Nos. 02-241, 02-516

IN THE

Supreme Court of the United States

BARBARA GRUTTER,

Petitioner,

-and-

JENNIFER GRATZ and PATRICK HAMACHER,

Petitioners,

v.

LEE BOLLINGER, *et al*.,

Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS AND THE LCCR EDUCATION FUND AS AMICI CURIAE IN SUPPORT OF RESPONDENTS

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TABLE OF CONTENTS

Contents

TABLE OF CITED AUTHORITIES

Page

CASES

Cited Authorities

Cited Authorities

Cited Authorities

Cited Authorities

Cited Authorities

Cited Authorities

Cited Authorities

Cited Authorities

Cited Authorities

INTEREST OF *AMICI CURIAE*

The Leadership Conference on Civil Rights ("LCCR") is a coalition of more than 180 national organizations committed to the protection of civil and human rights in the United States.[1] It is the nation's oldest, largest, and most diverse civil and human rights coalition. LCCR was founded in 1950 by three legendary leaders of the civil rights movement – A. Philip Randolph, of the Brotherhood of Sleeping Car Porters; Roy Wilkins, of the NAACP; and Arnold Aronson, of the National Jewish Community Relations Advisory Council. Its member organizations represent men and women of all races and ethnicities.[2]

LCCR promotes effective civil rights legislation and policy. It was in the vanguard of the movement to secure passage of the Civil Rights Acts of 1957 and 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. Since enactment of these landmark laws, the number of LCCR member organizations has grown and LCCR's commitment to social justice has flourished.

The LCCR Education Fund is the research, education, and communications arm of LCCR. It focuses on documenting discrimination in American society, monitoring efforts to enforce civil rights legislation, and fostering better public understanding of issues of prejudice. The LCCR Education Fund has published studies and reports on many

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1. Pursuant to Supreme Court Rule 37.3(a), all parties have filed with the Court their written consent to the filing of all *amicus curiae* briefs. Pursuant to Supreme Court Rule 37.6, counsel for *amici curiae* LCCR and the LCCR Education Fund certifies that this brief was not written in whole or in part by counsel for any party, and that no person or entity other than LCCR and LCCR Education Fund, their members, and their counsel has made a monetary contribution to the preparation and submission of this brief.

2. See Appendix for a list of LCCR member organizations and other signatories to this brief. Several member organizations are filing their own *amicus* briefs in this case.

subjects, including diversity in education. *See* Karen McGill Lawson et al., Leadership Conference Education Fund, BUILDING ONE NATION: A STUDY OF WHAT IS BEING DONE TODAY IN SCHOOLS, NEIGHBORHOODS AND THE WORKPLACE 21-55 (1998).

LCCR and the LCCR Education Fund support the use of race as one factor in admissions policies to preserve diversity in the nation's colleges and universities. Diversity cultivates leadership, promotes civic engagement, and dispels stereotypes. The success of the Leadership Conference as a multiracial and multiethnic coalition dedicated to common goals illustrates the tangible contribution of diversity to contemporary American society.

SUMMARY OF ARGUMENT

In analyzing which government interests are compelling, this Court has asked whether they advance traditional government functions and whether they are consistent with the nation's history and constitutional tradition, among other factors. For over two hundred years, the central goal of our government has been a strong, unified country forged from a population more diverse than any other – building the first and greatest nation of immigrants. Historical precedent and even contemporary experience in other countries have provided scant encouragement for this enterprise. Ethnic, racial, and religious violence has been commonplace around the world. But this country, despite its racial tensions, has avoided the level of conflict that has devastated other nations over the last 50 years. We have productively struggled with the problems of our diversity, and even galvanized diversity into one of America's greatest strengths. As the nation becomes increasingly heterogeneous, harnessing the potential of racial diversity and avoiding ethnic conflict remain critical challenges for our government.

Against this backdrop, achieving a diverse student body in higher education is on par with other government interests

that this Court has recognized as compelling. Education plays a critical role in meeting the challenges of diversity and advancing historically important national and governmental objectives. Policymakers and educators have reached a judgment, which this Court has no reason to second-guess, that colleges and universities need to prepare outstanding people of diverse backgrounds for leadership in American society. To this end, educational experts have determined that diversity benefits students, that it breaks down barriers, that it allows students to learn for themselves how we are the same, as well as how we are different. Educators have found that a diverse environment cultivates the civic values necessary to deal effectively with race, which remains uniquely difficult among American problems. And to fulfill their calling, educators have found it important to consider race as one factor, of many, in admissions to colleges, graduate schools, and professional schools.

The University of Michigan and other institutions have weighed alternatives to race-conscious admissions policies, including so-called percentage plans. But if the Court agrees that diversity in higher education is a compelling interest, if diversity is essential to a broader and compelling governmental purpose of fostering leadership and national unity, percentage plans are not tailored to achieve that end. Indeed, the ostensibly race-neutral plans advanced by the United States and other *amicus* parties are not race-neutral at all. Percentage plans have, and are intended to have, a disparate racial impact. Unlike the University of Michigan's approach, however, they are not honest about the role of race in admissions. It is difficult to believe either that the Constitution mandates such subterfuge, or that camouflaging the use of race will further the civic missions of public universities and help them to meet the challenges of America's growing diversity.

The Court should bear in mind, as Chief Justice Marshall observed, that "it is a *constitution* we are expounding," *McCulloch v. Maryland*, 17 U.S. 316, 407 (1819), "a constitution

intended to endure for ages to come, and consequently, to be adapted to the various *crises* of human affairs," *id.* at 415. The Court is being asked to tie the hands – indiscriminately, inflexibly, without recourse to democratic processes – of thousands of elected officials and the professional educators who are responsible to them for the admissions policies of public universities. Indeed, this Court's holding will likely cut an even broader swath. Through Title VI of the Civil Rights Act of 1964, the Court's decision could also bind private colleges, foreclosing access by the future generation of minority leaders to elite institutions. Particularly given the substantial challenges that the nation faces in forging unity out of diversity, there is no reason for this Court to substitute its judgment for the consensus of educators in both the public and private sectors. It should not impose a rigid, sweeping finality that circumstances do not warrant.

ARGUMENT

I. RACIAL DIVERSITY IN THE UNITED STATES SERVES GOVERNMENT INTERESTS OF THE HIGHEST ORDER.

Petitioners challenge the decisive opinion of Justice Powell in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978), which found diversity a compelling government interest that can justify consideration of race as one factor in admissions to institutions of higher education. Petitioners' analysis is peremptory. They do not consider how diversity in higher education compares to the other interests this Court has recognized as compelling. Indeed, they ignore factors that have figured in the Court's analysis of compelling state interests – such as advancement of traditional government functions and harmony with the American constitutional tradition.

Although this Court has not itemized all the considerations affecting whether an asserted state interest is

compelling, several patterns emerge from the case law. The Court has recognized the importance of the traditional government functions of protecting public welfare and preserving domestic tranquility. For example, in *Mackey v. Montrym*, 443 U.S. 1, 17 (1979), the Court concluded that public safety on the highways is a paramount state interest, on the basis that "[w]e have traditionally accorded the states great leeway in adopting summary procedures to protect public health and safety." *See also United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 730 (1966) (noting that "the maintenance of domestic peace" is compelling state interest).

In a number of cases, the Court has turned to the nation's history and constitutional tradition, dating back to the early Republic. Thus, in *Storer v. Brown*, 415 U.S. 724, 736 (1974), the Court noted that California, in passing a law to restrict a political candidate's access to the ballot, "apparently believes with the Founding Fathers that splintered parties and unrestrained factionalism may do significant damage to the fabric of government." The Court credited that judgment, and concluded that the stability of the political system is a compelling state interest. *Id*. Likewise, the Court in *Wayte v. United States*, 470 U.S. 598, 611-12 (1985), examined the nation's historical tradition, including the Constitution and the Federalist Papers, in determining that "[f]ew interests can be more compelling than a nation's need to ensure its own security." *See also Wisconsin v. Yoder*, 406 U.S. 205, 226 (1972) (concluding, partially on basis of "our history," that a state's interest in compulsory education is not sufficiently compelling to outweigh free exercise rights of Amish); *Haig v. Agee*, 453 U.S. 280, 307-08 (1981) (citing Federalist Papers to support proposition that "no governmental interest is more compelling than the security of the Nation"); *Lippitt v. Cipollone*, 404 U.S. 1032, 1033 (1972) (Douglas, J., dissenting) (arguing that "the

'compelling state interest' advanced by the appellees . . . seems alien to our political and constitutional heritage").[3]

As demonstrated below, diversity in higher education is comparable to other interests the Court has recognized as compelling. It is essential to achieving a longstanding and important national objective – an objective validated by our history and tradition, central to our continued national success, and embodied in an enduring national consensus.

A. This country historically has pursued a national goal of unity in the face of powerful polarizing forces.

In this supposedly enlightened modern era, nations have not coped well with racial, ethnic, and cultural differences among their populations. Violent conflict has engulfed the Balkans, where war erupted between Bosnian Muslims, Croats, and Serbs in the 1990s. Palestinians and Israelis battle in the Middle East. In Central Africa, rivalries between Hutu and Tutsi tribal factions resulted in wholesale genocide. Northern Ireland has seen longstanding violence and terrorism between Catholics and Protestants. *See generally* Human Rights Watch, *World Report 2003* (2003), http://www.hrw.org/wr2k3.

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3. The lower courts have followed the Court's lead. *See*, *e.g.*, *United States v. Hardman*, 297 F.3d 1116, 1128 (10th Cir. 2002) ("[W]e have little trouble finding a compelling interest in protecting Indian cultures from extinction, growing from government's 'historical obligation to respect Native American sovereignty and to protect Native American culture.'"); *Luetkemeyer v. Kaufman*, 364 F. Supp. 376, 386 (W.D. Mo. 1973) ("[T]he long established constitutional policy of the State of Missouri, which insists upon a degree of separation of church and state to probably a higher degree than that required by the First Amendment, is indeed a 'compelling state interest in the regulation of the subject within the State's constitutional power. . . .'"), *aff'd*, 419 U.S. 888 (1974); *Hampton v. Jefferson County Bd. of Educ*., 102 F. Supp. 2d 358, 379 (W.D. Ky. 2000) (concluding that voluntary maintenance of desegregated school system is compelling state interest, in part due to "the long history of desegregation efforts").

Despite its legacy of slavery and Jim Crow, America has fared better, at least in modern times. With a population of astonishing diversity, the United States nonetheless has avoided widespread and sustained ethnic violence, even as the country has grown less homogenous. That accomplishment has reflected not luck, but historical purpose – the kind of constitutional bedrock that the Court has considered in assessing whether an asserted governmental interest is compelling.

Beginning in colonial times, the Founders recognized the compelling need to bind the nation together against polarizing forces. As James Madison wrote:

> The latent causes of faction are . . . sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, . . . have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good.

THE FEDERALIST NO. 10, at 79 (James Madison) (Clinton Rossiter ed., 1961). To combat the political and religious divisions that jeopardized the nascent Republic, Madison promoted a counterintuitive solution. He advocated a far-reaching nation with many different parties and interests. In such a nation, he wrote,

> you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other.

Id. at 83. "Ironically, and brilliantly," in the words of one commentator, "Madison's solution to the problem of social

diversity was for the state to encompass more of it." Peter H. Schuck, *The Perceived Values of Diversity, Then and Now*, 22 CARDOZO L. REV. 1915, 1948 (2001).

To be sure, the diversity that Madison and his contemporaries embraced did not contemplate an equal role for racial minorities or for women. But the principle they articulated as a core constitutional value was broader than their vision of it. Subsequent leaders, such as Benjamin Rush, Frederick Douglass, Susan B. Anthony, and Dr. Martin Luther King, Jr., stripped away those atavistic limits, and reaffirmed the antinomy that embracing diversity is the key to national unity. The historical pedigree of this concept, its embodiment in the fundamental charter of our government and nation, bolsters the conclusion that it undergirds a compelling government interest. *See*, *e.g.*, *Storer*, 415 U.S. at 736; *Wayte*, 470 U.S. at 611-12.

In the 19th and 20th centuries, vast numbers of immigrants originally from Europe, and more recently from Asia and the Americas, changed the face of America. These waves of immigration, along with the growth and migration of the African-American population, have generated tensions, prejudice, and sometimes violence, putting Madison's theory of faction to the test. But the conflicts have never spiraled into the chaos that other nations have encountered. A significant difference between the United States and these other nations is that, increasingly over time, law and social policy here have not merely tolerated diversity, but have embraced it.[4] The point is that the diversity of our population, especially with regard to race, has long presented a

4. In the early 20th century, for example, progressives celebrated the ideal of the "melting pot." *See* Schuck, *supra*, at 1927-28. Now our vision of diversity is even broader. *See*, *e.g.*, Carl N. Degler, OUT OF OUR PAST: THE FORCES THAT SHAPED MODERN AMERICA 296 (1970) (noting that immigrant values "remain, not fusing into a new cultural synthesis but persisting as living remnants of many cultures, spicing and enlivening the broader stream of American life").

fundamental American problem, to which the nation has crafted a unique and so far workable American solution. Dealing effectively with that problem, sustaining that solution, is – by history, by tradition, and by necessity – a core government interest.

B. Racial diversity remains a paramount value.

In assessing whether a governmental interest is compelling, the Court should not only consider its historical provenance, but should also look to contemporary evidence reflecting a broad consensus that it is an important value. *Cf. Bob Jones Univ. v. United States*, 461 U.S. 574, 592 (1983) (concluding, on the basis of "deeply and widely accepted views of elementary justice," that racial discrimination in education is contrary to public policy). On that analysis, too, diversity remains a compelling state interest.

Although Petitioners call it into question, the conviction that diversity among individuals of different races adds affirmative value has gained widespread acceptance in all walks of American life. To cite but a few examples:

- Both major political parties endorse racial diversity as an important value. *See* 2000 Republican Party Platform (July 31, 2000) ("We offer . . . a vision of a welcoming society in which all have a place. To all Americans, particularly immigrants and minorities, we send a clear message: this is the party of freedom and progress, and it is your home."), http://www.rnc.org/GOPInfo/Platform/2000platform1.htm; 2000 Democratic National Platform (Aug. 15, 2000) ("In the years to come, we must celebrate our diversity and focus on strengthening the common values and beliefs that make us one America. . . ."), http://www.democrats.org/about/2000platform.html.

- Presidents of both parties have recognized the importance of racial diversity among members of their Cabinets. *See*, *e.g.*, George W. Bush, Remarks on Hispanic Heritage Month (Oct. 9, 2002) ("[O]ur country is a strong country because of our diversity. . . . One of my jobs is to put together an administration that is talented; an administration here to serve the country, not themselves; an administration that reflects the diversity of our country. And I'm doing just that."), http://www.whitehouse.gov/news/releases/2002/10/20021009-1.html; William J. Clinton, Remarks to Corporate Leaders on the One America Initiative, 36 WEEKLY COMP. PRES. DOC. 754, 755 (Apr. 10, 2000) ("I'm proud of the fact that we have an administration that looks like America, with the most diverse Cabinet and staff in history.").
- America's armed forces, integrated by Executive Order in 1948, now place a premium on racial diversity – especially among the officer ranks. *See* Adam Clymer, *Service Academies Defend Use of Race in Their Admissions Policies*, N.Y. Times, Jan. 28, 2003, at A17 (reporting that racial minorities constitute 28 percent of enlisted personnel in the Air Force, 44 percent in the Army); *id.* ("We want to build an officer corps [that] reflects the military services of which we are a part.") (quoting Dean of Admissions at Naval Academy).
- The country's largest and most successful businesses have promoted racial diversity. *See* Amicus Br. of 3M et al. in Supp. of Appellants at 1, *Grutter v. Bollinger* (6th Cir. 2001) (discussing efforts of Fortune 500 companies "to hire and maintain a diverse workforce, and to employ individuals of all backgrounds"); Amicus Br. of General Motors Corp.

in Supp. of Appellants at 30 & n.9, *Grutter v. Bollinger* (6th Cir. 2001) (quoting corporate CEOs on importance of diversity).

- America's leading academic institutions uniformly favor racial diversity in higher education. *See* Assoc. of American Universities, *AAU Diversity Statement on the Importance of Diversity in University Admissions* (Apr. 14, 1997), http://www.aau.edu/issues/Diversity4.14.97.html [hereinafter *AAU Diversity Statement*].
- Racial diversity is even valued on the frontiers of space exploration. *See NASA Management Challenges: Hearing Before House Subcomm. on Space & Aeronautics*, *Comm. on Science*, 107th Cong. __ (July 18, 2002) ("NASA continues to face challenges in its efforts to recruit scientists and engineers from a candidate pool that is representative of the Nation's diversity.") (statement of NASA Administrator Sean O'Keefe), http://www.house.gov/science/hearings/space02/jul18/okeefe.htm; *see also* Anne Hull, *Fallen Astronauts Spanned the Globe of Diversity*, Wash. Post, Feb. 2, 2003, at A1 ("The diversity of the crew – three white American men, a white American woman, a black American man, an Israeli national and an Indian immigrant – was what struck many Americans about [the Columbia space shuttle] tragedy.").

Even the United States, as *amicus* supporting Petitioners in these cases, does not dispute that promoting racial diversity is an important state interest. *See* Amicus Br. of United States in Supp. of Pet'r Grutter at 10. According to the United States: "Ensuring that public institutions, especially educational institutions, are open and accessible to a broad and diverse array of individuals, including individuals of all races and ethnicities, is an important and entirely legitimate government objective." *Id.* at 8.

Are all these leaders and institutions misguided in assessing their own interests, mistaken in stressing the importance of diversity to them and to the social order? Are they, as Petitioners assert, using race as a "stereotype" or "a proxy for . . . intellectual diversity that can be found directly in the different outlooks, backgrounds, experiences, and talents of each unique individual"? Br. of Pet'rs Gratz and Hamacher at 17. Hardly. The Court should take this evidence at face value – as reflecting a pervasive and abiding consensus that the differences as well as the similarities among us are a source of strength, that diversity enhances these institutions, that it defuses potential conflicts, and that it is an important social and governmental goal.

C. Racial diversity will pose a central challenge over the next century.

America faces significant challenges. Fueled by fertility rates and new waves of immigration, the populace will grow strikingly more diverse over the next several decades. In approximately fifty years, non-Hispanic whites will no longer constitute a majority of Americans. *See* U.S. Census Bureau, *Projections of the Resident Population by Race*, *Hispanic Origin*, *and Nativity: Middle Series*, *2050 to 2070*, *at* http://www.census.gov/population/projections/nation/summary/np-t5-g.pdf (Jan. 13, 2000); *see also* Katherine Q. Seelye, *U.S. of Future: Grayer and More Hispanic*, N.Y. Times, Mar. 27, 1997, at B16. In virtually all the largest states, in fact, people of color already represent 30% or more of the population. U.S. Census Bureau, *Demographic Trends in the 20th Century* 99 fig.3-16 (2002), http://www.census.gov/prod/2002pubs/censr-4.pdf.

Thus, the centrifugal forces, the potential for polarization with which American policymakers have so long contended, could well increase over the coming years. The point is not that we are on the brink of chaos. It is, rather, that managing our diversity, breaking down barriers, and creating leaders

who understand both our similarities and our differences has never been more important.

II. IN THE UNIVERSITY SETTING, THE GOVERNMENT HAS A COMPELLING INTEREST IN DEVELOPING COOPERATIVE LEADERSHIP AND PROMOTING CIVIC VALUES TO DEAL WITH THE CHALLENGES OF PLURALISM.

Considering the historical and contemporary role of diversity in society at large is a critical first step in the more particularized assessment of whether it is a compelling governmental interest in the context of higher education. Diversity is valuable in many contexts. But education is different – different from public contracting, different from employment, different from broadcasting, different from all the other settings in which this Court has considered issues of race. The unique place of education in American society, its centrality to the achievement of the national goals discussed above and to tackling the challenges and opportunities posed by the pluralism of American society, substantially elevates the importance of diversity in education.[5]

Universities are the training grounds for the leaders of American society. Their mission is to produce young men and women equipped to deal with the challenges of modern life and to better our social order, to provide an education in values as well as facts, to break down barriers to understanding and communication.

Confronted with the question of how best to educate its students and to fulfill its mission, the University of Michigan

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5. Indeed, in deferring to the judgment of educators, this Court has recognized the unique role of education. *See Univ. of Penn. v. EEOC*, 493 U.S. 182, 199 (1990); *Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 225 (1985); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 96 n.6 (1978) (Powell, J., concurring); *id.* at 90-92 (opinion of the Court).

concluded long ago that an applicant's race should be considered among many factors in the admissions process. In making this determination, the University reached the same educational judgment as countless public and private colleges and universities, including many of the nation's premiere schools. *See AAU Diversity Statement.* As these institutions concluded, fostering a diverse student body creates an educational community of individuals who bring different personal histories to their social interactions, to their extracurricular activities, and to their studies. It does not assume that race and ethnicity correlate with viewpoint, any more than geography and economic status do. Rather, by expanding the horizons of students who may not have previously interacted with those of different races and backgrounds, diversity in higher education enables students to share experiences and to learn firsthand how people are the same as well as how they differ. Decades of social science studies and experience by educators reveal that a diverse student body promotes engagement in an increasingly heterogeneous society, that it yields leaders capable of meeting the challenges posed by these social developments, and that it promotes effective citizenship in our pluralistic democracy.

A. A diverse student body cultivates leadership skills.

Beginning with the founding of America's first institution of higher education in 1636, colleges and universities have trained the nation's future leaders. Colleges, graduate programs, and professional schools seek to instill an appreciation for the insights of the great thinkers, deepen students' understanding of their chosen field of study, and refine their social skills. A central goal is to provide students with the tools for effective leadership.

Although the greatness of the nation is rooted in its racial and ethnic diversity, America in many ways remains a racially segregated society. Different racial and ethnic groups throughout the country generally live in separate communities and send their children to different schools. *See* Expert Report of Thomas Sugrue, *Gratz v. Bollinger*, No. 97-75321 (E.D. Mich.) & *Grutter v. Bollinger*, No. 97-75928 (E.D. Mich.), http://www.umich.edu/~urel/admissions/legal/expert/sugrutoc.html. University campuses present the first opportunity for many students to become acquainted with people of different backgrounds.

College and university students are at a formative stage in their personal and intellectual development. In addition to pursuing academic courses of study, undergraduate, graduate, and professional students are learning about the society they are about to enter, the workplaces they will confront, the people with whom they will interact in different aspects of their lives. *See* Expert Report of Patricia Gurin, *Gratz v. Bollinger*, No. 97-75321 (E.D. Mich.) & *Grutter v. Bollinger*, No. 97-75928 (E.D. Mich.), http://www.umich.edu/~urel/admissions/legal/expert/gurintoc.html [hereinafter Gurin Expert Report]. Providing white students a lily white environment, and minority students an exclusively minority environment – the prevailing pattern in many, if not most elementary and high schools – deprives them of the contacts they need to understand better the differences and similarities of people of varying backgrounds. Such environments are breeding grounds for stereotypes, which personal relationships can dispel. *Id.*

By contrast, learning in a diverse environment helps students develop greater self-awareness and facilitates cooperation and communication. *See* Alexander W. Astin, *Diversity and Multiculturalism on Campus: How Are Students Affected?*, 25 CHANGE 44, 44-49 (Mar./Apr. 1993); Gurin Expert Report, *supra*; Walter G. Stephan & Cookie White Stephan, *The Role of Ignorance in Intergroup Relations*, *in* GROUPS IN CONTACT: THE PSYCHOLOGY OF

DESEGREGATION 229, 243-249 (Norman Miller & Marilynn B. Brewer eds., 1984). Writing for a unanimous Court, Chief Justice Burger recognized over 30 years ago that educators should have discretion to take race into account "in order to prepare students to live in a pluralistic society." *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 16 (1971). *Cf. Linmark Assocs., Inc. v. Willingboro Township*, 431 U.S. 85, 94-95 (1977) ("[S]ubstantial benefits flow to both whites and blacks from interracial association. . . .") (citing *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205 (1972)).

Higher education contributes more than formal learning to the preparation of future leaders. As Justice Powell observed, the "'nation's future depends upon leaders trained through wide exposure'" to the views and values of classmates who reflect the diversity of American society. *Bakke*, 438 U.S. at 313 (opinion of Powell, J.) (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)). Political leaders who must deal with the pluralism of society need this type of grounding. Corporate leaders – running businesses, selling products, and promoting innovation for a diverse populace – likewise require a practical appreciation of the differences and similarities of both their colleagues and their customers. *See*, *e.g.*, Amicus Br. of General Motors Corp. in Supp. of Appellants at 14-21, *Grutter v. Bollinger* (6th Cir. 2001).

The contributions of a diverse learning environment to future leadership are significant in professional and graduate studies as well as college. Students preparing for professional practice benefit from training in environments that resemble the world in which they will work. Professional training enriched by the varied experiences of a diverse student body better prepares students to serve their communities. *See*, *e.g.*, *Sweatt v. Painter*, 339 U.S. 629, 634 (1950) ("The law school . . . cannot be effective in isolation from the individuals and

institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned."); *Bakke*, 438 U.S. at 313-14 ("An otherwise qualified medical student with a particular background – whether it be ethnic, geographic, culturally advantaged or disadvantaged – may bring to a professional school of medicine experiences, outlooks, and ideas that enrich the training of its student body and better equip its graduates to render with understanding their vital service to humanity.") (opinion of Powell, J.); *McLaurin v. Okla. State Regents for Higher Educ.*, 339 U.S. 637, 641 (1950) ("Our society grows increasingly complex, and our need for trained leaders increases correspondingly. Appellant's case represents, perhaps, the epitome of that need, for he is attempting to obtain an advanced degree in education, to become, by definition, a leader and trainer of others."). Preserving diversity in legal education is particularly imperative given the leadership roles that attorneys historically have assumed in government and other civic contexts.[6]

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6. Although the nation's law schools have achieved modest success in recruiting and retaining people of color – approximately 20% of the nation's law students are now non-white – racial minorities remain grossly underrepresented within the profession. For example, fewer than 2% of partners at the largest and most profitable firms in America are people of color. Lawyers for One America, *Bar None: Report to the President of the United States on the Status of People of Color and Pro Bono Services in the Legal Profession* 5 (July 2000), *available at* http://www.lfoa.org/barnone/index.htm. Minority representation among general counsels in the Fortune 500 is 2.8%. *Id.*

B. Colleges and universities promote civic engagement in a pluralistic society.

Education promotes the civic values necessary to deal with the diversity of American society, to advance the historic goal of national unity, and to draw strength from the pluralism of our society. As the "very foundation of good citizenship," *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954), education helps to "maintain[] the fabric of our society," *Plyler v. Doe*, 457 U.S. 202, 221 (1982). Schools are "an 'assimilative force' by which diverse and conflicting elements in our society are brought together on a broad but common ground . . . inculcating fundamental values necessary to the maintenance of a democratic political system." *Ambach v. Norwick*, 441 U.S. 68, 77 (1979) (citing John Dewey, DEMOCRACY AND EDUCATION 26 (1929)) (other citations omitted); *see also* Horace Mann, *The Importance of Universal*, *Free*, *Public Education*, *in* 1 THE PEOPLE SHALL JUDGE: READINGS IN THE FORMATION OF AMERICAN POLICY 589, 592-93 (1949) ("Education, . . . beyond all other devices of human origin, is the great equalizer of the conditions of men – the balance wheel of the social machinery. . . . [I]f this education should be universal and complete, it would do more than all things else to obliterate factitious distinctions in society.").

Among the civic skills learned in colleges and universities is the ability to consider different perspectives, to manage or avoid the conflicts that result from such differences, to understand where common ground lies, and to seek it. *See* Astin, *supra*; Gurin Expert Report, *supra*; Stephan & Stephan, *supra*. To be sure, a monolithic institution could teach such skills in the abstract. But it would provide little practical experience. And it is through such practical experience that students learn that differences among individuals and groups of people are not incompatible with the shared interests of the larger community. *See* Astin, *supra*; Gurin Expert Report, *supra*. They learn that they should not assume people of different races have different

views, that there very often is common ground, that imagined barriers to cooperation and communication are not real, and that real ones are not insurmountable. *See* Roxane Harvey Gudeman, *Faculty Experience with Diversity: A Case Study of Macalester College*, *in* DIVERSITY CHALLENGED 251, 258 (Gary Orfield ed., 2001); Astin, *supra*; Gurin Expert Report, *supra*. Colleges and universities further the overriding national interests discussed before by laying the foundations for such skills.

Graduates of institutions marked by diversity, including white students, recognize the value of studying in diverse environments. Former students of all races believe that living harmoniously and working effectively with members of other races and cultures are important skills, and most students consider diverse campus communities to have contributed to their abilities in this regard. William G. Bowen & Derek Bok, THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS 220-28 (1998). Among white students graduating from selective schools, almost 80 percent favor preserving diversity programs or emphasizing diversity more. *Id.* at 245.

The President of the United States has recognized how diversity in higher education contributes to American society. As the President noted:

> America is a diverse country, racially, economically, and ethnically. And our institutions of higher education should reflect our diversity. A college education should teach respect and understanding and goodwill. And these values are strengthened when students live and learn with people from many backgrounds.

George W. Bush, Remarks on the Michigan Affirmative Action Case (Jan. 15, 2003), http://www.whitehouse.gov/news/releases/2003/01/20030115-7.html. In a nation that has historically acknowledged the importance of unity and the

value of diversity, and that confronts formidable challenges in dealing with race and ethnicity – challenges that have confounded other societies – promoting diversity in higher education is a compelling interest.

C. Diversity at elite institutions of higher education yields unique benefits.

The benefits of promoting diversity at selective institutions are especially compelling in light of the relatively small pool of students from which they draw, the unique stature they enjoy, and the unparalleled opportunities they create. While not every captain of industry or notable government official is an alumnus of a top school or even a college graduate, a great proportion of the nation's prominent leaders studied at a relatively few elite colleges and universities. As proven training-grounds for the next generation of leadership, these institutions regard diversity as especially important. Minority students admitted to selective colleges and universities enjoy unique benefits from attending these institutions. In their seminal work on the effects of race-conscious admissions policies, William G. Bowen and Derek Bok observed that African-American students enrolled in selective schools were more likely to serve their community through civic leadership than their white classmates. Bowen & Bok, *supra*, at 160-73. Bowen and Bok concluded that minority students attending selective institutions receive "more encouragement and opportunity to lead civic activities" than students at other schools. *Id.* at 172. Accordingly, preserving diversity at selective colleges and universities not only enhances the experience of all students preparing for leadership, but also yields a cadre of future minority leaders.

The nation's premiere schools have a history and tradition of excellence that engenders immeasurable benefits for their students. High quality faculty, the prestige of the institutions, and the social networks established at elite institutions are important intangible advantages. *See Sweatt*,

339 U.S. at 634 (recognizing that "those qualities which are incapable of objective measurement but which make for greatness in a law school . . . [include] reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige").[7] Policies promoting diversity preserve access to elite institutions for those who are unlikely to benefit from other preference programs, like legacy admissions.

Many of these elite institutions are private, yet this Court's ruling could constrain their admissions policies as well. Title VI of the Civil Rights Act of 1964 could extend the Court's decision to virtually every private college and university in the nation.[8] A decision proscribing any

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7. Members of this Court appreciate the value of a prestigious degree. *See* Tony Mauro, *Corps of Clerks Lacking in Diversity*, USA Today, Mar. 13, 1998, at 12A ("During the past decade, the current justices have selected more than 130 clerks from Harvard and Yale law schools alone – almost half of the clerks during that time."); *see also Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 2000: Hearing Before a Subcomm. of the House Comm. on Appropriations*, 106th Cong. 40 (1999) ("Hiring for all of us . . . is meant to be a risk-free business. We cannot afford a mistake. I know that if somebody comes from Harvard Law School, Yale, Stanford, Chicago, . . . I can make a sounder, less risky judgment than I can make if somebody is coming from a law school that I have not had a lot of experience with . . . .") (testimony of Justice Souter).

8. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." This statutory proscription is coextensive with the prohibitions of the Equal Protection Clause and the Fifth Amendment. *See Alexander v. Sandoval*, 532 U.S. 275, 280-81 (2001) (citing *Bakke*, 438 U.S. at 287 (opinion of Powell, J.); *Bakke*, 438 U.S. at 325 (opinion of Brennan, White, Marshall, and Blackmun, JJ.)).

consideration of race in admissions could frustrate the efforts of these elite institutions to recruit and retain a student body that, in their educational judgment, furthers their respective missions. Moreover, such a holding could foreclose the best schools to a whole generation of future minority leaders. As America confronts the potential for increasing racial polarization, such a result would undermine our ability to meet the challenges of our growing diversity.

D. Justice Powell properly deferred to the judgment of educators regarding the value of diversity in higher education.

In *Bakke*, Justice Powell concluded that attaining a diverse student body "is a constitutionally permissible goal for an institution of higher education." *Bakke*, 438 U.S. at 311-12 (opinion of Powell, J.). His reasoning was premised on the consensus in the education community that a diverse campus community confers tangible educational benefits on students. *See id.* at 312-13. Recent empirical research confirms decades of experiences among educators, documenting the pedagogical value of diversity in the classroom and campus. *See*, *e.g.*, Mitchell J. Chang, *The Positive Educational Effects of Racial Diversity on Campus*, *in* DIVERSITY CHALLENGED 175, 175-86 (Gary Orfield ed., 2001); Bowen & Bok, *supra*, at 53-90; Astin, *supra*; Gurin Expert Report, *supra*.

Each college and university environment is unique, and the pool of applicants seeking admission varies from year to year. Education professionals, charged with the responsibility of preparing the nation's future leaders, formulate their admissions policies to respond to each institution's needs. At the University of Michigan and elsewhere, race is only one of many factors considered in admissions decisions. The Court should be loath to constrain education professionals in making these important decisions, particularly when those decisions have a reasoned, empirical basis.

This Court has long recognized the wisdom of deferring to the informed and independent decisions of educators. *See Swann*, 402 U.S. at 16 ("School authorities are traditionally charged with broad power to formulate and implement educational policy . . . ."); *Ewing*, 474 U.S. at 225 ("[J]udges . . . asked to review the substance of a genuinely academic decision . . . should show great respect for the faculty's professional judgment."); *Univ. of Penn.*, 493 U.S. at 199; *Horowitz*, 435 U.S. at 96 n.6 (Powell, J., concurring); *id.* at 90-92 (opinion of the Court). It is particularly appropriate to exercise such deference here, where the basic task of higher education is so central to the historic goal of fostering national unity, where the educational judgments reflect and implement a broad national consensus on the value of diversity, and where the challenges of dealing with racial justice are critical to our national success in the 21st century.

III. PERCENTAGE PLANS FAIL TO ACCOUNT HONESTLY AND EFFECTIVELY FOR THE SIGNIFICANCE OF RACE IN AMERICAN LIFE.

Petitioners argue in the alternative that the University of Michigan has not narrowly tailored its admissions criteria to achieve the goal of diversity in higher education. Specifically, they characterize the University's affirmative action programs as a system of permanent and rigid quotas inconsistent with the Court's precedents. Moreover, Petitioners and several *amicus* parties assert that the University neglected to consider race-neutral alternatives to ensuring diversity – including so-called percentage plans, which guarantee admission to highly-ranked students at in-state high schools.

These arguments ignore the reasons that diversity in higher education is a compelling interest – that it is essential to deal with the burgeoning challenges of a diverse population, to avoid the conflicts that have plagued other ethnically diverse societies, and to harness diversity as a great strength of the American polity. Percentage plans are not

tailored – narrowly or otherwise – to further these goals. In fact, they would impede these objectives. The plans employ subterfuge to achieve diversity, akin to "racial gerrymandering" that this Court has disapproved in other contexts. It is difficult to imagine that deflecting issues of race, failing to deal with them honestly, is a valid way to meet the challenges of America's growing diversity, much less the path that the Constitution mandates.

A. Percentage plans are ill-suited to achieving racial diversity.

Much of the recent debate over affirmative action has focused on percentage plans, employed in California, Texas, and Florida since those states abandoned overtly race-conscious admissions policies. The United States, in its *amicus* briefs to this Court, touts these programs as a highly effective solution to the problems posed by both the under-representation of minorities and race-conscious measures. *See*, *e.g.*, Amicus Br. of the United States in Supp. of Pet'r Grutter at 20 ("Such programs have produced school systems to which minorities have meaningful access and are represented in significant numbers, as the experience in Texas, Florida, and California demonstrates.").

These programs do not advance the compelling interest of diversity in institutions of higher education, and potentially obstruct, rather than further, the charge of those institutions. *See generally* Catherine L. Horn & Stella M. Flores, *Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences* (2003), http://www.civilrights project.harvard.edu/research/affirmativeaction/tristate.pdf; U.S. Commission on Civil Rights, *Beyond Percentage Plans: The Challenge of Equal Opportunity in Higher Education* (2002), http://www.usccr.gov/pubs/percent2/main.htm; Michelle Adams, *Isn't It Ironic?: The Central Paradox at the Heart of "Percentage Plans"*, 26 OHIO ST. L.J. 1729 (2001). In terms of the role of higher education in meeting the challenges of diversity in America, there is no evidence

that these measures train leaders, or promote civic values, or advance constructive dialogue about racial justice.

1. Percentage plans undercut diversity by relying on continuing educational segregation.

There is no consensus about whether percentage plans actually offset the declines in minority enrollment when educators abandon affirmative action programs. *Compare* Amicus Br. of the United States in Supp. of Pet'r Grutter at 14-17 *with* Horn & Flores, *supra*, at 58-59. The populations of the states that rely on percentage plans have grown increasingly diverse, especially among college-age students, since the plans were first introduced. *See* Horn & Flores, *supra*, at 25. Arguably, the purported success of these plans in restoring minority student enrollment fails to account for the growth of minority groups. *See*, *e.g.*, Marta Tienda et al., *Closing the Gap?: Admissions & Enrollments at the Texas Public Flagships Before and After Affirmative Action* 41 (2003), http://www.texastop10.princeton.edu/publications/tienda012103.pdf. But even if they succeed at a superficial level, however, percentage plans work at cross-purposes with the goal of diversity in education.

Percentage plans grant automatic admission to students who rank above a certain academic threshold relative to their classmates in a particular school. To the extent that they function as any type of "alternative" to affirmative action programs, percentage plans capitalize on enduring patterns of residential and educational segregation. Minority students are admitted through such plans because they compete with their overwhelmingly minority classmates for a limited number of guaranteed positions. Indeed, it is probably not coincidental that percentage plans have provided a degree of racial diversity in higher education only in states with some of the largest – and highly segregated – minority populations in the country. *See* U.S. Census Bureau, *Quickfacts: California* (2002) (people of color constitute 53.3% of population), *at* http://quickfacts.census.gov/qfd/states/06000.html; U.S. Census Bureau, *Quickfacts: Texas* (2002) (47.6%), *at* http://quickfacts.census.

gov/qfd/states/48000. html; U.S. Census Bureau, *Quickfacts: Florida* (2002) (34.6%), *at* http://quickfacts.census.gov/qfd/states/12000. html; *see also* Lewis Mumford Ctr. for Comparative Urban & Residential Research, *Metropolitan Area Rankings: Populations of All Ages* (comparative data on residential segregation by metropolitan area), http://mumford1.dyndns. org/cen2000/WholePop/WPsort.html.

In spite of the elimination of legal barriers to residential integration, America's neighborhoods are highly segregated by race. *See* John Iceland & Daniel H. Weinberg, U.S. Census Bureau, *Racial and Ethnic Residential Segregation in the United States: 1980 – 2000*, at 4 (2001) ("Despite . . . declines, residential segregation was still higher for African Americans than for the other groups across all measures. Hispanics or Latinos were generally the next most highly segregated. . . ."), http://www.census.gov/hhes/www/housing/resseg/pdf/censr-3.pdf. And the result of the ascendancy of neighborhood schooling is that residential segregation corresponds overwhelmingly with racially isolated public schools and school districts. *See* Erica Frankenberg et al., *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* at 30-34 (2003), http://www.civilrightsproject.harvard.edu/research/reseg03/AreWeLosingtheDream.pdf. Among student bodies at most individual primary and secondary schools in America, racial homogeneity is the norm rather than the exception.

Intentionally or not, percentage plans place a premium on the continuation of such segregated schooling. They cannot ensure a meaningful level of diversity unless members of the same race compete against one another for the same selective positions. Thus, measures designed to break down racial isolation in early education potentially undercut racial diversity at the college and university level. A program for college admissions that relies on racial segregation as its linchpin is contrary to national policy and ultimately an

unsatisfactory way to deal with the national challenges of diversity. But such reliance is the *sine qua non* for an effective percentage plan.

2. Percentage plans override the individualized judgment of educators and admissions officials.

In arguing that the University of Michigan's admission program is not narrowly tailored to achieve the educational benefits of diversity, Petitioners assert that schools can ensure greater diversity of experience and outlook by relying on race-neutral alternatives to affirmative action. *See* Br. of Pet'r Grutter at 48. But percentage plans do not fulfill the promise of an individualized assessment for each and every applicant. In truth, percentage plans are a far cruder alternative than considering race as one of many factors in admissions decisions.

Percentage plans are a blunt instrument that would displace the complex and particularized decision-making processes of admissions officers. Instead of seeking individuals of all races who have demonstrated leadership potential, these programs grant automatic admission to students based solely on their class rank, regardless of the quality of their school. They elevate class rank, an unreliable measure of potential, over all other considerations. In fact, percentage plans suffer from a host of deficiencies that Petitioners attempt to lay at the door of the University of Michigan's admissions program: they employ rigid numerical quotas; they automatically guarantee admission to select minority students regardless of other factors; and they lack a natural stopping point. *See id.* at 38-42.

B. America must confront race honestly.

A key to America's success has been its ability to meet the challenges posed by diversity in all its forms. As noted above, this nation historically has sought national unity by embracing its diversity, and higher education has played and

continues to play a crucial role in that process. Programs that seek to increase minority representation through subterfuge are not consistent with this goal. They are not a likely avenue to dealing successfully with the challenges of diversity. Despite the claims to the contrary, percentage programs are not race-neutral. They have a racially disparate impact, and are *intended* to have a racially disparate impact.[9] In this Court's jurisprudence, both intent and impact play a role in assessing whether a program is truly "race-neutral." *See*, *e.g.*, *Shaw v. Reno*, 509 U.S. 630, 641 (1993).

It is ironic, to say the least, that Petitioners chastise the University of Michigan and other proponents of affirmative action programs for being dishonest in their advocacy of racial diversity. *See* Br. of Pet'rs Gratz and Hamacher at 47 ("[T]he use of 'diversity' as a rationalization has led to the diminution of integrity in our institutions before the nation and even before this Court."). By promoting ostensibly race-neutral alternatives in order to replicate the gains in diversity under affirmative action, *see*, *e.g.*, Amicus Br. of the United States in Supp. of Pet'r Grutter at 14-17, Petitioners undercut the goals of diversity in the first place. Such advocacy teaches that racial diversity, an imperative in modern American life, must be publicly maligned as a goal even while it is privately engineered. And they force school administrators to manipulate admissions criteria to achieve a desired outcome.[10]

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9. In the case of Florida, for example, officials settled on a 20% percentage plan after concluding that a lower threshold would not offset the consequences of eliminating race-conscious admission criteria. *See* Jeffrey Selingo, *What States Aren't Saying About the 'X-Percent Solution'*, CHRON. OF HIGHER ED., June 2, 2000, at A31.

10. As constituted in three states, percentage plans bear a disconcerting resemblance to "grandfather clauses" and "racial gerrymandering" employed by foes of racial integration. *See*, *e.g.*, *Guinn v. United States*, 238 U.S. 347 (1915); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960); *see also* Amicus Br. of Center for New Black

(Cont'd)

However this Court rules, race will continue to play a prominent role in American life. Either the nation can confront race honestly, by acknowledging that racial diversity is an affirmative value that should be considered in a variety of contexts, or it can employ a euphemistic policy that obstructs useful dialogue.

There is no one solution to the many challenges that diversity poses. Promoting a society where individuals of all backgrounds and upbringings enjoy genuine opportunity requires consideration of many different approaches. Indeed, a number of the race-neutral "alternatives" put forth in these cases – promoting minority participation in college preparatory programs, for example – are not in any way inconsistent or mutually exclusive with race-conscious admissions policies. *Compare*, *e.g.*, Amicus Br. of the State of Florida and Governor Jeb Bush in Supp. of Pet'rs at 10-16, *with* Advisory Board of the President's Initiative on Race, *One America in the 21st Century: Forging a New Future* 61-64 (1998), http://thataway.org/dialogue/res/docs/advbdreport.pdf.

This Court can meaningfully contribute to the debate in the education community over the importance and proper role of diversity. Or it can brusquely end it, forcing colleges and universities, both public and private, to abandon diversity as a goal or to contrive alternatives that are neither forthright nor demonstrably effective. To adopt the latter approach would interpose a rigidity that will inevitably hinder educators and policymakers from dealing constructively with one of the most complex, difficult, and perilous issues confronting American society.

(Cont'd)
Leadership in Supp. of Pet'rs at 13 (arguing that percentage plans are "gerrymandered to achieve . . . a particular racial and ethnic result"). Though constitutional, these programs are a convoluted and far less effective approach to harnessing racial diversity.

CONCLUSION

For the foregoing reasons, LCCR and the LCCR Education Fund respectfully request that the Court affirm the judgment entered by the Sixth Circuit in favor of the University of Michigan in *Grutter v. Bollinger*, 288 F.3d 732 (6th Cir. 2002), and affirm in part and reverse in part the judgment entered by the district court in *Gratz v. Bollinger*, 122 F. Supp. 2d 811 (E.D. Mich. 2000).

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* Counsel would like to recognize the significant contributions of Laura Riposo VanDruff to this brief.

APPENDIX

Member Organizations, Leadership Conference on Civil Rights

A. Philip Randolph Institute

AARP

Affiliated Leadership League of and for the Blind of America

African Methodist Episcopal Church

African Methodist Episcopal Zion Church

Alaska Federation of Natives

Alaska Inter-Tribal Council

Alliance for Retired Americans

Alpha Kappa Alpha Sorority, Inc.

Alpha Phi Alpha Fraternity, Inc.

American Association for Affirmative Action

American Association for People with Disabilities

American Association of University Women

American Baptist Churches, U.S.A. — National Ministries

American Civil Liberties Union

American Council of the Blind

American Ethical Union

American Federal of Government Employees, AFL-CIO

American Federation of Labor — Congress of Industrial Organizations

American Federation of State, County & Municipal Employees, AFL-CIO

American Federation of Teachers, AFL-CIO

Appendix

American Jewish Committee

American Jewish Congress

American Nurses Association

American Postal Workers Union, AFL-CIO

American Society for Public Administration

American Speech-Language-Hearing Association

American-Arab Anti-Discrimination Committee

Americans for Democratic Action

Anti-Defamation League of B'nai B'rith

Asian Pacific American Labor Alliance

Associated Actors and Artists of America — AFL-CIO

Association for Education and Rehabilitation of the Blind and Visually Impaired

Building & Construction Trades Department — AFL-CIO

Catholic Charities, USA

Center for Community Change

Center for Women Policy Studies

Children's Defense Fund

Church of the Brethren — World Ministries Commission

Church Women United

Coalition of Black Trade Unionists

Common Cause

Communications Workers of America

Community Transportation Association of America

Congress of National Black Churches

Delta Sigma Theta Sorority, Inc.

Appendix

Disability Rights Education and Defense Fund, Inc.

Division of Homeland Ministries-Christian Church (Disciples of Christ)

Epilepsy Foundation of America

Episcopal Church — Public Affairs Office

Evangelical Lutheran Church in America

Families USA

Federally Employed Women

Feminist Majority

Friends Committee on National Legislation

GMP International Union

Hadassah, The Women's Zionist Organization of America

Hotel and Restaurant Employees and Bartenders International Union

Human Rights Campaign

Improved Benevolent and Protective Order of Elks of the World

Industrial Union Department — AFL-CIO

International Association of Machinists and Aerospace Workers

International Association of Official Human Rights Agencies

International Brotherhood of Teamsters

International Human Rights Law Group

International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL-CIO

International Union, United Automobile Workers of America

Appendix

Iota Phi Lambda Sorority, Inc.

Japanese American Citizens League

Jewish Community Centers Association

Jewish Council for Public Affairs

Jewish Labor Committee

Jewish Women International

Judge David L. Bazelon Center for Mental Health Law

Kappa Alpha Psi Fraternity

Labor Council for Latin American Advancement

Lawyers Committee for Human Rights

Lawyers' Committee for Civil Rights Under Law

League of Women Voters of the United States

Mashantucket Pequot Tribal Nation

Mexican American Legal Defense and Educational Fund

Na'Amat-USA

NAACP Legal Defense and Educational Fund, Inc.

National Alliance of Postal & Federal Employees

National Asian Pacific American Legal Consortium

National Association for Equal Opportunity in Higher Education

National Association for the Advancement of Colored People

National Association of Colored Womens Clubs, Inc.

National Association of Community Action Agencies

National Association of Community Health Centers

National Association of Human Rights Workers

Appendix

National Association of Negro Business & Professional Women's Clubs, Inc.

National Association of Protection and Advocacy Systems

National Association of Social Workers

National Bar Association

National Black Caucus of State Legislators

National Catholic Conference for Interracial Justice

National Coalition on Black Civic Participation

National Committee on Pay Equity

National Conference of Black Mayors, Inc.

National Congress for Community Economic Development

National Congress for Puerto Rican Rights

National Congress of American Indians

National Council of Catholic Women

National Council of Churches of Christ in the U.S.

National Council of Jewish Women

National Council of La Raza

National Council of Negro Women

National Council on Independent Living

National Education Association

National Employment Lawyers Association

National Fair Housing Alliance

National Farmers Union

National Federation of Business and Professional Women Clubs, Inc.

National Federation of Filipino American Associations

Appendix

National Gay & Lesbian Task Force

National Institute for Employment Equity

National Korean American Service and Education Consortium, Inc.

National Legal Aid & Defender Association

National Low Income Housing Coalition

National Neighbors

National Office for Black Catholics

National Organization for Women

National Partnership for Women & Families

National Political Congress of Black Women, Inc.

National Post Office Main Handlers, Watchmen, Messengers & Group Leaders

National Puerto Rican Coalition

National Sorority of Phi Delta Kappa, Inc.

National Urban League

National Women's Law Center

National Womens Political Caucus

Native American Rights Fund

Newspaper Guild

NOW Legal Defense and Education Fund

Omega Psi Phi Fraternity, Inc.

Organization of Chinese Americans, Inc.

PACE International Union

People For the American Way

Phi Beta Sigma Fraternity, Inc.

Presbyterian Church, (USA)

Project Equality, Inc.

Puerto Rican Legal Defense and Education Fund, Inc.

Retail Wholesale & Department Store Union, AFL-CIO

Service Employees International Union

Sigma Gamma Rho Sorority, Inc.

Southeast Asia Resource Action Center

Southern Christian Leadership Conference

The Association of Junior Leagues, Inc.

The Association of University Centers on Disabilities

The Justice Project

The National Conference for Community and Justice

The National PTA

Union of American Hebrew Congregations

Unitarian Universalist Association

UNITE!

United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry

United Brotherhood of Carpenters and Joiners of America

United Church of Christ — Commission for Racial Justice Now

United Farm Workers of America, AFL-CIO

United Food and Commercial Workers International Union

United Methodist Church — General Board of Global Ministries Women's Division

United Methodist Church — General Board of Church and Society

Appendix

United Mine Workers of America
United Rubber, Cork, Linoleum & Plastic Workers of America
United States Student Association
United Steelworkers of America
United Synagogue of Conservative Judaism
U.S. Catholic Conference
Women of Reform Judaism
Women's American ORT
Women's International League for Peace and Freedom
Workers Defense League
Workmen's Circle
YMCA of the USA, National Board
YWCA of the USA, National Board
Zeta Phi Beta Sorority, Inc.

Other Signatories to this Brief

National Association of Black Owned Broadcasters
Inner City Broadcasting Corporation