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Affirming the Right to Inclusion and Success in Education

Statement by Dr. María “Cuca” Robledo Montecel, IDRA President and CEO, on the U.S. Supreme Court Ruling in *Fisher vs. University of Texas at Austin* – June 24, 2013

Today, the U.S. Supreme Court upheld its earlier rulings on the use of race and ethnicity as one factor in college admissions. In explaining [today's ruling](#), the Supreme Court noted, “*Bakke, Gratz and Grutter*, which directly address the question considered here, are taken as given for purposes of deciding this case.” In these earlier rulings, the court had **affirmed that use of race and ethnicity in a narrowly-tailored admissions process designed to increase student diversity is constitutional**. The court has denied those who oppose diversity in higher education a rationale to actively promote the re-segregation and elitism of colleges and universities throughout the country.

First filed in 2008, the *Fisher vs. University of Texas at Austin* case involved a student who had not been admitted to the University of Texas at Austin. She then challenged the university’s use of race and ethnicity as one of several criteria to determine some student admissions into its entering freshmen class.

While not reversing itself on its definitive rulings on the issue, the Supreme Court did send the *Fisher* case back to the lower court. The justices state that a “strict scrutiny” standard of judicial review should have been used. This standard requires the state and university to prove that its use of race and ethnicity as one criterion is essential to achieving diversity, which the Supreme Court continues to recognize as a compelling state and institutional interest. The court’s position on strict scrutiny as a standard of review is offered as providing “clarification” of the court’s intent to ensure that the use of race and ethnicity in university admissions is “narrowly tailored” and flexible enough to ensure that each applicant is “evaluated as an individual and not in a way that makes race or ethnicity the defining feature of his or her application.”

In her dissenting opinion on the case, Justice Ruth Bader Ginsburg rightly disagreed with the majority’s ruling noting: “I have several times explained why government actors, including state universities, need not be blind to the lingering effects of ‘an overtly discriminatory past’... Accordingly I would not return this case for a second look.” She continues, “As the thorough opinions below show... the university’s admissions policy flexibly considers race only as a ‘factor of factor of a factor’ in the calculus” used to determine admissions.

While not affirming or denying the University of Texas’ admissions policies in sending the case back for additional hearings, **the court does provide UT a unique opportunity to model an admissions process that promotes student diversity while at the same time meeting the court’s more stringent legal standards.**

The country cannot move forward without acknowledging that 200 years of racial and ethnic discrimination cannot be offset by less than three decades of slow, and in many cases half-hearted, attempts to increase diversity on college campuses. In Texas, we have seen that state institutions

have crept at a snail's pace to expand opportunities for all students but are suddenly quick to respond to signals suggesting they can return to exclusionary strategies.

We cannot return to exclusionary strategies. The Lumina Foundation's report released last week indicates that almost two-thirds of U.S. jobs will require postsecondary education by the year 2020. The report points to the benefits of college graduates on our economy, democracy and communities: "We are all diminished as Americans by an education system that effectively rations postsecondary opportunity based on people's skin color, income or family status" (2013) The Lumina Foundation reports that Texas' rate of college attainment is "well below the national average." Census data show that Texas ranks 30th for adults (25 or older) who have bachelor's degrees, with 26.1 percent compared to 38.7 percent in the top ranked state (Massachusetts) (Thomas, 2012). Certainly this argues for an expanded, intentional effort to prepare more students to get into and succeed in college. Some states and communities have demonstrated that using multiple indicators enhances not only racial and ethnic diversity, but also the social and intellectual diversity of their student bodies and faculties (Levine & Ancheta, 2013).

As we noted in IDRA's statement regarding the *Grutter* case over 10 years ago, **the solutions to ensuring equitable student access lie in changing from a perception of exclusion and failure to a vision of inclusion and success.** Inclusion will lead us in new and innovative directions that create access and success for the benefit of all.

IDRA's [Quality Schools Action Framework™](#) brings together what is known about how to make sure that all of our students graduate from high school prepared for college success. The framework focuses change on the system indicators that research and experience say matter, including fair funding and high quality curricula that prepares students for 21st century opportunities. A vision of inclusion and success demands that all students of all backgrounds and financial circumstances be prepared to enter and graduate from college. And it demands that our colleges and universities adapt to welcome students and provide the supports needed for them to graduate. Their future is our best legacy.

See Also

[Supreme Court's ruling in the Fisher case](#)

[MALDEF Statement: "U.S. Supreme Court Affirms Consideration of Race by Universities, But Requires Further Court Review of UT-Austin's Admission Plan"](#)

[NAACP Statement: "Statement of Sherrilyn Ifill, President & Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. on the Court's Decision in Fisher v. University of Texas"](#)

References

[Horn, C.L. & S.M. Flores. Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences \(Cambridge, Mass.: The Civil Rights Project at Harvard University, 2003.\)](#)

[IDRA. "Affirmative Action: A Vision of Inclusion," an IDRA Statement \(San Antonio, Texas: Intercultural Development Research Association, March 4, 2003\).](#)

[Levine, F.J. & A.N. Ancheta. "The AERA et al. Amicus Brief in Fisher v. University of Texas at Austin: Scientific Organizations Serving Society," Educational Researcher \(April 2013\) Vol 42, No 3.](#)

[Lumina Foundation. A Stronger Nation through Higher Education \(Washington, D.C.: Lumina Foundation, June 13, 2013\).](#)

[Robledo Montecel, M., & C. Goodman \(eds\). Courage to Connect: A Quality Schools Action Framework™ \(San Antonio, Texas: Intercultural Development Research Association, 2010\).](#)

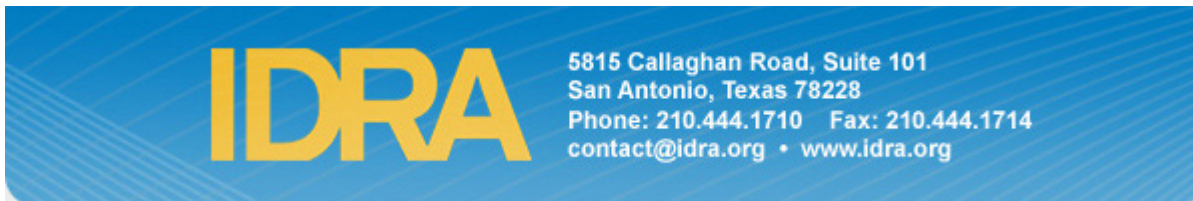
[Thomas, G.S. "State rankings of high school and college graduation rates," American City Business Journals \(December 27, 2012\).](#)

[U.S. Commission on Civil Rights. Toward an Understanding of Percentage Plans in Higher Education: Are They Effective Substitutes for Affirmative Action? \(Washington, D.C.: U.S. Commission on Civil Rights, April 2000\).](#)

The **Intercultural Development Research Association** is an independent private non-profit organization dedicated to realizing the right of every child to a quality education. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.

IDRA works hand-in-hand with hundreds of thousands of educators and families each year in communities and classrooms around the country. All our work rests on an unwavering commitment to creating self-renewing schools that value and promote the success of students of all backgrounds.

We are a small organization with a powerful mission: to create schools that work for *all* children.



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