

**Opening Statement of Ranking Member Robert C. "Bobby" Scott (VA-03)**

Subcommittee on Higher Education and Workforce Development

*"How SCOTUS's Decision on Race-Based Admissions is Shaping University Policies"*

2175 Rayburn House Office Building

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Thank you, Chairman Owens, and thank you to our witnesses for your testimony today.

Our nation still has a compelling interest in fostering racially diverse campuses, and the Supreme Court's ruling in the *Harvard* and *UNC* cases does not change that.

In fact, it was the Supreme Court, in 1978, in the *Bakke* (Bah-kee) decision that established that institutions could pursue a diverse student body to advance academic freedom and consider race as one of many factors to evaluate prospective candidates.

And, while the consideration of race as one of many factors in admissions is vital, it is important that we put the conversation in the appropriate context. Of the approximately 4,200 degree granting institutions in the United States, less than 100 selective schools consider race as a factor in admissions, and only 10 consider race as an important factor.

Before the adoption of race-conscious admissions policies at the University of Texas at Austin (UT) in 2005, Black students never made up more than 4.5 percent of the freshman class.

But following implementation of race-conscious admissions procedures, Blacks, Hispanics, and Asian Americans enrollment increased, as did classroom diversity.

Narrowly tailored, race-conscious admissions practices actually level the playing field and counterbalance discriminatory admissions factors that are otherwise in place, such as standardized tests and legacy admissions.

For example, the district court in the *Harvard* case illustrated how recruited athletes, legacy applicants, applicants whose family have a history of donating money to the school, and children of Harvard faculty make up a large percentage of each admitted class. In fact, while these applicants make up less than 5 percent of Harvard applicants every year, they constitute 30 percent of the applicants *admitted* each year. And nearly 70 percent of these applicants are White.

Research also shows that the standardized tests many institutions require for admissions have a discriminatory impact and, in fact, produce scores that correlate more with students' income, zip code, family wealth, socioeconomic background, and parents' educational attainment than the student's ability to succeed in college. To blindly allow their use in admissions without further examining the discriminatory effect is, in fact, unacceptable.

So, when my colleagues across the aisle say they want a system based on merit, I agree. But the problem is that the current system is not based solely on merit. And, without policies to counterbalance the discriminatory factors, the outcome of the system will remain discriminatory.

After the Supreme Court's ruling in June, the Administration's responsibility to eliminate disparities in higher education and achieve diverse learning environments did not end. And I called on the Department of Education to issue comprehensive guidance to ensure schools and colleges fulfill their Title VI obligations and address existing discriminatory factors in college admissions now that the discriminatory factors are not counterbalanced by affirmative action.

Now, one tool we could have to achieve equal opportunity would be the *Equity and Inclusion Enforcement Act*, which has been pending in Congress for several years and it would restore the private right of action for students and parents to bring disparate impact cases under Title VI.

We also have pending the *Strength in Diversity Act*, which Representative Jayapal and I reintroduced this Congress, to provide resources to states or school districts that want to voluntarily develop plans to integrate their public schools.

Finally, if we are serious about expanding access to higher education, then we must focus on ensuring that the system is available to all. That means instituting reforms, such as those that we have proposed in the *LOAN Act*, which would make going to college more affordable for both current and prospective college students.

Justice Sotomayor said it best in her dissent, "*Ignoring race will not equalize a society that is racially unequal. What was true in the 1860s, and again in 1954, is true today: Equality requires acknowledgment of inequality.*"

Thank you, Mr. Chairman, and I yield back the balance of my time.