

Affirmative Action Practices With Respect to Race On the AJC&U Campuses in Fall 2007

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Introduction

Approximately 10 years ago Robert Lerner, Ph.D. and Althea K. Nagai, Ph.D. published a study for the Center for Equal Opportunity in order to highlight racial preferences that minority's were receiving at public institutions. After reading some of their findings, I questioned whether similar results would appear at Jesuit institutions nearly a decade later.

In this paper I demonstrate that those Jesuit institutions that chose to participate in the study are still prone to granting preferential treatment to minority accepted applicants both with looser admissions requirements and or through greater non-need based aid packages. This paper also concludes that those institutions that are identified as more competitive display even greater levels of preference than their less elite counterparts. I suspect that this is the case for two reasons. First, because diversity has been labeled as a compelling interest in higher education, and serves as a major selling point for a College/University, administrators at these elite institutions place added pressure on the admissions board to select minority applicants. Second, because more elite institutions have higher admissions credentials with respect to standardized measures of aptitude, there exists the opportunity for greater disparities to occur.

The data for this study was retrieved through an inquiry for anonymous individual level data of each of the 28 Jesuit institutions in the United States. The four schools that responded provided data for SAT verbal and SAT math scores, cumulative high school grade point average (GPA), ACT scores, and non-need based aid or scholarship money. The data was then compiled to find the mean scores of each aforementioned category for accepted applicants. The data was then analyzed in order to detect any disparities between white-minority applicants and finally tested for statistical significance using the T-Test for difference of means.

After evaluating the data there appears to be, although to a lesser degree than studies that were conducted a decade earlier and in public institutions, preferences given to minority students

who are enrolled at the Jesuit Universities that participated in this study. I suspect that the only way this pervasive practice of preferences for minority applicants will end and a more colorblind nation will be achieved will be through legal means. As long as diversity provides a more compelling interest than merit, admissions counselors will continue the practice of favoring minority applicants in the undergraduate admissions process.

Background/History

Affirmative action as a practice, with respect to race, was originally “created to erase differences in rights and opportunities defined by [the] color line” (Curry 1). In its infancy affirmative action was a “political orphan” due to a lack of clearly codified federal statutes. Despite its hardships with Congress, the policy of affirmative action survived through the use of “presidential executive orders, civil rights laws, governmental programs regarding the rewarding of federal contracts and licenses [and] the enforcement of the fair employment policies” (Marable 4).

The first vestiges of affirmative action were articulated during the early 1940’s when FDR issued Executive Order 8802. This order, referred to as “The Second Emancipation Proclamation,” outlawed discrimination in defense industries based on race, creed, color or national origin. This in turn paved the way for the elimination of future deprivation of negative liberty, and strengthened the surge toward an equal footing for minorities, particularly the black population, in a plethora of new industries with respect to employment. After the war came to a halt in the late 40’s, another battle was waged, this time with respect to equal rights. President Truman sought to introduce, along with Democratic Senator of New Mexico Dennis Chavez, a permanent Fair Employment Practices Commission (FEPC) that FDR had quietly pushed, in the form of a temporary FEPC. Truman also attempted to establish anti-lynching legislation, which brought obvious discontent particularly with the southern conservative population. With these

new progressive plans on the table the country began to divide into two schools of thought. First those who wanted to “end inequality and correct social injustice. [Then] conservatives who felt that Jim Crow was a fact of life and that the federal government should not legislate local traditions” (Anderson 36). Although Truman and Chavez were unsuccessful getting legislation through the Senate because of a twenty-eight day filibuster, these acts symbolized a newfound hope for the future of the civil rights movement. No longer were blacks going to remain subservient to the discrimination that had befallen them for years; the war over racial superiority had ended and in the eyes of the rest of the world, Hitler and his “master race” did not prevail.

As America began to shift from its traditional bigotries toward a more progressive platform a greater number of U.S. citizens began to realize that Jim Crow laws “were in conflict with the ideals embodied in the U.S. Constitution” (Anderson 48). However, much was to be done before the 1896 landmark case of *Plessy v. Ferguson* (163 U.S. 537) precedent would be overcome. The Supreme Court, in a 7-1 decision, rendered themselves powerless to eradicate man-made laws that allowed for legal distinctions to be made on the basis of physical differences. Essentially, the Supreme Court elected to uphold the constitutionality of segregation, thereby allowing for separate, but “equal” facilities to operate. Fortunately, in the year 1954, the opinion of the court changed drastically with the case of *Brown v. Board of Education of Topeka* (347 U.S. 483) and a new school of thought was acknowledged. The court decided that separate but equal was “inherently unequal” and that districts were to “integrate with all deliberate speed.”

The years following the decision to overturn *Plessy v. Ferguson* brought a great deal of turmoil culminating in large demonstrations that required President Eisenhower to call in the National Guard to ensure that the law was upheld and order was maintained.

Following the tumultuous second half of the 50's, African Americans were greeted with even greater change than many had thought possible only a few decades prior. In 1961, a strong proponent for equal rights and affirmative action, President John F. Kennedy issued Executive Order 11114 to serve as the recourse for the discrimination of the past and encourage affirmative action. Kennedy argued, "we have talked long enough about equal rights in this country... for one hundred years or more. It is time now to write the next chapter and write it in the books of law" (Perry 12). Following JFK's Presidency LBJ took Kennedy's proposal even further by making it more comprehensive and thereby more controversial. For LBJ the barriers to freedom were slowly crumbling but the freedoms granted after centuries of slavery were not enough by his estimate. LBJ declared that as a country:

"We seek not just freedom but opportunity. We seek not just legal equality but human ability, not just equality as a right and a theory but equality as a fact and equality as a result" (Johnson 18).

Instead of simply ending discrimination LBJ sought to achieve "results" in employment, admissions and minority owned businesses. As the nation began to discuss the Civil Rights Acts a great deal of debate arose. For minorities and their more liberal allies in the fight against discrimination, this "preferential treatment" was warranted due to the past injustices that had been suffered. However, to the more conservative white population this served as "reverse discrimination" and was inherently unfair. Not long after the Civil Rights Acts were passed there were riots in major cities such as Cleveland, Dayton, Milwaukee, and San Francisco. The intentions of organizers were to stimulate federal action against the newly formed law. However, up until the end of LBJ's presidency he fought hard to ensure that his aim of opening the opportunity for blacks was more fully realized.

After LBJ left office the certainty of affirmative action hung in the balance, especially because a Republican President, Richard Nixon, was coming to the forefront of politics, eventually becoming the President of the United States in the year 1969. Throughout the sixties, the Democrats had been the party of civil rights; however, once Nixon stepped into office, his strategy became more closely wed with equality as a fact and as a result. During this time Nixon sought to unify the country, although he experienced a great deal of trouble in what *Time* called a “counterculture youthquake” that left the country divided. Despite many of these hardships Nixon jumped on board with George Shultz, Secretary of Labor, and Assistant Secretary Arthur Fletcher to form what would be known as the Philadelphia Plan. This essentially stated that “after years of segregation and discrimination...specific goals or standards for percentages of minority employees [were now] necessary” (Anderson 117). The irony of this plan was that despite its successful completion of its affirmative action agenda it appeared to directly contradict Title VII of the Civil Rights Act by now allowing preferential hiring to take place. With this in mind, the question of whether this quota system was legal arose. The question was quietly silenced shortly after it was posed by stating that there were not to be fixed quotas but instead requirements for federal contractors to show ‘affirmative action’ to meet the goals of minority enrollment, or employment (Anderson 119). In other words, referring to them as goals masked the fact that they were quotas and made it seem as though the Nixon administration was upholding the law instead of violating Title VII. The other side of the debate argued by Shultz stated that quotas are designed as a method to “keep people out;” what the administration was seeking to do was “get people in” (Anderson 122).

While Shultz held this point of view others were not as keen on the prospect of setting goals and creating loose timetables to increase minority enrollment in undergraduate or graduate

schools. The first example where Nixon's extenuation of Johnson and Kennedy's work brought a great deal of jurisprudential unrest was when a non-traditional medical school applicant, Allan Bakke, applied to The University of California at Davis Medical School. In 1978, the case of *Regents of the University of California v. Bakke* entered the Supreme Court and became one of the landmark cases in our country's storied history. During the oral arguments "there was a record number of newspaper and broadcast reporters—more than ninety—in the courtroom to hear the oral arguments" (Ball 88). The facts of the case rested on whether a quota system where 16 spots of the available 100 seats for the incoming freshman class would be reserved for disadvantaged applicants, essentially minorities, was constitutional. The reasoning behind separating regular and "disadvantaged" applicants was threefold:

"[First] to enhance diversity in the student body and the profession, [next] to eliminate historic barriers for medical careers for disadvantaged racial and ethnic minority groups, [and finally to] increase aspiration for such careers on the part of members of those groups" (Ball 49).

In the two years that Allan Bakke unsuccessfully sought admission to medical school as a regular applicant, there were great disparities between his scores and those "disadvantaged admittees" to University of California at Davis Medical School. Essentially, the odds for admission for all non-disadvantaged applicants, which is the pool Bakke was competing in, was about 29-1, whereas minority odds for admittance were about 10-1. Because of the circumstances Bakke chose to sue UCD for violating the Fourteenth Amendment and Title VI of the 1964 Civil Rights Act. Essentially the case rests on whether one understands the actions of UCD as admitting certain students or excluding other students. The first of the two sides would argue that UCD was removing past injustices of slavery and current segregation imposed by state

funded institutions. However if one views this process as exclusionary then UCD's is a "program of 'quotas' which violates the principle that the 'Constitution is colorblind'" (Ball 118-9).

Fortunately, Justice Lewis Powell, the key justice in the decision believed he could find a compromise to this matter. He acknowledged that "it would be disastrous for the nation if the court invalidated affirmative action programs;" and equally "disastrous to give carte blanche for racial preferences" (Ball 124). In the end the court returned six separate opinions, although the consensus was that race could be used as only one element weighed fairly against other elements in the selection process, and that Allan Bakke would be granted admission to medical school at UCD. A noted professor, Alan Dershowitz stated that Bakke will "go down in history not for what it did but for what it didn't do. It neither legitimized racial quotas nor put down affirmative action programs" (Ball 144).

Since President Kennedy's executive order in 1961, affirmative action's definition had changed considerably. Instead of ending discrimination, and merely opening up the prospect for minority applicants to receive jobs, affirmative action molded into "results" for employment, college admissions, and minority-owned businesses. Towards the end of the Carter administration affirmative action had reached its so-called "zenith;" however with the new Republican President Ronald Reagan in the wings, the backlash towards all of this progress seemed imminent. During President Reagan's first press conference his motives toward affirmative action practices were revealed:

"I think there are some things, however, that may not be as useful as they once were, or may have been distorted in practice, such as affirmative action programs becoming quota systems. And I'm old enough to remember when quotas existed

in the U.S. for the purpose of discrimination. And I don't want to see that happen again" (Anderson 165).

Throughout Reagan's administration there was a great deal of rhetoric about ending the "abuses" of affirmative action practices. Pennsylvania Republican Representative Robert Walker even introduced an amendment to the Civil Rights Act of 1964 that "would prohibit federal rules requiring employers to hire workers, colleges to admit students on the basis of race or sex, as well as the barring of the use of quotas, goals, or timetables" (Anderson 166).

Fortunately, for proponents of affirmative action, Reagan and his followers only used tough rhetoric as a guise, showing clearly how strong the policy of affirmative action actually was. After this administration's inability to remove the practice of affirmative action, due primarily to political pressure of being labeled bigots or sexists, many felt that the system would be able to survive any challenge. Supporters of Reagan believed that he had sought to bring about a color-blind society, while critics of his administration condemned his efforts. In the end the policy outlined by the Bakke decision remained the law of the land.

The one devastating blow which Republicans dealt to affirmative action occurred judicially with the appointment of conservative justices, three of which Reagan propelled into the Supreme Court. With Republican Presidents appointing five of the nine justices that were sitting on the Supreme Court in the late 1980's to early 90's many believed that the ideology of the court would shift from being "the protector of civil rights... to adopting what its proponents called a more colorblind approach" (Anderson 215). The main issue at hand was whether or not the Republican administrations could translate affirmative action to mean quotas or instead a protectorate against discrimination.

During the 1990's supporting diversity was less risky than endorsing affirmative action. In essence the issue had been redefined as a public good rather than giving preferential treatment through the use of quotas. Businesses and universities across the nation were adamant about pushing the issue and popularizing the ability of achieving a diverse work force or incoming class. Amidst the overwhelming positivity for diversity however, came those nonminority candidates, particularly white males, who "increasingly [became] characterized by the plaintive insistence, *I am a victim*" (Anderson 227).

Coupled with the fact that many whites felt victimized as a result of affirmative action was a feeling of anger amongst many highly educated men in universities. According to political science professor Robert Weissberg, many white professors saw higher paying and more prestigious jobs being "stolen" by minority candidates, whom they believed were under qualified, as they worked at "third-rate schools" (Anderson 230-231). At this time the measure of how much reverse discrimination was occurring was difficult to determine, although many more people were seeing inequitable standards were companies or admissions boards were not using race as one factor in the process but as the sole influence for their decisions. As a result two new cases emerged to take on what had been the status quo of University admission processes up until the year 2003: *Gratz v. Bollinger*, 539 U.S. 244 and *Grutter v. Bollinger* 539 U.S. 306.

During the spring semester of 2003, Ann Arbor Michigan was thrust into the spotlight of the national stage where according to *Time Magazine* "Many civil rights lawyers agree that the University of Michigan could be the Alamo of affirmative action, the place where they make their last stand" (Anderson 267). In the case of *Gratz v. Bollinger*, Jennifer Gratz sought admission to the University of Michigan's College of Literature, Science and the Arts with a 3.76 GPA, good test scores, and a number of extracurricular activities. After she had noticed that

some of her minority classmates were accepted and she was only placed on the waitlist, despite her more stellar academic background, she argued that “[she] was treated unfairly because of the color of her skin” (Anderson 268). Barbara Grutter at around the same time period applied for admission to the University of Michigan Law School. Her undergraduate GPA was a 3.8 and she scored a 161 on the LSAT; however, she too was rejected from Michigan from what she believed centered on the basis of race being used as the predominant factor in the selection process.

In the first case regarding admission to Michigan’s undergraduate program, Chief Justice William Rehnquist issued the decision of the court which was 6-3 in favor of Ms. Gratz. In this case Michigan used an admissions process that was not “narrowly tailored” enough to allow for the Supreme Court to agree that it served to facilitate a compelling interest of obtaining diversity. Essentially, because of the way the University of Michigan carried out their admissions process, by way of a rigid 150 point-based scale which gave an equal number of points to an applicant with a perfect SAT score and a minority student, the University was in violation of the Equal Protection Clause of the Fourteenth Amendment.

In the Grutter case, Supreme Court Justice Sandra Day O’Connor, who read the majority opinion, in my view “pulled a Powell” in that she struck another compromise in the eyes of opponents and proponents of the practice of affirmative action. Justice O’Connor allowed the process of affirmative action to remain because if “narrowly tailored,” as was the case, it achieved the scrutiny test need. Essentially, a more holistic evaluation of the candidate was done and the “critical mass” which Michigan sought to achieve in the enrollment of minority students served the compelling interest of providing a more diverse education environment.

O’Connor stated: “We [The Supreme Court] take the law school at its word that it would ‘like nothing better than to find a race-neutral admissions formula’ and will terminate its race

conscious program as soon as practicable.” Since the decision that Powell levied, 25 years earlier than the Michigan cases, O’Connor states in her opinion: “minority applicants with high grades and test scores has increased...” and 25 years from the day of this decision, of the Gratz and Grutter cases, the need for admissions processes that examine race will no longer be required.

Today, many individuals believe that O’Connor’s estimate of 25 years has come sooner than expected as we have all come to embrace our first African American President Barack Obama only five years removed from the landmark decision to continue the policy of affirmative action.

Arguments for Affirmative Action

In higher education there are a number of reasons why the practice of affirmative action should continue. Generally, those in favor of affirmative action first invoke the prospect of creating a demographically more diverse class. This measure of obtaining a greater level of diversity in the admissions process, in which ones race is considered as *an* element weighed amongst all other qualities of a candidate, has been one, if not the major factor for colleges/universities as well as within major court decisions.

Another major reason that is linked to the prevailing practice of affirmative action in today’s undergraduate admissions policies is the notion that as a society we must atone for the historical disruptions, particularly slavery, that have caused the contemporary scarring of social arrangements (Williams 13). Cornel West, an African American Studies professor at Princeton University, understands affirmative action as a battering ram that can dent the tightly controlled network of white males who hold the majority of the power and influence in America (West 32). West’s disdain for the disproportionate number of whites in power was shared amongst a number of his contemporaries as they agreed it was not enough to just “open the gates of opportunity” (Johnson 17) but instead they sought to achieve lasting results. Essentially, proponents of affirmative action argue that it “was designed to provide some degree of compensatory justice to

victims of slavery, Jim Crow segregation, and institutional racism” (Marable 4). Supreme Court Justice Thurgood Marshall even went so far as to articulate the sentiment that “they [white people] owe us” (Ball 86).

Proponents of affirmative action such as Eleanor Holmes Norton also bring an interesting perspective into the analysis of affirmative action practices. Mrs. Norton demonstrates through the use of Equal Employment Opportunity Commission (EEOC) discrimination filings that a very small proportion of white males are seeking redress to a situation that many outspokenly deem out of control. According to Norton’s statistics only 1.7 % of discrimination charges filed to the EEOC are related to matters of reverse discrimination. She also cites that white men make up the “lion share” of discrimination complaints in other non-related matters such as age discrimination. She therefore concludes it is “unlikely that white men... would have any reluctance to file complaints if they believed they were victims of other forms of discrimination” (Norton 44-45). Therefore, based on the quantitative evidence, there are far fewer individuals affected legally, by affirmative measures, than what any wish us to acknowledge.

The final major argument in favor of affirmative action is that following a certain period of time our country will be able to melt into a colorblind nation that is unconcerned with race, ethnicity or gender and focus simply on the merits of the individual. In the decision of *Grutter v. Bollinger*, the court stated in its opinion that “25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.” Essentially, based on the court’s interpretation, the methods used in order to obtain a “critical mass” of minority students enrolled in undergraduate and graduate institutions would no longer be needed because our society would be better able to eliminate the racial tensions that we experience today.

A number of minority candidates to undergraduate schools have made their intentions more ubiquitous in endeavors associated with the need to obtain greater opportunities in education. Despite the country's progress toward a more progressive and "colorblind" mentality some individuals such as W. E. B Du Bois, remain skeptical and state that "we still have not reached the point where a color blind society is possible" (Marable 12).

Arguments Against Affirmative Action

Despite a number of compelling positions associated with the continued practice of affirmative action there also remain many individuals that provide justifications for why the process of affirmative action should be eliminated. The first reason cited by those unsupportive of affirmative action is commonly referred to as reverse discrimination argument, or what scholar John David Skrentny labeled "the irony of affirmative action." As far as many individuals like Skrentny were concerned affirmative action clashed with the original intent of Title VI which bars discrimination on race, color, or national origin in all institutions receiving federal funding and Title VII, which demanded that employment decisions be made without regard to race, creed, and national origin. Instead of maintaining a strict constructionist view of the Civil Rights Act opponents of affirmative action see employers taking action to hire and universities becoming more proactive in the enrollment of certain groups of Americans. Those who are frustrated by the "hypocrisy" of Title VI and VII like Bob Dole are constantly wondering, "when does fairness become 'reverse discrimination'?" (Anderson 235).

The next argument that attempts to refute the necessity of affirmative action is the meritocracy argument. For many individuals affirmative action is not only legally wrong but also in some respects immoral. Because our country was supposed to be founded upon meritorious tenets there remains a severe disconnect between the two sides of the debate. This is perhaps

most pronouncedly identified through the rhetoric of President Nixon at the 1972 Republican Convention when he states:

Every man, woman and child should be free to rise as far as his talents and energy and ambitions will take him. That is the American dream. But into that dream there has entered a specter, the specter of a quota democracy—where men and women are advanced not on the basis of merit or ability, but solely on the basis of race, or sex, or color, or creed... You do not correct an ancient injustice by committing a new one.”

For a number of those who found the practice of affirmative action objectionable it was “inconceivable that the government would approve righting of ancient wrongs by perpetrating new ones;” (Anderson 76) thereby allowing the Fourteenth Amendment to become metaphorically neutered.

The next objection to the practice of affirmative action relies on the speech of one of the greatest leaders our country has come to know, Martin Luther King Jr. Dr. King dreamt of a colorblind society where one would not discriminate, *or grant any preference to* (my emphasis), any individual or group on the basis of race, color, religion, sex, or national origin. Many seek to take his words very literally and believe the process of affirmative action relies solely on judging one by the color of their skin instead of the content of their character. Proof of Dr. King’s life’s work of achieving a colorblind society can be seen through the election of our 44th President Barack Obama and countless other notable minority figures in a wide array of disciplines. However, as many opponents of affirmative action today question: when are we finally going to reach the point where the practice is unneeded?

Many understand President Obama's ascent to the Presidency to be without affirmative measures and feel that if it is possible for a minority Presidential candidate to achieve the pinnacle of political power, then others like him should follow a similar end road to achieve what they desire. For Barack Obama "any discriminations [that were felt]...stimulated and encouraged [him], rather than [caused him to] cower and [become] humiliated" (Woodson 117).

One of the greatest opponents of affirmative action is Glenn C. Loury who believes that "children of today's [minority] middle class will live their lives in an era of equal opportunity" (Loury 64). For Loury affirmative action serves as solely a "symbolic policy" to right historical wrongs, and judging by contemporary society's standards the practice should be obsolete. One of the most compelling arguments Loury presents involves what he refers to as the emergence of an "urban underclass." Rather than problems of inequality Loury believes that problems related to drugs, criminal violence, educational failure, homelessness and family instability are more mitigating factors to the "inequity" of society. For Loury rather than extending benefits to all minorities, "efforts should be directed *exclusively* toward the truly disadvantaged...such as residents of poor-inner city communities" (Loury 53). In other words there are social and economic reasons that are prohibiting some minorities from achievement and those should be acknowledged and remedied, but not solely because of their race. Because of affirmative action many individuals who identify themselves as under represented minority candidates, but held none of these mitigating social or economic circumstances, are still being elevated into positions of employment or accepted into universities with a leg up on virtually identical competition. It was appropriate that special efforts to expand black opportunities were undertaken in the wake of the civil rights movement. However, "these efforts should continue *exclusively* to those truly disadvantaged" (Loury 52-53) in today's more balanced society.

The final argument against providing preferences through the practice of affirmative action relies on the belief that there remain alternative methods to secure the goals of achieving greater diversity. One such arrangement that still brought its fair share of controversy was former President and then Governor George Bush's "Top Ten Rule" for undergraduate admissions. Under this policy grades and SAT scores, which some claim to be racially biased were "scrapped" and merit was decided by looking strictly at one's class rank. If any student in Texas graduated within the top-ten percentile of their class they were guaranteed admission to the state university of their choice. Although schools were forced to accommodate a slightly greater influx of students it allowed for a universal and fair criterion to determine acceptance.

During a time when "everyone [had] a story of a friend who was one-eighth Cherokee and was admitted as an American Indian or a parent who is Mexican American and was admitted while others of similar socio-economic backgrounds and better grades were not;" (Anderson 265) this method leveled the playing field and destigmatized minority applicants whom some believed weren't as worthy.

The Present Study

Since the first studies conducted on affirmative action in higher education, social scientists have found inconclusive results on the efficacy of the practice. Some researchers like Cornel West remark, that "affirmative action was a *weak* response to the network of privileged white males who monopolized jobs and influential positions in American society" (West 31). Others like Glen Loury note that the practice of affirmative action is unable to mitigate the problem of racial inequality today. While one of the justifications for continuing the practice of affirmative action focuses on the desire to produce *greater diversity* in classrooms and on campuses as a whole, the cost of discriminating against non-minority applicants is often seen as an afterthought.

Of course those who oppose affirmative action don't care if the practice is yielding positive results. However, the question of whether affirmative action is working and to what degree should be of central concern of those who support it. I hope to contribute to the ongoing debate by evaluating the four Jesuit Universities that elected to participate in the study. They are labeled: West, South, East, and Mid West.

The thrust of the project relies on categorizing those Jesuit colleges and universities that chose to participate in the study through the use of the 2007 edition of *Barron's Profiles of American Colleges* and demonstrate that the more selective an institution is, the greater disparity, or gap there will be in standardized measures of aptitude (i.e. SAT/ACT scores) and scholarship funding between white and minority applicants. I hypothesize that this finding is likely to occur for two reasons. First, the more selective the college or university, the more pressure they are under, by administrators, to achieve a diverse incoming class. The prospect of attaining greater diversity is the central goal of affirmative action and the main reason the court has upheld the policy. In the personal experience of the author, many admissions counselors are likely to fear that without this element at their college or university they will not be able to attain their elite rank amongst competing institutions. A second and related reason the more elite institutions might suffer greater disparities between accepted applicants of different races is that the minimum standardized measures of aptitude and scholarship funding are higher at these schools, thereby allowing the possibility for a greater difference to occur.

Previous research by Thomas Kane of UCLA suggests, "the top 20 percent of colleges, where race conscious admissions are focused, [provides advantages to] applicants who are African Americans [of approximately] 400 SAT points or two-thirds of a grade point on a four-point grade point average scale" (Kahlenberg 2). While we are dealing with colleges and

universities that do not represent the top 20 percent, Lerner and Nagai have found evidence to suggest that although “the more competitive schools within a system have greater preferences, preferences occur at lower levels too” (Lerner & Nagai 37). In their examination of public colleges and universities these researchers found the “greatest gaps [in standardized measures] between blacks and whites, and to lesser extent, Hispanics and whites” (Lerner and Nagai 37). This study reaffirms their results and demonstrates that the type of institution, public or private, is indiscriminate to the level of influence the practice of affirmative action has. Rather, the more important variable is how competitive the institution ranks.

Since the landmark Michigan cases the idea of pursuing a pure meritocracy *seems* to be fundamentally flawed. As Victoria Valle, director of admissions at Spelman College in Atlanta from 1987-1994, articulates, “Our society and our educational systems never have been and never will be meritocracies” (Valle 215). Though I agree with Ms. Valle’s assertion that there have been missteps in our system in the past I believe that highlighting the degree of standardized difference between minority and non-minority college freshman may push admissions representatives to further reevaluate their practices. More importantly the purpose of highlighting these differences is to force legislators to take a closer look at refuting Ms. Valle’s claim and proving that a meritocracy and a more color-blind world can be had.

I. Rating of the Schools¹

I first organized the participating schools into two categories based on competitiveness of their admissions processes according to the 2007 edition of *Barron’s Profiles of American Colleges*: 2 schools are ranked “Very Competitive,” 2 schools are ranked “Competitive.”

¹ *Very Competitive*: The colleges in this category admit students whose averages are no less than B- and who rank in the top 35% to 50% of their graduating class. They report median freshman test scores in the 573 to 619 range on SAT Math and Verbal and from 24 to 26 on the ACT. These schools generally accept between one half and three quarters of their applicants.

Competitive: This category is a very broad one, covering colleges that generally have median freshman test scores between 500 and 572 on SAT Math and Verbal and between 21 and 23 on the ACT. Some of these colleges require that students have high school averages of B- or better, although others state a minimum of C+ or C. Generally, these colleges prefer students in the top 50% to 65% of the graduating class and accept between 75% and 85% of their applicants.

School Competitiveness

School	Rating
West	Very Competitive
South	Competitive
East	Very Competitive
Midwest	Competitive

II. Raw Admission Rates²

Next I recorded the raw admission rates of each races accepted applicants, for the 4 Jesuit schools that elected to participate, based on data provided by each school. All percentages represent that of accepted applicants, with the total number of applicants for each race represented below.

Admission Rates for Each Group

School	Black	Hispanic	Asian	White
West	45.90 % (220)	65.98% (338)	68.60% (933)	75.66% (2280)
South	76.95% (269)	89.60% (125)	95.92% (49)	95.74% (1596)
East	37.71 % (175)	56.48% (386)	66.49 % (194)	72.95% (5409)
Midwest	71.15% (91)	95.24% (31)	100% (23)	94.84% (1181)

The raw admissions rates of Black, Hispanic, Asian and White applicants demonstrate that the more competitive the college or university, the less likely it is for minorities to be accepted. The data also demonstrates a trend in which Black applicants are least likely to gain admission into the Jesuit Universities, which have participated in the study, and White applicants, by and large, are most likely to receive acceptances.

III. Group Comparisons³

Next I compare the mean of each institutions SAT verbal, SAT Math, ACT and cumulative high school GPA of accepted applicants and calculate any disparity between each minority accepted applicant (Black, Hispanic, and Asian) and White accepted applicants. Following my

² Thanks to Jon L. Buryk of the University of Scranton for statistical assistance

³ * Indicates statistical significance at .05 level using the T-Test for difference of means

analysis of academic indicators I compare the amount of Non-Need Based Financial Aid or scholarship money that was awarded to minority accepted applicants of each respective school participating verses White accepted applicants and calculate any disparity between the two.

A. Whites Compared with Blacks

1. Verbal SAT Scores

School	Black	White	White-Black Gap
*West	549.68	605	+55.32
*South	530.6	575.93	+45.33
*East	562.19	565.81	+3.62
Midwest	492.78	515.39	+22.61

In each of the Jesuit institutions that chose to participate a positive gap favoring White accepted applicants over Black accepted applicants existed. The College/University in the West is the clearest indicator of how the more competitive a College/University is ranked the greater likelihood there will be a disparity between White and Black accepted applicants. In this case there is a 55.32 point difference in the scores of White to Black accepted applicants for this particular College/University. The South and Midwest also demonstrate a disparity in the mean scores of accepted applicants, 45.33 and 22.61 respectively, however to a lesser degree than the more competitive College/University in the West. The institution that demonstrates a smaller difference in scores than was expected is the *very competitive* ranked school in the East. In this case the difference in scores was only 3.62 points in favor of white accepted applicants. This lends itself to the conclusion that this institution is less likely to use race preferentially in their decision process.

2. Math SAT Scores

School	Black	White	White-Black Gap
*West	528.60	593	+64.60
*South	475.90	566.46	+90.56
*East	554.38	579.44	+25.06
*Midwest	473.89	524.17	+50.28

The gap between White and Black accepted applicants of each institution that participated in the study increased in point difference within all institutions with respect to Math SAT scores. In this case the *competitive* school from the South experienced the greatest disparity in points, 90.56, followed closely by the *very competitive* West institution at 64.60 points. Once again the *very competitive* College/University from the East demonstrated the smallest gap in points between White and Black accepted applicants, this is probably again tied to the conclusion that there is a smaller emphasis on preferential treatment, at least with admission requirements.

3. ACT

School	Black	White	White-Black Gap
West	N/A	N/A	N/A
*South	22.58	25.48	+2.9
East	N/A	N/A	N/A
*Midwest	20.19	22.83	+2.64

In the Colleges/University's identified as *very competitive* in this study, ACT scores were not supplied. However, the two institutions that supplied scores helped to support the conclusion that, when comparing White-Black accepted applicants, a gap still exists with respect to another standardized measure of aptitude. The ACT scores were taken from Math, Writing, and English sections and combined to form a single reported score for the South institution and a single score was reported from the Midwest College/University. Each demonstrated that there exists a statistically significant difference of greater than two points.

4. GPA

School	Black	White	White-Black Gap
West	N/A	N/A	N/A
South	3.63	3.62	-.01
*East	3.427	3.345	-.082
*Midwest	3.141	3.519	+.378

When analyzing an individual's cumulative high school GPA, there appears to be less of a disparity between White-Black accepted applicants than with standardized examinations of aptitude such as the SAT and ACT. In this case Black accepted applicants in the *very competitive*

East College/University as well as individuals who were accepted to the *competitive* South institution possessed slightly better GPA's than their white counterparts by .01 and .082 respectively.

This measure seems to indicate that when one allows for a slightly more subjective measure of academic performance and a larger body of work, Black accepted applicants at these institutions that participated in the study have scores that correspond equally to White accepted applicants at the same College/University.

5. Non-Need Based Financial Aid

School	Black	White	White-Black Gap
West	11,676.47	11,128.66	-547.81
*South	960.12	2,327.10	+1366.98
East	7,757.58	6,503.15	-1254.43
Midwest	12,208.83	14,045.05	+1836.22

In both *very competitive* institutions Black accepted applicants received a greater amount, per admitted student, of non-need based financial aid than White accepted applicants. The two *very competitive* institutions show an average difference of \$1254.43 in the East and \$547.81 in the West. The *competitive* Colleges/Universities labeled South and Midwest demonstrate the strongest disparity in non-need based, or scholarship funding given, in the opposite direction. The institution in the South provides \$1,366.98 more in aid to White accepted applicants, and the Midwest College/University provides \$1836.22 in favor of White accepted applicants. The College/University in the Midwest however, does not demonstrate a statistically significant difference, which demonstrates that despite the fact that White applicants receive more aid, it is not enough to offset the disparity that lies in standardized measures of aptitude tests.

6. General Assessment

After exploring the differences between White-Black accepted applicants based on the criteria of Verbal SAT, Math SAT, ACT, and GPA there appears to be some tentative conclusions that can be drawn. In total, there were four Verbal SAT comparisons, four Math SAT comparisons, two

ACT comparisons, and three GPA comparisons from the schools that chose to participate. In every set of comparisons, excluding GPA, the White accepted applicants' mean was greater than the Black accepted applicants' mean. This demonstrates that there still remains an overwhelmingly greater number of White accepted applicants excelling on standardized measures of aptitude than those who identify themselves as black.

The next conclusion that should be highlighted focuses on the amount of non-need based aid provided. As aforementioned, the more competitive institutions that chose to participate reveal that those students who identified themselves as White, on average, attained more exemplary scores than those accepted applicants who identify as Black; yet Black students, on average, received similar non-need based funding to White accepted applicants at the same College/University.

B. Whites Compared with Hispanics

1. Verbal SAT Scores

School	Hispanic	White	White-Hispanic Gap
*West	572.46	605	+32.54
*South	539.28	575.93	+36.65
*East	557.93	565.81	+7.88
Midwest	502.31	515.39	+13.08

In each of the Jesuit schools that chose to participate, a positive gap favoring White accepted applicants over Hispanic accepted applicants with respect to Verbal SAT's also existed. The institution in the South, a *competitive* College/University, demonstrates the greatest disparity in scores between White-Hispanic accepted applicants, followed closely by the *very competitive* West institution. In each case the level of disparity decreased handily between White-Hispanic accepted applicants than from White-Black accepted applicants. The *very competitive* University in the East again demonstrates a significantly smaller disparity between standardized measures of

aptitude than the other three institutions that participated, which supports the conclusion that there is little to no preference given in the admissions process.

2. Math SAT Scores

School	Hispanic	White	White-Hispanic Gap
*West	568.18	593	+24.82
*South	526.14	566.46	+40.32
*East	560.29	579.44	+19.15
Midwest	495.38	524.17	+28.79

The gap between White and Hispanic accepted applicants of each institution that participated in the study increased in point difference when evaluating Math SAT scores within all but one College/University involved when compared to Verbal SAT score disparities. In this case the *competitive* school from the South experienced the greatest disparity in points, *40.32*, followed closely by the *competitive* West institution at *28.79* points. Once again the *very competitive* College/University from the East demonstrated the smallest difference between White and Hispanic accepted applicants, this probably again tied to the conclusion that there is a smaller emphasis on preferential treatment in admissions.

3. ACT

School	Hispanic	White	White-Hispanic Gap
West	N/A	N/A	N/A
*South	23.75	25.48	+1.73
East	N/A	N/A	N/A
Midwest	22.12	22.83	+.71

The two institutions that supplied ACT scores again helped to support the conclusion that a disparity still exists when comparing standardized measure of aptitude between White-minority accepted applicants. In the case of White-Hispanic accepted applicants the difference in scores was *1.73* points for the institution in the South and *.71* points for the College/University in the Midwest. Despite the fact that there still remains a disparity between White-Hispanic accepted applicants it is to a lesser degree than White-Black accepted applicants.

4. GPA

School	Hispanic	White	White-Hispanic Gap
West	N/A	N/A	N/A
*South	3.27	3.62	+.35
*East	3.32	3.427	+.107
Midwest	3.42	3.51	+.09

When analyzing an individual's cumulative high school GPA, there appears to be a smaller disparity than with standardized examinations of aptitude such as the SAT and ACT. Although in all cases the White accepted applicants, at the institutions that chose to participate, scored better than the Hispanic accepted applicants the level of difference, excluding the *competitive* South institution at .35 points appears to be negligible.

This measure again leads one to believe that when one allows for a slightly more subjective measure of academic performance and a larger body of work, minority accepted applicants who attended the institutions that chose to participate in the study have scores that match their white counterparts.

5. Non-Need Based Financial Aid

School	Hispanic	White	White-Hispanic Gap
*West	10,392.41	11,128.66	+736.25
South	2,054.00	2,327.37	+273.37
East	7,072.34	6,503.15	-569.19
Midwest	11,703.61	14,045.05	+2,341.44

In all cases excluding the *very competitive* College/University in the East, White accepted applicants receive a greater amount, per admitted student, of non-need based financial aid than Hispanic accepted applicants. While the amount of aid only favors White applicants by \$736.25 in the *very competitive* West institution, and \$273.37 in the *competitive* South institution one can see with relative clarity, that when examining a population of minority students, the amount of scholarship money, or non-need based aid given does not reflect what the average Hispanic student has achieved academically versus White accepted applicants to the same institutions.

The College/University in the East, which is believed to harbor the least preference to minority applicants by race, with respect to admission, seems the most inclined to provide aid, \$569.16 to Hispanic applicants, despite slightly lower standardized scores. After comparing the College/University in the Midwest, which favors aid to White accepted applicants by \$2,341.44 and the other institutions in the West and South; one is able to see with greater clarity that the College/University in the East seems to have a predisposition towards providing greater non-need based aid to minorities. This was originally masked when looking at White-Black accepted applicants receiving aid because of a disproportionate amount of money given to Black accepted applicants across the board. However, after reviewing other minority-accepted applicants the relationship becomes more pronouncedly visible.

6. General Assessment

After exploring the differences in White-Hispanic accepted applicants based on the criteria of Verbal SAT, Math SAT, ACT, and GPA there appears to be, albeit a lesser degree than White-Black comparisons, signs of preference both with respect to lower admissions standards and somewhat towards financial rewards. In total, there were four Verbal SAT comparisons, four Math SAT comparisons, two ACT comparisons, and three GPA comparisons from the schools that chose to participate. Again, in every set of comparisons, including GPA the White accepted applicant mean scores were greater than Black accepted applicants mean scores. This demonstrates that although to a lesser degree than the relationship between White-Black applicants, admissions counselors are still lowering the bar to accept students of dissimilar academic levels, based on standardized measures of aptitude such as SAT/ ACT scores.

The next conclusion that should be highlighted focuses on the amount of non-need based aid provided. As aforementioned, in all of the institutions that chose to participate, those students who identified themselves as White, on average, attained more exemplary scores than those

accepted applicants who identify as Hispanic; yet Hispanic students, on average, received only moderately smaller scholarship packages, two which weren't statistically significant, than White applicants who were accepted at the same College/University. The only institution that doesn't support this claim is the College/University in the Midwest, which appears not to provide financial aid preferences to minority candidates but rather exclusively admission breaks.

C. Whites Compared with Asians

1. Verbal SAT Scores

School	Asian	White	White-Asian Gap
*West	567.97	605	+37.03
South	558.00	575.93	+17.93
East	564.96	565.81	+0.85
Midwest	555	515.39	-39.61

In each of the Jesuit institutions that chose to participate, a positive gap favoring White accepted applicants over Asian accepted applicants existed excluding the *competitive* institution in the Midwest, which demonstrated the opposite result of 39.61 points in favor of Asian accepted applicants. The institution in the West, a *very competitive* College/University, demonstrates the greatest disparity in scores between White-Asian accepted applicants at 37.03 points, followed closely by the *competitive* South College/University at 17.93 points. In each case the level of disparity between White-Asian accepted applicants compared to White-Black and White-Hispanic applicants decreased generally. The *very competitive* University in the East once again demonstrated a significantly smaller disparity when comparing White-Asian Verbal SAT scores. This again supports the conclusion that there is very little preference given with respect to admissions at this College/University.

2. Math SAT Scores

School	Asian	White	White-Asian Gap
*West	602.19	593	-9.19
South	583	566.46	-16.54
*East	606.28	579.44	-26.84
Midwest	510	524.17	+14.17

The gap between White and Asian accepted applicants of each institution that participated in the study demonstrate that Asian accepted students, in general, excel in Math over their White counterparts. The anomaly within this dataset is the Midwest, which displays a *14.17* point gap in favor of White accepted applicants. It might be the case that this particular institution attracts applicants who are more interested in the social sciences and humanities, which place more emphasis on verbal than math scores. However, by and large the data suggests that Asian students, at least at the institutions that chose to participate, are more proficient in Mathematics when examining standardized measures of aptitude

3. ACT

School	Asian	White	White-Asian Gap
West	N/A	N/A	N/A
South	24.53	25.48	+.95
East	N/A	N/A	N/A
Midwest	22.14	22.83	+.69

As aforementioned the institutions identified as *very competitive* in this study did not supply ACT scores. However, the two Colleges/University's that did supply scores provide support to assertion that a gap exists with respect to standardized measures of aptitude. In the case of White-Asian accepted applicants the difference in scores was less than one point in both institutions and was relatively similar to White-Hispanic differences, yet much lower than the White-Black comparisons.

4. GPA

School	Asian	White	White-Asian Gap
West	N/A	N/A	N/A
*South	3.77	3.62	-.15
East	3.458	3.427	-.031
Midwest	3.5	3.51	+.01

When analyzing an individual's cumulative high school GPA, there appears to be little to no difference in scores. Based on the White-Asian comparison of accepted applicants in the *very competitive* East College/University as well as individuals who were accepted to the *competitive*

South institution, Asian accepted applicants received slightly better GPA's than their white counterparts by .15 and .031 respectively.

This measure seems to indicate that when one allows for a slightly more subjective measure of academic performance and a larger body of work, Asian accepted applicants at these institutions that participated in the study have scores that correspond equally or better to their white counterparts.

5. Non-Need Based Financial Aid

School	Asian	White	White-Asian Gap
*West	10,463.94	11,128.66	+665.66
*South	239.74	2,327.10	+2,087.36
*East	9,277.22	6,503.15	-2,773.07
*Midwest	8,138.01	14,045.05	+5906.99

In all cases excluding the *very competitive* College/University in the East, White accepted applicants receive a greater amount, per accepted applicant, of non-need based financial aid than Asian accepted applicants. Here a disconnect seems to occur because generally speaking Asian accepted applicants achieved greater marks on standardized measures of aptitude than other minorities, particularly on the Math SAT's, which would normally lead one to believe that a greater amount of non-need based aid would be awarded.

The only College/University that demonstrated affirmative measures with respect to aid for Asian admitted students was the institution in the East. Here the College/University provides \$2773.07 more aid for Asian accepted applicants than White accepted applicants; while every other institution awards the average Asian applicants more than \$650 less than the average White applicant. Generally speaking it appears that the *competitive* College/University in the Midwest is again less apt to provide for minority-accepted applicants equitably. This while consistent with the other minority comparisons differs from the *very competitive* institution in the West and the *competitive* institution in the South. In each case these institutions provide greater levels of aid

for Hispanic and Black applicants despite their less impressive scoring on standardized measures of aptitude (i.e. SAT/ACT)

6. General Assessment

Following an evaluation of White-Asian accepted applicants based on the criteria of Verbal SAT, Math SAT, ACT, and GPA there appears to be very little signs of preference toward Asian accepted applicants both with respect to admissions standards and financial rewards. In total, there were four Verbal SAT comparisons, four Math SAT comparisons, two ACT comparisons, and three GPA comparisons from the schools that chose to participate. In nearly every set of comparisons, Asian accepted applicants mean scores were on par or exceedingly better than White accepted student means. This demonstrates that despite the minority status of Asian applicants, there appears to be little to no preferential treatment given.

Coupled with the lack of preference with respect to admissions is a lack of comparable compensation in non-need based aid. Asian accepted applicants at all but one College/University received a significantly smaller amount of aid than White accepted applicants and when compared to Black or Hispanic accepted applicants their scholarship packages featured even greater disparities. While it is difficult to speculate as to why one group of minority students received less scholarship money than others, this study reaffirms Lerner and Nagai's earlier findings, which suggests that little has changed over the last 15 years.

IV. Preferences and the Competitiveness of Schools

After examining the four Jesuit Colleges/Universities that chose to participate, there appears to be support for Lerner and Nagai's conclusion that the more competitive the institution is ranked, the greater disparity between minority and non-minority accepted applicants scores and scholarship funding there will be. The greatest gaps that were found occurred between Black-

White accepted applicants and, to a lesser extent, with White-Hispanic and White-Asian accepted applicants.

Within this statistical analysis, there were two methods that were evaluated, academic preferences and monetary preferences in the form of non-need based aid. In the case of academic preferences the *very competitive* College/University in the West demonstrated strong preferences in favor of minority candidates, based on standardized measures of aptitude. As aforementioned these preferences were increased with Black accepted applicants and least prevalent among Asian accepted applicants. The other method to evaluate preference was personified by the institution, which apparently had little by way of academic preferences, in the East. In this case the *very competitive* College/University demonstrated relatively large gaps in non-need based aid in favor of minority candidates despite similar scores based on standardized measures of aptitude.

Since the ruling of the Michigan Cases, in which Sandra Day O’Conner read the majority opinion, there have been echoes of hope that preferences will no longer be needed 25 years from the day of these decisions. One encouraging factor that demonstrates a change in time since Lerner and Nagai’s study are improvements in minority applicants’ SAT and ACT scores when compared to White students competing for the same seats. Despite this hope, the present study undoubtedly proves that there still exists a network of preferences both with respect to lower admissions standards and or preferences given to minority candidates for scholarship packages, when examined strictly by principles of merit, particularly in the nation’s more elite institutions. With this in mind there are certain provisions that lawmakers and admissions counselors should adopt in order to allow for a more equitable conclusion to occur.

V. Conclusion

After reviewing the four Jesuit institutions that elected to provide data for this study, it has become clear that all of these Colleges/Universities could allow for more equitable practices, without eliminating the practice of affirmative action. Although generally not plausible for private institutions, one proposition that has served certain federally funded Colleges and Universities with results that yield comparable minority enrollment is the top 10 percent plan, which essentially eliminates SAT/ACT racial biases (Anderson 259). In each respective state a student who achieves a class ranking within the top 10 percent of the class will be admitted to any College/University that is publicly funded in their state. If students are attending schools that use this method, everyone who enters the doors of the institution will enter with fewer stigmas and the College or University will be able to achieve its premier goal of diversity with fewer impediments. The other method that would allow for a more equitable admissions process involves providing awards exclusively by merit requirements and through need-based financial aid. If there are stringent requirements on whether or not an accepted applicant is eligible for a scholarship (i.e. 3.5 cumulative GPA, and a combined 1150 SAT score) there will be little room for inequitable methods for awarding scholarships. Many Colleges/Universities are fearful that in order to attain this more equitable standard that they would have to lower admissions requirements, however by loosening standards marginally, many schools would be able to achieve the goal of diversity while still remaining competitive among other institutions.

Despite the ability to only evaluate the four institutions that elected to participate, the results of the study are quite telling. There remains a great deal of preference given to minority candidates. Although it may be naïve to believe that complete equality based strictly on principles of merit can be achieved, it is a goal that many individuals are continuing to fight for. The underlying function of affirmative action was to achieve a demographically diverse student

body. In doing so, I speculate that the cause has inevitably taken on the challenge of helping those individuals who show the ability to succeed presuming certain impediments weren't in their way (i.e. a poor high school/financial strains). However, affirmative action is not helping those who experience impediments to achieving similar score but those who are on an equal socio-economic footing gain a slight advantage. Accounting exclusively for the aforementioned exceptions (poor high school/financial status), the likelihood that the figures presented above would be skewed so pronouncedly in minority accepted applicant's favor seems inconceivable. Because of the disproportionate amount of funding and admissions breaks that are seen, even at such a small scale, one must conclude that there is still much to be done to bring us closer to a color-blind nation with respect to race for undergraduate admissions.

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