

TEXAS AT A

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INTERESTS OF *AMICI CURIAE*<sup>1</sup>

Montgomery, Alabama. Founded in 1971, SPLC is dedicated to fighting hate and bigotry and to seeking justice for the most vulnerable members of society, including women and persons of color. SPLC represents students of color to ensure equal



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Unfortunately, there remains a lack of diversity

the benefits to *all* students of having racial and ethnic diversity on a college campus. Universities provide the first real forum for most students to engage in meaningful cross-racial interactions inside and outside the classroom. Not only does this result in a better education, but it provides exposure to those from different backgrounds and experiences, creating an environment in which racial understanding and coexistence is the norm.

Part II considers the legal framework of this case in light of the significant and ongoing racial divide in our country, which continues to make race-conscious admissions programs essential to the educational mission of colleges and universities. As the Court recognized almost forty years ago, colleges and universities have a compelling interest in attaining the educational benefits of a broadly diverse student body. See *Regents of the University of California v. Bakke*, 438 U.S. 265, 287 (1978) (citing *Grutter v. Bd. of Regents of the Univ. of Michigan*, 531 U.S. 91, 105 (2000)). The Court has also cited precedents on compelling interest in the context of higher education. Indeed, the question is not before the Court because Petitioner has not raised it. This is no different than *Fisher*, in which this Court noted that the issue was not before it. *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411, 2419 (2013). Accordingly, the Court should reaffirm the precedential relevance of *Grutter*.

Further, the University of Texas (UT) has implemented a holistic admissions process consistent with, and modeled after, the University of

## ARGUMENT

### I. RACIAL DIVERSITY IS CRITICAL IN HIGHER EDUCATION BECAUSE RACE PLAYS AN ENDURING ROLE IN AMERICAN SOCIETY AND INFORMS INDIVIDUAL PERSPECTIVES

Race continues to impact all facets of the lives of individuals in the United States. Concrete examples drawn from data, studies, and reports confirm the existence of racial disparities in virtually every area of American society.

Increasing segregation in housing and public primary and secondary education correlates with persistent racial disparities in academic proficiency, educational attainment, income levels, employment, and positions of leadership in government and business. Racial disparities are also apparent in areas such as school discipline and interactions with police<sup>1</sup> as highlighted by the Black Lives Matter movement<sup>2</sup> as well as crime and incarceration. And race has been at the center of the explosion in violence resulting in recent, high profile police killings of African Americans<sup>3</sup> Michael Brown, Eric Garner, Freddie Gray, John Crawford, Ezell Ford, Dante Parker, Akai Gurley, twelve-year-old Tamir Rice, and Sandra Bland, among others<sup>4</sup> as well as the mass shooting of African Americans at a black church in Charleston, South Carolina.

Given this context, there are significant societal benefits to having racial and ethnic diversity among a broad range of types of diversity on a college campus. Race, and the existing racial disparities in our communities, help shape individual identity, and

students bring their perspectives into the university community. Universities offer students the opportunity to bridge racial divisions and, likely for the first time, engage in meaningful cross-racial interactions. In the university setting, these positive interactions occur both inside and outside the classroom and continue as students enter the world outside of the Academy.

#### A. Racial Separation Continues To Pervade Our Society

Racial disparities persist in numerous facets of our society that have a significant impact on the experiences of individual students. These disparities are apparent in housing segregation, as well as increasing segregation in primary and secondary schools. Disparities also exist with respect to household income and employment. These disparities are also reflected in statistics for student enrollment, academic proficiency, and educational attainment. Ultimately, racial disparities are evident in workforce composition, participation in political leadership, and crime and incarceration.

**Housing in the United States:** Housing segregation persists in the United States, as this Court recently acknowledged when describing the United States as “one of the most segregated nations in the world.” *Texas 8 Yd. v. Inclusive Communities Project, Inc.*, 135 S. Ct. 2507, 2525 (2015). The United States is virtually as segregated today as it was 75 years ago. The average non-Hispanic white person lives in a neighborhood that is 75% white, whereas African Americans typically live





been increasing since 1991. *See Brown at 60: Great Progress*, at 10–11. Nationally, the average white student attends a school that is almost 72.5% white, 11.8% Latino, 8.3% black, 3.9% Asian, and 3.5% Native American or multiracial. *Id.* at 12. The average black student attends a school that is 48.8% black, 27.6% white, 3.6% Asian, 17.1% Latino, and 2.9% Native American or multiracial. *Id.* Latino students often attend schools that are 56.8% Latino, 25.1% white, 10.9% black, 4.7% Asian, and 2.5% Native American or Latino. *Id.* The average Asian student attends a school that is 38.9% white, 24.5% Asian, 22.1% Latino, 10.7% black, and 3.8% Native American or multiracial. *Id.* Texas ranks second in the nation in terms of most segregated states for black students. *See id.* at 20.

Although it is established under the Constitution that the United States has largely retained its separateness. *Brown*, 347 U.S. at 495. When school districts make efforts to rezone students into under-performing schools that have high percentages of black or Hispanic students to reduce over-crowding in well-performing schools, parents oppose rezoning or, if they have the means, plan to relocate if their children are rezoned. *See* Kate Taylor,

enrollment, and a 495% increase in Latino enrollment. *Brown at 60: Great Progress*, at 6. In the southern region as a whole, whites represent 45% of enrollment, blacks 24%, Asians 3%, Latinos 25%, and Native Americans and multiracial individuals about 3%. *Id.* at 9. Although desegregation plans led to the integration of many public schools, the trend started to reverse as those plans began to terminate. *Brown at 60: Great Progress*, at 10; see *Bd. of Educ. of Oklahoma City v. Dowell*, 498 U.S. 237, 249] 51 (1991).

**Academic proficiency:** These patterns of



rate over three times higher than white students.<sup>5</sup> For example, 5% of white students are suspended compared to 16% of black students. *Id.* While African American students represent 16% of student enrollment, they experience 32% of in

numbers showed a similar disparity: 70% for African Americans, 58% for Hispanics, and 37% for white students. *Id.*

physical, and social sciences, black professionals make up 5.6% of the workforce, and in architecture and engineering occupations, black professionals are 5.5% of the workforce. *Id.* Hispanics represented 7.5% of the architecture and engineering field and 7.9% of life, physical, and social scientists. *Id.* at 7.

**Income:** Income disparities exist for households in the United States, as illustrated by Census Data. For the United States as a whole for years 2007-2011, approximately 26% of African Americans were living below the poverty level, 24% of American Indians, and 23% of Hispanics, as compared to approximately 12% of whites.<sup>11</sup> In Texas, for the same time period, approximately 29% of American Indians, 26% of Hispanics, and 24% of African Americans were living below the poverty level, as compared to 15% of whites.<sup>12</sup> Unfortunately, obtaining a college degree does not remove income disparities. Notably, even when the group disparities in educational attainment are closed on an individual basis, all college graduates of color (black, Asian, and Hispanic) maintain lower median

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<sup>11</sup> Suzanne Macartney, *et al.*, *Poverty Rates for Selected Detailed Race and Hispanic Groups by State and Place: 2007-2011*, at 13 (issued Feb. 2013), <https://www.census.gov/prod/2013pubs/acsbr11-17.pdf>

<sup>12</sup> *Id.* at 14; see also *Poverty Rates for the White Alone Population by State: 2007-2011* and *Poverty Rates for the Black or African American Alone Population by State: 2007-2011*, [https://www.census.gov/hhes/www/poverty/publications/Appendix\\_Tables1-24.pdf](https://www.census.gov/hhes/www/poverty/publications/Appendix_Tables1-24.pdf).

income and lower family net worth than their

rate of whites.<sup>16</sup> Hispanics were incarcerated at nearly double the rate of whites. *Id.* This means that roughly 2.3% of all African Americans were incarcerated, compared to 0.7% of Hispanics and 0.4% of whites. *Id.* at 4. These statistics remained roughly the same through 2010.<sup>17</sup> In 2014, 6% of all black males between the ages of 30 and 39 were in prison, compared to 2% of Hispanic men and 1% of white men in the same age range.<sup>18</sup>

According to the Federal Bureau of Investigations, race-based violence remains the most prevalent brand of hate crime in the U.S., representing nearly 50% of all single-bias hate crime incidents in 2013.<sup>19</sup>

Recent events involving police use of excessive force have underscored the racial disparities in our

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<sup>16</sup> Marc Mauer and Ryan S. King, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, at 3 (2007), [http://www.sentencingproject.org/doc/publications/rd\\_stateratesofincbyraceandethnicity.pdf](http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf).

<sup>17</sup> See Leah Sakala, *Breaking Down Mass Incarceration in the 2010 Census: State-by-State Incarceration Rates by Race/Ethnicity*, at 1 (2014) (noting that the proportion for Hispanics rose to 0.8% and whites to 0.45%), <http://www.prisonpolicy.org/reports/rates.html>.

<sup>18</sup> E. Ann Carson, *Prisoners in 2014, Bureau of Justice Statistics*, at 1 (2015), <http://www.bjs.gov/content/pub/pdf/p13.pdf>.

<sup>19</sup> Federal Bureau of Investigation, *Hate Crime Statistics Report* (Dec. 8, 2014), <https://www.fbi.gov/news/stories/2014/december/latest-hate-crime-statistics-report-released>.

society. For example, the U.S. Department of Justice, Civil Rights Division, *Investigation of the Ferguson Police Department*, at 62] 63 (Mar. 4, 2015); see also *id.* Uh' & fl: Yf[i gcb]g' ck b' XUHU establish clear racial disparities that adversely [a dUW]5 Z]W]b' 5a Yf]W]bg"l'".

These disparities, which have heavily shaped the trust and relationship between the black community and police, are part of the reason groups such as Black Lives Matter have emerged.<sup>20</sup> Black Lives Matter (BLM) began after a police officer killed an unarmed black teenager, Michael Brown, in Ferguson, Missouri during the summer of 2014.<sup>21</sup>

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<sup>20</sup> See Black Lives Matter Website, <http://blacklivesmatter.com/>; see also Matt Ford, *Obama Defends Black Lives Matter*, Notes, The Atlantic (Oct. 22, 2015), <http://www.theatlantic.com/notes/2015/10/obama-defends-black-lives-matter/412066/>; Conor Friedersdorf, *Blue Reforms and Black Lives*, The Atlantic (Oct. 27, 2015), <http://www.theatlantic.com/politics/archive/2015/10/blue-reforms-black-lives/412573/>.

<sup>21</sup> Conor Friedersdorf, *A Tough Weekend for the Black Lives Matter Movement*, The Atlantic (Aug. 10, 2015) (attributing the rise of Black Lives Matter to the killing of Michael Brown), <http://www.theatlantic.com/politics/archive/2015/08/a-tough-weekend-for-the-black-lives-matter-movement/400862/>; Jonathan Capehart, *HfUuj cb' A Ufh]b' tc' I6' UW' @j Yg' A UhhYfj*

Over-incarceration and the use of excessive force are devastating black neighborhoods, families, and lives, and this new generation of activists has begun to demand substantive change.<sup>22</sup>

BLM, while still nascent, has been described as an increasingly coordinated network of millennial activists in part because of its broader political agenda, which includes LGBTQ issues and immigration reform as priorities.<sup>23</sup> Additionally, BLM has a less centralized organizing model, instead relying on a grass-roots structure that does not have an express political personality as its center of gravity. *Id.* It has

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and noting that it stemmed from the killing of Trayvon Martin in 2012, an unarmed black teenager, by a civilian namee





the United States.<sup>27</sup> As of March 2015, there were only 4 black CEOs of Fortune 500 companies.<sup>28</sup> In 2013, there were 10 Latino and 10 Asian-American Fortune 500 CEOs.<sup>29</sup>

Corporate boards of directors also are overwhelmingly white and male. In 2012, white men occupied 73.3% of Fortune 500 corporate board seats.<sup>30</sup> Men and women of color represented 13.3% of all corporate board members, despite the proven benefits of diversity in the private sector. To that end, *Forbes* found that more than half of the representatives of companies with more than \$10 billion in revenue with the

Additionally, many studies have found that diverse groups result in better outcomes in solving problems.<sup>32</sup> The Court has recognized that several major U.S. businesses wrote as *amici* in support of the idea that the skills required to thrive in the [ `cVU` `a Uf\_Yhd` UW` ]bWi XYžUbX`fYei ]fYžÎYl dcgi fY`hc` widely diverse people, cultures, ideas, and j ]Yk dc]bhg"İ` *Grutter*, 539 U.S. at 330.

Race continues to separate and divide society in housing and education, which impacts higher education, employment, income, economic and political leadership, crime, incarceration, and voting. Higher education is a crucial access point for diverse individuals to come together and share individual experiences and viewpoints that will enrich the academic environment and inform and affect life beyond the university. Race and ethnicity still

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[http://images.forbes.com/forbesinsights/StudyPDFs/Innovation\\_Through\\_Diversity.pdf](http://images.forbes.com/forbesinsights/StudyPDFs/Innovation_Through_Diversity.pdf).

<sup>32</sup> See Lu Hong and Scott E. Page, *Groups of Diverse Problem Solvers Can Outperform Groups of High-Ability Problem Solvers*, Proceedings of the National Academy of Science (2004), <http://vserver1.cscs.lsa.umich.edu/~spage/pnas.pdf>; see also Roy Y.J. Chua, *Àbcj Uh]b[` Uh` h\Y` K cf`X]y` 7fcggfcUXg` <ck` Multicultural Networks Promote Creativity*, at 617 (2011) (a heterogeneous social network leads to exposure to new perspectives, and increased creativity), <http://www.hbs.edu/faculty/Publication%20Files/11-085.pdf>; Thomas Barta, *et al.*, *Is There a Payoff From Top-Team Diversity?*, McKinsey Quarterly (Apr. 2012) (diverse corporate boards enjoyed higher returns on equity and earnings), [http://www.mckinsey.com/insights/organization/is\\_there\\_a\\_payoff\\_from\\_top-team\\_diversity](http://www.mckinsey.com/insights/organization/is_there_a_payoff_from_top-team_diversity).

matter, even as America aspires to become a colorblind society.

his or her worldview.<sup>33</sup> By considering race and ethnicity as one factor during the admissions process, universities promote diversity in the classroom, in particular disciplines, and for the campus community as a whole. That

*Me*, at 76–88 (2015). One African American concluded that class could not protect his children from discrimination after he learned of a flagrantly racist incident his son endured.<sup>35</sup> Class does not insulate African American men from how society often views them and, in particular, their blackness. As African American or Hispanic, for instance, likely as African American or Hispanic, for instance, likely dual consciousness, and it also will shape how other members of our society view, understand, and treat an individual.

C.



gri XYbhñi Yi dçgi fY' hc' Wçgg-racial and cultural exchange increases, the student demonstrates increases in cognitive development, self-confidence, understanding, and tolerance.<sup>38</sup> In a survey of over 6,000 alumni of four major research institutions, researchers discovered that those who reported Yi dYf]YbWb[ ' Îgi VghUbh]U'î' `Yj Y`g' cZ' Wçgg-racial interaction in college demonstrated significantly higher skill development in several areas, including the ability to form creative ideas and solutions Wca dUfYX'hc'h\cgY'k \c'fYdcfhYX'cb`m\Uj ]b[ 'Îgca Yi' cf'î`]hYi' Wçgg-racial interaction.<sup>39</sup>

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*Orientation*, 48 Res. Higher Educ. 283, 310-312 (2007) (finding diversity experiences in college key to achieving students workforce preparation); cf. Thomas F. Pettigrew & Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 J. Personality & Soc. Psychol. 751, 757 (2006) (meta-analysis finding that intergroup interaction consistently reduced ]bXj] ]Xi U'gñdfY' X]W' `Yj Y`g' / see also William G. Bowen and Derek Bok, *The Shape of the River, Long-Term Consequences of Considering Race in College and University Admissions*, 267 Princeton University Press, 1998 (reporting on a survey of over 27,000 students, the authors observed that the extent of racial diversity and racial interaction among students turned out to be among the three most influential factors associated with increased student acceptance of other cultures, participation in community service programs, and growth in other aspects of civic responsibility).

<sup>38</sup> See Mitchell J. Chang, *et al.*, *The Educational Benefits of Sustaining Cross-Racial Interaction Among Undergraduates*, 77 J. Higher Ed. 430, 449 (2006), [http://www.jstor.org/stable/3838606?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/3838606?seq=1#page_scan_tab_contents).

<sup>39</sup> See Jiali Luo & David Jamieson-Drake, *A Retrospective Assessment of the Education Benefits of* f7 cbh]bi YX'Å 7



The Court has similarly recognized that diversity in universities helps to prepare students for citizenship. It is critical for universities to foster such cross-racial exchanges during college because

*Tinker v. Des Moines Indep. Comm. School Dist.*, 393 U.S. 503, 507 (1969); *Grutter*, 539 U.S. at 331 (reiterating the importance of education to

\Yf]hU[ YL'' H\Y' 7 ci fh' \Ug' `cb[ ' fYV[ b]nYX' h\ Uh' I D\ Y'

These are just a few examples of the ways in which race and ethnicity, in combination with numerous other factors, impact the experience of students during and after higher education. Because race and ethnicity inform individual identity and shape experiences, meaningful cross-racial interaction in a university setting yields benefits that might not occur otherwise, largely because of segregation in housing and elementary and secondary education<sup>1</sup> and the enduring racial separation in our society.

## II. THIS COURT HAS RECOGNIZED A COMPELLING INTEREST IN ATTAINING THE EDUCATIONAL BENEFITS OF DIVERSITY IN HIGHER EDUCATION

As this Court recognized almost forty years ago, universities have a compelling interest in attaining the educational benefits of a broadly diverse student body. The ongoing racial separation in our country, which affects the experiences and perspectives of individuals of different races, continues to make race-conscious admissions programs essential to the educational mission of colleges and universities.

H\YfY' ]g' h\i g' bc' fYUgcb' hc' fYj ]g]h' h\Y' 7ci fhj precedents on compelling interest in the context of higher education. *See Schuette v. Coalition to Defend Affirmative Action*, 134 S. Ct. 1623, 1630 f&\$%( Ł fP YbbYXmž >"ž d`i fU` ]hmŁ fl =b` *Fisher*, the Court

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(2004); *see also* Bowen & Bok 257 (noting that the black gh XYbhg' gi fj YmYXž YgdYWU`m a Ybž Īgi VgYei Ybh'm dUfh]VjdUHXY' at a higher rate than their white classmates in community and Vj] ]WĪ bXYfhU\_]b[ gž' k YfY'Īa i Vx' a cfY`\_]\_Y'mh\Ub'k \]hYg'hc'\c'X` \YUXYfg\ ]d' dcg]h]cbg]b Vj] ]WUbX`VŁa a i b]hmicf [ Ub]nUh]cbg"Ī Ł"

did not disturb the principle that the consideration of race in admissions is permissible, provided that the Court took *Bakke*, *Grutter*, and *Gratz* into account. *Fisher*, 133 S. Ct. at 2417. UT has asserted a compelling interest in attaining the educational benefits of broad student body diversity. To attain the educational benefits of diversity, UT has asserted a compelling interest in considering race as one factor in a holistic review to evaluate applicants who are not automatically admitted under the Top 10% Law (1997 Tex. Gen. Laws 155 (HB 588)).

#### A. Universities May Consider Race In Admissions To Further Their Compelling Interest In Attaining The Educational Benefits Of Diversity

In *Fisher*, the Court reaffirmed its prior holdings that the consideration of race in university admissions is permissible, provided that the consideration of race is necessary to attain the educational benefits that flow from a diverse student body. *Fisher*, 133 S. Ct. at 2417. The Court values beyond race alone, including enhanced classroom dialogue and the lessening of racial tensions. *Id.* at 1248. These benefits are especially important because, as this Court has noted, the continuing struggle against racial discrimination is ongoing. *Hyatt v. University of Texas at Austin*, 135 S. Ct. at 2525. As discussed in Part I, this struggle continues today and has taken on renewed importance in light of the explosion of racial

violence in African American communities in cities from Ferguson, Missouri to Baltimore, Maryland.

The compelling interest stems from Justice Dck Y`ŕg`XYWg]cb`]b` *Bakke*, 438 U.S. 265, approving a i b]j Yfg]hmŕi gY`cZ fUW`hc`Z fh\Yf`]hg`]bhYfYgh`]b`h\Y` educational benefits that flow from a diverse student VcXm`5 hU]b]b[ `U`X]j YfgY`gh`XYbh`VcXm`ŕWYUf`m`]g`U` constitutionally permissible goal for an institution of higher edi W]h]cb`ŕi` *Id.* at 311ŕ12. Justice Powell grounded his analysis in the academic freedom that ŕ`cb[ ` \Ug`VYYb`j`]Yk YX`Ug`U`gdYWU`V`bWfb`cZ h\Y` : ]fgh`5a YbXa Ybh`ŕi` *Bakke*, 438 U.S. at 312. He also fYV`[b]nYX`h\Y`ŕgi VghUbh]U`ŕi`V`bhf]Vi h]cb`cZX]j Yfg]hm` *Id.*`Uh`%`ŕf`ŕŕUX]h]cb`UbX`Yi dYf]YbW` lend support to the view that the contribution of diversity is gi VghUbh]U`ŕi`ŕ`ŕ`b`ZUV`z`bch\]b[ `Ygg`h\Ub`ŕh\Y` bU]h]cb]ŕi`Z`hi fY`XYdYbXg`i`dcb`YUXYfg`hfU]bYX`ŕi`]b`U` diverse environment. *Id.* (internal quotation marks omitted).

H\Y`7ci fh`YbXcfYX`>i gh]W`Dck Y`ŕg`fYV`[b]h]cb` that universities have a compelling interest in attaining the benefits of student body diversity and considered the use of race in the context of higher education in 2003. *Grutter*, 539 U.S. at 325. In *Grutter*, a white applicant alleged that the University of Michigan law school discriminated against her on the basis of race in violation of the Fourteenth Amendment when it rejected her application. In reaffirming the core concept from *Bakke*

12(ou7)4(t-192(nter)4(e()-191)] TJETBT1 0 0 1 64a3J7 Tmcer)4(e()-191)]

In so holding, the Court recognized the longstanding deference given to universities to exercise their expertise in deciding whether attaining the educational benefits of diversity is appropriate. *Grutter*, 539 U.S. 306, 335. The Court's judgment that such diversity is essential to its educational mission is appropriate. *see also Fisher*, 133 S. Ct. 2411, 2430.

students who will contribute the most to the robust educational benefits of diversity. *Grutter*, 539 U.S. at 324 (quoting *Bakke*, 438 U.S. at 313). Attaining the educational benefits of diversity is a compelling interest. *Bakke*, 438 U.S. at 313; *see also Grutter*, 539 U.S. at 329. It is a compelling interest. *Grutter*, 539 U.S. at 329.

**B. There Is No Reason To Revisit The  
This Compelling Interest**

In this case, Petitioner does not challenge the interest in the educational benefits of diversity. *See Fisher* here do not approving a compelling interest in diversity); *see also id.* this case did not ask us to overrule *Grutter*; benefits of diversity can justify racial preferences in (transcript). The Court took *Bakke*, *Grutter*, and *Gratz*. *Fisher*, 133 S. Ct. at 2417. Nothing has changed. Petitioner has not asked the Court to overturn *Grutter*. Nor does Petitioner ask the Court to overturn its longstanding recognition of a educational benefits that flow from student body



including improved learning, cross-racial understanding, classroom discussions, workforce preparation, civic participation, and leadership in public and private life. See Univ. of Tex. at Austin, *Proposal to Consider Race & Ethnicity in Admissions* 24 (2004). The lower courts appropriately credited

### III.



A. UT Conducts A Holistic And Individualized Admissions Process That Operates Like The Process In *Grutter*

The Court held in *Grutter* that a university may



applied for admission to UT.<sup>42</sup> That year, 81% of all freshmen, and 92% of all Texas residents admitted as freshmen, were admitted through the Top 10% channel. Resp. Br. 47.

DYh]h]cbYf' WU]a g' h\Uh' I HŃ' \c' ]gh]WUXa ]gg]cbg' process is amorphous and vague. *See, e.g.*, Pet. Br. 26] &+ž &- "'' < ck Yj Yfž' I HŃ' UXA ]gg]cbg' dc']Vh' XcYg' exactly what this Court required in *Grutter*. Like the Michigan program in *Grutter*ž' I HŃ' UXA ]gg]cbg' dfcWgg'Wcbg]XYfg'fUW'ÎZYI ]V'mUg'U'd'i g'ZUWcf' ]b'h'Y' context of individualized consideration of each and Yj Yfm Udd' ]Wbh' k \c' ]g' bch' Ui hca Uh]W' m Udmited under the Top 10% Law. *Grutter*, 539 U.S. at 337 (internal quotations and citation omitted). Race is

B. I Hg' Df]cf' FUW-Neutral Admissions Policy Did Not Achieve Educational Benefits Of Diversity That Are Critical Hc'I Hg'A ]gg]cb

DYh]h]cbYf' Uf[ i Yg' h\Uh' I Hg' UXa ]gg]cbg' dc`]Wn]g' not narrowly tailored because it can attain sufficient diversity through a race-neutral program. *See* Pet. Br.

aimed at recruiting highly-qualified students of all races from lower socioeconomic backgrounds. Despite these efforts to achieve diversity without

the disparities in academic proficiency and income, the Top 10% Law does not result in the educational benefits of broad diversity that UT seeks. *See* Resp. Br. 6–8. Because of this, UT concluded after a year-long study initiated after *Grutter* that considering race in a holistic approach was necessary to achieve the educational benefits of diversity.

**CONCLUSION**

For the foregoing reasons, the judgment of the court of appeals should be affirmed.

Respectfully submitted,

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# **APPENDIX**

LIST OF ADDITIONAL *AMICI CURIAE*

**American-Arab Anti-Discrimination Committee  
(ADC)**

The American-Arab Anti-Discrimination Committee (ADC) is the country's largest Arab American civil rights organization. As a non profit grassroots organization, ADC is bipartisan and secular. Founded in 1980 by United States Senator James Abourezk, ADC consists of members from all 50 states and has multiple chapters nationwide, including California. ADC has been at the forefront of protecting the Arab-American community for over thirty-five years against discrimination, racism, and



by promoting effective practices and innovations and building capacity in programs that are preparing tomorrow's teachers and leaders. AACTE and its members recognize the necessity of working to ensure access to higher education as a key part of efforts to further diversify our educator workforce. Equal opportunity in education, including post-secondary education, supports these efforts.

**Andrew Goodman Foundation**

The Andrew Goodman Foundation supports efforts to ensure the inclusion of diverse and underserved populations in the student bodies of our colleges and universities. Inclusion of minorities in higher education is necessary to build a more peaceful, just and sustainable society.

**Chicago Lawyers' Committee for Civil Rights Under Law, Inc.**

The Chicago Lawyers' Committee is the public interest law consortium of Chicago's leading law firms. The Chicago Lawyers' Committee was established in 1969 to provide quality legal counsel to those clients whose civil rights cases and projects would benefit the community at large. The mission of the Chicago Lawyers' Committee is to promote and protect civil rights, particularly the civil rights of poor, minority, and disadvantaged people in the social, economic, and political systems of our nation. The Chicago Lawyers' Committee for Civil Rights Under Law, Inc. is the only full service civil rights organization in the Chicago area. The preservation of

affirmative action programs is a crucial interest of the Chicago Lawyers' Committee, as part of its work in advancing the interests of poor, minority, and disadvantaged people in our nation.

### **D mos**

D mos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. D mos deploys original research, advocacy, litigation and strategic communications to reduce both political and economic inequality to create the America the people deserve. D mos believes student body diversity in higher education is indispensable in preparing students to become civic leaders and to prepare them to meet the challenges of a multi-cultural workforce in an increasingly global economy.

### **League of United Latin American Citizens (LULAC)**

The League of United Latin American Citizens (LULAC) is the largest and oldest Hispanic membership organization in the United States. With over 132,000 members in virtually every state of the nation, LULAC advances the economic condition, educational attainment, political influence, health, and civil rights of Hispanic Americans. For more than 83 years, LULAC's members have sought increased opportunities in higher education for Hispanic students through the desegregation of public schools, reaching parity in school funding, the

provision of scholarships, educational counseling, and strong affirmative action programs.

### **League of Women Voters of the United States**

The League of Women Voters of the United States is a nonpartisan, community-based organization that encourages the informed and active participation of citizens in government and public policy through education and advocacy. Founded in 1920 as an outgrowth of the struggle to win voting rights for women, the League is organized in over 750 communities and in every state, with more than 150,000 members and supporters nationwide. One of the League's primary goals is to promote an open governmental system that is representative, accountable, and responsive, and that assures opportunities for citizen participation in government decision-making. To further this goal, the League has fought since its inception to ensure that every citizen can fully and productively participate in American society, from the school room to the ballot box. The League has long supported access to public education that provides equal opportunity for all.

### **National Action Network (NAN)**

The National Action Network (NAN), founded in 1991 by Reverend Al Sharpton, works within the spirit and tradition of Dr. Martin Luther King, Jr. to promote a modern civil rights agenda. That works includes the fight to maintain the equality of opportunity and equal justice under the law for all people. That effort is incomplete without working to

ensure the equality of opportunities in education through the support of admissions policies designed to promote diversity in the nation's colleges and universities.

NAN's interest in this case is motivated by its conviction that the nation's universities can use fair and equitable standards that are constitutionally acceptable to achieve equality of opportunity and diversity in our educational institutions. So long as any group is denied an equal opportunity to higher education, the nation falls short of guaranteeing the right of all persons to life, liberty and the pursuit of happiness.

**National Association of Social Workers (NASW)**

The National Association of Social Workers (NASW), established in 1955, is the largest association of professional social workers in the United States with over 130,000 members in 55 chapters. The Texas Chapter of NASW has 6000

6a

**National Council of Jewish Women (NCJW)**

The National Council of Jewish Women (NCJW) is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social

goals has been to improve access to post-secondary education for immigrant students.

### **The National LGBTQ Task Force (Task Force)**

The National LGBTQ Task Force (Task Force), since 1973, has worked to build power, take action, and create change to achieve freedom and justice for lesbian, gay, bisexual and transgender people and their families. As a progressive social justice organization, the Task Force works toward a society that values and respects the diversity of human expression and identity and achieves equity for all. The *Fisher* case has implications for diversity, educational opportunity and the future of our workforce. We unequivocally support institutions of higher learning that value diversity and talent in the classroom. We believe that lesbian, gay, bisexual and transgender people recognize what a lifetime of discrimination and exclusion from the structural institutions of the country can do. Furthermore, we believe that promoting diversity, and through the experiences gained from diverse communities, we can build a more understanding and accepting society.

### **New Leaders**

New Leaders is a national nonprofit with a mission to ensure high academic achievement for all children, especially students in poverty and students of color, by developing transformational school

case relate directly to New Leaders' vision of ensuring educational excellence and equity in America and to preparing all students for success in college, careers, and citizenship.

### **New York Appleseed**

New York Appleseed advocates for solutions to racial and economic segregation in New York City public schools and across New York State.

### **Teach For America**

Teach for America's mission is to enlist, develop and mobilize a group of our nation's most promising future leaders to grow and strengthen the movement for educational equity. As one of our nation's leading recruiters of teachers of color for public schools, Teach For America has an interest in the maintenance of a national higher education system that produces talented, diverse graduates. If colleges and universities are no longer permitted to consider applicants' race as part of a narrowly-tailored, holistic admissions process to attain diversity, they will enroll, and graduate, fewer minority students. Such a development would impede Teach For America's efforts, in Texas and across the nation, to address the crisis in P-12 education by recruiting and training a diverse and talented corps of teachers and education leaders.