
Engaging Campus Stakeholders on Enrollment Issues Associated with Student Diversity: A Communications Primer

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Introduction

Background

Higher education admissions programs play a critical role in advancing institutional mission through processes that should be rigorous, calibrated, and fair. Every year, college admissions professionals make tens of thousands of decisions that result in educationally sound matches of institutions and students. Unfortunately, the reality of that decision-making is often misunderstood and frequently controversial. Issues surrounding admissions and aid policies and practices, in fact, are “among the most visible” and reflect an “area where those outside the academy feel most justified in launching attacks.”¹

The opacity of the perceived “black box” of decision-making and ill-conceived notions of “merit” contribute to this skepticism, stemming in substantial part from “the conflicts among appearances, an abstract standard of equity, and the realities and pragmatism known by insiders to be part of the complex admissions task.”² Such controversy is particularly notable regarding debates on issues like “affirmative action”³ that are often ill informed; and others like Varsity Blues, where alleged fraud in admissions by privileged parents and coaches are legitimately scorned.

Overall, it can be fairly said that “strict scrutiny” is not just a legal concept; it reflects the reality of life in higher education admissions.

This reality has led many campus enrollment leaders to engage more directly and pursue more transparency regarding their decision-making, particularly with members of their own campus communities. In that context, they have asked for guidance and tools to help them better engage with other leaders, faculty, staff and students on issues associated with student diversity and enrollment decisions.

This guide ... provides practical information about core concepts that undergird educationally- and legally-sound enrollment policies associated with student diversity goals that can enhance communications and engagement strategies with faculty, staff, and students.

This guide is responsive to those requests associated with campus community engagement. It provides practical information about core concepts that undergird educationally- and legally-sound enrollment policies associated with student diversity goals that can enhance

¹ Sandy Baum, Taking Fairness Seriously in College Admissions and Financial Aid, Forum Futures 2010, 46, 47 (2010).

² Baum at 47.

³ See Text Box, Section I.A., below: “Affirmative Action Isn’t The Right Term To Describe Student-Focused Diversity Policies.”

communications and engagement strategies with faculty, staff, and students. This guide is not intended to be prescriptive or to suggest that a single framework or definition is appropriate for all schools. To the contrary, as reflected here, institutional (as well as departmental and disciplinary) missions should guide relevant conversations, informed by the guidance offered here. More specifically:

- **Section I** discusses the concept that grounds most college and university diversity efforts today—the educational benefits of diversity. Reflecting the convergence of educational research and court opinions with respect to the “ends” that institutions want to achieve, it offers an illustrative definition of “diversity,” followed by a simple, adaptable framework to consider when communicating information about prospective underlying educational interests associated with student diversity.
- **Section II** frames the companion issues associated with the “means” of achieving those aims. Based on institutional experience and research—and reflecting concepts embedded in federal nondiscrimination law—it describes the core principles and elements related to individualized holistic review in admission that should be well understood and, as appropriate, implemented, and then effectively communicated on campus.
- **Section III** rounds out this discussion by lifting up many of the key terms associated with diversity policies that implicate the consideration of race. Clarity around these concepts are often important starting points for internal deliberations and, ultimately, stakeholder engagement.

This guide concludes with reflections on the importance of assuring that, as policy leaders work to develop policies and engage with others about their aims and strategies, they must be intentional about deciding what to communicate, and how.

The **Appendix** includes illustrations of how institutions and disciplines within institutions may consider ways to communicate to increase clarity about their admissions process and its ties to institutional mission, as well as a practical self-evaluation tool to help institutions as they begin to reconsider and refresh their current communications strategy.⁴

⁴ Many wise perspectives were important in shaping the final version of this guide. We are very appreciative of the valuable feedback and thought-provoking insight provided by reviewers including David Hawkins, Executive Director for Educational Content and Policy at the National Association for College Admission Counseling; Frank Trinity, Chief Legal Officer of the Association of American Medical Colleges; and Connie Betterton and Wendell Hall from the College Board. The authors appreciate the continuing support of these individuals in helping advance understanding of complex topics for the benefit of the field.

Successful Engagement Relies on Sound Policy and Practice

Institutions of higher education can and should better communicate to shed light on their admissions aims, rationales and processes so that all internal and external stakeholders are better informed and engaged. This focus on transparency is not a call to open all doors and all files, nor is it premised on a conviction that there is a “perfect” admissions policy that all members of the public will support if only they better understood it.

Rather, enrollment officials can and must do a better job of striking the right balance. They must preserve interests in student privacy, as well as institutional interests in allowing critical room to engage in the tough decision-making that accompanies admissions and related enrollment programs. At the same time, they must better explain in clear terms the what, why, and how of the admissions process. Conversations regarding clarity should address both the goals and objectives that drive institutional policies, as well as the means of achieving those aims, as reflected in the decision-making process.⁵

The success of any stakeholder engagement and communication strategy will ultimately depend on the strength of the underlying policy at issue. That foundation can be assessed by assuring that policies are authentically mission-aligned, developed in line with principles of validity and fairness, grounded in evidence, and subject to rigorous review and continuous improvement over time.⁶

⁵ Holistic review in admissions, an issue central to the question of means, is relevant to selective and semi-selective institutions, and may as well be relevant to those institutions with open access admissions policies, where students who satisfy publicized course and grade prerequisites are automatically admitted. Holistic review principles discussed here can, in fact, be adapted to financial aid and other enrollment-related practices.

⁶ See, e.g., Arthur L. Coleman & Jamie Lewis Keith, *Understanding Holistic Review in Higher Education Admissions: Guiding Principles and Model Illustrations*, 14-15 (2018); Arthur L. Coleman & Teresa E. Taylor, *Building an Evidence Base: Important Foundations for Institutions of Higher Education Advancing Education Goals Associated with Student Diversity* (2017).

Section I: The Meaning of “Diversity” and the “Educational Benefits of Diversity”

The term “diversity” means many things to many people. And, in the admissions context, that term is often misunderstood as code for race or ethnicity. Clearly communicating what an institution really means when using the term “diversity” is critical. There is, of course, no single definition of diversity—or its benefits—that will apply to all institutions or disciplines within institutions, but principles and interests that transcend particular contexts can help guide the way.

This section provides an illustrative and adaptable definition of “diversity” in the student admissions context (including but not limited to considerations associated with race and ethnicity) and synthesizes the core benefits reflected in research, experience, and law.

A. Diversity Defined

“Diversity” should be defined in relation to a specific institution’s educational mission. Further, as a matter of federal law, “diversity” can’t be defined only with reference to race and/or ethnicity. Otherwise, it reflects more of an interest in racial balancing than an interest in promoting authentic, broadly defined educational diversity—an interest inclusive of factors associated with race and ethnicity accepted by federal courts for over 40 years.

The term should encompass the broad range of life experiences, backgrounds, perspectives, talents and other attributes that together make each individual unique, create a context to understand the choices, actions and accomplishments of each individual, and underlie the ability of the individual to contribute to a robust, innovative institutional environment and an exceptional education experience. This array of characteristics should be wide-ranging, and by way of illustration may include diversity in thought, perspective, and experience associated with:

- life’s journey—including, without limitation, in opportunities presented and seized for self and others, barriers and challenges faced and addressed for self or others, and lessons learned;
- living, working, or spending meaningful time in different geographical areas or cultures;
- family education context (e.g., first generation to attend college);
- gender, gender identity, gender expression, gender questioning;
- sexual orientation;
- mental and physical challenges;

- individual identity, including race, ethnicity, national origin, religion and culture;
- family definition and relationship;
- language fluency;
- artistic and athletic talents;
- military experience and veteran status;
- socioeconomic background, including consideration of total wealth (assets and income) and experience residing or attending school in areas determined to have a concentration of poverty;
- financial insecurity, homelessness and hunger; and/or
- work experience.

In different ways, of course, applicants will exhibit a myriad of qualities resulting from life experiences and perspectives associated with a mix of many of these typically intersecting factors.⁷

AFFIRMATIVE ACTION ISN'T THE RIGHT TERM TO DESCRIBE STUDENT FOCUSED DIVERSITY POLICIES

Historically, “affirmative action” has referred to remedial and social justice policies designed to cure the problems of the past. Thus, strong arguments exist that the term “affirmative action” isn’t an appropriate characterization of mission-driven, forward-looking, access- and diversity-related student policies that include some consideration of race or ethnicity. (No federal court has squarely addressed the propriety of this term; and in some cases, courts continue to use the term in line with litigants’ legal arguments.)

Moreover, the ambiguities inherent in the term “affirmative action” (everyone has their own definition) should cause one to pause and consider the value of maintaining a label that means very different things to different people and that, in any event, can be a lightning-rod term. At a minimum, the term lacks precision, is inherently ambiguous, and is often used effectively by those whose aim is to obfuscate and oppose authentic, educationally grounded diversity goals and strategies that involve some consideration of race or ethnicity.

⁷ See Arthur L. Coleman & Jamie Lewis Keith, *Understanding Holistic Review in Higher Education Admissions: Guiding Principles and Model Illustrations*, 10-11 (2018) (addressing the intersectionality of many admission factors that, taken together, help form individual, unique student identities).

B. The Benefits of Diversity Explained

The benefits of diversity at an institution of higher education can be expressed in many different ways. In the context of varying institutional missions and particular disciplinary aims, federal courts and researchers have often categorized those benefits in the context of enhanced teaching and learning, workforce benefits, and civic benefits, among others.⁸

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Teaching and Learning Benefits of Student Diversity

A substantial and growing body of research reflects that education in racially diverse environments provides significant opportunity for cross-racial interaction, which can have positive implications for all students' "academic and intellectual development, [and] social-cognitive skills and personal development."⁹ Further, the opportunity for students to gain an education in a diverse setting provides for more "robust exchanges of ideas" that results in "substantial" and "real" educational benefits.¹⁰ Engagement in academic or other college settings with peers who come from different backgrounds and life experiences pushes students to challenge their preconceived notions, both about those who are different than themselves and about the larger world context.¹¹ Exposure to individuals from different backgrounds in a classroom setting also benefits all students by providing the opportunity for them to gain new perspectives on ways to approach questions or problems both in academia and in society.¹²

⁸ See generally Teresa E. Taylor et al., *Bridging the Research to Practice Gap Achieving Mission-Driven Diversity and Inclusion Goals A Review of Research Findings and Policy Implications for Colleges and Universities*, (2016) <https://www.aacu.org/sites/default/files/BridgingResearchPracticeGap.pdf> (last visited July 21, 2020).

⁹ At the same time, a lack of diversity can lead to negative effects including racial isolation, tokenism, perpetuation of racial, gender, or socioeconomic stereotypes, and a poor or at times even hostile campus climate. See Teresa E. Taylor et al., *Bridging the Research to Practice Gap Achieving Mission-Driven Diversity and Inclusion Goals A Review of Research Findings and Policy Implications for Colleges and Universities*, (2016) <https://www.aacu.org/sites/default/files/BridgingResearchPracticeGap.pdf> (last visited July 21, 2020). For additional information on specific conditions that must be met in addition to racial diversity to support the educational benefits of diversity, see e.g., Gordon Allport, *The Nature of Prejudice* (1954) (research on intergroup contact theory); Robert Slavin & Robert Cooper, *Improving intergroup relations: Lessons learned from cooperative learning programs*, 55 *Journal of Social Issues* 647 (1999) (discussing the impact on cooperative learning programs on cross-race relationships).

¹⁰ *Grutter v. Bollinger*, 539 U.S. 306 (2003). See also Arthur L. Coleman & Scott R. Palmer, *Admissions and Diversity After Michigan: The Next Generation of Legal and Policy Issues* (2006).

¹¹ American Council on Education, *On the Importance of Diversity in Higher Education*, (2012) <https://www.acenet.edu/news-room/Documents/BoardDiversityStatement-June2012.pdf> (last visited July 21, 2020).

¹² S. James Gates, Jr., *Thoughts on Creativity, Diversity, and Innovation in Science & Education*, (2015). <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.183.3836&rep=rep1&type=pdf> (last visited July 21, 2020).

Ultimately, if the mission of higher education is to prepare students for success in the world they will be entering upon completion and contributions to the betterment of that world, which is growing more racially, socioeconomically and otherwise diverse,¹³ then there is a clear imperative for institutions to provide opportunities for students to meaningfully engage with a broad diversity of peers in curricular, cocurricular and social experiences. Compositional diversity (a focus on numbers) is, in other words, the necessary but not sufficient condition for success.

Workforce Benefits of Student Diversity

The benefits of diversity in higher education are not limited to the immediate educational benefits while on campus, rather they extend into the workforce bringing skills and knowledge that business and industry leaders seek. Industry leaders recognize that

people who have been educated in a diverse setting make valuable contributions to the workforce ... [they have] an increased ability to facilitate unique and creative approaches to problem-solving by integrating different perspectives and moving beyond linear, conventional thinking; they are better equipped to understand a wider variety of consumer needs, including needs specific to particular groups, and thus to develop products and services that appeal to a variety of consumers and to market those offerings in appealing ways; they are better able to work productively with business partners, employees, and clients in the United States and around the world; and they are likely to generate a more positive work environment by decreasing incidents of discrimination and stereotyping.¹⁴

Given demographic shifts both in the United States and throughout the world and the economic implications of these shifts, science and engineering leaders, in particular, believe that the competitiveness of the United States economy will significantly depend of its ability to produce more engineers and scientists of color.¹⁵

¹³ United States Census Bureau, *Projections of the Size and Composition of the U.S. Population: 2014-2060* (Report No. P25-1143) (2015), <https://census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf> (last visited July 21, 2020); Rakesh Kochhar & Anthony Cilluffo, *How Wealth Inequality has Changed in the U.S. Since the Great Recession, by Race, Ethnicity and Income*, Pew Research Center (November 1, 2017), <http://www.pewresearch.org/fact-tank/2017/11/01/how-wealth-inequality-has-changed-in-the-u-s-since-the-great-recession-by-race-ethnicity-and-income> (last visited July 21, 2020).

¹⁴ Brief for 65 Fortune-100 and Other Leading American Businesses as Amicus Curiae Supporting Respondents, *Grutter v. Bollinger* 539 U.S. 306 (2003) (No. 02-241) & *Gratz v. Bollinger* 539 U.S. 244 (2003) (No. 02-516) at 6. (“Fisher Fortune-100 Brief”).

¹⁵ Brief for Massachusetts Institute of Technology et al. as Amici Curiae Supporting Respondents, *Grutter v. Bollinger*, 539 U.S. 306 (2003) (no. 02-241) & *Gratz v. Bollinger*, 539 U.S. 244 (2003) (no. 02-516). at 23-24. (“MIT, Stanford, Industry and National Academies Brief”)

Additionally, many industry leaders feel a strong commitment to hiring a robust and diverse workforce within their companies. However, they know that without a pool of diverse, qualified candidates both being admitted to and graduating from institutions of higher education, they will be unable meet that commitment and hire such candidates¹⁶. When considering future industry leaders, the current generation of leadership understands that their and their successors' ability to successfully navigate diverse environments and serve a diverse society will be increasingly critical. That ability will depend on the depth of knowledge about a broad diversity of contexts, as well as the broad diversity of identities, of those who comprise leadership. Therefore, "it is essential that [students] be educated in an environment where they are exposed to diverse people, ideas, perspectives, and interactions."¹⁷

Civic Benefits of Student Diversity

As with workforce benefits, there are significant societal benefits gained from students receiving education in diverse settings. At the most basic level, education in a diverse setting can have a positive impact on the civic engagement of students.¹⁸ When considering the challenges that will confront both our society in the United States, and the wider global community, leaders and others will need the skills and understanding to collaborate with individuals from communities or backgrounds different than their own. Addressing existing and persisting racial and ethnic divides and economic disparities will require collaborative and inclusive problem solving.¹⁹ Education in a diverse environment meaningfully develops such skills.

Additionally, diversity at institutions of higher education is highly important to special civic imperatives, including those related to national security. Military leaders emphasize the need for a "diverse officer corps" as a pre-requisite for maintaining national security going so far as say that it is "mission-critical." Much like industry leaders, military leaders also recognize that without a diverse pool of candidates being admitted to and graduating from institutions of higher education each year, they would be significantly limited in their abilities to fulfill this need.²⁰

¹⁶ Fisher Fortune-100 Brief at 6.

¹⁷ Fisher Fortune-100 Brief at 2, 15.

¹⁸ See Teresa E. Taylor et al., *Bridging the Research to Practice Gap Achieving Mission-Driven Diversity and Inclusion Goals: A Review of Research Findings and Policy Implications for Colleges and Universities*, 8-9 (2016) <https://www.aacu.org/sites/default/files/BridgingResearchPracticeGap.pdf> (last visited July 21, 2020).

¹⁹ Brief for National League of Cities as Amicus Curiae Supporting Respondents at 26, *Fisher v. University of Texas at Austin* et al. 570 U.S. ____ (2013) (No. 11-345) ("National League of Cities Fisher 1 Brief").

²⁰ Brief of Lt. Gen. Julius W. Becton, Jr., et al as Amici Curiae Supporting Respondents at 34, *Fisher v. University of Texas at Austin* et al. 579 U.S. ____ (2016) (No. 14-981) (emphasis added). ("Fisher Military Brief").

Section II: The Consideration of Diversity Factors in the Admissions Process

There are few topics that generate as much heat as the consideration of race in higher education admissions. Effective engagement and communications on this issue requires conceptual clarity regarding the purpose behind, and the operational rigor, calibration and fairness of, individualized holistic review that may include limited consideration of race and ethnicity.

This section synthesizes core concepts associated with holistic review that directly affect the appropriate manner of considering race and ethnicity as part of the admissions process.

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Students with the highest test scores and grades alone are not automatically deemed meritorious; mission success is simply not determined in such limited terms. So many other qualities of individuals are valued as enrollment professionals assemble classes whose members will benefit individually and best contribute to the robust learning environment for all students.²¹

Effectiveness of communication regarding these interests and factors depends on the clarity of messaging regarding all of the dimensions of merit that an institution values, which in turn depends on a conceptual clarity about the underlying process and its aims. Broadly speaking, such policies should reflect an individualized holistic review process in which “balanced consideration is given to the multiple ways in which applicants may prepare for and demonstrate suitability” to attend an institution.²² Such review is intentionally aligned to supporting an institution’s mission and considers academic, nonacademic, and contextual factors of an applicant’s background. Holistic review helps an institution to better and more accurately evaluate an applicant’s accomplishments and promise, both for individual

²¹ Like diversity, merit is not a one-size-fits-all concept. Postsecondary institutions define merit in mission-aligned ways in admissions--both to inform applicant evaluations and to aid in the assembly of an entering class.

²² Association of American Medical Colleges, *Roadmap to Diversity: Integrating Holistic Review Principles into Medical School Admission Processes*, 5 (2010) <https://www.aamc.org/initiatives/holisticreview/resources/> (last visited July 21, 2020).

success, as well as contributions to other students' experience during college and society after graduation.

That kind of review—which plays out differently at different institutions—nonetheless is defined by common good practice elements:

- The identification of relevant factors and design of the process for consideration that is mission-aligned, driven by relevant educational interests;
- The inquiry with respect to each application that is two-fold, reflecting that students are likely to succeed and thrive at the institution; and will meaningfully advance the educational experiences of their peers and teachers in support of mission aims; and
- The consideration of many factors that is authentically holistic and individualized—so that a mix of intersecting academic, non-academic, and contextual considerations appropriately inform the applicant's potential.
- The professional development and training of application readers conducted regularly to support effectiveness and consistency of the multi-factor evaluation by all readers.²³

In articulating and expanding on these elements, care should be taken to assure that any consideration of race or ethnicity—if justified by evidence of necessity²⁴—is in fact associated with life experiences, perspectives, and the like; and is fully part of the integrated mix of factors that shape judgments, and not a factor that is weighted mechanically or rigidly in the context of all others. This contextual, integrated and highly individualized consideration of race and ethnicity—which is recognized in applicants of all races and ethnicities and benefits all students—should also be communicated clearly so other members of the campus community understand the process.

²³ Training readers to ensure they have the knowledge and skills to evaluate applications through a holistic process is a critical component of any holistic review admissions system. This may include the use of "interrater reliability" to support overall consistency of readers and calibration of relative severity of readers. See Arthur L. Coleman & Jamie Lewis Keith, *Understanding Holistic Review in Higher Education Admissions: Guiding Principles and Model Illustrations*, 14-15 (2018). See also Emily J. Shaw & Glenn B. Milewski, *Consistency and Reliability in the Individualized Review of College Applicants*, 1, 2, 4 (2004); Gretchen W. Rigol, *Selection Through Individualized Review*, 21 (2004) 21; Association of American Medical Colleges, *Roadmap to Diversity: Admissions*, 14-15 (2010).

²⁴ The Supreme Court has made clear that the beneficial educational experiences for all students that are associated with diversity may be an important enough aim to justify race-conscious admission policies. However, in addressing the means to achieve such educational aims, the Court has emphasized that so-called "neutral" alternatives to considering an individual's race must be identified, used, and shown by evidence to be inadequate alone to create a sufficiently broadly diverse setting for those beneficial educational experiences. Only then may limited consideration of individuals' race in deciding whom to admit be justified under law.

PUBLIC PERCEPTION AND LEGAL PRECEDENT: DIVERGING OUTCOMES

In the United States today, there are significant and persistent gaps between how the public perceives the importance of diversity at colleges and how the public perceives the consideration of race or ethnicity in admissions decisions. This is evidenced in responses to national polls on higher education²⁵ and on a series of state-level actions that ban the consideration of race, ethnicity and gender in public college admissions and other educational programs. To date, nine states have enacted such bans.²⁶

These data paint a generally clear, although incongruous picture of public opinion: the public supports diversity in higher education and believe it is important for all the right reasons, but do not support the consideration of race, ethnicity and gender in the college admission process, which it appears to view as “affirmative action”—disconnected from compelling educational diversity goals.

These public views are in contrast to over 40 years of Supreme Court precedent, which has repeatedly concluded that contextual consideration of race and ethnicity in admission is permissible if institutions have provided evidence of the need for such considerations to achieve institutional mission-aligned goals.²⁷ The Court’s decisions have set the stage for decades of admissions systems, structures, and ultimately admission decisions which have affected the diversity of the student bodies at institutions of higher education across the country. Notably, the track record of successful legal advocacy has depended on effective communication—supported by research, data, and the stories of students and faculty, who could help give voice to important realities associated with diversity. As former University of Michigan Law School Dean Jeffrey Lehman, who was heavily involved in the *Grutter v. Bollinger* litigation, observed, “[o]ver the course of the litigation,

²⁵ A 2014 Pew Research Center survey shows that most people view “affirmative action” programs that have the core intention of increasing the number of students of color on a college campus are a “good thing.” This belief spans across racial and political groups, with the exception of Republican respondents of whom 50 percent responded that “affirmative action” programs are a “bad thing.” However, at the same time, a majority of those polled as part of a 2013 Washington Post and ABC News Poll do not believe race should be considered as part of the admissions process. This belief held true across white, black, and Latino poll respondents. These views were reinforced by the results of a 2018 WGBH poll that found that 86 percent of poll respondents believed that “it is important for colleges and universities to create a racially and ethnically diverse campus.” But, within the same population of poll respondents, 72 percent reported opposing the consideration of race as a factor in the college admissions process. See Adam Harris, *Sometimes, Perceptions of Affirmative Action Don’t Mesh with Reality*, *The Chronicle of Higher Education*, Aug. 3, 2017, <https://www.chronicle.com/article/Sometimes-Perceptions-of-240837> (last visited July 21, 2020); WGBH, *WGBH News National Poll Uncovers America’s Sentiments About Higher Education including Perceptions about Impact on Society, Race and College Admissions and the Value of a College Degree*, Sept. 17, 2018, <https://www.wgbh.org/foundation/press/wgbh-news-national-poll-uncovers-americas-sentiments-about-higher-education-including-perceptions-about-impact-on-society-race-and-college-admissions-and-the-value-of-a-college-degree> (last visited July 21, 2020).

²⁶ Richard D. Kahlenberg, *The Future of Affirmative Action*, The Century Foundation, June 19, 2014, <https://tcf.org/content/report/future-of-affirmative-action/> (last visited July 21, 2020). See also *Idaho Governor signs affirmative action ban into law*, Associated Press (Mar. 31, 2020), <https://apnews.com/bbe0f81d2b4ef63102d749879c045a10>.

²⁷ See *Fisher v. Univ. of Texas*, 579 U.S. _____ (2016) (No. 14-981); *Fisher v. Univ. of Texas*, 570 U.S. ____ (2013) (No. 11-345); *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Gratz v. Bollinger* 539 U.S. 244 (2003); *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

we learned how to speak with greater clarity....”²⁸

In the end, there may be stark differences between what the public believes is “fair” and what courts deem as “legal.” One source of that difference is likely grounded in misconceptions and misperceptions between how people *believe* the admissions process operates and who benefits from the process (those who are targeted for “affirmative action”) and how it *actually* operates and who it benefits (all students). This mismatch suggests that we need to do more to enhance understanding as we strive to eliminate the mysteries of the “black box” of admissions.

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²⁸ Patricia Gurin et al, *Defending Diversity: Affirmative Action at the University of Michigan*, 96, (2004)

Section III: Understanding Key Concepts

Many concepts and terms central to conversations related to diversity policies are not well understood. Through engagement with members of their campus community, enrollment management leaders can help counter misimpressions and remove ambiguity associated with these terms.

This section provides a quick reference of definitions (embedding reflections regarding relevant federal law and social science research) that may provide useful baselines for postsecondary institutions to consider as they adopt and modify definitions.

Critical Mass: Social science research reflects that a group of people (especially one that has historically and/or currently targeted for discrimination) is easily marginalized when it is only a small presence in a larger population. “As the group’s presence and level of participation grows, at a particular point the perspective of members of the minority group and the character of relations between minority and nonminority changes qualitatively. ... The discrete point [at which this occurs] is known as ‘critical mass.’”²⁹ “Critical mass is ... neither a rigid quota nor an amorphous concept defying definition. Instead, it is a contextual benchmark that allows [higher education institutions] to exceed token numbers within [their] student bod[ies] to promote the robust exchange of ideas and views that is so central to [their] mission.”³⁰ In considering “adequacy of diversity,” an institution must consider how it will know when it has achieved the level of diversity desired and/or needed to support its institutional mission. This concept relates to the benefits that all students derive when all students can fully participate as individuals.

POLICY TIP: “Critical mass” should be understood and defined as a contextual benchmark relative to a particular student body, rather than as a particular number or percentage of students and rigid quota. Standing alone, “critical mass” is not a definition of success, but it may be a key factor in establishing the necessary conditions associated with student experiences and outcomes necessary to achieve success.

Quota: Much like the term “affirmative action” (see p. 7 above), the word “quota” can be a term that obfuscates more than it enlightens. “Quota” has a very specific legal definition in the context of college admissions: According to the U.S. Supreme Court, quotas impose “a fixed number or percentage [of students and/or faculty] which must be attained, or which

²⁹ Henry Etzkowitz et al., *The Paradox of Critical Mass for Women in Science*, 266 *Science* 51, 51 (1994).

³⁰ Brief of the American Educational Research Association et al. as Amici Curiae in Support of Respondents at 25, *Grutter v. Bollinger*, 288 F.3d 732 (6th Cir. 2002).

cannot be exceeded.” They may include set-asides or caps related to race.³¹ The use of quotas is not a legally acceptable method for achieving the educational benefits of diversity.

POLICY TIP: “Quotas,” as defined in federal law, can’t sustain student diversity goals—at least to the extent that they’re associated with the racial, ethnic, and gender composition of a class.

Race-Conscious and Race-Neutral: Federal law establishes two categories of policies that may bear on diversity-related goals: “race-conscious” policies, which trigger a heightened review by courts applying strict legal standards, and “race-neutral” policies, which do not. Although not definitively settled under federal law, courts generally characterize race-conscious policies as policies that involve explicit racial classifications, as well as those that are neutral on their face but that are principally motivated by a racially discriminatory purpose, and that (in either circumstance) confer a material benefit or opportunity to some students and not others based on their race or ethnicity. Race-neutral policies are those that, with respect to both language and intent, are neutral, as well as those that expand efforts to generate additional applicant interest, which may be race targeted in intent, but which don’t confer material benefit to the exclusion of nontargeted students. They often include policies that provide the same consequential information to all interested students, while also targeting some outreach to individuals of particular races to ensure effective communications to everyone.³²

POLICY TIP: Language in a policy isn’t the only thing that can result in a policy being characterized as “race conscious” and therefore subject to heightened judicial review. The aims behind a facially neutral policy, combined with practices relating to how individual considerations influence decision-making, can also trigger this probing scrutiny.

Underrepresented Students: Race- and ethnicity-related diversity policies often include references to “underrepresented students.” That term is often undefined or defined in ways that do not align with the research bases associated with the educational benefits of diversity.

The question that should always be addressed is: “underrepresented in relation to what?” Research associated with the educational benefits of diversity (as affirmed by federal law) suggests that the answer is *not* in relation to geographic or service area demographics, but rather in relation to desired within-institution student experiences and broader educational outcomes (see Part I). In other words, a goal of enrolling a specific number of students of a particular race when compared to some external referent is not the same thing as attaining

³¹ *Grutter v. Bollinger*, 529 U.S. 306 (2003).

³² See generally Arthur L. Coleman et al., *Race-Neutral Policies in Higher Education: From Theory to Action* (2008) <https://professionals.collegeboard.org/pdf/race-neutralpoliciesinhighereducation.pdf> (last visited July 21, 2020); Arthur Coleman et al., *The Playbook: Understanding the Role of Race Neutral Strategies in advancing Higher Education Diversity Goals* (2d Ed. 2019) <https://professionals.collegeboard.org/pdf/playbook-understanding-race-neutral-strategies.pdf> (last visited July 21, 2020).

compositional diversity sufficient for all students to be able to fully participate as individuals and optimally engage with and learn from their peers. The former is inconsistent with the social science theory associated with the benefits of diversity; the latter is aligned with that theory. Who qualifies as an “underrepresented student” should vary by institution—including by discipline or department within the same institution.³³

POLICY TIP: Defining those who qualify as “underrepresented students” should be done with a focus on the student experience and outcomes, within the overall institutional context including its student body composition. Importantly, identifying and/or targeting “underrepresented students” doesn’t mean ensuring that the student body is proportional to its relevant service area (community, state, or national). If there is a goal associated with the aim of increasing “underrepresented students,” it should be framed in the context of achieving the educational benefits of diversity for all students, as described in Part I.

³³ See generally American Association of Medical Colleges, *Roadmap to Diversity and Educational Excellence: Key Legal and Educational Policy Foundations for Medical Schools* (2d Ed., 2014), 14, https://store.aamc.org/downloadable/download/sample/sample_id/192/ (last visited July 21, 2020).

Mythbusters³⁴

Myth	Truth	Points of Reference
1. “Diversity” is code for policies that focus only on race and ethnicity preferences in higher education.	Properly understood, “diversity” is a concept that reflects institutional interests in an array of student backgrounds, characteristics, and interests—of which race and ethnicity may be two factors among many.	<ul style="list-style-type: none"> ▪ The U.S. Supreme Court has in many cases affirmed that true educational benefits derive from broad diversity, implicating much more than race and ethnicity; otherwise, it is likely to mean little more than racial and ethnic balancing. ▪ Although often reflecting many common elements across similarly situated higher education institutions, “diversity” is an inherently institution-specific value that should reflect institution-specific, mission-driven interests.
2. The consideration of race and ethnicity in admission leads to unqualified, underqualified, or less qualified students receiving benefits to the detriment of others who are more qualified and entitled.	Properly considered in the admission process [1] individual experiences and perspectives associated with race and ethnicity operate along with a mix of other legitimate factors in shaping complex and inherently academic judgments about who to admit; and [2] as “tipping point” factors in some individual decisions, considerations of race and ethnicity don’t lead to the admission of unqualified, underqualified or less qualified students. ³⁵	<ul style="list-style-type: none"> ▪ The pursuit of higher education interests in diversity-to achieve educational, economic, and other core goals-is a strategy that is fully aligned with (and often indispensable to) the pursuit of educational excellence for all students. ▪ See <i>Grutter v. Bollinger</i> (2003): <ul style="list-style-type: none"> ▪ “... all underrepresented minority students admitted by the [University of Michigan] Law School have been deemed qualified.” ▪ “We also find that ... the race-conscious admission program adequately ensures that all factors that may contribute to student body diversity are meaningfully considered.”
3. Standardized test scores and grade point averages are the only basis upon which the merit of a student should be judged when making admission decisions.	The inherently academic judgments regarding who is qualified for admission and who should be admitted typically involve an assessment of an array of factors—some quantitative and others qualitative, and all needed to advance the institution’s educational goals. Teacher recommendations, student interests, records of major accomplishments (including, for some in the context of “distance traveled” and for others in the context of maximizing opportunities), particular skills, backgrounds, and life experiences shape judgments about a student’s likely success at, as well as, importantly, the ways in which the student is likely to contribute to an institution’s learning environment.	<ul style="list-style-type: none"> ▪ Consistent with universally recognized principles regarding test use, numerous higher education organizations explicitly recognize that admission tests, although helpful in predicting student success, shouldn’t be the only factor in assessing a student’s potential for success at an institution, or the student’s likely capacity for contribution at that institution. Such principles are also reflected among postsecondary institutions pursuing test-optional policies. ▪ For example: <ul style="list-style-type: none"> ▪ Regarding the SAT®, “Test scores should always be used in conjunction with other components of a candidate’s portfolio ... [and] should only be used as a[n] ... approximate indicator of a student’s preparation for college-level work rather than a fixed or exact measure.”³⁶ ▪ Regarding the LSAT: The LSAT does not measure every discipline-related skill necessary for academic work, nor does it measure other factors important to academic success.³⁷ ▪ Regarding the MCAT, the Association of American Medical Colleges reports that nearly 9 percent of medical school applicants with the highest test scores and GPA did not receive any admissions offers.³⁸

³⁴ This table is adapted from the Access and Diversity Toolkit, Tool 4 –Mythbusters: Correcting Common Misunderstandings (2018) <https://professionals.collegeboard.org/higher-ed/access-and-diversity-collaborative/guidance-resources/advocacy-toolkit/tool-4-mythbusters> (last visited July 23, 2020).

³⁵ For example, medical schools using holistic review in their admissions process report that both the average GPA and standardized test scores have remained steady or increased for incoming classes. See Greer Glazer & Karen Bankston, *Holistic Admissions in the Health Professions*, 14, (2014).

³⁶ See College Board Task Force on Admissions in the 21st Century, *Preserving the Dream of America: A Message to a Community of Educational Leaders* at 22 (2008).

³⁷ See *LSAT Fairness Procedures*, <https://www.lsac.org/about/lsac-policies/lsat-fairness-procedures>

³⁸ Brief for the Association of American Medical Colleges et al. as Amici Curiae Supporting the Respondents at 25, *Fisher v. University of Texas at Austin*, 579 U.S. _____ (2016) (No. 14-981).

Conclusion: Reflections on the Work Ahead

“We have fallen into the bad habit of valuing what we can measure, rather than measuring what we value.”

In reviewing institutional mission statements, admissions criteria, and class profiles, it is important that there not be substantive differences between what a postsecondary institution says it values and what it actually reports, resources and rewards. Indeed, as has been observed, “we have fallen into the bad habit of valuing what we can measure, rather than measuring what we value.”³⁹ Institutions should, therefore, assess and address any gaps – between what they say they value, as reflected in mission statements, admission criteria and public communications, and what they value, as reflected in their investments and actions. Establishing that coherence and alignment will enhance communications and more meaningful stakeholder engagement that fully reflects their authentic interests.

That endeavor has never been more critical than it is today, when issues of racial justice and systemic racism have risen to the top of our nation’s and campuses’ consciousness and reckoning. Colleges and universities serve an important role on these issues, particularly with respect to thought leadership, research, and education. Higher education, indeed, has work to do in providing essential foundations for reflection and amplification of interests and aims that extend well beyond “the benefits of diversity.”

In the end, the degree of care exhibited to explain institutional mission, process and merit in college admissions, and key connections of broad diversity and broader interests of higher education to the interests of the public-at-large, should be exhibited by institutions of higher education and their stakeholders on a more regular basis—reflective, of course, of student voices and needs. Further, periodic cross-sector communications collaborations— aligned as appropriate with the separate communications of higher education, industry and the military—may enhance the impact of both collective and separate initiatives. Without such a comprehensive effort, the political system (through funding cuts, legislative proposals to restrict institutional autonomy, and voter referenda) can be expected to continue to erode the ability of institutions of higher education to fulfill their missions, advance their legitimate academic interests, and realize the full potential of their commitments to society. As noted above, communications must be accompanied by authenticity—actions must match words—to succeed. But assuming that is the case, by taking steps to develop an effective communications strategy and giving due attention to precision of terminology, institutions can advance their aims more effectively, and continue to provide significant benefits to the students they serve and the society in which those students will engage.

³⁹ Shirley Malcom, Senior Advisor, Director of SEA Change, and former Director of Education and Human Resources Programs, American Association for the Advancement of Science, paraphrasing education researcher , Lauren Resnick when speaking at “A Commemoration of Bakke’s 40th Anniversary: An Invitational Convening.”

Appendix

The purpose of communications is not to alter what an institution is doing as part of its diversity and enrollment policy and practice, rather it is to better equip an institution to tell its diversity and enrollment story in a compelling and transparent manner. In an effective communications effort, the elements described above in Sections I and II will come together to paint a clear picture of the institution's diversity interests and associated practices. While beginning this process of opening the "black box" for the public may feel risky, there are likely at least some pieces of this work in which institutions are already engaging. Such practices may initially require some tweaking, but ultimately many may not require a complete overhaul. While developing plans for more effective communications associated with diversity and enrollment policy and practice may feel daunting, there are important lessons to be gleaned from the work of other institutions of higher education. A general framework of questions for consideration also may help an institution to evaluate its current communications work and a path forward.

Illustration: AAMC's Guidance for Medical Schools

The Association of American Medical Colleges (AAMC) has dedicated significant resources to supporting medical schools as they develop and communicate about their admissions processes, and the connections between institutional mission and institutional diversity efforts. While these strategies are directed toward medical colleges, the communications strategy and tools are highly applicable to multiple higher education settings.

As it relates to the development of a communications strategy, the AAMC encourages schools to:

- *"Identify the internal and external stakeholders.* Stakeholder audiences might include institutional and medical school leadership, admissions committee members, faculty, medical students, potential applicants, the public, and pre-health advisors, to name a few.
- Identify the most appropriate communications vehicles to reach each of the respective audiences....
- *Craft clear, consistent messages* that convey the necessary information about:
 - the institutional mission and goals, including how student body diversity supports these goals; enhances the learning environment; and contributes to long-term outcomes, such as addressing healthcare needs in line with the institutional mission, and
 - the ways in which the holistic review admission process supports institutional priorities.

- *Routinely review all communications channels* to make sure that the information is current and consistent across vehicles for communication, such as medical school brochures, national publications...web pages, policy documents, and presentations.
- *Update and refine messages* to keep them current and relevant.”⁴⁰

Further, in recognizing the ways in which institutions struggle to draw connections between intuitional goals and student diversity, the AAMC has published a chart⁴¹ (see below) detailing several key “medical school mission related goals” and their connection to student diversity. While this particular chart is specific to medical colleges, it would be a highly beneficial activity for any institution wishing to develop and communicate greater clarity on the alignment between its mission and diversity related efforts to develop an institution-specific version.

Exhibit 3.1. Examples of Medical School Goals That May Be Associated with Student Diversity	
Medical School Mission-Related Goals	The Diversity Connection
The medical profession’s core obligation is to meet our nation’s many health needs as comprehensively as possible. This obligation includes training a sufficient number of able physicians in different practice areas and ensuring that competent medical care is available to all citizens in an increasingly heterogeneous society—an effort often advanced with a diverse medical school leadership and faculty.	Diversity in medical education <ul style="list-style-type: none"> • enhances the quality of education for all students (for example, exposure to diverse perspectives may improve complex thinking skills), and • translates into more effective and culturally competent physicians who are familiar with the connection between sociocultural factors and health beliefs and behaviors and thus are better prepared to serve a varied patient population.
Medical schools must address pervasive racial and ethnic disparities in health care , including unequal access to quality services and disproportionately negative health outcomes for specific populations.	<ul style="list-style-type: none"> • Physicians from groups underrepresented in medicine are more likely to practice in underserved population areas. • Medical schools educate students about disparities in health care to focus on research agendas and policy strategies, as well as on clinical practice.
Medical schools must play active roles in broadening and strengthening our nation’s health care research agenda .	<ul style="list-style-type: none"> • Diversity among biomedical and clinical researchers may more adequately address health issues and diseases affecting different populations in terms of gender, race, ethnicity, sexual orientation, disability, and other characteristics.* • Diverse research teams that work on complex problems and can capitalize on individual and distinct perspectives outperform homogenous teams.
Medical schools must provide the supply of professionals that will meet patients’ needs , which may include preferences for professionals of the same race or those proficient in the patient’s native language.	<ul style="list-style-type: none"> • Physicians from groups underrepresented in medicine can help meet patient preferences in providing high-quality health care. • Physicians proficient in languages other than English can help address linguistic and cultural barriers that may exist.
<p>Source: AAMC Brief in Fisher at 8-9, 15-17, 27.</p> <p>* American medical researchers have historically used Caucasian male subjects for most of their double-blind placebo-controlled trials. This lack of diversity of research subjects is now being criticized because clinical trials may result in different results in different populations of patients. Department of Health and Human Services, National Institutes of Health, <i>Monitoring Adherence to the NIH Policy on the Inclusion of Women and Minorities as Subjects in Clinical Research</i> (2013), available at http://onwh.od.nih.gov/research/inclusion/pdf/Inclusion-ComprehensiveReport-FY-2011-2012.pdf; available at; Chen et al., “Twenty Years Post-NIH Revitalization Act: Enhancing Minority Participation in Clinical Trials (EMPaCT): Laying the Groundwork for Improving Minority Clinical Trial Accrual.” <i>Cancer</i> 120: 1091, April 1, 2014.</p>	

⁴⁰ American Association of Medical Colleges, *Roadmap to Diversity: Integrating Holistic Review Principles into Medical School Admission Processes* (2010), 17, <https://store.aamc.org/roadmap-to-diversity-integrating-holistic-review-practices-into-medical-school-admission-processes-pdf.html> (last visited July 21, 2020).

⁴¹ American Association of Medical Colleges, *Roadmap to Diversity and Educational Excellence: Key Legal and Educational Policy Foundations for Medical Schools*, 21 (2d Ed., 2014) https://store.aamc.org/downloadable/download/sample/sample_id/192/ (last visited July 21, 2020).

Taking Inventory: An Institutional Self-Assessment Guide⁴²

As institutions begin the process of developing a more transparent communications approach, there are many considerations that will require attention, careful thought, and ultimately decisions. The following questions are intended to provide a frame for institutions to work from as they evaluate their existing communications related to diversity and enrollment policies and practices, and build a more effective communications strategy. As noted above, it is likely that answers to some of these questions will be readily available, while others may require more significant reflection.

<p>WHAT (key messages)</p>	<p>What information is the institution currently sharing with various audiences as it relates to diversity and enrollment management?</p> <p>What information does the institution want to share about its enrollment management process and larger campus diversity efforts? Is this information currently being shared? Why or why not?</p> <p>Does this information come together to build a story about the admissions process, campus culture and climate, institutional mission, and the academic, workforce, and social benefits of education in a diverse environment?</p> <p>What is actually trying to be communicated with the use of frequently ambiguous, undefined terms such as diversity, merit, underrepresented students, and minority students?</p> <p>Is the same information shared with all audiences or is it tailored based on audience characteristics?</p> <p>What misinformation exists about current practices? Is this misinformation being effectively challenged by the information shared by the institution?</p>
<p>WHO (audience and messengers)</p>	<p>Who is information being shared with and who is doing the sharing of this information as the institutional “messenger?”</p> <p>Is the messenger generally the same individual or are there multiple messengers at different levels, including leadership, within the institution delivering similar information about the enrollment process and diversity?</p> <p>Who is being engaged in the development of the messages being shared? Is the expertise of the institution’s communications’ team being tapped in a meaningful way?</p>

⁴² The core areas and questions raised in this self-assessment are influenced by the content of several communications documents, including “Audience Analysis” developed by the Oral Comm Lab at the University of Pittsburgh. See University of Pittsburgh Department of Communication, *Audience Analysis*, <https://www.comm.pitt.edu/oral-comm-lab/audience-analysis> (last visited July 21, 2020); Debbie Wetherhead, *Key Message Development: Building a Foundation for Effective Communications*, <https://prsay.prsa.org/2011/12/02/key-message-development-building-a-foundation-for-effective-communications/> (last visited July 21, 2020); Catriona Pollard, *5 Tips For Creating Powerful Key Messages for Your Business*, https://www.huffingtonpost.com/catriona-pollard/5-tips-for-creating-power_b_9775472.html (last visited July 21, 2020); and Kim Harrison, *How to create compelling key messages*, <https://cuttingedgepr.com/free-articles/core-pr-skills/create-compelling-key-messages/> (last visited July 21, 2020).

<p>WHEN</p> <p>(timing and frequency of)</p>	<p>When is information being shared about the enrollment process and diversity?</p> <p>Is it only being shared during the admissions season or is throughout the year?</p> <p>Does this information continue to permeate the campus community once students are enrolled and over the course of their time on campus or is it limited to conversations related to admissions outreach and enrollment?</p>
<p>WHERE</p> <p>(methods of dissemination)</p>	<p>Where is this information being shared?</p> <p>Is information relevant to the diversity and enrollment management only being shared via admissions communications channels or across all areas of the website and other public facing materials?</p>
<p>TO WHAT EFFECT</p> <p>(purpose and success of communications)</p>	<p>What is the institution's goal for its communication strategy as it relates to diversity and enrollment management practices and policies? Is that goal being met?</p> <p>How does the institution know and how often is effectiveness being evaluated?</p> <p>If outreach is ineffective, what opportunities exist to reevaluate the existing communications structure and change course as needed?</p>