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**Statement of the American Association for Affirmative Action**

**On Supreme Court’s Decision in the *Fisher v. University of Texas* Case**

*The key point of the decision:  Grutter is reaffirmed;*

*Diversity remains a compelling interest under the Constitution*

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Washington, D.C., June 24, 2013 – The American Association for Affirmative Action, an organization of equal opportunity, affirmative action and diversity professionals is pleased that in the newly announced decision in the *Fisher v. University of Texas at Austin* case, diversity remains a compelling interest and the 2003 decision in *Grutter v. Bollinger* case has been reaffirmed.  Colleges and universities continue to be able to consider the whole student, including a student’s race among many factors, to determine who is admitted.

AAAA President Gregory T. Chambers stated: “Now that the Supreme Court has ruled in *Fisher*, we wish to underscore that diversity remains a compelling interest and that colleges and universities may take race into account among many factors in deciding whom to admit in their student bodies.  The question, upon remand, is the Court’s admonition that: "The reviewing court must ultimately be satisfied that *no workable race-neutral alternatives* would produce the educational benefits of diversity."   We are confident that the University of Texas will be able to provide the Court with sufficient evidence to satisfy the strict scrutiny test.  “We urge the Court to not require an extraordinarily exhaustive review of alternatives before permitting the use of race among many factors in higher education admissions.  Otherwise, the term “strict scrutiny will indeed be fatal in fact for those whom the Fourteenth Amendment was intended to benefit,” said AAAA General Counsel Matthew Camardella.

In the AAAA’s *amicus* brief filed in support of the University of Texas, AAAA argued that the University of Texas at Austin worked hard to develop a fair and inclusive admissions program that contributed to diversity on campus in the broadest sense of the word without unfairly burdening anyone.  “We hope that the reviewing federal courts will not substitute their policy preferences for the carefully made determinations of the University and the Texas legislature to which the University is directly accountable,” said David Goldstein, one of the attorneys who wrote the AAAA brief.

Second, AAAA submitted that the State of Texas had a compelling interest in securing the educational and workplace benefits that flow from diversity.  In deciding the 2003 case in favor of the University of Michigan’s law school admissions program*,* the Supreme Court in *Grutter* upheld the notion that diversity in higher education admissions was a compelling state interest – a requirement to meet constitutional muster.  “We are pleased that the *Grutter* case remains good law,” added AAAA board member and Co-counsel Marilynn Schuyler.  “The state’s employers and tax base depend on having well-educated individuals of all races.”

Third, AAAA argued that the steps the University took to promote diversity were “narrowly tailored,” – another constitutional requirement – and necessary to achieve the compelling state interest.  Texas made an extraordinary effort to research and demonstrate the need to add race as a consideration in admissions.  Moreover, so-called race-neutral measures are never truly race-neutral.  “Admissions criteria such as test scores have inherent biases and a have statistically significant adverse impact on African-American and Hispanic students,” stated Co-Counsel Dean Sparlin.

AAAA Executive Director Shirley J. Wilcher added: “This nation is becoming increasingly diverse and it is not the time to close the doors of opportunity based on race or national origin.  The nation’s future depends upon all qualified individuals receiving a chance to compete in education, employment and business.”

*Founded in 1974, the American Association for Affirmative Action (AAAA) is a national not-for-profit association of professionals working in the areas of affirmative action, equal opportunity, and diversity. AAAA assists its members to be more successful and productive in their careers. It also promotes understanding and advocacy of affirmative action to enhance access and equality in employment, economic and educational opportunities.*