Affirmative Action in College Admissions:
An Argument against Racial Preferences and
the Promise of Economic Affirmative Action

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In June of 2003, the debate over the use of race-based preferential treatment in university and college admissions reached the chambers of our nation’s highest court. In two controversial cases, the United States Supreme Court upheld the use of race as a “plus” factor in the college admissions process. While the decision was a victory for advocates of racial affirmative action, the use of preferential treatment of racial minorities does not address the real problem of college admissions: the growing economic segregation on America’s campuses of higher education. It is the belief of the author that affirmative action in college admissions must continue, but that preferences should target economic disadvantage rather than race in the admissions process.

INTRODUCTION

On June 23, 2003, the United States Supreme Court released its decision in two highly controversial lawsuits filed against the University of Michigan. In a 5-to-4 decision in Grutter v. Bollinger, the Supreme Court held that student body diversity is a “compelling governmental interest” that justifies the consideration of race as a “plus” factor in a university’s admissions process (Grutter v. Bollinger 2003, 2325). However, in a 6-to-3 decision in Gratz v. Bollinger, the Court struck down the University’s current undergraduate admissions policy, which awarded 20 points for African-Americans, Hispanics and Native Americans on an admissions rating scale (Gratz v. Bollinger 2003, 2411).

Naturally, the debate over affirmative action in college admissions has extended well beyond the chamber of our nation’s highest court. Advocates for affirmative action argue against the elimination of racial preferences in college admissions, asserting that doing so will only perpetuate the under-representation of minorities at our nation’s most selective universities. However, opponents of affirmative action favor the abolition of racial preferences, arguing that providing preferences to all members of certain minority groups is unfair, and that admission should be determined by race-neutral standards of academic and extra-curricular achievement.

While both sides vehemently argue to be in the right, neither position addresses the real problem of college admissions: the growing economic segregation on America’s campuses. According to a study released by The Century Foundation in March 2003, 74 percent of the students at the top 146 highly selective colleges come from families in the top quarter of socioeconomic status, while just three percent come from the bottom quarter, and about 10 percent come from the bottom half. In comparison, minorities (Asian, African American, and Hispanic) comprise 22 percent of the students at these same colleges. To illustrate this point further, there are four times as many African-American and Hispanic students at these schools as there are students from the lowest socioeconomic quartile (Carnevale and Rose 2003, 10-11).

This paper argues that affirmative action should continue to be used in college admissions, but that preferences should be based on the color-blind factor of economic disadvantage, rather than immutable characteristics, like race or ethnicity.

In justifying this conclusion, a thorough search for the truth about this controversial issue will reveal: (1) that racial preferences in college admissions should be deemed unconstitutional because they do not satisfy the legal standard of strict scrutiny; and (2) that affirmative action based on economic disadvantage is the best alternative to overcoming the under-representation of both minorities and the economically disadvantaged at our nation’s institutions of postsecondary education.

But before addressing these issues, it is important to introduce the origins of affirmative action and racial preferences in America. This brief history will reveal how the definition of affirmative action has assumed its current meaning.
HISTORY OF AFFIRMATIVE ACTION AND RACIAL PREFERENCES

ORIGINS OF AFFIRMATIVE ACTION

Ratified in 1868, the 14th Amendment declares that no state may "deny any person within its jurisdiction the equal protection of the law" (Woods 1989, 50). In theory, this should have been enough to guarantee racial equality; however, in practice, blacks continued to suffer discrimination and unequal treatment in the 1960s. The civil rights movement gained a considerable amount of momentum during this period, and the federal government realized that something more was necessary to secure equality for African-Americans.

The term "affirmative action," used in a civil rights context, would soon find a beginning. It first appeared in President John F. Kennedy's Executive Order 10925. Issued on March 6, 1961, this order required that every federal contract include a pledge that:

the contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action [italics added] to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, creed, color, or national origin (Woods 1989, 52).

The purpose behind this order was to ensure that applicants for positions would be judged by a race-neutral criterion, without any consideration of their race, religion, or national origin. According to the order, taking these factors into account, either in the application process or during employment, was strictly forbidden (Graham 2002, 30). This color-blind sense of affirmative action is quite different than the race-conscious meaning it assumes today.

The Civil Rights Act of 1964 expanded the application of this principle of equality, stating in Title VI: "No person in the United States shall, on the ground of race, color, or national origin, be ... subjected to discrimination under any program or activity receiving Federal financial assistance" (Bowen and Bok 1998, 8).

However, President Lyndon B. Johnson would later argue that more than just impartial treatment was needed to ensure equality. Speaking to students at Howard University's 1965 commencement exercises, Johnson declared:

You do not take a person who for years has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, 'You're free to compete with all the others,' and still justly believe that you have been completely fair. Thus it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates ...We seek not ... just equality as a right and a theory, but equality as a fact and equality as a result (Cahn 2002).

President Johnson acted on this position in Executive Order 11246, which required the United States government to "provide equal opportunity in federal employment because of race, creed, color, or national origin, and to promote the full real-

ization of equal employment opportunity through a positive, continuing program in each department and agency" (Cahn 2002).

The order also called for the elimination of the Committee on Equal Employment Opportunity, while transferring its responsibilities to the Secretary of Labor. In addition, the order provided the Secretary of Labor with the authority to, "adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof" (Cahn 2002).

With this objective in mind, the Department of Labor, operating under the administration of President Richard Nixon, released Revised Order No. 4 in 1971. This mandate required all contractors to develop, "an acceptable affirmative action program," that included, "an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies" (Cahn 2002). According to the order, "Negroes, American Indians, Orientals, and Spanish Surname Americans" qualified as minority groups (Cahn 2002).

This executive order was significant because, for the first time, affirmative action assumed its current definition as a policy administered by "programs that provide preferential treatment to members of social, racial, or ethnic groups that have been victims of long-term discrimination" (Banfield 1998, 122).

DEVELOPMENT OF RACIAL PREFERENCES IN COLLEGE ADMISSIONS

The federal government's mandate for race-conscious programs in employment led to the use of racial quotas in college admissions. After President Nixon signed Revised Order No. 4, nearly all colleges and professional schools implemented programs designed to, "recruit minority applicants and to take race into account in the admissions process by accepting qualified black students even if they had lower grades and test scores than most white students" (Bowen and Bok 1998, 6-7).

While some universities used racial quotas in admissions to rectify past racial discrimination, others adopted them for two other reasons: (1) to enhance the education of all their students by including race as one factor in assembling a diverse student body of varying talents, backgrounds, and perspectives; and (2) they expected graduating minority students to assist in overcoming the under representation of minorities in business, government, and professional jobs (Bowen and Bok 1998, 6-7).

It did not take long for these programs to make a significant difference in minority enrollment. One study reported that the percentage of blacks enrolled in Ivy League Schools climbed from 2.3 in 1967 to 6.3 in 1976. At the same time, percentages in other selective colleges increased from 1.7 to 4.8. In addition, the proportion of black medical students rose to 6.3 percent in 1975, and the representation of black
law students grew to 4.5 percent (Bowen and Bok 1998, 7). While these programs proved to be very successful in reaching their objectives, some feared that racial quotas were inconsistent with the nation's constitution and laws.

RACIAL PREFERENCES GO TO COURT
The University of California Medical School in Davis, California (U.C. Davis) used a race-conscious admissions program that was typical of the period. In an effort to admit increased numbers of students from under represented minority groups, they created a task force that was responsible for filling 16 of the one hundred spaces available in each entering class with applicants from targeted minority groups. Between 1970 and 1974, this system of quota-oriented minority admissions enrolled thirty-three Mexican Americans, twenty-six African-Americans, one Native American, and twelve Asian Americans (Banfield 1998, 9-10).

In 1977, the U.S. Supreme Court agreed to test the legality of this admissions process in Regents of University of California v. Bakke (1978). At issue in this highly controversial case was whether the University's use of a racial quota was consistent with the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964.

In a divisive decision, four justices voted in favor of the quota's legality, and four justices ruled against it. Justice Lewis Powell broke the deadlock, agreeing that the racial quota at issue in the case violated the Title VI of the Civil Rights Act of 1964, but ruling, "race or ethnic background may be deemed a 'plus' in a particular applicants file" (University of California Regents v. Bakke 1978, 265). According to Powell, this version of affirmative action could continue in college admissions because the attainment of a diverse student body is "a constitutionally permissible goal for an institution of higher education," arguing that "[t]he atmosphere of speculation, experiment, and creation so essential to the quality of higher education is widely believed to be promoted by a diverse student body" (University of California Regents v. Bakke 1978, 265). Race could be considered as a plus factor because it was narrowly tailored to the government's compelling interest of pursuing a diverse student body as an essential part of a university's academic freedom (Dryfuss and Lawrence 1979, 176). In accordance with Supreme Court precedent, Powell's opinion qualified as the judgment of the court because it provided the swing vote.

The Bakke ruling was very significant for the future of affirmative action in college admissions. While ruling against use of racial quotas, it left the door open for universities to continue to use race as a plus factor in admissions policies. Many universities responded to the ruling by considering race a plus factor. Race-conscious affirmative action continues to be widely used in the admissions programs of our nation's top colleges; however, in June, 2003 the United States Supreme Court put limits on how much of a factor race can play in giving minority students an advantage.

On June 23, 2003, the United States Supreme Court released its decision in two highly controversial lawsuits filed against the University of Michigan: Grutter v. Bollinger and Gratz v. Bollinger. In a 6-to-3 decision in Gratz v. Bollinger, the Court struck down the University's current undergraduate admissions policy, which awarded 20 points for African-Americans, Hispanics and Native Americans on an admissions rating scale. However, in a 5-to-4 decision in Grutter v. Bollinger, the Supreme Court held that student body diversity is a "compelling governmental interest" that justifies the consideration of race as a "plus" factor in a university's admissions process.

A thorough examination of the facts of these cases will reveal how the Court was accurate in striking down the University's current undergraduate admissions policy that awards points based on race and ethnicity, but was mistaken in its decision to uphold the use of race as a plus factor in a university's admissions policy.

LEGALITY OF RACIAL PREFERENCES
In presenting a case against racial preferences in college admissions, the admission policies used by the University of Michigan and University of Michigan Law School, and at issue in Gratz v. Bollinger and Grutter v. Bollinger respectively, will be placed under legal scrutiny.

LEGAL STANDARD OF "STRICT SCRUTINY"
A critical element of these lawsuits is whether racial preferences used in the admission policies of these schools passes the legal standard of "strict scrutiny." The race-sensitive admissions policies are subject to strict scrutiny because they classify students according to race, and Supreme Court precedent requires that "all racial classifications, imposed by whatever federal, state, or local government actor, must be analyzed by a reviewing court under strict scrutiny" (Adarand Constructor, Inc. v. Pena 1995, 200).

Under the standard of strict scrutiny, a racial classification must be held unlawful unless (1) the racial classification serves a compelling governmental interest, and (2) it is narrowly tailored to further that interest (Adarand Constructor, Inc. v. Pena 1995, 213).

Now that the standard has been set, the admission policies in question will be tested for compliance with these requirements.

DIVERSITY AS A COMPELLING INTEREST
The defense in Grutter v. Bollinger argued that the University of Michigan Law School "has a compelling interest in the limited, competitive consideration of race in admissions to secure the educational benefits that flow from student body diversity" (Brief of Respondents, Grutter v. Bollinger 2003, 5). This conclusion is debatable because it is entirely based on the opinion of Justice Powell in Bakke v. State Board of
Regents — which no other Justice joined. Writing solely for himself, Justice Powell ruled that the University of California's goal to “attain a diverse student body” was a “constitutionally permissible goal for an institution of higher education” (University of California Regents v. Bakke 1978, 279). Those supporting affirmative action claim that this argument qualifies as binding precedent because “when a fragmented Court decides a case … the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds” (Marks v. United States 1977, 990, 994). Applying this criterion to the opinions submitted in Bakke, Powell's opinion was the only one to concur in part with four other justices, which meant that his opinion concurred in the judgment on the narrowest grounds. Therefore, consistent with the “holding of the Court” established in Bakke, the desire to assemble a diverse student body constitutes a compelling state interest.

NARROW TAILORING TO THE COMPELLING INTEREST

Now that the desire to assemble a diverse student body has been established as a compelling state interest, the second part of the “strict scrutiny” legal standard must be applied: that of being narrowly tailored to that interest. Narrow tailoring requires “the means chosen to accomplish the State's asserted purpose must be specifically and narrowly framed to accomplish that purpose” (Johnson v. Board of Regents of the University of Michigan 2001, 263). An essential part of narrow tailoring is considering the “flexibility” of an admissions policy (U.S. v. Paradise 1987, 171). The facts will show that racial preferences in college admissions fail miserably at this critical point of the strict scrutiny test.

TESTING U OF M ADMISSION POLICY FOR NARROW TAILORING

From 1999 to the present time, the University of Michigan has used a system of points in the admissions process that determines acceptance or rejection through the formulation of a “selection index” of each applicant. The “selection index” equates to a students rank on a 150-point scale that works like this:

The University awards applicants varying points for a variety of factors in one of three categories: “Test Score, Academic, and Other Factors.” Up to 12 points can be awarded under the Test Score category based on the applicant's score on the standardized ACT or SAT examination. Up to 98 points can be awarded under the Academic Category based on the applicant's GPA, the category of school attended, and the strength or weakness of curriculum. And an applicant may receive up to 40 points in the Other Factors category. Up to 20 of those “Other Factors” points can be awarded on a combination of factors such as geography, alumni relations, an outstanding essay, personal achievement, or leadership and service activity. The remaining 20 “Other Factors” points can be awarded under a “Miscellaneous” heading for socio-economic disadvantage, underrepresented racial/ethnic minority identification or education, athletic scholarship, or discretionary selection by the Provost (Brief for Respondents, Grutter v. Bollinger 2003, 5-6).

Under the system described above, applicants who are members of an “under-represented racial or ethnic minority group,” defined as African-American, Hispanic, Native American, are automatically awarded 20 points. The points awarded for other factors are as follows:

The university … awards a maximum of only six points for being from an 'Under-represented Michigan County' and only two points for being from an 'Under-represented State.' The total available points for 'Personal Achievement' is five, as is the total points available for 'Leadership and Service.' Only 1 point is awarded to applicants who submitted an 'Outstanding Essay' (Brief for Respondents, Gratz v. Bollinger 2003, 5-6).

Such a drastic difference in points awarded constitutes an enormous advantage to a preferred minority applicant, and a considerable disadvantage to a non-preferred applicant whose background is just as likely to contribute as much, or even more diversity to the student body.

The following hypothetical scenario illustrates this point further: A white applicant to the University of Michigan who was raised in Johannesburg, South Africa may come from a background rich with unique experiences very different from most applicants. Compare this applicant’s potential to contribute to a diverse student body to that of an African-American applicant with similar academic credentials who is from Detroit, Michigan. Under the University of Michigan’s undergraduate admissions program, the actual background of the African-American, whether it includes exposure to experiences rich with diversity or not, is irrelevant — but the applicants race or ethnicity is. Being a member of a targeted race automatically qualifies an applicant for an additional 20 points, and this is clearly a substantial numerical advantage based on race that is given at a critical stage of the admission process.

What conclusions can be drawn from this example? By providing a rigid, mechanical, and automatic bonus to preferred minority applicants, the University of Michigan's admission policy clearly fell short of qualifying as flexible. Like all legal tests with a set of requirements, violating one part is breach of the test as a whole. Therefore, the University of Michigan admissions policy does not pass the narrow tailoring requirement of the strict scrutiny test, and consequently, should have been deemed unconstitutional.

TESTING U OF M LAW SCHOOL ADMISSION POLICY FOR NARROW TAILORING

The University of Michigan Law School has a different way of incorporating racial preferences into its current admissions policy which was adopted in 1992. Like other admissions policies, the school “relies on an index score, which represents a composite of an applicant's score on the Law School Admissions Test (LSAT) and undergraduate grade-point average (GPA), to assess a candidate's qualifications” (Brief for the United States as Amicus Curie supporting petitioner in Grutter v. Bollinger 2003, 2). However, the policy also pro-
vides for a specific race-based review of all applicants. With the objective of ensuring that the Law School admits a "critical mass" of minority students that is proportionate to the total number of applicants for that year.

The Dean and Director of Admissions consult ‘daily admissions reports’ that reflect ‘how many students from various racial groups have applied, how many have been accepted, how many have been placed on the waiting list, and how many have paid a deposit’ (Brief for the United States as Amicus Curie supporting petitioner in Grutter v. Bollinger 2003, 28).

Using this system from 1995 to 1998, the Law School was successful in enrolling between 44 and 47 African-American, Native-American, and Hispanic students in a class of approximately 350 total students.

In defense of their race-sensitive admissions policy, the University of Michigan Law School argues that the racial groups they target, "are particularly likely to have experiences and perspectives of special importance" and satisfy the criteria of narrow tailoring by being closely fitted to the compelling interest of assembling a diverse student body (Brief for the United States as Amicus Curie supporting petitioner in Grutter v. Bollinger 2003, 28).

Are some racial or ethnic groups more likely to contribute to student body diversity at the University of Michigan Law School? In considering this question, the Law School's policy for racial preferences will be applied to the hypothetical example presented in an earlier section involving the two applicants with similar academic credentials.

Under the policy, the African-American from Detroit, Michigan is automatically labeled as a candidate who is "particularly likely to have experiences and perspectives of special importance," whereas, the white South African candidate is not. Consequently, the African-American applicant is considered for the 44 to 47 spaces reserved for preferred groups, which is a "critical mass" determined by the percentage the preferred group's members constitute in the total applicant pool. Despite the white applicant's experience in South Africa, the policy prevents him from competing against the African-American for spaces reserved for preferred groups. Nothing in the background of either applicant could have changed this outcome because the preference depend exclusively on race, and nothing else.

Because the University reserves a "critical mass" of spaces for preferred minorities that depends on the number of students applying for admission to a given year's entering class, the policy qualifies as an inflexible classification on the basis of race, and is thereby, unconstitutional.

**Race Neutral Alternatives**

Now that the case against racial preferences in college admissions has been made, focus will shift to analyzing two race-neutral alternatives that not only pass the legal standard of narrow tailoring, but also closely fit the compelling interest of assembling a diverse student body.

**The Class-Rank Approach**

A "class-rank" approach to affirmative action is used in three states where polices using race-based preferences in college admissions are banned. New polices implemented in Texas, California, and Florida guarantee college admission to in-state students who graduate at the top of their high school class. As a race-neutral alternative, these programs seek to pull in more students from inner-city and rural schools, some of which have high percentages of minority enrollment.

A closer look at the Texas "10 Percent Plan" provides an example of how a class-rank admissions program operates. While serving as Governor of Texas, George W. Bush adopted this innovative plan that guaranteed admission at any University of Texas campus to the top 10 percent of every state accredited public or private high school's graduates. Under the plan, an admitted student's academic record is reviewed by the University of Texas to determine if additional college preparatory work is needed. If so, the school may require the student to participate in college preparatory programs (U.S. Department of Education 2003, 22).

So far, the Texas "10 Percent Plan" has seen positive results. According to a report conducted by the Ford Foundation, the University of Texas-Austin freshman class of 2000 included individuals from 135 high schools that were not represented on that campus when racial preferences were in place (U.S. Department of Education 2003, 22). Additionally, the University of Texas system triggered a 15 percent rise in African-American students and a 10 percent increase in Latinos during the same period. Other numbers show that students admitted through the "10 Percent Plan" are doing as well or better academically than students enrolled without the plan (Ewers 2003, 134). Proponents of the plan argue that these results indicate that class rank approaches promote diversity of region, economic class, and social background more than race-sensitive admissions do (U.S. Department of Education 2003, 22).

Despite these positive results, the class-rank approach does have its flaws. Opponents of the plan argue that "where the plans have worked, they have been accompanied by extensive university outreach to public schools and thousands, sometimes millions, of dollars in new financial aid programs" (Hebel 2003, 2). Critics of the Texas "10 Percent Plan" also point out that it does "nothing about diversity at graduate and professional schools or private colleges" (Hebel 2003, 2). Other critics claim "basing admissions on class rank will eventually weaken the academic quality of selective universities, by squeezing out strong students from competitive suburban schools in favor of weaker students from schools in poor neighborhoods" (Hebel 2003, 2). Many also point out "if a high school can send its best students to a flagship university without offering many rigorous classes, such as
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Advanced Placement courses, why should it add them?” (Hebel 2003, 2).

These arguments amount to a convincing case against class-rank admissions. Even if the percent plans are constitutional, and prove effective in achieving diversity at the undergraduate level, the benefits fall short of outweighing the disadvantages mentioned above.

**Preferences Based on Economic Disadvantage**

Another alternative method of assembling a diverse student body on college campuses provides preference based not on race or high school class rank, but on economic disadvantage. Race-neutral, and therefore, constitutional, this plan would focus on remedying one of the most troubling dilemmas facing our nation’s institutions of higher education: the growing economic segregation on America’s college campuses.

Affirmative action based on economic disadvantage would consider three primary factors: parent’s education, income, and occupation. This is because “on average, it is a disadvantage to have parents who have little education, low income, and low-status occupations” (The Century Foundation 2000, 4). Other factors that warrant consideration under this plan are “net worth, family structure, school quality, and neighborhood quality” (The Century Foundation 2000, 4). These factors would be significant because “growing up in a family with small net worth reduces life chances and students with a background in such homes are less likely “to be able to afford test preparation courses.” Also, “Growing up in a single-parent family is a disadvantage, even controlling for income, because there are fewer adults around to provide nurturance and support” (The Century Foundation 2000, 4). These factors are quantifiable and students could provide the needed information when they complete their college applications.

**Minorities Benefit from Socioeconomic Preferences**

Critics of this plan argue that minorities will benefit little from socioeconomic preference plans. The fact that minorities benefit less without racial preferences should come as no surprise, but the facts show that they are likely to also benefit from plans of this kind because “racial and ethnic groups are disproportionately disadvantaged according to socioeconomic factors” (U.S. Department of Education 2003, 19). Consider the numbers:

- **Parents Education.** By the year 2015, Hispanics and African Americans will constitute 78 percent of those students having no parent with a high school diploma (U.S. Department of Education 2003, 19).

- **Income and Net Worth.** While black income is 60 percent of white income, black net worth is just nine percent of white net worth (U.S. Department of Education 2003, 19).

- **Family Structure.** Of those who are under age 18, whites are more than twice a likely to live with both parents, 76 percent versus 33 percent (The Century Foundation 2000, 5).

Concentrated Poverty. Poor African-Americans are six times as likely to live in concentrated poverty as poor whites. One study found that in Los Angeles, blacks making a very good income (between $75,000 and $100,000) lived in neighborhoods with a higher mean poverty than did whites with incomes between $5,000 and $10,000 (The Century Foundation 2000, 5).

Poverty Level. Twenty two percent of African Americans and 21.4 percent of Hispanics live below the poverty line compared to 7.8 percent of non-Hispanic whites (The Century Foundation 2000, 19).

These statistics indicate that minority groups constitute a considerable percentage of the applicants given preference under an admissions policy using socioeconomic affirmative action.

**Socioeconomic Preferences on a National Scale**

Other statistics demonstrate the impact of socioeconomic preferences on a national scale. According to a study conducted by Anthony Carevale of the Educational Testing Service and Stephen Rose of ORC Macro, “economic affirmative action at the nation’s most selective 146 colleges would result in a two percentage point decline in racial diversity and a 28-point increase in economic diversity” (Kahlenburg 2003, A13). Moreover, such a plan “would boost African-American and Latino admissions from four percent (under a system of grades and test scores) to 10 percent” (Kahlenburg 2003, A13).

**Fear of Lowered Academic Standards**

Opponents of economic affirmative action argue that their use will compel postsecondary institutions to lower their high academic standards. However, the facts speak otherwise. According to a study by Carnevale and Rose, graduation rates would rise slightly in a system of economic preferences in college admissions, from 86 percent under racial preferences, to almost 90 percent. Advocates of economic affirmative action also contend that socioeconomic preferences are “not thought to be a challenge to merit but rather a better approximation of it. A 3.6 GPA and an SAT score of 1200 surely mean something more to a low income, first-generation college applicant who attended terrible schools than to a student whose parents have graduate degrees and pay for the finest private schooling” (Kahlenburg 2003, A13).

**Examples of Socioeconomic Preferences**

Preferences based on socioeconomic status have been implemented by a number of institutions of higher education. Among them are the University of California and the S.J. Quinney College of Law at the University of Utah.

The “Comprehensive Review” adopted by the University of California illustrates how socioeconomic preferences operate in a college admissions program. Like most policies, admissions officers continue to heavily weight grades and test scores, but they also consider factors such as “academic
accomplishments in light of an applicants life experiences and special circumstances, such as disabilities, low family income, first generation to attend college, need to work, disadvantaged social or educational environment, difficult personal and family situations, refugee status or veteran status” (Department of Education 2003, 20).

The S.J Quinney College of Law at the University of Utah has a similar method of considering economic disadvantage in their admissions process. Reyes Aguilar, the School’s Associate Dean for Admission and Financial Aid, says that “the academic performance of each applicant is judged in the context of his or her background and circumstances. For example, a black applicant from an affluent family, high school, and community is held to a higher standard than a black applicant from a more disadvantaged background” (Aguilar 2003). Aguilar further explains, “Rather than basing admission on an all or nothing points system or a tabulation chart, we consider each application individually, enabling us to take a full measure of every applicant” (Aguilar 2003). In the process, applicants are not subject to automatic rejection or admission based on their undergraduate GPA or LSAT scores. Using this policy, members of minority groups constitute 10 percent of the student body at the S.J. Quinney College of Law (S.J. Quinney College of Law Website).

Both of these admissions processes operate as effective means of assembling diverse student bodies without awarding an automatic advantage to targeted minority groups.

**Drawbacks of Socioeconomic Preferences**

Universities that have a high number of applicants can expect to run into trouble if forced to implement a “comprehensive review” type of admissions policy. This is because the more applicants that apply, the more time and human resources are required to consider each application individually. As a result, the financial burden on schools like the University of Michigan that receives well over a thousand applications for admission each year, would increase dramatically. S.J Quinney’s Aguilar fears these schools would “shift their burden on the students by instituting increases in the fees for application and tuition” (Aguilar 2003). While assembling a diverse student body, the potential financial burden forced upon schools should never justify the awarding of an advantage based on race or ethnicity. Racial preferences may save time and money, but they fail to provide every applicant with an equal opportunity to demonstrate potential for contributing to the diversity of a student body.

**Public Opinion on Affirmative Action**

If public approval of economic affirmative action is limited, then schools are very unlikely to adopt such a policy. So where does the public stand on the issue of color-blind preferences to applicants who are economically disadvantaged?

A poll conducted recently by Carnevale and Rose asked respondents the following question: “Two students have an ‘A’ average in high school and get the same score on college admissions tests. If there is only one seat available, which student would you admit to college?” Respondents answered in the following ways:

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Student from low-income family</td>
<td>63</td>
</tr>
<tr>
<td>Student from high-income family</td>
<td>3</td>
</tr>
<tr>
<td>Both/Neither</td>
<td>12</td>
</tr>
<tr>
<td>Don’t know</td>
<td>20</td>
</tr>
</tbody>
</table>


A separate poll conducted by Newsweek had similar results, finding that “65 percent of Americans support providing a preference to low-income students of all races” (Kahlenburg 2003, A13).

Other polls show disapproval of racial preferences along with support of economic affirmative action. According to a December 1997 New York Times poll, “Americans rejected preferences for blacks by 52 to 35 percent, but supported replacing these measures with a ‘preference’ for ‘people from poor families’ by 53 percent to 37 percent” (The Century Foundation 2000, 6).

The message to our nation’s institutions of higher education is clear: the American people want preferences in college admissions to be based on economic disadvantage, not race.

**Concluding Remarks**

Pursuant of the compelling interest of assembling a diverse student body on America’s campuses of higher education, affirmative action in college admissions must continue. However, despite the Supreme Court’s recent rulings in the University of Michigan cases, the use of racial preferences to achieve campus diversity should be viewed as unconstitutional, as it fails to satisfy the legal standard of strict scrutiny. Two race-neutral alternatives, the class-rank plan and socioeconomic affirmative action, pass constitutional muster, but only the latter addresses the real problem of college admissions: the growing economic segregation on America’s campuses.

To remedy this problem, racial preferences in college admissions should be replaced with economic affirmative action. In doing this, schools will continue to assemble an even more diverse student body, economically disadvantaged students will be given a greater chance to acquire a college education, and the popular will of the American people will have been fulfilled.
REFERENCES


Johnson v. Board of Regents of the University of Michigan. 2001. 263 F.3d (11th Cir.).


Marks v. United States. 1977. 430 U.S. 188.


