

Stephanie Tonneson, *Has Corporate America Reached a Diversity Tipping Point?*, ZoomInfo (June 23, 2020).¹⁶ These investments underscore the critical importance of racial and ethnic diversity to the American business community.

II. AMERICAN BUSINESSES RELY ON UNIVERSITIES TO CREATE A PIPELINE OF DIVERSE LEADERS EQUIPPED WITH THE SKILLS TO THRIVE IN THE GLOBAL MARKETPLACE

While the benefits of diversity are real and tangible—and corporate DE&I programs seek to maximize those benefits—Amici do not recruit applicants in a vacuum. To succeed, these DE&I efforts depend on university admissions programs that lead to graduates educated in racially and ethnically diverse environments. Only in this way can America produce a pipeline of highly qualified future workers and business leaders prepared to meet the needs of the modern economy and workforce. This tradition of using education as an engine of economic growth stretches back to the Nation’s great land-grant institutions.¹⁷ It is equally important today to sow the seeds for business leadership, engineering expertise, innovation in computers and technology, sophisticated consultants, vibrant service industries,

¹⁶ <https://zoominfo.medium.com/has-corporate-america-reached-a-diversity-tipping-point-fabe8ff6f07c>.

¹⁷ Genevieve H. Croft, Cong. Research Serv., No. R45897, *The U.S. Land-Grant University System: An Overview* (2019); Scott Key, *Economics or Education: The Establishment of American Land-Grant Universities*, 67 J. Higher Ed. 196, 198-99, 216 (1996).

and much more. Only through an integration of America's educational pathways with the needs of business can our economy flourish and achieve its greatest potential.

Specifically, Amici rely on universities such as Harvard, the University of North Carolina, and a host of other institutions to provide the highest levels of educational excellence, which is achieved through a racially and ethnically diverse environment. A university education drives today's economy: approximately half of occupations in the United States require at least post-secondary education. *See* Elka Torpey, *Projected Openings in Occupations That Require a College Degree*, U.S. Bureau of Labor Statistics (Sept. 2021).¹⁸ And Amici depend on universities to ensure that these students are equipped with the skills to lead in today's increasingly diverse and globally interconnected workplaces, markets, nation, and world. Empirical research overwhelmingly supports the conclusion that diverse university environments promote the cognitive growth and leadership skills that are highly valued by Amici and across the American economy. Prohibiting universities nationwide from considering race among other factors in composing student bodies would

¹⁸ <https://www.bls.gov/careeroutlook/2021/article/projected-openings-college-degree.htm>; *see also* Nat'l Ass'n of Colleges & Employers, *2019 Recruiting Benchmarks Survey Report Executive Summary* (2019), <https://naceweb.org/uploadedFiles/files/2019/publication/executive-summary/2019-nace-recruiting-benchmarks-survey-executive-summary.pdf> (finding that 58% of all full-time, entry-level hires of U.S. businesses responding to survey were recent college graduates).

undermine businesses' efforts to build diverse workforces.

A. Students Trained In Diverse University Environments Gain The Skills Needed To Lead In Today's Global Marketplace

"[S]trong evidence" supports the insight, confirmed by Amici's experience, that university students who study and interact with diverse peers, and particularly with racially and ethnically diverse peers, exhibit enhanced cognitive development necessary for a wide range of skills highly valued in today's economy. Nicholas A. Bowman, *College Diversity Experiences and Cognitive Development: A Meta-Analysis*, 80 *Rev. Educ. Res.* 4, 22 (2010). Numerous studies have shown that cross-racial interactions and engagement during university contribute to essential job-related skills and competencies such as critical thinking, problem-solving, and the ability to work cooperatively. *E.g.*, Sylvia Hurtado, *Linking Diversity and Educational Purpose: How Diversity Affects the Classroom Environment and Student Development*, in *Diversity Challenged: Evidence on the Impact of Affirmative Action* 187, 196-98 (Gary Orfield ed., 2001).¹⁹

Students of all racial backgrounds benefit from

¹⁹ See also Thomas F. Nelson Laird, *College Students' Experiences with Diversity and Their Effects on Academic Self-Confidence, Social Agency, and Disposition Toward Critical Thinking*, 46 *Res. Higher Educ.* 365, 377-82 (2005); Eric Day Gurin et al., *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 *Harv. Educ. Rev.* 330, 351-58 (2002).

diverse university environments. Empirical research shows that studying with someone from a different racial and ethnic background improves key employment-related competencies for all students. One study found that such experiences benefit students' self-reported intellectual and vocational skills and functioning as a member of the team, with white students reporting the most pronounced gains in several key areas. Shouping Hu & George D. Kuh, *Diversity Learning Experiences and College Student Learning and Development*, 44 *J. College Student Dev.* 320, 327-32 (2003). Another study found that attending a racially and ethnically diverse university significantly and positively correlated to the development of post-college cross-cultural workforce competencies for white students from both segregated and integrated neighborhoods, and to the development of leadership skills for white students from segregated neighborhoods. Uma Jayakumar, *Can Higher Education Meet the Needs of an Increasingly Diverse Society? Campus Diversity and Cross-Cultural Competencies*, 78 *Harv. Educ. Rev.* 615, 632 (2008). These conclusions are unsurprising; students drawn from various racial, ethnic, socio-economic, gender, and geographic backgrounds—to name a few elements of diversity considered in a holistic process—have different lived experiences as Americans and bring those varied experiences with them to the classroom and the workplace.

As suggested by the above discussion, though, the empirical research underscores the specific importance of *racial* diversity on university campuses. Of the various diversity experiences at universities, interactions with peers of different races

are more strongly linked with cognitive growth than are interactions with peers who exhibit other forms of diversity, “which suggests the particular educational importance of fostering a racially diverse student body.” Bowman, *supra*, at 22. And because *college* exposure to diversity has been shown to be more important than pre- or post-college exposure for developing pluralistic skills, “the skills of perspective-taking and conflict negotiation required in today’s diverse society and global marketplace may best be nurtured in the college context.” Jayakumar, *supra*, at 642.

These studies also confirm that the representation of racially and ethnically diverse students on university campuses matters. Empirical research supports that, for white students, merely *attending* a racially and ethnically diverse university correlated positively with long-term workplace competencies. Jayakumar, *supra*, at 632. And even those researchers who conclude that the quality of interracial contact on university campuses is most important acknowledge that representation is essential to ensuring opportunities for meaningful cross-racial interaction. Hurtado, *supra*, at 198; *see also, e.g.*, Sylvia Hurtado, Univ. of Mich. Ctr. Stud. Higher & Postsecondary Educ., *Preparing College Students for a Diverse Democracy: Final Report to the U.S. Department of Education, Office of Educational Research and Improvement, Field Initiated Studies Program* 23 (2003).

Business leaders and educators alike understand that diversity in university classrooms facilitates the development of skills and perspectives necessary to help workers and businesses succeed. For example,

leading economist Peter Henry, who, as an undergraduate student at the University of North Carolina, Chapel Hill, experienced “first-hand” the “importance in higher education of exposure to diversity across many dimensions, including race,” explained: “Diversity of perspective is not just a nice thing for companies. [It] is a critical competitive consideration in the business world Building a diverse classroom experience is how to turn out the most informed critical thinkers. Classroom diversity is crucial to producing employable, productive, value-adding citizens in business.” UNCJA 1580-82.

Confirming the research and views of business leaders, individual students and alumni in these cases testified to the importance of racial and ethnic diversity to their own educational experiences. *E.g.*, HJA 938-40, 942, 955-58 (testimony from multiple students to this effect). As one student put it: “I think dismantling the race-conscious admissions policy would really rob students of that critical part of education where you learn from and with people who are different from you and have different experiences from you.” HJA 971. Another explained, “being around students from different ethnoracial backgrounds made me a more critical thinker and a more independent thinker.” HJA 910.

Accordingly, while Amici value and promote diversity broadly speaking, they also specifically value on-campus experience with racial diversity. Such experiences promote cognitive growth and help develop the skills needed to thrive in the modern American economy.

B. American Businesses Work Hand-In-Hand With Universities To Recruit Next Generation Business Leaders

As university students prepare to graduate and enter the workforce, American businesses collaborate with universities to recruit talent that will help those businesses succeed. Business recruitment on university campuses is widespread. A 2019 survey of 275 firms across many industries found that more than 75 percent conducted on-campus interviews, and nearly 60 percent of full-time entry-level college hires were initially interviewed on campus. Russell Weinstein, *Employer Geography, Campus Recruiting, and Post-Graduation Outcomes*, Nat'l Ass'n of Colleges & Employers (Nov. 1, 2019).²⁰ And of course, companies hire many additional recent college graduates through other recruiting methods.

Businesses rely on university relations and recruiting to promote the diversity of their talent. When selecting target universities at which to recruit, employers cite the diversity of the student body along with other considerations such as the quality of the individual academic programs. Nat'l Ass'n of Colleges & Employers, *2019 Recruiting Benchmarks Survey Report Executive Summary* (2019).²¹ In a 2021 survey of American businesses, 88.4% of employers reported

²⁰ <https://www.naceweb.org/job-market/trends-and-predictions/employer-geography-campus-recruiting-and-post-graduation-outcomes> (citing National Association of Colleges & Employers 2014 reporting).

²¹ <https://www.naceweb.org/uploadedfiles/files/2019/publication/executive-summary/2019-nace-recruiting-benchmarks-survey-executive-summary.pdf>.

formal diversity recruiting programs at universities, up from 56.3% in 2016. Kevin Gray, *Formal Diversity Recruiting Efforts Climb Among Employers*, Nat'l Ass'n of Colleges & Employers (Mar. 7, 2022).²² And a separate study of American employers found that in the one-year period from mid-2020 to mid-2021, more than two-thirds of respondents reported increasing their investments in university recruitment of historically underrepresented groups. *Id.*

University recruitment programs specifically designed to recruit candidates of racially diverse backgrounds have yielded results. One study of 829 midsize and large U.S. firms found that five years after companies implemented programs focused on recruiting racially diverse students from universities, the proportion of Black male and female managers increased by 8% and 9%, respectively. Frank Dobbin & Alexandra Kalev, *Why Diversity Programs Fail*,

²² <https://www.nacweb.org/diversity-equity-and-inclusion/trends-and-predictions/formal-diversity-recruiting-efforts-climb-among-employers/>; see also ForbesInsight, *Global Diversity and Inclusion: Fostering Innovation Through a Diverse Workforce*, https://images.forbes.com/forbesinsights/StudyPDFs/Innovation_Through_Diversity.pdf (explaining that 52% of global enterprises responding to survey reported utilizing university or graduate school diversity associations to recruit talent, which was the most highly rated strategy); Ronald C. Machen et al., *Initiatives to Promote Diversity and Reduce Systemic Bias in Corporate America* 5 (Oct. 2021), <https://www.wilmerhale.com/en/insights/publications/20211007-how-to-advance-corporate-diversity-in-compliance-with-the-law-a-toolkit> (discussing how strategic partnerships with educational institutions are “essential to successfully increasing the rate of Black hires”).

Harv. Bus. Rev. (2016).²³ The Dobbin & Kalev article also explains that increased recruitment of highly qualified, racially diverse employees is essential to achieving reduction of bias among all employees. *See id.* Once businesses recruit more racially diverse employees, they can then use mentoring and related programs to enhance employees' sense of belonging and inclusion and reduce social isolation and attrition. Machen, *supra*, at 7-8. Amici are committed to continuing and advancing such efforts, and they require a candidate pool that is both highly qualified and racially diverse to do so.

III. THE BUSINESS COMMUNITY'S EXPERIENCE DEMONSTRATES THAT DIVERSITY REMAINS A COMPELLING INTEREST

Amici's experience demonstrates that educational diversity remains a compelling interest. Petitioner's arguments are inconsistent with this experience and the research that supports it.

For instance, in an attempt to downplay the importance of student-body diversity, petitioner cabins its value to in-classroom benefits such as "livelier classroom discussions." Pet. Br. 51. Although such immediate on-campus educational benefits are an important part of the compelling

²³ <https://hbr.org/2016/07/why-diversity-programs-fail> (explaining why interventions such as targeted college recruitment, mentoring programs, intergroup contact, and social accountability successfully increase diversity in business); *see also* Machen, *supra* at 7-8 (explaining that recruitment, mentoring, and accountability are central to promoting diversity and reducing systemic bias in corporate America).