

OCR Issue Paper

Ali Raza

Florida State University

araza@fsu.edu

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The Dear Colleague letter I chose that relates to college students is on the ruling of the Supreme Court case, *Fisher v. University of Texas* (2013). Jocelyn Samuels, Acting Assistant Attorney General in the Civil Rights Division of the U.S. Department of Justice and Catherine Lhamon, Assistant Secretary in the Office for Civil Rights in the U.S. Department of Education wrote a letter to describe the issue and implications of the *Fisher* case as it relates to admissions policies at colleges and universities. “On June 24, 2013, the U.S. Supreme Court announced its ruling in *Fisher v. University of Texas at Austin*. The Court preserved the well-established legal principle that colleges and universities have a compelling interest in achieving the educational benefits that flow from a racially and ethnically diverse student body and can lawfully pursue that interest in their admissions programs” (Samuels & Lhamon, 2013, p. 1).

The issue of considering race as a part of the admissions process at institutions of higher learning continues to be a pressing matter in education. For decades, the question of using race to increase diversity on college campuses has been discussed. From *Regents of the University of California v. Bakke* (1978) and *Hopwood v. Texas* (1996), to *Grutter v. Bollinger* (2003) and *Fisher v. Texas* (2013), there have been several court cases discussing affirmative action and race in admissions policies. The *Bakke* case prohibited the “rigid use of racial quotas” as they were a violation of the equal protection clause of the Fourteenth Amendment (The Oyez Project, n.d.). The *Hopwood* case challenged The University of Texas School of Law’s decision to deny Cheryl Hopwood, a white woman, on the basis of preferential treatment through the use of affirmative action. The Supreme Court decided race may be a factor during admissions processes (The Center for Individual Rights, n.d.). The *Grutter* case allowed race to be used as a factor in admissions decisions so long as an institution has a “compelling interest in obtaining the

educational benefits that flow from a diverse student body” (The Oyez Project, n.d.). The question of using race as a factor in admissions was again brought up in the *Fisher* case. The Supreme Court preserved a college or university’s right to use race as a factor in decisions so long as there is a compelling interest to increase diversity for educational purposes.

In the Dear Colleague letter, Samuels and Lhamon (2013) further address the issue of achieving diversity in higher education and the implications of the *Fisher v. University of Texas at Austin* case. “The educational benefits of diversity, long recognized by the Court and affirmed in research and practice, include cross-racial understandings and dialogue, the reduction of racial isolation, and the breaking down of racial stereotypes” (Samuels & Lhamon, 2013, p. 1). They go on to state that the Departments of Education and Justice “strongly support diversity in higher education” because of the enhanced experience people will receive in educational environments. Furthermore, an argument is crafted stating the importance of “transcend[ing] the boundaries of race” in order to achieve interconnectedness in all aspects of school, work, and life (Samuels & Lhamon, 2013, p. 1). This letter additionally provides the intended audience a document entitled, “Guidance on the Voluntary Use of Race to Achieve Diversity in Postsecondary Education” in to serve as a framework for policy in achieving a diverse student body. Finally, the Departments of Education and Justice provided an additional document related to “Questions and Answers” stemming from the Supreme Court’s decision in *Fisher* (Samuels & Lhamon, 2013, p. 1). This document will prove important in understanding the *Fisher* case and serve as a guiding text for practice in higher education.

The issue of using race as a factor in admissions decisions and guidance from the Office of Civil Rights will have a critical impact for practice in higher education. Samuels and Lhamon (2013), in conjunction with the Departments of Education and Justice, “stand ready to support

colleges and universities in pursuing a racially and ethnically diverse student body in a lawful manner” (p. 2). The Dear Colleague letter addresses an important Supreme Court case that has potential to change the dynamic of higher education institutions across the United States. The supplemental “Questions and Answers About Fisher v. University of Texas at Austin” document will prove important in providing clarity to institutions about the impact of the *Fisher* case. Questions ranging from the use of race as a factor in higher education admissions, pursuing a diverse student body, and having a “compelling interest in diversity” were asked and answered. Through the letter and the “Questions and Answers” documents, colleges and universities will be able to continue to use race as a factor in the admissions process and be confident federal policies and laws are being followed. These documents will serve as guiding principles for practice and empower colleges and universities to continue to do what is best for their specific institution. For student affairs practitioners, this issue further complicates our role and job as students may need additional support for any micro-aggressions received from other students or members of the community.

The issues of race and affirmative action have played a crucial role in defining the higher education landscape throughout the years. In *Fisher v. University of Texas at Austin* (2013), the Supreme Court “followed long-standing precedent recognizing that colleges and universities have a compelling interest in ensuring diversity, and can take account of an individual applicant’s race as one of several factors in their admissions program as long as the program is narrowly tailored to achieve that compelling interest” (Samuels & Lhamon, 2013, p. 1). Furthermore, the Supreme Court stands by their statement that “attaining a diverse student body is at the heart of [a university’s] proper institutional mission” (Samuels & Lhamon, 2013, p. 2). Achieving diversity through the consideration of race in admissions processes is here to stay.

## References

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