



November 19, 2015

U. S. Commission on Civil Rights Issues Statement in *Fisher v. University of Texas at Austin* Supporting the University's Admissions Policy as a Compelling Governmental Interest and Narrowly Tailored Under the Constitution

Statement

The Supreme Court will soon decide *Fisher v. University of Texas at Austin*, in which, for the second time, it is analyzing the constitutionality of the University's admissions plan. The plan at issue, which affects only a very small portion of the school's admissions determinations, includes race among a long list of factors such as leadership qualities, extracurricular activities, and the applicant's socioeconomic status in the decision-making process.

The U.S. Commission on Civil Rights believes that the University's admissions policy is indeed narrowly tailored to serve the compelling interest of securing the educational benefits of a diverse student body. Accordingly, the 5th Circuit's determination that the University's admissions process does not violate the Fourteenth Amendment should be affirmed.

After automatically admitting the Texas resident applicants who graduated in the top ten percent of their high school classes to the University (this constitutes roughly 80% of admissions, with no consideration of race whatsoever), the University fills its small remaining number of slots for admission based on the holistic approach mentioned above. Under this method, the University considers many aspects of potential students to increase all manner of diversity on campus.

Throughout its history, the Commission has expressed its strong belief in the benefits of diversity in educational settings. In our 1975 report *Twenty Years After Brown: Equality of Educational Opportunity*, the Commission found it appropriate "to provide the equal educational opportunity that segregation inherently denies and to permit all pupils to develop the understanding and appreciation of each other that inevitably will result in a more equitable society for all Americans."

Many experts agree that a diverse campus is indeed of great value to higher education. As Justice O'Connor wrote in *Grutter v. Bollinger*, the educational benefits of diversity are substantial, as they can help to break down stereotypes and build a classroom discussion that is "livelier, more spirited, and simply more enlightening and interesting" when the students have "the greatest possible variety of backgrounds."

Indeed, amici on behalf of the respondents in *Fisher I* agree that race-conscious admissions policies continue to hold value in creating diversity in education. The Association of American Law Schools argues that the "Court should resist any temptation to announce a general rule foreclosing the use of race as one factor in a holistic admissions process." The United Negro College Fund agrees with the *Grutter* Court that, someday, race-conscious admission policies will no longer be needed, but "because of the effects of centuries of slavery, segregation, discrimination and unequal opportunity based on race, that day is not today."

Two Commissioners have put forth a belief in an amicus brief supporting the petitioner, Abigail Fisher, that the University's pursuit of diversity through its current admissions process is unconstitutional. This is not the view of this Commission.

A ruling further restricting the admissions process or eliminating the consideration of race altogether will diminish the vibrant university learning experience. It will have grave consequences for many schools across the nation and students of all backgrounds. The constitutional validity and educational benefits of the University's admissions process are clear. The Commission supports the University of Texas in this case and encourages the Supreme Court to uphold the University's admissions process.

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