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[jion of] cross-racial understanding, the preparation of a student body for an increasingly diverse workforce and society, and the cultivat[jion 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 and 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.