



## *Teaching Affirmative Action in the Classroom: Locating Justice and Interrogating Meritocracy*

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### **Abstract**

*Affirmative action in education is once again in the media and cultural spotlight. The Trump administration, along with a decidedly rightward shift on the Supreme Court, signal a bleak outlook for affirmative action policies in higher education. However, as educators, we can also use this historical moment to have robust and critical conversations in our classrooms centered on advancing justice and interrogating the polemics of meritocracy—a concept that undergirds much of the affirmative action narrative. This paper seeks to provide social justice-oriented educators with the critical tools necessary to have meaningful classroom conversations about the historical and contemporary narrative of the affirmative action debate.*

**Keywords:** *Meritocracy, College Access, Affirmative Action*

### **Introduction**

Affirmative action as an admissions practice lives on after the Supreme Court's decision in *Fisher v. University of Texas* (2016). However, the sustainability of race positive considerations in education continues to hang in the balance against a never-ending headwind of anti-affirmative action legal assaults. While the *Fisher* dispute lingered for years in the court system waiting for its final verdict, two other complaints against race positive admissions were filed against Harvard and the University of North Carolina at Chapel Hill (Project on Fair, 2015). Notwithstanding the shelf life of the *Fisher* decision, the outlook for affirmative action in admissions policy looks bleak. The Trump administration has played a significant role in constructing a Supreme Court and Federal Circuit Courts that looks to turn decidedly rightward, thus further emboldening anti-affirmative action crusaders to challenge affirmative action practices. Nevertheless, the vitality of the affirmative action debate in our classrooms should not singularly be tied to changing political and judicial headwinds. Critical questions educators must confront in our classroom is not just whether or not we talk about affirmative action, but *how*. Reflective of the research literature and public discourse on affirmative action, *how* we talk about affirmative action reveals itself to be as controversial as the topic itself. In the research literature, topics surveyed have ranged from the applicability of "strict scrutiny" as a legal standard to whether or not affirmative action "harms" minorities (See Anderson, 2002; Bhagwat, 2002; Taylor & Sander, 2012). Our public discourse has similarly diverged without much clarity. For instance, opponents of affirmative action have argued Asian Americans must score hundreds of points

more than other minority applicants to receive admissions (Asian American Coalition, 2016). Additionally, white applicants have claimed reverse racism at the alleged unfair double review standards (*Regents of the Univ. of California v. Bakke*, 1978; *Grutter v. Bollinger*, 2003; *Fisher v. Univ. of Texas*, 2013). The inability of the academic literature to agree on how we talk about affirmative action has surely contributed to our disjointed and often antagonistic public discourse. While similar education reforms are spreading globally, the way in which they translate into local policy practices is based on constant and active reinterpretation and modification by local political actors (Verger, 2014). Nevertheless, scholarly attention on narratives in education policy, and especially narratives about charter schools in local contexts, has been limited. This study aims to fill this gap by relying on the recently developed Narrative Policy Framework (NPF) approach, which offers guidelines to systematically study the narrative elements and strategies that policy actors use to influence policy debates (Jones & McBeth, 2010). Focusing on editorials and op-eds in local newspapers, this study asks: How did the editorials and op-ed articles in local newspapers cover charter schools prior to adoption of the legislation? Specifically, is it possible to identify core structural elements, e.g., setting, characters, plot, and morals of policy stories in these narratives? Do these elements differ by endorsed policy solution? The paper starts with a brief introduction of the policy issue and the Narrative Policy Framework (NPF), followed by a discussion of the methodological approach and primary findings. The paper concludes with a discussion of policy implications, observations about convergence and divergence between local narratives and nationwide charter politics, and suggestions for future research.

This article argues to have a meaningful conversation about affirmative action, we should start the conversation not on the supposed benefits or harms of affirmative action, but by investigating a fundamental concept that undergirds the affirmative action debate: meritocracy. In the often-antagonistic affirmative action research and public debates, meritocracy is commonly central to arguments for or against the merits of affirmative action policy. However, the ideal of meritocracy often escapes critical investigation. Meritocracy is usually at least tangentially related to arguments from both opponents and proponents of affirmative action policy. Opponents argue race based affirmative action policies harms otherwise meritocratic review systems based on quantitative metrics such as GPA and standardized test scores such as the SAT or ACT (Son & Leanne et. al, 2002). Proponents often argue affirmative action policies “level” the playing field, thus ensuring the required parameters toward a more meaningful meritocracy (Crosby, 1994). The antagonism of these differing arguments notwithstanding, they both invoke and centralize the importance of meritocracy to the affirmative action debate. Therefore, I argue for our classrooms to have meaningful conversations on racial justice, opportunity, and the democratic potential of education, we should utilize affirmative action as a discursive tool to interrogate meritocracy, not the other way around.

In the first section, I survey the varied and often disjointed paths the affirmative action debate has taken in public policy, the research literature, and our public discourse. In doing so, I argue the inability for the affirmative action debate to have a semblance of unity—*how* we discuss affirmative action—is intricately connected to a public discourse that borders on racial hysteria and stereotyped antagonism for the “other” (read: people of color). The second section discusses the impetus for conceptions of meritocracy to be rooted in social structures and material life, as opposed to ideological conversations *sans* social history and class considerations. I then identify two common arguments against affirmative action to show that meritocratic ideals, as opposed to social and material impacts on merit, critically undergirds the affirmative action

debate. In the third section, I look at specific aspects of the admissions process to further indict the taken for granted hegemony of meritocracy. Here, I specifically engage with how social class and structural privileges destroy ideological conceptions of meritocracy and any possibility of educational equality. Finally, in section four, finding common ground in *how* we talk about affirmative action has the potential to allow our classrooms and students to engage critically, not antagonistically. I offer student survey results coupled with a classroom exercise on affirmative action to suggest that common ground may not be as distant as the politicized public and policy debate. The significance of an ongoing affirmative action discussion in our classrooms supports the full democratic potential of our schools, policies, and implementation.

### Affirmative Action in Flux

The first institutionally initiated affirmative action policy adjudicated by the Supreme Court did not focus on educational access or college admissions, but on political participation in local and state elections. In *United Jewish Organization v. Carey (UJO)* (1977), the state of New York reapportioned an assembly district in Kings County in order to establish a 65% non-white voting majority. The state of New York's reapportionment was an affirmative action because it explicitly contained a racial threshold to prevent whites from consistently out-voting other minority groups within the district. Before the state of New York's affirmative action, a community of about thirty thousand Hasidic Jews lived entirely within one assembly district. The result of the reapportionment split the Hasidic Jewish community roughly in two adjoining districts. Though the policy adversely impacted the Jewish community of Williamsburg, the Court nevertheless did not find any statutory or constitutional violation. The *UJO* court ruled the new districts did not "fence out" the Jewish community from political participation relative to their representation within the new districts. Contemporaneously with the *UJO* decision, the Supreme Court also adjudicated an affirmative action challenge in education.

In *Regents of the University of California v. Bakke* (1978), the UC Davis medical school established an admissions quota of accepting at least 16 minority students out of a class of 100. The quota-set-a-side affirmative action was challenged on the grounds the policy made 86 admissions seats available to whites, as opposed to 100 for minorities. The verdict in *Bakke* was seen as a compromise between liberal and conservative justices. The medical school's quota system was declared unconstitutional on equal protection grounds under the Fourteenth Amendment. However, a plurality of the Justices nevertheless recognized the constitutionality of affirmative action policies in education by accepting "diversity" as a permissible justification for using race in policy making. Common in both *UJO* and *Bakke* is the implementation of a quota threshold to ensure a minimum number of minority representation. However, within less than two years, the permissibility of affirmative action policy from a legal standpoint began to fracture. These two early affirmative action cases heard by the same 9 justices signified the marked cleavages in ideological approach and inconsistency surrounding policies that on its face utilize race as a mechanism to guaranteeing increased minority participation.

In comparison to the Supreme Court, the research literature has not fared much better in terms of consistency and clarity. The nebulous nature of the "diversity" rationale has in various ways further complicated the affirmative action debate. Perhaps the most prominent argument against affirmative action is Sander and Taylor's (2012) "mismatch" theory. Mismatch theory argues that when highly selective college and universities "lower" their admissions standards in order to bring in "less qualified" minority students, these students are ill prepared to succeed in

a highly competitive environment. As a result, Sander and Taylor argue, minority students are better off attending less selective schools where their talents better “match” with the academic rigor. The mismatch theory has come under intense criticism by researchers who argue Sander and Taylor’s analysis lacks context and nuance (Jaschik, 2013; Kurlaender & Grodsky, 2013). For instance, although minority students admitted under affirmative action programs disproportionately end up in lower quartiles of their graduating classes, they nevertheless graduate (Bowen & Bok, 1998). In addition, affirmative action admits often come from educational backgrounds that are incomparable to more privileged admits. As a result, student performance throughout the course of their college careers is often a reflection of their educational trajectory, as opposed to some indicator of inherent academic aptitude. Additionally, selective schools who utilize affirmative action nevertheless do not admit students who, in the schools’ opinion, are completely unqualified or will be unable to succeed. In addition to utilizing affirmative action, selective schools also invest in specific academic programs and initiatives intended to provide students with significant resources to excel throughout their academic years (Blum, 2017). The existence of these programs may play as large a role in student success over a four-year period in comparison to whether or not the modest use of racial considerations in admissions determines a students’ success.

Despite evidence that at least complicate Sander and Taylor’s work, mismatch theory has achieved an immense amount of support beyond the academic research literature. We can begin at the highest level of judicial policy intervention. Conservative Supreme Court justice Clarence Thomas has routinely cited Sander and Taylor’s work in his opposition to affirmative action policy (See *Grutter v. Bollinger*, 2003; *Fisher v. Univ. of Texas*, 2013). Justice Thomas cites mismatch theory not as a legal objection to affirmative action, but as a commentary on the inherent wisdom of affirmative action. In his opinion endorsing the arguments of mismatch theory, Justice Thomas suggests affirmative action “stamps blacks and Hispanics with a badge of inferiority” (Thomas J. concurring, *Fisher v. Univ. of Texas*, 2013, pg. 19). The late Antonin Scalia has emanated ideals of mismatch theory not only in his writings (Scalia, 1991), but casually from his position sitting on the Court’s bench. During oral arguments from the Fisher (2016) case, Justice Scalia openly questioned whether minority students would be better off attending less competitive schools with a slower track and more appropriate with their academic credentials. In addition, Justice Scalia quipped that many of the nations’ prominent black scientist and doctors did not attend highly selective institutions (Friedersdorf, 2015). Echoing the antagonism that conservatives on the Supreme Court have for race positive admissions, Chief Justice Roberts dismissively asked, “What unique perspective does a minority student bring to a physics class?” (Isler, 2015). Collectively, the conservative justices not only embrace mismatch theory as a weapon to question the wisdom of affirmative action, but go one step further by questioning the nebulous diversity rationale that ultimately would topple the entire legal edifice of affirmative action.

Remnants of Sander and Taylor’s mismatch argument can also be found in public debates on affirmative action. The technical elements of the mismatch argument focus on whether or not minority students can succeed in highly competitive academic environments, and if students would be better served attending less competitive schools (Sander & Taylor, 2012b). However, there is also a more visceral question of mismatch theory: whether or not affirmative action students “deserve” their spots at competitive schools. Central to the question of whether or not minority students “deserve” their spots is the presumption of meritocracy in all areas such as

student high school experience, the application process, and to the actual decision-making process by college admission offices. It is through this presumption of meritocracy where anti-affirmative action arguments gain the most capital in the public discourse. For as long as the Supreme Court has confronted affirmative action decisions in education, meritocratic arguments of fairness—and its dialectic twin unfairness—have been discursive mainstays.

### **Meritocracy: Ideal and Application**

Anti-affirmative action arguments often centrally invoke ideals of meritocracy. From more general ideological differences, to specific policy objections, the importance of meritocracy as a foundational ideal is ever present. From St. John de Crèvecoeur's (1957) letters from an American farmer, to Horatio Alger's bootstrapping tales (see Alger, 1985), to Dr. King's "I have a dream" speech, the most sustaining significance of these historical examples is that they allegedly project a desired social organization that is ideal for all people without discrimination. This is not to say that social inequality does not exist. Rather, the existence of social inequality is a result of individual or collective "merit", rather than a product of subordinating social structures. Therefore, a truly meritocratic system ensures consequences and outcomes for people that will in fact be inequitable as a result of "the content of their character," or more specifically, the value of personal merit. Perhaps it is uncontroversial to suggest that the concept of meritocracy is as old as the American republic—St. John de Crèvecoeur's letters before the American revolution should attest to this. Nevertheless, meritocratic ideals are not without fundamental disagreements.

For instance, Dr. King's I have a dream speech was aspirational and forward looking, rather than any contemporary observation of society. That is, he was imagining a meritocratic society where his children would not suffer discrimination due to the color of their skin. In fact, he spent a significant portion of his famous speech excoriating the real and material consequence of blackness against a white supremacist social organization. Although meritocratic arguments often invoke ideals and conceptual frames of equality, it would be a mistake to think of merit as divorced from social circumstances. In other words, merit is real to the extent that it has tangible manifestations in the form of institutional and structural opportunities. The emphasis on structure and institutional opportunity is captured in Fishkin's (2013) *Bottlenecks*. Fishkin's concept of bottlenecks allows for an engagement of meritocracy from a structural vantage point where social opportunity becomes the centralized point of departure, rather than reductionist ideological battles sans material analysis. Pertaining to equal opportunity, Fishkin defines Bottlenecks as "a narrow place in the opportunity structure through which one must pass in order to successfully pursue a wide range of valued goals" (pg. 13). Fishkin identifies qualification, developmental, and instrumental as three areas of bottlenecks where those without the "right" kind of qualifications or instrumentalities are often squeezed out of opportunities. For instance, the most common instrumental good is of course money. Therefore, social opportunities that heavily require substantial amounts of money to pass through the bottleneck will naturally prevent the economically disadvantaged from advancing, thereby turning the instrumentality of money into a social bottleneck pass-through card.

Specifically, in educational scholarship, Howe (2015) has also identified the dangers of invoking ideals of educational equality and meritocratic conceptions removed from considerations of social class. First, Howe challenges the presumption that educational equality in the US

is meritocratic. Due to this hegemonic educational ethos, Howe observes that the unequal distribution of educational “goods” is seen positively, as a consequence of merit and personal industry. However, Howe argues that the dominant conception is largely ideologically removed from considerations of social class and everyday material realities. Therefore, as a matter of policy practice, the meritocratic conception unequally divides the spoils of educational privilege based largely on the effects of class. The educational impact is sadly the exact opposite of the dominant educational meritocratic ideal. In other words, instead of working towards educational equality, a meritocratic conception sans consideration of social class exacerbates existing social inequality—made worse under the guise of meritorious competition. This engagement of meritocracy and equal opportunity is not meant to be exhaustive. However, it serves the fundamental purpose that invocations of meritocratic concepts or ideals of equal opportunity should be grounded in analyses of what Fishkin might call structural opportunities, or Howe’s emphasis on examinations of social class. As the historical anti-affirmative action cases show, neither of these concerns feature prominently –if at all.

In the early *Bakke* decision, Allan Bakke’s anti-affirmative action argument rested on the strength of his GPA and MCAT score in comparison to other accepted minority students who populated the medical school’s special admissions quota program. Bakke’s cumulative measurements were not only substantially higher than admitted minority students, his scores were also in the upper quartile of all admitted white students. As Liu (2002) has pointed out, Bakke should have received admissions to the medical school regardless of the minority quota program because he scored better than many admitted white students. Despite Bakke’s high quantitative metrics, two factors did work against his application: his advanced age and negative interview evaluation. Together, these combined factors muddled Bakke’s application prospects and his admissibility was no longer as clear cut as simply comparing his scores to those of admitted students. A more nuanced investigation of Bakke’s case does not necessarily reveal any hidden truths of the admissions process. Rather, selective admissions are much more comprehensive than the reductionist depictions of anti-affirmative action crusaders (See University of California Admissions, 2014). That is, although GPA and standardize test scores are important, they are not the only elements that make up the entire calculus of the admissions process. However, the potential fallacy of ignoring important evaluative elements of admissions has not prevented opponents from making similar anti-affirmative action arguments. A full three decades after the *Bakke* decision, Abigail Fisher echoed Bakke’s claim of reverse racism against the University of Texas’ race-positive holistic admissions policy. In a widely circulated YouTube video produced by Fisher’s legal team, she proclaims:

There were people in my class with lower grades who weren’t in all the activities I was in, who were being accepted into UT, and the only other difference between us was the color of our skin. I was taught from the time I was a little girl that any kind of discrimination was wrong. And for an institution of higher learning to act this way makes no sense to me. What kind of example does it set for others? (Hannah-Jones, 2013)

It is not difficult to feel sympathetic for Abigail Fisher. She was carefully selected by the Project for Fair Representation, a conservative legal defense fund, precisely because she allegedly represented everything that was wrong about affirmative action. However, sympathies are justified if only the facts of her reverse-racism claim were true. As was the case with Allan

Bakke, Fisher's admissions process went beyond the simplicities of objective measures. Conspicuously absent from her comment is any mention of whether or not she felt her admissions essay statement was better than other minority students. Surely, the essay requirement of Fisher's application is much more difficult to quantify as the difference in GPA, SAT, or number of extracurricular activities. Like Bakke's argument, Fisher's emotional plea against race positive considerations reduces the entire admissions process down to simplistic measurements. Further complicating Fisher's case is a peculiar revelation highlighted by ProPublica's Hannah-Jones (*ibid*). Hannah-Jones reveals that even when measuring Fisher's tangible qualifications for admissions to the University of Texas, (i.e. GPA and SAT scores, she was not a competitive candidate for Texas' flagship university).

The false presumption of meritocracy is not limited to spurned white applicants. A coalition of 64 Asian American groups has filed a complaint against Harvard alleging an unfair admissions standard against Asian American applicants (Rosenberg, 2016). The group alleges that on average, Asian American applicants must score 140 points higher on the SAT than whites, 270 higher than Latinos, and 450 points higher than African American students for admissions (Asian American Coalition, 2016). These numbers would on its face appear to be unfair to Asian Americans if the only admissions metric was a student's SAT score. Admissions to highly selective schools stopped pivoting on objective measures such as GPA and SAT scores long ago. In an interview for *Getting In* (Paul, 1995), Harvard Dean of Admissions William Fitzsimmons suggested his office could have filled an entire entering freshmen class with valedictorians or students with perfect SAT scores. Of course, Harvard, nor any other schools, have never done this. What Harvard and other selective institutions strive for with every new Freshman class is one that is well-rounded and reflects, what Cohen (2015) calls, the key niche interests of each university. These niche interests can be intricately related to race in achieving a critical mass of diversity. However, other niche interests are not directly related to race, such as admitting legacies of alumni, maintaining athletic programs that require more flexible admission standards for athletes<sup>1</sup>, or in the rare circumstance, seeking out the wealthy and famous who can endow buildings and professorships (Stevens, 2007). Therefore, it is not that Asian Americans must score a certain amount higher on the SAT than other applicants, but Harvard and other selective Universities are not always interested in only selecting the highest students defined by quantitative metrics when they seek to fill other niche interests in constructing a well-round student body.

There are two main assumptions of the anti-affirmative action position that permeate through these anti-affirmative action complaints. First, minority affirmative action admits are undeserving of their spots at the expense of more deserving candidates—usually whites, but now also Asian Americans (see Asian American Coalition, 2016; Hannah-Jones, 2013). Secondly, and most importantly, affirmative action programs uproot, undermine, or altogether destroy meritocracy. Though I separate these two assumptions for the sake of clarity, they are intricately entwined in discursive deployment. For instance, when Allan Bakke and Abigail Fisher argued against affirmative action by presenting their scores and measurable qualifications, they staked a claim to a perceived admissions spot that is “unfairly” given to someone else. The perception of fairness and unfairness lies at the root of the aforementioned Asian American objection to

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1. Although legacy and athletic preferential admissions may not have a *prima facie* connection to race, it is nevertheless entwined in racial consequences. Legacy admits are predominantly white. In addition, athletic admits must be considered by looking at the composition of the entire athletic department. That is, considering all varsity sponsored sports, white student athletes consistently constitute a majority of collegiate athletic departments—except for Historically Black Colleges and Universities.

affirmative action based on SAT differential. Despite numerous evidentiary elements that undermine a simplistic reduction of the admissions process as deterministic based only on the SAT, a straightforward comparison of SAT scores between admits requires an acquiescence to some degree of equality. Polemics notwithstanding, colleges and universities overwhelmingly continue to utilize SAT and ACT scores precisely because some standardize—read: meritocratic—measure is needed to evaluate a perpetually increasing diverse applicant pool. Whether schools should emphasize the importance of standardize test scores more or less is a separate question. What should be clear is the intrinsic reliance on some degree of meritocracy from all perspectives of the affirmative action discussion. As a result, it is the notions of meritocracy and fairness in standardization that undergird the affirmative action debate, rather than affirmative action itself, that require the most exacting scrutiny.

### **The Discontents of Admissions**

From a practical standpoint, the push towards standardization as a prerequisite in making admissions decision is understandable. All colleges and universities, not just the highly selective, require some streamline methodology to review the thousands, and often tens of thousands of applicants every year. For instance, during the admission cycle for the class of 2021, three University of California schools (Los Angeles, San Diego, Berkeley) each received more than one hundred thousand applicants (Song, 2016). In contrast to large public universities, smaller private schools receive a much smaller number of applications. A selective private liberal arts college would receive anywhere from five to eight thousand applicants. Nevertheless, the requirements of private and public-school applications are relatively uniform for students.

Private schools predominantly utilize the Common Application whereas state public school systems, e.g. the University of California, have their own system-wide application process. The key components of the public and private college application are SAT or ACT test scores, high school GPA, extracurricular activities, the college essay(s), and depending on the schools, letters of recommendation. Though not all schools require every element listed here, colleges and universities all require some combination of these requirements for review. From afar, these common elements serve as the ingredients for a standardizing review process that allow admissions officers, to the best of their subjective abilities, a way to democratize an evaluative process that should closely be meritocratic. However, closer examination of the particular requirements of the application process reveals an experiential, substantive, quantitative inequality that undermines the tenuous meritocratic balance of these requirements.

### **Standardized Utility...Academic Futility**

The utility of national standardize tests such as the SAT and ACT acting as a cornerstone of admissions decision has always been a controversial issue (Bell, 2003; *Grutter v. Bollinger*, 2003; Strum & Guinier, 1996). Originally, the SAT never operated as a key evaluative metric for admissions. Rather, Harvard initially used SAT scores to consider merit-based scholarships for its incoming students (Lemann, 1999). From its fledgling inception, standardize tests are now widely used by both private and public institutions as a common measure of evaluation for aspiring college students with divergent educational trajectories. As a consequence of these divergent educational trajectories, standardize test scores have been shown to be the greatest



predictor of educational inequality, (i.e. opportunities, rather than any predictor of academic aptitude or college success). For instance, the greatest correlation of high SAT scores is not with higher education graduation rates or college GPAs, but with the socioeconomic status of the SAT takers' parents (Strum & Guinier, 1996). This should not come as a surprise. With the increasingly high stakes of standardize testing coupled with intermittent substantive changes to the test that require updated strategies and know-how, the private test prep industry has made the SAT and ACT much more accessible for wealthy families. In 2006, private tutoring and test preparation was a \$7 billion industry. By 2020, the industry is expected to reach \$20 billion in North America alone (Teehan, 2016).

Colleges and Universities are not oblivious of these realities. No school has ever approached admissions by simply admitting a class of students with the highest GPA and standardize test scores. Rather, schools utilize a more holistic approach that includes evaluating extracurricular activities, the college essay, and for some, letters of recommendation. The inclusion of these qualitative measures is, at the very least, an implicit recognition that the unequal educational trajectories of applicants would be further exacerbated if GPA and standardize test scores serve as the only measure of evaluation for admissions. For instance, admissions officers often consider SAT scores within the context of a student's life (Steinberg, 2002). Meaning, parental education level and family affluence matters in providing context when a working-class student's 1090 on the SAT is compared with a middle-class student's 1470 (p. 143-144). Evaluating SAT scores within the context of a student's life suggests that there is a human recalibrating process acknowledging the increasingly polemical nature of "standardize" measures.

A number of selective liberal arts colleges have gone further in addition to considering standardize test scores within the broader context of a student's life. Some colleges such as Colby, Bates, and Bowdoin have selected to go test optional (FairTest, 2017). Test optional schools allow students the option to decide whether or not they wish to submit any standardize test scores with their application. Bates College was the first to institute this practice, making the SAT optional in 1984 and eventually all testing in 1990. After a 20-year time period of test optionality, the College conducted a survey study comparing, among other indicators, the college GPAs of test submitters and non-submitters. The college found any difference to be at best negligible (Hiss et. al., 2014). On graduation rate, the difference was one-tenth of one percent. In theory, test optionality has the potential to altogether eliminate the socioeconomic disparity that is entwined with standardize test performance. However, in practice, the reality of admissions and school rankings severely impinge the democratic promise of test optional.

The annual *US News & World Report's* school rankings are incredibly important for many of these same test optional schools (NACAC, 2011). Although its internal testing policy allows for some movement away from the importance of standardize test scores, external forces limit each school's ability to fully exercise the flexibility of test optionality in admissions. That is, one of the key ranking metrics utilized by *US News* is the cumulative standardize test score average of each years' admissions class (Morse & Flanigan, 2013). If a test optional school like Colby wishes to admit an incoming freshman class entirely comprised of non-submitters, it certainly could. However, not submitting a standardize average to the external ranking is equivalent to submitting a zero average as all metrics are gathered to produce an overall performance score for each school. As a result, test-optional schools must meet a minimum percentage of test submitters to satisfy the *US News's* standardize test score requirement. Because of this, non-submit-

ters have a decided disadvantage to submitters. Test optional schools are unable to truly implement its test optional policy because it must be aware of the *US News* rankings (Gnolek, Falciano, & Kuncel, 2014).

The operative combination of test optionality and external *US News* rankings results in an admissions process at test optional schools that further favors students with attractive standardized test scores. The practice of early decision/early action admissions allows colleges to lock down an initial percentage of its class with high academic credentials because these offers of early admissions are binding. Due to the external testing requirements for rankings, colleges utilize the early decision processes to stack its class with students who have high scores because a high initial average allows for more flexibility in the regular round of evaluation for students beyond the traditional measurements of excellence (Steinberg, 2002). That is, a higher average in the early decision process allows for more flexibility with lower, or none at all, standardized test scores later on. This is true for all schools with early decision admissions processes, regardless if they are test optional. However, for test optional schools, the importance of admitting students with high standardized test scores in the early decision rounds is even more paramount because it must establish a minimum percentage of submitters to satisfy the *US News* ranking methodology. Furthermore, test optional schools cannot wait for the regular rounds to admit high test scores because they may lose those applicants to early decisions processes at rival institutions. As a consequence, high scoring applicants are often favored in the early decision processes—a preference that is even more pronounced at test-optional schools. The number of schools who have deemphasize the use of standardized test scores is now more than 900 and range from prestigious liberal arts colleges, large public universities, and more accessible regional schools (FairTest, 2017). Nevertheless, as the number of test optional schools has exponentially increased from when Bates College first instituted the policy in 1984, so has the multi-billion-dollar test prep and tutoring industry. These realities guarantee the continuing importance of standardized testing for college admissions—tests that have been shown to be most adept at predicting socioeconomic privilege, as opposed to academic aptitude.

### **Common Process...Uncommon Access**

Standardized test scores are not the only elements of the application process that skew heavily in favor of families and students with wealth and cultural capital. Guidance crafting the personal statement, visits by admissions officers, specific college counselors on staff at the high school, and direct access to college admissions offices are all elements that are often available to well-resourced public and connected private schools (Steinberg, 2002). In the admissions process at Wesleyan University in Connecticut, Steinberg documented the admissions team had a direct line of communication with a college counselor at Harvard-Westlake, an exclusive private prep school in Southern California. The relationship was mutually benefiting. For Wesleyan, Harvard-Westlake was a “feeder” school that had consistently provided highly qualified students that contributed to favorable metrics for the *US News* rankings while also providing a degree of desired “diversity” from the west coast. For Harvard-Westlake families who pay a yearly tuition rivaling that of private colleges (Harvard-Westlake, 2017), their students enjoyed incredible access and knowhow regarding the intricacies of the application process. It is not uncommon for former college admissions officers to become counselors at the prep and high school levels—so long as the schools could afford them. This was the case at Wesleyan that Steinberg so powerfully documented.

Wesleyan had a contingent of officers visit Harvard-Westlake, and other “feeder” schools around the country, every late spring to drum up potential interests and applicants. Wesleyan officers would hold workshops on mastering the application process, specifically on important aspects such as constructing an effective college statement. The mutually benefiting relationship did not end there. Once applications began rolling in, a Wesleyan officer and Harvard-Westlake counselor kept in regular contact throughout the process. Wesleyan would be interested in gauging the interest of particular applicants as to whether or not, if accepted, the student would attend. From Harvard-Westlake’s perspective, it would advocate for any student in limbo of being accepted or rejected. In an astonishing development, a student from Harvard-Westlake who was already passed over during the decision process was given a reprieve to the waitlist as a result of an aggressive intervention from the Harvard-Westlake counselor. How did this student go from being rejected to the waitlist? Harvard-Westlake’s counselor relayed that although the student had a less than stellar application, she was nevertheless a prominent member of the Harvard-Westlake community. As a result, if Wesleyan would reject one of Harvard-Westlake’s most prominent students, Wesleyan would not be viewed favorably for subsequent admissions cycle. This concern was brought directly to Wesleyan’s director of admissions. Upon further consideration of not wanting to damage Wesleyan’s reputation at one of its “feeder” schools, the student’s admission candidacy was incredibly revived from the death and moved onto the wait list (Steinberg, 2002, p. 173-199).

Taken together, my two references to the admissions process at Wesleyan are incompatible. On the one hand, at least one admissions officer compellingly, and I argue, correctly, viewed standardize test scores within the context of the students’ life. As a result, significant differences in SAT scores are understood more as a reflection of socioeconomics rather than academic aptitude – a rather democratic commitment that reflects the research literature (See Strum & Guinier, 1996). However, specifically traveling to “feeder” schools - not “normal” schools - to establish a desired pool of applicants is the antithesis of a meritocratic commitment. In addition, allowing outside forces to breach the deliberative process made possible by privileged resources poisons a so-called common review process—a rather undemocratic reality. No matter how much consideration college admissions officers give students with sub-optimal standardize test scores, it is hard to fathom any intervention being as consequential as having a high school counselor advocate for a students’ candidacy on essentially all stages of the admissions process. At best, the admissions process is quasi meritocratic, and at worst, meritocracy is a myth masquerading behind a tenuous veil of standardization.

### **Affirmative Action in the Classroom**

The nuances of educational inequality that translate to consequential differences in access and opportunities are not socially controversial, but widely accepted. When families purchase a home, one of the primary considerations is the quality of neighboring schools (Brennan, 2011). Many districts have instituted anti-hopping laws to prevent outside students from “stealing” an education (Faw & Jabbar, 2016; Ramirez, 2009)—with some even employing a reward structure for educational “snitches” (Reeves, 2016). In a most revealing example, a mother in Ohio was prosecuted and found guilty of a felony for “stealing” an education for her child (Canning & Tanglao, 2011). The case is revealing not because she offended the district’s anti-hopping policy, but that more money was surely spent on prosecuting her than the dollar value of any education she allegedly “stole.” As an obvious consequence, the whole ordeal shows that protecting

privileged educational opportunities is priceless. In our classrooms, we would be prudent to utilize and discuss these widely accepted educational realities. In class of nearly fifty students at a public California University, I conducted two exercises with my students during the 2016 Spring Semester. First, my students answered a survey of 10 questions around the topic of affirmative action in California. Here, I present the result of the first three questions from 46 respondents ( $n = 46$ ).

1. Do you think the University of California (UC) uses race as a part of its admissions considerations?
  - a. Yes: 86.96%
  - b. No: 8.70%
  - c. Not Sure: 4.35%
2. Do you think the UC should ever consider race in admissions?
  - a. Yes: 23.91%
  - b. No: 58.70%
  - c. Not Sure: 17.39%
3. Would you support a law that forbids the UC from utilizing race as a part of its admissions criteria?
  - a. Yes: 58.70%
  - b. No: 17.39%
  - c. Not Sure: 23.91%

The responses are rather consistent, especially considering the relationship of questions two and three. However, the decided anti-affirmative action positions evident from all three questions is precluded by actual law in California. That is, in 2016, these questions are completely moot because affirmative action in education and public policy has been completely banned by proposition 209 since 1996 (See Alvarez & Bedolla, 2004). Passed by a comfortable majority, the law has been in effect longer than many of the respondents' age. The ramifications of the survey are multiple and immense. Two issues require immediate attention:

1. Racial antagonism
2. "Badge of inferiority" and cloud of admissions for students of color – but in an anti-affirmative action state!

First, if nearly 90% of the respondents, who are themselves public California students, believe that racial considerations are still used in admissions while nearly 60% think affirmative action should be banned, the antagonism students potentially harbor towards peer minority students could be immense. Furthermore, these racial antagonisms would be based on nothing more than paranoia and stereotyped threat (See Schmader, Hall, & Croft, 2015). Secondly, the dangers of cross-racial animus suggest the absence of a critical understanding of the vast divergence in educational experiences and opportunities (read: inequality) of their fellow peers. That is, stereotyped paranoia presupposes a pseudo meritocratic starting line for all, without much care and consideration for the often grossly disproportionate educational trajectories of students across the wealth and social class spectrum. Therefore, this form of anti-affirmative action racial antagonism is wielded like a double-edged sword. The inequitable educational trajectories of students are conveniently whitewashed from critical examination while, simultaneously, these same

students are held to a pseudo meritocratic standard. These dynamics are a recipe for antagonism, rather than tolerance or empathy.

Second, conservatives and anti-affirmative action advocates often argue that race positive admissions practices can have the unintended consequence of “stigmatizing” students of color as “affirmative action admits,” thereby stamping minority students with a “badge of inferiority” (Quinlan, 2015; Leslie et al., 2014). However, the survey results suggest racial stigma exists regardless of whether or not colleges and universities actually use racial considerations. The in-class survey confirms larger campus climate studies that show the persistence of racial stigma and stereotyped threat independent of the use of affirmative action policies. In fact, Bowen (2010) significantly found that college students were more likely to experience racial stigma in states that *barred* racial considerations compared to students at schools with race positive admissions policies. Bowen found three-fourths of students experienced racial stigma in non-affirmative action states compared with less than half in race positive admissions schools. These findings are not insignificant and seriously undermines the suggestion that affirmative action policies stigmatize students of color. In other words, affirmative action may in fact be the solution to racial stigma, rather than its root cause.

However, a follow up exercise to the survey I conducted in class, when analyzed carefully, appeared to undermine the student’s strong anti-affirmative action beliefs. Inspired by the deliberative admissions process depicted in *The Gatekeepers* at Wesleyan (Steinberg, 2002), I conducted a mock admissions process for two fictitious students from different socioeconomic backgrounds. At Wesleyan, admissions officers are not prohibited by any state laws restricting awareness of an applicants’ racial, ethnic, or gender identity. However, my class exercise was augmented slightly to comply with Proposition 209. Therefore, I constructed two fictitious applicants to the University of California generically identified as student A & B. Students A & B were presented as follows:

	Student A	Student B
GPA (Weighted)	3.6	4.25
SAT (1600)	1150	1450
Extracurricular Activities	Minimal extracurricular activities	Strong list, Well-rounded
Essay Evaluation	Average/competent writer	Compelling/well written

In addition to these characteristics, the students were also asked to consider other extenuating circumstances considered in the University of California admissions process. Although race is prohibited, admissions offices are allowed to consider characteristics such as family income, first generation to attend college, academic performance relative to opportunities available in school, and location of secondary school and residence (University of California Admissions, 2014). Therefore, students were asked to make a case for admissions for student A & B with the following considerations:

	Student A	Student B
Education & Family Background	First Generation College Student, Low Family Income	College Educated Parents, Middle Class Economic Status
High School: Location & Characteristic	Oakland, Public Inner City	Private, Los Angeles County

In the affirmative action debate, antagonistic hypotheticals between deserving and undeserving students are often pitted against each other. That is, two students, one usually clearly more qualified but for race, fighting for one spot. However, that is not reflective of the admissions process. Admissions officers are rarely, if ever, asked to select between two students. Students are evaluated independently from each other, and borderline applicants are voted on one at a time in committee (Steinberg, 2002, pg. 125). At Wesleyan, a borderline candidate required 5 affirmative votes out of 9 to be admitted. I wanted to replicate the actual process of admissions and avoid the false hypothetical of applicants being pitted against one another. I divided my class into five groups of 10 and asked not which applicant “deserved” a fictitious singular spot, but rather if each group could make a compelling case to admit either applicant.

The results were revealing. Not surprisingly, none of the groups had any problems with admitting student B. But surprisingly, no group had difficulty making an affirmative admissions case for student A. In arguing for student A, groups collectively shared various justifications that student A’s background and educational opportunities were important in contextualizing a lower GPA, extracurricular activities, and SAT score—a rather democratic disposition not unlike those practiced in the admissions office at Wesleyan. More importantly, students were affirmatively accounting for significant differences in educational trajectories, while not knowing the race, ethnicity, or gender of either applicant. Therefore, it effectively would matter little in the end when each group knew that applicant A was a minority and applicant B was white because a case for admissions for both was already made *sans* any explicit racial knowledge. This is because even for a class that is decidedly anti-affirmative action in theory, they are not anti-affirmative action *per se* in practice. Even more striking, I conducted the survey and mock admissions exercise on the same day.

The survey results and hypothetical classroom exercise exemplify the necessity for grounding discussions of equal opportunity and meritocracy on everyday material conditions and considerations of social class. This was the emphasis of Fishkin (2013) and Howe (2015) as both authors argued against engagements of meritocratic concepts absent structural analysis divorced of social circumstances. In pairing the survey and hypothetical admissions exercise, my students were able to witness firsthand that collective antagonistic anti-affirmative action ideologies are often severed from knowledge of our own educational ecology—one that is often defined by issues of inequality, access, and racism. The exercise is perhaps more indelible when students are leading their own discovery process as defined by their survey responses, admissions deliberative discussions, and reconciling the seemingly divergent results between survey and mock admissions exercise. Affirmative action discussions always invoke ideas of equal opportunity and meritocratic concepts. The phrase “affirmative action” has itself become a perilous ideological flashpoint fraught with racial antagonism and stereotyped paranoia. A compelling response is to engage in affirmative action talk not from perceived ideological differences, but through our shared educational experiences, thereby ushering in the possibility for a more fulfilled educational justice and meritocracy.

## Conclusion

In this paper, I argue that an often ignored but consequential element of the affirmative action debate is the false imposition and acceptance of meritocracy. By investigating selected components of the admissions process—though not nearly all—I have shown that those with

economic resources and cultural capital can significantly tilt an alleged meritocratic process in their favor. It is not my intention to argue that the exercise of economic and cultural capital is inherently wrong within the application process. This is a discussion that I am neither interested in nor harbor any illusions that these dynamics will ever change. However, the larger significance is that when colleges and universities exercise affirmative action, the policy is but a modest attempt to tilt the scale of access and opportunity that already overwhelmingly favors the privileged. Finally, I share my classroom research to illustrate the stark divergence between ideological belief juxtaposed with the lived and learned educational realities of students when it comes to affirmative action, meritocracy, and opportunities of educational access.

In the fledgling post-Fisher discourse on race and college admissions, our classrooms should utilize this contemporaneous moment to have a thoughtful and prudent conversation on the continuing significance of race and inequality in education. It is my hope that in our classrooms, we can have constructive discussions on meritocracy and affirmative action based not on our racial paranoias and stereotyped threats, but on our shared educational experiences, even if they are starkly unequal. To do so is neither controversial nor provocative, but rather an act of intellectual honesty that attempts to demystify how race continues to be misrecognized in our so-called colorblind, post-race society.

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