

**What is the Future of the Affirmative Action
Programs in U.S. Higher Education?
—The Impact of the U.S. Supreme Court's
Certiorari Denial of *Hopwood v. Texas***

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Abstract

This essay traces the follow-up of the affirmative action controversy in America. It reviews the recent case of *Hopwood v. Texas* (1996), exploring the reason why the United States Supreme Court denied *certiorari* and the impact of this judgment on American society. The paper first introduces the holding of the first affirmative case reviewed by the Supreme Court, *University of California v. Bakke* (1978), also the first affirmative action case in the field of higher education, whose holding has not been yet overruled by later cases even after 25 years. The *Hopwood* case, its background, facts, lower courts' holdings, and appeals process are presented and compared to the holdings of *Bakke*, and the legal inconsistency and resulting contradictions between the two court levels are discussed. The denial of the U.S. Supreme Court to review *Hopwood* is significantly disadvantageous to the existence and growth of affirmative action programs in American universities nationwide. Lastly this paper assesses the value of affirmative action in the field of higher education. Should it be ended or amended, or substituted with some other race-neutral alternative programs? This is worthy of future consideration.

Key Words: affirmative action, reverse discrimination, diversity ra-

tionale, remedial rationale, percentage plans