



Howling Counsel Breaking News. . .

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US Supreme Court Decision on Fisher v. University of Texas at Austin

Yesterday, the U.S. Supreme Court issued its much anticipated decision in Fisher v. University of Texas at Austin. The Court ruled 7-1 to send the case back to the Fifth Circuit Court of Appeals to undertake a closer, more detailed review as to whether the university’s admissions program is narrowly tailored to obtain the educational benefits derived from diversity, which is required under the Equal Protection Clause of the U.S. Constitution whenever the government uses race as a factor in programs or policies.

In Fisher, the Supreme Court found that the Fifth Circuit failed to properly examine whether the University of Texas’ consideration of race in its admissions process was necessary to achieve the educational benefits obtained from a diverse student body. The holding was largely procedural, centering on the Fifth Circuit’s failure to apply the proper legal standard of review, and did not directly address Texas’ admissions process.

It is important to note that the Supreme Court did not overrule its 2003 decisions in the University of Michigan cases (Grutter and

Gratz), which held that attaining a diverse student body is a compelling state interest because of the educational benefits that derive from such diversity.

At NC State, the commitment to excellence and diversity go hand in hand. We review student admission applications holistically and consider many factors, both academic and non-academic. We consider diversity broadly to also include race neutral characteristics such as first generation to attend college, socio-economic status, geography, demonstrated leadership, overcoming personal hardships and English as a second language. No one factor is determinative and each application is reviewed individually on its own merits.

Our undergraduate admissions approach was approved recently by the U.S. Department of Education, Office of Civil Rights (OCR) in November 2012, after a lengthy review beginning in 2003. OCR determined that NC State has a compelling interest in the educational benefits from diversity and its admissions policies are narrowly tailored to achieve those goals. The university agreed to conduct a review

of its admissions protocols following the Fisher decision to ensure that it remains in compliance with Federal law. Vice Chancellor and General Counsel Eileen Goldgeier, Vice Provost and Registrar Louis Hunt, Vice Provost of Institutional Equity and Diversity Joanne Woodard and Admissions Director Thomas Griffin will lead the university’s review.

If you would like to learn more, links to the Supreme Court’s decision and other materials are available on the OGC **Recent Developments** section of its webpage.

OGC is hosting several webinars on the implications of the Fisher decision. The first is ACE’s “The Supreme Court’s Decision and What it Means for Your Campus”, scheduled for July 10, 2013 from 1:00-2:30 p.m. Please RSVP to Irma Rose at 919-513-7838 or ilrose@ncsu.edu if you would like to attend.

If you have questions, please contact Eileen Goldgeier at 919-515-3932.