Other Notable Briefs Filed In Support Of UT-Austin

Voices from states that ban the use of race and/or use Top Percent plans.

Brief for the State of California

This brief was filed on behalf of the State of California by its Attorney General.

It is highly critical of the impact Proposition 209 has had on the ability of its institutions of higher learning to pursue the benefits of student body diversity. It writes: "… in November 1996, the California electorate amended California's constitution to provide, in relevant part, that the "State shall not discriminate on basis of race, commonly known as Proposition 209. In the wake of Proposition 209, and without regard to this Court's important ruling in *Grutter,* which is largely irrelevant in California, this State's public institutions of higher education have endeavored to achieve a suitable level of student body diversity without reliance on race-conscious admissions standards. They have *not* been successful in achieving a level of diversity that will adequately educate and prepare students for social and civic life following graduation. If California, with the broad diversity in its population, cannot achieve a suitable level of diversity at its universities, other states, with more homogenous overall populations, will face even greater challenges."

Brief of the President and Chancellors of the UC

The University of California ("UC") is the largest highly selective institution of higher education in the nation, with its ten campuses located across the state, and undergraduate, graduate and professional schools and programs that enroll in combination over 235,000 students. UC is governed by The Regents of the University of California and led by the President of the University, Mark G. Yudof, and the Chancellors of its campuses. The President and Chancellors joined this brief.

UC acknowledged that California became one of the laboratories of experimentation the U.S. Supreme Court often alludes to approvingly in its opinions. In its laboratory, the state has sought to discover ways to create diversity after an electorate ban on the use of race in college admissions.

Its brief writes: "Proposition 209, which took effect for undergraduate admissions in 1998, had an immediate and dramatic adverse effect on the admission and enrollment of underrepresented minority students at the university of California. In the ensuing years, the University of California has adopted a number of different strategies in an attempt to reverse that decline in underrepresented minority students, including expanding its outreach program to secondary schools, incorporating a broader and more comprehensive set of admissions criteria, adopting "holistic" review of applicants, decreasing the weight given to standard-ized tests, and admitting a specified percentage of the top graduates from each high school under an "Eligibility in the Local Context" program similar in certain respects to UT's "Top Ten Percent" Program. To date, however, those measures have enjoyed only limited success. They have not enabled the University of California fully to reverse the precipitous decline in minority admission and enrollment that followed the enactment of Proposition 209, nor to keep pace with

the growing population of underrepresented minorities in the applicant pool of qualified high school graduates. These effects have been most severe and most difficult to reverse at the University's most highly-ranked and competitive campuses."

The brief concludes: "The University of California's experience establishes that in California, and likely elsewhere, at present the compelling government interest in student body diversity cannot be fully realized at selective institutions without taking race into account in undergraduate admissions decisions.

Brief of UT student body presidents

This brief was filed by 14 former student body presidents at UT Austin, thus asserting themselves to be: "uniquely positioned to provide their perspectives on the degree to which student body diversity existed and did not exist during their attendance at UT. Members of this group of amici attended UT during periods in which three different admissions policies were in place": before Hopwood, when race could be considered, after Hopwood and the adoption of the Top Ten Percent law, when it could not, and after the Regents approved a holistic race-conscious approach to supplement the Top Ten percent admissions, which Fisher challenges.

Their brief writes: "No matter when they attended UT, all amici

agree that diversity efforts at UT are a work in progress and that "critical mass" has not yet been achieved. At the same time, they are unanimous in their belief – based on their own experiences – that a

racially diverse educational experience provides invaluable educational benefits that prepare students to be effective and successful in their careers and leadership positions."

Brief for the United States

Filed by the U.S. Solicitor General, and joined by General Counsel for the Dep't of Defense, Dep't of Education, Dep't of Commerce, Dep't of Health and Human Services and Dep't of Labor.

This brief notes that the United States has significant responsibilities for the enforcement of the Equal Protection Clause of the Fourteenth Amendment in the context of institutions of higher

learning, and for the enforcement of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin by recipients of federal funds, including institutions of higher education. Numerous federal agencies—including the Departments of Defense, Justice, Education, Commerce, Labor, Homeland Security, and Health and Human Services, among others—have concluded that well-qualified and diverse graduates are crucial to the fulfillment of their missions. The United States thus has a strong interest in the development of the law regarding the consideration of race and ethnicity in admissions in higher education and is supportive of the continued guidance provided in *Grutter* about the limited use of race to achieve the educational benefits of student body diversity.

Voices from the Academy

This is the largest category of brief. Twenty-four briefs in total were filed by universities or organizations associated with the academic sector, representing hundreds of signatories, and thousands of members. The sample briefs summarized next are important because they emphasize the *ripple effect* a ban on race conscious admissions in undergraduate programs would have on graduate and professional programs and the professions they serve.

Brief of the Association of American Law Schools

This brief argues: “Although this case concerns undergraduate admissions, the outcome may affect law schools, both by shaping the composition of their applicant pool and by constraining how they admit applicants from within that pool. First, law schools draw their students from more than 2,000 colleges and universities across the United States, many of them highly selective. Many of those undergraduate institutions now admit diverse classes, resulting in a diverse law school applicant pool. But if this Court announces a rule of law that substantially restricts the ability of colleges to enroll racially integrated student bodies, then law schools will no longer benefit from racially diverse applicant pools. Second, many law schools themselves take race

into account in their admissions decisions. If the precedent set by this case forecloses consideration of race in higher education admissions, law schools will become less racially integrated."

If law schools were forced to use a mechanical rule like the top percent rule pushed by Fisher, the AALS brief argues, because law schools draw "most of their applicants from integrated undergraduate institutions, the use of a mechanical admissions procedure would lead to fewer minority admissions because of persistent racial gaps in test scores."

Brief of the Association of American Medical Schools

This is the association that speaks for a broad educational membership that "include[s] all 138 accredited U.S. and 17 accredited Canadian medical schools; nearly 400 major teaching hospitals and health systems; and 90 academic and scientific societies."

This brief states: "Medical schools have learned over many decades of experience that these goals cannot be accomplished unless physicians are educated in environments that reflect the ever-increasing diversity of the society they serve. As a result, access to medical education has never been determined solely by metrics such as test scores and grades. Rather, admission has historically been based on a holistic evaluation process—including personal interviews of applicants—in which an applicant's background is taken into account along with myriad other factors." "…The goal is not mechanically to admit students based on numerical criteria or to mirror the country's demographics, but rather to produce a class of physicians that is best equipped to serve all of society."

"The qualities that contribute to a successful health care professional are impossible to measure with grades and test scores alone. Medical educators agree that success in medical school requires more than academic competence; it also requires integrity, altruism, self-management, interpersonal and teamwork skills, among other characteristics. …To assess these qualities,

medical schools have a long history of highly individualized admissions processes, including personal preadmission interviews for every accepted applicant."

"…percentage plans," such as the one used by respondent for undergraduate admissions, do not translate to the professional school environment."

It concludes: "Accepting petitioner's invitation to overrule these decisions, or to remove the deference to expert educators that underlies them, would effectively prevent medical schools from fully carrying out that obligation, to the detriment of patient health."

Voices from the Asian American Community

Asian American Legal Defense and Education Fund (AALDEF)

AALDEF, 18 Asian American and Pacific Islander education and youth-serving organizations, and 52 higher education faculty and officials filed this brief to refute the arguments of Abigail Fisher and some of her *amici* "who erroneously assert that African Americans and Latinos are the only beneficiaries of UT's admissions policy. From this faulty premise, they incorrectly contend that UT has expanded admissions opportunities for African Americans and Latinos at the expense of Asian Americans and Whites. In reality, a narrowly tailored, *Grutter*-compliant admissions program like UT's strongly benefits the Asian American and Pacific Islander community. UT's individualized review allows for the consideration of educational inequities faced by students from certain subgroups that are frequently hidden by the aggregation of data into a single "Asian" category. Students belonging to these subgroups in Texas and elsewhere have faced pervasive social and economic disadvantages akin to that experienced by many African Americans and Latinos, educational attainment levels that are among the lowest of all ethnic and racial groups, and even racial intimidation and harassment. Many of their parents (if

not the students themselves) made a difficult transition to the United States as refugees, and others come from communities that have been subjected to colonization on their own native land. By considering the role that these students' racial and ethnic origin have had on their experiences and achievements, UT's admissions process encourages racial disaggregation and individualized treatment and thwarts the harmful "model minority" myth that masks tremendous diversity within the Asian American and Pacific Islander community."

Asian American Center for Advancing Justice

This group is an affiliation of four nonprofit, nonpartisan organizations: the Asian American Institute from Chicago, the Asian American Justice Center from Washington, D.C., the Asian Law Caucus from San Francisco, and the Asian Pacific American Legal Center from Los Angeles.

Their brief writes: "*Amici*, like the majority of Asian American voters

in California, Michigan, Washington, and other states who have opposed referenda to eliminate race conscious programs, support the proper use of race conscious programs. National opinion polls consistently show that a majority of Asian Americans are in favor of race-conscious programs."