



Center for the Integration of Research, Teaching, and Learning

Teleconference Agenda May 5, 2005

Today's teleconference will highlight the diversity efforts of the College of Engineering at the University of Michigan. Levi Thompson, Professor of Chemical Engineering and Associate Dean of Undergraduate Education will discuss the success of U of M in graduating underrepresented minority students, and the changes that have occurred in their strategies for admission in light of the recent legal actions against the university.

1. Ice Breaker

Why is it desirable to foster diversity among the students, faculty and staff of institutions of higher learning?
What strategies do you believe are necessary and warranted to achieve such diversity?

2. Resource Highlight

Levi Thompson will discuss the strategies used in the College of Engineering at the University of Michigan to diversify the pool of successful engineering graduates. The University of Michigan has achieved great success in graduating large numbers of women and underrepresented minority engineers. The recent legal actions against the university have increased their visibility, and caused the institution to radically rethink its role in defining the importance of and methods to achieve diversity in higher education.

Appended you will find two PDF files:

- 1) Slides to accompany the presentation
- 2) a talk given by Amy Gutman, President of the University of Pennsylvania, at the recent Leadership Alliance Presidential Forum (the talk was originally given while she was Provost at Princeton).

3. Registration for the CIRTl Forum 2005 will officially close this week. If you are planning to attend and have not already done so, you must register by the end of the week. Please contact Mary Fish at <mfish@wisc.edu> or 608-263-0630 immediately.

4. Diversity Institute Assignments

This is the last teleconference of the Diversity Institute.

Our resource book, "Reaching All Students" went to press last week; thanks to all of you who contributed by reviewing the material. The final version will be distributed at the Forum to those of you who attend, and by mail to those who do not.

Our casebook, "Case Studies in Inclusive Teaching in Science, Technology, Engineering and Math" will be sent to print this week; thanks to all of you who discussed the cases and provided possible solutions.

The Literature Review will be the last of our resource put into final form. One more round of reviews will be sent out; if you have reviews of any of the other materials we will be happy to receive them anytime before the end of June.


Thank you all for your participation in the Diversity Institute and the teleconferences.

Your participation is greatly valued and appreciated!



A Snapshot

- Established in 1854, the 6th oldest school of engineering in the U.S.
- First public institution to award engineering degrees
- With more than 7,000 students from every state and 70 countries, one of the largest programs in U.S.
- One of the most comprehensive programs in U.S. with 11 departments and 32 fields of study
- Research expenditures of nearly \$140 million/yr and home to two NSF Engineering Research Centers
- 18 members of National Academy of Engineering



Our Mission

The College of Engineering Community strives to *produce outstanding graduates and the technologies needed to improve society*. We accomplish this by providing:

- *An education that has the breadth and depth necessary to help students realize their full intellectual potential;*
- *Inventive engineering research;* and
- *Leadership in service to industrial, governmental and professional organizations.*



Improved Diversity in College of Engineering

- First-year underrepresented minority enrollment almost tripled from 1986 to 2001 (56-154)
- The number of bachelors degrees awarded annually to underrepresented minority students has quadrupled from 1990 to 2001, reaching high of 107
- The CoE's 50% six-year minority student graduation rate is significantly better than the national rate of 35%
- The CoE typically ranks second in the nation among peer institutions in graduating African American students



Engineering Bachelor's Degrees Awarded to Women (2001)

1. University of Michigan	335
2. Georgia Tech	319
3. Univ. of Puerto Rico, Mayaguez	267
4. Purdue University	249
5. MIT	246
6. Texas A&M	244
7. Penn State	219
8. University of Illinois	208
9. University of California, Berkeley	201
10. North Carolina State	182



The Suit



www.umich.edu/%7Eurel/admissions/



Since the Ruling

“we carry more responsibility today than ever before, because those cases established the University of Michigan as the most visible defender of the educational value of diversity in higher education. It is essential that we maintain the confidence of our university and the public on this front.”

Mary Sue Coleman



Old Admission Process

- Grade point average (recalculated) – 80 points
- ACT/SAT test scores – 12 points
- Quality of high school academic curriculum
- Proposed academic concentration at U-M
- Leadership and service
- Personal achievement
- Recommendations
- Personal essay
- Gender (e.g., males applying nursing school)
- Underrepresented geographic areas (county/state)
- Socio-economic disadvantaged
- Scholarship athletes/special talents (music)
- Underrepresented racial/ethnic minority
- Alumni legacy
- Provost’s discretion

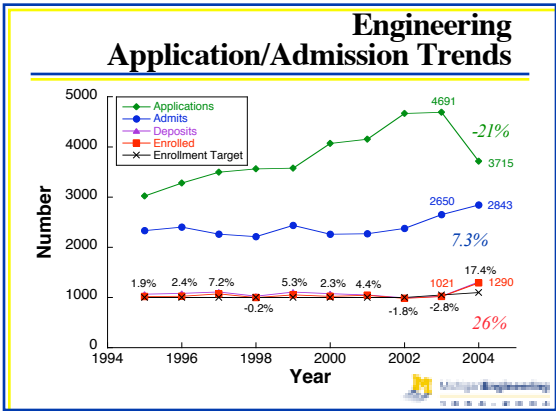
Academic factors account for up to 110 points of a possible 150 selection index points

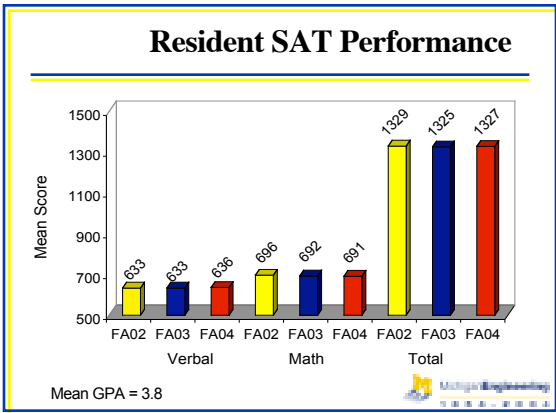


New Admission Process

- Eliminated point system
- Three essays
- Individual review of each application
- More information from teacher/counselors
- Hired more people at UM expense
- More faculty involvement







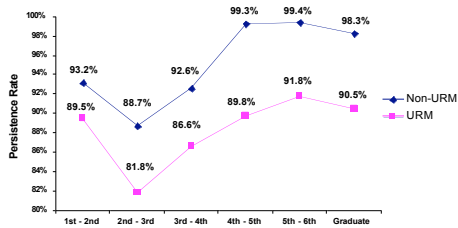
- ### How Others Fared?
- (UM applications down 20%, yield up 13%)
- University of Texas (1996-97)**
- applications down $\approx 15\%$, yield up $\approx 5\%$
 - University of Washington (1998-99)**
- applications flat, yield flat
 - University of North Carolina (2000-01)**
- applications flat, yield up $\approx 5\%$
 - University of Florida (2001-02)**
- applications up $\approx 5\%$, yield flat
 - Ohio State University (2003-04)**
- applications down $\approx 15\%$, yield up $\approx 5\%$
 - Michigan State University (2003-04)**
- applications down $\approx 10\%$, yield up $\approx 10\%$

College of Engineering Plan for Diversity

- A set of *well defined goals* that clearly define our institutional commitment to diversity among our students, staff and faculty;
- *Strong financial support* through scholarships and fellowships – We believe that "We cannot afford to lose even one talented student if the only barrier is financial aid;"
- *Departmental incentives* to establish diversity plans and desired outcomes; and
- *A sense of shared responsibility and accountability* for achieving diversity within our College of Engineering, and profession.



Year-to-Year Persistence Rates



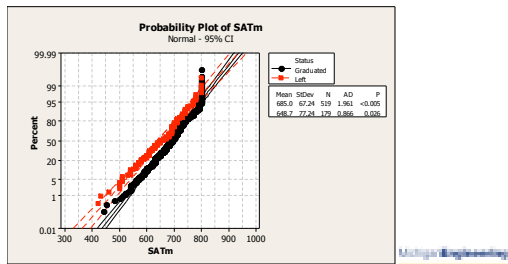
Non-URM 6-Year Graduation Rate: 74%
URM 6-Year Graduation Rate: 47%

rates are averages based on four recent cohorts



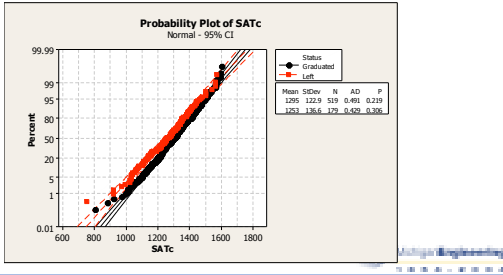
Factors Influencing URM Student Retention

- While SATm is used in evaluating applications, effect on graduation is small



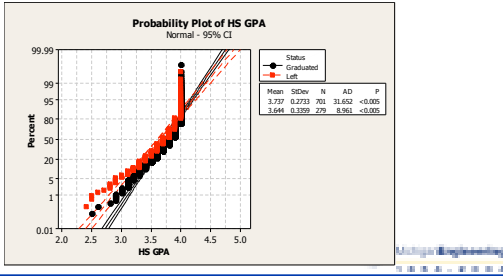
Factors Influencing URM Student Retention

- Overall SAT score is not a good predictor of graduation rates



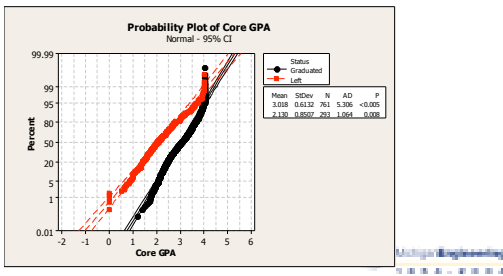
Factors Influencing URM Student Retention

- Likewise, overall HS GPA is not strong predictor of graduation rates



Factors Influencing URM Student Retention

- Single best predictor of retention is GPA in core UM courses (Math, Chem, Physics, ENG)



Initiatives to Improve Persistence and Performance

Mentoring Steering Team

- Coordinate, integrate and support mentoring for first year Michigan Engineering students
- <http://www.engin.umich.edu/students/mentoring>

FYRST (First Year Retention Strategies Team)

- Case management approach to identify risk factors and proactively provide services

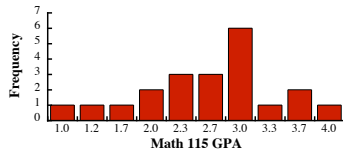
Supplemental Instruction for Core Courses Improving Math Performance/Preparation

- Mathematics Liaison (Professor Alex Bielajew)
- Faculty committee reviews admissions requirements
- Revised Math 110 in collaboration with Math Dept.



2004-2005 Math 110 Experiment

- 57 students earned C- or lower on M115 mid-term
 - 25 students opted to take M110
 - Of 32 remaining in M115, 7 (22%) earned B- or better
- Most students (62%) who took M110 achieved B- or better on Winter 2005 M115 mid-term

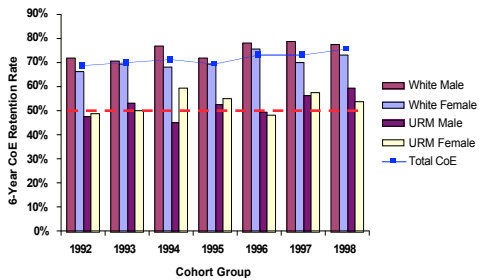


- Average GPA improvement of 1.6 GPA for students who took M110



Undergraduate Graduation Rate

CoE 6-Year Retention Rate



UM Joins Dual Degree in Engineering Program



+



Key Elements:

- B.S. Science/Math (AUC): B.S.E. (Michigan Engineering)
- Significant student services support from College
- Scholarships to mitigate financial burdens
- Faculty and SMES-G mentors to help with transition
- Participation in research programs including SROP
- Model for other partnerships



2004-2005 Dual Degree in Engineering Program Students

Ricardo Davis, Kimberly Lockhart, Renelle Melville, Marcus Parrot, French Thompson, and Iyabo Williams



DDEP students have lunch with Dr. Marshall Jones and Dr. Calvin Mackie



Future Challenges


- State budget cuts
- Declining students of color enrollment
- Shifting demographics
- How campus diversity will be defined?
- State ballot initiatives to ban affirmative action programs
- Department of Education's Title VI - "narrow tailoring" provisions
- Recruitment of faculty and staff of color
- Shifts in government and public views that higher education is more a private good than a public good
- The Supreme Court - new Justices
- The Supreme Court's 25 year expectation?





College of Engineering *Firsts*

- *First* program in aeronautical engineering
- *First* program in nuclear science & engineering
- *First* program in naval architecture & ship design
- *First* data processing course
- *First* to develop laser holography
- Original home of NSFNET, parent to internet
- Only space missions (2) where the entire crew had graduated from the same CoE



March 13, 2003

Why Does Diversity Matter?

A talk delivered March 4, 2003, at the celebration of Thirty Years at Gallatin, New York University

© Amy Gutmann, Laurance S. Rockefeller University Professor of Politics and the University Center for Human Values, and provost, Princeton University

Why does diversity in higher education matter? And why are the upcoming decisions of the Supreme Court in the Michigan cases of Grutter and Gratz so very important to the future of higher education and academic freedom in our democracy?

I begin with three personal stories, none very dramatic, but each relevant to these questions.

Story No. One — I'm in sixth grade, the only Jewish girl in my elementary school in Harriman, N.Y., a very small, predominantly Protestant working-class community 50 miles north of New York City. My classmates have brown hair and brown eyes, except the two recently arrived Chinese girls in our class who have black hair and black eyes. Our teacher introduces a new girl into the class. Like me, she has blonde hair and blue eyes. Without missing a beat, my best friend, Diane Turnbull, intelligent and insightful, exclaims, "Oh, she must be Jewish!"

Story No. Two — I'm now a senior in Monroe-Woodbury Central High School, applying to college and for financial aid. The summer before my senior year, my father — who was the sole earner in the family — died very suddenly of a heart attack. With no savings, my mother and I are concerned about how we will support ourselves. A college recruiter comes to my high school and, as I later discover, my principal tells him that I won't need any financial aid. He apparently assumed that since we're Jewish, we are rich. I was fortunate enough to receive a full scholarship to college, and my mother, ironically enough, was hired as secretary to my high school principal.

Story No. Three — Also when I was a senior in high school, a male friend, one of only a handful of African-American students in my high school of 800, was accepted into a large university in the Midwest. A few weeks later he visits the university and is told there was a mistake in his acceptance. Nothing is ever mentioned about his race, but he (and no one else in my senior class) is rejected after having received a letter of acceptance.

Although much has changed since then, I recall these stories because they illustrate central features of the way fallible human beings may readily react to people with whom we are unfamiliar unless we are educated otherwise. The kind of education we need — the kind most narrowly tailored toward achieving the relevant educational goals — is not book learning per se but learning in an educational community with diverse others, those others who have the most to contribute to democratic education. One central reason why diversity matters is that it is highly unlikely that we will be taught to dispel stereotypes simply from reading books in isolation rather than from having an integrated educational experience, which consists of learning from diverse others as well as from books.

These stories therefore remain revealing and relevant. I put them in ascending order of concern. The first — “Oh she must be Jewish” — story, is significant because it shows how easily stereotypes are created and — as important for our topic of the relevancy of diversity in education — how false they can be even when they are not particularly damaging to a person. False stereotypes, even if benign in their social effects, are still false. Surely an important part of higher education is to teach students truths rather than falsehoods about the world, to dispel false stereotypes about people that are so very easy to adopt. An educational institution can dispel stereotypes only if there are sufficient numbers of people of any given stereotype to live down the stereotype.

The second — “Oh she must be rich if she’s Jewish” — story, moves one more step toward illustrating the kind of serious social problem that diversity in education addresses. This story shows that false stereotypes, even if complimentary, can be harmful. In this particular case, however, I was not harmed. I could have been and others no doubt have been by rash assumptions about how rich or poor, intelligent or ignorant, brash or diffident, individuals are because of their group identities.

Which brings me to the third story, the one in which a student was seriously harmed by the false and pervasive stereotyping of his group. He is a member of a group that has been subject to great harm for centuries in this country, for which higher education does not have the capacity to compensate. I therefore tell this story not as it relates to claims about compensatory justice for African-Americans, but rather because it reflects a failing of higher education that is the most endemic to our nation’s history. At the same time, it is a story that many Americans think is so outmoded that what we should really be worrying about today is not discrimination against African-Americans but reverse discrimination against white men. After all, no college or university these days would reject a highly qualified African-American after having sent him an acceptance letter. Indeed, most colleges and universities these days would love to admit any student with my high school friend’s profile.

Yet this story is outmoded only in its specific details, not in its general lesson for higher education. False stereotyping against African-Americans is persistent and pervasive. Study after study in recent years has shown that the negative stereotyping of African-Americans persists in ways that deny equal opportunity or equal consideration in employment, housing, health care, and consumer affairs not only to poor but also to middle- and upper-middle class blacks. With middle-class customers who are identical save for their skin color, landlords differentially refuse to show rental units, real estate agents engage in redlining, car dealers raise prices, store owners suspect shoplifting when faced with a person who is black rather than white. Just last year, University of Chicago economist Marianne Bertrand and her colleagues published the results of a controlled experiment that revealed a remarkable degree of unspoken racial bias in the way employers determine who they will interview for a job. Resumes were given to prospective employers that were absolutely identical but for the first names of the applicants. Some first names were distinctively African-American. Those resumes that had African-American sounding first names — like Letoya and LaKeisha — had 50 percent fewer call-backs for job interviews than the resumes with Anglo-sounding first names. Surely something socially and educationally important is still seriously lacking in our educational system if college-educated professional

recruiters cannot distinguish between qualifications for a position and the racial signification of people's first names.

My stories therefore are intended as a supplement not a substitute for systematic analysis of why diversity matters in higher education. The question is critical for higher education today because never before has diversity been so widely accepted as a goal in higher education yet the means for achieving it so avidly under attack. Who doesn't believe in diversity in higher education? Who believes in homogeneity? Most Americans seem to agree that diversity is a good thing. But is it clear what we mean by diversity, and why it matters?

Most universities take pride in the diversity of their student bodies. "At NYU, "you will meet all kind of people, so be sure to take advantage of this unique opportunity!" "We act to achieve an environment that welcomes and supports diversity," says the website of the University of Puget Sound, ... "we act to prepare effectively citizen-leaders for a pluralistic world."

American businesses also emphasize their commitment to diversity. Almost every major company in this country speaks strongly of the economic as well as social importance in a global world of hiring a diverse professional workforce. General Motor's senior management formed eight Employee Resource Groups (ERGs) to better recruit and integrate eight groups into their workforce: African-Americans, Asian-Americans, Latinos, gay and lesbian, non-U. S. citizens, women, white males, and people with disabilities. (Companies as diverse as Johnson & Johnson, Nike, Microsoft, and Wal-Mart all emphasize how much diversity matters to their success.)

The convergence of selective universities and global businesses in defending diversity is not coincidental. The amicus brief submitted in the Michigan case by MIT, Stanford, Du Pont, IBM, the National Academy of Sciences, Engineering, and the National Action Council for Minorities in Engineering highlights why the convergence is not a coincidence. "Collaboration with diverse individuals is a critical part of science and engineering. The advancement of science has become an increasingly collaborative enterprise, and science and engineering have increasingly become global enterprises that cannot be limited by boundaries, backgrounds, races or cultures." Why diversity for both educational and economic purposes? Because "diversity leads to increased creativity, productivity, and success in science and engineering fields." "Diverse work teams create better and more innovative products and ideas than homogeneous teams."

Such claims about the educational value and productivity of social diversity build upon an insight into the means to both knowledge and self-understanding that was famously offered almost 150 years ago by John Stuart Mill's in "On Liberty." "He who knows only his own side of the case knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side, if he does not so much as know what they are, he has no ground for preferring either opinion."

Mill goes on to say something even more relevant to the debate over diversity today: "Nor is it enough that he should hear the arguments of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. That is not the way to do justice to the arguments or bring them into real contact with his own mind. He must be able to hear them

from persons who actually believe them, who defend them in earnest and do their very utmost for them. He must know them in their most plausible and persuasive form....”

This argument for why social diversity matters in education is not directly about social justice. Rather it’s about the content of higher education. The educational imperative is not only to hear the “Other Side” of arguments, it is also — and as importantly — to think through a complicated problem by being stimulated by diverse others to think outside the box we have become accustomed to by our own backgrounds, which are necessarily limited and therefore limiting. Diversity in higher education has the capacity to stretch our limits.

We now have three educational ends for which gender, racial, ethnic, and other significant forms of social diversity are a means. The ends are:

- (1) breaking down false stereotypes of groups,
- (2) hearing opposite sides of an argument, and
- (3) stimulating creative thinking by associating with people of different identities or upbringings who offer different approaches to problems.

These ends generally work not because diversity is comfortable or comforting but rather because just the reverse is generally true. Diversity is often uncomfortable and disconcerting, and it thereby stimulates creative thinking. Diversity of a significant sort forces upon us the discomfort (as Mill put it) of being “thrown...into the mental position of those who think differently from [us] and consider[ing] what such persons have to say....”

This statement captures only part of the truth about diversity’s educational value. A second, equally important part of the educational value of diversity in all societies where group stereotypes abound is discovering that many people of different races and upbringings are so very similar to us. They share many of the same aspirations, values, and so on as more familiar people. This educational aim — recognizing our common humanity — is part and parcel of dispelling the false assumption that all x’s — whether they be African-Americans, Muslims, or Asians — are alike but unlike “us.”

I began by noting that never before in my adult lifetime has diversity been so widely accepted as a goal yet the means for achieving it so publicly under attack. I have presented three important educational reasons for diversity, but I have yet to address criticisms of diversity. On what grounds is diversity opposed?

There are two very different arguments against diversity that apply directly to university admissions.

1. The first critique is that diversity is at best a meaningless goal and at worst destructive one. The goal is meaningless because no one really cares about all kinds of diversity, and destructive because it is a subterfuge for universities admitting groups they like and excluding those they dislike.

2. The second critique accepts diversity as a goal but disputes the means that many selective colleges and universities, like NYU and Princeton, use to realize the goal. The critique is quite specific in claiming that the race-sensitive means employed to realize diverse student bodies or workforces are unethical and even unconstitutional.

Both critiques appear in prominent places (such as the New York Times).

Professor Stanley Fish has put the first critique most bluntly. Referring to the Michigan affirmative action case, Fish writes “diversity is not a condition anyone actually desires.” As he continues: “What people desire is the alternation of a situation that displeases them; they regard it as an injustice that some group or population has been excluded from a benefit. They are not for diversity with a capital D — no one is. They are for limited expansion of the franchise in the direction of their preferences.” “... you tout openness when you and your friends have been shut out.”

Also in the New York Times, James Traub argues that diversity is a destructive goal because it lets unqualified people in, thereby harming the more qualified who are left out. He calls on universities to “Forget Diversity.”

While Fish sees himself as a critic of liberalism, Traub sees himself as a liberal. He defends the rationale that President Lyndon Johnson gave for affirmative action: bringing people back up to the starting point where they would have been were it not for historical discrimination. In Johnson’s metaphor, we must “imagine a hundred yard dash in which one of the two runners had his legs shackled together. He has progressed ten yards, while the unshackled runner has gone fifty yards. How do they rectify the situation? Do they merely remove the shackles and allow the race to proceed?... Would it not be the better part of justice to allow the previously shackled runner to make up the forty-yard gap, or to start the race all over again?” This argument has at best indirect relevance for the value of diversity in higher education, since universities realistically cannot succeed in their primary mission of higher education and also compensate by admissions those students who have been the most shackled, whether by poverty, race, or other social disadvantages. Life cannot be started over again for college applicants so that the least advantaged from birth could benefit most from, and contribute most to, the education that selective universities have to offer.

Among educational institutions, selective universities are in the worst position to focus on those individuals — whether they are poor white Appalachians or African-Americans — who have been the most harmed by discrimination and other social deprivations. These individuals are least likely to qualify for entrance as potentially successful students at NYU and Princeton. To tell selective universities to “Forget Diversity,” and to say that affirmative action is only about compensatory justice for the least advantaged, is to neglect why diversity matters in higher education. Elementary education, along with childcare, health care, and other basic social services, are essential to compensatory justice as selective higher education is not. To tell NYU, Princeton, and other institutions of higher education to forget diversity is effectively to tell them to do little or nothing in recognition of how much we still have to learn from diversity, and how much a diverse student body whose members are able to succeed academically can contribute to

social leadership. It is a terribly misleading message to tell universities that we should not worry about diversity as a goal because we cannot compensate those individuals who have been most educationally disadvantaged.

The Bakke decision got the role of selective higher education right when it permitted the use of race as one among many factors in university admissions. On what grounds could Justice Powell defend the use of race as one among many factors in university admissions if using race in this way does not really compensate the least advantaged? Powell's reasoning makes sense both on educational grounds and on grounds of academic freedom. Nowhere does he need to rely on the idea of compensatory justice.

When critics call on universities to forget diversity, there is something seriously amiss in their reasoning. Diversity does matter in higher education but not because universities that attend to diversity are engaging in compensatory justice for shackled runners in the race for admissions. (This misunderstanding is what leads critics to think that admitting an African-American from Andover is unjust.)

Although the administration's brief against Michigan calls diversity "a laudable goal," a key to understanding why diversity matters in higher education is not to treat diversity as a laudable end-in-itself. Diversity is a means to valuable educational and societal ends, three of which I have articulated, and a fourth of which is at least as important:

- 1) Social diversity helps break down false stereotypes of groups,
- 2) It helps people take seriously opposite sides of arguments, and
- 3) It stimulates creative thinking by associating with people of their different identities or upbringings who offer different approaches to problems, even in science and engineering.
- 4) Fourth and at least as important, social diversity in selective universities enables members of all major sectors of society to attain leadership in our communities, our industries, our professions, our arts and letters, our government, and our global marketplace. We must not forget that selective universities are gatekeepers to the professions and all kinds of valuable social offices that will be impoverished if they are not socially diverse.

This fourth societal end for which diversity is a means is so important that it is articulated in almost every amici brief calling upon the Court in the Michigan case to affirm the Bakke decision.

The brief of Harvard, Brown, Chicago, Dartmouth, Duke, Penn, Princeton, and Yale puts it this way:

"Amici have a special interest in this pair of cases stemming from their distinctive responsibility, since colonial times, to educate leaders in all walks of life....Every major profession in this country has sought greater diversity within its ranks...Empirical data have confirmed the value of amici's admissions programs in serving this interest. In a study of 45,000 students who

matriculated in 1976 and 1989, Derek Bok and William Bowen have shown that minority students admitted under these programs were highly successful in completing rigorous academic programs, securing good jobs, and contributing to community life.”

Pursuing diversity as a means to these four educational and societal ends does not aim to remedy the worst forms of social discrimination. The worst forms of social discrimination are largely beyond universities, especially selective universities, to correct. That is a sad social fact. Even sadder but false would be the idea that because universities cannot do everything to better society, they should do nothing to improve the kind of education they offer and to open the pipelines to the professions, and leadership positions in community, national, and international service that they do partly control.

Since diversity is a means to these educational and societal ends, the critique that diversity is a meaningless or vacuous goal is really beside the point. The critical point worth emphasizing is that diversity is not an end-in-itself. Almost nobody desires diversity for its own sake, anymore than anyone desires equality simply for its own sake. My identity includes three social markers that are educationally meaningless: I’m blonde, blue-eyed, and left-handed. When universities and businesses say they favor diversity, they clearly do not mean to suggest that more blonde, blue-eyed, left-handers need to be admitted even though this would make the student body, literally speaking, more diverse. Diversity is a shorthand for educationally and socially meaningful, not meaningless diversity. To the extent that the term itself cannot be clear as to what does and does not count as educationally and socially meaningful diversity, educators need to be as clear as we can be about what educational and social ends we are seeking diversity as a means.

We seek the kinds of diversity that (1) breaks down false stereotypes of groups, (2) enables students to hear educationally important perspectives from the people who hold those perspectives, (3) stimulates creative thinking by associating with people of their different identities or upbringings, and (4) educates members of all major sectors of society for leadership in our communities, industries, professions, arts and letters, government, and the global marketplace. If we didn’t seek these kinds of diversity, we would not be fulfilling our obligations to the democratic society that supports us. To democracy, universities owe above all the best production and dissemination of knowledge, understanding, and professional opportunity that we can offer.

The second critique, taken at its strongest, goes as follows:

Racial diversity is a means to socially compelling ends but most means that selective universities have used to achieve those socially compelling ends are unethical and unconstitutional.

This is essentially the position taken by Bush Administration in its brief in the Michigan cases. The brief repeats “the important goals of openness, educational diversity, and ensuring all students of all races have meaningful access to institutions of higher learning.” It says that “universities may adopt admissions policies that seek to promote experiential, geographical, political or economic diversity; [it may] modify or discard facially neutral admissions criteria that tend to skew admissions results in a way that denies minorities meaningful access to public

institutions; and open educational institutions to the best students from throughout the State or Nation.” But it may not use race as one among many criteria for admitting students to the University of Michigan undergraduate or law school.

The Bush administration supports the “ten-percent solution” that Texas took in the wake of the Hopwood decision (of the Fifth Circuit). All students whose GPA puts them in the top ten percent of their high class are admitted to the Texas public university of their choice. The ten-percent solution in Texas was the only way that Texas universities, both public and private, could find to try to achieve the educational and social ends that are served by racial diversity without running afoul of the Hopwood decision. Like the Fifth Circuit’s decision in Hopwood, a Supreme Court decision to overturn Bakke would apply to both private and public schools universities, since all receive substantial public support.

The 10-percent solution is the opposite of a narrowly tailored means of admitting students by merit. Instead of assessing all the qualifications of individual applicants, it instead establishes a mechanistic quota for every school. At least as troubling, its success in achieving racial diversity depends on the racial segregation of secondary schools. Moreover, it claims to be race-neutral while its intention is race-sensitive. Yet another problem is that selective private universities and professional schools cannot possibly use a ten-percent solution. Even a one-tenth percent solution would not work in admitting students nationwide. And no “percent solution” can reasonably be considered to be a means of admitting students on the basis of their overall qualifications. High school GPA is one among many qualifications that count, by no means the primary let alone the sole qualification as the ten-percent solution assumes it to be. Although these are more than enough reasons for the Supreme Court to resist pushing higher education in this direction in order to achieve racial diversity, the most recent study of the ten-percent solution by Marta Tienda and her colleagues shows that it is even failing public universities as an effective means of achieving the racial diversity that is lauded by supporters and critics of affirmative action alike as desirable.

The way that Princeton and other selective universities use race as one among many criteria, unlike the ten-percent solution, is in fact “carefully calibrated and narrowly tailored.” There are no quotas. The Administration’s amicus brief claims that the Michigan Law School’s use of race as one of many criteria is a quota system because it results in roughly similar proportions of minorities each year. But in fact the proportions of groups admitted and matriculating have varied significantly from one year to the next. African-Americans in the entering law school class, for example, have ranged from 21 to 37 over past 9 years. Any statistics course should tell us that, by considering roughly the same range of qualifications each year for every applicant in a large pool, the resulting proportions admitted and accepted of large groups will be quite predictable from one year to the next because applicant pools generally do not change radically from one year to the next. The proportion of left-handed, blond, or blue-eyed students at NYU is likely to be very similar from one year to the next even though NYU has no left-handed, blond, or blue-eyed quota. Unlike being left-handed, blond, and blue-eyed, being African-American is an educational plus in a society where everyone can learn a lot from an educational environment that is racially integrated, and where bringing more blacks into leadership positions has great social value.

The reason to focus on the educational and social relevancy of race is that it is the kind of diversity that is most under threat today. That said, it is equally important to emphasize that the threat of overturning Bakke is a threat to higher education that extends to far more than the educational and social relevancy of race or race-sensitive admissions. Threatened as well by the possibility that universities will be prohibited from taking race into account as one among a large number of relevant considerations for admissions is the principle of academic freedom. What criterion will Courts decide to restrict next on grounds of equal protection under the laws? GPA, SAT, geographic residence, gender, alumni status, athletic ability, musical talent, overcoming of hardship, economic background (both poor and rich), family fame, sibling enrollment, religion? All of these factors that are taken into account by various selective universities, public or private, have as much to do with the way in which an applicant can contribute to composing a class as to the isolated merits of individual applicants taken out of any particular educational context.

To be fair, equal protection under the laws must permit the use of race as one among other criteria in university admissions. Prohibiting universities from using race as one among many criteria is not only unfair, however, it also threatens the academic freedom of universities to compose educationally and socially optimal classes. Insisting on race-neutrality but not class-neutrality, geographic-neutrality, gender-neutrality, or any other number of other factors that are not narrowly academic both discriminates against students of color and threatens the academic freedom of universities.

Constitutional democracy is about being ruled and ruling. Higher education is about being educated and educating. None of us ever had a right to be admitted anywhere, regardless of how we could contribute to and benefit from our education. For any external authority to tell universities that they must admit students merely on the basis of GPAs and SAT scores would not only be unethical and unconstitutional but also irrational from an educational and social perspective. GPAs and SATs within a wide range predict nothing beyond freshman year grades. The designers and disseminators of SATs are among the first to emphasize what a crude and limited instrument it is. We should be humble about what we know and do not know about individual qualifications.

The fourth essential freedom that constitutes academic freedom — which Justice Frankfurter articulated almost 50 years ago and Justice Powell affirmed in the Bakke case (1978) — “the freedom to decide on academic grounds who may be admitted to study” is more important today than ever before. If Bakke is overturned, what criteria of educational and social value will be next? And what will we say to those students of color who reasonably ask why so many factors other than GPAs and SATs are considered in admitting students but their distinctive contribution is ruled out of court, despite the centrality to our nation’s future of our all better understanding the role of race.

Educational historians of the future looking back at American higher education at the turn of the 21st century might therefore say that, as far as diversity is concerned, it was the best of times and it was the worst of times. Nine justices of the Supreme Court will soon make a difference in determining how the course of the history of higher education in America will work itself out. Before they decide, it is essential for educators to be as clear as can be about why diversity matters, and how much it matters to the future of higher education, our society, and our world.

Once we articulate why diversity matters — that it is essential to pursuing a more democratic education and a more democratic society, then we can also better see which dimensions of diversity count most. Economic and gender diversity are both essential in higher education but neither is a substitute for racial diversity, which is equally essential. A vast amount of empirical evidence demonstrates that race and gender not just poverty matter in the ways that are relevant to pursuing the educational and social ends of a constitutional democracy that still negatively stereotypes people of color.

“When will this argument about racial diversity end?” a critic might challenge. There has been great progress in my lifetime, and I have been a beneficiary of the progress. Referring to the continuing need for affirmative action in higher education today despite the progress in our lifetimes, our amicus brief in the Michigan case argues: “If these trends continue, the interest in a racially diverse student body might gradually become decoupled from policies that give favorable consideration to minority race and ethnicity. But hoping that day will come sooner rather than later cannot be translated into a constitutional imperative that the nation’s universities act as though that day has already arrived.”

In the spirit of helping that day arrive, I have defended diversity as a means to valuable educational and social ends, not as an end-in-itself. I have also defended the academic freedom of universities — the institutional freedom to decide who to admit — that makes universities themselves diverse. One of the great assets of the American system of higher education is its diversity. Diversity within a university’s student body and diversity among universities are both means to very valuable educational and social ends. We therefore must not forget diversity. We must passionately defend it — with discernment.

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