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# ***Asian Americans and Race-Conscious Admissions: Understanding the Conservative Opposition's Strategy of Misinformation, Intimidation & Racial Division***



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# Asian Americans and Race-Conscious Admissions: Understanding the Conservative Opposition's Strategy of Misinformation, Intimidation and Racial Division

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## EXECUTIVE SUMMARY

This report examines the current wave of attacks against race-conscious policies in postsecondary admissions (or affirmative action as the policy is more commonly termed).

- Two new lawsuits making their way through the lower federal courts (*Students for Fair Admissions Inc. v. Harvard University et al.*, and *Students for Fair Admissions Inc. v. University of North Carolina et al.*), were both initiated by long-time opponent of affirmative action, Edward Blum, and the organization he created, Students for Fair Admissions.
- Actions by the Trump Administration that seek to discourage the use of constitutionally permissible race-conscious policies in postsecondary admissions and to intimidate colleges and universities that remain committed to using them with the possibility of DOJ investigations, with decisions to (1) redirect the Department of Justice's (DOJ) resources to investigate claims of discrimination at institutions that employ race-conscious admissions policies, (2) reopen the investigation of a complaint filed by a Chinese American student against Harvard, and (3) roll-back federal guidance on race-conscious admissions issued during the Obama administration.

This report focuses specifically on the roles that Asian Americans have come to play, both unwillingly and willingly, in these opposition efforts, and presents new research on Asian Americans' support for affirmative action.

- Continuing a prior line of attack that began in the 1980s, white affirmative action opponents are strategically using the argument of discrimination against Asian Americans to condemn the policy, seeking to split interracial coalitions that support the policy, and use Asian Americans as a racial cover for their anti-affirmative action efforts.
- This time they are capitalizing on a unique and recent rise of Chinese American immigrant opposition to affirmative action. Several factors help explain this sudden and vocal increase in Chinese American opposition, including exam-focused cultures and systems of selective college admissions in China, changes to U.S. immigration policies, limited social interactions for these recent Chinese immigrants with other people of color (including other Asian Americans), and misinformation on affirmative action circulated via social media (WeChat).

Despite efforts by white affirmative action opponents to assert their agenda as one advocating for Asian American rights, and media accounts characterizing the Chinese Americans involved in

opposition efforts as representative of Asian Americans in general, best evidence shows that the majority of Asian Americans across ethnicities support affirmative action.

- New research on Asian Americans' stances on affirmative action illustrate important commonalities in the support for race-conscious policies in admissions
- A few other examples include: in CA, home to the largest Asian American population in the U.S., 61% of Asian American voters rejected Proposition 209; in MI, 75% of Asian American voters rejected Proposition 2; 62% of Asian American undergraduate students enrolled at four-year colleges and universities across the U.S. disagree with efforts to abolish the policy; and multilingual opinion polls conducted nationwide since 2012 show an overwhelming majority (68%) of Asian Americans support race-conscious admissions.

Recommendations include:

- More comprehensive reporting by the media on Asian American stances towards affirmative action would address misperceptions and attempts to create racial division on this topic.
- Targeted outreach to develop a stronger connection between research findings and public discourse around the benefits of race-conscious admissions for Asian American students and the community at large.

# Asian Americans and Race-Conscious Admissions: Understanding the Conservative Opposition’s Strategy of Misinformation, Intimidation & Racial Division<sup>1</sup>

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## I. Introduction

Over the last few years, even as the U.S. Supreme Court was considering the constitutionality of race-conscious policies in postsecondary admissions in *Fisher v. University of Texas* (2016), a new wave of attacks in the conservative agenda to dismantle affirmative action (as the policy is more commonly called) emerged.<sup>2</sup> First, in 2014 long-time opponent of affirmative action, Edward Blum, created the organization Students for Fair Admissions (SFFA)<sup>3</sup> to recruit plaintiffs, particularly Chinese American<sup>4</sup> students, to initiate new lawsuits that are

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<sup>1</sup> The authors contributed equally to this report and are listed alphabetically. They most recently co-authored an *amicus curiae* brief filed by 531 social scientists and scholars on college access, Asian American studies, and race in support of the defendant in the *SFFA v. Harvard* case at the district court of Massachusetts.

<sup>2</sup> In this report, we use the terms “race-conscious” admissions and “affirmative action” interchangeably. However, given the changes to the policy that started in the late 1970s after legal developments, we employ the term “race-conscious” admissions as much as possible to describe the policy as presently endorsed by the U.S. Supreme Court. We recognize the reasons Justice Sotomayor provided in *Schuette v. Coalition to Defend Affirmative Action*, 134 S. Ct. 1623, p. 1651 n.2 (2014) (Sotomayor, J., dissenting) explaining why the term “affirmative action” is not accurate to describe the policy in the present. As Justice Sotomayor noted, the Court previously reviewed policies using quotas or point systems that accord an applicant numerical advantage because of race, or that admit students solely based on race to address the effects of historical and ongoing discrimination. These policies involved “affirmative action” as historically understood, which opponents frame as granting preferential treatment to individuals. Past Court cases rendered those practices unconstitutional, and the Court has since allowed policies that instead consider race as one factor among many in admissions decisions to promote a diverse student body. These policies, as presently endorsed, are therefore more accurately described as “race-conscious” or per Justice Sotomayor’s preferred terminology, “race-sensitive.”

<sup>3</sup> SFFA includes two other Board of Directors members, Abigail Fisher, the plaintiff in the most recent unsuccessful challenge to the race-conscious policy at the University of Texas at Austin, and her father.

<sup>4</sup> Asian Americans represent an ethnically and socioeconomically diverse racial group in the U.S. See, for example, demographic reports published by Asian Americans Advancing Justice for a detailed exploration of the group’s diversity (<https://advancingjustice-la.org/what-we-do/policy-and-research/demographic-research>). Throughout this report, we use the terms “Asian American,” “Chinese American,” and “Asian American and Pacific Islander,” where appropriate, to be specific in discussing various actions taken by specific ethnic and panethnic groups. We use the term “Asian American” to represent a political panethnic group inclusive of East Asian Americans (e.g., Chinese, Japanese, Korean, Taiwanese), Filipinx, South Asian Americans (e.g., Asian Indian, Bengali, Pakistani, etc.), and Southeast Asian Americans (e.g., Cambodian, Hmong, Vietnamese, etc.). For more information about “Asian American panethnicity,” see works by Yen Le Espiritu (1993) and Dina Okamoto (2014). Because anti-affirmative action groups claiming to be “Asian American” are more correctly described as Chinese American, we use the term “Chinese American” to accurately represent these groups and their actions. We use the term “Asian American and Pacific Islander” when discussing collective actions on behalf of both Asian Americans and Pacific Islanders (e.g., Chamorro, Native Hawaiian, Samoan, Tongan, etc.). For more information about Pacific Islanders, please see the Asian Americans Advancing Justice report on Native Hawaiians and Pacific Islanders (<https://advancingjustice-la.org/what-we-do/policy-and-research/demographic-research/community-contrasts-native-hawaiians-and-pacific>).

currently making their way through the lower federal courts<sup>5</sup> (*Students for Fair Admissions v. Harvard University*, and *Students for Fair Admissions v. University of North Carolina*). Second, the Office for Civil Rights Division of the U.S. Department of Justice (DOJ), under leadership appointed by the Trump administration, redirected agency resources to investigate claims of discrimination at institutions that employ race-conscious admissions policies (Lawyers' Committee for Civil Rights, 2018). In one case, DOJ re-opened the investigation of a complaint filed by a Chinese American student against Harvard University, a complaint that the U.S. Department of Education had previously evaluated and dismissed in 2015 during the Obama administration. Most recently, the U.S. Departments of Justice and Education rescinded prior guidance on race-conscious admissions that had been issued during the Obama administration (Anderson & Balingit, 2018).<sup>6</sup> These changes by the Trump administration not only discourage the use of constitutionally permissible race-conscious policies in postsecondary admissions, but also seek to intimidate or threaten colleges and universities (that remain committed to using them) with the possibility of DOJ investigations.

In many respects, these attacks on race-conscious policies are not new, as they build on a history of challenges against affirmative action in postsecondary admissions that have played out in legal and policy arenas for over half a century. In the federal court system, for example, past challenges have culminated in five separate U.S. Supreme Court decisions: *Regents of the University of California v. Bakke* (1978), *Grutter v. Bollinger* (2003), *Gratz v. Bollinger* (2003), *Fisher v. University of Texas I* (2013) and *Fisher v. University of Texas II* (2016). In each case, the U.S. Supreme Court has preserved the constitutionality of the policy. However, starting in 1978 with the *Bakke* case, each ruling has also severely limited its practice. And when not successful in the courts, opponents have turned to the court of public opinion and the political arena, funding campaigns to ban the policy at public postsecondary institutions via statewide ballot initiatives and other laws or measures. These laws are now in place in eight states, including California (1996), Washington (1998), Florida (1999), Michigan (2006), Nebraska (2008), Arizona (2010), New Hampshire (2011), and Oklahoma (2012).<sup>7</sup> Past challenges have also involved the U.S. Department of Justice and U.S. Department of Education, which investigate complaints of discrimination from individuals against institutions that employ the policy.

What is new about the most recent wave of coordinated attacks is that affirmative action opponents are capitalizing on a new generation of conservative political activism among Chinese American immigrants who oppose the policy, as well as changes to sectors of the political system under the Trump administration, such as the Departments of Justice and Education, and the U.S. Supreme Court. Continuing a prior line of attack that began in the 1980s, affirmative action opponents are strategically using the argument of discrimination against Asian Americans to condemn the policy, seeking to split interracial coalitions that support the policy. This time they are capitalizing on a unique and recent rise of Chinese American immigrant opposition to

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<sup>5</sup> Another case is also pending in state court against the University of Texas at Austin (*SFFA v. University of Texas at Austin*). The case, similar to the one Abigail Fisher filed in federal court, is based on provisions of the Texas Constitution.

<sup>6</sup> In addition, with a second Supreme Court justice appointment to replace recently retired Justice Kennedy, the Trump administration seems poised to entrench conservative ideological control in the Court for years to come, making it more favorable for considering future legal challenges to affirmative action.

<sup>7</sup> Florida's ban was implemented by executive order, New Hampshire's by legislative act, and bans in other states via statewide referenda.

affirmative action, which can be explained by exam-focused cultures and systems of selective college admissions in China as well as some other key factors. These factors include changes to U.S. immigration policies that privilege highly educated and professional class immigrants, limited social interactions with other people of color including other Asian Americans, and misinformation on affirmative action circulated via the social media platform WeChat. The positioning of Chinese Americans, an ethnic minority group, as plaintiffs against race-conscious admissions in new legal cases is part of a broader and strategic political effort. In fact, Edward Blum stated in a 2015 speech that he “needed Asian plaintiffs” to continue his legal campaign against affirmative action (Houston Chinese Alliance, 2015). In this way, anti-affirmative action activists, funded by conservative political donors, are leveraging the courts (federal and state) and other parts of government, such as the U.S. Department of Justice, that are hostile toward affirmative action policies under the Trump administration.

Although most media accounts characterize the Asian American plaintiffs involved in the lawsuit and the Office for Civil Rights complaint against Harvard as representative of Asian Americans in general, the best evidence shows that the majority of Asian Americans support affirmative action (Orfield & Whitley, 2001; Park, 2009; Ramakrishnan, 2014; Ramakrishnan & Wong, 2018). For these reasons, the general public should not be distracted by a highly misleading characterization of the “Asian American position” regarding race-conscious admissions (Moses, Maeda, & Paguyo, 2018). Most Asian Americans across ethnicity have long supported affirmative action policies, as demonstrated by survey research on law students’ opinions of the policy (Orfield & Whitley, 2001), *amicus curiae* (friend-of-the-court) briefs submitted in favor of the policy in the *Bakke*, *Grutter* and *Gratz*, and *Fisher* cases (Poon & Segoshi, 2018), voting data (Teranishi, 2012), college student views (Park, 2009), and analysis of opinion polling data (Ramakrishnan, 2014). At the same time, other research (Inkelas, 2003; Ong, 2003) and news reports suggest a more divided Asian American opinion on the matter (Bronner, 2012; Kaleem, 2017). And while some Chinese Americans have opposed affirmative action in *amicus* briefs starting with the 2003 *Grutter* and *Gratz* cases, and protested a proposed California Senate Constitutional Amendment (SCA 5) that would have reinstated affirmative action in California public education (Huang, 2014), Chinese American opposition remains a relatively small minority voice among the larger Asian American population (Ramakrishnan & Wong, 2018). However, anti-affirmative action activism led by Chinese Americans, a vocal and well-resourced segment of the population, can create a public spectacle garnering mainstream media attention, and a dangerously outsized influence on the public debate over affirmative action.

Below, we begin by summarizing the battle over affirmative action in the legal and policy arenas from the 1960s to the present. In Part III, we turn to research addressing the relationship between Asian Americans and race-conscious admissions policies in more detail. We summarize the sustained evidence of overall Asian American support for the policy, insurgent minority Chinese American opposition, and new research illuminating underlying commonalities and differences among proponents and opponents. We also focus on some factors that help explain Chinese American opposition to the policy. In Part IV, we conclude by looking ahead, considering strategies within and outside the legal arena to address this renewed wave of attacks on affirmative action, or race-conscious admissions in postsecondary education, more specifically.



## II. Battle over Affirmative Action in the Legal and Public Policy Arenas

### A. 1960s: Early Stages of Affirmative Action

The first time the term “affirmative action” explicitly appeared in public policy is traced back to President John F. Kennedy’s 1961 executive order requiring that federally funded programs take “affirmative action” to ensure hiring and employment practices free of racial bias (Exec. Order 1961).<sup>8</sup> The efforts of the Civil Rights Movement culminated in the Civil Rights Act of 1964 and various executive orders for affirmative action. As Katznelson (2005) has documented, the explicit articulation of affirmative action during this time started from a perspective of non-discrimination (the obligation of avoiding discrimination) that then developed, within the employment context starting in early 1970s, into an *affirmative* duty to rectify past discrimination (*i.e.*, compensatory treatment). These early affirmative action efforts were grounded in the need to address racial inequities created by racial segregation policies and other exclusionary laws. By the late 1960s and early 1970s, federal courts were authorized to enforce comprehensive desegregation plans across the South and the North, essentially ordering that race be considered in educational policies and practices to remedy the effects of racial segregation (Minow, 2010). Under Title VI, the federal government required 19 states, which had enforced segregation by law, to submit desegregation plans.

When not required to adopt such plans by legal mandate, *voluntary* race-based affirmative action policies in postsecondary education emerged from an expressed moral imperative on the part of some colleges and universities to contribute to the cause of racial equity and social change necessary to address centuries of racial oppression (Stulberg & Chen, 2014). At the most selective institutions, these *voluntarily-adopted* policies started in the early 1960s at the initiative of liberal-minded administrators, inspired by the Civil Rights Movement; others joined years later, in response to direct action campaigns by Black college students and their allies (Stulberg & Chen, 2014). While the resulting policies and practices included aggressive outreach to and recruitment of Black students, and the consideration of their race as a favorable and “matter of fact” factor in admissions (Stulberg & Chen, 2014, p. 42), Asian Americans and other people of color were also included in these affirmative action programs.

### B. 1970s: *Regents of University of California v. Bakke* (1978)

Soon after the establishment of voluntary affirmative action policies, opponents began to challenge the policy in the legal arena. Litigation in this area culminated in 1978 with the *Regents of the University of California v. Bakke* (1978) decision. This ruling changed affirmative action policy from one that could address ongoing consequences of decades of racial oppression (e.g., Skrentny, 1996) to a policy that allows postsecondary admissions officers to consider all aspects of an individual’s identity, including their racial or ethnic background, for the purpose of furthering the educational benefits of diversity. The case involved a challenge to the University

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<sup>8</sup> Four years later in 1965, President Lyndon B. Johnson referred to the policy in his famous speech at Howard University, describing its intent to achieve “not just equality as a right and a theory but equality as a fact and equality as a result” (Katznelson, 2005).

of California-Davis, School of Medicine’s consideration of race in its admissions decisions. The school reserved 16 of 100 places for qualified disadvantaged minority (“Black,” “Asian,” “Indian”, or “Chicanos”) students. In contrast to other institutions with a history of legally enforced segregation, the medical school had adopted its race-conscious admissions policy to remedy inequities and address the effects of societal discrimination. Allan Bakke, a white applicant who had been denied admission to the medical school twice, and turned down by all 12 medical schools to which he applied, challenged the race-conscious policy on the grounds that it violated the Equal Protection Clause of the 14th Amendment. The school sought to defend the policy on the grounds that it was needed to: (a) address the effects of past discriminatory practices and existing racial and ethnic inequities in higher education; (b) improve the delivery of health-care services by increasing the number of physicians who would practice in underserved communities; (c) reduce the deficit of traditionally disfavored minorities in medical school and in the medical profession; and (d) obtain the educational benefits that flow from having an ethnically diverse student body.

In six separate opinions with no clear majority and a controlling opinion by Justice Powell,<sup>9</sup> the Court applied *strict scrutiny*, a legal test that had not previously been applied to affirmative action policies in higher education. This test requires that an institution have a compelling interest in the policy and that the policy be implemented in a way that is “narrowly tailored” to that interest.<sup>10</sup> By applying the strict scrutiny test, the Court ultimately equated efforts to promote access to education for racial minorities with discriminatory practices against whites, marking an important shift in judicial decision-making bearing consequences for admissions practices and the framing of affirmative action policies in the public arena that persist to this day (e.g., Garces, 2014). The decision also rejected all but the last (i.e., the educational benefits of diversity) of the university’s justifications for a compelling interest. No longer allowed to expressly consider the effects of societal discrimination or racial inequities to justify voluntarily adopted race-conscious policies, institutions that sought to expand access for underrepresented populations had to focus their efforts on a broader notion of diversity for educational benefits, of which race could only be one of a number of factors considered.

### **C. 1980s-1990s: Asian Americans, Claims of Discrimination, and Bans on Affirmative Action**

Following the *Bakke* decision, the complicated connection between affirmative action and Asian Americans began to develop in the 1980s. Between 1983 and 1986, Asian American students accused high-profile selective institutions, including Brown, Harvard, Princeton, Stanford, Yale, the University of California-Berkeley (UC Berkeley), and the University of California-Los Angeles (UCLA), of discriminating against them in favor of white applicants

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<sup>9</sup> The vote in *Bakke* was 4-1-4. Powell agreed with one four-justice block on some aspects of the case and with the other four-justice block on others. Thus, his rationale constituted the controlling opinion, as it resulted in a majority vote on the various legal issues. For a detailed analysis of Powell’s rationale, see Garces (2014a).

<sup>10</sup> The Court has not articulated a fixed or singular measure for “narrow tailoring”, but has instead outlined a number of relevant criteria, which are ultimately context-specific. These criteria include making sure that the policy: (a) does not operate as a quota; (b) is adopted after an institution’s good faith consideration to workable race-neutral alternatives; (c) involves a flexible, individualized consideration of applicants so that race, while important, is only one of a number of factors being considered; (d) does not unduly burden disfavored groups; and (e) is limited in time or includes a periodic review to assess its continued necessity.

(Takagi, 1992). At the federal level, the Justice and Education Departments conducted investigations of these claims of discrimination against Asian Americans at Harvard, UC Berkeley, and UCLA.<sup>11</sup> In 1990, after two years of investigation, Harvard was exonerated because discrepancies in admission rates could be attributed to differences in legacy and other special admissions considerations. UCLA was ordered to admit certain mathematics graduate students who had previously been denied admission, and UC Berkeley voluntarily apologized for restricting the admission of Asian Americans in favor of white applicants (Takagi, 1992). These claims of discrimination against Asian Americans were based on allegations that universities maintained “ceilings” or “quotas” against Asian Americans—a practice that is different from that of affirmative action. As Kang (1996) explained, they involved “negative action,” a phenomenon where Asian American applicants are disadvantaged or unfavorably treated in the admissions process in comparison to white applicants who are equally qualified. In other words, negative action takes place when an Asian American applicant would have been admitted had the individual been a white applicant, in comparison to another a white applicant and not any other applicant of color.

However, conservative and neoconservative groups misleadingly framed “negative action” against Asian Americans to be the same as “affirmative action” and as the “logical and inevitable outcome of preferences for ‘other’ minorities” (Takagi, 1992, p. 9). In this way, white conservative politicians and political commentators, like Congressman Dana Rohrabacher and George Will, strategically shifted the discourse, characterizing Asian Americans as harmed by “unfair racial preferences” for Blacks and Latinos (Nakanishi, 1989; Takagi, 1992). This deceptive discourse co-opted Asian American grievances over exclusionary admissions practices (Park & Liu, 2014), and aligned them with the politics of white resentment and white nationalism that Anderson (2017) has shown to underlie white conservative attacks on affirmative action (Moses et al., 2018). This conservative attack essentially views affirmative action policies as a “theft”—by Black and Latino students—of opportunities that belong to whites (Anderson, 2017). By using Asian Americans to challenge affirmative action (i.e., *SFFA v. Harvard*; OCR investigation), opponents cast Asian Americans as a racial minority in opposition to these policies, while simultaneously obscuring white interests, maintaining a monopoly on access to opportunities (Kidder, 2006; Moses et al., 2018; Park & Liu, 2014; Poon & Segoshi, 2018).

Relatedly, the mainstream media at the time (and today, which also includes Chinese ethnic social media, as we discuss later), perpetuated misinformation about affirmative action and Asian Americans by reporting on false claims of affirmative action as discriminatory. Such reporting, disconnected from research and evidence, racially positions Asian Americans in dangerous opposition to other people of color, using racial stereotypes of high achievement among Asian Americans, a racial minority, to dismiss protests against racism, a problem that Asian Americans also experience (Kumashiro, 2008; Poon et al., 2016; Robles, 2006; Suzuki, 1989). This approach also allows leaders of anti-affirmative action campaigns, who have been mostly white, to deflect accusations of their campaigns as racist by claiming concern for Asian Americans, a racialized minority group, presenting them as a central victim of the policy (Kidder, 2000, 2006; Leong, 2016; Poon & Segoshi, 2018). Although anti-Asian American discrimination is a legitimate concern given the findings of investigations in the 1980s, such

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<sup>11</sup> Brown and Stanford were not subject to federal investigation but did admit to irregularities in their own admissions processes (Takagi, 1992).

racist practices are distinctly different from affirmative action policies that advance racial equity (Poon, 2009). In effect, false assertions of affirmative action as harmful to Asian Americans cynically use a racialized argument to further roll back affirmative action, a policy that advances racial equity and recognizes diverse student talents (Moses et al., 2018; Poon & Segoshi, 2018).

Around the same time, in the early to mid-1990s, Ward Connerly, and likeminded conservative activists and groups, organized and funded a number of statewide initiatives to ban affirmative action. The first successful initiative passed in California (Proposition 209) in 1996, with another following soon after in 1998 in Washington (Initiative 200). Currently, eight states have passed laws that prohibit affirmative action at public institutions. Of these, six (Arizona, California, Michigan, Nebraska, Oklahoma, and Washington) implemented the bans through voter-approved initiatives or referenda, and two banned the practice by executive decision (Florida) and legislative vote (New Hampshire).<sup>12</sup> The language of these ballot measures is similar, to nearly identical. In general, the laws contain a general prohibition of discriminatory or “preferential” treatment by the state on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, and public contracting.<sup>13</sup> Public institutions affected by the proposal include state and local governments, public colleges and universities, community colleges, and school districts. Both bans in California (Proposition 209) and Michigan (Proposal 2) were challenged in federal court as unconstitutional. The challenge to the ban in Michigan ultimately reached the Supreme Court, which reversed the sixth circuit to uphold the constitutionality of the ban (*Schuette v. Coalition to Defend Affirmative Action*, 2014). The bans on affirmative action have led to substantial drops in the racial diversity of student bodies at public selective undergraduate institutions (Backes, 2012; Hinrichs, 2012; Kidder & Gándara, 2017), in graduate fields of study (Garces, 2013), and in law and medical schools (Garces & Mickey-Pabello, 2015; Wightman, 1997). The negative consequences also extend beyond admissions, undermining efforts that are needed to support the educational experiences of students already enrolled (e.g., Garces & Cogburn, 2015).<sup>14</sup>

#### **D. Late 1990s-2016: *Grutter v. Bollinger* (2003), *Gratz v. Bollinger* (2003), *Fisher v. University of Texas* (2013, 2016)**

Other well-financed and strategized efforts by conservative groups to end affirmative action via the courts in the mid-1990s ultimately culminated in two separate U.S. Supreme Court decisions in 2003, *Grutter v. Bollinger* and *Gratz v. Bollinger*. Both cases were initiated by the Center for Individual Rights with plaintiffs recruited by the organization (Stohr, 2004). *Grutter* involved a white female applicant, Barbara Grutter, who had been denied admission at the

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<sup>12</sup> In 2008, a similar initiative was introduced on the ballot in Colorado and rejected only after garnering 49 percent of the vote. Similar initiatives were proposed but failed to reach the ballot—in Florida in 2000, and in Oklahoma and Missouri in 2008 (Coleman, Lipper, & Keith, 2012).

<sup>13</sup> The laws also include allowances for bona fide sex-based qualifications, such as separate restrooms for each sex, needed in the operation of employment, education, and contracting, and exemptions for actions necessary to maintain eligibility for federal funds or existing court orders (i.e., enforced desegregation court orders).

<sup>14</sup> Recognizing the negative effects of affirmative action bans, some states have tried to restore the policy. For example, in 2014, California State Senator Edward Hernandez sponsored Senate Constitutional Amendment 5 (SCA 5) to overturn Proposition 209. Unfortunately, protests by a vocal and well-resourced Chinese Americans stopped the effort (<http://aaldef.org/blog/in-california-sca-5-may-be-doa-due-to-asian-americans-against-affirmative-action.html>).

University of Michigan Law School. She sued the school in 1997 and claimed that the law school's race-conscious admissions policy – which had been modeled after the type Justice Powell had endorsed in *Bakke* – was unconstitutional. She argued that the race-conscious admissions policy violated the Equal Protection Clause of the 14th Amendment because a higher percentage of minority applicants were admitted than white applicants with similar test scores. The law school argued that the policy was needed to further a compelling interest in student body diversity, which required the enrollment of a “critical mass” of students of color (i.e., more than a token number) to help diminish the impact of stereotypes and racial marginalization. Further, the school argued, the admissions process met the narrow tailoring requirements of strict scrutiny because it was based on individualized consideration of every applicant.

The *Gratz* case involved another white female applicant, Jennifer Gratz, who had been denied admission to the University of Michigan's undergraduate College of Literature, Science and the Arts. With the support from the Center for Individual Rights, she filed a separate lawsuit in 1997 to challenge the undergraduate admissions policy, which awarded extra points to some candidates on the basis of their race. In a 5-4 majority opinion authored by Justice O'Connor, the Court in *Grutter* upheld the law school's policy as constitutional, concluding that the law school had a compelling interest in student body diversity and that the policy satisfied each of the requirements of “narrow tailoring.” The Court issued a separate decision in *Gratz*, striking down the undergraduate admissions policy on the grounds that the policy's point system was not flexible enough to comply with the individualized consideration outlined in *Bakke*.

Having lost *Grutter*, the conservative attack on the policy continued in the legal arena, this time in a case orchestrated by Edward Blum, president of Students for Fair Admissions and Project for Fair Representation, who recruited Abigail Fisher, the daughter of an acquaintance, to initiate a lawsuit against the University of Texas at Austin in 2008 (Menicmer, 2016). At the time, the composition of the Court had become favorable to a conservative attack on affirmative action, as Justice Alito had replaced Justice O'Connor since the *Grutter* case.<sup>15</sup> Fisher challenged the university's race-conscious policy on the grounds that it did not follow the parameters set forth by *Grutter*. In 2005, the university had revised its holistic admissions policy to consider race as one among many factors in admissions, after *Grutter* overruled a Fifth Circuit decision that had prevented the university from considering race since 1996 (*Hopwood v. Texas*, 1996). Fisher argued that the university had reached an adequate level of racial and ethnic diversity through the Texas Top Ten Percent Plan (which Texas passed after *Hopwood*), so that the consideration of race as a factor in admissions decisions was not necessary and thereby unconstitutional. The university, on the other hand, argued that it needed the race-conscious policy so that it could attain a more racially and ethnically diverse student body than it had been able to attain under the Top Ten Percent Plan.

In its review of the case, which it heard twice, the Court issued two separate decisions, one in 2013 (*Fisher I*) and another in 2016 (*Fisher II*). In its first decision in 2013, the Court sent the case back to the Fifth Circuit for further review, leaving in place the core principles that allowed for race-conscious policies. Few observers expected the 7-1 ruling given the

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<sup>15</sup> In addition, four Justices—Chief Justice Roberts and Justices Alito, Thomas, and Scalia—had voted to strike down the use of race in admissions policies under any circumstances, and Justice Kennedy had dissented in *Grutter*. Only three other current Justices at the time—Sotomayor, Breyer, and Ginsburg—had supported race-conscious policies in education. Justice Kagan, who might have sided with the latter group, recused herself in light of her involvement in the case in the early stages of litigation.

composition of the Court at the time. In its 2013 ruling, the Court clarified that the lower court had to conduct its independent determination of whether the race-conscious policy was narrowly tailored to obtain the educational benefits of a diverse student body. The Court's decision also clarified the importance of considering workable "race-neutral"<sup>16</sup> alternatives, stating that if a non-racial approach could promote diversity "about as well and at tolerable administrative expense," (p. 2420) then the university could not consider race directly. After reconsidering the case based on the Court's request, the Fifth Circuit in July 2014 concluded that the university's admissions policy met the Court's requirements, as clarified in *Grutter*.

Fisher then appealed, arguing that the Fifth Circuit still had not applied the Court's requirements in past cases correctly. In 2015, the Court agreed to hear the case for a second time, a rare move that reflected the changed composition of the Court, with the four votes required to grant the petition to hear the case (*i.e.*, petition for *certiorari*). Part of the determination concerned whether the university would be allowed to complement the percent plan with a race-conscious holistic review process or whether the percent plan was deemed sufficient. In yet another victory for the university in 2016, the Court, in a 4-3 opinion authored by Justice Kennedy, affirmed the Fifth Circuit's ruling, upholding the constitutionality of the university's race-conscious admissions policy.

### **E. Current Challenges, New Plaintiffs**

In July 2014, when the Fifth Circuit ruled for second time (after a remand from the Supreme Court) that the University of Texas at Austin's race-conscious admissions policy was constitutional, Edward Blum created an organization called Students for Fair Admissions (SFFA) and began intentionally recruiting Asian Americans to serve as plaintiffs in future legal challenges. As he openly shared in public remarks at a Chinese American community event in Houston in 2015, he "needed Asian plaintiffs" to continue his legal attacks on affirmative action (Houston Chinese Alliance, 2015).

On November 17, 2014, while the Supreme Court was considering whether to hear the *Fisher* case a second time, SFFA filed a lawsuit against Harvard University (*SFFA v. Harvard*) and another against the University of North Carolina, Chapel Hill (*SFFA v. University of North Carolina et al.*). Like Abigail Fisher in 2007, plaintiffs in the cases were successfully recruited via websites created by Blum and the Project on Fair Representation, an organization he directs.<sup>17</sup> Unlike prior challenges that have involved public colleges or universities and the Equal Protection Clause (EPC) of the 14<sup>th</sup> Amendment to the U.S. Constitution, the lawsuit against Harvard is based on Title VI of the Civil Rights Act of 1964.<sup>18</sup>

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<sup>16</sup> In the legal context, a policy is deemed "race-neutral" when it does not explicitly reference race, even if it indirectly considers race. This legal definition led Justice Ginsburg to state in her dissent in *Fisher I*, "I have said before and reiterate here that only an ostrich could regard the supposedly neutral alternatives [*i.e.*, the Top Ten Percent Plan] as race unconscious" (at 2433).

<sup>17</sup> Launched in April 2014, these websites specifically sought out Asian American plaintiffs to launch high-profile lawsuits against the University of Wisconsin-Madison, the University of North Carolina-Chapel Hill, and Harvard University, the institution that provided a model for race-conscious admissions that the Court embraced in *Bakke* (Hing, 2014). Blum used a similar website in 2007 in search of a plaintiff against the University of Texas at Austin, eventually locating Abigail Fisher as one of the plaintiffs.

<sup>18</sup> As a private institution, Harvard is not governed by the Equal Protection Clause (EPC) of the 14<sup>th</sup> Amendment, but is subject to the requirements of Title VI, which apply to private institutions that receive federal funding, as Harvard does.

In the complaint against Harvard, SFFA lists anonymous Asian Americans as plaintiffs and advances many of the same arguments advanced in prior cases, including that the university intentionally discriminates against Asian Americans and that its race-conscious policies constitute racial quotas. The basic thrust of the challenges against both institutions is that the race-conscious admissions policies at both institutions do not satisfy strict scrutiny and, as argued in past cases like *Grutter* and *Fisher*, that *Bakke* should be overruled. Underlying the arguments in the cases is an overall assumption that standardized test scores and metrics should be privileged in admissions above all other characteristics, an approach that the Court has rejected since *Bakke* (1978). Indeed, as Justice Kennedy stated most recently in *Fisher II* (2016), in the context of discussing class rank under the Top Ten Percent Plan, “privileging one characteristic over another does not lead to a diverse student body” (p. 2213).

In a parallel effort to these lawsuits, in May 2015, a group of individuals organized by Yukong Zhao, a businessman in Florida, also lodged a complaint against Harvard University with the Department of Education and the Department of Justice, under the name “Asian American Coalition for Education” (AACE), an organization he founded in 2015. The complaint against Harvard was submitted by Yukong Zhao’s son, Hubert Zhao, and includes allegations of discrimination against him and other Asian American students.<sup>19</sup> During the summer of 2015, the Department of Education evaluated and dismissed the complaint (Cunningham & Fu, 2015). To date, the Department of Education complaint remains closed. However, in late 2017, The Department of Justice (DOJ), under leadership appointed by the Trump administration (Attorney General Jeff Sessions), re-opened the investigation against Harvard. The re-opening of the investigation followed a decision at DOJ to re-direct agency resources to investigate claims of discrimination at institutions that employ race-conscious admissions policies (Lawyers’ Committee for Civil Rights, 2018). AACE’s website attributes this outcome to its advocacy efforts, stating: “By November of 2017, our efforts have finally yielded meaningful results. In response to our complaint, the U.S. Department of Justice (DOJ) has taken concrete action to investigate Harvard. This is a major milestone in our pursuit of equal education rights for Asian American children” (AACE, 2018).

Most recently, in July 2018, the Departments of Justice and Education rescinded guidance documents issued during the Obama Administration on race-conscious admissions (Anderson & Balingit, 2018). The rescinded documents clarified the implications of Supreme Court cases like *Grutter* and *Fisher* for higher education practitioners and administrators, outlining the legal framework and actions institutions could take to achieve diversity and advance their educational mission. The roll back of the guidance does not change the law under *Fisher* and other Supreme Court precedent upholding the constitutionality of considering race as one factor in admissions. However, it does seek to discourage its use by replacing the guidance with a former version, issued during the George W. Bush Administration, encouraging the implementation of so-called “race-neutral” approaches for achieving diversity.

It is important to note that the pending cases in federal court—combined with the resources and actions from DOJ under the Trump administration to re-open the complaint against Harvard and rescind guidance on race-conscious admission—comprise a coordinated campaign of legal intimidation that can have a chilling effect on institutions. While Harvard and UNC-Chapel Hill have some of the largest endowments in the country and, as such, are able to defend

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<sup>19</sup> Similar complaints were also filed against other institutions, including Brown, Dartmouth, Princeton, Stanford and Yale, but these cases appear to be closed.

against lawsuits, it is possible that institutions lacking the financial resources to defend against lawsuits may change admissions policies and practices in order to avoid potential legal threats. For example, the College of Charleston recently ended its practices of race-conscious affirmative action without publicly reporting this policy change (Jaschik, 2018). A 2014 survey of 338 institutions that collectively enrolled 2.7 million students showed that 27% and 34% of public and private participating institutions, respectively, considered race as one among many factors in admission (Espinosa, Gaertner, & Orfield, 2015). Of the institutions that participated in the survey and accepted 40% or less of applicants, 60% reported considering race as one among various factors in admissions. However, another recent study found that over the last 20 years, a public commitment to race-conscious admissions has become far less common, particularly among institutions that are relatively lower in the status hierarchy (Hirschman & Berrey, 2017). That study found that it is the “most competitive” universities that have continued their public commitment to race-conscious admissions practices. While the reasons for this trend have not been studied directly, it is worth noting that the “most competitive” institutions are also the institutions that have more financial resources to defend against potential legal action.

### III. Research on Asian Americans and Affirmative Action

As the prior section outlines, since the 1980s, affirmative action critics have increasingly framed their efforts to end affirmative action “as a path to ending anti-Asian American discrimination” (West-Faulcon, 2017, p. 594). As they begin to test this fallacy through the new lawsuit against Harvard and through federal investigations by the U.S. Department of Justice, it is important to consider Asian American perspectives on the matter. Starting with the earliest documented arrivals of migrants from Asia in the 1500s to what is now the U.S., Asian Americans have experienced a long history of racism and community efforts to resist racist laws.<sup>20</sup> Given their racialized history and continued experiences of racial marginalization, it may not be surprising to find that they have directly benefited from and supported affirmative action policies.

At the same time, instances of Asian American opposition to affirmative action have appeared over time. In *Bakke* (1978), the Asian American Bar Association of the Greater Bay Area authored the only *amicus* brief submitted by an Asian American organization. This brief defended the policy. In subsequent cases, the number of Asian American *amicus* briefs has proliferated. In the 2003 Michigan cases, two Asian American organizations submitted briefs in support of the policy (i.e., National Asian Pacific American Legal Consortium et al., and the University of Michigan Asian Pacific American Law Students Association et al.), while the first anti-affirmative action Asian American brief was submitted by the upstart Asian American Legal Foundation. In the two *Fisher* cases, a total of 177 *amicus* briefs were filed.<sup>21</sup> Six organizations claiming to represent Asian American interests filed eight briefs in the two cases – four in favor and four against affirmative action.

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<sup>20</sup> Scholars in the interdisciplinary field of Asian American studies have documented and critically examined this history of racism and its contemporary legacies as it relates to various aspects of social life, such as voting, property rights, employment, marriage equality, healthcare access, and education in the U.S.

<sup>21</sup> Ninety-two briefs were filed in *Fisher I* and 85 briefs were filed in *Fisher II*. Across both cases, 141 briefs were filed in support of the university, 31 in support of Fisher, and five filed in support of neither party.



This section summarizes research that has examined Asian American support of the policy and the relatively recent, and seemingly growing, opposition to the policy. This research sheds light on contemporary debates over affirmative action, as represented by arguments in *amicus* briefs submitted to the U.S. Supreme Court in the two *Fisher* cases by organizations claiming to represent Asian Americans. Although both sides seem to share a recognition of Asian Americans as a racially marginalized population, differences in racial ideologies have led to divergent positions in the policy debate (Poon & Segoshi, 2018). Ideologically, the key difference between Asian American affirmative action supporters and opponents “...stems from the conceptual distinction between being treated *as an equal* and being treated *equally*” (Moses, 2016, p. 29, italics in original). The former, described as racial egalitarianism, assumes a respect for human dignity across socioeconomic circumstances, and recognizes that individuals’ potential to contribute their talents can be unjustly hindered by racialized structural barriers to educational opportunities that need to be dismantled. The latter, labeled racial libertarianism, suggests a disregard of unequal socioeconomic circumstances and barriers, calling for identical, or “equal” treatment be given to everyone, and an expectation that talent be evaluated in a uniform fashion via the use of quantitative measures, such as standardized test scores, which are not very reliable or valid measures of student academic quality (Radunzel, Mattern, & Westrick, 2016).

#### **A. Sustained Evidence of Asian American Support for Affirmative Action**

Despite the efforts of white affirmative action opponents to assert their agenda as one for Asian American rights, Asian Americans have long supported affirmative action, as evidenced by voting data, research, and advocacy led by long-established Asian American civil rights organizations. Where available, voting data in state ballot initiatives indicate that the majority of Asian American voters rejected bans on affirmative action. In California, which is home to the largest Asian American population in the U.S., 61% of Asian American voters rejected Proposition 209 (“State Propositions,” 1996). In Michigan, 75% of Asian American voters rejected Proposition 2 (*The Nation*, 2007). Among Asian American undergraduate students enrolled at four-year colleges and universities across the U.S., Park (2009) found that 62.6% disagree with efforts to abolish the policy. Moreover, Asian American law students have also demonstrated strong support for affirmative action (Orfield & Whitla, 2001).

These data are consistent with results from nationwide multilingual opinion polls conducted since 2012, which have shown that an overwhelming majority (68%) of Asian Americans support race-conscious admissions (Ramakrishnan, 2014). Even when asked about affirmative action as specifically applied to higher education, 69% of Asian Americans polled expressed support for the policy (Ramakrishnan, 2014). Although support for affirmative action among Chinese Americans, who represent 23% of the Asian American population, has drastically declined from 78% in 2012 to 41% in 2016, the majority of all other Asian American ethnic groups and Asian Americans on the whole remain supportive of the policy (Ramakrishnan & Wong, 2018).

Given strong Asian American support for affirmative action according to research, opinion polls and voting data, advocacy for the policy by longstanding Asian American civil

rights organizations<sup>22</sup> has been consistent with community interests. Emerging from the Civil Rights Movement, many of these organizations were founded in the 1970s to represent Asian American interests in advocating for racial justice and equity. Collectively and independently, these organizations have worked with other Asian American and Pacific Islander community-based organizations across the country to draft and submit *amicus* briefs to the federal courts in favor of affirmative action.

Overall, Asian American pro-affirmative action *amici* in both *Fisher* cases advanced three major arguments:

“[1] the continued need for race-conscious admissions for both certain Asian Americans and underrepresented students of color more generally; [2] the fact that Asian American (and all) students benefit from engaging in a racially diverse student body; and [3] the idea that *negative action* is distinct from affirmative action” (Jayakumar, Garces, & Park, 2018, p. 59).

An ideology of racial egalitarianism (being treated as an equal) underlies briefs submitted by Asian Americans Advancing Justice and Asian American Legal Defense and Education Fund (AALDEF). Accordingly, they framed Asian American and Pacific Islanders’ experiences with racism and racial disparities in education as similar to racial barriers in educational access faced by other communities of color (Poon & Segoshi, 2018). In these briefs, Asian American organizations cited extensive education and other social science research and data to demonstrate how Asian American and Pacific Islanders receive direct and indirect benefits from affirmative action, including increased college satisfaction, reduction in bias, and stronger development of critical thinking, leadership, and teamwork skills (Park, 2013). Additionally, AALDEF presented data showing increases in Asian American admission to the University of Texas at Austin under the race-conscious plan.

Moreover, these briefs explicitly included and named educational concerns experienced by diverse Asian American and Pacific Islanders communities that could be addressed by affirmative action policies, in alignment with other communities of color. According to AALDEF’s 2012 brief in *Fisher I* (2013), “many Southeast Asian and Pacific Islander communities remain economically disadvantaged and struggle with long-term poverty, language and literacy issues as well as post-traumatic stress disorder” (p. 29). Asian Americans Advancing Justice (2012) explained that Asian American and Pacific Islanders, “such as the Vietnamese, Laotian, Hmong, Tongan, and Native Hawaiian populations –who tend to be more economically disadvantaged and have less access to educational resources” (p. 21) are similar to other non-Asian American and Pacific Islanders students of color and could benefit from affirmative action. In sum, affirmative action advocates have argued and demonstrated how affirmative action benefits and advances diverse Asian American and Pacific Islanders’ interests in racial equity in educational access.

## **B. Insurgent, Minority Chinese American Opposition**

Unlike Asian American organizations supporting affirmative action, anti-affirmative action *amici* – the Asian American Legal Foundation (AALF), 80-20, and the Asian American

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<sup>22</sup> These organizations have included the Asian American Legal Defense and Education Fund (AALDEF), Asian Americans Advancing Justice (formerly the National Asian Pacific American Legal Consortium and Asian Pacific American Legal Center), Chinese for Affirmative Action, and Chinese Progressive Association.

Coalition for Education (AACE) – are relatively new upstarts founded by Chinese Americans (Poon & Segoshi, 2018). AALF and 80-20 started in the 1990s, just as state ballot measures to ban affirmative action were taking hold. AACE was co-founded in 2015 by Yukong Zhao, a businessman in Florida. In the same year, Zhao’s son, Hubert Zhao, and others, filed the OCR complaints against Ivy League institutions (Ortiz, 2017). Some of the briefs in the *Fisher* cases opposing the policy were co-authored and submitted in partnership with the Louis D. Brandeis Center for Human Rights Under Law and the Judicial Education Project, demonstrating a political alignment between these Asian American *amici* and conservative white organizations (Park & Liu, 2014).

Ideologically, anti-affirmative action briefs presented what Moses (2016) labeled a racial libertarian view, which defines the notion of racial equality as “... sameness of treatment, regardless of history, context, or social structures” (p. 30). From this perspective, the state and other social institutions like colleges and universities should not be allowed to intervene in systems that are presumed fair and racially neutral. Correspondingly, many of the arguments across anti-affirmative action briefs frame affirmative action as “racial preferences” for non-Asian American applicants with lower grade point averages and test scores. Importantly, this perspective also assumes such measures to be racially neutral metrics of academic potential and merit, leading them to rely heavily on a misinterpretation of statistical analysis from Espenshade and Radford’s (2009) study of admissions processes at selective institutions. In their study, the authors found that, on average, admitted Asian Americans had SAT scores that were about 140 points higher than those of white students. Their study included a limited number of factors and experiences that admissions officers consider, and failed to model or account for contemporary holistic review procedures. However, references to this study fail to mention the study’s limitations. One of the authors himself, Espenshade, has acknowledged that his work does not present conclusive evidence of discrimination against Asian Americans (Jaschik, 2009). Importantly, opponents of affirmative action also overlooked the study’s finding that race-conscious admissions at selective colleges and universities increased the admission chances of low-income and working-class Asian Americans (Jayakumar, Garces, & Park, 2018). This finding challenges the proposition that race-conscious admissions policies disadvantage Asian Americans.

Interestingly, these anti-affirmative action briefs also maintained a narrative of Asian Americans as a racially marginalized population, positioning affirmative action as a policy akin to racist anti-Asian policies like the Chinese Exclusion Act and Japanese American Internment in World War II. These briefs also depict affirmative action as similar to anti-Jewish quotas practiced by Ivy League institutions in the early twentieth century. For example, the AALF and AACE (2015) brief argued “...Asian American applicants to elite colleges and universities today apparently face the same informal quotas faced by Jews who applied to ... prestigious institutions during the first half of the 20th century” (p. 23), perpetuating a misrepresentation of affirmative action, a policy for racial equity, as reprehensible discrimination. The next section presents some emerging research offering a deeper exploration of commonalities and differences in Asian American perspectives of affirmative action.

### **C. New Research on Asian Americans and Affirmative Action**

In this section, we discuss relevant observations from a recent study by Poon et al. (2017), offering a more in-depth understanding of underlying reasons for divergent Asian

American perspectives on affirmative action in college admissions. As explained in the Appendix, which provides more details about the larger study, data collection and analysis were guided by the following two questions: How have Asian Americans developed supportive or oppositional stances on affirmative action? What role have their individual narratives of immigration, ideologies of race, racism, and educational opportunity in the U.S. played in the development of their political engagement in the affirmative action debate? To begin answering these questions, researchers completed interviews from June through November 2016 with 36 leaders and members of Asian American organizations that had publicly advocated for or against affirmative action between 2014 and 2016. The study revealed some unexpected commonalities between Asian American affirmative action opponents and supporters, surprisingly suggesting support for holistic review principles that are fundamental to current affirmative action case law. It also highlighted unanticipated differences between policy opponents and supporters by demographics, social segregation, and social media practices that help explain divergent opinions.

### *1. Commonalities Between Supporters and Opponents of Affirmative Action*

#### *a. Recognition of Racism in the U.S.*

Unlike white affirmative action opponents over the last several decades, Asian American policy opponents acknowledged the general presence and problem of racism in the U.S. This finding is consistent with previous research examining interest divergences between Asian American and white affirmative action opponents (Park & Liu, 2014) and a study analyzing *amicus* briefs on both side of the *Fisher* cases (Poon & Segoshi, 2018). Each of the 36 individuals interviewed shared personal experiences and recognized racism as a problem. Despite this shared recognition of the existence of racism, divergent opinions on affirmative action resulted from a number of factors, discussed in the remainder of this report.

#### *b. Poor Understanding of Affirmative Action*

Interestingly, both affirmative action supporters and opponents interviewed articulated poor, inaccurate, and/or incomplete understandings of “affirmative action.” In analyzing responses to the question, “In your own words, how do you define affirmative action?”, researchers were surprised to find that only 6 of the 36 interview subjects held an accurate understanding of affirmative action and how the policy works in selective admissions. Notably, all six identified as affirmative action supporters. All of the policy opponents and most (13 of 19) of the supporters wrongly believed that affirmative action was the practice of racial quotas in admissions and/or the use of inflexible bonus points or general preferences for under-represented minority applicants, practices that were rendered unconstitutional following the Court’s decisions in *Bakke* and *Gratz*. Based on these false definitions of how affirmative action works, policy opponents framed race-conscious admissions as an unfair handout to undeserving and unqualified under-represented minorities. On the other side of the debate, affirmative action supporters justified quotas and preferences as a limited act of redressing systemic racial inequalities. Unfortunately, advocates on both sides presented arguments that were disconnected from facts and evidence about how holistic review operates in relation to contemporary

affirmative action policy (i.e., race-conscious admissions), which does not allow for the practice of racial quotas or racial bonus points.

### *c. Support of Holistic Review Principles*

Surprisingly almost all (33 of 36) of the participants expressed support for the general principles of holistic review, such as reviewing applicant credentials within the context of their educational opportunities, or considering criteria outside of tests and grades in evaluating admissions. For example, in responding to various questions (In your opinion, what would an ideal system of college admissions look like? In your opinion, what admissions criteria should be the most important in determining whether an individual is admitted? In your opinion, why are these criteria the most important?), overwhelmingly, interview participants on both sides of the affirmative action debate explained that an ideal system of admissions would fairly account for students' diverse contexts of opportunity in evaluating their academic potential. Only one affirmative action opponent in this study claimed that admissions criteria should be limited to test scores and high school grades. These findings contradict what appears to be an often-held assumption that affirmative action opponents believe test scores and high school grades should be the *only* criteria for admissions. In fact, most Asian Americans on both sides of the debate in this study did not argue for a test-and-grades-only admissions system. Although policy opponents were more skeptical of evaluative criteria outside of tests and grades, they were still open to the use of other criteria as long as they were not simple racial quotas or bonus points, and if there was some more transparency to understand how selective admissions works. While there is no one consistent approach to holistic review (Bastedo et al., 2018), in general, interview subjects' ideal notions of college admissions and criteria actually align with identified approaches to holistic admissions review, which guide individualized reviews of each application to better understand student achievement and potential within context.

## *2. Differences Between Supporters and Opponents of Affirmative Action*

This study also revealed clear differences in demographics and communication channels between Asian American affirmative action supporters and opponents.

### *a. Opponents of Affirmative Action are Predominantly Chinese American*

First, while the 19 interviewed policy proponents were diverse along ethnic identity, sex, economic class, and educational attainment levels, all but one of the opponents were male, despite additional efforts to secure interviews with more female opponents. Additionally, all 15 policy opponents, and the two individuals who held mixed opinions on the policy, identified as Chinese American. While only four of the 19 policy supporters were immigrants, the majority (11 of 15) of opponents were immigrants. Moreover, seven of these 11 immigrants arrived after the 1990 U.S. Immigration Act, which we discuss further in the next section. Although there are non-Chinese Asian Americans who also oppose affirmative action, researchers were unable to secure interviews with non-Chinese American opponents despite investing extra time and effort to recruit them. The results of this study suggest that contemporary Asian American anti-affirmative action efforts are more accurately described as predominantly led by Chinese American immigrants, and that advocacy for affirmative action represents a more

demographically diverse coalition of Asian Americans (Poon et al., 2017). This finding is also consistent with a recent analysis of opinion polling, which found that Chinese Americans are now the only Asian American ethnic group opposed to affirmative action (Ramakrishan & Wong, 2018).

*b. Centrality of WeChat for Distribution of Information*

Importantly, another key difference between Asian American opponents and supporters of affirmative action was along communication channels. As researchers began recruiting study participants, they were able to secure interviews with policy supporters using email and other social media venues, such as Facebook, Twitter, and LinkedIn. These approaches, however, did not yield many responses from policy opponents. It was not until researchers conducted outreach through WeChat, a social media application launched in 2011 with state approval of the People's Republic of China, that they were able to recruit participants who opposed the policy. Although there are over 1 billion WeChat active users each month including many Chinese American immigrants, this social media platform is not very common in the U.S. outside of ethnic Chinese communities (Hollander, 2018).

**D. Factors that Help Explain Chinese American Opposition to Affirmative Action**

Although research, data, and opinion polls consistently continue to find that the majority of Asian Americans strongly support affirmative action, a recent opinion poll shows that support for affirmative action among Chinese Americans, who represent 23% of the Asian American population, has drastically declined from 78% in 2012 to 41% in 2016 (Ramakrishnan & Wong, 2018). In light of these unique changes, it is important to understand the factors that may explain Chinese American opinions on affirmative action. We suggest that the following factors may help explain conservative ideological activism by some Chinese American immigrants against affirmative action: (1) changes to U.S. immigration policy; (2) limited social interactions among post-1990 Chinese American immigrants with other people of color, including other Asian Americans; and (3) the proliferation of misinformation on WeChat, combined with a longstanding systemic culture of exam-focused education in China.

**1. Changes in U.S. Immigration Policies**

Important changes in U.S. immigration policies have contributed to differences in the socioeconomic backgrounds among immigrants from China in the U.S. Although socioeconomic patterns alone would not necessarily engender conservative ideological activism against affirmative action, these demographics are important to consider along with other factors described below.

Overall, there have been two waves of Chinese immigration to the U.S.: pre-1882 and post 1965, with a notable policy change occurring in 1990 affecting the characteristics of current immigrants from China. With respect to the first wave, shortly after legal abolishment of slavery in the 1860s, Chinese immigrants came to the U.S. as exploitable, unskilled laborers. This first wave subsided when the 1882 Chinese Exclusion Act and subsequent laws like the 1924 Immigration Act almost entirely halted legal immigration from China and eventually all of Asia. The second wave began after the 1965 Immigration and Nationality Act ended the national

origins quota, leading to a substantial increase of immigration from Asia and other non-European parts of the world (See Hing, 1993). In fact, in 1990, the U.S. Immigration Act increased by three-fold the number of visas for highly skilled, professional-class immigrants (Smith & Edmonston, 1997), privileging highly educated and skilled immigrants through H1-B visas and international investors through EB-5 visas. This immigration policy change in 1990, combined with migration policy changes in China that also advantaged more structurally-privileged Chinese to emigrate, shifted the socioeconomic patterns among immigrants from mainland China (Xiang, 2016).

Given changes in immigration policy pre-1882 and post-1965, the majority of today's Chinese American immigrants are highly skilled and wealthy immigrants, compared to earlier waves of immigrants from China to the U.S., who consisted primarily of low-skilled or unskilled laborers. In fact, by 2014, immigrants from the People's Republic of China represented the second largest number of H1-B visa recipients, 85% of EB-5 investor visas, and the largest group of international students to the U.S. (Xiang, 2016; Zong & Batalova, 2017). Notably, Chinese American immigrant income levels are higher than that of other immigrants. At the same time, however, they are less likely than other immigrants to identify as proficient in English and speak English at home (Zong & Batalova, 2017).

Moreover, growing up in mainland China, many of these more recent Chinese American immigrants were systemically and culturally socialized to strongly believe that a single-examination is a valid measure of merit for elite college access (Liu, 2013; Marginson, 2011). In 1952, the newly established People's Republic of China instituted the grueling National Higher Education Entrance Examination, also known as the *gaokao*, which is the sole determinant of admission to selective universities. Although there are longstanding Confucian cultural values for education, the strong esteem for testing as a measure of meritocracy in the current context is a relatively recent phenomenon and product of both culture and the Chinese government's use of the *gaokao*'s symbolism of meritocracy to transition toward a nationalist market economy (Lee & Zhou, 2015; Liu, 2013). Because a large number of recent Chinese American immigrants were socialized within the contemporary educational system in China, many have carried cultural and socialized beliefs – that “merit” can be reliably determined by a test like the *gaokao*, SAT or ACT – from China to the U.S. For some, these values are maintained in the U.S. through their social network contexts (e.g., elite Chinese university alumni associations) and social media echo chambers, as we discuss in the next two sections.

## 2. Social Segregation

In addition to having different socioeconomic backgrounds and orientation toward standardized metrics of admission from earlier immigrants, many Chinese Americans who immigrated after 1990 also experience different levels of social exposure to other people of color. Unlike earlier waves of Chinese immigrants, many post-1990 immigrants from mainland China do not rely on the ethnic enclave economies of Chinatowns to make a life (Zhou & Logan, 1989), but they may still live culturally and socially segregated lives.

The residential and employment patterns among more recent immigrants suggest that their social lives remain limited to middle and upper-middle class Chinese American immigrants and whites. For example, some reside in Chinese ethnoburbs – suburban communities with high concentrations of ethnic Chinese residents, businesses, and politics (Li, 1998), such as Los Angeles County's San Gabriel Valley and Cupertino in the San Francisco Bay Area. Still, many

settle in predominantly white neighborhoods. For these reasons, relative to several other minoritized populations, recent Chinese American immigrants experience less residential segregation from whites (Hall, 2013). In addition, they may experience less segregation from whites in the workplace. In 2016, for instance, over half of Chinese American immigrants in the civilian workforce were employed in the management, business, science, and arts occupational sector, which is predominantly white, compared to 32% of the overall immigrant labor force and 39% of the U.S. born civilian workforce (Zong & Batalova, 2017).

While recent, middle and upper-middle class Chinese American immigrants may have more contact with whites than other racially minoritized populations, they may also have less contact with other people of color including other Asian Americans, and perhaps little to no social contact with people who are not Chinese immigrants like themselves. Findings from the affirmative action interview study of Asian Americans described in detail earlier, and evidence of limited English proficiency among this population, suggest that many post-1990 Chinese immigrants' social lives, in person and on the social media platform WeChat, may remain limited to a predominantly Chinese social world.

### 3. WeChat

Related to these other factors, the social media platform, WeChat, plays an important role in fostering opposition to affirmative action among some Chinese American immigrants. Some studies have found that WeChat plays a central role in the distribution of information among the Chinese diasporic community, including fake news, to politically motivate and organize Chinese immigrants for conservative causes, especially against affirmative action and ethnic data disaggregation (Chen, 2018; Zhang, 2018). In fact, since the advent of WeChat, conservative Chinese American activists have effectively used the social media platform to spread fake news and alarmist messages to manipulate racial anxieties and fears to engage Chinese immigrants in public demonstrations for conservative agendas (Chen, 2018; Poon & Sihite, 2016; Zhang, 2018). For example, Shao (2018) found that, during California's SCA 5 controversy in 2014, affirmative action opponents on WeChat stopped using the Chinese language term for "affirmative action," which essentially translates as the "Equal Opportunity Act," often replacing it with the abbreviation "AA." Fear and anxiety provoked by misinformation conjuring negative racial stereotypes about other people of color, namely Blacks, Latinos, and even other Asian Americans (Poon, 2018), can also very powerfully compel enthusiastic political action (Tolbert, Redlawsk, & Gracey, 2018).

Still, researchers also suggest an interest among Chinese Americans on WeChat to engage in thoughtful, evidence-based dialogues about affirmative action, and other questions about race, racism, and public policies (Poon, 2018; Zhang, 2018), but there are numerous factors that prevent such thoughtful engagement. For example, there is an imbalance between the amount of stories about affirmative action in WeChat, where one of the most popular news items is affirmative action, and the less frequent coverage of the topic in mainstream U.S. news outlets, which many Chinese immigrants also consume (Zhang, 2018). Notably, evidence-based and compelling arguments for affirmative action are rarely offered in immigrant Chinese social spaces like WeChat (Chen, 2018; Zhang, 2018). Unfortunately, mainstream news media reporting on affirmative action is also limited in presenting reliable analyses (Moses, Mayeda, & Paguyo, 2018; Moses & Saenz, 2008). Additionally, almost all WeChat discussions regarding affirmative action and other policies are conducted in Chinese, creating a linguistic barrier to



those without Chinese language skills, including many U.S. born children of Chinese immigrants, to engage in these dialogues and offer facts and information to counter anti-affirmative action arguments.

#### **IV. Looking Ahead**

It is critical to consider strategies within and outside the legal arena to address the current wave of attacks on race-conscious admissions in post-secondary education. In addition to capitalizing on opposition to affirmative action by some Chinese American immigrants, long-time conservative actors and organizations are benefiting from changes by the Trump administration, including the roll back of Obama-era guidance on race-conscious admissions and the decision to redirect DOJ resources to investigate claims of discrimination at institutions that employ race-conscious admissions. These changes not only discourage the use of constitutionally-permissible policies, but seek to intimidate or threaten universities that remain committed to using them with the possibility of DOJ investigations. This political climate requires that advocates and scholars for racial equity and diversity critically consider new strategies for analysis, legal advocacy, and public policy outreach.

##### **A. Pending Cases and a Strategy of Legal Intimidation**

As the lawsuit against Harvard makes its way through the lower courts, it will be critical for the legal strategy to introduce, via expert witnesses and other documents, such as *amicus* briefs, findings from research addressing the benefits of race-conscious admissions policies for Asian Americans. As documents recently filed in the Harvard case demonstrate, these efforts are already underway, with an analysis of Harvard-specific data by well-known economist and Berkeley Professor David Card, whose analysis found no anti-Asian American racial bias in Harvard's complex holistic review process. There were also numerous *amicus curiae* briefs filed in support of Harvard, including one filed by 531 social scientists and scholars documenting the benefits of race-conscious admissions for Asian American applicants (Kennedy, 2018).

The Court's majority opinion in *Fisher II* (2006) also points to the importance of continued involvement by a broad coalition of Asian American organizations in filing briefs in support of the policy. Justice Kennedy, for example, in his majority opinion, directly cites the Brief for Asian American Legal Defense and Education Fund et al. as *Amici Curiae* to support the statement that "the contention that the University discriminates against Asian-Americans is 'entirely unsupported by evidence in the record or empirical data'" (p. 2207). While the majority opinion reflects findings from the evidentiary record in the case, Justice Alito's numerous references in his dissent to Asian Americans reflects the way conservative organizations have shifted framing to focus on discrimination against Asian Americans as the logical outcome of "preferences" for other minorities.<sup>23</sup> Reflecting the argument that conservatives have advanced since the 1980s, Justice Alito asserts, specifically, that the university's plan "discriminates

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<sup>23</sup> Specifically, Justice Alito states: "UT's program is clearly designed to increase the number of African-American and Hispanic students by giving them an admissions boost vis-à-vis other applicants. See, e.g., Supp. App. 25a; App. 445a-446a; cf. 645 F.Supp.2d 587, 606 (W.D.Tex.2009); see also *ante*, at 2223 (citing increases in the presence of African-Americans and Hispanics at UT as evidence that its race-based program was successful). Given a 'limited number of spaces,' App. 250a, providing a boost to African-Americans and Hispanics inevitably harms students who do not receive the same boost by decreasing their odds of admission" (p. 2227, n. 4).

against Asian-American students” (p. 2227; also citing to the Brief for Asian American Legal Foundation et al. as *Amici Curiae* in support of Fisher). While expressed in a dissent, and not the majority opinion, this statement illustrates the way that the misconstrued narrative around affirmative action and Asian Americans has taken hold among some of the justices in the Court. Addressing this misguided narrative, not only within the legal arena but also in the court of public opinion, will be critical.

## **B. Addressing Misinformation and Misperceptions in the Public and Policy Arena**

Although litigation in the federal courts is central in determining the fate of affirmative action, so is the way that affirmative action, or race-conscious postsecondary admissions policies more specifically, is perceived by the general public and Asian Americans in particular. These perceptions not only influence state policy, but indirectly, legal rulings (e.g., Welner, 2012). For these reasons, it will be important to engage in targeted information campaigns for the general public, and for Asian American communities more specifically, both of which require an active role on the part of the traditional news media.

With respect to the general public, it is possible that the public activism among Chinese Americans may lead some – especially those unaware of research documenting how Asian Americans benefit from the policy and the population’s consistent support for affirmative action – to believe that there is widespread opposition to the policy by Asian Americans and that the policy is harmful to this racial minority group. A poorly informed public discourse, riddled with alternative facts, is troubling to healthy public policy debate. Given the important role traditional news media plays in shaping the issue for the general public (Moses & Saenz, 2008), it is critical for mass media to provide more comprehensive reporting on Asian American stances on affirmative action and research demonstrating the effects of the policy for Asian American students.

A targeted public education campaign about affirmative action among Asian Americans is also needed in light of the widespread distortions and misinformation that exist about affirmative action among some Asian Americans active in the current debate (Poon et al. 2017). These misrepresentations are not surprising given that reports about presumed negative effects of affirmative action on Asian Americans have dominated ethnic Chinese social media, while mainstream media have offered little to no fact-based reporting on the issue as it relates to this diverse population (Chen, 2018; Zhang, 2018). For these reasons, such a project would require communication efforts targeting both mainstream media and ethnic Chinese media on venues like WeChat, with materials that are also offered in Chinese. In particular, given the complexities of holistic review and how this process greatly benefits Asian American applicants, intentional public education should focus on how the process works. Evidence and details about holistic review suggest an alignment between what Asian American affirmative action opponents and supporters describe as their ideal approach to selective college admissions. As participants expressed in the Poon et al. (2017) study, it is important to consider each individual applicant’s achievements beyond a test score and GPA, within the context of their unique educational and life contexts.

Within such a public education campaign, we need to develop a stronger connection between research and policy discourse, particularly around what race-conscious admissions (and relatedly affirmative action) is, how holistic review works in selective admissions, why it is practiced, who benefits, and in what ways. For example, social media materials could be created

to help explain holistic review, question definitions of “merit” that rely solely on standardized test scores, address the myth that Asian American applicants need to score higher on standardized tests to gain admission, discuss the importance of racial diversity to educational environments, including how Asian Americans benefit from affirmative action, and distinguish between affirmative action and racial discrimination.<sup>24</sup>

Emerging research shows that holistic review processes (like the one found at Harvard) can increase the odds of admission for Asian American applicants and other students of color without compromising a cohort’s academic measures of achievement (Bastedo et al., 2017). The results of this recent research may be explained by how holistic review works. In Harvard’s robust holistic admissions process, which allows students to demonstrate their diversity of talents and potential for contributing toward the campus educational environment, no one criterion, such as an applicant’s test score, high school GPA, athleticism, extra-curricular activities, high school attended, race, class or family background, serves to determine the admission decision for any individual student. Given the great diversity (e.g., educational contexts, achievements, interests, talents, ethnic, economic, and social backgrounds) found among the growing Asian American population, comprehensive and race-conscious holistic review approaches can greatly benefit Asian American students.

News journalists should also produce more in-depth coverage of affirmative action, race-conscious admissions, and Asian Americans. Unfortunately, with a few exceptions (see, e.g., Chang, 2018; Eligon, 2018; Hwang Lynch, 2017; Khadaroo, 2018; Khrais, 2018), media accounts on the current debate over affirmative action is dominated by incomplete analyses on complex matters, which only benefit anti-affirmative action activists like Edward Blum (Moses, Maeda, & Paguyo, 2018). The highly contentious court of public opinion could benefit from concerted, widespread, and culturally relevant efforts to educate the public and counter the mass distribution of misinformation that form part of the basis in this new wave of attacks in the conservative agenda to dismantle affirmative action.

## Conclusion

While challenges to affirmative action policies in higher education have played out in the legal and public arena over the last half century, the current wave of attacks against the policy is based on a campaign of misinformation, intimidation, and racial division. These opposition efforts are cynically capitalizing on upstart conservative political activism among a specific segment of Chinese American immigrants (opposition that can be explained by a number of factors we outlined in this report) and recent changes under the Trump Administration. Yet, despite the efforts of white affirmative action opponents to assert their agenda as one advocating for Asian American rights, the majority of Asian Americans continue to support race-conscious admissions specifically, and affirmative action more generally, as evidenced by voting data, research, and advocacy led by long-established Asian American civil rights organizations.

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<sup>24</sup> Higher education institutions have engaged in these efforts as part of their communications strategy, including the University of Michigan and Harvard. During the litigation in the *Grutter* and *Gratz* cases, Michigan created websites dedicated to articulating the benefits of a racially and ethnically diverse student body. Most recently, Harvard University created a website that appears to be dedicated to explaining the issues in the ongoing litigation (<https://projects.iq.harvard.edu/diverse-education>). Additionally, a coalition of Harvard alumni and students committed to racial equity and diversity have created a website to update the public about the *SFFA v. Harvard* case (<https://www.diverseharvard.org/lawsuit-update>).

Moving forward, it will be important to address misperceptions and attempts to create racial division on this topic with more comprehensive reporting on Asian American stances on affirmative action, and with targeted outreach to help develop a stronger connection between research and policy discourse around the benefits of race-conscious admissions for Asian American students and the Asian American community at large.

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## Appendix

To understand the development and underlying ideologies behind divergent Asian American perspectives on affirmative action in selective admissions, during Summer and Fall 2016, Dr. OiYan Poon and Dr. Megan Segoshi conducted an interview-based study guided by the following two questions: (1) *How have Asian Americans developed supportive or oppositional stances on affirmative action?* (2) *What role have their individual narratives of immigration, ideologies of race, racism, and educational opportunity in the U.S. played in the development of their political engagement in the affirmative action debate?* Informed by critical race theory, the researchers set out to identify and examine social factors shaping and informing Asian American advocacy for and against affirmative action.

*Data Collection and Participants.* Using a purposeful sampling technique, researchers identified potential participants by contacting Asian American organizations that: (a) authored or signed onto *amicus* briefs submitted to the U.S. Supreme Court in the two *Fisher* cases, (b) had publicly supported or opposed the California Senate Constitutional Amendment 5, or (c) had publicly supported or opposed the Office for Civil Rights complaints against Ivy League institutions, such as Harvard, Brown, Dartmouth, Columbia, Duke, the University of Pennsylvania, Cornell University, the University of Chicago, and Amherst College. Researchers also contacted leaders of organizations listed on the Asian American Civil Rights website (<http://asianamericancivilrights.org>), which is a collective of Asian American and Pacific Islander organizations that support affirmative action, and on the Asian American for Education website (<http://asianamericanforeducation.org>), coordinated by Yukong Zhao, a central figure in the Office for Civil Rights complaints.

In total, researchers completed in-depth individual interviews with 36 Asian Americans who had publicly advocated for, or against, affirmative action. All in-person interviews took place in California, the Chicago metropolitan area, and in the Northeast. Seven of the 36 interviews were conducted using Zoom video conference technology. Each interview was audio recorded and professionally transcribed. Researchers asked participants questions to learn more about each individuals' life experiences, how they became politically engaged, and about the development of their ideologies and perspectives on race, racism, affirmative action, and selective college admissions in the U.S. After each interview, researchers drafted memos to identify and examine intriguing and notable ideas expressed by participants. The table provided below describes the 36 participants in more detail.

Table: Interview Participants				
Pseudonym	Generation/Ethnicity <sup>25</sup>	If immigrant, year of immigration (path)	Supportive holistic review principles?	Accurate understanding of affirmative action?
<b>AFFIRMATIVE ACTION OPPONENTS</b>				
Evan	1.5 gen Chinese	1978	Yes	No
Wilson	1st gen Chinese	1984 (family)	Yes	No
Ruth	2nd gen Chinese	N/A	Yes	No
Richard	2nd gen Chinese	N/A	Yes	No
Stanley	1st gen Chinese	1955 (college)	Unclear	No
Jake	2nd gen Chinese	N/A	Yes	No
Bingwen	1st gen Chinese	1990s (student)	Yes	No
Phil	2nd gen Chinese	N/A	Yes	No
Jian	1st gen Chinese	1982 (student)	Yes	No
Thomas	1st gen Chinese	1999	Yes	No
Wei	1st gen Chinese	1999 (student)	Yes	No
George	1st gen Chinese	1993 (student)	Yes	No
William	1st gen Chinese	2005 (work)	Yes	No
Jun	1st gen Chinese	1993 (student)	No	No
Sheng	1st gen Chinese	1997 (student)	Yes	No
<b>MIXED OPINIONS ON AFFIRMATIVE ACTION</b>				
Grace	1st gen Taiwanese	1960s	Yes	No
Albert	4th gen Chinese	N/A	Yes	No
<b>AFFIRMATIVE ACTION SUPPORTERS</b>				
Annabelle	2nd gen Korean	N/A	Yes	No
Charles	2nd gen Chinese	N/A	Yes	Unclear
Jimmy	2nd gen Korean	N/A	Yes	Unclear
Hope	1.5 gen Korean	1973	Yes	No
Anh	1.5 gen Vietnamese	1975 (refugee)	Yes	No
Asha	1st gen Indian	1980s (family)	Yes	Yes
Melissa	2nd gen Chinese	N/A	Yes	Yes
Mya	1.5 gen Burmese	1970s	Yes	Yes
Jacob	2nd gen Taiwanese	N/A	Yes	Yes
Tina	2nd gen Cambodian	N/A	Yes	No
Helen	1.5 gen Filipina	late 1980s (family)	Yes	No
Ethan	2nd gen Chinese-Vietnamese	N/A	Yes	Unclear
Cameron	2nd gen Filipina	N/A	Yes	No
Arnold	2nd gen Filipino	N/A	Yes	Yes
Vanessa	2nd gen Filipina	N/A	Rejected selective system	No

<sup>25</sup> 1.5 generation individuals are those who immigrated to the U.S. as children. Second generation individuals are U.S. born children of immigrants.

Mason	3rd gen Korean/Chinese	N/A	Yes	Yes
Olivia	2nd gen Korean	N/A	Yes	No
Emily	2nd gen Taiwanese	N/A	Yes	No
Dean	1st gen Chinese	1987 (family)	Yes	No

*Data Analysis.* Using Dedoose, an online program for qualitative data analysis, a research team read each interview transcript and coded and analyzed data guided by the two research questions. The team first engaged in an open coding process focusing on the guiding research questions, seeking to identify commonalities and differences between affirmative action supporters and opponents. Informed by research on racial ideologies and frames (Bonilla-Silva, 2014; Moses, 2016; Warikoo, 2016), the research team created axial codes to focus the analytical process on how participants’ articulations of their experiences with immigration and immigrant adaptation, their racial ideologies and frames, and their perspectives on educational opportunity in the U.S. contributed toward the perspectives on affirmative action. Throughout the process of coding, the research team met on a regular basis to share and discuss common, emerging analytical themes about how and why interview participants advocated for or against affirmative action. To articulate and explore participant perspectives, the research team also re-read transcripts and memos and reflected on each member’s individual positionality, as Asian American women of diverse ethnic backgrounds and immigration histories, in relation to what was shared by each participant. This process of reflexivity allowed the research team to articulate a more in-depth analysis of the interview data. Through this analytical process, the team explored how individuals negotiated “...their experiences in messy spaces, in contradictory ways” (Bhattacharya, 2009, p. 135), and identified key commonalities and differences underlying divergent Asian American perspectives on affirmative action.

Trustworthiness of data and analysis was established in a number of ways. During each interview, researchers continually mirrored, probed, and summarized participant responses to check for veracity. Transcripts were also provided to each participant to review for accuracy. Finally, throughout the analytical process, the research team sought confirming and disconfirming evidence in examining relationships between participants’ underlying racial ideologies and frames, and political engagements in advocating for or against affirmative action.