–61
economic impact of, 100–104
factors affecting, 96
findings, 51–52
postdoctoral appointments, 77–78
postgraduate career plans, 76
recommendations, 52–59
Faculty development and diversity, 221
in the Johns Hopkins Department of Medicine Task Force study, 223
midcareer, 105
Faculty Early Career Development (CAREER) award, 78
Faculty positions, 52, 79–99, 218, 221, 257. *See also* Tenure-track faculty careers
departments vs. centers, 99
examining persistence and attrition, 79–99
exiting the tenure track, 91–92
hiring new doctorates into, 80–85, 103
mobility within, 51, 89–92, 174
the “pool,” 85–88
promotion, 93–95
Faculty representation, controversy over models of, 56–58
Faculty retention, 95–99
conflicts between personal and professional life, 97
department climate and a supportive work environment, 97–98

- differences in salaries between groups, 95–96
- tenure policies and procedures, 96–97
- Failure to act, consequences of, as detrimental to the nation's competitiveness, 4
- Family and Medical Leave Act of 1993 (FMLA), 190–191, 194, 207
- Family-friendly policies, 162
- Family obligations. *See also* Maternal wall and the bias against caregivers, institutional interactions reflecting, 174–175
 - enabling academic science careers in the context of, 221
- Family responsibilities discrimination. *See* Maternal wall
- Federal agencies, 229, 257
 - encompassing a broad number and range of institutions in their review, 11
 - encouraging and providing technical assistance on achieving diversity, 11–12
 - evaluating whether universities have engaged in any types of discrimination, 11
 - recommendations to, 11–12, 52, 116
- Federal enforcement agencies, enforcing the federal anti-discrimination laws, 11, 164–165
- Federal standards and compliance issues, in changing institutional processes to combat bias, 238–240
- Federation of Clinical Immunological Societies (FOCIS), 127
- Feminist colleagues, supporting, 242
- Financial support for dependent care, 230–232
 - from funding agencies and organizations, 231–232
 - from scientific and professional societies, 230–231
- Findings, 2–4
 - academic organizational structures and rules contributing significantly to the underuse of women in academic science and engineering, 4
 - consequences of failure to act as detrimental to the nation's competitiveness, 4
 - evaluation criteria often containing arbitrary and subjective components that disadvantage women, 3–4
 - evidence establishing that most men and women hold implicit biases, 3
 - examining persistence and attrition, 51–52
 - on institutional constraints, 161–162
 - on learning and performance, 25–26
 - problem lying not only in the pipeline, 2–3
 - on success and its evaluation in science and engineering, 114–115
 - women as likely to face discrimination in every field of science and engineering, 3
 - women as possessing the ability and drive to succeed in science and engineering, 2
 - women who are interested in science and engineering being lost at every educational transition, 2, 51
- First-author papers, 77
- Flexibility, in tenure-track faculty careers, 105, 201, 207
- Foundations. *See* Funding agencies and foundations
- Fred Hutchinson Cancer Research Center, Postdoc Childcare Subsidy Program, 230
- Funding agencies and foundations, 10–11, 231–232, 257. *See also* individual agencies and foundations
 - collecting, storing, and publishing composite information, 10
 - creating additional funding mechanisms, 10
 - enabling use of grant monies for dependent care expenses, 10
 - establishing policies for extending grant support, 11
 - expanding support for research, 11
 - funding postdoctoral appointments, 78
 - institutional transformation driven by, and institutional constraints, 211–212
 - providing workshops, 10
 - recommendations to, 10–11, 116, 163–164

G

- Gender-congruent roles, 135
- Gender Differences in Major Federal External Grant Programs*, 15
- Gender Differences in the Careers of Science, Engineering, and Mathematics Faculty*, 22
- Gender discrimination, xi, 143–150
- Gender equity, 143
 - bringing about, 112, 243
 - role of leadership in achieving, 116
 - universities reaffirming pledge for, 180
- Generations, effects of discrimination as cumulating across, 272
- Georgi, Howard, 167
- Georgia Institute of Technology, Program for Institutional Transformation, 197
- Glass ceiling. *See also* Maternal wall
 - institutional interactions reflecting, 152, 179–180
- Global competitiveness, and the necessity of change, 1, 13, 217–218
- Gordon Research Conferences, 127
- Government Accountability Office, 15
- Graduate Record Examination scores, 75
- Graduate school students, 55, 68–75
 - attrition of, 75–76
 - childbirth policy for female, 72, 228–229
- Grants
 - extending support from, funding agencies and foundations establishing policies for, 11
 - for leadership positions, 129
 - for scientific and professional societies to members to cover child-care costs, 231
- Greenberg, Judith, 131
- Group problem solving, 153
- Guterrez, Carlos, 45

H

- Halpern, Diane F., 29
- Harvard University, 108, 167, 208
 - Dependent Care Fund for Conference Travel, 230
 - enabling academic science careers in the context of family obligations, 221
 - faculty development and diversity, 221
 - mentoring and advising, 221
 - Study of New Scholars, 96

- sustaining commitment, 220
- Task Force on Women Faculty, 18, 220–221
- Task Force on Women in Science and Engineering, 18, 212, 219–221
- Hate crimes, 262
- Hazard analysis, 92
- High school
 - course selection and persistence and attrition, 59–61
 - graduates completing advanced coursework in mathematics and science, 60
- High-threat condition, 48
- Higher education organizations. *See also* College attendance; Universities
 - recommendations for, 9, 163
- Higher Education Research Institute, 98
- Hildred Blewitt Scholarship, 212
- Hiring, through word-of-mouth
 - recommendations, 268
- Hirsh, Elizabeth, 191
- History, effects of discrimination as cumulating throughout, 272
- Honorary societies, 1
 - recommendations for, 10, 116
- Hopkins, Nancy, 81
- Hormonal influences, on cognitive performance, 38–39
- Human capital, 216
- Human Frontier Science Program, 57

I

- “Ideal” scientist or engineer, and
 - institutional constraints, 165–167
- “Identity-blind” practices, 187
- Inclusive work environment
 - institutional constraints for establishing, 205–210
 - integrating work into one’s whole life, 207–210
 - service obligations, 210
- Infancy
 - psychological development in, 39–41
 - socialization in, 43–44
- Information
 - composite, funding agencies and foundations collecting, storing, and publishing, 10
 - limited or missing, 266

- Innate abilities, 215
 - Institute of Medicine, 2, 124
 - Institution-wide transformations, 162
 - Institutional constraints, 160–213, 256
 - breaking the conspiracy of silence about minority-group women faculty, 210–211
 - bringing institutional change, 196–205
 - chapter highlights, 160–161
 - conclusion, 212–213
 - establishing an inclusive work environment, 205–210
 - findings, 161–162
 - funding-agency-driven institutional transformation, 211–212
 - and the “ideal” scientist or engineer, 166–167
 - the legal landscape, 189–196
 - pioneers and tipping points, 180–188
 - recommendations on, 162–165
 - recruitment, 167–169
 - Institutional interactions, 169–180
 - cross-institutional strategy, 224, 226–227
 - family responsibilities, and the bias against caregivers, 174–175
 - glass ceilings, 179–180
 - the maternal wall, 176–179
 - Institutional structures, new, in changing institutional processes to combat bias, 1, 225–229
 - Institutions
 - federal agencies encompassing a broad enough number and range of, in their reviews, 11
 - where the greatest number of chemistry faculty at research institutions were trained, 109
 - “Intangible” environment, 238–240
 - Integration
 - of available data on gender issues across all fields of science and engineering, 256
 - of work into one’s whole life, 207–210
 - Intention vs. attainment, 63
 - Intentional discrimination
 - avoidance, 261
 - banned under anti-discrimination laws, 195
 - exclusion, 261
 - explicit, 260–262
 - extermination, 262
 - physical attacks, 262
 - segregation, 261–262
 - verbal antagonism, 260–261
 - Inter-institution monitoring organization, 232
 - InterAcademy Council (IAC), 124
 - Interactions
 - institutional, 169–180
 - social, 54
 - International Congress of Immunology, 127
 - Isolation, decreasing in the Johns Hopkins Department of Medicine Task Force study, 222
 - Issues defined, 22–23
 - academic medicine, 82–84
 - anti-discrimination laws, 192–194
 - building engineering and science talent, 20–21
 - creating flexibility in tenure-track faculty careers, 201
 - diversity among women, 18–19
 - “elephants in the room,” 242
 - faculty attrition, 96
 - Title IX, 239
 - types of discrimination banned under the anti-discrimination laws, 195
 - universities reaffirming pledge for gender equity, 180
 - the variability hypothesis, 34–35
- ## J
- Jackson, Shirley, 154
 - Job change, in all faculty ranks and fields, reasons for, 91–92
 - Johns Hopkins Department of Medicine
 - academic rewards, 223
 - decreased isolation, 222
 - education, 222
 - faculty development, 223
 - Improving the Retention of Junior Faculty Case Study*, 222–223
 - leadership, 222
 - monitoring and evaluation, 223
 - Task Force on Women’s Academic Careers in Medicine, 222–223
 - Journals, 143–144
 - recommendations for, 10, 116

K

Keystone Symposia, 127
KiddieCorp, 231

L

*Land of Plenty: Diversity as America's
Competitive Edge in Science,
Engineering, and Technology*, 20
Language functions, lateralization of, 37
Lasker Prize, 124
Lawyers Life Coach, 121
Leadership positions, 1, 125–135, 152, 179,
188, 242, 257
 evaluation of leaders, 129–135
 grants and contracts for, 129
 in the Johns Hopkins Department of
 Medicine Task Force study, 222
 success and its evaluation in science and
 engineering, 125–135
Learning and performance, 24–49
 in biology, 37–42
 chapter highlights, 24–25
 in cognition, 28–37
 conclusion, 49
 findings, 25–26
 recommendation, 26
 research approaches, 26–28
 in society and culture, 42–49
Leave-of-absence policies, 194, 228
Legal standards
 comparison with the four types of
 discrimination, 269–270
 landscape of institutional constraints,
 189–196
 law and the necessity of change, 218
Letters of recommendation, 144
Lovell v. BBNT Solutions, LLC, 193

M

Marriages
 dual-career, 170
 PhDs with employed spouses, 173
Mass killings, 262
Massachusetts Institute of Technology
 (MIT), 1, 81, 94–98, 206, 218, 224
 *Report on Women Faculty in the School
 of Science*, 85

Maternal wall, institutional interactions
 reflecting, 176–179
Mathematical performance, 29–32
 magnitude (“*d*”) of sex differences in, 36
Mathematics and science, percentage of
 high school graduates completing
 advanced coursework in, 60
Mathematics undergraduate degree
 programs, top reasons for leaving, 67
Measuring Racial Discrimination, 23, 258–
274
Medewar, Peter, 26
Media portrayals, of nonwhites versus
 whites, 262
Medicine, academic, 82–84
Mental rotation ability, 39
Mentoring, 105, 221
 of junior faculty, 143, 156, 205–206
 of students, individual and perceived
 institutional value of, 119
Meritocratic system of rewards, 3, 142, 215
Meta-analysis, 27, 33
Millett, Catherine, 71
Minorities. *See* Racial discrimination;
 Women
Minority-group women faculty, breaking
 the conspiracy of silence about, 210–
211
Mobility, within faculty positions, 89–91,
174
Models, of faculty representation,
 controversy over, 56–58
Monitoring and evaluation, in the Johns
 Hopkins Department of Medicine
 Task Force study, 223
Monks, James, 233
Motherhood, 175, 225. *See also* Maternal
 wall
Motivation, controversy over the evolution
 of, 42

N

Nanny Network, 231
National Academies, 1, 13, 22–23
National Academy of Engineering, 2, 124
National Academy of Sciences, 2, 124
 Committee on Women in Science and
 Engineering, 19
National Aeronautics and Space
 Administration, 12, 165, 192, 239

- National Assessment of Educational Progress (NAEP), 28–29
- National Association of State Universities and Land Grant Colleges, 9, 163, 233
- National Collegiate Athletic Association (NCAA), 163, 232, 240
- National Educational Longitudinal Survey, 59
- National Institute of Allergy and Infectious Diseases (NIAID), 232
- National Institute of General Medical Sciences, 131
- National Institute of Standards and Technology, 12, 165
- National Institutes of Health (NIH), 12, 129, 165, 192, 224, 226, 232, 239
- average research grant award to women and men, 142
- Mentored Research Scientist Development Award K01 grant mechanism, 212
- Pathway to Independence Award, 78
- Pioneer Award, 124, 130–131
- Roadmap for Medical Research, 130
- Small Business Innovation Research Program, 129
- Small Business Technology Transfer Program, 129
- National Medal of Science, 124
- National Research Council, 56–57
- Research Doctorate Programs in the United States: Continuity and Change*, 86
- National Science Foundation (NSF), 12, 120, 132, 165, 192, 224, 226, 239
- ADVANCE program, 144–145, 155, 196–197, 211
- Engineering Research Center leadership positions, 138–139
- Faculty Early Career Development awards, 78–79
- Science and Technology Center leadership positions, 140–141
- Survey of Doctorate Recipients*, 52, 86, 89
- Net present value model, 104
- Nettles, Michael, 71
- New doctorates, hiring into faculty positions, 80–85
- New institutional structures, in changing institutional processes to combat bias, 225–229
- “New normal,” 112, 241
- New professors, start-up costs associated with, 103
- Nine-University Statement on Gender Equity, 241
- Nomenclature of ethnicity, current, 15n
- Northwestern University, 210
- NSF. *See* National Science Foundation
- O**
- Obstacles, recognizing, 15–22
- Occupations of science and engineering PhDs, by sector, 54
- O’Connor, Sandra Day, 13
- Office of Civil Rights (OCR), 12, 239
- Office of Federal Contract Compliance Programs, 193, 238n
- On-site child-care, from scientific and professional societies, at a supplemental rate using a high-quality provider, 231
- Organizational processes
- development, 156
- discriminatory, 267–269
- pyramidal hierarchy, 216
- Ostrow, Ellen, 121
- Outgroups, people’s reactions to, 263
- P**
- Packard Fellowship for Science and Engineering, 231
- Parenting. *See* Maternal wall
- Pathway to Independence Award, 78
- Peer review, 77, 117–118, 143, 146–147
- blinded, 146–147
- Penk v. Oregon State Board of Higher Education*, 191
- Performance
- judgments of, 117
- learning and, 24–49
- mathematical, 29–32, 36
- spatial, 29–32
- verbal and written, 32–36
- Persistence, 50–112
- case study in chemistry, 104–109

- chapter highlights, 50–51
- college attendance, and majors, 61–66
- college to graduate school, 66–76
- conclusion, 109–112
- course selection in high school, 59–61
- economic impact of faculty attrition, 100–104
- faculty positions, 79–99
- findings, 51–52
- postdoctoral appointments, 77–78
- postgraduate career plans, 76
- recommendations, 52–59
- PhD pools, proportion of women in, 16–17
- Physical attacks, as intentional discrimination, 262
- Pioneer Award, 124, 130–131
- Pioneers, institutional constraints on, 180–188
- Pipeline, 56
 - findings concerning problems with, 2–3
 - science, engineering, and technology, 20
- “Polycarbonate ceiling,” breaking through, 132
- The “pool,” 85–88
 - proportion of women in, 16–17
- Postdoc Childcare Subsidy Program, 230
- Postdoctoral appointments, 77–78
 - examining persistence and attrition, 77–78
 - funding source, 78
 - professional development and productivity from, 77–78
- Postgraduate career plans, and examining persistence and attrition, 76
- Potential of women in academic science and engineering unfulfilled, 214–243
 - blueprint for action, 219–241
 - call to action, 12, 241–243
 - changing institutional processes to combat bias, 219–241
 - reasons change is necessary, 217–218
 - root causes of disparities, 214–217
- Potential points of discrimination, within five domains, map of, 271
- Pregnancy Discrimination Act (PDA), 190, 193
- Presidential Early Career Awards for Scientists and Engineers (PECASE), 78
- women awardees, 79
- Presumed competence, benefits of, 216
- Primary Caregiver Technical Assistance Supplements, 232
- Primer on anti-discrimination laws, 192–194
 - Americans with Disabilities Act, 194
 - Equal Pay Act, 193
 - equal protection, 193
 - Executive Order 11246, 193
 - Family and Medical Leave Act of 1993, 194
 - Pregnancy Discrimination Act, 193
 - Title VII of the Civil Rights Act of 1964, 192
 - Title IX, 192
- Princeton University, 218, 224
- Problem solving
 - differences in, 36
 - group, 153
- Productivity
 - and building a career, 113, 117–120
 - from postdoctoral appointments, 77–78
- Professional development, 116
 - from postdoctoral appointments, 77–78
- Professional Opportunities for Women in Research and Education (POWRE), 98–99, 196
- Professional societies, 9–10
 - honorary societies, 10
 - journals, 10
 - recommendations to, 9–10, 52–53
 - scientific and professional societies, 9–10
- Professors, start-up costs associated with new, 103
- Profiling, 265–267
- Profits, increasing, 153
- Programme for International Student Assessment (PISA), 33
- Promotions, 52, 93–95
- Provosts, recommendations for, 7–8
- Provost’s Committee on the Status of Women, 222
- Psychiatric disorders, 37
- Psychological development, in infancy, 39–41
- Publication productivity, and building a career, sex differences in, 113, 121–123
- Pyramidal organizational hierarchy, 216

Q

Quigley, Jim, 202

R

Racial discrimination, 259–263

racial steering, 268

in US society, 151, 267

RAND Corp., 15

Recognition, and building a career, 123–125

Recommendations, 7–12

to Congress, 12

for examining persistence and attrition, 52–59

to federal agencies, 11–12

to funding agencies and foundations, 10–11

on institutional constraints, 162–165

on learning and performance, 26

to professional societies and higher education organizations, 9–10

on success and its evaluation in science and engineering, 115–117

to universities, 7–9

Recruitment, 52

institutional constraints on, 167–169

targeted, 156

Rehabilitation Act of 1973, 191

Reimbursements, from scientific and professional societies to members to cover child-care costs, 231

Report on Women Faculty in the School of Science, 85

Representation. *See* Faculty representation

Required policies and procedures, failure to maintain banned under anti-discrimination laws, 195

Research approaches, 23

benefits of presumed competence, 216

blinded peer review, 146–147

gender differences in the careers of science, engineering, and mathematics faculty, 22

gender factors in, 118

to learning and performance, 26–28

making diversity work, 156–157

meta-analysis, 27

stereotype threat, 46–47

top research articles on the effects of bias on evaluation, 158

workplace pioneers as “Men in Skirts,” 183–187

Research I (R1) institutions, 22, 74, 86, 91–93, 104–108, 123

chemistry faculty positions at, 108

number of faculty hired at, selected by sex, 110

Research productivity. *See* Productivity

Research project grants (RPGs), 129

Resources, access to, 122

Retaliation, banned under anti-discrimination laws, 195

Retention. *See* Faculty retention

“Review” paradigm, 93

Rising Above the Gathering Storm, 13

Roadmap for Medical Research, 130

Role congruity theory, 65

RPGs. *See* Research project grants

Rutgers University, 98

S

Salaries, 52. *See also* Differences in salaries between groups

average start-up packages for assistant professors in selected fields starting at public Research I universities, 102

Sanctions, in changing institutional processes to combat bias, 239

Schmader, Toni, 46

Scholastic Aptitude Test (SAT), 24–25, 28–35, 46

Schultz, George, 85

Science

engineering

and mathematics (SEM) careers, 34–35, 45, 66, 69

and technology (SET) pipeline, 20

technology, engineering, and mathematics (STEM) faculty, 168

Science and engineering

applicant pool and faculty positions at the University of California, Berkeley, 88

identifying barriers to success in, 200–205

welcoming and encouraging all our nation’s people to excel in, 243

- Science and engineering doctorate recipients (of PhDs)
 - 30-44 years old, spousal employment of, 172-173
 - hiring new doctorates into faculty positions, 80-85
 - location and type of planned postgraduate study for US citizens and permanent resident, by sex, 76
 - occupations of, by sector, 54
 - percentage of women, 14
 - by race or ethnicity and sex, 70-71
 - in tenured or tenure-track positions, by sex, marital status, and presence of children, 171
 - top 10 US baccalaureate institutions of, 74
- Science and Engineering Equal Opportunities Act of 1980, 218
- Science and engineering talent, building with the CAWMSET and BEST Projects, 20-21
- Science and engineering undergraduate degree programs
 - bachelor's degree recipients, 64-65, 80
 - percentages of first-year college students intending to major in science and engineering, by sex and race or ethnicity, 62-63
 - persistence to degree, 61-63
 - by sex and race or ethnicity, 64-65
 - top reasons for leaving, by sex, 67
- Scientific and professional societies, 1, 116, 229-231
 - on-site child-care at a supplemental rate using a high-quality provider, 231
 - providing grants or reimbursements to members to cover child-care costs, 231
 - recommendations for, 9-10, 163
 - speaker representation at meetings of, 126-127
- Scorecard for Evaluating How Well Research Universities Serve Women and Minorities in Science and Engineering, 9, 53, 234-237. *See also* Continuous evaluation scorecard
- Search committees, workshops for chairs of, at the University of Wisconsin-Madison, 148-150
- Segregation, as intentional discrimination, 261-262
- Self-confidence, challenge of maintaining, 75
- Self-nomination, 131
- Self-perpetuating discrimination, 266
- Self-reported faculty hours, 121
- Service obligations, 206, 210
- Sexual harassment, 203
 - banned under anti-discrimination laws, 195
- Shalala, Donna E., xi-xiv
- Silence. *See* Conspiracy of silence
- Sloan Foundation, 197-198
- Small Business Innovation Research Program, 129
- Small Business Technology Transfer Program, 129
- Small-win experiments, 162, 197-200
- Social effects
 - on infants and children, 43-44
 - on undergraduate attrition, 63-66
 - on women's cognitive performance, 45-49
- Social interactions, 54
- Social psychology, 135
- Social tipping points, 187-188
- Society and culture, 42-49
 - education, 44-45
 - and learning and performance, 42-49
- Spatial performance, 29-32, 41
- Speaker representation, at scientific and professional society meetings, 126-127
- Spousal employment, 160
 - of science and engineering PhDs, 30-44
 - years old, 172
- Stacy, Angelica, 168
- Standardized tests, 33
- Stanford University, 208, 218-219
 - childbirth policy for female graduate students, 72, 228-229
- Start-up costs, associated with new professors, 103
- Statistical discrimination, 265-267
- Steele, Claude, 46
- Steering, racial, 268
- Stereotypes
 - gender, 26, 40, 43-44, 143-145, 152
 - racial, 190, 265, 269
 - reducing use of, in hiring, 150
 - religious, 42
 - threat of, 46-47, 116
- Strategies. *See* Experiments and strategies

- Strategies and Tactics for Recruiting to Improve Diversity and Excellence (STRIDE) program, 150
- Structural discrimination, 267–268. *See also* Institutional structures
- Study of Faculty Worklife at the UW-Madison*, 148
- Study of New Scholars, 96
- Subtle bias and discrimination
- difficult to document, 264–265
 - implicit or unexamined, 151–153
 - indirect prejudice, 263
 - unconscious and automatic, 262–265
- Success and its evaluation in science and engineering, 113–159
- building a career, 117–125
 - chapter highlights, 113–114
 - conclusion, 159
 - evaluation of success, 135–159
 - findings, 114–115
 - leadership positions, 125–135
 - moving beyond bias, 159
 - recommendations, 115–117
 - tournament model of, 216
- Support
- for research, funding agencies and foundations expanding, 11
 - in the work environment, and faculty retention, 97–98
- Supreme Court, 268
- Survey of Doctorate Recipients*, 52
- T**
- Talent Imperative: Diversifying America's Science and Engineering Workforce*, 21
- Targeted recruitment, 156
- Task Force on Faculty Recruitment and Retention, 100–102
- Task Force on the Retention and Promotion of Junior Faculty, 100–101
- Task Force on Women Faculty (WF-TF), 18, 220–221
- Task Force on Women in Science and Engineering (WISE-TF), 18, 219–221
- Task statement, 256–257
- Teleconferencing, xiii
- Tensions between personal and professional life, 84, 97
- Tenure, 51, 92–93, 242
- Tenure policies and procedures, and faculty retention, 96–97
- Tenure-track faculty careers, 50, 55, 91
- exiting, 91–92
 - flexibility in, 201
 - proportion of women in, by field, 16–17
- Tenured faculty, 218, 221, 242
- recommendations for, 8, 52, 115–116, 257
- Theories of discrimination, 259–274
- comparison of legal standards with the four types of discrimination, 269–270
 - domains in which discrimination operates, 270–272
 - map of potential points of discrimination within five domains, 271
 - role of cumulative disadvantage, 272–273
 - summary, 274
 - types of discrimination, 260–269
- “There Goes the Neighborhood?,” 153–155
- Tipping points, institutional constraints on, 180, 188
- Title VI of the Civil Rights Act of 1964, 189, 238
- Title VII of the Civil Rights Act of 1964, 189, 192, 218, 238, 268
- Title IX of the Civil Rights Act of 1964, 189, 192, 218, 232–233, 238–240
- To Recruit and Advance Women Students and Faculty in US Science and Engineering*, 19
- Tournament model of success, 216
- Tracking and evaluation, 23
- Alfred P. Sloan Awards for faculty career flexibility, 198
 - American Chemical Society Directory of Graduate Research, 90
 - American Institute of Physics Academic Workforce Survey, 90
 - Association of American Medical Colleges' Faculty Roster, 90
 - Scorecard for Evaluating How Well Research Universities Serve Women and Minorities in Science and Engineering, 234–237
- Transitions, educational, 55
- women being lost at every, 2, 51
- Transparency, 105

Travel allowances, 231
Trower, Cathy, 18
Trustees, recommendations for, 7–8, 115
Types of discrimination, 260–269
 banned under the anti-discrimination laws, 195

U

Unconscious discrimination, 262–265
Undergraduate degrees. *See* Science and engineering undergraduate degree programs
Underrepresented minorities (URMs), 87–88
Underuse of women in academic science and engineering, academic organizational structures and rules contributing significantly to, findings concerning, 4
Unintended consequences, in changing institutional processes to combat bias, 239–241
Universities, 1, 7–9, 256
 Cornell University, Child Care Grant Subsidy, 230
 deans and department chairs and their tenured faculty, 8
 Fred Hutchinson Cancer Research Center, Postdoc Childcare Subsidy Program, 230
 Harvard University, Dependent Care Fund for Conference Travel, 230
 importance of progress toward equality on their campuses, 214
 reaffirming pledge for gender equity, 180
 recommendations to, 7–9, 53
 trustees, university presidents, and provosts, 7–8
 university leaders working with their faculties and department chairs, 9
 University of Washington, Childcare Voucher Program, 230
University leaders, recommendations for, 9, 115–116, 162–163
University of California, Berkeley, 86, 108, 167–168, 209
 biological and health sciences applicant pool and faculty positions at Berkeley, 87

 faculty advancing through the ranks, by sex and field, 94
 faculty positions at, and the applicant pool in physical sciences, mathematics, and engineering, 88
 faculty self-reported hours per week engaged in professional work, housework, and caregiving, 121
University of Colorado at Boulder, 95–98
 Task Force on Faculty Recruitment and Retention, 100–102
University of Michigan, 224
 NSF ADVANCE program, 144–145, 155
 STRIDE program, 150
University of Washington, 66, 191, 208
 Childcare Voucher Program, 230
 Faculty Retention Toolkit, 105
University of Wisconsin-Madison, 169
 WISELI program at, 147–150, 221
 workshops for department chairs at, 224–225
 workshops for search committee chairs at, 148–150
University presidents, recommendations for, 7–8
Unmarried scientists, 168, 174, 226, 228

V

Variability hypothesis, 31–32, 34–35
Verbal antagonism, as intentional discrimination, 260–261
Verbal performance, 32–36
Vest, Chuck, 215

W

Western European notions, dominant, 211
Women
 biases against, 215
 as chief editors at top-ranked journals, by field, 125, 133–134
 diversity among, 18–19
 as faculty in the School of Science at the Massachusetts Institute of Technology, 85
 as likely to face discrimination in every

- field of science and engineering, findings concerning, 3
 - as a minority, 166
 - nominated to an honorific society or for a prestigious award, 128
 - as possessing the ability and drive to succeed in science and engineering, findings concerning, 2, 114
 - social effects on cognitive performance of, 45–49
 - Women CAREER and PECASE awardees, 79
 - Women in Cell Biology (WICB), 203
 - Women in science and engineering. *See also* Underuse of women in academic science and engineering
 - career opportunities for, 257
 - declining proportions of, 14
 - evidence refuting commonly held beliefs about, 5–6
 - minority, xii
 - PhD chemists working full-time at PhD-granting institutions, by rank and sex, 111
 - Women in Science and Engineering Leadership Institute (WISELI), 147–150, 197
 - Climate Workshops for Department Chairs, 224–225
 - Women interested in science and engineering, being lost at every educational transition, findings concerning, 2, 51
 - Women’s Initiative, 204
 - Women’s Participation in the Sciences Has Increased, but Agencies Need to Do More to Ensure Compliance with Title IX*, 15
 - Word-of-mouth recommendations, hiring through, 268
 - Work, integrating into one’s whole life, 207–210
 - Work environment
 - inclusive, institutional constraints for establishing, 205–210
 - “intangibles” in, 238
 - service obligations, 210
 - supportive, and faculty retention, 97–98, 219–221
 - Workplace pioneers, as “Men in Skirts,” 183–187
 - Workshops
 - funding agencies and foundations providing, 10
 - for search committee chairs, at the University of Wisconsin-Madison, 148–150
 - Written performance, 32–36
- Y**
- Yale Women Faculty Forum, 99–101
- Z**
- Zare, Richard, 218
 - Zero-sum game, 262

