Understanding Fisher v. the University of Texas: *Policy Implications of What the U.S. Supreme Court Did (and Didn't) Say About Diversity and the Use of Race and Ethnicity in College Admissions*

July 9, 2013

Prepared on Behalf of the College Board's Access & Diversity Collaborative

This guidance has been developed to provide institutions of higher education and higher education leaders with an analysis of the U.S. Supreme Court's Fisher *decision.*[1] *It provides brief background on the case, analyzes the decision itself, and frames key takeaways and policy implications for institutions of higher education. The Appendix provides a chart that compares* Fisher *and* Grutter/Gratz *on foundational principles.*

Overview

On June 24, 2013, the U.S. Supreme Court rendered its decision in *Fisher v. University of Texas*, the first challenge to the use of race[2] in college admissions considered by the Court since the landmark 2003 University of Michigan cases, *Grutter v. Bollinger* and *Gratz v. Bollinger*.[3] In a 7-1 decision, the Court did not rule on the merits of the challenged University of Texas (UT) admissions policy. Instead, the Court concluded that the Fifth Circuit Court of Appeals had not faithfully applied "strict scrutiny" principles consistent with its precedent, provided further guidance on those principles, and returned the case for

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[1] This guidance has been authored for the Access & Diversity Collaborative by Art Coleman, Scott Palmer, and Terri Taylor of Education Counsel, LLC; and Jamie Lewis Keith, vice president and general counsel of the University of Florida. The opinions expressed are those of the authors and do not necessarily reflect those of the College Board, University of Florida, or any other individual or organization.

The Collaborative also thanks the members of its "*Fisher* Rapid Response" team for their assistance: American Association of Collegiate Registrars and Admissions Officers (Michael Reilly), Association of American Medical Colleges (Frank Trinity), American Council on Education (Terry Hartle, Ada Meloy), Association of American Colleges and Universities (Debra Humphreys), NAACP LDF (Josh Civin, Damon Hewitt), and National Association for College Admission Counseling (David Hawkins).

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[2] The terms “race” and “ethnicity,” despite their different meanings, are used interchangeably given that the strict scrutiny analysis required by federal non-discrimination law treats them the same.

[3] The Court's opinion is available at: http://www.supremecourt.gov/opinions/12pdf/11-345_l5gm.pdf.

further action consistent with the Court's opinion. Regardless of the ultimate outcome of the case, institutions of higher education remain justified in basing policies and practices on the premise that the educational benefits to all students of a broadly diverse student body can be a compelling goal.

While leaving a number of key questions unanswered, *Fisher* notably clarifies aspects of the *Grutter* and *Gratz* framework in several ways that should inform and guide institutional judgments, particularly with regard to determining and demonstrating when the use of race or ethnicity is necessary – and, therefore, permissible – as a means of achieving an institution's diversity goals. More specifically:

The Court preserved the existing legal framework governing the use of race in higher education admissions and other enrollment decisions. In general, *Fisher* should be understood as a relatively narrow decision that maintained core principles under *Grutter* and *Gratz,* which made notable clarifications on how strict scrutiny should be applied, particularly with regard to the narrow tailoring analysis.[4] Thus, the *Fisher* opinion can be viewed as a "narrow tailoring bookend" to *Grutter* and *Gratz,* with a focus on the requirement that any consideration of race or ethnicity is "necessary" – as a predicate to an appropriately "individualized" and "holistic review" process that includes race and ethnicity (the central issue in those 2003 decisions).

The Court clarified that some deference may be appropriate for a court's compelling interest analysis, but not for narrow tailoring. In *Fisher,* the Court referenced its long history of recognizing as a "special concern of the First Amendment" the freedom of colleges and universities – within constitutional limits – to make academic judgments that include whom to admit in order to create an environment most conducive to learning and creativity. But, observing that these judgments are "complex," the Court provided more guidance on when deference to academic judgments is appropriate within the protected realm of academic freedom.
The Court clarified that "some, but not complete" deference to an institution of higher education is appropriate regarding the

<u>*Fisher:* Just the Basics</u>

1. If my institution has been playing by the rules in *Grutter*, are we on safe ground in the wake of *Fisher*?
Fisher maintained *Grutter*'s core principles. Institutions retain discretion to define educational-mission driven diversity *goals*. Notably though, *Fisher* clarified that strict scrutiny (without deference) determines if the race-conscious *means* of achieving such goals are narrowly tailored. Institutions must show serious consideration of workable neutral alternatives – and must use any that are effective alone or in conjunction with race-conscious policies (as circumstances warrant).

2. Diversity is important to my institution – is it still considered a compelling interest by courts?
Yes, the Supreme Court let stand 35 years of precedent upholding the educational benefits of diversity as a compelling interest when tied to a college or university's mission.

3. I've understood that race-neutral alternatives are the place to start – but not necessarily finish – developing our diversity policies and practices. Has this changed?
Fisher, like its predecessors, requires serious review of workable race-neutral policies. *Fisher* emphasizes that *only* neutral policies must be used if adequate alone to achieve diversity-tied compelling goals. It allows race-conscious policies only if their necessity is demonstrated (e.g., by evidence of the inadequacy of alternatives alone).

[4] The Court took pains to review its 35 years of precedent under *Bakke, Grutter,* and *Gratz* and preserved "the goal of achieving the educational benefits of a more diverse student body" as a compelling interest under the law – while explaining, "[w]e take those cases as given for purposes of deciding this case" because "the parties here do not ask the Court to revisit that aspect of *Grutter*'s holding." (Justice Kennedy's majority opinion did note "disagreement" among Justices – citing to Justices Thomas, Scalia, and Ginsburg – regarding "whether *Grutter* was consistent with the principles of equal protection in approving this compelling interest in diversity.") At the same time, the *Fisher* majority specifically declined to revisit whether the plan adopted by University of Michigan's Law School, as approved in *Grutter*, would have met the standard of review it endorsed in *Fisher*. As the Court has not revisited its position in *Grutter,* however, the case remains good law. And, as the Collaborative has been suggesting since *Grutter,* prudence counsels in favor of documenting an institution's evidence of necessity for considering race or ethnicity.

institution's "educational judgments that . . . diversity is essential to its educational mission" so long as a "reasoned, principled explanation for the academic decision" is present.

On the other hand, the Court clearly stated that deference does *not* extend to the means "chosen . . . to attain diversity," although "a university's experience and expertise in adopting or rejecting certain admissions processes" can be relevant evidence in that inquiry. In other words, when ruling on a case regarding a college or university's use of race- or ethnicity-conscious policies, a reviewing court must be satisfied with an institution's methods to attain the benefits of diversity, based on the institution's evidence that its programs and policies are narrowly tailored to meet its stated goals.

In holding that institutions of higher education must present sufficient evidence to demonstrate that their programs are narrowly tailored, the Court emphasized the importance of workable race-neutral alternatives. Amplifying the long-standing requirement that institutions of higher education may pursue race-/ethnicity-conscious policies and practices only where "necessary" to achieve their diversity goals, the Court re-emphasized that there needs to be a "careful judicial inquiry into whether a university could achieve sufficient diversity without using racial classifications." In so doing, the Court reaffirmed its prior holding in *Grutter* that "[n]arrow tailoring does not require exhaustion of every *conceivable* race-/ethnicity-neutral alternative," but it does require "serious, good faith consideration of workable race-neutral alternatives." At the same time, stressing that "consideration" of such alternatives is "not sufficient" to satisfy legal requirements, the Court emphasized that an institution under review must be able to demonstrate to a court that "no workable race-neutral alternative would produce the educational benefits of diversity." In other words, if "a nonracial approach . . . could promote the substantial interest [in diversity] about as well and at tolerable administrative expense . . . then the university may not consider race."

But, the Court left many questions unanswered. The decision very likely reflects a carefully negotiated compromise that precluded any discussion of or holding on other key issues. Critical mass, in particular, was absent from the Court's discussion and analysis in *Fisher*, despite the centrality of the issue in the case.

In a Nutshell: The Strict Scrutiny Framework

Under the Fourteenth Amendment to the U.S. Constitution and Title VI of the Civil Rights Act of 1964, classifications based on race (or ethnicity) are inherently suspect, disfavored by courts, and, therefore, subject to "strict scrutiny," the most rigorous standard of judicial review.[5] Strict scrutiny requires public institutions of higher education and private institutions that receive federal funding only use race or ethnicity as a factor in conferring benefits or opportunities to students in instances where they can establish that such race-/ethnicity-conscious policies or practices serve a "compelling state interest" and are "narrowly tailored" to serve that interest. (Strict scrutiny should not apply, though, to policies and practices that are inclusive and do not result in excluding individuals based on their race or ethnicity.)

- **A compelling interest** is the end that must be established as a foundation for maintaining lawful race- and ethnicity-conscious programs that confer opportunities or benefits to students. Federal courts have expressly recognized a limited number of interests that can be sufficiently compelling to justify the consideration of race or ethnicity in a higher education setting, including a university's mission-based interest in promoting the educational benefits of diversity among its students.

- **Narrow tailoring** refers to the requirement that the means used to achieve the compelling interest must "fit" that interest precisely, with race or ethnicity considered only in the most limited manner possible to achieve compelling goals. Federal courts examine several interrelated criteria in determining whether a given program is narrowly tailored, including the flexibility of the program, the necessity of using race or ethnicity (including evidence of its material impact), the burden imposed on non-beneficiaries of the racial/ethnic consideration, and whether the policy has an end point and is subject to periodic review.

[5] The Fourteenth Amendment prohibits any state actor, including public institutions of higher education, from denying "any person within its jurisdiction the equal protection of the laws." U.S. Const. amend XIV, § 1. Title VI prohibits discrimination on the basis of race or ethnicity "under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

In *Fisher,* two white women sued UT after being denied admission, alleging that UT's admissions policy discriminated against them on the basis of race. (Only one woman, Abigail Fisher, continued to pursue the case in the Supreme Court.) UT's policy included two components: (1) the state's "Top Ten Percent" Law, which automatically admitted all Texas students who graduated in the top ten percent of their high school classes; and (2) a holistic review process for all other applicants that included consideration of race/ethnicity as one factor among many. The Fifth Circuit upheld UT's admissions policy under *Grutter*'s principles. [6]

With a 7-1 vote,[7] and in an opinion by Justice Kennedy, the Supreme Court sent *Fisher* back to the Fifth Circuit for reconsideration. In so doing, the Court focused on the extent of the Fifth Circuit's review of UT's means under narrow tailoring, and did not evaluate the substance of UT's admissions policy or the sufficiency of evidence UT offered on the necessity to consider race/ethnicity in its admissions program, leaving that determination to the Fifth Circuit.

The Court accepted *Grutter* as the ruling standard and framework, thereby maintaining that an institution may, in its academic judgment, determine that the educational benefits of diversity are a compelling, mission-driven interest and act to further that interest so long as the means employed are narrowly tailored.[8]

Though it did not upset the legal framework described in *Grutter*, the Court in *Fisher* clarified its expectations for what an institution under review must establish and a reviewing court must determine, particularly with regard to the narrow tailoring analysis. It ruled that courts are *not* permitted to defer to institutional judgment about the *means* of achieving the educational benefits of diversity (although considerations of an institutions experience and expertise in selecting or rejecting particular admissions policies is appropriate). At the same time, the Court recognized that deference may be acceptable regarding an institution's judgment about the *ends* (i.e., the goals) of achieving diversity.[9] Further, the

[6] For a complete review of the facts in *Fisher* and the Fifth Circuit's decision, see Legal Update: *Fisher v. University of Texas* Case Summary (College Board 2011), http://diversitycollaborative.collegeboard.org/sites/default/files/document-library/fisher_v_univ_texas_final.pdf.

[7] Justice Kagan was recused from the case, resulting in only eight of nine Justices participating in *Fisher.*

[8] The cases cited by the Court recognize higher education's special and important role in our democratic society. At the same time, the Court makes clear – as it has for 35 years in *Bakke, Grutter, Gratz*, and *Parents Involved in Community Schools v. Seattle School Dist. No. 1 (PICS)* – that constitutional parameters still apply. For example, "racial balancing" (seeking to reflect in the student body a representation of racial minorities that approximates their representation in the local, state or national population) is not constitutional and cannot serve as a goal of a college or university admissions policy. This should not be confused, however, with the goal of preparing all students, regardless of their race or ethnicity, to live, work, and participate in an increasingly diverse community, nation, and world – a goal that is relevant to population demographics in a way constitutionally distinct from impermissible racial balancing practices.

[9] The Court's amplification of principles associated with academic freedom and deference to institutions of higher education – while more starkly stated in *Fisher* – is not, technically speaking, new. Justice Kennedy explored the concept in his dissent in *Grutter* when he observed, "[D]eference to a university's definition of its educational objective . . . [differs from] deference to the implementation of this goal. In the context of university admissions

Court described the evidentiary foundation that institutions must present to show that their programs meet the narrow tailoring standard, including a required demonstration that workable race-neutral alternatives will not suffice to meet institutional goals.[10]

The decision is very likely the result of a carefully negotiated compromise, with a narrow majority opinion supported by seven of eight Justices and two additional opinions that present two fundamentally opposed views: (1) a concurrence by Justice Thomas (which no other Justice joined) suggesting that *Grutter* should be overruled because the educational benefits of diversity are not a compelling enough interest to justify the consideration of race or ethnicity in admissions, and (2) a dissent from Justice Ginsburg (which no other Justice joined) arguing that the University of Texas' policy should have been approved without further proceedings under *Grutter.*[11] The case will now go back to the Fifth Circuit for reconsideration, including a determination whether UT "has offered sufficient evidence that would prove that its admissions program is narrowly tailored to obtain the educational benefits of diversity."

The Court's decision concerns admissions, and the outcome – whether strict scrutiny is satisfied – will depend on the particular facts of UT's admissions process. However, the Court's *Fisher* decision makes the point that strict scrutiny applies to any institutional decision-making that allocates benefits or opportunities to students based on their race or ethnicity. Consequently, the *Fisher* decision is instructive for all race- and ethnicity-conscious enrollment policies and practices, though whether strict scrutiny applies to and would be satisfied by any particular policy or program will be context- and fact-dependent.

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the objective of racial diversity can be accepted based on empirical data known to us, but deference is not to be given with respect to the methods by which it is pursued."

Based on more general language (and the logic) of *Grutter,* as well as the Ninth Circuit decision in *Smith v. University of Washington* (2004), the Access & Diversity Collaborative has encouraged institutions to distinguish between the deference due to diversity goals and the means to achieve those goals. See, e.g., Coleman & Palmer, Admissions and Diversity after Michigan: The Next Generation of Legal and Policy Issues (College Board 2006), http://diversitycollaborative.collegeboard.org/sites/default/files/document-library/acc-div_next-generation.pdf.

[10] The Court specifically declined to address whether UT met this standard. Justice Kennedy did reference some of UT's admissions data, which showed that (at least based on percentages of the total) UT's entering class as a whole was more diverse under the ostensibly race-neutral regime of the Top Ten Percent Law than its race-conscious predecessor. (Note, however, that UT explained in its Supreme Court brief that it "by no means regarded the level of racial diversity in 1996 as a fully-realized end point.")

[11] Justice Scalia also offered a brief concurrence that expresses skepticism about *Grutter*'s approval of the educational benefits of diversity as a compelling interest.

Key Takeaways from the Decision

- **The *Grutter* and *Gratz* framework for strict scrutiny analysis of race-conscious policies and practices in higher education remains good law.** After *Fisher*, institutions of higher education may still pursue their mission-based, compelling interest in promoting the educational benefits of diversity through admissions and other programs that consider race or ethnicity and use holistic review in a manner that is narrowly tailored to achieve that interest. Correspondingly, race or ethnicity may continue to be considered as one factor among many in an individualized, holistic review process as a means for institutions of higher education to promote their mission-based, compelling interest in the educational benefits of diversity – provided the consideration of race in that review process is narrowly tailored and necessary to achieve that goal. The test is intended to be rigorous but capable of being satisfied. As the *Fisher* court explained, it is neither "strict in theory, but fatal in fact" *nor* "strict in theory but feeble in fact."

- **Institutions face a high (but not insurmountable) bar to justify their race-conscious policies and practices.** The Court rejected the premise that the higher education "dynamic" changes the nature of the narrow tailoring prong of the strict scrutiny standard and made clear that the "ultimate burden" of proof is on the institution. Context still matters in a strict scrutiny analysis, but an institution's good faith judgment on the necessity of considering race or ethnicity is not enough to meet the strict scrutiny standard. Instead, when faced with litigation, an institution must show the reviewing court that the design and implementation of its chosen means to attain sufficient racial diversity as part of its broader diversity aims are necessary to achieve those goals. In particular, the institution must demonstrate that, "before turning to racial classifications . . . available, workable race-neutral alternatives do not suffice." Still, the Court noted that "[n]arrow tailoring does not require exhaustion of every *conceivable* race-neutral alternative . . . [but does] require a court to examine [each case] with care" (emphasis in original). Whether a race-neutral approach "could promote the substantial interest about as well [as the race-conscious approach] and at tolerable administrative expense" is a key inquiry under *Fisher*, informed by the institution's "experience and expertise in adopting or rejecting certain admissions processes."

- **Courts must review institutional policies *and practices* with care.** Explaining that the lower court in *Fisher* "confined the strict scrutiny analysis in too narrow a way by deferring to the University's good faith [judgment]" in its analysis of "narrow tailoring," the Supreme Court charged reviewing courts with making an independent, "searching examination" of the evidence provided by an institution. A court must not only look to the institution's "assertion that its admissions process uses race in a permissive way" but also give "close analysis to the evidence of *how the process works in practice*" (emphasis added). With respect to race-neutral alternatives, in particular, a reviewing court "must ultimately be satisfied that no workable race-neutral alternatives would produce the educational benefits of diversity."

Policy Implications for Moving Forward

1. **Institutions of higher education that seek to achieve the educational benefits of diversity should focus as deliberately on race- and ethnicity-*neutral* practices as they do on the contours of race- and ethnicity-*conscious* practices.** The Court's *Fisher* opinion centered on requirements that must be satisfied in order to justify any consideration of race- (or ethnicity-) conscious practices that may further diversity-related goals. Substantially framing the "serious consideration" obligation of colleges and universities is the Court's strong (if ambiguous) statement that institutions may not use race or ethnicity if a workable race-neutral alternative "could promote the substantial interest about as well and at tolerable administrative expense." Colleges and universities are well-advised to document that they have conducted their serious review, used workable race-neutral alternatives (as appropriate), and pursued race-conscious policies and practices only to the extent necessary. To this end, institutions should:

    - Evaluate policies and practices to determine whether they are or are not race-conscious;[12]
    - Identify and use authentic, mission-tied race-neutral policies that can (and do) support diversity goals, while noting, where relevant, their limitations and the continuing gaps in achieving diversity goals;
    - Consider the entire universe of policies as relevant context – i.e., the many race-neutral policies that support broad diversity goals, including those operating in conjunction with race-conscious practices; and
    - Assess the effectiveness and impact of all race-conscious strategies employed.

2. **Evidence of institutional practice that exhibits institutional policy should be compiled and evaluated as part of any institution's periodic review of race- and ethnicity-conscious policies.** The Court instructed lower courts that strict scrutiny review compels attention to institutional claims of policy intent and design, as well as to a "close analysis to the evidence of *how the process works in practice*" (emphasis added). Implicitly, the Court has called attention to the need for the periodic review and evaluation under strict scrutiny principles to focus on the effectiveness and impact of race-/ethnicity-conscious policies – a principle with precedent.

3. **The concept of critical mass remains good law – but calls for more robust, practice-oriented research and program evaluation.** Despite the centrality of the issue of critical mass in the *Fisher* case,[13] the *Fisher* court declined to address critical mass at all. This lack of guidance continues to

[12] As a matter of law (in education settings), as many questions as answers seem to exist regarding the distinction between race-conscious and race-neutral policies and practices. See Coleman, Palmer, & Winnick, Race-Neutral Strategies in Higher Education: From Theory to Action (College Board 2008), http://diversitycollaborative.collegeboard.org/sites/default/files/document-library/race-neutral_policies_in_higher_education.pdf.

Notably, Justice Kennedy's concurrence in *PICS* observed that certain mechanisms may be "race conscious but do not lead to different treatment based on a classification that tells each student he or she is to be defined by race, so it is unlikely any of them would demand strict scrutiny to be found permissible" Justice Ginsburg's dissent in *Fisher* echoes a similar theme from a different vantage: "I have said before and reiterate here that only an ostrich could regard the supposedly neutral alternatives as race unconscious."

[13] The central question in *Fisher* was one of necessity – whether UT *needed* to consider race to achieve its interests in the educational benefits of diversity, particularly because race was re-introduced into the UT admissions process

leave open key questions in the discussion that began with *Grutter* on how best to assess and operationalize critical mass. Institutions pursuing critical mass objectives should take this opportunity to provide experiences for all students to live, work, and learn in a broadly diverse population as they develop and implement protocols and foundations for research to determine the educational effects of those experiences. Correspondingly, institutions should develop a meaningful research agenda that probes the operational mechanics of determining critical mass and its effects in supporting sound practice.[14]

Conclusion

Fisher focused on the requirement that any consideration of race or ethnicity be "necessary" as a predicate to an appropriately "individualized" and "holistic review" process (that includes race or ethnicity as one consideration), but left a number of key questions unanswered. Its amplifications on and clarifications of the *Grutter* and *Gratz* framework contribute to an ongoing dialogue and should directly inform and guide institutional judgments regarding the optimal policies and practices to be pursued.

In the end, the amplification and clarification of decades-old precedent affirms the need for institutions of higher education to lead. To achieve success, college and university leaders are well-advised to match their articulated diversity commitment with a serious, strategic deliberation and periodic evaluation of policies and practices designed to achieve the educational benefits of diversity, associated with their unique institutional missions.

In sum, "getting it right" educationally (with "reasoned, principled explanations," to quote Justice Kennedy) is the foundation for the development of policies that are legally sustainable, as well.

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well after the race-neutral Top Ten Percent Law was enacted. Before including race in the "special circumstances" consideration, UT commissioned two studies to determine whether it was enrolling a critical mass of underrepresented minorities. The first study determined that minority students were significantly underrepresented in undergraduate classes of "participatory size" (defined by UT as having between 5 and 24 students). The second reported that minority students felt isolated and insufficiently represented in classrooms. Following more than a year of study, UT adopted the policy to include race in a very limited manner and formally reviews the race-conscious measure every five years.

[14] A significant issue not addressed by *Fisher* turns on whether critical mass fits into the compelling interest analysis, the narrow tailoring analysis – or, potentially, both. *Grutter* is not clear on where critical mass fits into a strict scrutiny analysis. It implicates compelling interest in one breath ("[T]he Law School's concept of critical mass is defined by reference to the educational benefits that diversity is designed to produce.") and then narrow tailoring/necessity in the other ("The Law School has determined, based on its experience and expertise, that a 'critical mass' of underrepresented minorities is necessary to further its compelling interest in securing the educational benefits of a diverse student body.").

Appendix: A Comparison of *Grutter/Gratz* and *Fisher* on Foundational Legal Principles

Foundational Principle	*Grutter/Gratz*	*Fisher*	Amplification in *Fisher*
Strict scrutiny is the overarching legal framework.	**Yes**	**Yes**	The standard is neither "strict in theory, but fatal in fact" *nor* "strict in theory but feeble in fact."
The educational benefits of diversity are a compelling governmental interest.	**Yes**	**"A given," based on precedent**	(Not revisited in *Fisher* – remains good law*)*
A court may defer to institutional judgments on compelling interest.	**Yes, appropriately**	**Yes, appropriately (with additional guidance)**	"A court, of course, should ensure that there is a reasoned, principled explanation for the academic decision. On this point, the District Court and Court of Appeals were correct in finding that *Grutter* calls for deference to the University's conclusion, 'based on its experience and expertise' . . . that a diverse student body would serve its educational goals."
A court may defer to institutional judgments on necessity and narrow tailoring.	**Unclear/ Unlikely**	**No**	"Once the University has established that its goal of diversity is consistent with strict scrutiny, however, there must still be a further judicial determination that the admissions process meets strict scrutiny in its implementation. The University must prove that the means chosen by the University to attain diversity are narrowly tailored to that goal. On this point, the University receives no deference," although "a court can take account of a university's experience and expertise in adopting or rejecting certain admissions processes."
Strict scrutiny allows for consideration of critical mass related to the educational benefits of diversity.	**Yes**	**(Not discussed)**	(Not revisited in *Fisher* – remains good law*)*
Narrow tailoring requires demonstration of supporting evidence for the race-/ethnicity-conscious policy.	**Yes**	**Yes (with additional guidance)**	A court must not only look to the institution's "assertion that its admissions process uses race in a permissive way" but also give "close analysis to the evidence of how the process works in practice." Also, "[i]f a nonracial approach . . . could promote the substantial interest [in diversity] about as well and at tolerable administrative expense . . . then the university may not consider race."
Race-/ethnicity-neutral alternatives must be considered.	**Yes**	**Yes**	"[S]trict scrutiny imposes on the university the ultimate burden of demonstrating, *before* turning to racial classifications, that available, workable race-neutral alternatives do not suffice" (emphasis added).

About the Access & Diversity Collaborative

The **Access & Diversity Collaborative** is a major **College Board Advocacy & Policy Center** initiative that was established in the immediate wake of the 2003 U.S. Supreme Court University of Michigan decisions to address the key questions of law, policy and practice posed by higher education leaders and enrollment officials. The Collaborative provides general policy, practice, legal and strategic guidance to colleges, universities, and state systems of higher education to support their independent development and implementation of access- and diversity-related enrollment policies— principally through in-person seminars and workshops, published manuals and white papers/policy briefs, and professional development videos. For more information, please visit http://diversitycollaborative.collegeboard.org/.

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