

Final Messaging Guidance for SCOTUS Decision in *Fisher v. University of Texas at Austin*

On June 23, 2016, the U.S. Supreme Court issued a decision in *Fisher v. University of Texas*, upholding the University of Texas's consideration of racial diversity in its admissions process. In a 4-3 decision, the Court held that carefully crafted admissions policies that consider racial diversity as one factor in creating a well-rounded student body are constitutional under the Equal Protection Clause.

This is a major victory for universities, students, and our nation. In communicating about the case, our messaging should promote the importance of diversity policies to the country, make clear that the decision is consistent with Court precedent in upholding the compelling state interest in diversity, and praise the majority's recognition of the educational benefits of diversity. After reviewing the justices' decisions, it may also be appropriate to critique the dissenting opinion as a short-sighted interpretation that would have held our increasingly diverse nation back at a critical time.

More broadly, our communications about diversity policies and this decision should emphasize the following themes:

- **Expanding Opportunity:** It's in everyone's interest to see that talented students from all backgrounds get a close look and a fair shot, and have the chance to overcome obstacles to educational opportunity.
- **The Benefits of Diversity:** Learning with (and from) people from different backgrounds and perspectives benefits our students, our communities, our work force, our military and our country as a whole.
- **Preventing Racial Isolation:** It is important that schools are able to build student bodies that foster meaningful diversity that does not isolate any one group.
- **Our National Interest:** Fostering educational diversity and greater opportunity is critical to our nation's future in a global economy and an increasingly interconnected world.
- **Broad Support:** Diversity policies, and the UT policy in particular, are supported by a broad cross-section of American society, including military leaders, major corporations, small business owners, educators, and students from all backgrounds.

Core Messages

- **This is a victory for equal opportunity and the future of our nation.** We are thrilled the Court ruled in favor of equal opportunity in higher education and recognized again that it is critical that schools remain able to create diverse and inclusive student bodies. It's in our national interest that talented students from a variety of backgrounds get a close look and a fair chance at overcoming obstacles to higher education. Providing a diverse learning environment benefits students, our workforce, and the country as a whole.
- **Fostering diversity and expanding opportunity reaffirmed.** The *Fisher* decision is another in a line of recent Supreme Court decisions that reaffirms the importance of diversity as a compelling state interest as settled law. The Court has again held that it is Constitutional for universities to craft carefully, narrowly tailored admissions plans designed to ensure the educational benefits of diversity for all students.
- **Universities, businesses and other institutions should recommit to expanding opportunity for all.** UT's plan is one that was carefully crafted to meet the goal of ensuring the educational benefits of diversity on its campus. Many students of color face obstacles to success, often without resources available to other students.

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When students do well despite those obstacles, universities should be able to offer them a chance to succeed. In this way, universities and all students benefit from the exchange of ideas and perspectives that diverse student bodies bring. We encourage America's educational, business, and other institutions to engage in similar thoughtful and fair planning around ways to foster diverse participation.

Addressing Questions

When speaking to the press, remember that your goal is to get your message out, not to answer their questions. In addressing potentially divisive questions from reporters and others, we typically recommend responding briefly to the question and then pivoting back to your main point.

Q. Do universities have to revise their policies in light of this decision?

A: "Whenever there's a Supreme Court decision on a higher education topic it's wise for universities to take a look at their policies to make sure they comply, and this case is no different. We are confident that universities across the country will undertake a thoughtful, lawful process like the University of Texas did to create policies that ensure the educational benefits of diversity for all students.

Q: Does the Court's opinion create a new legal standard for colleges and universities seeking to implement diversity admissions programs?

A: No. The Court reaffirmed the importance of diversity as a compelling state interest and upheld the use of race in a carefully crafted admissions plan designed to ensure the educational benefits of diversity for all students.

Q: Don't these policies hurt Asian American students?

A: Asian Americans, like all students, benefit from an application process that considers all of each candidate's qualities, including factors such as language spoken at home. Getting rid of affirmative action would hurt many Asian American applicants who continue to face educational barriers. Asian Americans also benefit from affirmative action because it enables them to learn in diverse environments with students of different backgrounds and perspectives. These benefits extend beyond the school environment, so that students of all races who become leaders, employers, and co-workers are better equipped to lead, interact with, and value the contributions of people of all races. Indeed, Asian Americans are themselves an extremely diverse group, from a range of economic backgrounds, experiences, and national origins. And like all of us, they both contribute to and benefit from the national diversity that helps make America.

Q: What does this mean for affirmative action cases in the pipeline?

A: This decision is one in a line of recent decisions that reaffirms the importance of diversity as a compelling state interest. We believe that universities that carefully craft their admissions plans to ensure the educational benefits of diversity for all will continue to be working within the bounds of the Constitution.