

114TH CONGRESS  
1ST SESSION

# H. R. 2720

To require institutions of higher education to report annually on the use of race, color, or national origin in the admissions process.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2015

Mr. KING of Iowa introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To require institutions of higher education to report annually on the use of race, color, or national origin in the admissions process.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sunshine in Academic  
5 Admissions Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Citizens and taxpayers have a right to know  
9 whether federally funded institutions of higher edu-  
10 cation are treating student applications differently

1 depending on the student’s race, color, or national  
2 origin, and, if so, the way in which these factors are  
3 weighted and the consequences to students and pro-  
4 spective students of these decisions.

5 (2) Title VI of the Civil Rights Act of 1964  
6 codified this right, forbidding in statute discrimina-  
7 tion on the basis of race, color, or national origin by  
8 federally funded institutions, which includes nearly  
9 all colleges and universities.

10 (3) This prohibition has largely been ignored by  
11 the Supreme Court, which has allowed racially dis-  
12 criminatory admissions.

13 (4) However, in *Fisher v. University of Texas*,  
14 the United States Supreme Court in 2013 affirmed  
15 that strict scrutiny should be applied to university  
16 admissions programs to ensure diversity is not de-  
17 fined as “mere racial balancing,” but has a compel-  
18 ling state interest to achieve diversity. The *Fisher*  
19 case clarified that any such discrimination is only  
20 permitted if it is necessary to achieve the edu-  
21 cational benefits of a racially diverse student body.

22 (5) Therefore, colleges and universities must re-  
23 evaluate their use of racially selective admissions  
24 policies. The costs of such policies cannot outweigh  
25 the supposed benefits. If a less discriminatory means

1       could achieve similar results, the discrimination is  
2       not permissible.

3               (6) In order to ensure that these limitations are  
4       followed, colleges and federally funded institutions of  
5       higher education must make public through annual  
6       reports their use of race, color, and national origin,  
7       for admissions decisions so that Federal and State  
8       enforcement agencies and interested persons can  
9       monitor the schools.

10              (7) Additionally, college and universities must  
11       provide evidence sufficient to demonstrate that any  
12       such discrimination does not exceed the limits im-  
13       posed by the Fisher case.

14              (8) Academic “mismatch” refers to a signifi-  
15       cant discrepancy in academic qualifications between  
16       various groups within a student body, and is encour-  
17       aged when universities lower their academic stand-  
18       ards to artificially achieve a particular composition.

19              (9) Mismatch works a harm because it sets par-  
20       ticular students up for lower than average achieve-  
21       ment, higher dropout rates, less competitive majors  
22       and, perhaps most damaging, a disproportionately  
23       large student loan burden.

1 **SEC. 3. REPORT ON CONSIDERATION OF RACE, COLOR, OR**  
2 **NATIONAL ORIGIN IN STUDENT ADMISSIONS.**

3 (a) IN GENERAL.—Not later than 180 days after the  
4 date of the enactment of this Act, and annually thereafter,  
5 each institution of higher education participating in pro-  
6 grams under title IV of the Higher Education Act of 1965  
7 shall submit to the Secretary of Education a report in ac-  
8 cordance with this section.

9 (b) CONTENTS OF REPORT.—

10 (1) DISCLOSURE OF CONSIDERATION OF RACE,  
11 COLOR, OR NATIONAL ORIGIN IN STUDENT ADMIS-  
12 SIONS.—The report shall include a statement indi-  
13 cating whether race, color, or national origin is given  
14 weight in the student admissions process of the in-  
15 stitution or any department of the institution.

16 (2) ADDITIONAL DISCLOSURES.—If the disclo-  
17 sure under paragraph (1) states that race, color, or  
18 national origin is given weight in the student admis-  
19 sions process of an institution or department, then  
20 the report shall include the following information  
21 with respect to the institution or department:

22 (A) The racial, color, and national origin  
23 groups for which membership is considered a  
24 plus factor or a minus factor and, in addition,  
25 how membership in a group is determined for  
26 individual students.

1           (B) A description of how group member-  
2           ship is considered, including the weight given to  
3           such consideration and whether targets, goals,  
4           or quotas are used.

5           (C) A statement explaining why group  
6           membership is given weight, including the de-  
7           termination of the desired level claimed and,  
8           with respect to the diversity rationale, its rela-  
9           tionship to the particular educational mission of  
10          the institution or department.

11          (D) A description of the consideration that  
12          has been given to racially neutral or less dis-  
13          criminatory alternatives as a means for achiev-  
14          ing the same goals for which group membership  
15          is considered.

16          (E) A description of how frequently the  
17          need to give weight to group membership is re-  
18          assessed and how that reassessment is con-  
19          ducted.

20          (F) An identification of the factors other  
21          than race, color, or national origin that are col-  
22          lected in the admissions process. If the factors  
23          described in the preceding sentence include  
24          grades or class rank in high school, scores on  
25          standardized tests (including the ACT and

1 SAT), legacy status, sex, State residency, eco-  
2 nomic status, or other quantifiable criteria,  
3 then all raw admissions data for applicants re-  
4 garding these factors, along with each indi-  
5 vidual applicant's race, color, and national ori-  
6 gin and the admissions decision made by the  
7 school regarding that applicant, shall accom-  
8 pany the report in computer-readable form,  
9 with the name of the individual student re-  
10 dacted but with appropriate links, so that it is  
11 possible for the Secretary of Education or other  
12 interested persons to determine through statis-  
13 tical analysis the weight being given to race,  
14 color, and national origin, relative to other fac-  
15 tors.

16 (G) An analysis, and also the underlying  
17 data needed to perform an analysis, of whether  
18 there is a correlation—

19 (i) between membership in a group fa-  
20 vored on account of race, color, or national  
21 origin and the likelihood of enrollment in a  
22 remediation program, relative to member-  
23 ship in other groups;

1                   (ii) between such membership and  
2                   graduation rates, relative to membership in  
3                   other groups; and

4                   (iii) between such membership and the  
5                   likelihood of defaulting on education loans,  
6                   relative to membership in other groups.

7           (c) **PUBLIC AVAILABILITY.**—The institution shall  
8           make the report publicly available.

9           **SEC. 4. RULE OF CONSTRUCTION.**

10           Nothing in this Act shall be construed to allow or  
11           permit preference or discrimination on the basis of race,  
12           color, or national origin.

13           **SEC. 5. DEFINITION.**

14           In this Act, the term “institution of higher edu-  
15           cation” has the meaning given the term in section 102  
16           of the Higher Education Act of 1965 (20 U.S.C. 1002),  
17           except that the term does not include an institution of  
18           higher education outside the United States.

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