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Original Paper

Discrimination and Affirmative Action in University Admissions Procedures

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Abstract

The paper examines the legal issues surrounding discrimination and affirmative action in American university admissions, with a focus on their impact on students of different races, genders, disabilities, and immigrant statuses. The research includes a thorough analysis of existing laws, cases, and university practices. It proposes seventeen guidelines for developing fair race-conscious admission policies.

The study finds a complex legal landscape where universities struggle to balance fairness, diversity, and legal requirements. The proposed guidelines aim to enhance fairness in admissions without compromising academic integrity. The paper offers a unique contribution by synthesizing legal perspectives into actionable guidelines for universities, thereby addressing the challenges of maintaining diversity and equality in admissions processes.

Key words

discrimination, affirmative action, university admissions

1. Introduction

University admission is the process that helps students enter into higher educational institutions, which plays a significant role in every college's daily operation and for its further development. Therefore, all the higher educational institutions have made great efforts on the formulation of university admission standards and the improvement of their admission procedures. Traditionally, admission requirements are more concentrated on academic considerations. However, in the modern higher educational area, with the development of social economics, there is an inevitable trend to diversify colleges' roles. These institutions have to undertake more multiple functions, including business expansion, social community development, academic research, and education. Under this situation, American colleges have gone further from their instincts and make a growing unbalance from the educational model to the

business and social model. College leaders care more about students' retention rates and completion rates, colleges' social influence, and institutions' financial structure, rather than how many qualified students can come to enjoy their tertiary education. Therefore, legal issues related to discrimination and affirmative action unavoidably happen in the universities' admission procedures.

This evolutionary progress is also reflected in the transformation of relevant higher education laws and regulations. At the beginning, correlated laws show a certain deference to universities' admission criteria that is defined as the expertise of educators. In the late twentieth century, higher educational laws, along with legislative and administrative agencies, have strengthened their influence for the university admission process (Kaplin, 2007). Currently, originated from American college admission philosophies, two fundamental beliefs in the regulation of admission process are created: the principle of non discrimination and affirmative action programs. First of all, the principle of non discrimination demonstrates the deliberation of equal rights for different races, sex, disabilities, and immigrant status. Second, affirmative action issues reflect the current trend that universities are diversifying their population and expecting for a larger minority representation (Kaplin, 2007). Under this situation, there are more majority students complaining about minority preference as the reverse discrimination. Besides the issues regarding different ethnic students in the U.S., the internationalization in the American campus also exerts the complexity of the affirmative action issues, which further caused a variety of academic and legal arguments of whether colleges should use different requirements to the students from different nations. Actually, Caucasian students, minority students, and international students all search for a more constitutional equality in the college admission procedures. In this complicated environment, it is impossible to create a perfect system or to find a panacea to solve all the problems. However, face numerous race-conscious admission plans, the seventeen guidelines synthesized by American higher educational legal professions show a reasonable direction for American colleges to increase their student diversity based on the current legal environment. Obviously, in order to provide high-quality and equal education to all of the students, a well-organized and relatively balanced college admission procedure on the basis of the existing laws and cases should be constructed.

2. American College Admission Legal Philosophies

2.1 General Legal Requirements

Collegiate admission published policies are significantly first-handed guidelines for colleges to follow to recruit students. When college administrators conduct these policies, they have to pay great attention to the related legislative regulations and the basic constitutional principles. According to the current regulations, there are three main restrictions in formulating admission policies for colleges. First of all, colleges' admission process must be reasonable and appropriate rather than arbitrary or capricious. Second, colleges need to execute admission process under the contract theory and honor its admission decisions on the basis of their published admission standards. Third, colleges cannot have

discriminated admission criteria and decisions based on human characteristics encompassing race, sex, age, disability, residence, or citizenship. Besides these, colleges' admission procedures should also follow the guidelines on due process from the Fourteenth Amendment and on the limited applicability to any education records from Family Education and Privacy rights (Gibbs, 1992).

2.2 The Arbitrariness Standard

For all the higher educational institutions, their admission decisions are protected by the arbitrariness standard, unless their actions break related regulations or lack legal explanations. Legally, the arbitrariness standard is originated from the principles of due process and associated administrative law, which, thus, only applies to public colleges. Meanwhile, private universities are generally regulated by the correlated common law if they made arbitrary explanations or changes of their regular admission criteria. Under the arbitrariness standard, judges normally respect colleges' admission decisions based on the rule that they believe colleges' academic qualifications and professional opinions (Laudicina & Tramutola, 1964). A landmark case, *Lesser v. Board of Education of New York*, created a classic standard for this situation. Lesser was rejected by Brooklyn College because his GPA was lower than the admission requirement, even though he had been enrolled in a demanding high school honors program. Then he sued the college's action for being arbitrary and unreasonable. However, the court rejected his argument and supported the college for the reason that educational institutions should have the authority to determine the eligibility of applicants and make the discretionary decisions (Kaplin, 2007). Accordingly, if a college makes their admission considerations according to their published policies and offer logical interpretations to their decisions and policies, they can get the judges' deferential reviews.

2.3 The Contract Theory

When students are accepted by the college admission, a contractual relationship can be built. This relationship means that if the guaranteed admission is reversed by the university through no liability of the student, a bleach of contract claims can be stated. What is more, oral promises, past practices, written promises, and notices from colleges can also be seen as implied promises or contracts to the student admissions. This contract theory, affecting both private and public universities, requires colleges to honor their admission decisions and connected published procedures other than to conduct a temporary collegiate admission standard or explanation. If the institutions need to reserve their authority on departing from or complementing its in print guidelines, they need a complete and legal process though counsels' assistance and then carefully insert the reservation (Kaplin, 2007).

3. The Principle of Nondiscrimination

3.1 General Rules

Based on the general legal philosophies, the principle of nondiscrimination provides a more detailed and direct rule for American colleges. It does not just require providing an equal educational access for all the American students, but needs to construct a more legally appropriate environment for colleges to

admit students from different races, genders, physical conditions, and immigrant status. However, concerning legal practice, the principle nondiscrimination has been challenged in every specific area.

3.2 Race

Based on the Fourteenth Amendments' equal protection clause, Title VI, Section 1981, and IRS tax rulings, no public institutions can discriminate students in admission procedures by the consideration of race, and no state higher educational system can have racial segregation plans or practices. However, among the cases within nondiscrimination in college admissions, race discrimination has taken the largest percentages and drawn greatest attention. Particularly, right now, the cases of admission requirements against Asian American students are generally contentious.

Normally, cases regarding racial segregation are more focused on a state higher educational system instead of a particular college. For example, in *United States v. Fordice, 505 U.S. 717 (1992)*, the Mississippi public postsecondary system was determined as race segregated and as violating the American Constitution by the federal appellate court and the U.S. Supreme Court. This is because three flagship universities in Mississippi had set a minimum academic requirement for students' American College Testing (ACT) score as 15, while in Mississippi, the average ACT score for Caucasian students was 18 and for black students was 7. Also, in Mississippi, the ACT score was the only indication for students' academic performance and the students' high school GPA was ignored. As a result, the race discrimination was asserted by the courts because these admission standards discriminated black students and led black students have fewer opportunities to enter into colleges. Besides black students, a large number of Latino students also challenged the states' language skills tests for their college admission and the state unequal funding for their remote high schools as discrimination (Kaplin, 2007).

In addition, recently, more Asian students are complaining that many universities' admission practice in limiting their percentages of college constitutes by elevating admission standards to them. Some of them even avoid mentioning their race in their application ("More Asian students", 2011). Due to the reason that Asian students normally have a better performance in SAT, ACT, GPA, and other admission written examinations, some high-profile universities like Ivy League institutions believe that if they do not restrict the proportion of Asian students, these students will even be the great majority of the university, which is widely seen as insupportable. For example, some well-known universities, which do not consider race in their admission procedures, have a high percentage of Asian students. These universities include the California Institute of Technology whose one-third of students are Asian, and the University of California-Berkeley which has more than 40 percent Asian students. The University of California-Berkeley used to be forbidden from having race disadvantages policies to Asian students by the state law in California. Then, the number of its Asian students has a sharp growth from 20 percent to 40 percent ("More Asian students", 2011). Most of other prestigious private universities cannot accept that situation, which maintain their Asian students constitutes at a low level. As a result, in 2011 and 2012, the Department of Education's Office for Civil Rights began to scrutinize arguments from Asian-American undergraduate applicants that Harvard and Princeton had launched higher

academic requirements to them, even though both of the reputable universities denied that discrimination (Slotnik, 2012). With the expansion of the population of Asians in the U.S., the issue regarding anti-Asian college admission policies will be even more serious than the present.

The recent U.S. Supreme Court decision regarding affirmative action has significantly impacted the landscape of higher education admissions. The court ruled against the consideration of race as a factor in college admissions, specifically in the cases involving the University of North Carolina and Harvard University (Amy, 2023). This decision marks a departure from previous Supreme Court cases, which generally upheld the consideration of race as one of many factors in college enrollment to foster diversity. The ruling has left open the possibility of considering race on a case-by-case basis, where an applicant's discussion of how race has affected their life through discrimination, inspiration, or otherwise can still be considered. However, the decision cautioned against the use of race as a defining identity factor, emphasizing that benefits to students must be tied to their personal experiences and achievements rather than their racial identity. The decision is expected to have significant implications for maintaining diversity in higher education. It has also raised questions about the future of other forms of affirmative action, such as legacy preferences and early admissions, which disproportionately benefit white students (Sidley Austin LLP, 2023).

3.3 Sex

In the past 20 years, the college enrollment rate for female students is increasing every year. By 2005, among 17.5 million undergraduate students enrolling into colleges, 57 percent of them were women. What is more, according to the anticipation from National Center for Education Statistics show that 60 percent of all college students will be female by 2016. Nonetheless, the growing female students are behind an indication that there is a higher rejection rate for female students enrolling into some selective colleges, which recently causes serious attention from US Civil Rights Commission (Miners, 2009). Generally, under the Title IX of education Amendments of 1972, public and some private universities, which receive government funding, cannot use different admissions requirements in recruiting students based on their genders. The only exemptions are for those single-sex colleges, vocational colleges, professional colleges, and religious institutions with appropriate administratively separate regulations. The regulations in this area also prohibit the discrimination against students for pregnancy and marital status. However, some traditional believes related to a paradox in the sex discrimination of college admissions still exist: based on colleges' rules, male and female students have an equal opportunity of being accepted into every department, while in the result of college admission, a male student still had a significantly superior probability of being admitted than a female student (Bicke, Hammel, & O'connell, 1975).

3.4 Disabilities

During the admission and recruitment process, a main federal law, the Americans with Disabilities Act (ADA), prohibits collegiate admission prejudice to disabilities. The discrimination to disabilities includes the restrictions to the admitted disable student numbers or proportions of disable students, the

auxiliary facilities, aids, and services for the disable students. The discrimination also includes the unqualified admission test or the preadmission investigation to identify whether the applicant have a disability. On the contrary, colleges need to establish their admission tests or admission-related activities in an accommodating way for all kinds of the disable students. In the past, those accommodations may flag students' scores on standardized examinations. However, after 2003, the College Board and the Educational Testing Service stopped to decline the test scores for disable students who were allowed to have extra time or other accommodations in taking SAT, GMAT, or GRE tests. Under this more reasonable exam system, colleges also need to have reasonable criteria to evaluate disable students' college applications, even though colleges can still reject to admit disable students who do not meet their academic and technical admission requirements. In legal practice in American colleges, difficult determinations regarding whether disable students are qualified for the programs turn out to be different judicial decisions from courts (Kaplin, 2007). These varied decisions, along with the disadvantages of disable students, make their college dream not easy to come true. Based on a study from SRI International which is a research group in the Education Department's Office of Special Education Programs, in 2003, the number of disabled students who attend a four-year institution was far less than their counterpart, with the data of 5.7 percent versus 28.3 percent of all students. For a community or two-year college, the ratio was around 9.7 percent versus 12.2 percent and another 5 percent of disabled students were doing their postsecondary classes in vocational, business, or technical schools. However, about 77 percent of high school disable students said they wished to go to colleges, while only 31 percent had attained postsecondary classes after they graduated from higher school. There is also a gender gap in their college-going rates, which shows women students with disabilities were 6 percentages more likely than men students to register into colleges since high schools (Lederman, 2005). However, students with learning disabilities begin to have more advantages in getting to colleges in some states, due to the reason that some colleges consider that the learning disable students are forms of college diversity, thus they can offer lower academic requirements to those students (O'Shaughnessy, 2011). From the entire situation, the affirmative action in the law of higher education in the U.S. produces various contradictory visions about what equal protection exactly means under the constitutional law (Kaplin, 2007).

In conclusion, American colleges should still proceed very carefully in making admission decisions regarding disable students. These postsecondary institutions usually have to make various modifications to their physical admission requirements in case of being seen as constitutional discrimination.

3.5 Immigration Status

Due to the federal equal protection clause, public educational institutions cannot refuse to admit permanent resident aliens. Meanwhile, private colleges are not regulated by the equal protection clause but have to follow the related guidelines to provide equal opportunities for American citizens and alien students, especially when these private universities are engaged in some educational programs with

federal or state governments. Conversely, nonimmigrant or international students have fewer shields from the federal constitutions, unless they are in the situation that colleges have admission restrictions to the students from a particular country. However, the undocumented students and illegal immigrant students have more difficulties in entering into colleges according to the Illegal Immigration Reform and Immigrant Responsibility Act. From a research from the College Board, there are around 65,000 undocumented students graduating from U.S. high schools every year ("Advising undocumented students", 2012). They are guaranteed with elementary and secondary education, but some new acts from some states show that these illegal aliens have to pay higher tuition than in-state students or even do not have the rights to receive public benefits, including public higher education (Bailey, 2011). Therefore, how these undocumented students receive higher education in the U.S. is a big issue for most of the educational institutions in the states.

4. Affirmative Action Programs

4.1 General Rules

In American law systems, there are two types of affirmative action programs, which are remedial plans and voluntary plans. The first one is from a government or a court order, as well as a regulation. The second one derives from colleges' conscious decisions. Furthermore, two justifications are originated from these two plans, encompassing alleviations of the effects from colleges' own previous discrimination history, and most commonly, the enhancement of the diversity of the student population. There is a critical dichotomy between remedial and voluntary plans, which can be further developed into a basic distinction between race-conscious voluntary affirmative action plans and race-neutral voluntary affirmative action plans. The first one considers race as one of their factors for making a decision and genuinely has various preferences for identified minority groups. The second one does not take race into account in their decision making process for individuals. Normally, race-conscious voluntary affirmative action plans produce more legal issues than race-neutral voluntary affirmative action plans. For example, if college admission procedures have the intentions of or have the effects of benefiting a number of minority groups over some other nonminority groups, this behavior can be challenged as the affirmative action and can be seen as a race-conscious plan (Kaplin, 2007).

Plans or decisions from both private and public universities could be seen as the affirmative action and regulated by constitutional and state laws. For instance, the Fourteenth Amendment's equal protection from constitutional laws that prohibits discriminatory treatment applies more to public universities. Meanwhile, the Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendment of 1972 from statutory terms apply to both public and private universities that receive government funding. The 42 U.S.C. 1981 were set up to prevent race discrimination in private universities (Kaplin, 2007). Besides these regulations, a series of later cases have constructed a number of fundamental principles for the corresponding situation in affirmative action issues. First of all, the racial preferences that create racial quotas as admission goals are impermissible. Second, using different admission system or criteria

for minority students and nonminority students is impermissible. Third, Title VI which exemplifies Fourteenth Amendment principles of equal protection applies the same way as equal protection clause in race discrimination (Kaplin, 2007).

However, during the admission practice in different universities, considerations of diversity of colleges, including of different ethnic groups and international students, have generated all kinds of affirmative action issues and challenged numerous related laws and regulations. More nonminority students began to believe the rejection notice they receive and the education with declining academic level they get is because of collegiate reverse discrimination.

4.2 Affirmative Action to Different American Ethnic Groups

As mentioned above, currently, more colleges strive for diversifying their campuses and exerting the numbers of minority students. These colleges believe that establishing a more diverse campus can help students overcome racial biases and make them have a better adaption in the diverse society. However, a growing number of nonminority students declare that they are rejected by universities due to the reverse discrimination which makes minority students get admission ahead of them or using lower level performance. Most of them state that the racial diversity on university campuses is valuable, but it should not be achieved by this kind of racial discrimination in admission process. For example, Abigail Fisher, a white female student who recently graduated from Louisiana State University, was rejected by the University of Texas at Austin four years ago. She claimed that when she applied to UT Austin, which has a significant meaning to her and her family, her race made negative effects on her admission due to reverse discrimination. Until now, the Supreme Court has still been working on her case and bringing new concentrations to public universities for their racial preferences in admissions procedures (Liptak, 2012). In fact, the situation of the affirmative action in Texas is more complicated. The three-fourth of applicants from Texas is admitted under the Top Ten program. According to the statue passed by the Texas state legislature, the Top Ten program guarantees college admissions to the “top ten percent” students in every public or private high school in Texas. Meanwhile, under this system, the regional imbalance and different racial performance in the state still exist, which increases the racial gap in the college admission. For instance, 26 percent of the high school students in this program are Hispanic and 6 percent are black, while the population in Texas is estimated as that 38 percent of Texans are Hispanic and 12 percent Texans are black (Liptak, 2012). This data directly shows that the Top Tem Program has already influenced collegiate racial and ethnic diversity. Therefore, under this system, there are few minority students being admitted by colleges every year, limiting the diversity in Texan public colleges. When universities in Texas consider the remaining students (besides top ten percent) under admission standards, which include academic achievement and personal experience, they have to pay more attention to the racial-conscious policies in order to develop the campus diversity. Otherwise, there will be only nonminority students in some colleges’ departments.

In the national legal practice, different states have varied judicial reviews on this affirmative action issue. In April, 2012, a three-judge panel of the U.S. Court of federal appeals for the Ninth Circuit

maintained California's ban on affirmative-action preferences in public colleges. The appeal court believed that the ban in California does not violate students' constitutional rights in receiving higher education and can set up an equal environment for all the students learning in Californian universities (Mytelka, 2012). On the other hand, in November, 2012, the federal appeals court for the Sixth Circuit prohibited a voter-passed ban focused on race-conscious admissions applied by public colleges in Michigan, holding an opinion that the ban was unconstitutional and made the racial-minority students have more obstacles entering into public colleges (Schmidt, 2012). These diverse judicial deferential reviews exert the difficulties in regulating colleges' affirmative action programs.

4.3 Affirmative Action to International Students

In the current competitive and rapidly changing world, most American universities' principles and provosts are struggling in various forms of crisis, from finance to academics and from retention to rates of competition. Facing the difficult and irreconcilable contradictions, these colleges' administrators turn to international perspectives and solutions. Some other educationally advanced countries, like Britain, Australia, and New Zealand, are vigorously expanding their education institutions, developing them into a new industry, and gaining huge profits from this business (Phillips, Epstein, & Schweisfurth, 2008). A number of American college administrators seem to find a panacea from these overseas ideas which answer all of their irresolvable problems. Dealing with the globalization of higher education, the high-profile American universities choose to use their reputation and establish cross-cultural partnerships with foreign universities. For instance, New York University already has a liberal arts campus in Abu Dhabi and it will set up another campus in Shanghai, each offering the same degree granted in New York. Yale University has created a new college at the National University of Singapore and an arts institute in Abu Dhabi, in contrast to New York University, it does not grant its own degree abroad (Lewin, 2012). Besides these joint programs, some elite universities have conducted a variety of special vital programs on campus aimed at international students, providing special exchange programs for these international students (Speck & Carmical, 2002). However, international students may misunderstand admission procedures and characteristics of this kind of educational-collaboration and work for a degree they do not want for a couple of years. Under all of these international educational models, how to identify the international students' status, how to evaluate their degrees, how to recruit these students, and how to supervise universities' admission process have become extremely complicated legal issues, which may refer to the application of international laws and some specific local laws in other countries.

In addition, several American colleges from mediocre or non-elite universities pay attention to some international higher education model from British Commonwealth Countries, like Britain, Australia, and New Zealand. Universities in those countries massively expand the scale of their educational institutions and lower their admission standards, to attract plenty of international students around the world, particularly from developing countries. Believing this new model will offer the universities both fame and profits, various American higher education institutional leaders copy this experience to construct their diploma mills (Phillips, Epstein, & Schweisfurth, 2008). They also boosted their college enrollment of the foreign

students by lowering the entrance requirements and strengthened their retention by reducing the graduation standards. Some colleges even notice the tremendous potential from Asia, especially China. A number of figures show that due to the rapid economic rise of Asia, there are higher income families; this allows for more students from Asia than any other countries to come to the U.S to study. For example, as of November, 2011, there are 158,000 Chinese students studying in the U.S., which consists of 22% of the total international students in the United States. As a result, China has transported more students to the United States than any other country for two consecutive years ("Chinese students", 2011).

Most of the international students do not have any financial problems and are able to pay their tuitions in full, which can reduce colleges' financial pressures. However, as mentioned above, attracting academically unqualified international students or students proving false information in their applications consequently turn American higher educational institutions into veritable international diploma mills. In academia, American colleges' academic level, diploma quality, and international reputation have been inevitably influenced. In legal area, these universities' conducts unlawful race-conscious programs and violate a series of laws, including the failure to provide equal learning opportunity for every student.

It is not easy for the Department of Education and associated organizations to regulate the accreditations of thousands of universities and the quality of their diverse collegiate programs, especially for non-profit universities. Regarding for-profits universities, there are various tough regulations, including gainful-employment rules, which are restricting the rapid expansion of some academically lacking institutions (Blumenstyk, 2012). For non-profit universities, they have different invisible umbrellas to hide from regulations and numerous unimaginable ways to expand their recruitments. They will not have any obstructions until the damage has been done. For example, Dickson State University in North Dakota recently has been seriously hit by its degree scandal. It awarded hundreds of diplomas to students, mostly from China, who did not complete their course work and accepted a variety of students who could not speak English or had not achieved a "C" for their high school GPA, normally required for admission. As a result, this university will face legal penalties and sanctions from the U.S. State Department and Department of Education and the educational boycotting from China (Wetzel, 2012).

As well known, the academic decline has been one of the most critical issues in American higher education, which can be learned from the overwhelming amount of colleges' news, scholars' comments, and academic lectures (Barr & Sandeen, 2006). Subsequently, academic and legal debates have been re-launched based on the diverse entrance requirements for various national groups. Some of the scholars consider that a large amount of college entrants have been over-diagnosed as underprepared (Judith, 2012). Others believe that "academic presidents must resist academia's insatiable appetite for the kind of excessive consultation that can bring the institution to a standstill" (Geranld, 1996, p. 6). In their repertoires, academic improvement, along with other developing factors, should serve the

universities' long-term development plan. Colleges should regulate their admission requirements and maintain them in a high standard even various laws do not have detailed regulations for each university. Furthermore, most of educational scholars are focused on students' political equality and educational rights. Some argue that foreign students, as other minority groups in the U.S., should have different entrance requirements than traditional majorities to increase the student body diversity. They believe it is appropriate to develop race-conscious programs for some universities to admit black and Latino students with lower entrance requirements and enroll Asian students with higher entrance requirements to sustain a certain students' demographics (James, 2012). Consequently, allowing international students to have lower entrance rates is considered to be reasonable and feasible for them, because it can finally attract more working capitals, provide more learning opportunities, and increase the diversity of colleges' constituency (Espenshade & Radford, 2009).

However, other academic and legal opinions from higher education firmly opposed any forms of lowering academic requirement. They feel that poorer academic requirements will make an enormously negative impact on college academic integrity and result in more cheating and plagiarism in the higher educational area (Lathrop & Foss, 2005). Also different academic requirements, no matter lower or higher, are constitutionally unfair based on the principle of non discrimination.

4.4 The Seventeen Guidelines

Founded on the general legal principles in affirmative action and various cases dealing with the diversity and internationalization of the American colleges, the seventeen guidelines for college administrators have been concluded by American legal professions. First of all, every college has to strictly scrutinize whether their admission standards have discrimination against women, minorities, and international students. In addition, the institution' admission policies need to overcome the negative effects from their past discrimination history if they have. Second, if a college needs to decide whether to apply or revise an affirmative action policy, they have to rely on the opinions from their leaders, academic administrators, and educational expertise in their institutions. Third, every college has to take a combination of three basic approaches to voluntary affirmative action, which includes the race-neutral approach, the race-conscious approach, and the differential approach. Fourth, the race-neutral or uniform affirmative policy is much easier to be attuned to the different potential contributions to all applicants, especially to minority and disable students. Fifth, the differential affirmative action is on the basis of the principle that the equal treatment to students in different situation can conversely produce inequality. It is because the uniform standard may be unfair for the minority students and thus make discrimination to them. Sixth, appropriately using the race-conscious affirmative action policy can offer some kinds of advantages and preferences for minority students. Seventh, for institutions dealing with voluntary affirmative action plans, the race-conscious policy has to make sure that its racial inclinations does not contain a percentage requirement for race in this admission practice (Kaplin, 2007).

Eighth, when institutions plan to conduct race-conscious policies, they cannot create different admission requirements or cutoff scores for minority students. Ninth, it is a better choice for institutions to illuminate the reason and the process that they have racial, ethnic, and national preferences. Tenth, institutions, which consider conducting race-conscious policies, have to be familiar with state laws and related regulations. Eleventh, institutions, planning to use race-conscious admission programs to expand their student diversity, have to clarify that their admission decisions can make positive effects for the institutions' educational missions. Twelfth, race-conscious admission plans need to define student diversity using multiple factors, not just limited to race and ethnicity. Thirteenth, race-conscious admission plans have to consider the individual situation for different students. Fourteenth, institutions using race-conscious admission plans cannot provide extra bonuses or preferences to a particular minority group or students from a specified country. Fifteenth, when institutions plan to change their race-conscious affirmative plans, they need to concern race-neutral alternatives to increase their racial diversified goals. Sixteenth, institutions using race-conscious admission plans should periodically evaluate their policy achievement. They need to revise or devise the policies if the policies do not complete their certain goals. Seventeenth, institutions could not use race-conscious admission plans as long term or even permanent methods to expand their student diversity (Kaplin, 2007). All these seventeen guidelines can assist American colleges to balance their admission procedures between the non-discrimination principles and affirmative action programs, help them to create relatively legal and equal race-conscious admission policies, and finally provide a more appropriate college admission environment for American students.

5. Summary

The admission procedure in American higher educational institutions is a significant but complicated process, behind which is a combination of legal systems and various interests. During college admission, a series of fundamental philosophies needed to be followed by college administrators. They should not only pay attention to general legal requirements from constitutions and other related state laws, but also have to follow the principles of the arbitrariness standards and the contract theory. With the development of society, numerous shareholders and invisible economic potentials have already changed the original intention of this selective concern. Related laws and regulations also have to follow this transition, especially under the diversified endeavors from college administrators. The principle of nondiscrimination, including the nondiscrimination to race, sex, disabilities, and immigrant status, is still the basic rule for American colleges to create an equal admission environment for applicants. Under this principle, both colleges and courts have made tremendous efforts to prevent discrimination to happen in the college admission process.

On the other hand, affirmative action programs in plenty of colleges have also drawn increasing attention. These programs have to face the challenges of how to reduce alleviations of the effects from colleges' own previous discrimination history and the negative influence from the diversity of the

student constitute. It is because currently more Caucasian students acclaim that their rights and related admission requirements should be the equal with minority students, based on their authority from American constitutions. This demonstration, however, contradicted with most colleges' goals striving to increase the diversity of their campus. Therefore, it is necessary for the legal practices in American higher education to search for a blance between the equality of the rights of American citizens and the development of the modern educational diversity theory. In addition, in this global era, an increasing number of international students are rushing into American colleges to study and live. At the same time, there are a growing number of these students providing false information and using unqualified grade reports in their applications to apply to American colleges. Face this situation, many American colleges either lower their academic standards or relax their regulations to the students' applications. Some colleges even use various strategies to enlarge the recruitments of these unprepared students according to their diversified and economic considerations. As a result, not only American students' equal learning opportunities have been affected since college resources are limited, but also academic level in American higher educational area has declined. The affirmative action programs have confronted complex issues in this situation.

To summarize, in both considerations of academics and laws, American universities' admission procedures should not fully open their gates to international unprepared students by reducing base line to secure the enrollment and retention. Declining entrance requirements will not only influence the academic dignity, but also have counterproductive results. The different admission requirements also lead to reverse discrimination and influence the normal admission process to American college applicants. Therefore, in the wake of the No Child Left Behind federal educational law and the problematic secondary education lessons, under no circumstance, can American universities reduce their academic quality and requirement to compromise with the enrollment rate, retention rate, and financial support. The scandal-plagued Dickson State University is a striking negative example. Consequently, the seventeen guidelines were conducted and could be further followed by American universities to blance their admission equality and educational missions in increasing the student body diversity. As educational leaders, their admission decisions in American universities should not only follow the legal regulations and the seventeen principles, and create a balanced position between the nondiscrimination principles and affirmative action programs, but also need to keep their bottom line and defend academic purity from the insatiable appetite for excessive increases in capital.

Reference

"Advising undocumented students". (2012). Higher education obstacles and possibilities. *College Board*. Retrieved from http://professionals.collegeboard.com/guidance/financial-aid/undocumented-students

Bailey, K. (2011). Bill would deny college admission to illegal immigrants. *Carolina Journal News Reports*. Retrieved from

http://www.carolinajournal.com/exclusives/display_exclusive.html?id=7527

Barr, M. J., & Sandeen, A. (2006). *Critical issues for student affairs: Challenges and opportunities*. San Francisco, CA: Jossey-Bass.

Bickel, P. J., Hammel, E. A., & O'connell, J. W. (1975). Sex bias in graduate admissions. *Berkeley Science*, *187*(4175), 398-404. https://doi.org/10.1126/science.187.4175.398

Blumenstyk, G. (2012). Obama's victory spells continued scrutiny for for-profit colleges. *The Chronicle of Higher Education*. Retrieved from http://chronicle.com/article/Obamas-Victory-Spells/135590/

"Chinese students". (2011). Chinese students flock to study in US. *China Daily*. Retrieved from http://www.china.org.cn/china/2011-11/16/content_23929286.htm

Espenshade, T., & Radford, A. (2009). *No Longer Separate, Not Yet Equal: Race and Class in Elite College Admission and Campus Life*. Princeton: Princeton University Press. https://doi.org/10.1515/9781400831531

Geranld, L. (1996). *Renewing the Academic Presidency*. Washington, D.C.: AGB publications.

Gibbs, A. (1992). *Reconciling Rights and Responsibilities of Colleges and Students*. Washington D.C.: ASHE-ERIC Higher Educational Report No. 5.

James, V. (2012). Top court to hear university race admissions case. *Reuters*. Retrieved from http://www.reuters.com/article/2012/02/21/us-usa-education-race-idUSTRE81K15F20120221

Judith, S. (2012). Are college entrants overdiagnosed as underprepared? *The New York Times*. Retrieved from http://economix.blogs.nytimes.com/2012/04/20/are-college-entrants-overdiagnosed-as-underprepared/?ref=education

Kaplin, W. A. (2007). *The Law of Higher Education*. San Francisco: Jossey-Bass.

Lai, A. (2012). Chinese flock to elite U.S. schools. *Impact Your World*. Retrieved from http://edition.cnn.com/2012/11/25/world/asia/china-ivy-league-admission/index.html?hpt=hp_bn1 https://doi.org/10.1088/2058-7058/25/12/17

Lathrop, A., & Foss, K. (2005). *Guiding Students from Cheating and Plagiarism to Honesty and Integrity*. Westport: Greenwood Publishing Group, Inc.

Laudicina, R., & Tramutola, J. (1964). *A Legal Perspective for Student Personnel Administrators*. Illinois: Charles C Thomas Publisher.

Lederman, D. (2005). College and disabled students. *Inside Higher Ed*. Retrieved from http://www.insidehighered.com/news/2005/07/29/disabled

Lewin, T. (2012). Faculty gives Yale a dose of dissent over Singapore. *The New York Times*. Retrieved from http://www.nytimes.com/2012/04/05/education/singapore-partnership-creates-dissension-at-yale.html?_r=1&ref=education

Liptak, A. (2012). Race and college admissions, facing a new test by justices. *The New York Times*.

from http://www.nytimes.com/2012/10/09/us/supreme-court-to-hear-case-on-affirmative-action.html?pagewanted=all&_r=0

Miners, Z. (2009). U.S. Civil Rights Commission investigates college admission bias. *US News Education*. Retrieved from http://www.usnews.com/news/articles/2009/11/18/us-civil-rights-commission-investigates-college-admission-bias

"More Asian students". (2011). More Asian-Americans not ticking "Asian" on college applications in bid for easier admission rate. *Mail Online*. Retrieved from http://www.dailymail.co.uk/news/article-2070417/More-Asian-Americans-NOT-ticking-Asian-college-applications-bid-easier-admission-rate.html

Mytelka, A. (2012). Federal Appeals Court upholds California's ban on affirmative-action preferences. *The Chronicle of Higher Education*. Retrieved from http://chronicle.com/blogs/ticker/federal-appeals-court-upholds-californias-ban-on-affirmative-action-preferences/41918

O'Shaughnessy, L. (2011). Learning disabilities can offer college admission edge. *US News Education*. Retrieved from http://www.usnews.com/education/blogs/the-college-solution/2011/06/14/learning-disabilities-can-offer-college-admission-edge

Phillips, D., Epstein, E., & Schweisfurth, M. (2008). *Comparative and International Education: An Introduction to Theory, Method, and Practice*. New York: Baker & Taylor Books. https://doi.org/10.5040/9781350284869

Speck, B., & Carmical, B. (2002). *Internationalizing Higher Education: Building Vital Programs on Campuses*. San Francisco, Jossey-Bass.

Schmidt, P. (2012). Court strikes down Michigan's ban on race-conscious college admissions. *The Chronicle of Higher Education*. Retrieved from http://chronicle.com/article/Court-Strikes-Down-Michigans/135818/_

Slotnik, D. E. (2012). Do Asian-Americans face bias in admissions at elite colleges? *The New York Times*. Retrieved from http://thechoice.blogs.nytimes.com/2012/02/08/do-asian-americans-face-bias-in-admissions-at-elite-colleges/

Wetzel, D. (2012). Dickinson State University locked down degree scandal. *Huff Post College*. from http://www.huffingtonpost.com/2012/02/10/dickinson-state-universit_n_1269667.html_

Amy, H. (2023, June 29). Supreme Court strikes down affirmative action programs in college admissions. *SCOTUSblog*. Retrieved from https://www.scotusblog.com/2023/06/supreme-court-strikes-down-affirmative-action-programs-in

-college-admissions/

Sidley Austin LLP. (2023, August 2). U.S. Supreme Court Ends Affirmative Action in Higher Education: An Overview and Practical Next Steps for Employers. *Sidley*. Retrieved from https://www.sidley.com/en/insights/newsupdates/2023/08/us-supreme-court-ends-affirmative-action-in-higher-education--an-overview-and-practical-next-steps