

No. 11-345

IN THE
Supreme Court of the United States

ABIGAIL NOEL FISHER,
Petitioner,

v.

UNIVERSITY OF TEXAS AT AUSTIN, *et al.*,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

**Brief of National League of Cities, Campus Compact,
Imagining America, Anchor Institutions Task Force,
Transformative Leadership Working Group, Center for
Democracy and Citizenship, Chancellor Nancy Cantor,
Superintendent Sharon Contreras, President Freeman
Hrabowski, President Scott Cowen, CEO Nolan Rollins,
Chancellor James Dworkin, Superintendent Glade
Montgomery, President Thomas Rochon, Superintendent
Luvelle Brown, President James T. Harris,
Superintendent Cheryl Cunningham,
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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
INTEREST OF THE <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT.....	7
ARGUMENT	9
I. THE URGENT CHALLENGES FACING THE NATION'S METROPOLITAN COMMUNITIES DEMAND THE PREPARATION OF EFFECTIVE, RACIALLY DIVERSE LEADERSHIP.....	9
A. Metropolitan Communities Are Vital to the Nation's Economic Recovery, and Must Rebuild Civic Capacity Amidst Declining Public Resources and Persistent Racial Divides.....	11
B. <i>Grutter's</i> Recognition of the Need to Prepare Racially Diverse Leadership Must Be Preserved to Meet the Challenges Facing Metropolitan Communities	19
II. HIGHER EDUCATION INSTITUTIONS ARE NECESSARY PARTNERS IN PREPARING EFFECTIVE, RACIALLY DIVERSE LEADERSHIP NECESSARY TO SOLVE METROPOLITAN PROBLEMS.....	26
A. Cultivating Diverse Civic Leaders and Professionals is Core to the Mission of Higher Education Institutions.....	26
B. Racially and Ethnically Diverse Student Bodies Are Crucial for the Educational Success of Leadership Development Programs.....	32

TABLE OF CONTENTS—Continued

C. If the Court Adopts A Narrow View of
Diversity’s Educational Benefits, Higher
Education’s Leadership and Legitimacy
Goals Would Be Imperiled 40

CONCLUSION 42

TABLE OF AUTHORITIES

CASES

<i>Grutter v. Bollinger</i> , 539 U.S. 306 (2003)	passim
<i>Keyishian v. Bd. of Regents of Univ. of State of N.Y.</i> , 385 U.S. 589 (1967)	10
<i>Regents of Univ. of Cal. v. Bakke</i> , 438 U.S. 265 (1978)	10
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Rose Asera, CALCULUS AND COMMUNITY: A HISTORY OF THE EMERGING SCHOLARS PROGRAM: NATIONAL TASK FORCE ON MINORITY HIGH ACHIEVEMENT (2001)	33
Alexander W. Astin & Helen S. Astin, <i>Leadership Reconsidered: Engaging Higher Education in Social Change</i> , W. K. Kellogg Foundation (2000)	26
RITA AXELROTH & STEVE DUBB, THE ROAD HALF TRAVELED: UNIVERSITY ENGAGEMENT AT A CROSSROADS (2010).....	30, 31
MARTIN BAILY et al., BUILDING A LONG TERM STRATEGY FOR GROWTH THROUGH INNOVATION (May 2012)	11, 14

TABLE OF AUTHORITIES—Continued

THE BROOKINGS INSTITUTE METROPOLITAN POLICY PROGRAM, THE STATE OF METROPOLITAN AMERICA: ON THE FRONTLINES OF DEMOGRAPHIC TRANSFORMATION (2010)..... 11, 13, 15, 17

PAUL C. BROPHY ET AL., RETOOLING HUD FOR A CATALYTIC FEDERAL GOVERNMENT (2009) 14, 29

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CEOS FOR CITIES, THE YOUNG AND THE RESTLESS IN A KNOWLEDGE ECONOMY (2011) 14

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Linda Darling-Hammond, *The Color Line in American Education: Race, Resources, and Student Achievement*, 1 DUBOIS REVIEW: SOCIAL SCIENCE RESEARCH ON RACE 213 (2004)... 17

Evellyn Elizondo et al., *High School Students’ Discourse on College Support Systems and College Readiness*, in RESEARCH ON SCHOOLS, NEIGHBORHOODS, AND COMMUNITIES 269 (William F. Tate ed., 2012)..... 25

JANET S. EYLER et al., AT A GLANCE: WHAT WE KNOW ABOUT THE EFFECTS OF SERVICE-LEARNING ON COLLEGE STUDENTS, FACULTY, INSTITUTIONS AND COMMUNITIES, 1993-2000 (2001) 36

TABLE OF AUTHORITIES—Continued

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Patricia Gurin et al., *The Benefits of Diversity in Education for Democratic Citizenship*, 60 JOURNAL OF SOCIAL ISSUES 17 (2004)..... 24, 37

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INITIATIVE FOR A COMPETITIVE INNER CITY, ANCHOR INSTITUTIONS AND URBAN ECONOMIC DEVELOPMENT: FROM COMMUNITY BENEFIT TO SHARED VALUE (2011).....	30
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John Kania & Mark Kramer, <i>Collective Impact</i> , STANFORD SOCIAL INNOVATION REVIEW (Winter 2011).....	13
Cheryl Keen & Kelly Hall, <i>Engaging with Difference Matters: Longitudinal Student Outcomes of Co-Curricular Service Learning Programs</i> , 80 JOURNAL OF HIGHER EDUCATION 59 (2009).....	38, 39

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NANCY MCARDLE, SEGREGATION AND EXPOSURE TO HIGH-POVERTY SCHOOLS IN LARGE METROPOLITAN AREAS: 2008-09 (2011) 17

ENRICO MORETTI, THE NEW GEOGRAPHY OF JOBS (2012) 15

NETTER CENTER FOR COMMUNITY PARTNERSHIPS, ANCHOR INSTITUTION TOOL KIT: A GUIDE FOR NEIGHBORHOOD REVITALIZATION (2008)..... 22

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Nitin Nohria & Rakesh Khurana, *Advancing Leadership Theory and Practice*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE, 3 (N. Nohria & R. Khurana eds., 2010) 27

SHAYLA NUNNALLY, TRUST IN BLACK AMERICA: RACE, DISCRIMINATION AND POLITICS (2012)..... 21

NYC Lauds Fort Richmond Partnership, <http://www.wagner.edu/newsroom/node/385> (2012) 39

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PENN INSTITUTE FOR URBAN RESEARCH, ANCHOR INSTITUTIONS AS PARTNERS IN BUILDING SUCCESSFUL COMMUNITIES AND LOCAL ECONOMIES (2009)..... 30

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TURNAROUND MODEL FOR COLLEGE AND CAREER
SUCCESS (2010) 31

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BLACK-WHITE MOBILITY GAP (Pew Charitable
Trusts 2009)..... 15

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Unum? Changing Geography of Race and
Opportunity, in THE GEOGRAPHY OF
OPPORTUNITY: RACE AND HOUSING CHOICE IN
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Briggs ed., 2005)..... 15

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POSSIBILITY INTO AND THROUGH HIGHER
EDUCATION (2011)..... 25

SUSAN STURM & NANCY CANTOR,
TRANSFORMATIVE LEADERSHIP FOR A MORE JUST
SOCIETY: REVITALIZING HIGHER EDUCATION’S
ROLE (2011)..... 31, 34

SUSAN STURM ET AL., FULL PARTICIPATION:
BUILDING THE ARCHITECTURE FOR DIVERSITY
AND PUBLIC ENGAGEMENT IN HIGHER
EDUCATION (2011)..... 32

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TABLE OF AUTHORITIES—Continued

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FORECAST (June 2011)..... 13

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2008-2009..... 28

ROBERT WEISSBOURD, CITIES AND ECONOMIC
PROSPERITY: A DATA SCAN ON THE ROLE OF
CITIES IN REGIONAL AND NATIONAL ECONOMIES 2
(2001) 12

INTEREST OF THE *AMICI CURIAE*¹

Amici are national organizations, higher education leaders, and public sector leaders who share an *interest* in developing higher education-public sector partnerships in areas crucial to the revitalization of metropolitan communities. *Amici* are deeply invested in racial diversity in higher education admissions for its role in building public leadership and civic engagement. *Amici* depend upon a diverse student body for the success of their collaborations, as well as their ability to develop diverse leaders. The Court's decision in this case could have a substantial effect on *Amici's* ability to advance their educational and public mission and to involve diverse leadership who are equipped to tackle the tough public problems facing metropolitan communities today. *Amici* have a strong interest in preserving higher education institutions' use of racial diversity as a factor in student admissions.

National League of Cities (NLC) is the oldest and largest organization representing municipal governments throughout the United States. NLC works in partnership with 49 state municipal leagues, serving as a national advocate for the more than 19,000 cities, villages, and towns that it represents. NLC's members work closely with higher education institutions in their communities

¹ *Amici* submit this brief on behalf of Respondents. All parties have consented to the filing of this *amicus curiae* brief. In accordance with Rule 37.6. *Amici* state that no counsel for any party has authored any portion of this brief and no person or entity other than *Amici* signing this brief and their counsel made a monetary contribution to the preparation or submission of this brief.

and look to higher education institutions across the country to supply racially diverse students and college graduates for the many roles needed to meet their public responsibilities.

Campus Compact is a nation-wide coalition of almost 1,200 college and university presidents who are committed to fulfilling the public purpose of higher education. Campus Compact believes that colleges and universities are vital agents and architects of a diverse democracy, committed to educating students for responsible citizenship and to working in partnership with communities to improve the quality of life for all.

Imagining America: Artists and Scholars in Public Life (IA) is a national consortium comprised of over 90 higher education institutions that have built partnerships with communities aimed at advancing the public good and have made a commitment to advancing knowledge and creativity through publicly engaged scholarship that draws on humanities, arts, and design. IA's members seek to advance the full participation of diverse communities, particularly those historically left out of educational and civic participation.

Anchor Institutions Task Force (AITF), with over 180 members, brings together leaders of anchor institutions and other partners to enhance how colleges, universities, and other anchor institutions address local needs and strengthen democratic, mutually beneficial partnerships. The AITF provides tools to anchor institutions to help students develop as democratic citizens who are lifelong

contributors to communities and the nation's well being.

Transformative Leadership Working Group (TLWG), convened and funded by the Ford Foundation, brings together successful and visionary higher education and community leaders with a track record of innovative leadership development work related to fulfilling higher education's mission of addressing urgent problems facing diverse communities.² TLWG was charged with exploring how the next generation of leaders within key social and political institutions should be equipped and energized to tackle the challenges facing our nation.

² The working group members, serving in their individual capacity, are: Nancy Cantor, Chancellor of Syracuse University (co-chair); Susan Sturm, George M. Jaffin Professor of Law and Director of the Center for Institutional and Social Change at Columbia Law School (co-chair); Shirley Collado, Dean of the College, Middlebury College; Mildred Garcia, President of California State University, Fullerton; Richard Gray, Director, Community Organizing and Engagement, Annenberg Institute for School Reform at Brown University; Freeman Hrabowski, President, University of Maryland, Baltimore County; Rakesh Khurana, the Marvin Bower Professor of Leadership Development at Harvard Business School; Nicholas Lemann, Dean and Henry R. Luce Professor at the Columbia University Graduate School of Journalism; Earl Lewis, Provost of Emory University; Martha Minow, Dean of Harvard Law School; Robert Moses, President and Founder of the Algebra Project; George Sanchez, Vice Dean for Diversity and Strategic Initiatives at University of Southern California; Ellen Schall, Dean of NYU Wagner School; Abigail Stewart, Professor and Director of University of Michigan ADVANCE Program; and, Beverly Daniels Tatum, and President, Spelman College.

Center for Democracy and Citizenship, directed by Harry Boyte, is a leading center for developing theory and practice of productive citizenship, or public work to create a successful, vibrant democracy as the responsibility of all citizens.

Nancy Cantor is Chancellor of Syracuse University and a prominent social psychologist. Through partnerships with the public, private and non-profit sectors, Syracuse University creates meaningful opportunities for students and faculty to learn and discover, while tackling pressing local and global issues including urban school reform. Diversity is a crucial aspect of SU's mission. Chancellor Cantor is the recipient of the 2008 Carnegie Corporation Academic Leadership award based on her national leadership on civic engagement.

Sharon Contreras is the Superintendent of the Syracuse City School District (SCDC), which is one of the largest in the state of New York. With over 19,000 students in grades K-12, it is highly diverse (53% black, 28% white, 12% Hispanic, 6% Asian, and 1% Native American/Alaskan). SCDC partners with Syracuse University to provide diverse and well-prepared student teachers and educational professionals, increase access to college for its diverse student body and build a college-going culture for all students.

Freeman A. Hrabowski, III, is President of University of Maryland, Baltimore County. He co-founded the Meyerhoff Scholars Program. Recognized as a national model, the program is open to all high-achieving students committed to pursuing

advanced degrees and research careers in science and engineering, and advancing underrepresented minorities in these fields. President Hrabowski chaired the National Academies' committee that produced the recent report, *Expanding Underrepresented Minority Participation: America's Science and Technology Talent at the Crossroads*. In 2012, he was named chair of the newly created President's Advisory Commission on Educational Excellence for African Americans.

Scott S. Cowen is the President of Tulane University. Under President Cowen's leadership, Tulane launched Tulane Empowers, which commits the institution to social innovation and the development of the next generation of community-minded citizens and leaders. President Cowen received the 2009 Carnegie Corporation Academic Leadership Award and is a member of the White House Council for Community Solutions, which advises the President on the best ways to mobilize citizens, and the public and private sector to address community needs. President Cowen works with the Urban League of Greater New Orleans, which is partnering with Tulane University to ensure that minorities are represented in higher education.

Nolan Rollins is the President and CEO of the Urban League of Greater New Orleans, which was founded in 1938 to advocate better race relations and improve the social and economic standing of African Americans in the New Orleans area.

James B. Dworkin is Chancellor of Purdue University North Central and Chair of the Board of Directors of Campus Compact. Purdue University

North Central is committed to promoting community service, civic engagement and service learning in higher education with its many community partners, including the LaPorte Community Schools.

Glade T. Montgomery is the Superintendent of the LaPorte Community Schools in LaPorte, Indiana, which serves a diverse population (White 79%; Hispanic 12%; Multiracial 5%; Black 3%; Free/Reduced Lunch 50%). The LaPorte Community Schools partners with Purdue University North Central in dual credit/concurrent enrollment classes where high school juniors and seniors can earn both high school and college credit.

Thomas Rochon is President of Ithaca College. His book, *Culture Moves: Ideas, Activism, and Changing Values*, received a Distinguished Scholarship Prize from the American Sociological Association. Ithaca College has a series of collaborations with the Ithaca City School District, designed to improve student learning and college access and to create opportunities for engaged learning at Ithaca College.

Luvelle Brown is the Superintendent of the Ithaca City School District. Dr. Brown stresses raising the academic bar and eliminating achievement gaps in its dozen schools with a highly diverse enrollment (68% white, 12% African American, 5% Hispanic and 12% Asian). Dr. Brown has engaged the university community, establishing partnerships with Cornell University, Ithaca College and Tompkins County Community College. As a result, many students are graduating with multiple college credits.

James T. Harris III is President of Widener University. He is the recipient of the 2011 Chief Executive Leadership Award from the Council for Advancement and Support of Education. Widener University is a private, metropolitan university that connects curricula to social issues through civic engagement. Widener was the lead institution in the founding of the Chester Higher Education Council which created the Delaware County College Access Center.

Cheryl Cunningham is the Executive Director of the Chester Education Foundation. The mission of the Chester Education Foundation is to support educational excellence and promote the revitalization of the Chester Upland community.

SUMMARY OF ARGUMENT

In *Grutter v. Bollinger*, the Supreme Court held that higher education institutions have a compelling interest in preparing students for the leadership and citizenship necessary to maintain the “fabric of our society,” and that this leadership and citizenship imperative justifies the use of race in higher education admissions. *Grutter v. Bollinger*, 539 U.S. 306, 331 (2003). *Amici* submit that the challenges facing our nation’s metropolitan communities today demand racially diverse leadership with legitimacy and skills of the kind that the *Grutter* Court recognized as necessary. Metropolitan communities, with cities as the hub, are vital to the nation’s economic recovery. Their leadership must figure out how to attract college graduates and engage

increasingly racial and ethnically diverse communities. They must also confront the problem of racial and economic isolation, which threatens the economic and social well-being of their communities, and structures access to opportunity along racial and ethnic lines. Our nation's prosperity depends upon revitalizing metropolitan economies and bridging racial divides, which in turn depends upon developing diverse leaders across the community who can engage in collective action to solve problems.

Higher education institutions have the mission and the capacity to develop diverse leadership equipped to meet these challenges, but the vitality of their efforts depends on the Court's continued adherence to *Grutter*. Higher education institutions have a historically rooted public mandate to prepare the nation's leadership to address society's most important concerns. Beyond this, colleges and universities are serving as "anchor institutions" in metropolitan communities—participating in long-term, public-private partnerships aimed at local and regional revitalization. On campuses across the country, higher education institutions have undertaken a wide range of programs inside and outside the classroom that enable diverse students to learn and develop skills so that they can interact effectively across difference and become more effective leaders. The success of these programs crucially depends upon racial and ethnic diversity both to produce the conditions enabling learning and to build the diverse leadership needed to address these challenges in the larger community.

If the Court adopts a narrow view of diversity's

educational benefits, it would be a mistake, and a departure from the Court's long tradition of deference to the considered judgment of educational experts. Moreover, higher education institutions must be able to continue to consider racial diversity through holistic admissions. If the Court were to accept Petitioner's argument, higher education institutions would be restricted in their ability to identify and admit the students who will contribute much needed leadership skills and abilities. The result would seriously limit university-community capacity to prepare leaders equipped for solving the urgent problems facing our nation. *Amici* thus urge the Court to reject Petitioner's argument and sustain *Grutter's* holding that allows higher education institutions to consider racial diversity in admitting students.

ARGUMENT

I. THE URGENT CHALLENGES FACING THE NATION'S METROPOLITAN COMMUNITIES DEMAND THE PREPARATION OF EFFECTIVE, RACIALLY DIVERSE LEADERSHIP

The capacity of our nation to advance civic goals and address pressing public problems depends upon producing leaders, professionals, and citizens who can participate effectively in diverse workplaces, communities, and public-serving institutions. In *Grutter v. Bollinger*, 539 U.S. 306, 331-33 (2003), the Supreme Court held that these leadership, citizenship, and professional development

imperatives constitute a compelling interest justifying the use of race in the higher education admissions process. The *Grutter* Court drew on prior decisions to reach this holding, including Justice’s Powell’s opinion in *Regents of Univ. of Cal. v. Bakke*, emphasizing that “nothing less than ‘the nation’s future depends upon leaders trained through wide exposure’ to the ideas and mores of students as diverse as this Nation of many peoples.” *Id.*, at 324 (quoting *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 313 (1978)).

The Supreme Court has long acknowledged the “overriding importance of preparing students for work and citizenship.” *Grutter*, 539 U.S., at 332 (citing prior case law). As Justice Powell recognized in *Bakke*, diversity helps universities “enrich[] the training of [the] student body and better equip [] graduates to render with understanding their vital service to humanity.” *Bakke*, 438 U.S., at 313 (quoting *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 603 (1967)). *Grutter* reaffirmed this compelling interest in training students with the civic and leadership skills necessary to maintain the “fabric of our society.” *Grutter*, 539 U.S., at 331. The *Grutter* Court also drew on an array of social science evidence demonstrating the need to prepare students for “the skills needed in today’s increasingly global marketplace,” and the ability to work in racially and ethnically diverse settings. *See Grutter*, 539 U.S., at 331. At heart, *Grutter* recognized a paramount and compelling interest in cultivating “a set of leaders with legitimacy in the eyes of the citizenry.” *Id.*, 539 U.S., at 332.

We submit that the pressing challenges facing our nation’s metropolitan communities today demand racially diverse leadership with legitimacy and skills of the kind that the *Grutter* Court recognized as necessary. In this Part, we present these challenges, and argue that racial and ethnic diversity is necessary to develop the effective and legitimate leadership needed to solve these tough problems. Achieving this diversity requires that all aspects of diversity relevant to leadership, including race, be taken into account in the admissions process.

A. Metropolitan Communities Are Vital to the Nation’s Economic Recovery, and Must Rebuild Civic Capacity Amidst Declining Public Resources and Persistent Racial Divides

Metropolitan areas, with cities at their hub, are key arenas for advancing civic and economic prosperity. They are “the engines of our economy—the sites of new technological breakthroughs,”³ and their revitalization is critical to the nation’s economic recovery and future health.⁴ Metropolitan areas are home to 84 percent of the nation’s population, 86 percent of the jobs, 90 percent of the

³ See MARTIN BAILY et. al., BUILDING A LONG TERM STRATEGY FOR GROWTH THROUGH INNOVATION 6 (May 2012), available at <http://www.brookings.edu/research/papers/2011/05/growth-innovation>.

⁴ See THE BROOKINGS INSTITUTE METROPOLITAN POLICY PROGRAM, THE STATE OF METROPOLITAN AMERICA: ON THE FRONTLINES OF DEMOGRAPHIC TRANSFORMATION (2010), available at <http://www.brookings.edu/about/programs/metro/stateofmetroamerica>.

wage and salary income, and 91 percent of the country's real GDP.⁵ In addition to their relationship to economic development, metropolitan governments bear responsibility for providing public services upon which many people depend, including education, public transportation, public health, and public security.

The vitality of metropolitan communities depends upon the health of the cities that are at their core. It is well established that:

[Cities] house assets upon which their metropolitan economies particularly depend. These include intellectual and institutional assets, such as universities and hospitals; infrastructure assets, such as transportation and communication; social assets (tourism, entertainment, culture); and core service assets (financial, legal).⁶

Metropolitan areas have been hard hit by the recent economic and housing crises that threaten our nation's prosperity: "[m]any [cities] have seen all their progress in the new millennium washed away

⁵ THE UNITED STATES CONFERENCE OF MAYORS, U.S. METRO ECONOMIES: OUTLOOK, GROSS METROPOLITAN PRODUCT, AND CRITICAL ROLE OF TRANSPORTATION INFRASTRUCTURE 1 (July 2012), available at <http://usmayors.org/metroeconomies/0712/FullReport.pdf>.

⁶ ROBERT WEISSBOURD, CITIES AND ECONOMIC PROSPERITY: A DATA SCAN ON THE ROLE OF CITIES IN REGIONAL AND NATIONAL ECONOMIES 2 (2001), available at <http://www.ceosforcities.org//research/cities-and-economic-prosperity/>.

by the crippling effects of the recession.”⁷ Leadership must thus contend with some of the most pressing challenges facing our nation, including turning around failing schools, rebuilding crucial infrastructures, and restoring faith in our public institutions.⁸ They must figure out how to solve these complex problems with reduced budgets and increased demands for public support.⁹ This challenge requires shifting the tide of public confidence in federal and state government institutions.¹⁰

The success of metropolitan leadership depends upon drawing on all sectors of the community and collaborating with public and private institutions to have the “collective impact” to meet these challenges.¹¹ Metropolitan communities must partner with institutions, including higher education institutions, to meet the challenges of an emerging, innovation-driven economy that demands and

⁷ UNITED STATES CONFERENCE OF MAYORS, U.S. METRO ECONOMIES: GMP AND EMPLOYMENT FORECAST 7 (June 2011), available at <http://www.usmayors.org/metroeconomies/2011>.

⁸ See STATE OF METROPOLITAN AMERICA, *supra* note 4.

⁹ See Norton Frances, State and Local Spending Cuts Dampen the Recovery, July 30, 2012, available at http://www.realclearpolitics.com/2012/07/30/state_and_local_cuts_dampen_the_recovery_286071.html.

¹⁰ See PEW RESEARCH CENTER, DISTRUST, DISCONTENT, ANGER AND PARTISAN RANCOR: THE PEOPLE AND THEIR GOVERNMENT (2010), available at <http://www.people-press.org/2010/04/18/distrust-discontent-anger-and-partisan-rancor> (providing data showing low levels of public trust in government).

¹¹ See John Kania & Mark Kramer, *Collective Impact*, STANFORD SOCIAL INNOVATION REVIEW (Winter 2011), available at http://www.ssireview.org/articles/entry/collective_impact.

rewards greater education and high-level skills.¹² Higher education institutions have become key partners in the development of these cross-sector collaborations. They are “anchor institutions,” geographically tied to their location in communities, with “a strong economic stake in the health of the surrounding communities,” and “the resources to make a genuine difference.”¹³ Effective partnerships with higher education institutions have proven invaluable to growing the knowledge economy, building sustainable local economies and generating employment.¹⁴

Further, metropolitan areas depend upon the ability to produce, attract and retain college graduates to drive economic recovery and fuel innovation. Recent studies demonstrate that the level of education of the local population is both a strong driver of income growth¹⁵ and a signal of civic

¹² See BAILY, *supra* note 3, at 12 (May 2012) (finding that “the new economy will require workers to be better educated when they enter the workforce and to continually upgrade their skills throughout their working lives”).

¹³ PAUL C. BROPHY ET AL., *RETOOLING HUD FOR A CATALYTIC FEDERAL GOVERNMENT* (2009), available at <http://www.margainc.com/initiatives/aitf/>.

¹⁴ IRA HARKAVY AND HARMON ZUCKERMAN, *EDS AND MEDS: CITIES’ HIDDEN ASSETS* (The Brookings Institution 1999), available at <http://www.brookings.edu/research/reports/1999/09/community-development-harkavy-zuckerman>.

¹⁵ See *CEOS FOR CITIES, THE YOUNG AND THE RESTLESS IN A KNOWLEDGE ECONOMY* 10 (2011), available at <http://www.ceosforcities.org/research/the-young-and-restless-in-a-knowledge-economy/>.

and economic health.¹⁶ Research has found that, by contrast, “less educated workers, as well as the metro areas in which they are most concentrated, have borne the brunt of the significant rise in unemployment.”¹⁷

As metropolitan areas struggle to meet the pressing demand for increased education, they must also confront the problem of racial and economic isolation, which threatens the economic and social well-being of metropolitan communities, and structures access to opportunity along racial and ethnic lines. In many metropolitan communities, access to opportunity and mobility is a function of which community you grow up in, creating a “geography of opportunity.”¹⁸ Geographically structured access to public life limits educational quality, political influence, availability of employment, and the adequacy of public amenities.¹⁹

Because of a long history of structured social inequality, people of color are more likely to grow up in low opportunity communities characterized by low levels of educational attainment and high poverty.

¹⁶ See ENRICO MORETTI, *THE NEW GEOGRAPHY OF JOBS* 215-18 (2012).

¹⁷ STATE OF METROPOLITAN AMERICA, *supra* note 4, at 115.

¹⁸ Xavier de Souza Briggs, *More Pluribus, Less Unum? Changing Geography of Race and Opportunity*, in *THE GEOGRAPHY OF OPPORTUNITY: RACE AND HOUSING CHOICE IN METROPOLITAN AMERICA* 29–32 (Xavier de Souza Briggs ed., 2005).

¹⁹ PATRICK SHARKEY, *NEIGHBORHOODS AND THE BLACK-WHITE MOBILITY GAP* 6 (Pew Charitable Trusts 2009), available at http://www.economicmobility.org/assets/pdfs/PEW_NEIGHBORHOODS.pdf. Sharkey.

Two thirds of African-American children live in high-poverty communities, compared with only six percent of white children, with grave consequences for educational, health and other social outcomes.²⁰

Recent studies show that metropolitan neighborhoods remain highly separated by race and income.²¹ This persistent residential separation, coupled with the concentration of poverty in inner cities and older suburbs, compounds the obstacles preventing people in these communities from participating in economic opportunity. These divides in income and opportunity have been exacerbated by the recent recession and mortgage foreclosure crisis, which hit vulnerable communities, particularly communities of color, hard.²²

Residential separation also contributes to racial and economic isolation in schools. Students of color in racially isolated neighborhoods are more likely to attend low performing, high-poverty, under-resourced schools that do not adequately prepare

²⁰ *Id.* at 8-9.

²¹ See George C. Galster, *Urban Opportunity Structure and Racial/Ethnic Polarization in America*, in RESEARCH ON SCHOOLS, NEIGHBORHOODS, AND COMMUNITIES: TOWARD CIVIC RESPONSIBILITY (William F. Tate ed., 2012).

²² See AUSTIN NICHOLS & MARGARET SIMMS, RACIAL AND ETHNIC DIFFERENCES IN RECEIPT OF UNEMPLOYMENT INSURANCE BENEFITS DURING THE GREAT RECESSION (Urban Institute 2012), available at <http://www.urban.org/publications/412596.html> (“The Great Recession hit black workers harder; the unemployment rate was higher for non-Hispanic black than for non-Hispanic white or Hispanic workers.”).

students to attend college.²³ Latinos and blacks are also more likely than whites to attend high-poverty schools. For instance, more than 60 percent of black and Latino students attend high-poverty schools (defined as more than 50 percent poor). White students, by contrast, are highly concentrated in more affluent suburban districts, and only 18 percent of white students attend high poverty schools.²⁴

These economic, civic and educational challenges require the capacity to draw on the resources of increasingly racial and ethnically diverse communities, which comprise a growing proportion of the talent pool of the future. By the end of this decade, the majority of youth will be people of color.²⁵ The pipeline to higher education will include

²³ See Linda Darling-Hammond, *The Color Line in American Education: Race, Resources, and Student Achievement*, 1 DUBOIS REVIEW: SOCIAL SCIENCE RESEARCH ON RACE 213, 214 (2004).

²⁴ See GARY ORFIELD & CHUNG MEI LEE, WHY SEGREGATION MATTERS: POVERTY AND EDUCATIONAL INEQUALITY 16-17 (The Civil Rights Project at Harvard 2005); NANCY MCARDLE, SEGREGATION AND EXPOSURE TO HIGH-POVERTY SCHOOLS IN LARGE METROPOLITAN AREAS: 2008-09, at 12-16 (2011), available at http://diversitydata.sph.harvard.edu/Publications/school_segregation_report.pdf.

²⁵ See POLICYLINK, AMERICA'S TOMORROW: EQUITY IS THE SUPERIOR GROWTH MODEL 14 (2011), available at http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/SUMMIT_FRAMING_WEB_FINAL_201201_27.PDF. It is projected that the US will become majority-minority by 2045; in large metropolitan areas the under-18 population reached majority non-white status in 2008. STATE OF METROPOLITAN AMERICA, *supra* note 4, at 33.

increasingly fewer white students in K-12 schools, and more Latino and African-American students coming from communities with high poverty and low educational attainment.²⁶ If existing trends continue, by 2020, the share of adults with some advanced education is projected to decline in all but six states: “The Educational Testing Service calls this a ‘perfect storm’ of demographic, labor market, and educational trends that threatens the American dream.”²⁷ As a recent study found: “Any improvement in overall educational outcomes will require a substantial improvement in the equity of educational outcomes and outcomes for ethnic and racial minorities and the poor.”²⁸ The study concluded that, as minorities become a “larger share of the population, it is their educational accomplishments that will carry a heavier and heavier influence on the overall educational level of

²⁶ See William T. Trent et al., *Justice, Equality of Educational Opportunity and Affirmative Action in Higher Education* in COMPELLING INTEREST: EXAMINING THE EVIDENCE ON RACIAL DYNAMICS IN HIGHER EDUCATION 22 (Mitchell Chang et. al eds., 2002). It is estimated by 2050 that the school-age population will include 6 million fewer white students in K-12 schools, 5 million more African-American students, 17 million more Hispanic, and 5 million more from other groups (largely from Asian backgrounds). See JANET LOPEZ, THE IMPACT OF DEMOGRAPHIC CHANGES ON UNITED STATES HIGHER EDUCATION, 2000-2050 (2006), available at State Higher Education Executive Officers website, <http://www.sheeo.org/pubs/demographics-lopez.pdf>.

²⁷ POLICYLINK, *supra* note 25, at 11.

²⁸ Henry M. Levin, *Reconstructing Education in America*, in RESEARCH ON SCHOOLS, NEIGHBORHOODS, AND COMMUNITIES: TOWARD CIVIC RESPONSIBILITY 217, 219 (William F. Tate, ed. 2012).

the United States.”²⁹

Our nation’s prosperity depends upon meeting the critical challenges of revitalizing metropolitan economies and bridging racial divides, which in turn depends upon developing diverse leaders across the community who can engage in collective action to solve problems. Building this “civic capacity” thus calls for the kind of leadership training and legitimacy that *Grutter* recognized as vital to the function and role of higher education. As the Court affirmed: “Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized.” *Grutter*, 539 U.S., at 332.

B. *Grutter’s* Recognition of the Need to Prepare Racially Diverse Leadership Must Be Preserved to Meet the Challenges Facing Metropolitan Communities

The challenges facing metropolitan communities today give greater urgency to *Grutter’s* recognition that racially and ethnically diverse higher education institutions are necessary to prepare leaders able to collaborate effectively in diverse settings. This empirical reality buttresses *Grutter’s* articulation of a leadership and legitimacy imperative as a basis for seeking racial diversity on college campuses. *Grutter’s* holding in this regard is not simply a rhetorical flourish. Rather, racial and ethnic diversity is essential for our nation to be able to turn

²⁹ *Id.*

around struggling public institutions and make good on democracy's promise.

In this Part, we show why racial and ethnic diversity is so crucial in this regard. Revitalizing metropolitan communities demands racially and ethnically diverse leadership capable of bringing together people from many different sectors, bridging racial and ethnic divides, and sustaining these collaborations over the long haul. Higher education institutions as anchors in their communities also require racial and ethnic diversity to be able to exercise legitimate leadership. More specifically, we show how racially and ethnic diverse leadership is critical to (1) building trust and confidence needed to enlist racially diverse participation, (2) building a fully informed understanding of the complexities of public problems, and (3) reducing stereotypes and engaging in cross-racial community dialogue and problem solving.

Building Trust and Confidence. The challenges facing metropolitan communities demand that a diverse array of communities participate and have confidence in our public institutions. Racial diversity is important to overcoming the legitimacy and trust deficit among communities of color that has limited this crucial public engagement. Research shows that African Americans report lower levels of trust in their local governments, and that trust among all racial groups increases when there is diverse representation in public leadership

positions.³⁰ Considerable evidence also suggests that communities of color have less trust and confidence than whites in the public officials with whom they interact regularly, including the police, the courts, and the legal system, and that this decreased trust undermines the willingness of people of color to work with public officials to solve problems.³¹

Studies show that racial differences affect whether people build long-term relationships of trust, and that greater diversity among leadership and in working groups provides a crucial means for reducing tensions and building trust.³² Establishing legitimacy with communities of color is a “minimum condition” for effective efforts to address the problems facing those communities.³³ Projects lacking minority involvement face suspicion due to the lack of minority voice in decision making and accompanying questions about their legitimacy.³⁴

³⁰ See SHAYLA NUNNALLY, *TRUST IN BLACK AMERICA: RACE, DISCRIMINATION AND POLITICS* (2012).

³¹ See Jason Sunshine & Thomas Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for the Police*, 37 *LAW & SOCIETY REV.* 513 (2003).

³² See NUNNALLY, *supra* note 30; Nicholas Sorenson et al., *Taking a “Hands-On” Approach to Diversity in Higher Education: A Critical Dialogic Model for Effective Intergroup Interaction*, 9 *ANALYSES OF SOCIAL ISSUES AND PUBLIC POLICY* 3, 20-21 (2009).

³³ TOM TYLER ET AL., *TRUST BUILDING: AN HONEST CONVERSATION ABOUT RACE, REBUILDING AND RECONCILIATION* (2010).

³⁴ See ARCHON FUNG, *EMPOWERED PARTICIPATION: REINVENTING URBAN DEMOCRACY* 125, 187 (2004); Matthew Luther Lindholm, *Establishing Program Legitimacy in Multiethnic Settings: The Robert Wood Johnson Foundation’s*

The *amicus* brief submitted in *Grutter* by retired military officers similarly documented the role of diverse leadership in bridging the chasm with line soldiers, which had undermined military effectiveness, interfered with the development of a sense of shared mission, and impeded the flow of communication. *See Grutter*, 539 U.S., at 330-31; Brief of Lt. Gen. Julius Becton, Jr., et al., *Grutter v. Bollinger*, 539 U.S. 306 (2003) (Nos. 02-241, 02-416).

As anchor institutions, universities have also found it crucial to build trust with surrounding communities, many of which must overcome histories of tension and mistrust overlaid with racial divisions.³⁵ Cities and universities need diverse leadership equipped to bridge these racial divides, and must also educate a diverse array of students to sustain the confidence of the surrounding community. This imperative heightens the significance of *Grutter's* insight that: "All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions that provide this training." *Grutter*, 539 U.S., at 332.

"Fighting Back" Program, Putting the Future Together, 36 JOURNAL OF DRUG ISSUES 351 (2006).

³⁵ *See* NETTER CENTER FOR COMMUNITY PARTNERSHIPS, ANCHOR INSTITUTION TOOL KIT: A GUIDE FOR NEIGHBORHOOD REVITALIZATION (2008), available at <https://www.nettercenter.upenn.edu/publications-resources/anchor-toolkit> (describing the importance of overcoming a history of distrust as a key step in building a successful partnership between the University of Pennsylvania and the West Philadelphia community).

Knowledge and Capacity. Effective leaders benefit from firsthand knowledge about the experience of race and ethnicity in different contexts, how systems and barriers affect racially isolated communities, what strategies work to engage across difference, and other areas where direct experience with race in relevant contexts matters. This kind of information provides an important strand of experience that is relevant to developing effective and legitimate solutions to the complex problems of economic revitalization, civic reengagement, and school turn-around.

Case studies report that firsthand experience with membership in a particular racial group contributes insights which benefit cross-racial collaborations, including: (1) understanding and communicating the cultural and social pressures facing students and their families, (2) having intuitive familiarity with strategies for engaging marginalized students and their families in investing in their education, (3) achieving comfort in combining high expectations of people of color while providing strong support, (4) providing opportunities to model openness for those who have less experience with cross-racial/cross-class interactions, (5) building trust with the parents and community so that they are willing to work with the schools, and (6) maintaining concern and accountability about inequities.³⁶

³⁶ See FREEMAN HRABOWSKI, OVERCOMING THE ODDS (2002); Susan Sturm et al., Nottingham Early College High School Initiative: Understanding the Theory of Action (2012)(unpublished manuscript).

Reducing Stereotypes and Building Cross-Racial Dialogue. Racially diverse leadership is also important to overcome stereotypes affecting individuals and communities of color. Research shows that when racial tensions and dynamics are left unaddressed, stereotypes are likely to persist and undermine effective collaboration.³⁷ When facilitated cross-racial interaction is built into the process of leadership development, it helps cultivate respect and acceptance among people of different races. It also fosters the skills enabling participants to facilitate these constructive interactions elsewhere.³⁸

The need for leadership strategies aimed at reducing stereotypes is illustrated by a report by the Institute of Medicine, which documents the role of individual provider biases and stereotypes in limiting access to health care and contributing to health disparities.³⁹ Another illustrative study of

³⁷ See Nicholas Sorensen et al., *Taking a "Hands-On" Approach to Diversity in Higher Education*, 9 ANALYSES OF SOCIAL ISSUES AND PUBLIC POLICY 3 (2009).

³⁸ Kenneth Maton et al., *Enhancing Representation, Retention, and Achievement of Minority Students in Higher Education: A Social Transformation Theory of Change*, in TOWARD POSITIVE YOUTH DEVELOPMENT: TRANSFORMING SCHOOLS AND COMMUNITY PROGRAMS (M. Shinn & H. Yoshikawa eds., 2008); Patricia Gurin et al., *The Benefits of Diversity in Education for Democratic Citizenship*, 60 JOURNAL OF SOCIAL ISSUES 17 (2004).

³⁹ See Allen Formicola et al., *Cultural Competency: Dentistry and Medicine Learning from One Another*, 67 JOURNAL OF DENTAL EDUCATION 869 (August 2003); UNEQUAL TREATMENT:

high school students' college prep experience documented Latino students' experience that "school staff were pessimistic about their academic potential and reported often being discouraged from attending competitive colleges."⁴⁰ This study found that Latinos struggle to communicate to school staff "higher aspirations than those established by negative racial stereotypes, and students often found themselves debating with school staff about their intellectual credibility."⁴¹ These studies underscore the necessity of overcoming stereotypes, particularly those held by key professionals and public leaders who determine access to educational and employment opportunity.⁴²

In sum, the capacity to revitalize metropolitan communities requires diverse leadership and professionals trained to build collaborations among public and private actors and among diverse communities.

CONFRONTING RACIAL AND ETHNIC DISPARITIES IN HEALTH CARE, WASHINGTON DC: NATIONAL ACADEMY PRESS (2002).

⁴⁰ Evellyn Elizondo et al., *High School Students' Discourse on College Support Systems and College Readiness*, in RESEARCH ON SCHOOLS, NEIGHBORHOODS, AND COMMUNITIES 269, 273 (William F. Tate ed., 2012).

⁴¹ *Id.*

⁴² See STURM ET AL, BUILDING PATHWAYS OF POSSIBILITY INTO AND THROUGH HIGHER EDUCATION (2011), available at <http://www.changecenter.org/projects/long-term-research-collaborations/from-criminal-justice-to-college>.

II. HIGHER EDUCATION INSTITUTIONS ARE NECESSARY PARTNERS IN PREPARING EFFECTIVE, RACIALLY DIVERSE LEADERSHIP NECESSARY TO SOLVE METROPOLITAN PROBLEMS

Higher education institutions have the mission and capacity to develop civic leadership and professionals equipped to meet the challenges facing metropolitan communities. Building effective leadership requires racial diversity in the student body.

A. Cultivating Diverse Civic Leaders and Professionals is Core to the Mission of Higher Education Institutions

As the Supreme Court recognized in *Grutter*, universities “represent the training ground for a large number of our Nation’s leaders.” *Grutter*, 539 U.S., at 332 (citing *Sweatt v. Painter*, 339 U.S. 629, 634 (1950)). Most people in leadership positions across both private and public sector industries have first obtained an undergraduate and, in many cases, an advanced degree.⁴³

The complementary aims of advancing diversity and cultivating civic leadership are built into higher education’s mission. Higher education institutions have a historically- rooted public mandate to prepare the nation’s leadership to address society’s most important concerns. Beginning with the Morrill Act

⁴³ Alexander W. Astin & Helen S. Astin, *Leadership Reconsidered: Engaging Higher Education in Social Change*, W. K. Kellogg Foundation (2000), available at <http://www.wkcf.org>.

of 1862, colleges and universities were called upon to fulfill America's democratic mission and serve as "engines of prosperity and agents of social mobility" in their triple mission of teaching, research and public service.⁴⁴ Institutions ranging from Johns Hopkins to University of Chicago were founded with an urban-serving mission. The mission statements of higher education institutions of all types—public and private, research and liberal arts—commit to diversity, civic engagement, and leadership development.⁴⁵ Institutions have also made diversity and civic engagement a centerpiece of their strategic plans.

University of Pennsylvania offers an example of the commitment to public service, leadership development and diversity made by many higher education institutions: "At Penn, local engagement is one of the core tenets of the Penn Compact –

⁴⁴ Nitin Nohria & Rakesh Khurana, *Advancing Leadership Theory and Practice*, in HANDBOOK OF LEADERSHIP THEORY AND PRACTICE 3 (N. Nohria & R. Khurana eds., 2010); SCOTT PETERS, *DEMOCRACY AND HIGHER EDUCATION: TRADITIONS AND STORIES OF CIVIC ENGAGEMENT* (2010).

⁴⁵ For example, University of Maryland Baltimore County, states that it is "a dynamic public research university integrating teaching, research and service to benefit the citizens of Maryland" and "dedicated to cultural and ethnic diversity, social responsibility and lifelong learning." <http://www.umbc.edu/aboutumbc/mission.php>. Middlebury College "challenge[s] students to participate fully in a vibrant and diverse academic community" and strives "to cultivate the intellectual, creative, physical, ethical, and social qualities essential for leadership in a rapidly changing global community." *See* http://www.middlebury.edu/about/handbook/general/mission_statement/node/119761.

Penn’s strategic vision for moving from excellence to eminence – and is an integral part of the University’s mission.” Penn fulfills this institutional mission weaving service learning into the curriculum: “By working alongside community leaders, civic organizations and neighborhood families to solve real-world problems, Penn students and faculty apply their intellectual skills to make positive social change.” In so doing, “Penn pays homage to the principles of its founder, Benjamin Franklin, who rightly believed that the destiny of an eminent University is inextricably tied to the well being of the people it serves.”⁴⁶

Likewise, Tulane University commits to being “diverse in the broadest sense of the word - culturally, geographically, and ethnically.” Tulane's purpose is “to create, communicate and conserve knowledge in order to enrich the capacity of individuals, organizations and communities to think, to learn and to act and lead with integrity and wisdom.” The university “strives to connect its values and mission to the needs of the city of New Orleans, the state, and the nation. Community involvement is now more important than ever as the university participates in the rebirth of New Orleans.”⁴⁷

Higher education institutions are increasingly held publicly accountable for demonstrating that

⁴⁶ UNIVERSITY OF PENNSYLVANIA FINANCIAL REPORT 2008-2009, at 3, available at www.finance.upenn.edu/vpfinance/.../Financial_Report_09.pdf.

⁴⁷ Tulane University Mission Statement, at <http://tulane.edu/about/mission.cfm>.

they are engaging with their communities and serving the public good. Five out of the six regional accreditation agencies reference civic engagement as part of their standards for college and university accreditation.⁴⁸ The Carnegie Foundation for the Advancement of Teaching, which provides the leading framework for recognizing and describing institutional diversity in U.S. higher education, has created a Community Engagement classification. This classification “acknowledges significant commitment to and demonstration of community engagement,” and has selected over 300 institutions for this classification since it was first adopted in 2008.⁴⁹ Community engagement is also a required aspect of many grant applications for federal, state, and non-profit support of higher education research.⁵⁰

Additionally, many colleges and universities are serving as “anchor institutions” in metropolitan communities—participating in long-term, public-private partnerships aimed at local and regional revitalization.⁵¹ The anchor institution strategy involves cultivating long-term partnerships with

⁴⁸ Robert Cohen, *Review of Regional Accreditation Agencies and Their Standards on Civic Engagement* (2012).

⁴⁹ Carnegie Foundation for the Advancement of Teaching, *Carnegie Selects Colleges and Universities for 2010 Community Engagement Classification* (January 2011), <http://www.carnegiefoundation.org/newsroom/press-releases/carnegie-selects-colleges-and-universities-2010-community-engagement-classification>.

⁵⁰ *See* BROPHY, *supra* note 13, at 149.

⁵¹ DAVID MAURRASSE, *BEYOND THE CAMPUS: HOW COLLEGES AND UNIVERSITIES FORM PARTNERSHIPS WITH THEIR COMMUNITIES* (2001).

community-based organizations, schools, businesses, and other public agencies with the aim of producing concrete improvements in schools, neighborhoods, and communities.⁵² More than half of the nation's colleges and universities are located in central cities and their immediate surroundings, including regions in which they are a major employer and producer of human capital. As Michael Porter and others have shown, the health of universities and other anchor institutions are "inextricably linked to their surrounding communities."⁵³

As anchor institutions, colleges and universities have played a crucial role in strengthening K-12 education, fostering neighborhood revitalization, and enhancing community health.⁵⁴ Many of the nation's towns and cities depend upon higher education institutions as the primary driver of economic and social vitality.⁵⁵ For example, Syracuse University has adopted the overarching vision of "Scholarship in

⁵² RITA AXELROTH & STEVE DUBB, *THE ROAD HALF TRAVELED: UNIVERSITY ENGAGEMENT AT A CROSSROADS* (2010), available at <http://www.community-wealth.org/articles/road-half-traveled.html>; PENN INSTITUTE FOR URBAN RESEARCH, *ANCHOR INSTITUTIONS AS PARTNERS IN BUILDING SUCCESSFUL COMMUNITIES AND LOCAL ECONOMIES* (2009), available at <http://www.margainc.com/initiatives/aitf>.

⁵³ INITIATIVE FOR A COMPETITIVE INNER CITY AND CEOs FOR CITIES, *LEVERAGING COLLEGES AND UNIVERSITIES FOR URBAN ECONOMIC REVITALIZATION: AN ACTION AGENDA* (2002), available at <http://www.edu-impact.com/leveraging-colleges-and-universities-urban-economic-revitalization-action-agenda>.

⁵⁴ *Id.*

⁵⁵ INITIATIVE FOR A COMPETITIVE INNER CITY, *ANCHOR INSTITUTIONS AND URBAN ECONOMIC DEVELOPMENT: FROM COMMUNITY BENEFIT TO SHARED VALUE* (2011), available at www.icic.org/ee_uploads/publications/Anchor-Institutions.PDF.

Action,” and undertaken a series of long-term projects aimed at revitalizing the city and surrounding metropolis, in deep collaboration with community-based partners. A major component of Syracuse’s anchor institution strategy involves a collaboration between Say Yes to Education Inc., Syracuse University, Syracuse City School District, the City of Syracuse, and a diverse group of Syracuse-area corporate, non-profit and philanthropic organizations.⁵⁶ Say Yes engages diverse faculty, students, teachers, parents, and community members in a citywide effort to close achievement gaps between white and non-white students, decrease drop out rates, and increase high school and graduation rates in an entire municipal area.⁵⁷ This effort spans disciplines and institutions, and brings together the diverse, stakeholders, resources and knowledge needed to rebuild communities.⁵⁸

More broadly, a group of national organizations have as their focus developing public policy and cross-institutional collaborations that support anchor institutions and connect higher education institutions to the goal of revitalizing democracy.

⁵⁶ The Say Yes Foundation initiates powerful public-private partnerships aimed at creating college and career bound environment for all students. SAY YES TO EDUCATION: A CITY WIDE TURNAROUND MODEL FOR COLLEGE AND CAREER SUCCESS (2010).

⁵⁷ *Id.*

⁵⁸ SUSAN STURM & NANCY CANTOR, TRANSFORMATIVE LEADERSHIP FOR A MORE JUST SOCIETY: REVITALIZING HIGHER EDUCATION’S ROLE (2011); AXELROTH & DUBB, *supra* note 52, at 97-100.

Amici Imagining America, Campus Compact, and the Anchor Institution Task Force represent over 1300 institutions that have embraced this goal of forming long-term partnerships to solve pressing problems and increase leadership capacities and civic education of students.

In short, higher education institutions' role in educating civic-minded professionals and leaders capable of driving innovation, collaborating across racial difference, and retooling public institutions makes them crucial partners in addressing the challenges facing metropolitan communities.

B. Racially and Ethnically Diverse Student Bodies Are Crucial for the Educational Success of Leadership Development Programs

On campuses across the country, higher education institutions have undertaken a wide range of programs that enable diverse students to learn and develop skills so that they can interact effectively across difference. *See infra*. Higher education institutions dual involvement in diversity and civic engagement enhances their capacity for leadership development.⁵⁹ Anchor institutions that have built long-term partnerships with communities are combining student and community leadership

⁵⁹ SUSAN STURM ET AL., FULL PARTICIPATION: BUILDING THE ARCHITECTURE FOR DIVERSITY AND PUBLIC ENGAGEMENT IN HIGHER EDUCATION (2011), available at <http://www.fullparticipation.net/>.

development and, in the process, addressing tough problems. Student diversity is a crucial prerequisite for the success of these programs in developing effective leadership.

Multi-Racial Cohorts Supporting Leadership in STEM Fields. Research has documented numerous programs that have brought racially diverse groups of students together in learning and action environments enabling them to develop skills relevant to civic leadership. One documented example comes from the Emerging Scholars Program begun by Uri Treisman at Berkeley in the 1970s. Treisman's earliest experiment with cohorts engaged in ongoing mathematics problem-solving as a strategy for developing students' academic performance and enhancing the likelihood that they would become mathematics graduate students, professors and leaders.⁶⁰ Treisman's study identified as a source of the problem the social and academic isolation of African-American students on a predominantly white campus. Treisman focused on how to create a *setting* that would enable these students to learn effectively, and did so by creating multi-racial cohorts of problem solvers, and then engaging them in collaboratively solving problems that were deliberately designed to be too difficult to

⁶⁰ TERESA AMABILE & STEVEN KRAMER, *THE PROGRESS PRINCIPLE: USING SMALL WINS TO IGNITE JOY, ENGAGEMENT, AND CREATIVITY AT WORK* (2011); ROSE ASERA, *CALCULUS AND COMMUNITY: A HISTORY OF THE EMERGING SCHOLARS PROGRAM: NATIONAL TASK FORCE ON MINORITY HIGH ACHIEVEMENT* (2001); Uri Treisman, *Studying Students Studying Calculus: A Look at the Lives of Minority Mathematics Students in College*, 23 *THE COLLEGE MATHEMATICS JOURNAL* 362 (Nov. 1992).

solve alone. The designers believed that “the settings needed to resemble the professional communities that these students would become part of in the future.”⁶¹

At University of Maryland, Baltimore County (UMBC), the campus has mobilized a long-term collaboration among students, faculty, administrators, philanthropists, business leaders, and other community members that is collectively committed to—and has a track record of success in—producing the next generation of diverse leadership in the STEM (Science, Technology, Engineering & Math) fields.⁶² This process has been linked to a larger initiative that produces university research focused on the pressing problems of the day. UMBC has also become the anchor of a science and technology corridor, and a generator of diverse mid-career leaders.

The initiative began with the Meyerhoff program, which is now widely recognized as one of the most successful programs for increasing the participation of students of color in the STEM fields. That program became a driver of leadership development and broader institutional change at UMBC. It supported faculty who were willing to devote time and energy to the mentorship of students, and their engagement in faculty research. The Meyerhoff program also built leadership development into its model of empowerment and academic success, by creating contexts for students to collaborate

⁶¹ *Id.*

⁶² STURM & CANTOR, *supra* note 58, at 4-5.

regularly in supporting each others' success, in addition to working with students in the surrounding community. This process, led by the University's president, has produced cohorts of students, faculty, and administrators that support students' success, including the success of African-Americans as leaders in the STEM fields. The process has also engaged faculty, students, and community leaders in projects that produce significant research "to deal with global and national challenges involving the environment, security, health care, and the economy."⁶³

Civic Engagement in Diverse Settings. Some of these programs take place in the context of service-learning and civic engagement programs building reflection and learning opportunities into community-based student work. Campus Compact's *Partnerships that Work* features 10 place-based regional networks of colleges and universities which forge service-learning partnerships with 300 community partners to encourage disadvantaged youth to pursue college through reading, writing, and mathematics assistance.⁶⁴

Tulane University's post-Katrina experience is a powerful example:

As we launch Tulane Empowers, we have identified public education, public service,

⁶³ Elliot Hirshman & Freeman A. Hrabowski, *Meet Societal Challenges by Changing the Culture on Campus*, THE CHRONICLE OF HIGHER EDUCATION (2011).

⁶⁴ CHARLENE J. GRAY *et al.*, PARTNERSHIPS THAT WORK: THE STORIES AND LESSONS FROM CAMPUS/COMMUNITY (2010).

urban revitalization, disaster response and community health as priority issues. These are areas where, post-Katrina, we have developed extraordinary expertise and well-defined mechanisms for collaboration and the delivery of services. Faculty, staff and students across every school and college are working in these five areas and they are bringing their creativity to bear on solving some of society's greatest problems.⁶⁵

The research on service learning demonstrates its positive effect on reducing stereotypes and facilitating cultural and racial understanding. Additionally, service learning enhances the ability to work well with others, leadership, and the development of social responsibility and citizenship skills.⁶⁶

Cross-Racial Dialogue. Intergroup dialogue courses are yet another example of courses that build effective communication across differences to forge relationships between diverse peers.⁶⁷ These programs enable students to interact with diverse groups and to explore differences, address their preconceptions, and build long-term, multi-racial

⁶⁵ Tulane Empowers—Helping People Build a Better World: Priorities, at <http://tulane.edu/empowers/priorities/index.cfm>

⁶⁶ JANET S. EYLER et al., AT A GLANCE: WHAT WE KNOW ABOUT THE EFFECTS OF SERVICE-LEARNING ON COLLEGE STUDENTS, FACULTY, INSTITUTIONS AND COMMUNITIES, 1993-2000 (2001).

⁶⁷ Sorensen et al., *supra* note 32, at 20-22.

relationships.⁶⁸ Educational institutions with diverse student bodies are well-positioned to equip participants with capacities needed to engage in effective collaboration with multi-racial groups. A major cross-institutional study found that intergroup dialogue courses that included guided facilitation, structured content, facilitative leadership, and other strategies produced greater intergroup empathy and understanding, and intergroup collaborative action.⁶⁹

The combination of civic engagement and diversity programs is particularly geared to build leadership capacity. Both increase engagement and interest in social action. When done with intentionality to diversity, civic engagement activities also decrease stereotypes and increase the level of acceptance and comfort with people of different backgrounds.⁷⁰ As the Court recognized in *Grutter*, “diminishing the force of racial stereotypes is both a crucial part of [an institution’s] mission, and one that it cannot accomplish with only token numbers of minority students.” *Grutter*, 539 U.S., at 333. Studies demonstrate that civic engagement and diversity programs enhance students’ ability to see the world from someone else’s perspective and negotiate controversial issues. These programs build

⁶⁸ *Id.*; CAMPUS COMPACT, A PROMISING CONNECTION: INCREASING COLLEGE ACCESS AND SUCCESS THROUGH CIVIC ENGAGEMENT (2010); GRETCHEN LOPEZ *et al.*, SPOTLIGHTING JUSTICE 2011-2012 EVALUATION REPORT (2012).

⁶⁹ Sorensen *et al.*, *supra* note 32, at 21-23.

⁷⁰ Gurin *et al.*, *supra* note 38; Sylvia Hurtado, *The Next Generation of Diversity and Intergroup Relations Research*, 61 J. SOCIAL ISSUES 595 (2005).

greater openness to having views challenged and continued socialization across race and ethnicity in the post-college years.⁷¹

Similarly a study of the Bonner Scholarship Program, a leadership-oriented scholarship program, finds that structured dialogue and reflection coupled with service was instrumental in the “development of skills in understanding a person from a different background” and increased rates of Bonner Scholars’ post-graduation involvement in civic activities and leadership.⁷²

Anchor Institutions. Higher education institutions that use their anchor institution role to engage students in learning, have become effective training grounds for leadership and professional development, including the ability to interact effectively in multi-racial groups. Universities teach by what they do as well as what they say. Working democratically with the local community (often populations of color) is advanced significantly by the involvement of diverse student bodies.

For example, Wagner College has formed a long-term partnership with the Port Richmond community, an economically distressed community

⁷¹See Uma M. Jayakumar, *Can Higher Education Meet the Needs of an Increasingly Diverse and Global Society? Campus Diversity and Cross-Cultural Workforce Competencies*, 78 HARVARD EDUCATIONAL REVIEW 615 (2008).

⁷²Cheryl Keen & Kelly Hall, *Engaging with Difference Matters: Longitudinal Student Outcomes of Co-Curricular Service Learning Programs*, 80 JOURNAL OF HIGHER EDUCATION 59 (2009).

which has recently experienced a growth in the Mexican immigrant population. The Port Richmond Partnership brings “Wagner College administrators, faculty members, academic departments, classes and students together with 23 schools, churches and nonprofit organizations within Port Richmond to focus on [e]ducation, immigration, economic development and health.” Since its inception, “the partnership has placed more than 1,000 collegians in programs coordinated by community agencies, including literacy acquisition, truancy prevention, after-school tutoring, nutrition campaigns, college and career readiness and business improvement research.”⁷³

Student learning and leadership development are built into these projects and collaborations. The deep involvement of students and close working relationship with faculty and community members make these initiatives a powerful training ground for leadership development.⁷⁴

The success of these programs depends upon racial diversity both to produce the conditions enabling learning and to build the diverse leadership needed to address the challenges in the larger community.

⁷³ NYC Lauds Fort Richmond Partnership (2012), available at <http://www.wagner.edu/newsroom/node/385>.

⁷⁴ Keen & Hall, *supra* note 72; Kenneth Maton et al., *supra* note 38; Sorensen, *supra* note 37.

C. If the Court Adopts A Narrow View of Diversity's Educational Benefits, Higher Education's Leadership and Legitimacy Goals Would Be Imperiled

Amici have a strong interest in maintaining the ability, upheld by *Grutter*, of higher education institutions to select students based on a full assessment of their leadership potential and students ability to contribute to learning through civic engagement and partnership activities, including experiences connected to their racial background and identity. Leadership development is widely embraced by educational experts and leaders as a core mission of higher education, and diversity is widely considered to be essential to advancement of that core mission. *See* Part II, *supra*. The *Grutter* Court's deference to this considered judgment of educational experts is in keeping with a long tradition of preserving "the freedoms of speech and thought associated with the university environment." *Grutter*, 539 U.S., at 329.

It would be a mistake for the Court to adopt an overly narrow conception of higher education's mission. Consideration of whether racial diversity relates to the educational mission requires reference to the full range of "educational benefits that diversity is designed to produce." *Grutter*, 539 U.S., at 308. These benefits include but are not limited to enriching the exchange of ideas in the classroom. Leadership development requires bridging the "inside" learning experience of the classroom with the "outside" learning experience of engaging deeply with the problems facing diverse communities. The imposition of a wooden and narrow definition of

educational goals of diversity would interfere with higher education's capacity to pursue leadership and citizenship development, which are core aspects of their educational mission.

To achieve this mission, it is paramount that higher education institutions consider racial and ethnic diversity in admissions. Holistic, race-conscious admissions allows higher education institutions to advance their educational mission of equipping diverse students--across all races and backgrounds--to exercise leadership. Evaluating a student's potential for leadership is critically intertwined with understanding the student's race and ethnic background, relevant experiences, and capacity to collaborate with individuals from different backgrounds. If the Court were to accept Petitioner's argument, higher education institutions would be restricted in their ability to identify and admit the students who will contribute these much needed leadership skills and abilities. The result would seriously limit the capacity of these university-community partnerships to address the urgent problems facing our nation.

Limiting the capacity of higher education institutions to seek racial and ethnic diversity in the student body would also undermine public confidence and legitimacy in higher education institutions because the path to higher education would not be visibly open to people from all different communities.

CONCLUSION

For these reasons, the Court should reaffirm its holding in *Grutter* that the pursuit of racial diversity in higher education is a compelling state interest.

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