



March 2024

HIGHER EDUCATION

Employment Discrimination Case Referrals between Education and the Equal Employment Opportunity Commission Could Be Improved

GAO Highlights

Highlights of [GAO-24-105516](#), a report to congressional requesters

Why GAO Did This Study

While the U.S. population has become increasingly diverse, college faculty may not reflect those same levels of diversity. Little is known at the national level about the relationship between faculty diversity and student outcomes. Separately, faculty have reported experiencing discrimination at colleges.

GAO was asked to review faculty diversity and employment discrimination at colleges. This report examines (1) selected aspects of diversity among faculty, (2) efforts by colleges to recruit and retain a diverse faculty, and (3) how Education and EEOC process employment discrimination complaints at colleges. GAO analyzed Education data on faculty and students from fiscal years 2003–2021, national workforce data from the Census Bureau and Bureau of Labor Statistics ranging from calendar years 2014–2021, Education complaint data from fiscal years 2011–2022, and EEOC complaint data from fiscal years 2011–2021 (each set was the most recent available). GAO also conducted literature reviews; reviewed relevant federal laws, regulations, and policies; and interviewed agency officials and selected higher education experts.

What GAO Recommends

GAO is making two recommendations. One recommendation directs Education to track the timing of employment discrimination complaint referrals to EEOC. Education agreed. One recommendation directs EEOC to develop a protocol to ensure it receives and processes all complaint referrals from Education. EEOC neither agreed nor disagreed, but acknowledged the importance of processing all referrals, and is taking related action.

View [GAO-24-105516](#). For more information, contact Melissa Emrey-Arras at (617) 788-0534 or emreyarrasm@gao.gov.

March 2024

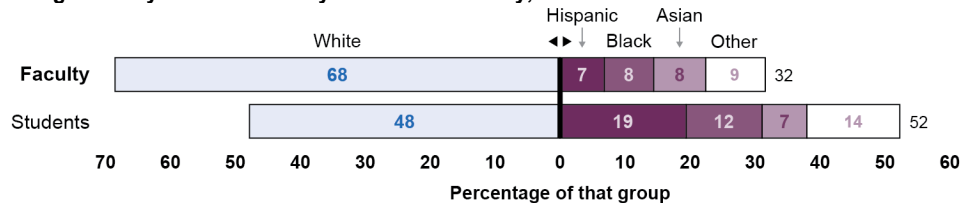
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What GAO Found

The proportions of Black or African American (Black) and Hispanic or Latino (Hispanic) college faculty increased from fiscal years 2003 through 2021. Yet, there were lower proportions of Black and Hispanic college faculty compared to Black and Hispanic workers with advanced degrees (e.g., master's and doctorate) and professional workers (e.g., lawyers and engineers), according to GAO's analysis of Department of Education and Census Bureau data. Black and Hispanic individuals were also less represented among college faculty than among students, according to GAO's analysis of Education data. For example, in fiscal year 2021, 8 percent of faculty were Black compared to 12 percent of students, and 7 percent of faculty were Hispanic compared to 19 percent of students.

College Faculty and Students by Race and Ethnicity, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Notes: Black refers to Black or African American. Hispanic refers to Hispanic or Latino. An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. The Other category includes individuals such as those that identified as Native American, Pacific Islander, multiple races, or unknown race.

GAO's literature search identified strategies used by colleges to recruit and retain a diverse faculty, given the potential benefits to their students. Colleges have enhanced their job search processes, developed mentoring programs, and improved campus climate to recruit and retain a diverse faculty.

Education refers certain employment discrimination complaints against colleges to the Equal Employment Opportunity Commission (EEOC) for investigation consideration but has been consistently late in doing so. In fiscal year 2022, Education processed and referred to EEOC 99 complaints alleging employment discrimination at colleges based on race, color, national origin, or sex. GAO found that Education referred the complaints in 71 days on average, although Education policy calls for doing so in 30 days. However, Education does not track the timing of these referrals. Without doing so, Education could miss an opportunity to learn from offices that are more timely than others and apply those lessons agency-wide to reduce delays. Individuals with delayed complaints may experience adverse effects, such as continued discrimination or less pay. In fiscal year 2021, EEOC processed 1,342 complaints alleging employment discrimination at colleges based on race, color, religion, sex, national origin, or disability, some of which were referred by Education. However, EEOC does not have a protocol to consistently track and account for the complaint referrals. Recently, one such referral was not initially received by EEOC until the individual who filed the complaint followed up. Without a protocol to ensure that EEOC receives and processes all Education complaint referrals, some may be missed or resolution may be delayed.

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Abbreviations

ADA	Americans with Disabilities Act of 1990, as amended
ARC	Agency Records Center
B&B	Baccalaureate and Beyond Longitudinal Study
BPS	Beginning Postsecondary Students Longitudinal Study
BLS	Bureau of Labor Statistics
CPS	Current Population Survey
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
HBCU	Historically Black Colleges and Universities
HSI	Hispanic-Serving Institutions
IPEDS	Integrated Postsecondary Education Data System
NSF	National Science Foundation
OCR	Office for Civil Rights
STEM	science, technology, engineering, and mathematics
TCCU	Tribally Controlled Colleges and Universities

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March 6, 2024

The Honorable Robert C. “Bobby” Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

The Honorable Frederica S. Wilson
Ranking Member
Subcommittee on Higher Education and Workforce Development
Committee on Education and the Workforce
House of Representatives

While the U.S. population has become more diverse, faculty in higher education institutions may not reflect those same levels of diversity.¹ Over the past few decades, colleges and universities have discussed the need to diversify their faculty. In particular, institutions have tried to increase the share of Black or African American (Black), Hispanic or Latino (Hispanic), and Native American faculty members, all of whom are historically underserved racial and ethnic groups.²

Research suggests that a more diverse faculty may benefit some students’ experiences on campus, including their sense of belonging, retention rates, and persistence, but little is known at a national level about the empirical relationship between faculty diversity and student outcomes.³ Separately, education associations, academic researchers,

¹For purposes of this report, the term diversity means a range of human differences including, but not limited to, race, ethnicity, sex or gender, disability, sexual orientation, and religion. Faculty include full-time and part-time instructional staff at higher education institutions, including 2-year, 4-year, public, non-profit private, and for-profit private institutions. We use the term faculty diversity in this report to mean the extent to which higher education instructional staff reflect a range of human differences. For example, an increase or higher level of faculty diversity refers to a greater level of diversity within a group of faculty for certain aspects of diversity.

²For the purposes of this report, we define historically underserved racial and ethnic groups as those who have historically faced barriers in accessing resources due to location, exclusionary policies or practices, or other factors. Specifically, we use this term to refer collectively to the following racial and ethnic groups: Asian, American Indian or Alaska Native (Native American), Black or African American (Black), Hispanic or Latino of any race (Hispanic), and Native Hawaiian or Other Pacific Islander (Pacific Islander).

³For example, see Hani Mansour, Daniel I. Rees, Bryson M. Rintala, and Nathan N. Wozny, “The Effects of Professor Gender on the Postgraduation Outcomes of Female Students,” *Industrial & Labor Relations Review*, vol. 75, no. 3 (2022): 693-715.

and media reports have highlighted discrimination that faculty in historically underserved racial and ethnic groups reported experiencing at the higher education institutions where they applied for positions or were employed.

You asked us to review faculty diversity and employment discrimination in higher education. This report examines:

- (1) selected aspects of diversity among faculty at higher education institutions and whether such faculty diversity relates to student outcomes,
- (2) efforts by higher education institutions to recruit and retain a diverse faculty, and the role of the Department of Education and the Equal Employment Opportunity Commission (EEOC) related to those efforts, and
- (3) how Education and EEOC process complaints of employment discrimination at higher education institutions.

To describe the composition of instructional faculty by race, ethnicity, and gender at higher education institutions, we analyzed Education's Integrated Postsecondary Education Data System (IPEDS) data from fiscal years 2003 through 2021 (the most recent data available at the time of our review). We compared the composition of instructional faculty to advanced degree holders, professional workers, individuals receiving new doctorates, the civilian labor force, and students. To make these comparisons, we used data from the Census Bureau Equal Employment Opportunity Tabulation, the National Science Foundation Survey of Earned Doctorates, the Bureau of Labor Statistics, and IPEDS.

To identify potential associations between faculty diversity and student outcomes, we conducted a regression analysis using the most recent data available at the time of our review from Education's Beginning Postsecondary Students Longitudinal Study and Baccalaureate and Beyond Longitudinal Study surveys. We found these data sets sufficiently reliable for our purposes of describing the composition of faculty and the relationship between faculty diversity and student outcomes.

In addition, we conducted a literature review of peer-reviewed journal articles from 2005 through 2022. We also reviewed relevant documentation and interviewed four groups of higher education experts,

with two to five experts in each meeting, selected to include administrators, faculty, and researchers.

To identify strategies used by higher education institutions to recruit and retain a diverse faculty, we conducted a literature search of publications from 2017 through 2022. We identified examples of institutional strategies to recruit and retain a diverse faculty, but we did not determine how frequently the strategies are used or evaluate their effectiveness. To examine the role of federal agencies related to such faculty diversity efforts, we reviewed agency documents and interviewed Education and EEOC officials.

To examine how federal agencies process complaints of employment discrimination at higher education institutions, we analyzed data from Education's Office for Civil Rights (OCR) and EEOC.⁴ We analyzed OCR complaint data from fiscal years 2011 through 2022 and EEOC complaint data from fiscal years 2011 through 2021. Each data set was the most recent available at the time of our review. We have concerns with the data fields that EEOC uses to record complaint referrals from other federal agencies, and we discuss these concerns in this report. We concluded that the remaining EEOC data fields and all of the OCR data we analyzed were sufficiently reliable for our purposes of reporting counts of employment discrimination complaints in various categories, such as the complaint's relevant federal statute and resolution.

We also reviewed federal laws and regulations, OCR and EEOC policy documents, and other relevant documents. In addition, we interviewed OCR and EEOC officials. We compared the practices of OCR and EEOC to agency policy, federal standards for internal control, and leading practices for agency collaboration.⁵ Further details about selected methodologies can be found in appendix II.

We conducted this performance audit from November 2021 through March 2024 in accordance with generally accepted government auditing

⁴In addition to Education and EEOC, we reviewed Department of Justice data and documents and interviewed officials. Because Justice has a minimal role in this area—as discussed later in this report—a summary of the information we collected from Justice is in app. I.

⁵For example, GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014), principles 13, 15, 16 & 17; and *Government Performance Management: Leading Practices to Enhance Interagency Collaboration and Address Crosscutting Challenges*, [GAO-23-105520](#) (Washington, D.C.: May 24, 2023).

standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Institutions of Higher Education

There are nearly 6,000 higher education institutions in the United States. These institutions may be public, nonprofit, or for-profit, and offer 2- or 4-year programs.⁶ Some institutions are classified as minority-serving institutions, such as Historically Black Colleges and Universities, Tribally Controlled Colleges and Universities, and Hispanic-Serving Institutions. Faculty hired at higher education institutions may be full-time or part-time; tenured, on the tenure track, or not on the tenure track; and may include professors, researchers, scholars, and lecturers, depending on the school or university.⁷

The process for hiring faculty varies by institution, but generally begins with a position description that includes essential qualifications and desired experience. Next, a search committee oversees the hiring process, including advertising the position, reviewing applications, interviewing candidates, and making job offers. Once hired, a faculty member may eventually apply for promotion to a higher level or apply for tenure if in a tenure-track position.

Federal Statutes Related to Employment Discrimination

Several federal statutes protect employees, including higher education faculty, from employment discrimination. Under federal law, discrimination in an employment setting on the basis of race, color, religion, sex, national origin, disability, age (40 and older), and genetic information is

⁶Our use of the term nonprofit refers to private, nonprofit institutions. Both nonprofit and for-profit schools are privately owned. Nonprofit schools may be owned and operated by independent or religious organizations. Public institutions include state universities and community colleges. Two-year institutions often provide career-oriented programs at the certificate and associate degree levels. Four-year institutions tend to have a broad range of instructional programs at the undergraduate level leading to bachelor's degrees. Many 4-year institutions also offer master's or doctorate programs, and some have a research focus.

⁷Tenure provides certain job protections, including employment that cannot be terminated except under limited circumstances, such as for adequate cause, financial exigencies of an institution, or closure of an academic program. Tenure-track positions are those that ultimately lead to tenure following a probationary period.

generally prohibited.⁸ The federal statutes discussed in this report include:⁹

- Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex (including sexual orientation, gender identity, and pregnancy, childbirth, or related medical conditions), or national origin.
- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in programs or activities that receive federal financial assistance.
- Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (which has been interpreted to include sexual orientation, gender identity, and pregnancy, childbirth, and related conditions) in education programs or activities that receive federal financial assistance.
- The Americans with Disabilities Act of 1990 (ADA), which prohibits discrimination on the basis of disability.¹⁰
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs or activities that receive federal financial assistance.

⁸For our report sections on selected aspects of faculty diversity, its relationship to student outcomes, and institutional and federal agency efforts related to faculty diversity, we use these and other terms to describe demographic groups, not to indicate specific bases under nondiscrimination statutes. In these sections, we use the term gender as one aspect of faculty diversity because that is how the data are reported or because the term is more inclusive. In our report section on Education and EEOC's handling of employment discrimination complaints, we use these terms to describe the bases of employment discrimination complaints. In that section, we use the term sex because that is the basis on which discrimination is prohibited under federal law.

⁹Our review excluded additional federal statutes related to employment discrimination to simplify our discussion of employment discrimination complaints, including the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Genetic Information Nondiscrimination Act of 2008, and the Pregnant Workers Fairness Act. We also did not review state nondiscrimination laws or equal employment procedures at higher education institutions that may be used to address employment discrimination complaints internally.

¹⁰Title I of the ADA specifically applies to employment and Title II of the ADA applies to public services.

Federal Role in Addressing Employment Discrimination at Institutions of Higher Education

Three federal agencies primarily receive individual complaints of employment discrimination in higher education: the Equal Employment Opportunity Commission (EEOC), the Department of Education's Office for Civil Rights (OCR), and the Department of Justice's Civil Rights Division.¹¹ Upon receipt of a complaint, a federal agency may conduct an investigation, and may resolve the complaint through mediation, conciliation, litigation, or dismissal.

Justice's Civil Rights Division handles significantly fewer individual complaints of employment discrimination in higher education compared to EEOC and OCR. Thus, information on Justice's role related to employment discrimination in higher education is in appendix I.

EEOC

EEOC promotes equal opportunity in the workplace and is the primary federal agency responsible for enforcing employment discrimination statutes.¹² EEOC has 53 field offices throughout the country that handle discrimination complaints received by the agency. Once received, the complaints are captured in EEOC's data system and assigned to investigative staff.

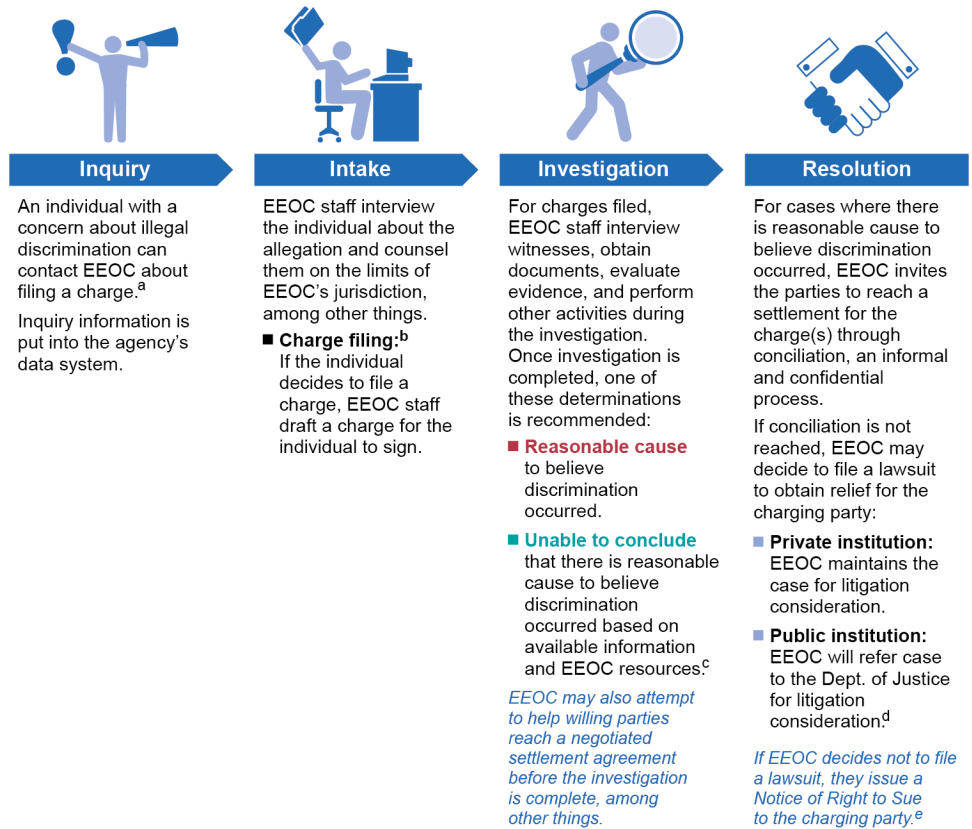
EEOC investigative staff take steps to address employment discrimination complaints, which the agency refers to as charges (see fig. 1).¹³ EEOC files litigation in select cases against employers where it has determined there is reasonable cause to believe an employer engaged in employment discrimination. EEOC also reaches out to employers and the public to educate and prevent discrimination, among other things.

¹¹EEOC, OCR, and Justice also address pattern or practice complaints of employment discrimination, which seek to evaluate whether an institution systematically engaged in discriminatory actions in violation of numerous individuals' civil rights.

¹²EEOC has jurisdiction over most employers with at least 15 employees. 42 U.S.C. §§ 2000e(b), 2000e-4. Our review focuses on EEOC's responsibilities with respect to higher education faculty, including enforcing Title VII of the Civil Rights Act and Title I of the ADA. It excludes EEOC's enforcement of the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Genetic Information Nondiscrimination Act of 2008, and the Pregnant Workers Fairness Act.

¹³We reported in October 2022 on EEOC's investigative process and its efforts to reduce the complaint backlog. See: GAO, *Equal Employment Opportunity Commission: Oversight of the Length of the Charge Intake Process Is Needed*, [GAO-23-106245](#) (Washington, D.C.: Oct. 31, 2022).

Figure 1: General Overview of EEOC's Process for Addressing Employment Discrimination Complaints



Source: GAO analysis of Equal Employment Opportunity Commission (EEOC) procedures; GAO (icons). | GAO-24-105516

Note: This figure provides a general overview of the charge investigation process and does not include every possible path to file a charge or path a charge can take during a charge investigation. For example, in most instances, EEOC offers mediation to the parties to attempt to resolve a charge before a full investigation begins.

^aIn some circumstances, an individual, agency, or organization may file a charge on behalf of another person. In addition, an EEOC Commissioner can file a charge for investigation. See 29 C.F.R. § 1601.11.

^bMost laws enforced by EEOC require individuals to file a charge with EEOC before they can file an employment discrimination lawsuit against their employer.

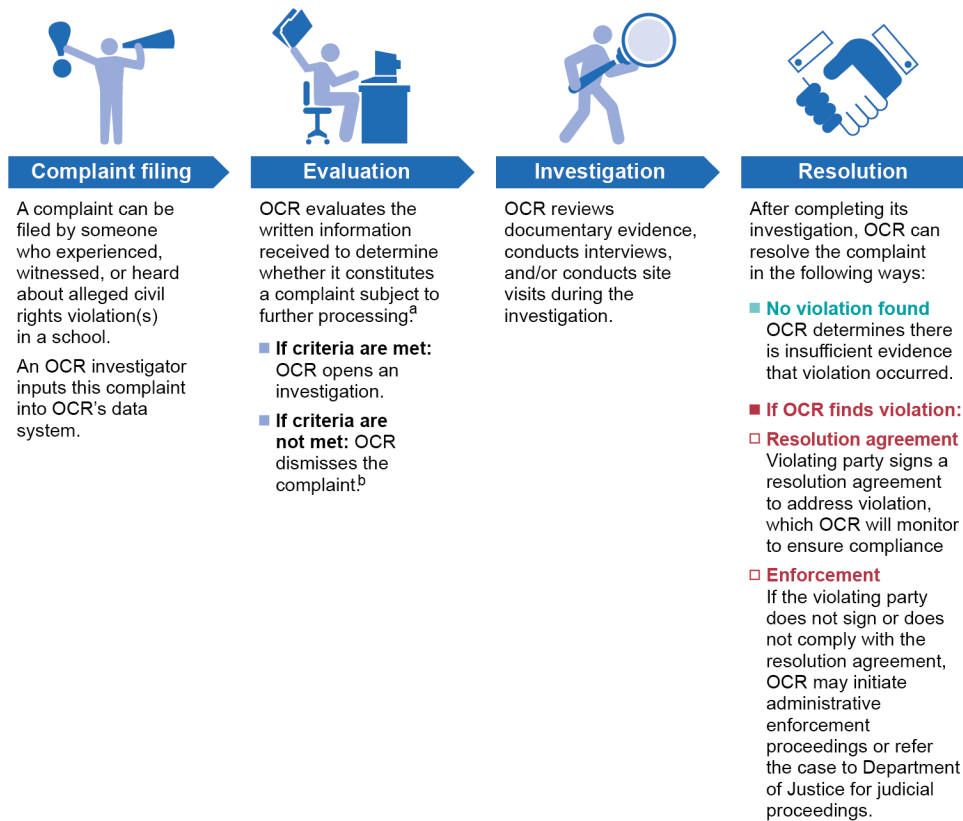
^cIf EEOC is unable to conclude that there is reasonable cause to believe that discrimination occurred, or decides not to proceed further with its investigation, it will issue a Notice of Right to Sue to the charging party, which allows them to file a lawsuit against their employer. In making this determination, EEOC makes no decision regarding the merits of the allegations included in a charge.

^dFor some laws that EEOC enforces other than Title VII of the Civil Rights Act of 1964 or Title I of the Americans with Disabilities Act of 1990, EEOC, itself, has authority to litigate against public entities.

^eIn most cases, an individual alleging illegal discrimination may file a case in court only after the conclusion of EEOC's process.

OCR’s mission is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.¹⁴ OCR routes the discrimination complaints it receives to one of its 12 regional offices and assigns complaints to investigative staff members, according to officials.¹⁵ OCR investigative staff capture information about the complaints in OCR’s data system and take steps to address the complaints (see fig. 2).

Figure 2: General Overview of Education OCR’s Process for Addressing Discrimination Complaints



Source: GAO analysis of Education’s Office for Civil Rights (OCR) procedures; GAO (icons). | GAO-24-105516

¹⁴Our review focuses on OCR’s responsibilities with respect to addressing complaints from higher education faculty, including enforcing Title VI of the Civil Rights Act, Title IX, Title II of the ADA, and Section 504.

¹⁵Education’s OCR may also open its own investigation as a compliance review to assess institutions’ adherence to requirements.

Note: This figure provides a general overview of the complaint investigation process and does not include every possible path a complaint can take during an investigation. A complaint under investigation may be resolved at any time when, prior to the completion of the investigation, the respondent expresses an interest in resolving the complaint and OCR determines that it is appropriate to resolve it because OCR's investigation has identified concerns that can be addressed through a resolution agreement.

^aAmong other criteria, OCR evaluates whether the complaint: (1) falls within OCR's subject matter jurisdiction to investigate, (2) was filed in a timely manner, and (3) includes sufficient detail for OCR to infer that discrimination or retaliation may have occurred.

^bComplaint dismissal could include referral to the Equal Employment Opportunity Commission.

Black and Hispanic Individuals Are Less Represented among Faculty than Other Groups, but Representation Is Increasing and May Contribute Positively to Student Outcomes

Black and Hispanic individuals are less represented among higher education instructional faculty than among advanced degree holders and students, but their representation has increased over time

Black and Hispanic individuals are less represented among higher education instructional faculty than among advanced degree holders and

other comparison groups.¹⁶ We analyzed data from Education’s Integrated Postsecondary Education Data System (IPEDS) to determine the distribution of instructional faculty across racial, ethnic, and gender groups.¹⁷ We compared the IPEDS faculty distribution to:

- (1) The Census Bureau Equal Employment Opportunity (EEO) Tabulation 2014–2018, which estimates the civilian labor force by educational attainment and occupational group;¹⁸
- (2) National Science Foundation (NSF) Survey of Earned Doctorates, which details all individuals receiving new doctorates;¹⁹

¹⁶For our analyses in this section of the report, faculty diversity includes race, ethnicity, and gender. An increase in faculty diversity represents an increase in the number, or proportion, of faculty who are in certain racial and ethnic groups or who are women. We are limiting the definition of faculty diversity in this section because the underlying data sets only include race, ethnicity, and gender of faculty. In IPEDS, an individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. Throughout this section we refer to Non-Hispanic American Indian or Alaska Native as Native American, Non-Hispanic Asian as Asian, Non-Hispanic Black or African American as Black, Non-Hispanic White as White, Non-Hispanic Native Hawaiian or Other Pacific Islander as Pacific Islander, and Hispanic or Latino of any race as Hispanic. These categories are mutually exclusive. Our analysis only includes institutions of higher education that offer 2-year or 4-year degrees. For more details on our methodology, see app. II.

¹⁷In this section, demographic terms, such as race and ethnicity, do not refer to bases under federal nondiscrimination laws. Additionally, the existence of a difference in demographic representation does not establish whether unlawful discrimination has occurred. IPEDS data are generally from fiscal year 2021, which were the most recent available at the time of our review. See app. II for more information on IPEDS dates.

¹⁸The Census Bureau EEO Tabulation 2014–2018 is based on the 5-year American Community Survey, which pools data from calendar years 2014 through 2018 and includes the most recent available data at the time of our review. The Census Bureau EEO Tabulation 2014–2018 defines the civilian labor force as all people aged 16 and above who are either working or actively looking for work. The educational attainment and occupational group data provide comparison groups with characteristics similar to faculty. For more details on these data sets, see app. II.

¹⁹NSF Survey of Earned Doctorates data are from academic year 2021, which were the most recent available at the time of our review. The NSF Survey of Earned Doctorates includes data on Pacific Islander individuals in its “other race or race not reported” category but was otherwise comparable to IPEDS estimates. New doctorates can provide insight into the diversity of future faculty and may also be used to analyze the pipeline that influences faculty diversity—whether the available pool of qualified candidates is more or less diverse than the newly hired faculty.

(3) Bureau of Labor Statistics (BLS) Labor Force Characteristics by Race and Ethnicity, 2021, which estimates the overall national civilian labor force;²⁰ and

(4) IPEDS total student population from fiscal years 2003 through 2021, which details the students whom faculty serve and mentor.

Black and Hispanic individuals were less represented in faculty positions than among working individuals with advanced degrees (i.e., master's, doctorate, and professional degrees) in fiscal year 2018.²¹ Our analysis found statistically significant differences between these groups.²² Specifically, in fiscal year 2018, 7.1 percent of faculty were Black compared to 7.9 percent of advanced degree holders and 6.3 percent of faculty were Hispanic compared to 6.7 percent of advanced degree holders. Asian individuals were also less represented, as 7.2 percent of faculty were Asian compared to 11.6 percent of advanced degree holders.

We also found that Black and Hispanic individuals were less represented among faculty than among professional workers, such as lawyers, scientists, and engineers. Our analysis found statistically significant

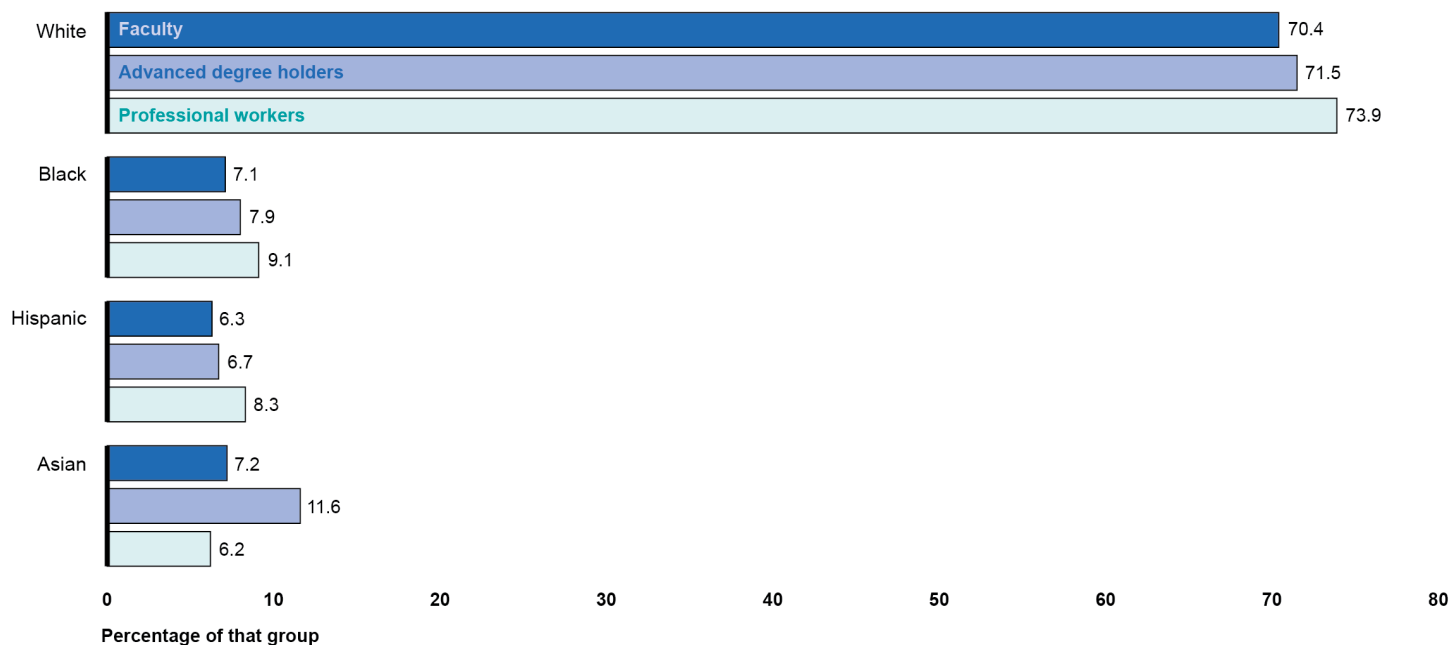
²⁰BLS data are from calendar year 2021, which were the most recent available at the time of our review. The estimates in the BLS report are based on Current Population Survey data which defines the civilian labor force as all people aged 16 and above who are either working or actively looking for work. The civilian labor force includes individuals with and without the qualifications to become higher education faculty, such as advanced degrees, and provides a baseline comparison to the general public, which may highlight the larger pipeline issue that influences faculty diversity.

²¹The Census Bureau EEO Tabulation 2014–2018 includes pooled data from calendar years 2014 through 2018. These were the most recent data available at the time of our review. We compared these data to fiscal year 2018 IPEDS data to provide a similar time frame. More recent IPEDS data—from fiscal year 2021—were available for other comparison groups, and we discuss these later in this report. Advanced degree holders include workers aged 16 and above with a degree beyond a bachelor's degree.

²²The civilian labor force estimates from the Census Bureau EEO Tabulation 2014–2018 on advanced degree holders included in this section have a margin of error, with 90 percent confidence, of less than plus or minus 0.11 percentage points for Black, Hispanic, and Asian individuals and plus or minus 0.72 for White individuals. Since each sample could have provided different estimates, this is the interval that would contain the actual population value for 90 percent of the samples that could have been drawn. Thus, all estimated differences between advanced degree holders and faculty reported in this section are statistically significant with 90 percent confidence.

differences between these groups.²³ Specifically, in fiscal year 2018, 7.1 percent of faculty were Black compared to an estimated 9.1 percent of professional workers, and 6.3 percent of faculty were Hispanic compared to an estimated 8.3 percent of professional workers. In contrast, there was higher representation of Asian individuals among higher education faculty than among professional workers (see fig. 3).²⁴

Figure 3: Percent of Higher Education Faculty and Estimated Percent of Advanced Degree Holders and Professional Workers, by Race and Ethnicity, Fiscal Year 2018



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) and Census Bureau Equal Employment Opportunity (EEO) Tabulation 2014–2018 data. | GAO-24-105516

Note: Data on advanced degree holders (i.e., workers with a master’s degree, doctorate degree, and/or a professional degree) and professional workers (i.e., workers in professional occupations such as lawyers, accountants, scientists, and engineers) are estimates from the Census Bureau EEO Tabulation 2014–2018, which pools data from calendar years 2014 through 2018. These were the most recent data available at the time of GAO’s review. Data on faculty are from fiscal year 2018

²³The civilian labor force estimates from the Census Bureau EEO Tabulation 2014–2018 on professional workers included in this section have a margin of error, with 90 percent confidence, of plus or minus 0.10 percentage points. Since each sample could have provided different estimates, this is the interval that would contain the actual population value for 90 percent of the samples that could have been drawn. Thus, all estimated differences between professional workers and faculty reported in this section are statistically significant with 90 percent confidence.

²⁴The Census Bureau EEO Tabulation 2014–2018 estimated that 6.2 percent of professional workers were Asian. According to IPEDS data, in fiscal year 2018, about 7.2 percent of faculty were Asian.

IPEDS data. GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Native American and Pacific Islander faculty are excluded from this analysis due to the small size of the population of faculty. Individuals that identify as multiple races or unknown race are also excluded from this analysis. For all estimates from the Census Bureau EEO Tabulation 2014–2018 for advanced degree holders and professional workers, the margin of error is calculated with 90 percent confidence. Since each sample could have provided different estimates, this is the interval that would contain the actual population value for 90 percent of the samples that could have been drawn. For all estimates shown, except White advanced degree holders, the margin of error is less than plus or minus 0.11 percentage points. For White advanced degree holders, the margin of error is plus or minus 0.72 percentage points. Thus, all estimated differences between advanced degree holders, professional workers, and faculty reported in this figure are statistically significant with 90 percent confidence.

Similarly, in fiscal year 2021, there was lower Hispanic representation among higher education faculty than among new doctorates and the civilian labor force.²⁵ Specifically, 6.8 percent of faculty were Hispanic compared to 9 percent of new doctorates and an estimated 18 percent of the civilian labor force.²⁶ Further, 7.6 percent of faculty were Black compared to 7.7 percent of new doctorates and an estimated 11.9 percent of the civilian labor force. In addition, there was higher representation of Asian and White individuals among higher education faculty than among the civilian labor force.²⁷ For new doctorates, there was higher representation of White individuals among faculty than among new doctorates and lower representation of Asian individuals among faculty than among new doctorates (see fig. 4).²⁸

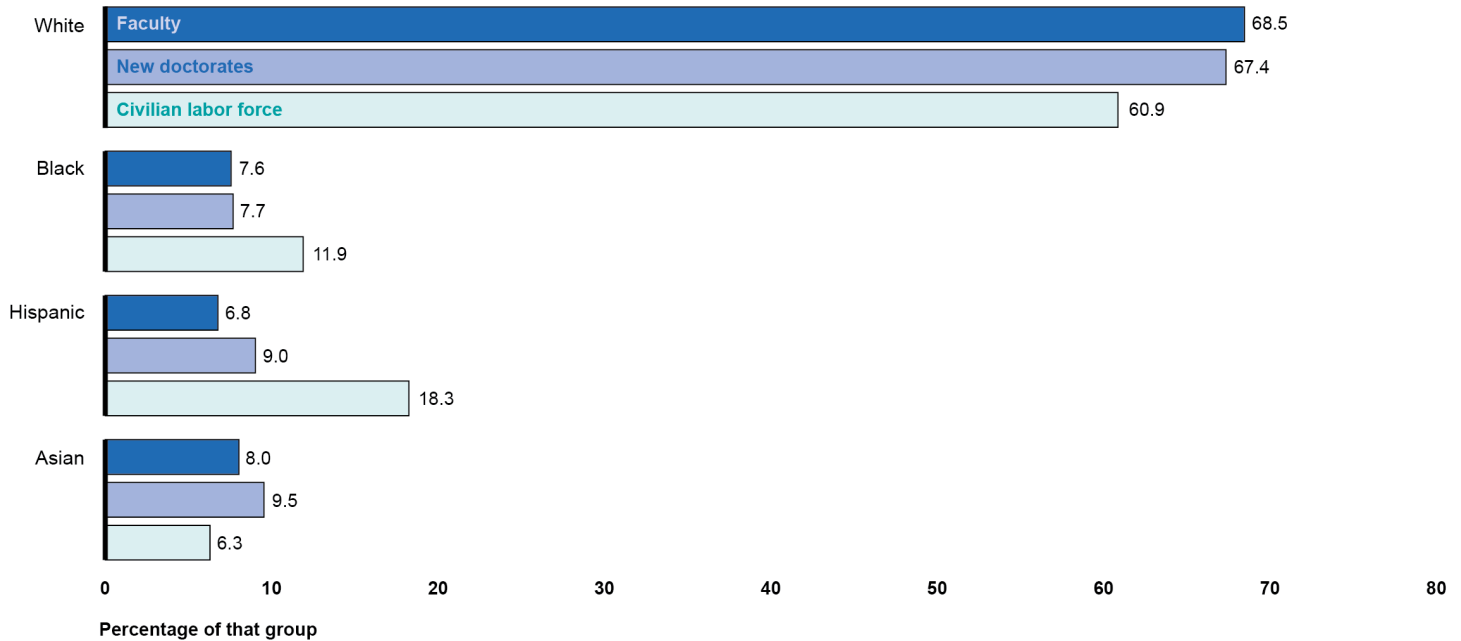
²⁵Throughout this objective, we broadly refer to the IPEDS, NSF, and BLS data as “fiscal year 2021” because their dates overlap that time period (October 1, 2020 through September 30, 2021).

²⁶All the civilian labor force estimates from the BLS report included in this section have a margin of error, with 95 percent confidence, of less than plus or minus 0.25 percentage points. Since each sample could have provided different estimates, this is the interval that would contain the actual population value for 95 percent of the samples that could have been drawn. Thus, all differences between the civilian labor force and faculty reported in this section are statistically significant with 95 percent confidence. New doctorates data are not an estimate based on a sample, but rather population data, so the concept of statistical significance does not apply.

²⁷The 2021 BLS report estimated that 6 percent of the civilian labor force were Asian. According to IPEDS data, in fiscal year 2021, about 8 percent of faculty were Asian.

²⁸According to the 2021 NSF Survey of Earned Doctorates data, about 9.5 percent of new doctorates were Asian. According to IPEDS data, in fiscal year 2021, about 8.0 percent of faculty were Asian.

Figure 4: Percent of Higher Education Faculty and New Doctorates, and Estimated Percent of the Civilian Labor Force, by Race and Ethnicity, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS), National Science Foundation (NSF) Survey of Earned Doctorates, and Bureau of Labor Statistics (BLS) Labor Force Characteristics by Race and Ethnicity, 2021 data. | GAO-24-105516

Note: Faculty data are from IPEDS, new doctorates data are from the NSF Survey of Earned Doctorates, and civilian labor force data are from the BLS Labor Force Characteristics by Race and Ethnicity, 2021 report. The data overlap fiscal year 2021 (IPEDS data are generally from fiscal year 2021, NSF data are from academic year 2021, and BLS data are from calendar year 2021). These were the most recent data available at the time of GAO’s review. GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Native American and Pacific Islander individuals are excluded from this analysis due to the small size of the population of faculty. Individuals that identify as multiple races or unknown race are also excluded from this analysis. The civilian labor force estimates have a margin of error, with 95 percent confidence, of less than plus or minus 0.25 percentage points. Since each sample could have provided different estimates, this is the interval that would contain the actual population value for 95 percent of the samples that could have been drawn. Thus, all estimated differences between the civilian labor force and faculty reported in this figure are statistically significant with 95 percent confidence. New doctorates data are not an estimate based on a sample, but rather reported population data, so the concept of statistical significance does not apply.

These comparisons of faculty to various groups highlight one factor that influences faculty diversity—the pipeline.²⁹ For faculty diversity, the pipeline refers to the available pool of qualified candidates and the possibility that individuals from historically underserved racial and ethnic groups may be underrepresented at earlier points along the pipeline to becoming faculty. The higher education experts we interviewed noted this pipeline issue, which may include questions such as how an individual gets on the pathway to becoming a faculty member, who is encouraged to enter doctoral programs, which institutions prepare students to go into doctoral programs, and who attends those institutions.

Comparing faculty diversity to the diversity of individuals at various points along the pipeline can provide insight on whether the pipeline issue exists. Advanced degree holders have educational backgrounds that are similar to higher education faculty. Thus, advanced degree holders are far along the pipeline to potentially becoming faculty. Professional workers, with their education and work experience, are also far along the faculty pipeline. New doctorates have recently acquired degrees that make them eligible to become higher education faculty, though they may have less work experience. In contrast, the civilian labor force is a broad group—toward the beginning of the pipeline—that can provide a baseline comparison to the general public, not all of whom have had the opportunity to obtain the education necessary to become higher education faculty. We found that Black and Hispanic individuals are generally less represented in faculty positions than in all of these pipeline groups, with representation among the civilian labor force—the beginning pipeline group—being the most different from faculty. This indicates that the diversity of the pool of qualified candidates decreases along the pipeline to becoming faculty. Thus, the pipeline issue exists, as one factor that influences faculty diversity.

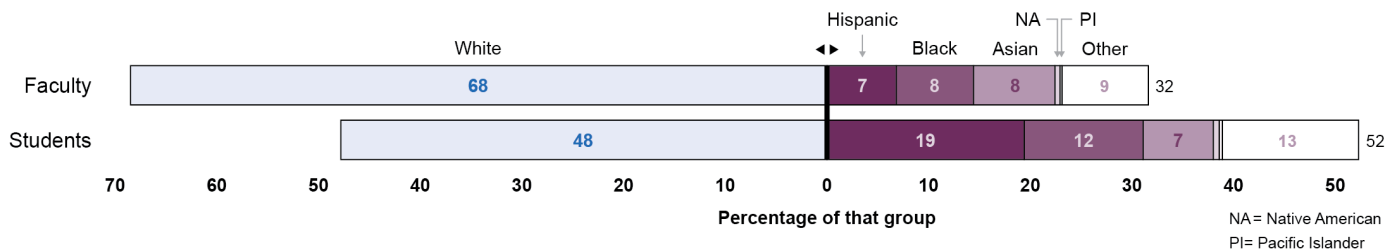
In relation to the students whom faculty serve, in fiscal year 2021, Black representation among faculty (7.6 percent) was lower than among the total student population (11.7 percent), and Hispanic representation among faculty (6.8 percent) was also lower than among students (19.4 percent).³⁰ There was higher representation of Asian and White

²⁹In our interviews with higher education experts, each of the four groups discussed factors that influence faculty diversity. One such factor is the pipeline. Other factors include, for example, recruitment, hiring decisions, promotion, and retention.

³⁰IPEDS data on faculty and students are not estimates based on samples, but rather population data, so the concept of statistical significance does not apply.

individuals among higher education faculty than among the student population (see fig. 5).

Figure 5: Percent of Higher Education Faculty and Students by Race and Ethnicity, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: Faculty and student population data are from IPEDS. IPEDS data are generally from fiscal year 2021, which were the most recent data available at the time of GAO’s review. GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. For IPEDS, the Other category includes individuals such as those that identified as multiple races or unknown race. IPEDS data on faculty and students are not estimates based on samples, but rather population data, so the concept of statistical significance does not apply.

Regarding gender, in fiscal year 2018, women were less represented in faculty positions than among working individuals with advanced degrees and professional workers.³¹ Specifically, women represented about 50.4 percent of faculty, an estimated 50.9 percent of advanced degree holders, and an estimated 57.9 percent of professional workers in fiscal year 2018.³² In fiscal year 2021, women were more represented among higher education faculty than among new doctorates and the civilian labor force. Specifically, in fiscal year 2021, women represented about 52 percent of

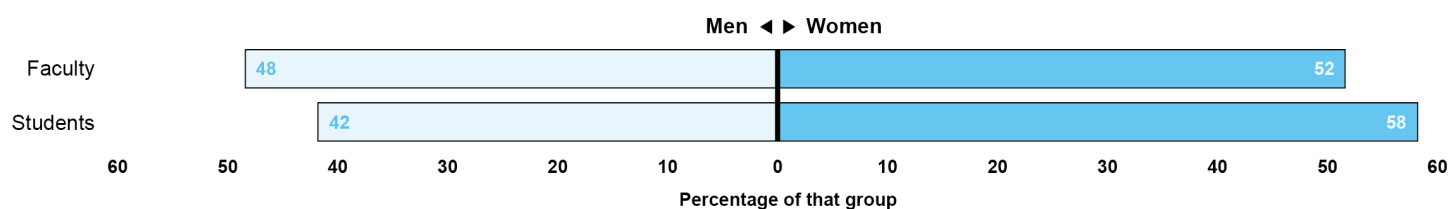
³¹These data are from the Census Bureau EEO Tabulation 2014–2018, which includes pooled data from calendar years 2014 through 2018. We compared these data to fiscal year 2018 IPEDS data to provide a similar time frame. These were the most recent data available for these groups at the time of our review. IPEDS uses binary gender categorization of faculty.

³²The margins of error for women advanced degree holders and professional workers are less than or equal to plus or minus 0.1 percentage points at the 90 percent confidence level.

faculty, 46 percent of new doctorates, and an estimated 47 percent of the civilian labor force.³³

However, women were less represented among higher education faculty than among students in fiscal year 2021 (see fig. 6).

Figure 6: Percent of Higher Education Faculty and Students by Gender, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: IPEDS data are generally from fiscal year 2021, which were the most recent data available at the time of GAO's review.

While Black and Hispanic individuals were generally less represented in faculty positions than in other groups, the proportion of Asian, Black, and Hispanic faculty in higher education increased from fiscal years 2003 through 2021.³⁴ Specifically, the percent of faculty who were Asian increased by about 3.0 percentage points (from 5.1 to 8.0 percent of total faculty), Black faculty increased by about 2.0 percentage points (from 5.6 to 7.6 percent), and Hispanic faculty increased by about 2.3 percentage points (from 4.4 to 6.8 percent).³⁵ The proportion of Native American faculty stayed relatively consistent at about 0.5 percent.

From fiscal years 2003 through 2021, the student population changed at a different rate than faculty. Specifically, the proportions of Asian and Black students increased from fiscal year 2003 to fiscal year 2021 by fewer percentage points than Asian and Black faculty while the proportion of Hispanic students increased at a faster rate than Hispanic faculty. The

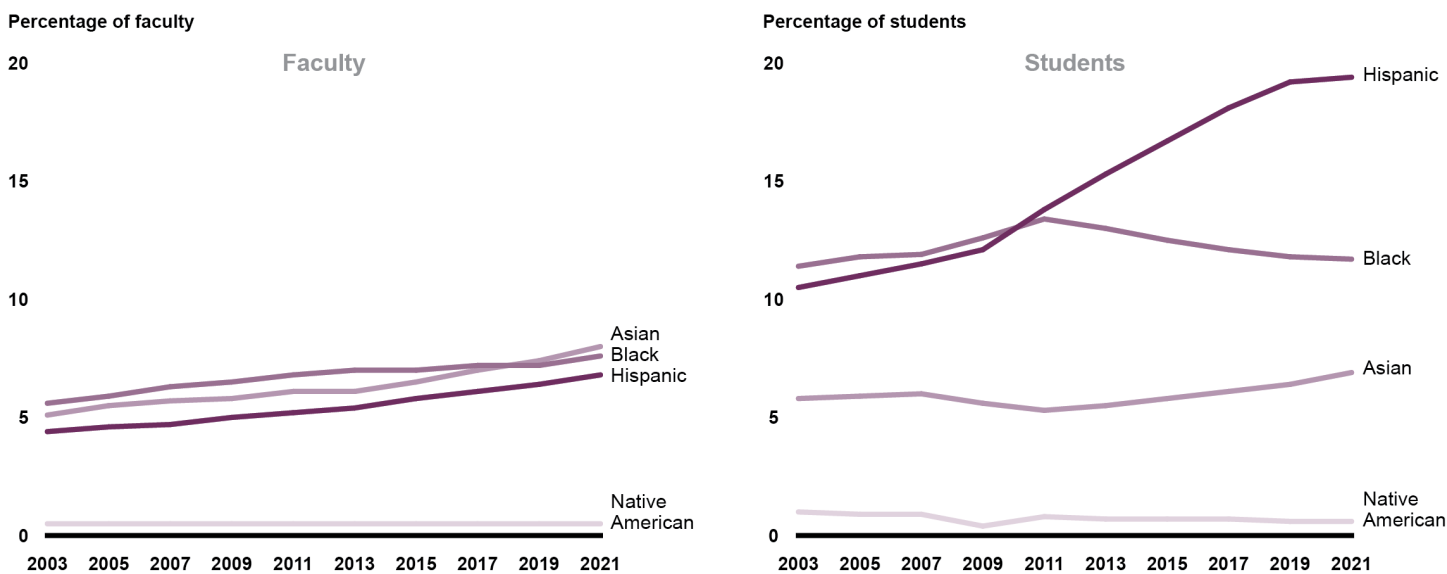
³³All the civilian labor force estimates from the BLS report included in this section have a margin of error less than plus or minus 0.25 percentage points at the 95 percent confidence level.

³⁴From fiscal years 2003 through 2015, Education required schools to report data to IPEDS in odd years and allowed voluntary reporting of information in even years. Since fiscal year 2015, IPEDS data has been collected annually. We analyzed data for years in which schools were required to report to minimize potential bias from voluntary reporting.

³⁵The differences listed here do not match the reported increases because of rounding.

proportion of Native American students decreased from about 1 percent to about 0.6 percent (see fig. 7).

Figure 7: Percent of Higher Education Faculty and Students who Are Asian, Black, Hispanic, and Native American, Fiscal Years 2003 through 2021

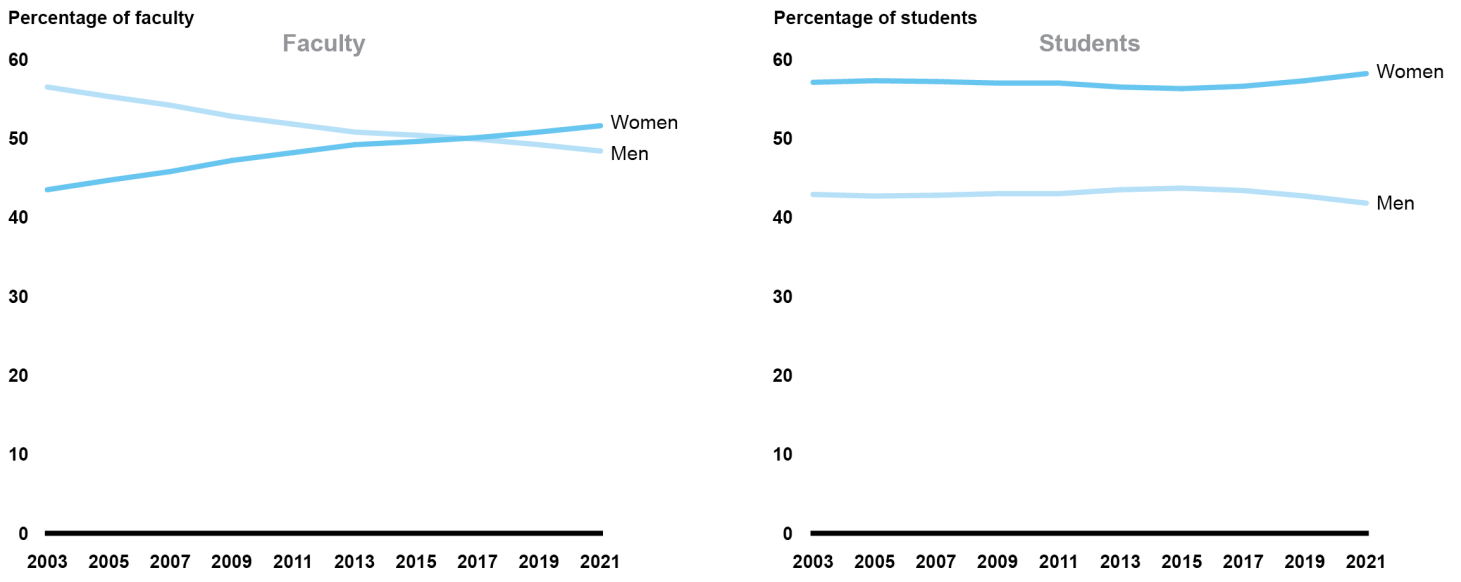


Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: From fiscal years 2003 through 2015, Education required schools to report data to IPEDS in odd years and allowed voluntary reporting of information in even years. Since fiscal year 2015, IPEDS data has been collected annually. GAO analyzed data for years in which schools were required to report to minimize potential bias from voluntary reporting. GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Prior to fiscal year 2012, Pacific Islander faculty were categorized by IPEDs as Asian and are reflected as such in this analysis. IPEDs has since categorized Pacific Islander individuals as a separate group, but due to the small population who are faculty, they are excluded from this analysis from fiscal years 2012 through 2021. White faculty are excluded to allow for the change in other racial groups to be more visible in the figure. Individuals that identify as multiple races or unknown race are also excluded from this analysis.

The proportion of women faculty increased 8.1 percentage points from fiscal years 2003 through 2021, from about 43.5 percent of all faculty to about 51.6 percent. Over this same time period, the proportion of women students increased 1.2 percentage points from about 57.1 to about 58.2 percent (see fig. 8).

Figure 8: Percent of Higher Education Faculty and Students by Gender, Fiscal Years 2003 through 2021



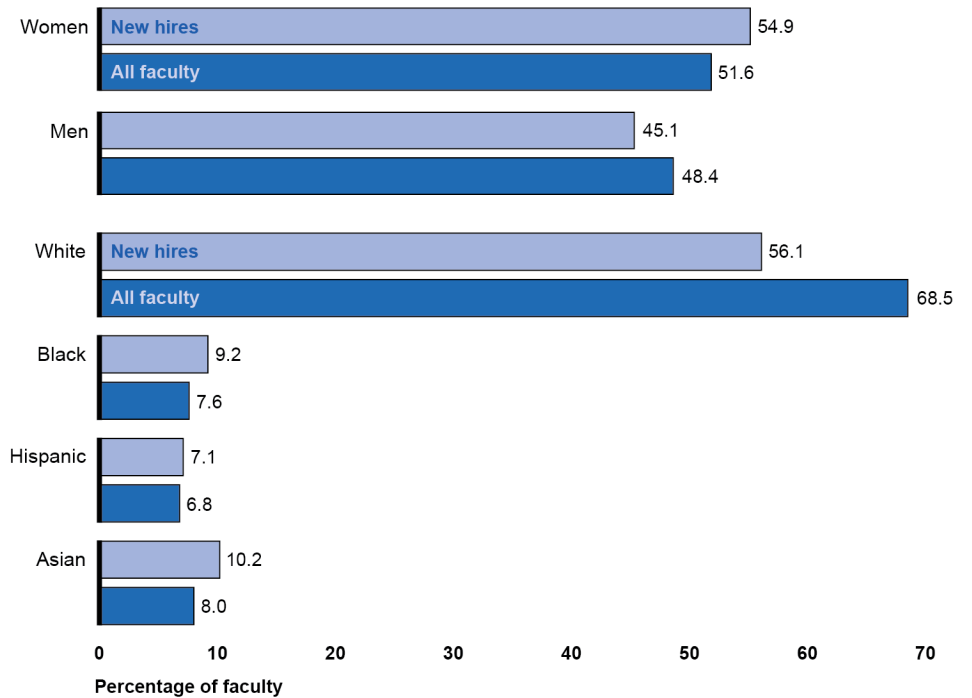
Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: From fiscal years 2003 through 2015, Education required schools to report data to IPEDS in odd years and allowed voluntary reporting of information in even years. Since fiscal year 2015, IPEDS data has been collected annually. GAO analyzed data for years in which schools were required to report to minimize potential bias from voluntary reporting.

We also examined data on newly hired faculty for insights on whether recent increases in faculty diversity are likely to continue.³⁶ For fiscal year 2021, we found higher proportions of Asian, Black, and Hispanic faculty among newly hired faculty than among the overall faculty population. Similarly, women represent a higher proportion of newly hired faculty than men. As such, the above trends toward increased proportions of Asian, Black, Hispanic, and women faculty may continue (see fig. 9).

³⁶Within IPEDS, new hires include the number of persons who were hired either for the first time (new to the institution) or after a break in service, and were on the payroll of the institution as of November 1. IPEDS does not include persons who returned from sabbatical leave nor full-time postsecondary staff who were working less-than-9-month contracts in the newly hired category.

Figure 9: Percent of New Hires and Total Higher Education Faculty by Race, Ethnicity, and Gender, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

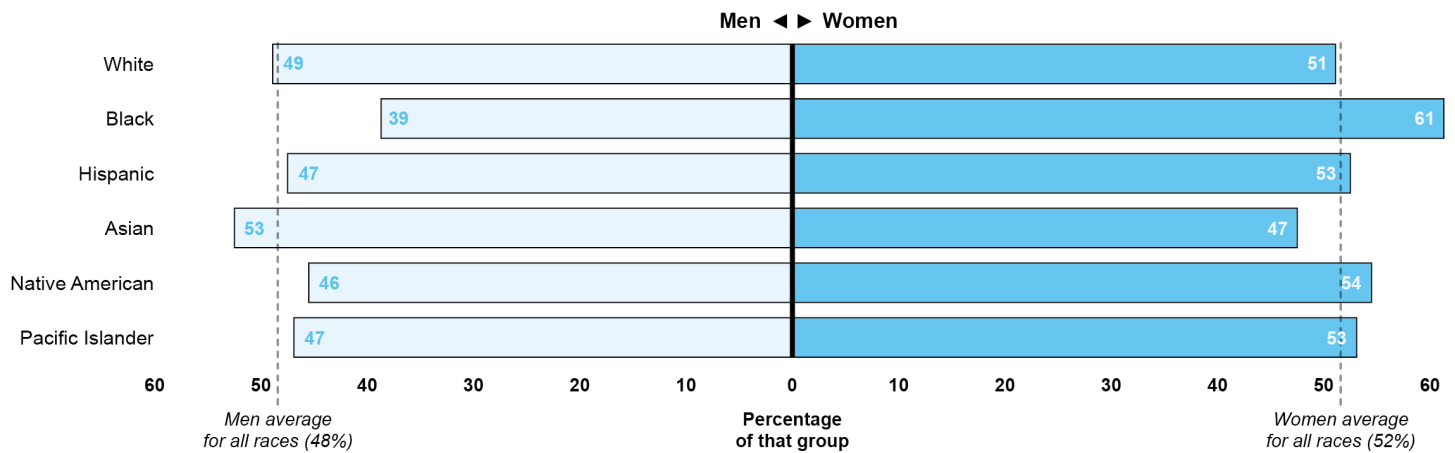
Note: GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Native American and Pacific Islander faculty are excluded from this analysis due to the small size of the population of faculty. Individuals that identify as multiple races or unknown race are also excluded from this analysis. Within IPEDS, new hires include the number of persons who were hired either for the first time (new to the institution) or after a break in service, and were on the payroll of the institution as of November 1. IPEDS does not include persons who returned from sabbatical leave nor full-time postsecondary staff who were working less-than-9-month contracts in the newly hired category.

Looking at the intersection of race, ethnicity, and gender, within each racial and ethnic category of faculty, we found more representation of Black women and less representation of Asian women.³⁷ In fiscal year 2021, women comprised about 52 percent of all faculty. Approximately 61

³⁷These intersectional race, ethnicity, and gender differences may be due, in part, to differences in faculty demographics within academic disciplines, but information on faculty demographic composition by academic discipline was not available in our data set.

percent of Black faculty were women. The only racial or ethnic group where women faculty comprised a lower proportion than men is Asian faculty where about 47 percent were women (see fig. 10).

Figure 10: Percent of Higher Education Faculty, by Race, Ethnicity, and Gender, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Individuals that identify as multiple races or unknown race are excluded from this analysis.

IPEDS contains information on faculty race, ethnicity, and binary gender, but does not include data on other aspects of diversity, such as disability, sexual orientation, non-binary gender, and religion (see text box).

Data Limitations on Other Aspects of Diversity

Other data sets and studies may provide details on aspects of diversity not covered in the Department of Education's Integrated Postsecondary Education Data System (IPEDS). For example:

- **Disability.** The Current Population Survey (CPS) contains disability data and information on employment in the education sector. Researchers could use CPS to estimate faculty diversity; however, those estimates have some limitations because CPS has limited sample sizes for sub-groups such as higher education faculty with disabilities. One study noted that faculty with disabilities are underrepresented among professors and higher education researchers. The study also found that while research about students with disabilities has significantly increased in recent years, empirical research about faculty members with disabilities has not kept pace.
- **Sexual orientation.** While not included in national data sets we analyzed, one study we reviewed discussed the role of LGBTQI+ faculty and staff in creating a more inclusive and safe environment for LGBTQI+ students.^a However, the study did not estimate the number of LGBTQI+ faculty in higher education.

Our analysis suggests limitations of national data sets and existing research on other aspects of diversity, such as disability, sexual orientation, non-binary gender, and religion, making them challenging to assess.

Source: GAO review of IPEDS and CPS documentation; Rachel E. Friedensen et al., "A Systematic Review of Research on Faculty with Disabilities," *The Journal of the Professoriate*, vol. 12, no. 2 (2021): 1-25; and American Federation of Teachers, *Creating a Positive Work Environment for LGBT Faculty: What Higher Education Unions Can Do*, Item 36-11004 (Washington, D.C.: 2013). | GAO-24-105516

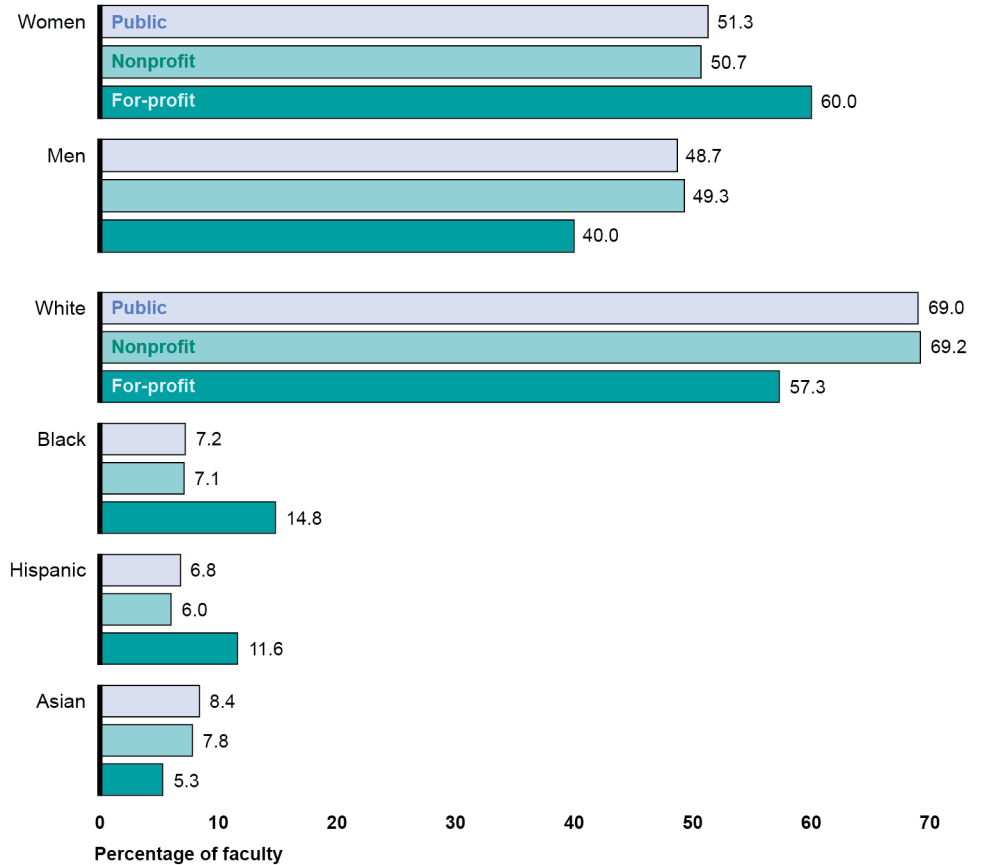
^aWhile a number of variations on this abbreviation are currently in use to describe individuals with diverse sexual orientations and gender identities, in this report, we define LGBTQI+ as lesbian, gay, bisexual, transgender, queer, questioning, or intersex. The "plus" is meant to be inclusive of identities that may not be covered by the abbreviation LGBTQI, including asexual, non-binary, and individuals who identify their sexual orientation or gender identity in other ways.

For-Profit Institutions of Higher Education Have a Higher Proportion of Black, Hispanic, and Women Faculty than Other Institution Types, but also Employ More Part-Time Faculty

Our analysis of fiscal year 2021 IPEDS data found that the distribution of faculty by race and ethnicity differed by type of institution (i.e., public, nonprofit, for-profit), position type, and school location.³⁸ For example, we found that for-profit schools have a higher proportion of Black, Hispanic, and women faculty than either public or nonprofit schools (see fig. 11).

³⁸Both nonprofit and for-profit schools are privately owned.

Figure 11: Percent of Faculty in Public, Nonprofit, and For-Profit Higher Education Institutions, by Race, Ethnicity, and Gender, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Native American and Pacific Islander faculty as well as faculty that identify as multiple races or unknown race are excluded from this analysis due to the small size of the population of faculty.

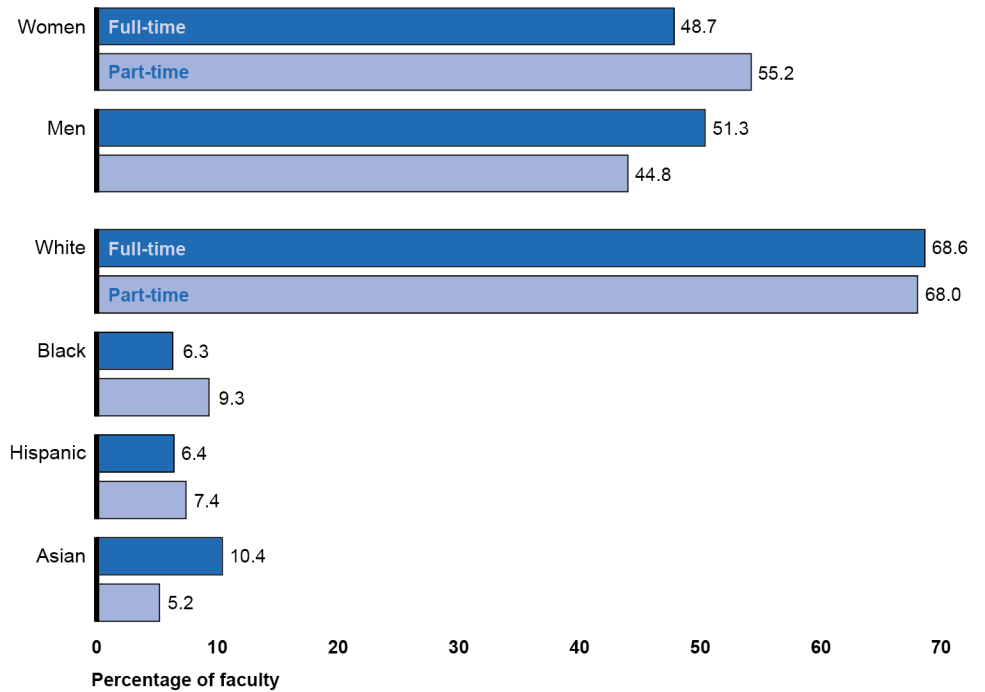
While for-profit schools employed higher proportions of Black, Hispanic, and women faculty, we reported in 2017 that they also employed a higher

percentage of part-time employees than nonprofit and public schools.³⁹ In our current analysis of all schools in fiscal year 2021, we found that Black and Hispanic individuals and women were more represented among part-time faculty and Asian individuals were more represented among full-time faculty (see fig. 12). Similarly, our 2017 report on higher education faculty found that Black and Hispanic faculty were more represented in part-time than in full-time positions. In that report, we also found that part-time positions generally have lower pay and are less likely to have health insurance or retirement benefits.⁴⁰

³⁹Our 2017 report on higher education faculty found that part-time positions made up 80.5 percent of instructional positions at 4-year and 2-year for-profit institutions, combined, compared to 39.8 percent at 4-year public and nonprofit institutions and 67.9 percent at 2-year public and nonprofit institutions, according to fiscal year 2016 IPEDS data. These percentages do not include part-time tenured and tenure-track faculty, who represented less than 1 percent of all instructional faculty at the time. See GAO, *Contingent Workforce: Size, Characteristics, Compensation, and Work Experiences of Adjunct and Other Non-Tenure-Track Faculty*, [GAO-18-49](#) (Washington, D.C.: Oct. 19, 2017).

⁴⁰Our benefits analysis was based on national survey data and administrative data from public institutions in two states; our pay analysis was based on administrative data from public institutions in two states. See [GAO-18-49](#).

Figure 12: Percent of Full-Time and Part-Time Higher Education Faculty by Race, Ethnicity, and Gender, Fiscal Year 2021

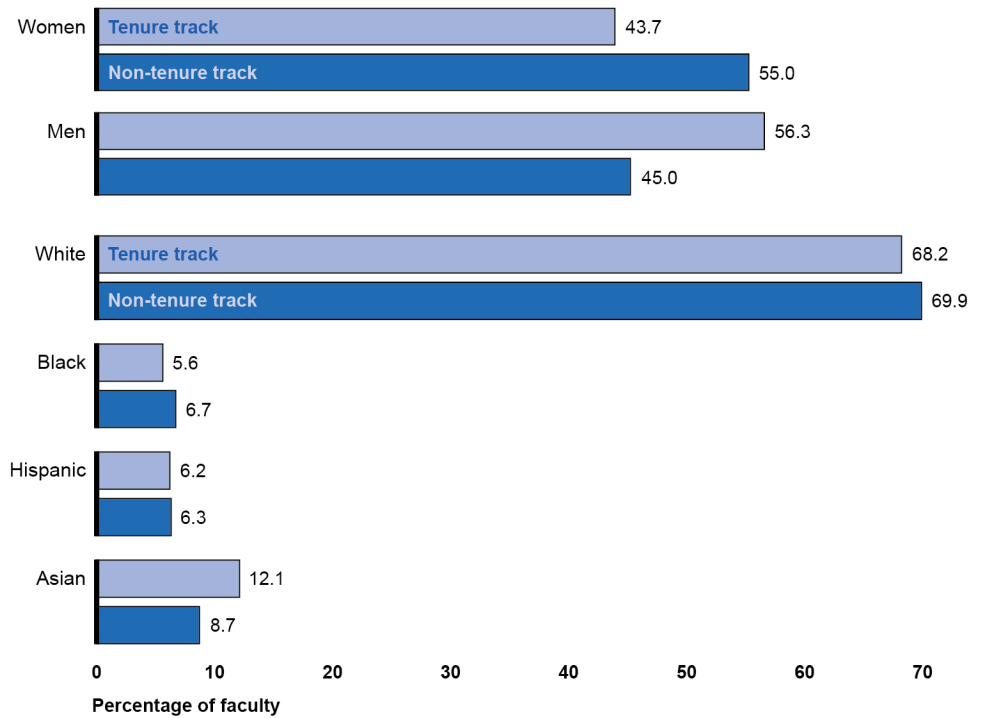


Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Native American and Pacific Islander faculty as well as faculty that identify as multiple races or unknown race are excluded from this analysis due to the small size of the population of faculty.

Similar to the composition of part-time and full-time faculty, Asian faculty were more represented in tenure-track positions than they were in non-tenure track positions in fiscal year 2021. However, there was a lower percentage of Black tenure-track faculty than Black non-tenure track faculty. Additionally, women represented a higher proportion than men of non-tenure track positions, while men represented a higher proportion of tenure-track faculty than women. The percentage was similar for tenure and non-tenure track Hispanic faculty (see fig. 13).

Figure 13: Percent of Higher Education Faculty by Tenure Track, by Race, Ethnicity, and Gender, Fiscal Year 2021



Source: GAO analysis of Integrated Postsecondary Education Data System (IPEDS) data. | GAO-24-105516

Note: GAO used the following categorization of race and ethnic groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Hispanic or Latino (Hispanic), Non-Hispanic White (White), and Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander). An individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. These categories are mutually exclusive. Native American and Pacific Islander faculty as well as faculty that identify as multiple races or unknown race are excluded from this analysis due to the small size of the population of faculty.

Our analysis of IPEDS data found that faculty characteristics differ by the school location and the student population the school serves. Specifically, in fiscal year 2021, schools in urban locations had higher proportions of Asian, Black, and Hispanic faculty, while schools in rural locations had higher proportions of White faculty.⁴¹ For example, higher education faculty in city and suburban (i.e., urban) locations were 65.9 and 69.1

⁴¹We used IPEDS data on school locale to determine whether a school is in an urban or rural location. Specifically, we considered all schools in city or suburban locations as urban and all schools in town or rural locations as rural. See app. II for more details.

percent White, respectively, while higher education faculty in town and rural (i.e., rural) locations were each 78.6 percent White.

We also analyzed the composition of faculty at minority-serving institutions.⁴² We found that about 58 percent of faculty at Historically Black Colleges and Universities were Black in fiscal year 2021. Similarly, we found that about 45 percent of faculty at Tribally Controlled Colleges and Universities were Native American. Further, 17 percent of faculty at Hispanic-Serving Institutions were Hispanic, which is higher than the 7 percent of all higher education faculty who were Hispanic.

National Data Show Inconsistent Relationships between Student Outcomes and Faculty Race, Ethnicity, and Gender, but Smaller-Scale Studies Indicate Positive Relationships May Exist

We found inconsistent results when using national-level data to examine the relationship between faculty diversity and student outcomes, such as graduation, satisfaction with education, and student income after graduation.⁴³ In our analysis, we modeled regressions to examine the relationship between certain student outcomes and the faculty composition of the student's school while the student attended.⁴⁴ We created multiple models to conduct these analyses and controlled for different student and school characteristics.⁴⁵

Across these different models, we found no consistent statistically significant relationship between faculty diversity and student outcomes,

⁴²Minority-serving institutions include Historically Black Colleges and Universities, Tribally Controlled Colleges and Universities, and Hispanic-Serving Institutions.

⁴³To estimate this relationship, we combined student survey data from Education's Beginning Postsecondary Students Longitudinal Study (BPS) and Baccalaureate and Beyond Longitudinal Study (B&B) surveys with the IPEDS data used above to find the instructional faculty composition while the student attended the school. Specifically, the IPEDS data included the number of faculty and the proportion of the total faculty, by race, ethnicity, and gender. For the BPS survey, we used the faculty composition in the first year the student attended the school. For the B&B survey, we used the faculty composition in the last year the student attended the school. We then examined five student outcomes from these data sets: (1) student leaving school within 2 years of entering and without graduating, (2) student graduating, (3) student income after graduation, (4) student satisfaction with education while in school, and (5) student satisfaction with education 10 years after graduation. Further details on our methodology can be found in app. II.

⁴⁴For the composition of faculty, we analyzed both the number of faculty and the proportion of total faculty in each racial, ethnic, or gender group.

⁴⁵See app. II for a detailed description of our models and controls for student and school characteristics.

with many of our estimates finding no such relationship.⁴⁶ Reasons we find few statistically significant relationships may include:

- **Omitted variables.** Many factors can affect student outcomes, such as innate student ability, non-parental or faculty mentorship, student physical and mental health, and finances. While our data set includes a large number of factors for which we can control in our regression models, the data set does not include all factors that could affect student outcomes, which limits our ability to identify a relationship, if one exists.
- **Limited sample size.** Since we are using student survey data, our sample size is limited. Smaller sample sizes can lead to wider confidence intervals that would make identifying a statistically significant relationship more difficult. As a result, we may not have been able to accurately identify the relationship between faculty diversity and student outcomes.
- **Limited data on student-faculty interactions.** National-level data include the faculty composition of the entire school that the student attended. However, the individual faculty members with whom the student interacted while attending the school likely varied from the overall faculty composition. As a result, our estimates may not accurately reflect the relationship between student outcomes and the diversity of the instructors with whom the student interacted while attending.

Additionally, when we found statistically significant relationships between faculty diversity and student outcomes, the results often changed when we adjusted the controls in our regression models. For example, in our analysis of the relationship between faculty diversity and student graduation, we found evidence of a positive relationship between additional Asian faculty and a student graduating from the school. However, when we controlled for certain school characteristics, such as

⁴⁶For these results, we focused on the relationship between composition of all faculty and all students. We also analyzed the intersection of faculty diversity between racial and ethnic groups, and gender groups (e.g., Black women and men) in the regression to see the relationship between student outcomes and faculty race, ethnicity, and gender. We also limited the sample to specific groups of students (e.g., only Black students or only women students) to see the relationship between race-, ethnicity-, or gender-matched faculty and students. In both of these variations, we found similar inconsistent results in our national data.

the school's location, size, or classification group, the statistically significant relationship disappeared.⁴⁷

While our analysis of national-level data showed inconsistent relationships between faculty diversity and student outcomes, some smaller-scale studies suggest a positive relationship may exist, particularly for historically underserved groups.⁴⁸ These studies found that faculty diversity is positively associated with student graduation rates, the likelihood that students enroll in certain courses, overall school performance, and other student outcomes.

All six studies we reviewed on the relationship between faculty diversity and student outcomes found at least one positive relationship with at least one student subgroup.⁴⁹ Specifically, each study found a positive relationship when students of at least one historically underserved racial, ethnic, or gender group were taught by faculty of that same group. For example:

- One study found positive relationships between high-achieving women students having a woman professor for science, technology, engineering, and mathematics (STEM) classes and the probability the student will work in a STEM occupation and receive a STEM master's degree.⁵⁰
- Another study found a positive relationship at the community college level regarding faculty diversity and the gap in student dropout rates and grade performance. Specifically, the gaps fell by 20 to 50 percent between White and an aggregation of Black, Hispanic, Native

⁴⁷In the initial relationship, the faculty variables were likely picking up not only the relationship between the faculty composition and whether the student graduated, but also the relationship between the student's school and the student's likelihood of graduating. For example, a university may have more Asian faculty but also be better at helping its students graduate for reasons beyond its faculty composition. See app. II for more details on the methods and controls used in this analysis.

⁴⁸These studies do not use national level data and were conducted on a smaller scale, such as within one institution or state, or within academic departments. These studies are also quantitatively rigorous, meaning that the studies used an empirical strategy to assess the relationship between faculty diversity and a student outcome, the studies were relevant to the scope of our report, the data sources were reliable, and the statistical methods were rigorous.

⁴⁹See app. II for details on our literature review methodology, including the list of studies that we reviewed.

⁵⁰Mansour, Rees, Rintala, and Wozny, "Effects of Professor Gender," 693-715.

American, and Pacific Islander students when they were taught by a Black, Hispanic, Native American, or Pacific Islander instructor. These results extended to longer-term outcomes, such as course selection, retention, and degree completion.⁵¹

While all six studies we reviewed found positive relationships between faculty diversity and at least one student outcome, each also found at least one neutral and one negative relationship with a different outcome or student subgroup.⁵² For example:

- One study that analyzed the relationship between high-achieving women students and having a woman STEM professor, found a neutral relationship when the sample was expanded from only high-achieving women students to all women students. Specifically, the study found a neutral relationship between women students having a woman STEM professor and taking additional courses, getting a STEM bachelor's degree, and leaving school before graduation.⁵³
- Another study found that while women students' performance in math and science courses was positively related with having a woman instructor, men's performance in math and science courses was negatively related. However, this negative relationship for men students was smaller in magnitude than the positive relationship for women students when student-specific factors were accounted for.⁵⁴

The six studies we reviewed included rigorous data analysis, but some student outcomes are challenging to measure quantitatively. In our interviews with higher education experts, one group of experts said data are limited regarding student outcomes and faculty diversity in higher education. Some of the studies we reviewed also noted that additional qualitative factors may affect student outcomes that cannot be captured quantitatively.

⁵¹Robert W. Fairlie, Florian Hoffmann, and Philip Oreopoulos, "A Community College Instructor Like Me: Race and Ethnicity Interactions in the Classroom," *The American Economic Review*, vol. 104, no. 8 (2014): 2567-2591.

⁵²We are defining neutral results as any result in the studies that was not statistically significant.

⁵³Mansour, Rees, Rintala, and Wozny, "Effects of Professor Gender," 693-715.

⁵⁴Scott E. Carrell, Marianne E. Page, and James E. West, "Sex and Science: How Professor Gender Perpetuates the Gender Gap," *The Quarterly Journal of Economics*, vol. 125, no. 3 (2010): 1101-1144.

Some other publications examine such qualitative factors and describe positive relationships between faculty diversity and student outcomes. For example, one publication stated that faculty diversity can have a positive relationship with a student's sense of belonging.⁵⁵ This aligns with comments from higher education experts we interviewed. One group of experts said students care a lot about faculty diversity, and that being taught by someone who looks like them affects their sense of belonging, and in turn, their academic success. Another group of experts said faculty diversity has more of an influence on student outcomes among historically underserved student populations, which aligns with our review of smaller-scale studies.

Several Strategies Exist to Recruit and Retain a Diverse Faculty in Higher Education, and Education and EEOC Have Related Efforts

Among the 12 publications we reviewed, we found several illustrative examples of strategies that institutions of higher education may implement to recruit and retain a diverse faculty.⁵⁶

Recruitment Strategies

Search committees. A faculty search committee typically is appointed within an institution to oversee recruitment and hiring for a specific opening or multiple vacancies. This committee creates the job posting, identifies a pool of applicants, reviews applications, conducts interviews, and selects final candidates. The publications we reviewed suggest that to promote faculty diversity, search committees could:

- include members with different perspectives and expertise and a demonstrated commitment to diversity;

⁵⁵Jinann Bitar, Gabriel Montague, and Lauren Ilano, Ph.D., *Faculty Diversity and Student Success Go Hand in Hand, So Why are University Faculties So White?* (Washington, D.C.: The Education Trust, 2022).

⁵⁶See app. II for the list of publications we reviewed, which include reports, journal articles, white papers, and university handbooks. We identified illustrative examples of strategies to recruit and retain a diverse faculty, but did not independently evaluate how frequently they are used, or their effectiveness. In this section of the report, the discussion of faculty diversity and demographic groups does not relate to bases under federal law.

Examples of Strategies to Reduce Hiring Bias

- One publication encouraged members of search committees and hiring administrators to take an implicit bias test to become more self-aware of the different kinds of unconscious biases that may influence one's own perceptions when making hiring decisions.
- One institution created a search advocate program to help the search committee reduce the effects of unconscious bias. Search advocates are faculty, staff, or students who are trained as advisors for the search and selection process. Such training includes workshops addressing current research about implicit bias, diversity, and inclusive employment principles, and practical strategies for each stage of the search process.

Source: University of Connecticut, Office of the Provost, Office for Diversity and Inclusion, Faculty Hiring Handbook: Best Practices for Diversity in Faculty Hiring (Mar. 1, 2022) and Oregon State University Search Advocate Program: <https://searchadvocate.oregonstate.edu/about>. | GAO-24-105516

- include members of historically underrepresented groups whenever possible, since a diverse group may be more likely to generate a strong applicant pool; and
- educate committee members on hiring biases, which decision-makers may learn about through training and workshops (see sidebar).

Other recruitment strategies cited in the publications we reviewed include cluster hiring, collaborating with minority-serving institutions, and building partnerships with organizations that specialize in diversity and inclusion efforts for faculty.

- **Cluster hiring** is the process of hiring new employees in groups rather than individually to promote diversity and interdisciplinary collaboration. Cluster hiring may involve hiring faculty into multiple departments or colleges for interdisciplinary “clusters,” such as research areas or specific disciplines. One report suggested that cluster hiring may be used to attract a diverse faculty to campus and create an area of institutional expertise.⁵⁷ For example, from 2014 through 2017, one university hired 65 tenure-track faculty members prior to implementing cluster hiring and 15 percent were from underrepresented groups. After adding cluster hiring, the university recruited 80 new tenure-track faculty members from 2017 through 2019, and 51 percent were from underrepresented groups.⁵⁸
- **Collaborations with minority-serving institutions.** Building relationships with colleagues at these institutions, including forwarding vacancy announcements directly to department heads and asking for nominations, can help institutions connect to a wider pool of potential faculty members, according to one publication.⁵⁹
- **Partnerships with organizations.** The publications we reviewed also suggest establishing partnerships with organizations to enhance institutions' efforts to hire more diverse faculty. For example, the GE Foundation and the Women in Engineering Programs & Advocates Network sponsored an initiative called “Faculty for the Future.” This initiative was designed to increase the number of women and underrepresented minorities in engineering, related sciences, and

⁵⁷Hannah Bartlebaugh and Ansley Abraham, “Now Is the Time to Focus on Faculty Diversity,” *SREB-State Doctoral Scholars Program*, January 2021.

⁵⁸Carla Freeman, “The Case for Cluster Hiring to Diversify Your Faculty.” *The Chronicle Of Higher Education* (2019).

⁵⁹University of Maryland, *Hiring at the University of Maryland: Equity Guidelines for Search and Selection* (September 2020).

business. The literature also highlights networking strategies used by institutions to support their diversity recruitment efforts, such as connecting to international candidates and soliciting prospective applicants from academic associations that focus on women and historically underserved racial and ethnic groups.

Retention Strategies

In addition to enhancing the hiring process, the publications we reviewed included examples of institutional practices to support and retain a diverse faculty, such as:

- **Mentoring.** In the publications we reviewed, this practice is associated with a wide range of positive outcomes, including helping new faculty adjust and helping all faculty with career development and retention. Mentoring relationships may be formal or informal, depending on the individuals' preference. One publication suggested hosting special events—such as a Minority Faculty Welcoming Reception—to help minority faculty identify mentors.⁶⁰
- **Retention studies:** Conducting exit interviews and retention studies was also mentioned in publications we reviewed. One publication noted that tracking retention allows institutions to focus their retention efforts on certain groups.⁶¹ For example, institutions can track how long minority employees stay at the institution compared to their majority counterparts and identify the job positions or departments that have the most difficulty retaining minorities. These efforts may help institutions understand why faculty are leaving and then revisit and revamp recruitment and retention efforts.
- **Leadership opportunities:** One way institutions of higher education can retain a diverse faculty is by offering leadership opportunities, according to the publications we reviewed. Such leadership opportunities include mentoring other faculty or holding a leadership role on an important university committee.
- **Supportive campus climate.** Creating an inclusive and supportive culture on campus and within departments includes establishing accommodating policies that best meet the needs of faculty, according to the publications we reviewed. For example, one publication noted the importance of flexible policies that help faculty

⁶⁰Sue Guenter-Schlesinger and Kunle Ojikutu, *Best Practices: Recruiting and Retaining Faculty and Staff of Color* (Bellingham, Wash.: Western Washington University).

⁶¹Aldemaro Romero, Jr., "Best Practices for Recruiting and Retaining Diverse Faculty for Institutions of Higher Education," Council of Colleges of Arts and Sciences, CCAS Committee on Cultural Diversity, March 10, 2017.

balance their professional and personal responsibilities.⁶² These accommodations allow faculty to have a healthy work-life balance, may be important to historically underrepresented faculty, and may affect their decisions about whether to remain at an institution, according to another publication.⁶³

Agency Efforts

Education and EEOC have undertaken some efforts that could be used to promote and maintain faculty diversity in higher education, according to agency officials and documentation.⁶⁴ Specifically, Education has offered mentoring support and grant opportunities. For example, the Institute of Education Sciences has an early-career mentoring grant program at minority-serving institutions. EEOC has provided several workshops, initiatives, and technical assistance on employment discrimination in general. Though not specific to higher education faculty, these resources could help promote diversity in employment at higher education institutions, according to EEOC officials. See appendix III for additional information on Education and EEOC efforts.

⁶²Columbia University, Office of the Provost. *Guide to Best Practices in Faculty Retention*, November 2018.

⁶³Maria Castañeda et al., "Role of Institutional Climate on Underrepresented Faculty Perceptions and Decision Making in Use of Work-Family Policies," *Family Relations*, 64 (December 2015): 711-725, <https://doi.org/10.1111/fare.12159>.

⁶⁴In addition to the efforts at Education and EEOC, several additional efforts are underway as of September 2023. For example, the White House Initiative on Advancing Education Equity, Excellence, and Economic Opportunity for Hispanics has promoted the importance of increasing the representation of Hispanic doctoral students and diverse faculty through conference presentations, briefings, and outreach to Hispanic-Serving Institutions and other entities. In May 2022, the White House Initiative on Advancing Education Equity, Excellence, and Economic Opportunity for Black Americans hosted a roundtable on Black Brilliance: Supporting Black Faculty in Higher Education. The roundtable focused on campus climate and the recruitment and retention of Black faculty at institutions of higher education.

Federal Agencies Have Handled about 20,000 Employment Discrimination Complaints in Higher Education since 2011, but Had Issues with Referral Timeliness and Tracking

Thousands of Employment Discrimination Complaints in Higher Education Were Filed with Education and EEOC, Although the Vast Majority are Handled by EEOC

From fiscal years 2011 through 2021, about 20,000 complaints alleging employment discrimination at an institution of higher education were filed by faculty or other employees, according to our analysis of complaint data from Education's Office for Civil Rights (OCR) and the Equal Employment Opportunity Commission (EEOC).⁶⁵

⁶⁵In this section, terms such as race refer to bases under federal nondiscrimination law, not demographic characteristics. Our analysis included all employees at higher education institutions—both faculty and other employees—who filed an employment discrimination complaint. We were not able to identify only complaints from higher education faculty because Education and EEOC complaint data do not indicate the title or position of the individual complainant. Education's OCR enforces federal civil rights laws, including Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Title II of the Americans with Disabilities Act of 1990; and Section 504 of the Rehabilitation Act of 1973. EEOC enforces federal civil rights laws related to employment, including Title VII of the Civil Rights Act of 1964 and Title I of the Americans with Disabilities Act of 1990. Our analysis did not include complaints related to the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Genetic Information Nondiscrimination Act of 2008, or the Pregnant Workers Fairness Act, which EEOC also enforces. We also examined the Department of Justice's data related to employment discrimination at institutions of higher education (see app. I).

Federal Agency Terms for Employment Discrimination Complaints

Each agency in GAO's review uses unique terms to describe an allegation of discrimination.

Education's Office for Civil Rights

- **Complaint:** A claim of alleged discrimination, filed by an individual or an organization.

EEOC

- **Inquiry:** An individual's first contact with EEOC to provide information on alleged employment discrimination.
- **Charge:** A signed statement from an individual asserting employment discrimination, requesting EEOC to take remedial action.

In this report, GAO sometimes uses the term "complaints" to refer generally to Education's complaints and EEOC's inquiries and/or charges.

Source: GAO analysis of information from the Department of Education's Office for Civil Rights and the Equal Employment Opportunity Commission (EEOC). | GAO-24-105516

Education's OCR

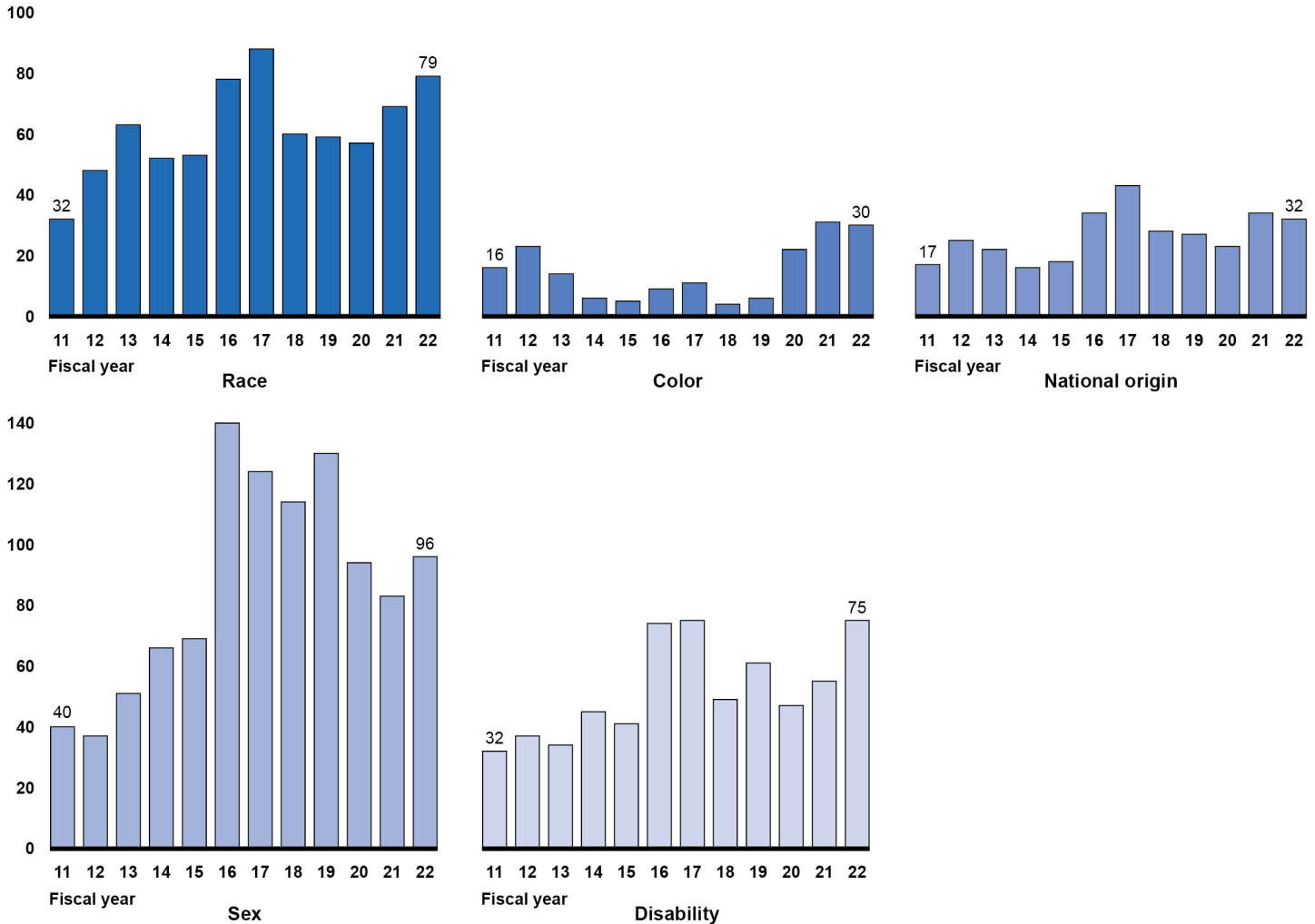
According to our analysis of OCR's discrimination complaint data, the agency received 1,944 total complaints by faculty or other employees that alleged employment discrimination at higher education institutions from fiscal years 2011 through 2022.⁶⁶ Complaints alleging employment discrimination against higher education institutions accounted for about 1.4 percent of all complaints OCR opened in this time frame.⁶⁷ These complaints alleged discrimination based on race, color, national origin, sex, and disability (see fig. 14).

⁶⁶To identify OCR's employment discrimination records involving higher education institutions, we developed criteria in consultation with OCR officials and analyzed OCR data that met these criteria. See app. II for more details.

⁶⁷"All complaints" refers to complaints filed against any type of entity (not just higher education institutions) under all statutes that OCR enforces.

Figure 14: Number of Education’s OCR Employment Discrimination Complaints Alleged against Higher Education Institutions Under Certain Statutes, by Basis of Discrimination, Fiscal Years 2011–2022

Number of OCR employment discrimination complaints alleged against a higher education institution



Source: GAO analysis of Department of Education’s Office for Civil Rights (OCR) data. | GAO-24-105516

Note: GAO’s analysis included complaints filed under Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex (which has been interpreted to include sexual orientation, gender identity, and pregnancy, childbirth, and related conditions); and Title II of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination on the basis of disability. Retaliation for asserting protected rights under Title VI of the Civil Rights Act, Title IX, Title II of the ADA, and Section 504 is also prohibited under statute or implementing regulations, but is not included in this figure for data clarity. GAO’s analysis included all employees at higher education institutions—both faculty and other employees—who filed an employment discrimination complaint with Education. GAO was not able to identify only complaints from higher education faculty because Education complaint data do not indicate the title or position of the individual complainant. A complaint may be filed on more than one

basis (e.g., race and disability status), thus the number of complaints within a fiscal year across bases should not be summed. These data include all relevant complaints that OCR processed, including some that may be dismissed by referring the complaint to the Equal Employment Opportunity Commission.

OCR refers a majority of the employment discrimination complaints it receives to EEOC for investigation consideration.⁶⁸ From fiscal years 2011 through 2022, OCR referred 1,073 complaints alleging employment discrimination at institutions of higher education to EEOC for investigation consideration.⁶⁹ OCR's Case Processing Manual states that within 30 calendar days of receiving certain employment discrimination complaints, OCR will determine whether EEOC may have jurisdiction and if so, refer

⁶⁸Regulations issued by EEOC and the Department of Justice provide the steps required for interagency coordination of complaint processing for complaints of employment discrimination filed against recipients of federal financial assistance on the basis of race, color, religion, sex, or national origin. These steps include OCR determining if it has jurisdiction over an employment discrimination complaint and if the complaint should be referred or transferred to EEOC. In general in this report, we refer to complaints originally filed with OCR but processed by EEOC as "referrals," though depending on jurisdictional determinations, the movement of the complaint from OCR to EEOC could be either a "transfer" or a "referral" to EEOC under the regulations. OCR may also refer complaints of employment discrimination filed against recipients of federal financial assistance on the basis of disability to EEOC if EEOC has jurisdiction for them. Otherwise, OCR refers such disability employment complaints to Justice's Civil Rights Division if OCR does not have jurisdiction.

⁶⁹For our analysis of referrals from OCR to EEOC, we used OCR's field for the date on which OCR closed the complaint. Because we limited the records we analyzed overall to those that OCR opened during fiscal years 2011 through 2022, our analysis may have excluded some complaints that were opened before fiscal year 2011 but closed during fiscal years 2011 through 2022. OCR maintains data on six types of complaint resolutions: (1) Dismissal, (2) Administrative Closure, (3) Early Complaint Resolution, (4) No Violation or Insufficient Evidence, (5) Closure with Change, and (6) Enforcement. In total, OCR resolved 72 percent of employment discrimination complaints closed from fiscal years 2011 through 2022 against a higher education institution via dismissal. Referring a complaint to another federal agency, such as EEOC, is considered a complaint dismissal. OCR resolved 28 percent of employment discrimination complaints it closed with allegations against higher education institutions in fiscal years 2011 through 2022 through methods other than dismissal. For example, these methods could include Closure with Change (reaching a resolution agreement when a violation is found), among others.

the complaint to EEOC, as appropriate.⁷⁰ In addition to referring complaints to EEOC, OCR may also dismiss a complaint if it concurrently is filed in a state or federal court, or if it has been filed too late, among other reasons.

EEOC

Our analysis of EEOC data found that the agency investigated 18,559 charges of employment discrimination against higher education institutions from faculty or other employees from fiscal years 2011 through 2021.⁷¹ These charges alleged employment discrimination under certain statutes based on race, color, religion, sex, national origin, or disability, and account for 2 percent of all charges filed with EEOC during this time frame.⁷² Specifically, EEOC investigated an average of 1,366 charges per fiscal year alleging employment discrimination against higher education institutions based on race, color, national origin, sex, or religion.⁷³ EEOC investigated an average of 535 charges per fiscal year alleging disability-based employment discrimination against higher education institutions (see fig. 15).⁷⁴

⁷⁰The 30-day requirement has been in OCR's Case Processing Manual since at least May 2008. Specifically, within 30 days of receiving an employment discrimination complaint alleging discrimination based on race, color, national origin, or sex against a recipient of federal financial assistance subject to Title VI of the Civil Rights Act or Title IX, OCR must determine whether EEOC may have jurisdiction and, if so, refer the complaint to EEOC. Consistent with OCR's Case Processing Manual, this 30-day requirement applies both to transfers (complaints over which OCR does not have jurisdiction) and referrals (complaints over which both OCR and EEOC may have jurisdiction and for which OCR has not elected to retain the complaint for processing). See also 29 C.F.R. § 1691.5 and 48 Fed. Reg. 3,570, 3,572 (Jan. 25, 1983) (stating in the preamble addressing 29 C.F.R. § 1691.5 that an "agency may refer a joint complaint to EEOC without first consulting EEOC. The rule places a time limit on such referrals, requiring that they occur within thirty days of receipt of the complaint. The addition of this time limit will insure that agencies act promptly on joint complaints.") For complaints filed with OCR alleging employment discrimination on the basis of disability, and categorized by OCR under Title II of the ADA or Section 504, referral to EEOC, when appropriate, must be prompt, but the regulation does not specify a certain number of days. See 28 C.F.R. § 37.6(b) and (c).

⁷¹These charges were based on Title VII of the Civil Rights Act or Title I of the ADA. In fiscal year 2021, EEOC processed 1,342 such charges.

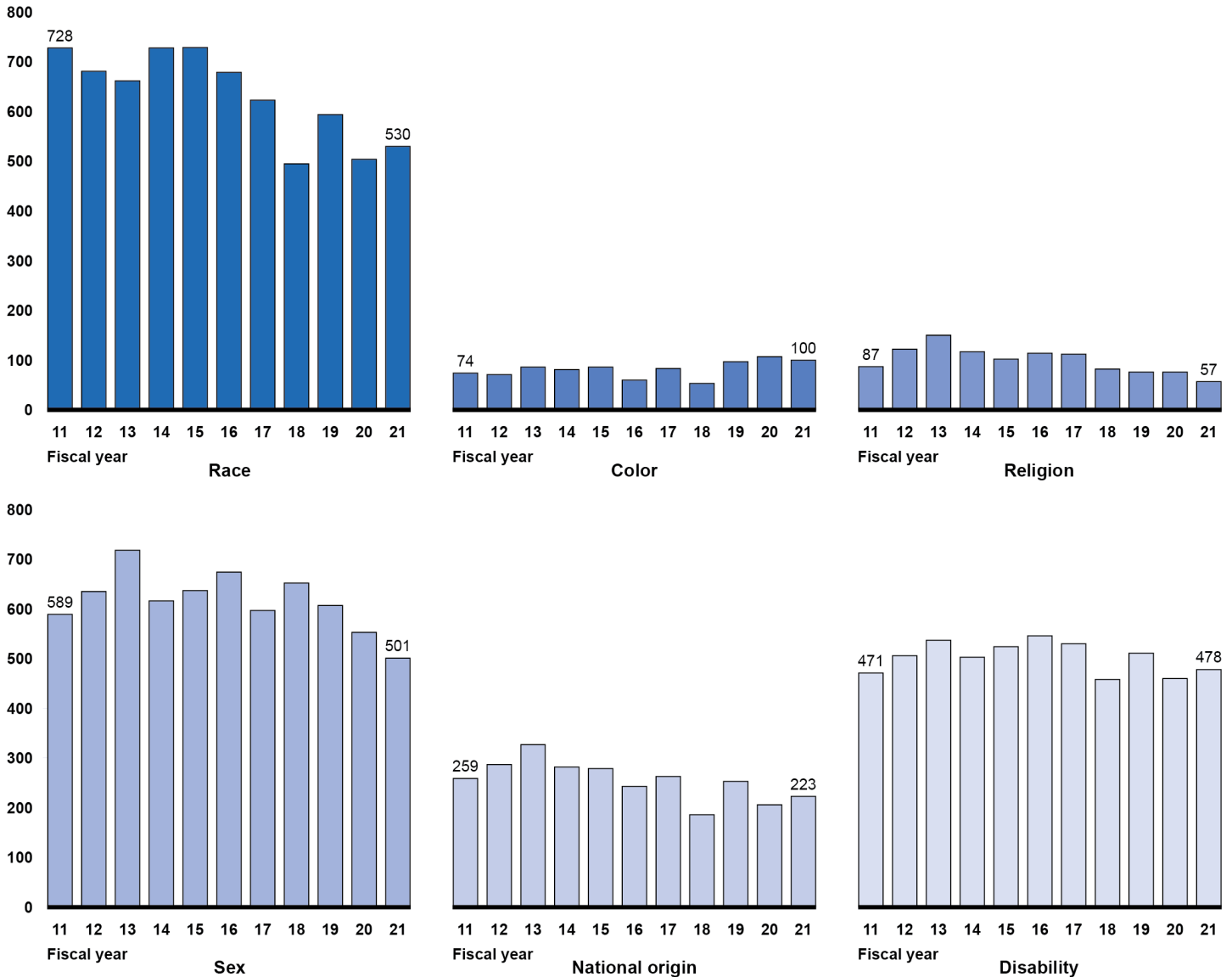
⁷²These charges were filed directly by individuals, were complaints referred from Education's OCR, or were from other sources, such as attorney-drafted charges, an EEOC Commissioner, or other federal agencies that refer complaints to EEOC. "All charges" refers to charges filed against any type of employer (not just higher education institutions) under all statutes that EEOC enforces.

⁷³These represent unique charges under Title VII of the Civil Rights Act, each of which may include multiple bases (e.g., race, sex). See 42 U.S.C. § 2000e-2.

⁷⁴These represent unique charges under Title I of the ADA.

Figure 15: Number of EEOC Discrimination Charges Alleged against Higher Education Institutions Under Certain Statutes, by Basis of Discrimination, Fiscal Years 2011–2021

Number of EEOC charges alleged against a higher education institution



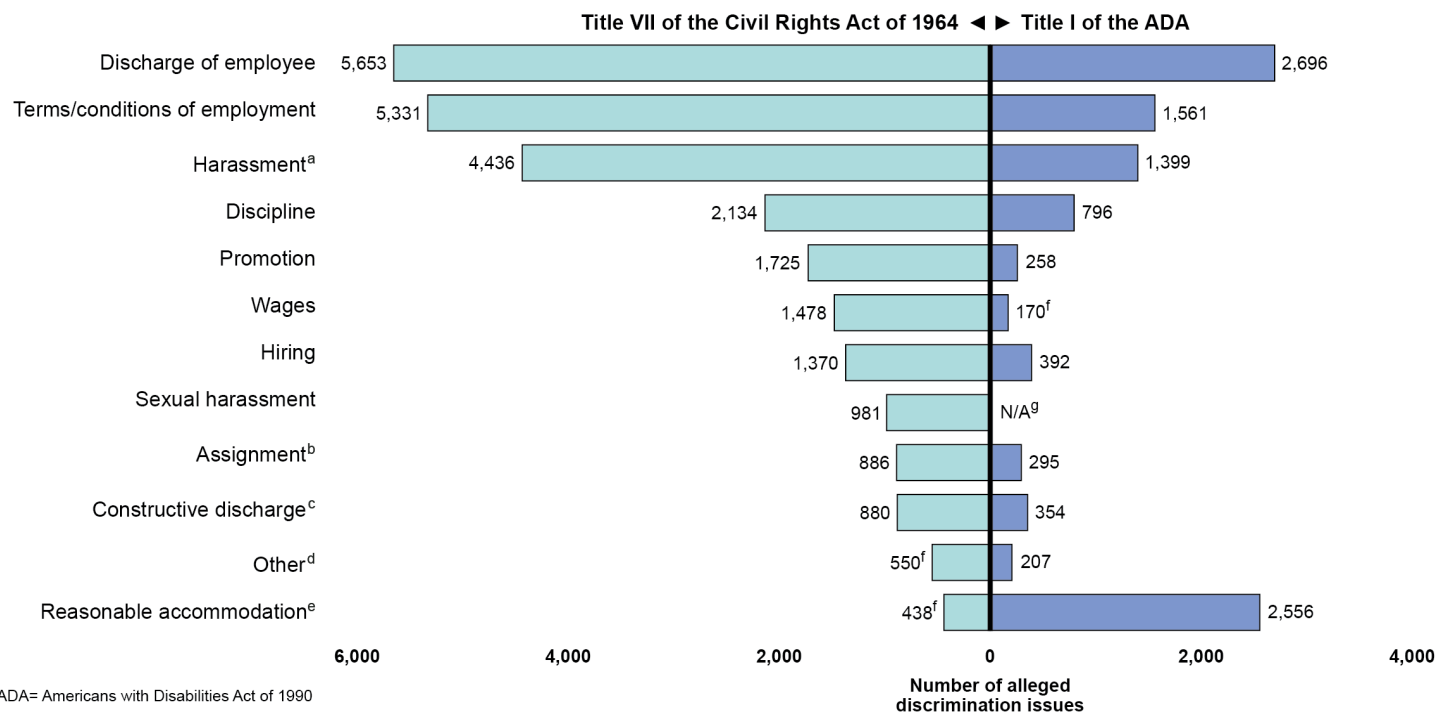
Source: GAO analysis of Equal Employment Opportunity Commission (EEOC) data. | GAO-24-105516

Note: GAO’s analysis included charges filed under Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex (including sexual orientation, gender identity, and pregnancy, childbirth, or related medical conditions), or national origin, and Title I of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination on the basis of disability. Retaliation for asserting protected rights under Title VII of the Civil Rights Act and Title I of the ADA is also prohibited by those laws, but is not included in this figure for data clarity.

GAO's analysis did not include charges filed under other laws that EEOC enforces. GAO's analysis included all employees at higher education institutions—both faculty and other employees—who filed an employment discrimination charge with EEOC. GAO was not able to identify only charges from higher education faculty because EEOC charge data do not indicate the title or position of the individual complainant. This figure does not include EEOC's "Other" basis because there were few charges under this basis. A charge may be filed on more than one basis, thus the number of charges within a fiscal year across bases should not be summed.

Employment discrimination allegations were related to a range of discriminatory practices, including harassment and reasonable accommodations (see fig. 16).

Figure 16: Top Ten Employment Discrimination Issues Alleged in Charges against Higher Education Institutions and Reported to EEOC, for Certain Statutes, Fiscal Years 2011–2021



ADA= Americans with Disabilities Act of 1990

Source: GAO analysis of Equal Employment Opportunity Commission (EEOC) data. | GAO-24-105516

Note: GAO's analysis included charges filed under Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex (including sexual orientation, gender identity, and pregnancy, childbirth, or related medical conditions), or national origin, and Title I of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination on the basis of disability. It did not include charges filed under other laws that EEOC enforces. GAO's analysis included all employees at higher education institutions—both faculty and other employees—who filed an employment discrimination charge with EEOC. GAO was not able to identify only charges from higher education faculty because EEOC charge data do not indicate the title or position of the individual complainant. "Issue" refers to the alleged discriminatory action. A charge may be filed with multiple alleged issues.

^aHarassment, or unwelcome conduct based on an employee's race, color, religion, sex, national origin, or disability becomes unlawful under Title VII of the Civil Rights Act and Title I of the ADA when the unwelcome conduct becomes a condition of employment, or when the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider hostile.

^bUnder Title VII of the Civil Rights Act and Title I of the ADA, assignment refers to an allegation that an employer unlawfully made a job assignment decision based on an employee's race, color, religion, sex, national origin, or disability.

^cConstructive discharge occurs when working conditions become so intolerable that a reasonable person would have felt compelled to resign. If the resignation is directly related to the employer's alleged discriminatory practices, it may constitute a constructive discharge.

^d"Other" refers to an alleged discriminatory action that does not fall under a specified category in EEOC's data system.

^eTitle VII of the Civil Rights Act and Title I of the ADA, respectively, require employers to provide reasonable accommodation for an employee's or prospective employee's religious practices and to qualified individuals with disabilities who are employees or applicants for employment, unless the requested accommodation would cause undue hardship. A reasonable accommodation is any change to the work environment that enables equal employment opportunities to an individual with a disability or the religious practice of an individual.

^fThis issue is not among the top 10 for the relevant statute.

^gThis issue is not applicable to the relevant statute.

A Majority of Education's Employment Discrimination Complaint Referrals Were Late and EEOC Cannot Confirm Whether It Received and Handled All Referrals

Education's OCR

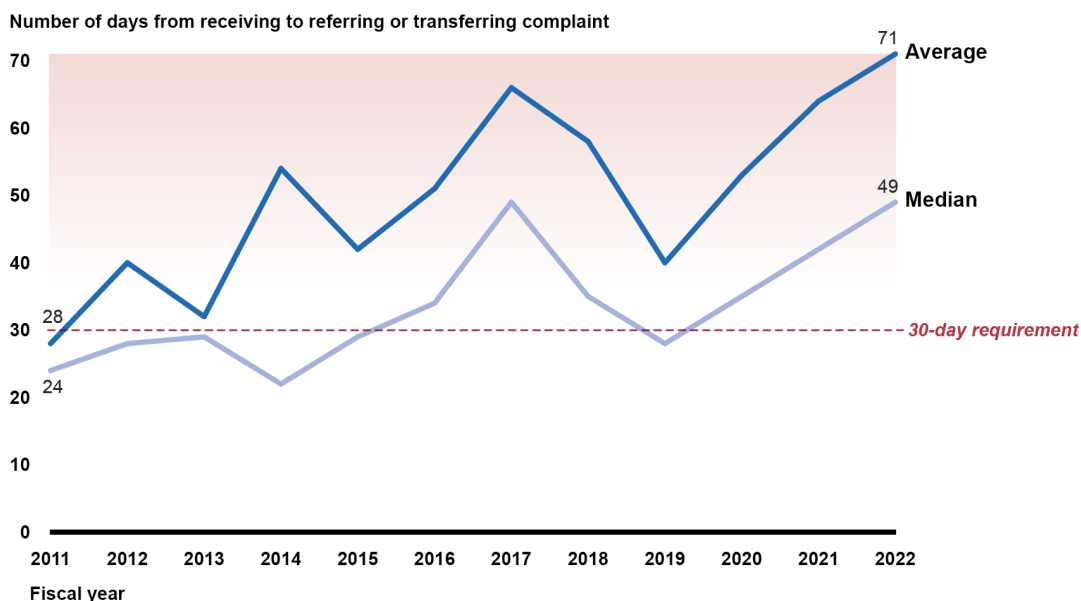
OCR made untimely referrals of employment discrimination complaints to EEOC from fiscal years 2011 through 2022.⁷⁵ As previously noted, OCR must refer certain complaints of employment discrimination to EEOC within 30 calendar days per OCR's Case Processing Manual dating back to at least 2008.⁷⁶ In fiscal year 2022, we found that OCR referred 72 of

⁷⁵According to OCR's data, the office referred an average of 81 complaints against a higher education institution under Title VI of the Civil Rights Act and Title IX to EEOC each year from fiscal years 2011 through 2022.

⁷⁶See 29 C.F.R. § 1691.5(b). The requirement reflected in the Case Processing Manual for OCR to refer complaints to EEOC within 30 calendar days is applicable to those that OCR categorizes under Title VI of the Civil Rights Act and Title IX. Complaints of employment discrimination that OCR categorizes under Title II of the ADA or Section 504 do not have a comparable referral deadline.

99 such complaints after the 30-day deadline.⁷⁷ The percentage of OCR’s complaints referred to EEOC after 30 days has increased from 40 percent in fiscal year 2011 (17 of 42) to 73 percent in fiscal year 2022 (72 of 99), according to our analysis. In fiscal year 2022, we found that OCR took an average of 71 days to refer complaints to EEOC (see fig. 17).

Figure 17: Average Number of Days for Education’s OCR to Refer Certain Higher Education Employment Discrimination Complaints to EEOC, Fiscal Years 2011–2022



Source: GAO analysis of Department of Education’s Office for Civil Rights (OCR) data on Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. | GAO-24-105516

Note: The data in this figure only include employment discrimination complaints OCR categorized under Title VI of the Civil Rights Act or Title IX, which have an OCR policy requirement to be referred or transferred to the Equal Employment Opportunity Commission (EEOC), if applicable, within 30 days. Complaints of employment discrimination that OCR categorizes under Title II of the Americans with Disabilities Act of 1990 or Section 504 of the Rehabilitation Act of 1973, and refers or transfers to EEOC, do not have a comparable referral or transfer deadline. For GAO’s analysis of referrals and transfers from OCR to EEOC, GAO used OCR’s field for the date on which OCR closed the complaint. Because GAO limited the records analyzed overall to those that OCR opened during fiscal years 2011 through 2022, GAO’s analysis may have excluded some complaints that were opened before fiscal year 2011 but closed during fiscal years 2011 through 2022.

⁷⁷For our analysis of referrals from OCR to EEOC in this report section, we used OCR’s field for the date on which OCR closed the complaint. Because we limited the records we analyzed overall to those that OCR opened during fiscal years 2011 through 2022, our analysis may have excluded some complaints that were opened before fiscal year 2011 but closed during fiscal years 2011 through 2022.

In creating the 30-day requirement, one consideration was protecting the rights of complainants. OCR and EEOC officials acknowledged that some OCR referrals have been untimely and that referral delays could delay complaint investigations and negatively affect individuals filing an employment discrimination complaint. These delays also could make the complaints more challenging for EEOC to investigate.⁷⁸ Additionally, EEOC officials said that, if EEOC receives a complaint from OCR after the filing deadline and it does not include the requisite information to constitute an EEOC charge, the complaint would typically be considered untimely. The potential charging party may still proceed with filing an EEOC charge, but in most instances, EEOC would dismiss the charge as untimely, according to EEOC officials.⁷⁹

While individuals would not necessarily lose their ability to have their complaint addressed if OCR failed to refer a complaint to EEOC within 30 days, timely referral by OCR protects complainants' rights. Further, an individual who waits longer for a complaint to be resolved and remains employed at the institution could have additional exposure to discriminatory behavior. Some research suggests that exposure to discrimination may be associated with negative effects on faculty members' physical and mental health.⁸⁰ In addition, while waiting for

⁷⁸While OCR officials acknowledged the possibility that referral delays can affect individuals and can make complaints more challenging for EEOC to investigate, they also reported that they have no information to confirm that this has happened.

⁷⁹Although OCR's delays in referring employment discrimination complaints to EEOC could potentially extend the time taken to resolve complaints, the delays may not prevent individuals from having their complaint addressed. Individuals seeking to report an employment discrimination complaint with EEOC typically must file a complaint within 180 days (or 300 days, if within a state or local jurisdiction that also enforces employment discrimination laws) of when the alleged discrimination took place. The statutory time limits to file a complaint may be extended by EEOC if the individual filed a charge with an entity that lacks authority to address it. Thus, if EEOC were to receive a referred complaint from OCR after the 180-day filing period, the agency could extend the filing period for the individual because they initially filed with the wrong agency. EEOC officials said this extension would apply to complaints referred from OCR that contain all the information to constitute a charge, such as identification of charging party and respondent, and description of a covered matter that could be employment discrimination, among other criteria. According to EEOC officials, if all the information to constitute a charge is not present, the complaint is referred to EEOC after the filing deadline, and neither agency received sufficient and timely information to constitute an EEOC charge, an extension typically would not be an option.

⁸⁰See, for example: Ruth Enid Zambrana, R. Burciaga Valdez, Chavella T. Pittman, Todd Bartko, Lynn Weber, and Deborah Parra-Medina, "Workplace stress and discrimination effects on the physical and depressive symptoms of underrepresented minority faculty," *Stress and Health* 37 (2021): 175-185.

complaints to be addressed, individuals who filed complaints related to hiring or promotion could have less income and employers may incur ongoing staff costs and legal fees.

Officials said that while they aim to meet the requirement and process complaints in a timely manner, the requirement was developed many years ago and does not account for the office's current operational constraints. The officials also said the overall number of complaints OCR receives has increased over time and the office's reduced staffing levels prevent it from consistently meeting the requirement. Specifically, OCR officials said evaluating employment discrimination complaints within 30 days, including gathering sufficient details to determine jurisdiction, presents a significant challenge. Yet, even in the current environment, we found that 27 percent (27 of 99) of complaints in fiscal year 2022 were referred to EEOC within the required 30 days. Education could assess and learn from these instances of timely complaint processing to reduce delays for other complaints.

However, OCR does not track the extent to which its regional offices are meeting the 30-day referral requirement and has no plans to do so. OCR officials also said that the agency does not have a specific plan to address untimely referrals. Federal internal control standards state that entities should use quality information to achieve objectives and should establish monitoring activities to evaluate results.⁸¹ This would include tracking, collecting, and evaluating information on the extent to which regional offices meet its 30-day requirement to refer certain complaints to EEOC, and how the process could be improved.

Officials said they assess the referral process periodically as part of OCR's reviews of its overall complaint processing time frames, but this does not include a specific review of the time it takes to refer employment discrimination complaints to EEOC. OCR officials said that to track its referrals to EEOC, they could modify their data system to track the complaint receipt date and the referral date. Officials said this would not be challenging to do, and logging these dates could help ensure that referrals of complaints to EEOC are timely.

Without tracking the timeliness of these referrals, OCR could miss an opportunity to learn from regional offices that are more timely than others and apply those lessons agency-wide. Tracking the timeliness of referrals

⁸¹[GAO-14-704G](#), principles 13 & 16.

may also highlight opportunities for OCR to reallocate its limited resources. By taking steps to address untimely referrals, OCR could reduce the time that individuals wait for a resolution to their discrimination allegations, and lessen negative effects on both faculty members and employers.

EEOC

EEOC could not confirm that it received all of OCR's referred employment discrimination complaints, as of October 2023.⁸² Our analysis of EEOC and OCR complaint data found that EEOC's records did not reflect the same number of employment discrimination complaints that OCR's records indicated were referred. Specifically, according to EEOC officials, EEOC's data from fiscal years 2017 through 2021 showed 50 complaint referrals from OCR related to employment discrimination at higher education institutions.⁸³ During this same period, OCR's complaint data showed that it made 521 such referrals to EEOC.⁸⁴

EEOC officials told us that the data fields used to document complaints referred by other federal agencies should have been reliable beginning in May 2016. At that time, EEOC issued a memo directing its staff to record in its data system all complaints referred from another federal agency, including the specific agency from which the referral came. The memo was in response to past inconsistencies with documenting federal agency complaint referrals.⁸⁵ The memo stated the importance of consistently recording agency referrals for the purpose of timeliness in the complaint filing process. However, the data system's design did not require the relevant field to be completed.

⁸²In addition to complaint referrals from OCR, EEOC may also receive complaint referrals from other federal entities.

⁸³The complaint analysis in this section is limited to those OCR categorized under Title VI of the Civil Rights Act and/or Title IX, and referred to EEOC for consideration under Title VII of the Civil Rights Act.

⁸⁴For our analysis of referrals from OCR to EEOC in this report section, we used OCR's field for the date on which OCR closed the complaint. After receiving our draft report for comment, in February 2024, EEOC officials gave us additional information on the agency's referral data, which is discussed in further detail in the Agency Comments and Our Evaluation section of this report. Due to time constraints, we were not able to verify this information, so we did not include it in this report section.

⁸⁵According to EEOC's May 2016 memo, there was a disparity between the number of charges reportedly referred to EEOC by the Department of Labor's Office of Federal Contract Compliance Programs, and the number of referrals recorded in its data system.

In January 2022, EEOC launched a new data system and in this system, the fields related to federal agency referrals are required to be completed.⁸⁶ However, our analysis of complaint referral data in EEOC's new system from March 2022 through September 2022 found continued inconsistencies between EEOC and OCR's documentation of employment discrimination complaint referrals.⁸⁷ Specifically, OCR's records showed that during this time the agency referred 114 complaints to EEOC related to employment discrimination at higher education institutions, but EEOC's records indicated that it received eight such complaints from OCR.⁸⁸

We are also aware of one recent complaint referred by OCR that EEOC did not initially record. OCR officials told us one of its regional offices emailed a complaint to an EEOC field office in November 2022, but it was not received by EEOC. This error was discovered months later when the complainant was told by EEOC that the complaint had never been received. In February 2023, OCR verified it had used the correct EEOC field office email address and re-sent the complaint for processing.

In response to this incident, OCR officials told us that in February 2023, the EEOC field office agreed going forward to confirm receipt of a complaint referral by sending an email back to OCR with an EEOC case number. However, the practice of confirming receipt of referrals is not

⁸⁶EEOC housed its inquiry and charge data in its Integrated Mission System through December 2021. In January 2022, EEOC began using a new data system, called the Agency Records Center (ARC). At the time we originally requested EEOC's data, EEOC was completing its data aggregation and validation processes for its new data system and could not provide reliable inquiry and charge data for fiscal year 2022. Subsequently, we requested a subset of this ARC data related to complaint referrals from OCR for February through September 2022. We assessed the reliability of those specific ARC fields and found they were reliable for March through September 2022 for determining the number of cases EEOC recorded as referred from OCR to EEOC during that time period. We found concerns with whether the number of inquiries and charges EEOC recorded in ARC accurately reflects the number EEOC received from other federal agencies, and we discuss these in this report section.

⁸⁷EEOC provided us with summary counts for March through September 2022 for complaints related to higher education institutions. These counts were based on data in EEOC's new ARC data system.

⁸⁸For OCR, this analysis is limited to complaints OCR categorized under Title VI of the Civil Rights Act and/or Title IX, and referred to EEOC for consideration under Title VII of the Civil Rights Act. For EEOC, the agency's data indicated that it received eight complaints from OCR that were filed as charges under Title VII of the Civil Rights Act. EEOC's data also indicated that it received an additional eight complaints from OCR that were not filed as charges and therefore were not associated with a particular statute, therefore the actual total could be as many as 16 complaint referrals.

consistent across EEOC field offices. EEOC officials told us that communication about complaint referrals generally takes place at the local level, and individual OCR and EEOC field offices have working relationships to determine how best to transmit complaints from OCR to EEOC on an office-by-office basis.

It is unclear whether the inconsistencies in EEOC's data on the number of complaints referred by OCR indicate missed records, or whether complaint referrals were received by EEOC but were not recorded as such in the EEOC data system. EEOC officials said it is possible that the inconsistent referral numbers between its office and OCR could be due to a complainant simultaneously submitting complaints to both agencies. If this is the case, OCR's referred complaint would already be in the EEOC system and EEOC would not add it again as a referral.⁸⁹

In June 2023, we told EEOC officials about our preliminary findings of discrepancies between EEOC's new data system's records and OCR records of complaint referrals from March through September 2022. EEOC officials said they could not explain this discrepancy without seeing a list from OCR of the specific records. At that time, EEOC had not requested that OCR provide such a list. In addition, EEOC officials had previously told us it is not necessary to communicate regularly with federal agencies that refer complaints to EEOC to discuss timeliness or receipt confirmation.⁹⁰

After receiving our preliminary findings in writing, EEOC officials contacted OCR officials to arrange a meeting to discuss the discrepancies we identified. EEOC and OCR officials met in September 2023. Following that meeting, OCR provided EEOC a list of its complaint referrals. As of October 2023, EEOC was reviewing the list to determine

⁸⁹EEOC officials said that the agency does not have a separate tracking mechanism to record when agency referrals are received after an individual has contacted EEOC directly.

⁹⁰Officials from EEOC also told us they held several meetings with OCR that occurred between September 2022 and April 2023. These meetings were related to changing the wording on the notification form that OCR provides to complainants after referring a complaint to EEOC, and not related to the number of complaints referred and received.

the reason for the inconsistent complaint referral numbers between the two agencies.⁹¹

In addition, after receiving our preliminary findings, EEOC officials said that EEOC and OCR plan to formally communicate regarding complaint referrals and EEOC will develop a protocol to document and track the referral of complaints from OCR to EEOC, including sharing lists of referrals. According to EEOC officials, such a protocol will enable EEOC to determine whether the agency has received all OCR referrals and follow up as needed. As of October 2023, EEOC was continuing to develop the protocol, but it had not been finalized.

Developing and finalizing this protocol would be consistent with EEOC's responsibilities for coordination of the federal effort to enforce federal equal employment opportunity law and to minimize potential burdens on individuals and federal agencies.⁹² Further, federal internal control standards state that agencies should use quality information to achieve objectives, and should monitor and remediate any deficiencies within their control systems on a timely basis.⁹³ This could include EEOC recording complete and accurate information in its data system, and monitoring, evaluating, and making changes as needed. Federal internal control standards also emphasize the importance of communication, and our leading agency collaboration practices note the importance of clarifying agency roles and responsibilities.⁹⁴ Until EEOC has a finalized protocol to ensure that it receives and processes all OCR complaint referrals, some may be missed, and resolutions of individuals' discrimination allegations may be delayed.

Conclusions

Although faculty diversity has increased in recent years, Black and Hispanic faculty are less represented compared to advanced degree holders and other groups. Faculty who report experiencing discrimination could leave their institutions, which may result in a less diverse faculty. Some studies and higher education experts we interviewed noted positive

⁹¹After receiving our draft report for comment, in February 2024, EEOC officials gave us additional information on this review, which is discussed in further detail in the Agency Comments and Our Evaluation section of this report. Due to time constraints, we were not able to verify this information, so we did not include it in this report section.

⁹²See Executive Order 12067, which prescribes the coordination responsibilities of EEOC.

⁹³[GAO-14-704G](#), principles 13, 16, and 17.

⁹⁴[GAO-14-704G](#), principle 15; [GAO-23-105520](#).

associations between faculty diversity and student outcomes for some students, particularly those from historically underserved groups.

Education and EEOC have processes in place to respond to employment discrimination complaints. However, timeliness and tracking issues could leave claimants and respondents at a disadvantage, such as delays in obtaining a remedy for any discrimination or the potential for a missed complaint. Without addressing these concerns, Education and EEOC cannot ensure timely and complete processing of all employment discrimination complaints.

Recommendations for Executive Action

We are making a total of two recommendations, including one to Education and one to EEOC. Specifically:

- Education should track the number of days it takes regional offices to refer employment discrimination complaints to EEOC and use the information to develop a plan to reduce referral delays. Such a plan could include applying good practices from certain regional offices agency-wide, or reallocating resources. (Recommendation 1)
- EEOC should develop and finalize a protocol to ensure that its field offices receive and process all complaint referrals from Education. The protocol could include: consistently documenting the referrals in its new data system; communicating regularly with Education on the number of complaint referrals Education sends to EEOC and the number EEOC receives from Education; and reconciling any differences in the number of complaints sent and received. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this report to Education, EEOC, and Justice for review and comment. Education and EEOC provided written comments that are reprinted in appendixes IV and V, respectively, and summarized below. Education, EEOC, and Justice provided technical comments, which we incorporated, as appropriate.

In its comments, Education's OCR agreed with recommendation 1 and stated that it will develop a system to track the number of days it takes to refer employment discrimination complaints to EEOC. Education's OCR noted that, due to the relatively small number of referrals and large number of OCR investigative staff, tracking timeliness at the individual staff level may not be beneficial to improving the referral process. We revised the report and recommendation to remove references to staff tracking and focus on tracking at the regional office level. Education's

OCR also stated that it will periodically review the new data to identify any effective measures to reduce referral times, and make appropriate changes, depending on available resources. We continue to recommend that Education, in addition to developing the tracking system, use the resulting data and information from the periodic reviews to develop a plan to reduce referral delays.

In its comments, EEOC neither agreed nor disagreed with recommendation 2, but stated the importance of ensuring that all referrals from Education's OCR are received and processed. EEOC also noted that it will carefully consider the areas for improvement we identified. EEOC stated that in November 2023, it adopted an interim protocol with OCR to ensure receipt of all complaint referrals from OCR. Specifically, OCR is to copy EEOC headquarters officials when it refers a complaint to the appropriate EEOC field office. According to EEOC, this allows it to maintain a complete and centralized record of all OCR referrals to determine if EEOC has received all OCR referrals and whether follow-up with OCR is needed. When this interim protocol is finalized, we will review it to determine if it meets the intent of our recommendation.

EEOC also stated that it completed its review of the list of referrals OCR provided in September 2023 as a result of our preliminary findings. EEOC stated that through a multi-step process, it located records for about 95 percent of the referrals from OCR for fiscal years 2017 through 2021. EEOC noted that much of the discrepancy we identified—between complaints referred by OCR and received by EEOC—exists because EEOC initially received the complaints directly from the individual, and later also from OCR. We did not verify the number of records located or the reason for the discrepancy, nor did we review the process that EEOC used to make these determinations. EEOC acknowledges that it still cannot confirm whether 100 percent of OCR's referrals have been received and processed, including 33 referrals that could not be located through EEOC's multi-step process. Implementing our recommendation will help ensure that EEOC receives and processes all complaint referrals from Education.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Education, the Chair of the Equal Employment Opportunity Commission, the Attorney General of the United States, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (617) 788-0534 or emreyarrasm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VI.

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Appendix I: Justice’s Civil Rights Division Role in Addressing Employment Discrimination Complaints in Higher Education and Related Complaint Data

Agency Role

The Department of Justice’s Civil Rights Division protects the rights of job applicants and employees by enforcing laws prohibiting discrimination in the workplace. The Civil Rights Division is organized into 11 sections that investigate reports of employment discrimination submitted by individuals, organizations, and other federal agencies.¹

The Division can file lawsuits against state and local government employers to enforce nondiscrimination laws. For example, the Equal Employment Opportunity Commission (EEOC) may investigate a complaint against a state or local government employer and determine that discrimination occurred, but attempts at conciliation fail. In those instances, EEOC would refer the complaint to the Division for litigation consideration.² The Division would independently decide whether to pursue litigation.

Employment Discrimination in Higher Education Complaint Data

Justice refers to the complaints that it receives as matters or cases. Matters are a documented investigation of alleged discrimination for litigation consideration. Cases are a formal filing of a legal matter in a court of law. Justice data show that from fiscal years 2011 through 2022, its Civil Rights Division initiated 33 matters for litigation consideration regarding employment discrimination in higher education under Title VII of the Civil Rights Act of 1964 and 10 matters under Title I of the Americans with Disabilities Act of 1990 (ADA). This is a total of 43 matters related to employment discrimination in higher education, 33 of which were referred to Justice by EEOC (see fig. 18).³

¹Our review focuses on the Division’s responsibilities with respect to addressing complaints from higher education faculty, including enforcing Title VII of the Civil Rights Act of 1964 and Title I of the Americans with Disabilities Act of 1990.

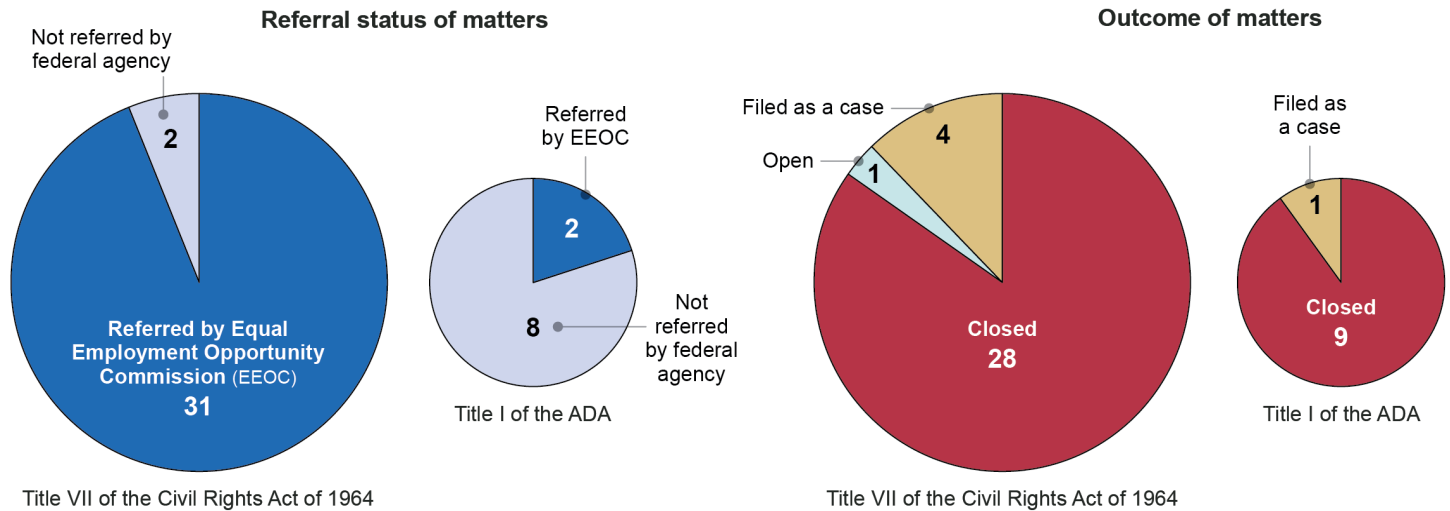
²EEOC refers charges of employment discrimination under Title VII of the Civil Rights Act of 1964 and Title I of the Americans with Disabilities Act of 1990 to Justice’s Civil Rights Division when (1) the employing institution is a public entity; (2) EEOC found violation of one of the federal laws EEOC enforces; and (3) EEOC could not reach conciliation between the charging party and the institution; or when (1) the employing institution is a public entity; (2) the charging party requests a notification of their right to file suit; and (3) the charge was filed at least 180 days previously, but the investigation is not yet complete.

³The remaining two matters under Title VII of the Civil Rights Act and eight matters under Title I of the ADA were not referred by a federal agency. Our analysis included all employees at higher education institutions—both faculty and other employees—who filed an employment discrimination complaint. We were not able to determine which complaints, if any, were from higher education faculty because Justice complaint data do not indicate the title or position of the individual complainant.

Appendix I: Justice’s Civil Rights Division Role in Addressing Employment Discrimination Complaints in Higher Education and Related Complaint Data

Of these 43 matters, Justice filed four cases under Title VII of the Civil Rights Act and one case under Title I of the ADA in court. Justice closed and did not pursue 28 of the matters under Title VII of the Civil Rights Act and nine of the matters under Title I of the ADA. One matter under Title VII of the Civil Rights Act remained open as of March 2023.

Figure 18: Number of Justice’s Civil Rights Division Matters Alleged and Cases Filed Against Higher Education Institutions, by Statute, Fiscal Years 2011–2022



Source: GAO analysis of Department of Justice’s Civil Rights Division data. | GAO-24-105516

Note: A matter is a documented investigation of alleged discrimination for litigation consideration. A case is a formal filing of a legal matter in a court of law. GAO’s analysis included all employees at higher education institutions—both faculty and other employees—who filed an employment discrimination complaint. GAO was not able to identify only complaints from higher education faculty because Justice complaint data do not indicate the title or position of the individual complainant. Title VII of the Civil Rights Act of 1964 prohibits covered employers from discriminating on the basis of race, color, religion, sex (including sexual orientation, gender identity, and pregnancy, childbirth, or related medical conditions), or national origin. Title I of the Americans with Disabilities Act of 1990 (ADA) prohibits covered employers from discriminating on the basis of disability.

Appendix II: Additional Information on Selected Methodologies

Analysis of National Data Sets on the Composition of Faculty and the Relationship between Faculty Diversity and Student Outcomes

Analysis of Faculty Composition

To determine the distribution of faculty across racial and ethnic groups, we analyzed nationally representative data from the Department of Education's Integrated Postsecondary Education Data System (IPEDS). IPEDS collects information from postsecondary institutions on institutional characteristics, completions, 12-month enrollment, admissions, student outcome measures, and faculty, among other information. We limited our analysis of IPEDS data to institutions of higher education that offer at least 2-year or 4-year degrees.¹ IPEDS includes the number and proportion of instructional faculty by race, ethnicity, and binary gender. In terms of ethnicity, an individual who self-identifies as Hispanic only, or both Hispanic and any race category, would be classified as Hispanic. Throughout this analysis, we refer to the following mutually exclusive groups: Non-Hispanic American Indian or Alaska Native (Native American), Non-Hispanic Asian (Asian), Non-Hispanic Black or African American (Black), Non-Hispanic White (White), Non-Hispanic Native Hawaiian or Other Pacific Islander (Pacific Islander), and Hispanic or Latino of any race (Hispanic).²

For our analysis of IPEDS, we primarily focused on the most recent fiscal year available at the time of our review, 2021.³ However, for our analysis

¹We did not limit our sample by school eligibility under Title IV of the Higher Education Act of 1965.

²In IPEDS, the Other race category includes individuals that identified as multiple races, unknown race, or "resident alien."

³In IPEDS, the time frame of the data files can vary between survey components. For example, IPEDS survey components may reflect a fall term, cohort year, fiscal year, or academic year time frame. We collectively refer to these by fiscal year if the "as of" date or the bulk of the date range falls in the relevant fiscal year. For example, IPEDS staff data are as of November 1 of the year; we include IPEDS staff data as of November 1, 2020 in our fiscal year 2021 analysis since November 1, 2020 falls within fiscal year 2021.

of trends in faculty and student diversity, we used data from fiscal years 2003 through 2021. For our comparison of IPEDS data to Census Bureau Equal Employment Opportunity (EEO) Tabulation 2014–2018 data, we used IPEDS data from fiscal year 2018. Before fiscal year 2016, IPEDS only required institutions of higher education to report in odd numbered years. In order to avoid reporting bias, for fiscal years 2003 through 2015, we included only odd years in our analysis.

To provide a comparison for the IPEDS faculty distribution, we used four data sets:

- (1) The Census Bureau EEO Tabulation 2014–2018, which estimates the overall national civilian labor force including by educational attainment and occupational group;
- (2) National Science Foundation (NSF) Survey of Earned Doctorates, which details all individuals receiving new doctorates;
- (3) Bureau of Labor Statistics (BLS) Labor Force Characteristics by Race and Ethnicity, 2021, which estimates the overall national civilian labor force;⁴ and
- (4) IPEDS total student population based on fall enrollment from fiscal years 2003 through 2021, which details the students whom faculty serve and mentor.⁵

The Census Bureau EEO Tabulation 2014–2018 is based on data from the 5-year American Community Survey, which pools data from calendar years 2014 through 2018. This was the most recent version of these data available.⁶ In our comparisons to this data set, we used fiscal year 2018 IPEDS faculty data to have comparable time frames.

The Census Bureau EEO Tabulation 2014–2018 reports information for highest degree of educational attainment for workers aged 16 and above.

⁴The estimates in the BLS report are based on Current Population Survey data which defines the civilian labor force as all people aged 16 and above who are either working or actively looking for work.

⁵We included both part-time and full-time students in this comparison group.

⁶We also considered data from the BLS Labor Force Characteristics by Race and Ethnicity, 2021, report, but the data on educational attainment and occupation were structured in a manner that made them not comparable with the IPEDS faculty data.

The data on individuals that have earned an advanced degree (i.e., master's, doctorate, or professional degree) are reported as percents of the total civilian labor force. In order to make the percentages comparable with the IPEDS faculty data, we used the estimated number of individuals with an advanced degree for a certain race, ethnicity, or gender, and divided it by the estimated total number of advanced degree holders. We then computed new margins of error and confidence intervals at the 90 percent level using the Census Bureau's technical documentation on the Census Bureau EEO Tabulation 2014–2018 and the American Community Survey.

In the Census Bureau EEO Tabulation 2014–2018, there are also aggregated occupational categories. For our comparison with higher education faculty, we used the category “professional workers.” This category includes higher education faculty and other professional occupations such as accountants, engineers, scientists, lawyers, and physicians. For this analysis, we used the margins of error contained within the Census Bureau EEO Tabulation 2014–2018, which are calculated with confidence intervals at the 90 percent level.

NSF Survey of Earned Doctorates data are from academic year 2021. Data from the BLS report are from calendar year 2021. We broadly refer to these data as “fiscal year 2021” because they overlap that time period (October 1, 2020 through September 30, 2021).⁷ These were the most recent years available for each of these data sets at the time of our review. The NSF Survey of Earned Doctorates includes data on Pacific Islander individuals in its “other race or race not reported” category, but was otherwise comparable with the other data sets.

The 2021 BLS report on the overall civilian labor force does not provide standard errors within the report. As such, we calculated margins of error and confidence intervals at the 95 percent level using BLS technical documentation.

To identify schools that are more urban versus ones that are more rural, we used the IPEDS data on school locale. These include 12 possible values within the school locale (see table 1).

⁷BLS data are an annual average from January 2021 through December 2021 and NSF data are from July 1, 2020 through June 30, 2021.

**Appendix II: Additional Information on
Selected Methodologies**

Table 1: Integrated Postsecondary Education Data System (IPEDS) School Locale Categories

Locale Category	Description
City: Large	Territory inside an urbanized area and inside a principal city with population of 250,000 or more.
City: Midsize	Territory inside an urbanized area and inside a principal city with population less than 250,000 and greater than or equal to 100,000.
City: Small	Territory inside an urbanized area and inside a principal city with population less than 100,000.
Suburb: Large	Territory outside a principal city and inside an urbanized area with population of 250,000 or more.
Suburb: Midsize	Territory outside a principal city and inside an urbanized area with population less than 250,000 and greater than or equal to 100,000.
Suburb: Small	Territory outside a principal city and inside an urbanized area with population less than 100,000.
Town: Fringe	Territory inside an urban cluster that is less than or equal to 10 miles from an urbanized area.
Town: Distant	Territory inside an urban cluster that is more than 10 miles and less than or equal to 35 miles from an urbanized area.
Town: Remote	Territory inside an urban cluster that is more than 35 miles from an urbanized area.
Rural: Fringe	Census-defined rural territory that is less than or equal to 5 miles from an urbanized area, as well as rural territory that is less than or equal to 2.5 miles from an urban cluster.
Rural: Distant	Census-defined rural territory that is more than 5 miles but less than or equal to 25 miles from an urbanized area, as well as rural territory that is more than 2.5 miles but less than or equal to 10 miles from an urban cluster.
Rural: Remote	Census-defined rural territory that is more than 25 miles from an urbanized area and is also more than 10 miles from an urban cluster.

Source: IPEDS. | GAO-24-105516

For our analysis, we aggregated this variable into two categories. Our urban group combined the first six categories (e.g., all city and suburban categories). Our rural group combined the last six categories (e.g., all town and rural categories). To identify which schools are categorized as Historically Black Colleges and Universities (HBCU), Hispanic-Serving Institutions (HSI), and Tribally Controlled Colleges and Universities (TCCU), we used a combination of IPEDS data and Education’s Office of Postsecondary Education data. To identify which schools are HBCUs, we used the data available within IPEDS which denote whether a school is an HBCU. For HSIs and TCCUs, we downloaded the 2022 eligibility matrix from the Office of Postsecondary Education website. This file includes institutions of higher education that in fiscal year 2022 were designated as HSIs or TCCUs. We matched the schools on this list to the schools in our IPEDS data set using a unique school identifier for each school.

To identify the faculty by their job characteristics, we used subsections of the IPEDS data. To analyze full-time and part-time faculty by race,

ethnicity, and gender, we used the IPEDS section that tracks the number of instructional faculty by full-time and part-time status. Similarly, for tenure track information, we isolated the specific populations of instructional faculty by whether they were in a tenure track position.

Starting in the spring of 2020, the COVID-19 pandemic had effects on the workforce, which could lead to changes in the composition of faculty at institutions of higher education. We reviewed the trends before and after 2020 and did not see a sizeable shift in the faculty by race or ethnicity during COVID-19.

Due to changes to IPEDS variable definitions, instructional staff prior to 2013 may have also included some research and public service faculty, and Asian instructional staff prior to 2012 may have also included Pacific Islander staff. We reviewed the trends before and after these changes and did not see a sizeable shift in the faculty by race and ethnicity before and after the changes.

We assessed the reliability of these data by reviewing technical documentation, performing electronic testing for obvious errors in accuracy and completeness, and interviewing Education officials. We determined that the data elements that we used in our analyses were sufficiently reliable for our purposes of assessing the composition of faculty by race, ethnicity, and gender at the aggregated national level.

Analysis of Relationship between Faculty Diversity and Student Outcomes

To analyze the relationship between faculty diversity and student outcomes, we matched IPEDS faculty diversity data with data from two Education surveys on students:

- (1) The 2012 Beginning Postsecondary Students Longitudinal Study (BPS) tracks first-time students' pathways through postsecondary education over the course of 6 years, focusing on persistence and degree attainment, transition to employment, and school and work experiences. These students first enrolled in postsecondary education during the 2011 to 2012 academic year. Students were surveyed in their first year of postsecondary education. Students were also followed up with at the end of their third and sixth years after entry into postsecondary education. The 2012 BPS had an initial sample size of 37,170 students across 1,690 institutions.
- (2) The 2008 Baccalaureate and Beyond Longitudinal Study (B&B) surveys bachelor's degree recipients 1, 4, and 10 years after graduation, collecting data on workforce participation, income and

debt repayment, and graduate school patterns. These students completed the requirements for their bachelor's degree during the 2007 to 2008 academic year. The 2008 B&B survey had a sample size of 17,100.

These were the most recent completed surveys available for BPS and B&B at the time of our review. We assessed the reliability of these data by reviewing technical documentation and performing electronic testing for obvious errors in accuracy and completeness. We determined that the BPS, B&B, and IPEDS data elements that we used in our analyses were sufficiently reliable for our purposes of assessing the relationship between faculty diversity and student outcomes.

We combined the institutional-level details of the IPEDS data with the student outcomes data of BPS and B&B.⁸ In order to combine the data sets, we first identified the years the student attended the school. The BPS survey is conducted as the student progresses through college and, as such, we used the year the student started college for our merge point with IPEDS faculty diversity data. For example, if a student started attending school in fiscal year 2011, we used the fiscal year 2011 IPEDS faculty composition data to merge. Since IPEDS data were collected on a voluntary basis in even years prior to fiscal year 2016, if a student in BPS first attended school in an even year, we used data from the following odd year. Since our school population contains only 2-year and 4-year institutions, the student would still be exposed to the faculty in the year after they started.

Since the B&B survey is conducted after graduation, we chose to merge based on the student's graduation date. We chose graduation date because for some students in the B&B survey, their start date of college occurred before IPEDS data were available. Since IPEDS data were collected on a voluntary basis in even years prior to fiscal year 2016, if a student in the B&B first attended school in an even year, we used data from the following odd year.

With our data sets combined, we then analyzed the relationship between the faculty diversity of a school and five student outcomes from these data sets: (1) student leaving school within 2 years of entering and

⁸We created two combined data sets, one that combined BPS data with IPEDS data and another that combined B&B data with IPEDS data. In order to combine these data sets, we used restricted versions of the BPS and B&B data sets that provide unique school identifiers for each student within the data set.

without graduating, (2) student graduating, (3) student income after graduation, (4) student satisfaction with education while in school, and (5) student satisfaction with education 10 years after graduation.

To analyze the relationship between faculty diversity and these student outcomes, we used the following reduced-form model:

$$y_{is,t} = \beta_0 + \beta Faculty_{s,t+p} + \chi Student_i Faculty_{s,t+p} + \gamma \bar{X}_i + \mu School_{s,t+p} + \phi_t + \varepsilon_{is}$$

In this model, $y_{is,t+p}$ is the student outcome in which we are interested. For these outcomes, we looked at the outcome for student, i , at/from school, s , in period, t . The variables of interest are the $Faculty_{s,t}$ terms. These are a series of variables that list the number or proportion of faculty by race and ethnicity (e.g., Asian, Black, Native American, Pacific Islander, White, and Hispanic), and gender (i.e., female) at the student's school, s , at the time the student attended the school, $t + p$.⁹ We conducted separate versions of this model where we first analyzed the number of faculty by race, ethnicity, and gender, and then analyzed the proportion of faculty. Since the proportions of race, ethnicity, and gender sum to one for each group, we excluded the proportions of White, Non-Hispanic, male faculty from the regression. This was our baseline comparison group.

We further extended the model to include the interaction between student factors and faculty diversity, $\chi Student_i Faculty_{s,t+p}$. These variables show the interaction between the student's race, ethnicity, and/or gender and the number of faculty (or proportion of faculty) at their school with that same aspect of diversity. From this, we analyzed the relationship between faculty diversity and the student's outcome when there was a match between the student's race, ethnicity, or gender and the school's faculty diversity.

The next three terms in our reduced-form model are the various controls we included in our regressions. These include student-level factors, $\gamma \bar{X}_i$,

⁹Here the $t + p$ expression allows for the faculty diversity to be in the same period as the outcome or the year after in the case that the student started or graduated school in an even year before fiscal year 2016. Specifically, if we are analyzing a BPS student outcome and the student started postsecondary education in 2012, the $t + p$ expression would indicate that we are using faculty data from 2012 + 1 or 2013. In the case of the student starting postsecondary education in an odd year, the p portion of the expression would be equal to zero.

school-level factors, $\mu_{School_{s,t+p}}$, and control for the year, ϕ_t . We conducted regressions where some included student-level factors and others excluded student-level factors.¹⁰ Our models with student controls included variables such as:

- student's high school grade point average,
- student's parent's educational attainment, and
- student's race and ethnicity.

Our models that accounted for the influence of school-level factors on student outcomes controlled for the school's characteristics, including its Carnegie Classification of Institutions of Higher Education, state, and size of institution.¹¹

We included one version of the model that also included time-fixed effects in order to control for differences in the year the student started postsecondary education or graduated.

Finally, our model included an error term, ε_{is} , for all other factors that are omitted from our regression. Specifically, many factors can affect student outcomes, such as innate student ability, non-parental or faculty mentorship, student health (physical and mental), and finances. While our data set includes a large number of factors for which we can control in our regression models, it does not include all factors that could affect student outcomes.

The majority of our student outcomes are indicator variables and take on only zero or one values. For example, for college graduation the student will either have not graduated (zero value) or have graduated (one value). In these bounded outcomes, using a linear regression can lead to some odd-fitted values that lie either below zero or above one. In cases like

¹⁰This allowed us to analyze how our variables of interest change when we change the controls in the regression. Also, since the BPS and B&B are surveys with limited sample size, this approach allowed us to identify the relationship as best as possible while controlling for as many things as possible but not using all the variation in our outcome variables.

¹¹The Carnegie Classification of Institutions of Higher Education sorts colleges and universities by types of degrees conferred, enrollment, and selectivity. For the remainder of this section, we refer to controlling for school characteristics as the Carnegie classification method. For each of these models, we conducted regressions where some included student-level factors and others excluded student-level factors.

these, we used logistic regressions. The only student outcome where we used a linear regression was when we analyzed incomes.

Since we used BPS and B&B survey data, we weighted our regression models to account for sample selection. Specifically, for both surveys, we used a weight that allows for cross-sectional analysis (WTA000 for BPS and WTG000 for B&B). Since our analysis focuses on single point outcomes in a student's life, we decided that the cross-sectional approach would be the best option.

Literature Searches

Review of Studies on the Relationship between Faculty Diversity and Student Outcomes

For our review of relevant studies, we first identified studies based on keyword searches on the effects of faculty diversity on student outcomes published from calendar year 2005 through May 2022, when our literature search was conducted. We reviewed scholarly or peer-reviewed material, conference papers, government reports, and association, nonprofit, and think tank publications focused on the United States. Our search included keywords associated with aspects of postsecondary education faculty diversity (e.g., race, ethnicity, gender) and student outcomes. To identify existing studies from peer-reviewed journals, we conducted searches of various databases, such as Scopus, ProQuest, and EBSCO.

Our initial search identified 78 studies, but after removing duplicates and adding in an additional four articles identified outside of the initial search, 43 potential studies were identified. Two reviewers narrowed these studies down to 19 using a criterion that the studies used an empirical strategy to assess the relationship between faculty diversity and a student outcome. The reviewers then assessed each study's methodology to determine whether the studies were relevant to the scope of our report, the data sources were reliable, the statistical methods were rigorous, and whether there were any limitations of the study. There were six studies that met these qualifications (see table 2).

Table 2: List of Studies GAO Reviewed on Relationship Between Faculty Diversity and Student Outcomes

Bettinger, Eric P., and Bridget Terry Long. "Do Faculty Serve As Role Models? The Impact of Instructor Gender on Female Students." <i>The American Economic Review</i> , vol. 95, no. 2 (2005): 152-157.
Carrell, Scott E., Marianne E. Page, and James E. West. "Sex and Science: How Professor Gender Perpetuates the Gender Gap." <i>The Quarterly Journal of Economics</i> , vol. 125, no. 3 (2010): 1101-1144.
Fairlie, Robert W., Florian Hoffmann, and Philip Oreopoulos. "A Community College Instructor Like Me: Race and Ethnicity Interactions in the Classroom." <i>The American Economic Review</i> , vol. 104, no. 8 (2014): 2567-2591.
Lusher, Lester, Doug Campbell, and Steve Carrell. "TAs Like Me: Racial Interactions Between Graduate Teaching Assistants and Undergraduates." <i>Journal of Public Economics</i> , vol. 159 (2018): 203-224.
Mansour, Hani, Daniel I. Rees, Bryson M. Rintala, and Nathan N. Wozny. "The Effects of Professor Gender on the Postgraduation Outcomes of Female Students." <i>Industrial & Labor Relations Review</i> , vol. 75, no. 3 (2022): 693-715.
Price, Joshua. "The Effect of Instructor Race and Gender on Student Persistence in STEM Fields." <i>Economics of Education Review</i> , vol. 29 (2010): 901-910.

Source: GAO. | GAO-24-105516

Literature Search on Institutional Strategies

We conducted a literature search and selected publications that provided examples of strategies used by institutions of higher education to recruit and retain a diverse faculty.¹² We focused our search on publications released from 2017 through 2022 and included key search terms such as faculty diversity, retention, recruitment, and best practices. We identified 37 reports published by a variety of entities, including foundations, higher education institutions, researchers, and the U.S. government by searching library databases and reviewing the bibliographies of reports identified through this search. We selected 12 publications to provide a variety of illustrative examples that were relevant to our objective (see table 3). We reviewed these publications and identified common themes related to strategies that can be used by higher education institutions to recruit and retain a diverse faculty. However, we did not evaluate how frequently they are used, their effectiveness, or their outcomes.

¹²The publications included reports, journal articles, white papers, and university handbooks.

Table 3: List of Publications GAO Reviewed on Strategies Used by Institutions of Higher Education to Recruit and Retain a Diverse Faculty

Bartlebaugh, Hannah, and Ansley Abraham. <i>Now Is the Time to Focus on Faculty Diversity</i> . SREB-State Doctoral Scholars Program, January 2021.
Bhalla, Needhi. "Strategies to Improve Equity in Faculty Hiring." <i>The American Society for Cell Biology</i> . vol. 30 (2019): 2744-2749.
Brown University, Office of Institutional Equity and Diversity. <i>Guide to Diversifying Faculty Searches</i> .
California State University, San Bernardino, Office of Faculty Affairs and Development. <i>Best Practices for Recruiting A Diverse Faculty: A Guide for Search Committees</i> . August 2018.
Columbia University, Office of the Provost. <i>Guide to Best Practices in Faculty Retention</i> . November 2018.
Gunter-Schlesinger, Sue, and Kunle Ojikutu. <i>Best Practices: Recruiting and Retaining Faculty and Staff of Color</i> . Bellingham, Wash.: Western Washington University.
Johns Hopkins University. <i>Hiring an Excellent and Diverse Faculty Best Search Practices at KSAS</i> . 2023.
Northwestern University, Office of the Provost. <i>Faculty Search Guidelines</i> . May 2019.
Romero Jr., Aldemaro. "Best Practices for Recruiting and Retaining Diverse Faculty for Institutions of Higher Education." Council of Colleges of Arts and Sciences, CCAS Committee on Cultural Diversity, March 10, 2017.
University of Connecticut, Office of the Provost, Office for Diversity and Inclusion. <i>Faculty Hiring Handbook: Best Practices for Diversity in Faculty Hiring</i> . March 1, 2022.
University of Maryland, <i>Hiring at the University of Maryland: Equity Guidelines for Search and Selection</i> . September 2020.
University of Nebraska-Lincoln, <i>BRIDGE: Breakthrough Recruitment for Inclusive Diversity Growth and Excellence</i> .

Source: GAO. | GAO-24-105516

Analysis of Discrimination Complaints Processed by Federal Agencies

We analyzed complaint data from Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Department of Justice's Civil Rights Division. We analyzed OCR and Justice complaint data from fiscal years 2011 through 2022 and EEOC complaint data from fiscal years 2011 through 2021. Each data set was the most recent available at the time of our review.¹³ Our analysis was not limited to higher education faculty due to limitations in agency data systems. The agency data from Education, EEOC, and Justice do not indicate the title or position of the individual complainant, so our analysis includes all employees at institutions of higher education who filed an employment discrimination complaint. The data also do not differentiate between 2-year and 4-year postsecondary institutions, private and public institutions, or undergraduate and graduate institutions, so we report on these groups together.¹⁴

¹³OCR's data were current as of October 2022. EEOC's data were current as of May 2023. Justice's data were current as of March 2023.

¹⁴EEOC data do differentiate between public and private institutions, but we do not report on these distinctions since we could not do so for all three agencies.

Education's OCR

OCR records discrimination complaints in its Case Management System. To identify OCR's employment discrimination records involving higher education institutions, we determined the following criteria in consultation with OCR officials, and analyzed OCR data that met these criteria:

- Institution type was postsecondary;
- Case type was complaint;
- Case opening date was October 1, 2010 through September 30, 2022;
- Statute was Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Title II of the Americans with Disabilities Act of 1990 (ADA), or Section 504 of the Rehabilitation Act of 1973; and,
- Complaint filed involved at least one of the following issues:
 - Title VI of the Civil Rights Act: employment (not affirmative action) or affirmative action (employment);
 - Title IX: employment (Subpart E)¹⁵, effect of employment opportunities, designation of responsible employee, or employment assistance;
 - Title II of the ADA or Section 504: employment discrimination, designation of responsible employee, reasonable accommodations (employment), employment criteria (testing and other screening selection criteria), or pre-employment inquiries; or,
 - An issue that closed with a referral to EEOC.

If the complaint data did not include information in one or more of the fields related to the criteria mentioned above, we excluded the case from our analysis.

We performed descriptive analyses of the selected complaints to understand trends in the nature of complaints, including the number of complaints filed; the bases associated with complaints; the most common reasons for dismissing complaints; and the average resolution times.¹⁶ Some individual complaints contained allegations related to more than one basis. In these instances, we considered multiple bases associated

¹⁵34 C.F.R. pt. 106 subpt. E.

¹⁶We do not report the number of complaints with retaliation as a basis for discrimination because OCR tracks this basis under its issue codes.

with the same unique complaint identifier as one complaint, but we counted each basis named in a complaint individually in our more detailed analyses. We also performed analyses to assess the timeliness of complaint referrals made from OCR to EEOC.

We assessed the reliability of these data by reviewing technical documentation, performing electronic testing for obvious errors in accuracy and completeness, and interviewing OCR officials. We determined that the data were sufficiently reliable for the purposes of our reporting objectives.

EEOC

EEOC recorded discrimination complaints in its Integrated Mission System through fiscal year 2021. To analyze EEOC data from fiscal years 2011 through 2021, EEOC provided us with access to its Enterprise Data Warehouse, known as the data enclave, which houses EEOC's inquiry and charge data.¹⁷ The National Opinion Research Center at the University of Chicago manages the data enclave. In the center's database management system within the data enclave, EEOC provided us with copies of its data tables that had details about inquiries and charges.

To identify EEOC's employment discrimination records involving higher education institutions, we determined the following criteria in consultation with EEOC officials, and analyzed EEOC data that met these criteria:

- Institution type was a public or private college/university;
- Filing date was October 1, 2010 through September 30, 2021; and,
- Statute was Title VII of the Civil Rights Act of 1964 or Title I of the Americans with Disabilities Act of 1990.

We excluded any inquiries or charges processed by Fair Employment Practices Agencies, rather than EEOC.¹⁸

¹⁷EEOC housed its inquiry and charge data from fiscal years 2011 through 2021 in its Integrated Mission System. In January 2022, EEOC began using a new data system, the Agency Records Center (ARC). At the time of our data analysis, EEOC was completing its data aggregation and validation processes for ARC and could not provide reliable inquiry and charge data for fiscal year 2022. We therefore excluded fiscal year 2022 from our initial analysis.

¹⁸Fair Employment Practices Agencies are state and local agencies that enforce employment discrimination laws enacted by states and localities, and charges, in some circumstances, may be filed with both EEOC and a Fair Employment Practices Agency.

We performed descriptive analyses of the selected inquiries and charges to understand trends in the nature of charges filed over the time period, including the number of charges filed, the bases associated with the charges, the issues (or discriminatory actions) alleged in the charges, and their resolutions.¹⁹ Some individual charges contained allegations related to more than one basis or more than one issue. In these instances, we considered multiple bases or issues associated with the same unique charge number as one charge, but we counted each basis or issue named in a charge individually in our more detailed analyses. We also assessed the number of inquiries and charges referred to EEOC by Education's OCR.

We assessed the reliability of these data by reviewing technical documentation, performing electronic testing for obvious errors in accuracy and completeness, and interviewing EEOC officials. We found reliability concerns with the fields that EEOC uses to record complaints referred from other federal agencies, and we discuss these in our report. We concluded that the remaining fields were sufficiently reliable for our purposes of reporting the statutes, bases, and resolutions of charges.²⁰

Fiscal year 2022 data from EEOC's new data system, the Agency Records Center (ARC), were not sufficiently reliable for these purposes at the time of our analyses because EEOC officials said they were still completing the data aggregation and validation processes for the new system. However, we obtained some data from ARC to further review EEOC's recording of federal agency referral information. Specifically, EEOC provided us with ARC summary counts for February 2022 through September 2022 for inquiries and charges that related to postsecondary institutions and told us that these federal agency referral fields were reliable starting in March 2022.²¹ We assessed the reliability of the ARC

¹⁹We do not report the number of charges with retaliation as a basis for discrimination in order to report comparable data to OCR.

²⁰In reviewing our data output, EEOC was not able to replicate the exact results of our analyses of its Integrated Mission System data. Our data output consistently showed slightly lower numbers of charges than EEOC's analysis. These discrepancies could be due to the date the data were downloaded or our removal of records that we believed to be illogical or duplicates. Because the differences between our output and EEOC's output were reasonably low and to avoid overstating the number of EEOC charges, we present our data output for our analyses of EEOC charges with one exception. For the Integrated Mission System data point on the number of OCR complaint referrals related to employment discrimination at higher education institutions received from fiscal years 2017 through 2021, we use EEOC's data point and attribute it to EEOC officials.

²¹These data were current as of May 2023.

system by reviewing technical documentation. We found that the ARC summary count data on federal agency referrals from March through September 2022 were sufficiently reliable to provide information on the number of inquiries and charges that EEOC recorded as originating from other federal agencies. We found concerns with whether the number of inquiries and charges EEOC recorded in ARC accurately reflects the number EEOC received from other federal agencies, and we discuss these in our report.

Justice

Justice's Civil Rights Division records its complaint and litigation data in its Interactive Case Management system. The Civil Rights Division provided us with aggregated data for fiscal years 2011 through 2022 for open and closed matters, including the number of matters initiated, the number of matters filed in court as cases, and the number of matters that were referred by EEOC. These included records in which Justice (1) identified the respondent as a college or university and (2) categorized the matter or case under one of the two statutes applicable to our review that Justice enforces: Title VII of the Civil Rights Act and Title I of the ADA.

We assessed the reliability of the data by reviewing technical documentation, conducting electronic data testing on the aggregated data, and interviewing Justice officials. We determined that the data were sufficiently reliable for the purposes of our reporting objectives.

Appendix III: Examples of Federal Agencies' Efforts Related to Faculty Diversity in Higher Education

Department of Education

Mentoring: Education's Institute of Education Sciences launched the Early Career Mentoring Program for Faculty at Minority Serving Institutions, which provides grants to support the mentoring and training of faculty who are in the early stages of their academic careers.

Publication: In November 2016, the Office of Planning, Evaluation, and Policy Development published a report titled "Advancing Diversity and Inclusion in Higher Education." The report includes suggestions for how to reduce high turnover rates among minority faculty.

Grants:

- In 2016, the Institute of Education Sciences developed the Pathways to the Education Sciences Research Training Program, which awards education research grants to minority-serving institutions and their partners to provide training programs to develop a pipeline of education researchers.¹
- The Ronald E. McNair Postbaccalaureate Achievement Program seeks to increase the attainment of doctoral degrees by students from disadvantaged and underrepresented backgrounds. The program awards grants to institutions to provide participants with experiences that help prepare them to enter graduate school to pursue and complete doctoral degrees.²

Equal Employment Opportunity Commission

Workshops and Initiatives:

- The Equal Employment Opportunity Commission (EEOC) hosted its 26th annual Examining Conflicts in Employment Law Training Conference in Summer 2023. Topics included diversity, equity, inclusion, and accessibility; anti-harassment programs; retaliation; workplace violence; religion in the workplace; and mental health in the workplace; among others.
- In January 2022, EEOC launched its Hiring Initiative to Reimagine Equity with the Department of Labor's Office of Federal Contract Compliance Programs. The initiative seeks to expand access to good

¹According to Education documentation, since 2016, the program has awarded grants totaling about \$6 million to six institutions of higher education.

²According to Education documentation, for the 2022–2023 school year, the program awarded grants totaling \$51.7 million to 189 institutions of higher education.

jobs for workers from underrepresented communities and help address key hiring and recruiting challenges.

- In October 2021, EEOC launched an agency-wide multi-year initiative to ensure the use of software, including artificial intelligence and other emerging technologies used in hiring and other employment decisions, complies with the federal civil rights laws that EEOC enforces. Through the initiative, EEOC will examine more closely how existing and developing technologies fundamentally change the ways employment decisions are made.
- In August 2021, EEOC hosted a Diversity, Equity, and Inclusion Workshop entitled Understanding Unconscious Bias in the Workplace. In September 2021, EEOC hosted a second session, Employing Individuals with Convictions. The goal of the workshops is to help participants identify, address, and prevent workplace discrimination.

Technical Assistance:

- EEOC offers other training and technical assistance to employers through the EEOC Training Institute. EEOC also includes postsecondary institutions as stakeholders in its outreach efforts and has worked with postsecondary institutions to jointly hold outreach events.

Appendix IV: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 5, 2024

Melissa Emrey-Arras
Director, Education, Workforce,
and Income Security Issues
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Director Emrey-Arras:

As the Assistant Secretary for the Office of Civil Rights (OCR), I write on behalf of the U.S. Department of Education (Department) in response to the Government Accountability Office's (GAO) draft January 2024 report, *Employment Discrimination Case Handling by Education and the Equal Employment Opportunity Commission Could be Improved* (GAO-24-105516).

The GAO's draft report examines faculty diversity and employment discrimination at colleges. More specifically, GAO reviewed selected aspects of diversity among faculty in higher education and whether such faculty diversity relates to student outcomes; efforts in higher education to recruit and retain a diverse faculty, and the role of the Department and the Equal Employment Opportunity Commission (EEOC) related to those efforts; and finally, how the Department and the EEOC process higher education complaints of employment discrimination. GAO's draft report includes two recommendations, but only one is directed to the Department. In addition to the attached technical edits and comments, our response to that one recommendation in the draft report appears below.

GAO's Recommendation 1:

Education should track the number of days it takes staff and regional offices to refer employment discrimination complaints to EEOC and use the information to develop a plan to reduce referral delays. Such a plan could include applying good practices from certain staff or regional offices agency-wide, or reallocating resources.

Response: OCR agrees with the recommendation to the extent that OCR will develop a system to track the number of days it takes to refer employment discrimination complaints to EEOC. OCR will periodically review the data to identify effective measures, if any, to reduce the amount of time it takes to send referrals to EEOC and make changes, as appropriate, dependent on available staff and other resources.

I appreciate GAO's work on this important topic and your recommendation. The Department is fully committed to work with GAO to ensure the recommendation is implemented, to the extent

**Appendix IV: Comments from the Department
of Education**

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possible. Thank you for the opportunity to provide technical edits and respond to the recommendation outlined in GAO's draft report.

Sincerely,



Catherine E. Lhamon
Assistant Secretary for Civil Rights

Appendix V: Comments from the Equal Employment Opportunity Commission



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 2, 2024

Melissa Emrey-Arras
Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Emrey-Arras:

Thank you for the opportunity to review the Government Accountability Office's (GAO) draft report entitled *Employment Discrimination Case Handling by Education and the Equal Employment Opportunity Commission Could Be Improved* (draft report). In the draft report, GAO examined the U.S. Equal Employment Opportunity Commission's (EEOC) role in promoting faculty diversity at higher education institutions and processing employment discrimination complaints involving higher education faculty. The EEOC respectfully submits the following comments.

The EEOC was created in direct response to the historic 1963 March on Washington for Jobs and Freedom and first opened its doors in 1965 with a simple mission — to prevent and remedy discrimination in our nation's workplaces. Today, the EEOC's role in enforcing the nation's federal workplace anti-discrimination laws is as necessary as ever. The demand for the EEOC's services remains high. In fiscal year 2022, for example, the agency received over 73,000 new discrimination charges, an increase of nearly 20% over the prior fiscal year. Moreover, the EEOC's education and outreach efforts are critical to the agency's ability to prevent and remedy employment discrimination and advance equal opportunity for all.

GAO's draft report recognizes the EEOC's responsibility for enforcing anti-discrimination laws, its essential role in preventing and remedying discrimination in the workforce including at higher education institutions, and its efforts to promote lawful strategies to recruit and retain a diverse and inclusive workforce. In addition to providing information about racial, ethnic, and gender diversity among faculty at higher education institutions, the draft report sets forth areas where the agency can improve the complaint referral process with the U.S. Department of Education. The EEOC will carefully consider that information. The EEOC continually strives to improve our service to the public, and GAO's analysis will assist the EEOC in further enhancing our mission-critical work. In the draft report, GAO recommends that the EEOC develop and finalize a protocol to ensure that its field offices receive and process all referrals of employment discrimination from the U.S. Department of Education's Office of Civil

**Appendix V: Comments from the Equal
Employment Opportunity Commission**

Rights (OCR). The EEOC agrees that ensuring all referrals from OCR are received and processed is important.

We note that when the EEOC receives an inquiry from a member of the public, including faculty at higher education institutions, the EEOC monitors the intake process of that inquiry to ensure that individuals who wish to file a charge of discrimination can do so prior to the expiration of the relevant statute of limitations. This is true regardless of how the inquiry comes to the agency, i.e., directly from an individual or through a referral from a sister agency.

Also, while the report notes that the number of referrals that OCR referred to the EEOC was greater than the number of referrals recorded in the EEOC's charge data system, the discrepancy is not an indication that the EEOC did not receive and process referrals from OCR. Rather, the discrepancy in the OCR and EEOC counts is due to how the EEOC records inquiries in its charge data system. As discussed in more detail below, the EEOC has confirmed that it received and processed at least 94.6% of the cases OCR referred to the EEOC during fiscal years 2017 through 2021, the period reviewed in GAO's report.

When an inquiry is received by the EEOC, the source of the inquiry is recorded in the agency's charge data system. In cases where an individual directly files an inquiry with the EEOC through the EEOC's Public Portal the source of the inquiry is recorded as "Received From: Aggrieved Person." If the EEOC later receives a referral with the same allegations from OCR, the EEOC records and retains the OCR referral documents in the existing case file, but only the initial EEOC receipt method and receipt date are recorded in the EEOC's charge data system.

Beginning in September 2023, the EEOC and OCR collaborated to review the outcome of the referrals OCR sent to the EEOC during fiscal years 2017 through 2021, the period reviewed in this report. OCR provided the EEOC with a list of 612 matters that they referred to EEOC field offices. The EEOC was able to confirm that it had a record of processing 579 of the 612 referrals, or 94.6%. The remaining referrals were likely received by the EEOC but submitted with information that would not match our records—for example, under the name of the attorney or representative, rather than the potential charging party.

The EEOC has also enhanced coordination with OCR to ensure that moving forward, the EEOC has a clear record of the matters OCR refers to the EEOC's field offices. Beginning in November 2023, the EEOC and OCR adopted an interim protocol whereby OCR copies EEOC headquarters' officials when OCR refers a case to the appropriate EEOC field office. This protocol allows for EEOC headquarters' officials to maintain a complete record of all OCR referrals in a centralized location and track such referrals. The EEOC and OCR will continue to collaborate to ensure the EEOC receives all cases OCR refers to the EEOC. With the increased coordination that the EEOC and OCR have already put in place, the EEOC is able to determine whether it has received all OCR referrals (regardless of whether those referrals involved individuals who directly submitted inquires to the EEOC and how they are recorded in the charge data system) and whether follow-up with OCR is needed.

**Appendix V: Comments from the Equal
Employment Opportunity Commission**

We appreciate the opportunity to review the draft report and to submit these comments for your consideration. We hope that you find this information helpful.

Sincerely,



Charlotte A. Burrows
Chair

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Melissa Emrey-Arras, (617) 788-0534 or emreyarrasm@gao.gov

Staff Acknowledgments

In addition to the contact named above, Andrea S. Dawson (Assistant Director), Rebecca Kuhlmann Taylor (Analyst-in-Charge), Randi C. Hall, Michael A. Naretta, and Vernetta G. Shaw made significant contributions to the report. Also contributing to this report were James D. Ashley, James E. Bennett, Annie Chou, Tonnyé P. Conner White, Tammy R. Conquest, Denise N. Cook, Aimée D. Elivert, Gretta L. Goodwin, Alison Grantham, Nisha R. Hazra, Michael L. Kniss, Anjalique J. Lawrence, Abigail M. Loxton, Jean L. McSween, Zina Dache Merritt, Liam G. O’Laughlin, Aaron Olszewski, Anna Maria Ortiz, Ari D. Panzer, and Kathleen L. van Gelder.

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