

# ARCHIVED INFORMATION



U.S. Department of Justice  
Civil Rights Division

U.S. Department of Education  
Office for Civil Rights



## Questions and Answers About Fisher v. University of Texas at Austin II

September 30, 2016

On June 23, 2016, the U.S. Supreme Court issued its second decision in *Fisher v. University of Texas at Austin (Fisher II)*. The Court followed long-standing precedent recognizing that colleges and universities have a compelling interest in ensuring student body diversity, and can take account of an individual applicant's race as one of several factors in their admissions programs as long as the program is narrowly tailored to achieve that compelling interest.

This document provides colleges, universities, and campus communities with basic information about the case and about the voluntary use of race to achieve diversity in higher education. We hope you find the Questions and Answers and the underlying guidance that is referenced in this document to be helpful in implementing lawful programs to promote diversity on your campus, consistent with the recent *Fisher II* decision. If you have further questions, please contact the U.S. Department of Education's Office for Civil Rights (800-421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov)) or the U.S. Department of Justice's Educational Opportunities Section (877-292-3804 or [education@usdoj.gov](mailto:education@usdoj.gov)).

### 1. What did the Supreme Court decide in its 2016 *Fisher* ruling?

**A:** In *Fisher II*, the Supreme Court upheld the constitutionality of the University of Texas at Austin's (UT) use of race in admissions. *Fisher II* reaffirms that institutions of higher education have a compelling interest in pursuing the educational benefits that flow to all students from student body diversity. Moreover, the decision clarifies that universities are to be afforded "[c]onsiderable deference . . . in defining those intangible characteristics, like student body diversity, that are central to its identity and educational mission." 579 U.S. \_\_\_ (2016) (slip op., at 19).

Although an institution of higher education cannot define its diversity goals as a specific percentage of a particular racial group or simply assert "an interest in the benefits of diversity writ large," the Court held that UT articulated sufficiently "concrete and precise goals" in its admissions policy, including "the destruction of stereotypes, the promot[ion of] cross-racial understanding, the preparation of a student body for an increasingly diverse workforce and society, and the cultivat[ion of] a set of leaders with legitimacy in the eyes of the citizenry." *Id.* at 12 (internal quotation marks omitted). The Court also held that UT demonstrated that its admissions program was narrowly tailored to achieve its educational goals. *Id.* at 18-19.

**2. Does prior guidance from the Departments about the voluntary use of race remain in effect?**

**A:** Yes. The guidance issued by the Departments in 2011, 2013, and 2014 regarding the voluntary use of race to achieve student body diversity remain in effect, and were supported and reinforced by *Fisher II*. In 2011, the Departments issued “[Guidance on the Voluntary Use of Race to Achieve Diversity in Postsecondary Education](#)” and the related “[Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools](#).” In 2013, after the Supreme Court issued its first decision in the *Fisher* case, we issued further guidance in the form of “[Questions and Answers about Fisher v. University of Texas at Austin](#).” Additionally, in 2014, we issued a [Dear Colleague Letter concerning the Supreme Court’s ruling in Schuette v. Coalition to Defend Affirmative Action](#). All four guidance documents are available at [www.ed.gov](http://www.ed.gov) and [www.usdoj.gov](http://www.usdoj.gov).

**3. Do the Departments continue to support diversity in education?**

**A:** Yes. The Departments continue to strongly support efforts to promote diversity in elementary, secondary, and higher education. As the Supreme Court has recognized, diversity has benefits for all students, and today’s students must be prepared to succeed in a diverse society and an increasingly global workforce. Our offices stand ready to provide technical assistance on this important topic.