

No. 11-345

IN THE
Supreme Court of the United States

ABIGAIL NOEL FISHER,
Petitioner,

v.

UNIVERSITY OF TEXAS AT AUSTIN, *et al.*,
Respondents.

**On Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

**BRIEF OF *AMICUS CURIAE*
TEACH FOR AMERICA, INC.
IN SUPPORT OF RESPONDENTS**

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STATEMENT OF INTEREST¹

Amicus Teach For America, Inc., is a national corps of top college graduates and professionals who commit to teach for two years in urban and rural public schools and become lifelong leaders in the effort to expand educational opportunity. Its network includes more than 10,000 corps members teaching in 46 regions across the country and nearly 28,000 alumni working in education and other sectors to create the systemic changes that will help end educational inequity. Its alumni have proved to

¹ No party or counsel for a party authored or paid for this brief in whole or in part, or made a monetary contribution to fund the brief's preparation or submission. No one other than *amicus* or its counsel made a monetary contribution to the brief. All parties filed blanket *amicus* consent letters.

be an important source of leadership for improving education, with many winning the highest recognitions teachers can win, more than 700 serving as urban and rural school principals, others leading whole school systems and state departments of education, and still others leading policy reforms and pioneering new approaches for meeting the needs of low-income children.

Teach For America has an interest in the maintenance of a national higher education system that produces talented, diverse graduates. If colleges and universities are no longer permitted to consider applicants' race as part of a holistic admissions process to attain diversity, they will enroll, and graduate, fewer minority students. Such a development would impede Teach For America's efforts to address the crisis in K-12 education by recruiting and training a diverse and talented corps of teachers and education leaders.

SUMMARY OF ARGUMENT

The racial achievement gap in K-12 education creates lifelong disadvantages for many minority students and impairs the nation's economic progress and national security. A racially diverse corps of talented teachers and education leaders is vitally needed to help close that gap, but the leadership pipeline will remain diverse only if colleges and universities can continue to enroll diverse student bodies. Reversing progress toward a diverse leadership pipeline would have exactly the wrong effect: it would perpetuate the cycle of racial inequity and merely extend the need for race-consciousness in higher education admissions.

ARGUMENT

AMERICAN K-12 EDUCATION DEPENDS ON COLLEGES TO PRODUCE A CADRE OF DIVERSE LEADERS.

A. Persistent Racial Inequity In K-12 Education Devastates Minority Communities And Obstructs National Progress.

Every day, Teach For America teachers witness the pervasive racial inequities that plague our K-12 education system. The color of a child's skin and where she is born too often predict whether she will receive the kind of education that will give her access to the same opportunities in life as her more privileged peers. The gap starts early and widens over time. In 2011, 84 percent of African American and 82 percent of Latino fourth graders were reading below grade level, compared to 58 percent of white fourth graders. Compared to white students, African Americans are nearly twice as likely, and Latino students more than three times as likely, to drop out of high school. Yet we have also seen that students of color can excel academically and perform at the same level as white students when they have equal access to a quality K-12 education.

The wide disparities in K-12 education have devastating effects for millions of students, their communities, and the nation. Inequalities in K-12 education affect minority students for the rest of their lives. High school dropouts, for example, have three times the unemployment rate of college graduates. And young male high school dropouts are 47 times more likely than college graduates to be incarcerated.

Students are not the only victims of the persistent inequality in K-12 education. Research shows that racial inequality in primary and secondary education undermines the nation's economic prosperity and its national security. The achievement gap costs the United States hundreds of billions of dollars a year, contributing to the "economic equivalent of a permanent national recession." McKinsey & Co., *The Economic Impact of the Achievement Gap in America's Schools* 6 (Apr. 2009). Similarly, a task force led by former New York City Schools Chancellor Joel Klein and former Secretary of State Condoleezza Rice concluded that the failure to adequately educate our students jeopardizes national security. As the report warned, "Educational failure puts the United States' future economic prosperity, global position, and physical safety at risk." Council on Foreign Relations, *U.S. Education Reform & National Security* 4 (2012).

We cannot fulfill our potential as a democracy if generations of children in historically disenfranchised communities do not acquire in school the basic knowledge and critical thinking skills needed to engage fully as workforce participants and citizens. With each passing year that racial inequality in education persists, we pay a massive price—in moral, civic, and economic terms.

B. A Pipeline Of Diverse Leaders Is Needed To Break The Cycle Of Racial Disadvantage.

To close the achievement gap in K-12 education and break the stubborn cycle of racial disadvantage, we need the most effective corps of teachers and education leaders the nation can muster. History and research show that students from all

backgrounds are best served when their classrooms and schools are led by a diverse staff of teachers and principals. Yet without a diverse pipeline of graduates from the nation's leading colleges and universities, our schools will struggle to recruit the heterogeneous cadre of leaders they badly need.

The past century has shown that public education serves students best when the teaching corps is not homogeneous. Diverse teachers have a powerful impact on student achievement. For example, research demonstrates that students benefit greatly from interaction with role models from backgrounds similar to their own, as well as learning from teachers from different backgrounds. See Nat'l Collaborative on Diversity in the Teaching Force, *Assessment of Diversity in America's Teaching Force* 6 (Oct. 2004).

A diverse cohort of teachers and education leaders inspires trust across a broad swath of communities, in a way that homogenous leadership cannot. As this Court said in *Grutter v. Bollinger*, 539 U.S. 306 (2003): "In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity. All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions that provide this training." Our experience in classrooms and communities across the country confirms that view.

Recruiting a corps of education leaders from a variety of racial and ethnic backgrounds is a continuing challenge for the country. More diversity in the teaching profession, which is an important foundation for other positions in education

leadership, is badly needed. Only 7 percent of public school teachers are African American and 7 percent are Latino, whereas 15 percent of public school students are African American and 23 percent are Latino. U.S. Dep't of Educ., Nat'l Ctr. for Educ. Statistics, *Digest of Education Statistics* 117 (June 2012). Yet Teach For America's experience in K-12 education highlights both the possibility of achieving a diverse teaching and leadership corps and the importance of diversity in higher education to that critical mission.

Our teachers and alumni are a significant and growing part of the new talent pipeline that is driving positive change in American public education. In 2012, for example, 5,800 recent college graduates joined Teach For America. In total, 10,000 first- and second-year corps members will reach 750,000 low-income students in 46 communities this school year.

Our most recent corps is one of the most diverse in Teach For America's history: 35 percent come from low-income backgrounds, 23 percent are the first in their family to earn a college degree, and 38 percent identify as people of color, including 13 percent African American and 9 percent Latino. These and our other corps members will, if history is an indicator, contribute immeasurably to the communities they serve.

We would not be able to recruit and develop such a diverse group of corps members and alumni if the nation's leading colleges and universities became less diverse. The talent pipeline from which we recruit is inextricably linked to the diversity of the cohort of college graduates.

Even today, the disproportionately low representation of minority students at top universities presents a challenge. At the 340 most selective public and private universities, only 5 percent of graduates are African American and 6 percent are Latino. If leading colleges and universities graduate fewer minority students, the ranks of teachers and education leaders from minority backgrounds will diminish. Such a rolling back of the number of highly talented teachers and education leaders would be a devastating blow to our efforts to address the stark inequities that afflict K-12 education.

Race-conscious admissions policies play an important role in creating and sustaining a pipeline of talented, diverse future leaders. Teach For America has seen again and again that children who overcome the extra challenges of race discrimination and poverty can become powerful classroom and community leaders—if they receive a college education. A person of color who has overcome such obstacles not only brings new experiences and perspectives to her college peers, she also can apply her experience in important ways after college. These benefits can't be measured under a purely academic achievement rubric. The consideration of race as part of a holistic admissions process thus helps colleges assemble a diverse student body comprised of individuals who are likely to succeed in college and thrive in life.

In *Grutter*, the Court expressed its expectation that affirmative action in higher education would one day become unnecessary: “We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.”

539 U.S. at 343. Teach For America and many other organizations and committed leaders are working hard to achieve that goal by ending inequality in lower education. But if the pipeline of new teachers and education leaders the nation's leading colleges and universities graduate becomes racially and ethnically less diverse, our efforts will be greatly impeded, and racial disparities in lower education will persist longer. Colleges must be allowed to use race-conscious means to pursue student diversity in higher education. The ability to marshal the best teaching and leadership corps for K-12 education, and to fulfill the hope that one day race need no longer play a role in college admissions, depend on it.

Petitioner's argument in this case threatens the successes achieved by Teach For America and similar path-breaking organizations. Were higher education institutions precluded from pursuing diversity by considering race in admissions, the pipeline of graduates prepared to help lift disadvantaged students out of the cycle of inequality will surely dwindle, to the detriment of the nation. The Court should reject Petitioner's argument and reaffirm the constitutionality of narrowly tailored race-conscious admissions policies in higher education.

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment below.

August 13, 2012

Respectfully submitted,

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