

## Summary Statements

We urge the US Supreme Court to consider “Fisher vs. University of Texas” case and to rule in favor of a race-neutral college admission policy based on individual merits. A growing body of empirical data from social studies has significantly weakened the argument that racial preferences are necessary to achieve “diversity”, which some interpreted as an “educational exception” to the 14<sup>th</sup> Amendment “Equal Protection Clause” in earlier rulings (1978, 2003). Individual merits, when broadly defined to include academic credentials, extracurricular activities, leadership experiences, and personal strengths, would allow each university to retain its unique perspective on what constitutes “educational success” and to exercise broad discretion in college admission without using group characteristics such as race and ethnicity. We urge the Court to apply strict scrutiny to the institutional use of racial preferences, which historically fostered discrimination, rather than advancing diversity.

## Detailed Statements

We urge the US Supreme Court to consider “Fisher vs. University of Texas” case and to rule in favor of a race-neutral college admission policy based on individual merits. The merits are broadly defined to include academic credentials, extracurricular activities, leadership experiences, and personal strengths. Such a policy will give schools sufficient latitude in defining educational success without using reverse discrimination.

In recent years, a growing body of empirical data from social studies has significantly weakened the argument that racial preferences are necessary to achieve “diversity”, which some interpreted as an “educational exception” to the 14<sup>th</sup> Amendment “Equal Protection Clause” in earlier rulings (1978, 2003). We analyze the situation below.

- 1) **Have racial preferences been practiced as “a factor among many” and “a tie breaker” as contended by the universities?** Schools often describe their admission policy as “individualized” and “holistic” in which racial preferences are only used as a “tie breaker”. However, such assertions are not supported by data. In 2009 undergraduate admission at University of Texas at Austin, the mean SAT scores are 467 and 390 points higher for Asians and Whites respectively when compared against the Blacks[1]. Furthermore, Princeton sociologist T. Espenshade found that to receive the same consideration for top colleges, Asians needed 1550 in SAT (out of the 1600 maximum), whereas Whites needed 1410 and Blacks needed only 1100 [2]. A panel discussion, titled “Too Asian?” during the 2006 meeting of National Association for College Admission Counseling, identified a growing tendency of admission officers to see Asian Americans as a unit, rather than individuals. These observations confirm an open secret that Asian Americans suffer from severe reverse discrimination in college admission [3][4].

- 2) **Do racial preferences really help the intended beneficiaries?** The large racial preferences imposed an “academic mismatch” among the admitted students, which reduced the efficiency and quality of classroom instruction to all students. Furthermore, academically weaker students tend to self-segregate into less challenging classes, thereby reducing classroom diversity [5]. The US Civil Right Commission issued a report in 2008 about the disconcerting role of racial preferences played in undermining minority graduation in science and engineering programs [6]. In professions where universal qualification exams are required, e.g., legal service, higher numbers of black students entering the law schools through large racial preferences did not lead to an increased numbers of black lawyers because of the high attrition rate caused by academic mismatch [7]. Large racial preferences were also found to damage the minority pipeline to academia [8].
- 3) **Are racial preferences really applied “under strict scrutiny” to advance the “compelling interest in diversity”?** A comparison between Jewish and Asian Americans in higher education offers some historical perspectives that the high ideal of “diversity” was often used as a pretense to further not-so-lofty institutional objectives. From 1900-1950, academically proficient Jewish students were considered a “problem” by the elite schools, and their population had to be kept at ~10% through the application of “geographic diversification” policy [10]. Today, Jewish students are no longer classified as a minority, and are allowed to compete on a merit basis. Currently, ~25% of the students in the elite schools are Jewish [9] out of a total Jewish American population of 6 million. In contrast, ~17% of the students in the elite schools are Asian [3], out of a total Asian American population of 15 million. Asian Americans, sometimes termed “the New Jews” for their stellar academic performance [11], are a minority, whose percentage has been rather consistently managed to be below ~20% through the application of a “racial diversification” policy. The irony is that the higher presence of Jewish students does not appear to diminish campus diversity.
- 4) **Has the “achievement gap” been perpetuated by racial preferences?** Large differences in academic preparation and scholastic achievements among various student groups, termed the “achievement gap”, has been persistent in the last few decades [12], laying the ground for “enshrining a permanent justification for racial preferences”, a condition forbidden by the Constitution. On the contrary, California in the post Proposition 209 era (since 1996) offers a real-life example that diversity can be achieved without racial preferences. Through increased socioeconomic diversification and improved classroom integration, the Black and Hispanic enrollments returned to the pre-1996 level in 2002, and increased an additional 40% by late 2000s. With improved K-12 education, the number of academically strong minority students has also increased remarkably [13].

Under the guise of “diversity”, “racial balancing” in college admission has led to the dramatic loosening of the academic standards for certain race/ethnic groups, without much consideration to an individual’s ability to actively engage in a challenging curriculum, which drags down the quality of classroom education for all students. We must confront the “achievement gap” with a sharp focus on K-12 education for the “under-represented” groups, rather than dumbing down the academic standards for the sake of political correctness. Rewarding mediocrity and punishing excellence are the primary causes

of America's declining competitiveness in an increasingly interconnected world, especially in the areas of science and technology.

For the race question in college application, there should be only one check box: the HUMAN race.

[1] <http://www.utexas.edu/student/admissions/research/HB588-Report13.pdf>

[2] "No Longer Separate, Not Yet Equal: Race and Class in Elite College Admission and Campus Life" by Thomas Espenshade (Princeton University Press, 2009)

[3] "Do colleges Redline Asian-Americans" by Kara Miller, Boston Globe, Feb 8, 2010.  
[http://www.boston.com/bostonglobe/editorial\\_opinion/oped/articles/2010/02/08/do\\_colleges\\_redline\\_asian\\_americans/](http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2010/02/08/do_colleges_redline_asian_americans/)

[4] "Some Asians' college strategy: Don't check 'Asian'" by Jesse Washington, Associated Press, Dec 3, 2011. <http://news.yahoo.com/asians-college-strategy-dont-check-asian-174442977.html>

[5] "The Role of Ethnicity in Choosing and Leaving Science in Highly Selective Institutions", R. Elliott *et. al.* 37 Research in Higher Education 681 (1996)

[6] "Encouraging Minority Students to Pursue Science, Technology, Engineering and Math Careers", US Commission on Civil Rights, Briefing Report, Oct 2010.

[7] "Are Black/White Disparities in Graduation and Passing the Bar Getting Worse, or Better?" by R. Sander. [http://www.elsblog.org/the\\_empirical\\_legal\\_studi/2006/09/sander\\_2\\_black\\_.html](http://www.elsblog.org/the_empirical_legal_studi/2006/09/sander_2_black_.html)

[8] "The Occupational Choices of High-Achieving Minority Students" (Harvard University Press 2003)

[9] <http://www.hillel.org/index>, % of Jewish students in some Ivy League school are: Columbia 30%, Yale 27%, Harvard 25%, U Penn 25% Cornell 23%, and Brown 22%.

[10] "The Jewish Problem", discussed in Jerome Karabel's book "The Chosen" (Mariner Books, 2006)

[11] "The Price of Admission", by D. Golden (Three River Press, 2006)

[12] [http://professionals.collegeboard.com/profdownload/cbs2011\\_total\\_group\\_report.pdf/](http://professionals.collegeboard.com/profdownload/cbs2011_total_group_report.pdf/)

[13] "An Analysis of the Effects of Proposition 209 Upon the University of California" by R. Sander, 2011 working paper, <http://www.seaphe.org/working-papers/>