

## ***Fisher v. University of Texas (Fisher II): Why Affirmative Action Helps, Not Harms, Asian Americans***

---

This term, the U.S. Supreme Court will hear for the second time *Fisher v. University of Texas (Fisher II)*, a constitutional challenge to the university's admissions policy.

### **What is Fisher II about?**

Abigail Fisher applied for admission to the undergraduate program at the University of Texas, Austin (UT Austin) and was denied. Fisher, who is white, alleged that UT Austin, because it considered race as a factor in admissions at the time Fisher had applied, had discriminated against her because of her race.

The U.S. Supreme Court ruled for the first time in the case in 2013. In its decision, the Court reaffirmed longstanding precedent that diversity is a compelling state interest and that universities may consider racial and ethnic diversity as one factor among many in a carefully developed admissions policy. After providing these instructions, the Supreme Court sent the case back to the Fifth Circuit Court of Appeals, which carefully reviewed UT Austin's admissions plan and determined that the school had followed the Court's guidelines for admissions. Fisher appealed that decision back to the U.S. Supreme Court.

### **What might happen in round two?**

The Court could hold UT Austin's admissions policy failed the Supreme Court's constitutional test or otherwise indicate that the age of race-conscious admissions practices is coming to an end. Or, the Court might simply make an attempt to clarify some language in previous affirmative action decisions. Regardless, the Court's decision to hear the case is disappointing.

### **Race-conscious admissions are not quotas**

It's important to understand that UT Austin does not pre-determine how many Asian American, black, Latino, or other students of color it will accept before reviewing applications. The U.S. Supreme Court ruled long ago that universities cannot use a quota system. Instead, the university considers an applicant's test scores, class rank and course work. If these measures aren't enough to grant admission, the University then turns to the weighted average score of two required essays and a holistic review of the entire application. Holistic review considers an applicant's entire file, including demonstrated leadership qualities, extracurricular activities, awards, essays, work experience, community service and special circumstances. These special circumstances could include socioeconomic status, family situation, and only then, race.

## How does this case impact Asian Americans?

Asian Americans continue to benefit from race-conscious admissions practices in higher education. Throughout our nation's history, race-conscious admissions directly benefited Asian Americans. Asian Americans, similar to African Americans, Latinos and Native Americans, were subject to historic exclusion and *de jure* segregation in public education, particularly in California with its significant Asian American population. During this time, Asian Americans were designated beneficiaries of various affirmative action programs and these programs began to ameliorate the long history of discrimination and exclusion experienced by Asian Americans in accessing higher education.

Even today, Asian Americans benefit. There is great diversity within the Asian American community. Around [11 percent of Asian Americans](#) live below the federal poverty line. Some Asian American ethnic groups, including Hmong, Cambodian and Bangladeshi, are among the most impoverished in the country. While 73 percent of Taiwanese and 68 percent of Indians have bachelor's degrees, that rate drops down to 14 percent for Cambodians and Hmong. Like many other students of color, they grow up facing obstacles to educational opportunity, like underfunded schools and outdated textbooks. Admission policies like those at University of Texas allow these students to have a fair shot.

## Diverse learning environments benefit all students

The Supreme Court has made clear that learning with and from people of different backgrounds and perspectives benefits all students, and in turn that benefits our communities, our work force, our military and our country as a whole.

Today, Asian Americans – particularly South Asian and Muslim students – are often targets of discrimination and hate crimes, as are other communities of color. In just the last few weeks, we've seen how fearmongering has been used to halt Syrian refugees from finding safety in the United States, and how Sikh and Muslim Americans have been profiled since the attacks in Paris. With America's shifting demographics, it's critical to the success of our nation that our young adults understand and respect all races and ethnicities and appreciate – not fear – those who are different from them. In today's racially-charged climate, it's more important than ever that the U.S Supreme Court continues to recognize the many educational benefits of race-conscious admissions so universities can build student bodies that foster a meaningful understanding of our nation's diversity.