

**RUTGERS UNIVERSITY - NEWARK**

**COMMUNITY ENGAGEMENT ADVISORY BOARD**

**NEWARK, NJ 07100**

**December 23, 2020**

**R-2023-2-10**

**MEMORANDUM FOR THE COMMUNITY ENGAGEMENT ADVISORY BOARD**

**FROM: Brian J. McDermott, External Advisor**

**SUBJECT: Continuing Affirmative Action (AA) at Rutgers University- Newark**

**Summary**

Rutgers – Newark has the opportunity to be on the forefront of change regarding fair and unbiased student admissions by rescinding affirmative action as it relates to student enrollment. Currently Rutgers Newark has achieved a level of diversity that many schools have been unable to match. The intent of affirmative action has been met and exceeded, now it is appropriate to remove the policy.

**Background**

Civil rights in regard to equal treatment of people had its inception in 1866 with the Civil Rights Act Section 1981, which stated that all persons shall have the same rights as white people, which led to the affirmative action as it stands today.<sup>1</sup> This is a broad issue that has made its way through appeals courts to the Supreme Court. Shortly, the case will be heard involving two universities' practices in admissions; Harvard and UNC. A factor contributing to the issue is contentions that unprotected classes have ceilings placed upon them by these Universities.<sup>2</sup> In both cases, unprotected classes, such as white and Asian students, were disadvantaged in the admissions process. As a result, these institutions were accused of gerrymandering to achieve quotas.<sup>3</sup> Another factor regarding this issue is that "Rutgers-Newark is one of the most diverse campuses in the country. The 7,700-undergraduate student body is 18 percent African-American,

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<sup>1</sup> Riccucci, N. M. (2021). *Managing Diversity in Public Sector Workforces* (2nd ed., p. 14). Routledge. <https://doi.org/2002>

<sup>2</sup> Liptak, A., & Hartacollis, A. (2022, October 31). Supreme Court will hear challenges to Affirmative Action at Harvard and U.N.C. *The New York Times*. <https://doi.org/02/02/2023>

<sup>3</sup> Liptak, A., & Hartacollis, A. (2022, October 31). Supreme Court will hear challenges to Affirmative Action at Harvsard and U.N.C. *The New York Times*. <https://doi.org/02/02/2023>

24 percent Latino, 25 percent white and 21 percent Asian—including many students from India, Bangladesh and the Middle East.”<sup>4</sup> It would appear that the quota has been met and exceeded.

### **Recommendations**

Therefore, it is my recommendation that Rutgers-Newark rescind the use of Affirmative Action in its student admissions. The University should revert to a system whereby all students are individually rated solely based on merit. You may find challenges to rescinding this policy based on the grounds that 40 years of legal precedent granting colleges and universities the freedom and flexibility to create diverse campus communities will be destroyed.<sup>5</sup> I counter that, Ruth Bader Ginsberg stated in her 2003 brief that with the affirmative action in place, there should then be no need for affirmative action because the balance should be in place with the rules in place within 25 years<sup>6</sup>. Rutgers-Newark has proven that to be true in a shorter time than anticipated. Furthermore, the case against Harvard was won by the plaintiff in 2020 and is making its way through appeals to the Supreme Court.<sup>7</sup> In preparation for such an unprecedented decision, a robust policy defining the criteria for admissions and how they would be scored for student admissions must be prepared and in place for scrutiny by the Legal Department and a robust media campaign should be prepared validating that this does not in any way diminish the fair and equal admission into Rutgers-Newark.

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<sup>4</sup> Kolodner, M. (2016, May 19). A University That Prioritizes the Students Who Are Often Ignored. *Atlantic*. <https://doi.org/5/2016>

<sup>5</sup>Liptak, A., & Hartacollis, A. (2022, October 31). Supreme Court will hear challenges to Affirmative Action at Harvard and U.N.C. *The New York Times*. <https://doi.org/02/02/2023>

<sup>6</sup> Liptak, A., & Hartacollis, A. (2022, October 31). Supreme Court will hear challenges to Affirmative Action at Harvard and U.N.C. *The New York Times*. <https://doi.org/02/02/2023>

<sup>7</sup> Riccucci, N. M. (2021). *Managing Diversity in Public Sector Workforces* (2nd ed., p. 21). Routledge. <https://doi.org/2002>