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# Why We Need Race Conscious Admissions

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# Why we need race-conscious admissions

The U.S. Supreme Court will revisit *Grutter* this fall. But the recent criticism over considering race in law school admissions is misplaced.

BY PROFESSOR DEBORAH N. ARCHER

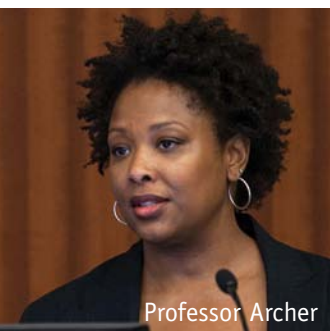
**O**n Oct. 10th the United States Supreme Court will hear oral arguments in *Fisher v. the University of Texas at Austin*, the first case the Court has heard addressing race-conscious admissions since its landmark decision in *Grutter v. Bollinger*, 2003.

In *Fisher*, Abigail Fisher, an applicant

criteria in pursuing a diverse student body easily satisfies these requirements. The university relies primarily on race-neutral initiatives, namely scholarship programs, recruitment and targeted outreach of students in underrepresented areas, partnerships between colleges and low performing schools, and the Texas Top Ten Percent Plan in selecting students. In fact, the Top

the University's admissions policy contains a formal review every five years.

But the tone of the debate around race-conscious admissions programs has changed since *Grutter*. Most of the nation's universities and professional schools embrace the idea that a racially and ethnically diverse student body improves the quality of education for all students and



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for admissions to the University of Texas, is challenging the school's modest consideration of race as one of many factors that goes into admissions decisions.

In *Grutter*, the Supreme Court upheld the University of Michigan Law School's admissions policy, establishing that institutions of higher education may employ race-conscious measures to enroll a "critical mass" of students from diverse backgrounds, provided that such measures are narrowly tailored and used only after undertaking serious, good faith consideration of race-neutral alternatives.

The University of Texas' flexible combination of race-neutral and race-conscious

Ten Percent Plan — a wholly race-neutral plan — accounted for 90 percent of the university's admissions when Abigail Fisher applied to the university.

The university uses its race-conscious policy only to supplement these race-neutral measures. UT's admissions policy bears all the hallmarks of the narrowly tailored, race-conscious admissions program sanctioned in *Grutter*: It employs race as part of its holistic, individualized evaluation of applicants; the university seriously and in good faith considered race-neutral alternatives prior to adopting its race-conscious policy; no member of any racial group is unduly harmed by the policy; and

has a positive impact on our larger society. However, citing a study of class rank and bar passage rates of African-American law students, opponents of race-conscious admissions programs now argue these programs demoralize minority students; lead them to attend colleges, universities and professional schools for which they are unqualified; and expose them to academic environments in which they are out-matched.

The often-recited statistics are indeed troubling and a legitimate cause for concern. But to honestly and accurately assess the impact of race-conscious admissions programs, we must first acknowledge and

address the many factors that contribute to minority underperformance in the classroom and on the bar examination, including racial discrimination, stereotype threat and segregated and inadequate K through 12 education systems. The gap between the performance of minority law students and white law students is quite troubling, but race-conscious admissions programs cannot be faulted for those troubles.

Moreover, it is paternalistic to argue we should abandon race-conscious admissions programs in order to save minority students from their own flawed decisions. Minority students, like all students, are aware of the risks and rewards of attending school in a challenging and rigorous academic environment. These students knowingly choose to challenge themselves academically in exchange for the increased career opportunities that admissions programs like that at University of Texas have made possible.

Race-conscious admissions programs are not harmful to the professional aspirations of minority students. Rather than guiding minority students to make poor decisions, race-conscious admission programs allow many an opportunity to attend a highly ranked institution. True, the test scores and GPAs of minority students are often below their schools' averages. However, minority students' careers are not undermined by attending highly-ranked institutions.

In "Crossing the Finish Line: Completing College at America's Public Universities," William G. Bowen, Matthew M. Chingos and Michael S. McPherson challenged the assumption that race-conscious admissions programs led to "mismatching" and lower graduation rates for African-American students. In their study, the authors grouped African-American men by their high school GPAs and then examined whether those with relatively low GPAs who enrolled in more selective public universities graduated at lower rates than those with the same GPAs who attended less selective institutions. The results proved just the opposite — of the students with high school GPAs below 3.0, those who went to the most selective colleges and universities in the study had a graduation rate 6 percentage points higher than those who went to second-tier schools and 8 per-

centage points higher than those who went to third-tier schools.

Indeed, for all GPA levels, African-American men who went to more selective institutions graduated at higher rates than their peers with similar grades who went to less selective colleges. Findings in the book also directly refute any claim that African-American students would fare better academically at schools where the average SAT score was similar to their own scores. The study found that for African-American students in the lowest category of SAT scores, the more selective the school they attended the more likely they were to graduate. Moreover, for students of similar gender, socioeconomic status, high school grades and SAT scores, graduation rates were highest for those students who attended the most selective schools.

The findings in "Crossing the Finish Line" support the conclusion that to help improve the academic and professional outcomes for minority students, we should not "discourage them from enrolling in academically strong programs that choose to admit them. On the contrary, ... [they] should be encouraged to 'aim high' when deciding whether and where to pursue educational opportunities beyond high school."

Abigail Fisher seeks to stifle the ability of institutions of higher education to attain a diverse student body. In doing so, she would transform the Supreme Court's decision in *Grutter* beyond recognition and close the door to critical opportunities for minority students. Despite the progress we have made in race relations, there remains a systemic racial hierarchy that produces and perpetuates racial disparities in educational outcomes even after some minority students have gained admissions to institutions of higher education.

Race-conscious admissions programs, like the one used by University of Texas, are designed to overcome this systemic racism and serve as a vital pipeline to educational and professional opportunities for minority students. The proven success of race-conscious admissions programs in increasing educational and professional attainment for minority students serves as compelling evidence of the value and success of these programs, and counsels in favor of continuing them.

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