

## **Race-Conscious Admissions Programs: The Court of Public Opinion**

Dennis J. Murray

On April 1 the Supreme Court began hearing oral arguments on two cases challenging how the University of Michigan uses race in its undergraduate and law school admissions processes. The case is being closely watched in higher education circles because virtually all of our nation's selective colleges and universities have embraced the goal of having diverse student bodies.

In order to attain this goal, our schools have relied on the 1978 Supreme Court decision in *Regents of the University of California v. Bakke* to fashion their admissions programs. In the *Bakke* case, the majority of the court held that quotas and set-asides are illegal, but that "the State has a substantial interest that legitimately may be served by a properly devised admissions program involving the competitive consideration of race and ethnic origin." Unfortunately, the court provided only limited guidance on what constitutes a "properly devised admissions program," and for a number of years legal scholars and educators have argued over its meaning. Not surprisingly, in the intervening years a number of schools have found themselves in court defending their interpretation of the *Bakke* decision.

Beginning in 1997, the Marist College Institute for Public Opinion has measured Americans' attitudes toward college and university admissions policies. In Marist's most recent national survey on this issue, both the plaintiffs and the defendant in the Michigan case can find public support for certain aspects of their positions.

The plaintiffs in the case, white students who were rejected for admission, maintain they were considered less favorably because of their race and thus were denied equal protection under the 14<sup>th</sup> Amendment. They asked the court to enjoin the university from continuing what they believe to be a discriminatory practice and ultimately asked the court to overrule the *Bakke* decision.

In a brief filed in support of the plaintiffs, the United States acknowledges the importance of a diverse student body but maintains there are race-neutral alternatives to achieve this goal. In light of these alternatives, the United States believes the University of Michigan "cannot justify the express consideration of race in their admissions policy."

The defendant in the case, the University of Michigan, maintains the educational benefits resulting from a diverse student body are sufficiently compelling to permit the school to consider race in making admissions decisions. They believe their students learn better in a racially diverse environment, and ultimately society benefits from racially

diverse graduates. The university argues that the court's ruling in *Bakke* was correct, and that their admissions programs are "properly devised" in their consideration of race. Furthermore, the university argues that there are no viable race-neutral alternatives to achieve a diverse student body.

Hundreds of organizations and individuals have filed *amicus curiae* briefs supporting the University of Michigan. These include many colleges and universities as well as virtually all higher education associations. Briefs filed by major corporations, former military leaders, and attorneys general in several states argue a larger societal good comes from diverse student bodies that produce diverse college graduates. Several civil rights groups argue that the continued effects of racial discrimination must be addressed, and justify consideration of race in admissions decisions.

The good news in the Marist Poll for colleges and universities is the overwhelming majority of Americans understand the importance of a diverse student body as an integral part of an educational experience. Overall, 85 percent of Americans think living and learning among people of different interests, abilities, gender and racial backgrounds better prepares college students to live and work in society. This view is shared by individuals with different racial, gender, age, educational, political, geographic and economic backgrounds.

However, most Americans, including minorities, do not favor schools explicitly using a student's race as a factor in deciding whether or not to admit that student into a college or university. Eighty percent of all Americans and 64 percent of minorities oppose race-conscious admissions policies.

But it isn't only race-conscious decisions that people oppose. Americans most strenuously disapprove of colleges and universities considering the fame or wealth of an applicant's parents in the admissions process (92 percent). They also oppose consideration of a student's gender (83 percent), athletic ability (56 percent) or if an applicant's parent or grandparent graduated from the school to which the student is applying (75 percent).

When asked what should be considered in the admissions process, Americans strongly support a comprehensive approach that considers both quantitative and qualitative factors. Topping the list of quantitative factors are a student's high school grades (88 percent) and scores on standardized college entrance exams (85 percent). Among qualitative factors that most Americans support in the admissions decision process are recommendations from principals, teachers or counselors (85 percent); a student's leadership or service in the community (80 percent); a student's leadership or service in school (77 percent); and a student's artistic, musical or theatrical talent (73 percent).

Americans also believe that those who are economically disadvantaged should be given special consideration during the college admissions process. Seventy-eight percent of Americans believe that colleges and universities should use at least some effort to make up for a student's economic disadvantage when deciding who to admit to their schools. It is interesting to note that Americans, regardless of their income level, believe this special effort should be made.

It is difficult to predict how the Supreme Court may rule in the University of Michigan case. The court may uphold the *Bakke* decision and conclude the university's admissions policies are in compliance with it. It may decide the *Bakke* decision was incorrect and that race should never be considered when making admissions decisions. Or the court may leave the *Bakke* decision intact but reject the way the University of Michigan uses race in its admissions decisions. If the court makes the latter ruling, the justices should give colleges and universities clearer guidance on how race may be considered.

Regardless of how the court rules, it is clear the American people value diversity on our college campuses. If the court overturns *Bakke* or finds the University of Michigan's admissions program is not properly devised, the leaders of our colleges and universities must find constitutionally acceptable ways to continue diversifying our student bodies.

*Dr. Dennis J. Murray is President and Professor of Public Policy at Marist College in Poughkeepsie, New York.*

The Marist survey was conducted from January 27-31, 2003. 1,003 adults 18 years of age or older within the continental United States were interviewed by telephone. Telephone numbers were selected based on telephone exchanges from throughout the nation. The exchanges were selected to ensure that each region of the country was represented in proportion to its population. The results of the entire survey are statistically significant at  $\pm 3$  percent. The error margin increases for cross-tabulations. Complete survey results are available at <http://www.maristpoll.marist.edu/>.