

EXHIBIT 19

Excerpts from Deposition Transcript of Richard Kahlenberg

**Students for Fair Admissions, Inc. vs. The University of NC Chapel Hill, et al.
Richard Kahlenberg on 07/11/2018**

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
3
4 STUDENTS FOR FAIR ADMISSIONS,) CASE NO: 1:14-CV-954
5 INC.,)
6 Plaintiff,)
7 -vs-)
8 THE UNIVERSITY OF NORTH)
9 CAROLINA AT CHAPEL HILL, et)
10 al,)
11 Defendants.)
12 _____)

13
14 DEPOSITION OF RICHARD KAHLENBERG
15 Washington, D.C.
16 July 11th, 2018
17 9:00 a.m.

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19
20
21
22 REPORTED BY: Alexandria Kaan

1 Q. Is that another way of referring to a
2 socioeconomic status-based admissions plan?

3 A. Yes.

4 Q. Are you a personal advocate for class-based
5 admissions -- undergraduate admissions?

6 A. I'm not sure what you mean by "a personal
7 advocate".

8 Q. Do you personally advocate for class-based
9 admissions and undergraduate admissions?

10 A. Based on research, yes.

11 Q. And you personally believe that universities
12 should adopt socioeconomic-based affirmative action.
13 Correct?

14 A. I personally believe that, yes.

15 Q. Are there any circumstances in which you
16 personally believe a university should not adopt
17 socioeconomic-based affirmative action?

18 MR. STRAWBRIDGE: Object to the form of the
19 question.

20 A. Well, sitting here right now, there could be
21 circumstances that I'm not thinking of where it would
22 not make sense for a university to adopt socioeconomic

1 affirmative action. I guess I'd need to know more about
2 the situation.

3 BY MR. FITZGERALD:

4 Q. Sitting here now, can you think of a context in
5 which you would be opposed to a socioeconomic-based
6 affirmative action in admissions?

7 MR. STRAWBRIDGE: Object to the form of the
8 question.

9 A. Well, I mean, if a university had -- let's just
10 say 90 percent of its students were low income, I don't
11 think I'd advocate that they necessarily use
12 socioeconomic preferences to reach a hundred percent,
13 for example.

14 BY MR. FITZGERALD:

15 Q. Are there any costs in your mind associated with
16 abandoning race-conscious admissions?

17 MR. STRAWBRIDGE: Object to the form of the
18 question.

19 A. Under certain circumstances there could be costs.

20 BY MR. FITZGERALD:

21 Q. What would those costs be?

22 A. Well, as I noted in the report, I think there's

1 good evidence to suggest that there are benefits to
2 having racial and ethnic diversity; that there are
3 educational benefits associated with having racial and
4 ethnic diversity on a university campus. My reading of
5 the research is that using alternatives can produce, in
6 most circumstances, those benefits without using race.
7 But it's conceivable that there may be circumstances
8 where race would be the only way to achieve the
9 educational benefits of diversity. And in those cases,
10 I would say there's a cost to abandoning the use of
11 race.

12 Q. In your research have you seen particular cases
13 where you saw that consideration of race was necessary
14 in order to achieve that diversity?

15 MR. STRAWBRIDGE: Object to the form of the
16 question.

17 A. So my reading of the research is that: If a
18 university employs a robust set of socioeconomic
19 criteria, they can achieve the educational benefits of
20 diversity without using race. And sitting here right
21 now, I don't -- I can't think of particular universities
22 where it would be necessary to use race in admissions.

1 program? Or what do you think of the Carolina Covenant
2 program?

3 A. I think the Carolina Covenant program is a
4 positive effort to increase financial aid. My big
5 criticism at the time was that it was not accompanied by
6 a socioeconomic preference. That is to say: It's one
7 thing to have a positive financial aid program; it's
8 another to actually admit meaningful numbers of
9 low-income students. And it's the combination of the
10 two that I find that were more powerful than doing one
11 or the other.

12 Q. And are you on the boards of any undergraduate or
13 graduate institutions?

14 A. I am not.

15 Q. Have you ever served on a board of a college or
16 university?

17 A. I have not.

18 Q. Have you ever been tendered as an expert at a
19 trial?

20 A. Yes.

21 Q. How many times?

22 A. Once.

1 Q. Did you perform any work to support or attest
2 opinions that ultimately did not make it into the
3 report?

4 A. I mean, there may have been simulations, I --
5 because there were two cases involved, I'm not sure I'm
6 going to get this right. But I know at least in one of
7 those two cases, I believe there was simulations that
8 were not included in the final report. But I don't
9 specifically remember any in the UNC case.

10 Q. As you sit here now, do you think the simulations
11 that were done but not included in the report pertained
12 only to Harvard?

13 A. Sitting here right now, that's -- I think that's
14 right.

15 Q. And are we correct to understand you are not
16 offering any opinion as to Carolina's use of race within
17 its current admissions process?

18 A. Well, I certainly discuss in my report the
19 relative weight provided to race as opposed to
20 socioeconomic status.

21 Q. Do you intend to opine as to whether or not race
22 is a predominant factor in Carolina's admission program?

1 A. I don't intend to.

2 Q. And is it fair to say that you're not offering
3 any opinion about whether a race-conscious admissions
4 policy at Carolina results in what is known as
5 "mismatch"?

6 A. I don't plan to opine on mismatch.

7 Q. Am I correct that you're not offering any opinion
8 that Carolina engages in so-called racial balancing as
9 part of the current admissions process. Correct?

10 A. So again, I reference some of the reports -- I'm
11 thinking, for example, Professor Long who gets close to
12 that concept -- but I'm not planning on testifying --
13 apart from that I'm not planning on testifying on that
14 issue per se.

15 Q. Is it fair to say that you're not planning to
16 offer an any or any statistical evidence as to whether
17 Carolina has a floor for admissions of African Americans
18 who are under-represented minorities?

19 A. That's correct.

20 Q. And you discuss school group review on page 48 of
21 your January report. Do you intend to offer any
22 opinions about the school group review process?

1 A. So I do, in my report, talk about school group
2 review in the context of whether race-neutral
3 alternatives should be evaluated looking solely at SAT's
4 or at SAT's and high school GPA's. So I wouldn't want
5 to close the door to discussing that at trial, but don't
6 plan to specifically, independently talk about school
7 group review other than that.

8 Q. Is it fair to say that you do not intend to offer
9 any opinion that the school review process was
10 manipulated in any way?

11 A. That's correct.

12 Q. You do not intend to offer any opinion that
13 Carolina used its weight list to affect the composition
14 of admissions?

15 A. That's correct.

16 Q. By the way, were you in informing the drafting of
17 the Complaint, did you comment or edit those portions of
18 the Complaint that addresses the school review process
19 or weight list process?

20 A. I did not.

21 Q. Putting aside your reliance on simulations that
22 were executed by Professor Arcidiacono, do you intend to

1 Q. Do you know what the topic of the forum was?

2 A. It was on affirmative action.

3 Q. Do you know who else was there?

4 A. I remember Richard Sander was there. I don't
5 remember other people specifically.

6 Q. And had you ever worked with Professor
7 Arcidiacono before this case?

8 A. No.

9 Q. And other than your work with him on this case
10 and on the Harvard case, are you working on any other
11 matters with him?

12 A. No.

13 Q. Explain to me the process by which you and
14 Professor Arcidiacono ran the simulations on the
15 race-neutral alternatives. What was your role? What
16 was his role?

17 A. So my role was to suggest the parameters for a
18 simulation. So, for example, if we were looking at
19 socioeconomic preferences, I would suggest to him in
20 broad terms what types of data I'd like included. He
21 had better familiarity with the data set, and so could
22 -- it was an iterative process where he would describe

1 -- given the data we have, here is what's possible. And
2 then Professor Arcidiacono was the one who actually ran
3 the simulations once I gave the instructions for what
4 parameters I was looking for.

5 Q. And what do you mean by "parameters"?

6 A. So again, maybe it's easier to use an example.
7 With the socioeconomic preferences I would suggest
8 ideally I would like to look at income; wealth;
9 neighborhood; school level; socioeconomic status. And
10 I'd like to turn off the preferences for legacies; and
11 faculty; children; that sort of thing. And then he
12 would actually conduct the simulation.

13 Q. What we'll do is go through -- I think it's
14 easier to put meat on the bones with an example. So
15 we'll take your January report and look at page 76,
16 where I think you go through what is known as simulation
17 5.

18 A. Okay.

19 Q. And when Counsel and you are ready, I'll start.
20 We'll know through a few questions, and see if we can
21 get --

22 MR. STRAWBRIDGE: Page 76?

1 Q. Did you use Carolina's admission approach as
2 being holistic?

3 A. Yes.

4 Q. Are you away of any undergraduate university
5 currently employing a plan similar to what your
6 simulation involved?

7 A. Well, there are several university systems that
8 use percentage plans: University of Florida; University
9 of Texas; University of California. Because we wanted
10 to -- I wanted to replicate as closely as possible UNC's
11 system. I view this as a refinement and improvement
12 upon those other approaches.

13 Q. So would it be fair to say that, while there are
14 other universities that use the percentage plan, there's
15 no other universities that use the specific plan that
16 you tested in simulation files?

17 A. That's right. Conceptually the percentage plan
18 approach has been used in a number of places. Ours, or
19 mine, is a refinement of that.

20 Q. A refinement that hasn't been implemented by any
21 university that you're aware of. Correct?

22 A. Well, there are a number of universities that use

1 Q. Who created the backup to your reports for the
2 simulations?

3 MR. STRAWBRIDGE: Object to the form of the
4 question.

5 A. I did not. Do you mean the appendices, or the
6 work --

7 BY MR. FITZGERALD:

8 Q. The work papers.

9 A. I was not involved in that.

10 Q. Would that be Professor Arcidiacono who did that?

11 A. I assume so. Because I wasn't involved in
12 creating that, I don't know from personal knowledge who
13 exactly created those work papers.

14 Q. If it wasn't Professor Arcidiacono, who would it
15 have been?

16 A. He worked with a team of individuals whom he
17 supervised.

18 Q. So whoever it was, it wasn't you. It was either
19 Professor Arcidiacono or people working under him?

20 A. That's correct.

21 Q. And did you have any impute into the models he
22 constructed, Professor Arcidiacono, with respect to

1 admissions in the world of race within that process?

2 MR. STRAWBRIDGE: Object to the form of the
3 question.

4 A. No. I would ask him for things like: "I'd like
5 to have an understanding of how heavily different
6 factors are weighted in the process." But he's the one
7 who designed all those models.

8 BY MR. FITZGERALD:

9 Q. When it came to the choice, such as whether or
10 not to use a Logit model, L-O-G-I-T, or Probit model,
11 P-R-O-B-I-T -- was that his decision or your decision?

12 A. His decision.

13 Q. And do you know what Professor Arcidiacono does
14 within the models with when there's an SAT score
15 missing?

16 A. At a very high level, I know that he imputes the
17 missing variables, as is common in studies like this.

18 Q. Do you know what process he uses to impute the
19 missing variable?

20 A. Again, at a very high level -- he would be able
21 to answer this much better than me. It's my
22 understanding that He looks at the other variables that

1 are likely to predict SAT score -- or the missing
2 variable, let's say SAT --

3 Q. And do you personally know what risks there are
4 in using that method to impute a variable based upon
5 other variables?

6 A. I know there's discussion in his report about
7 different ways of imputing the missing variables. But I
8 wouldn't claim to have the expertise that he has in that
9 area.

10 Q. And the decision to do that, would that have been
11 Professor Arcidiacono's as opposed to yours?

12 A. To impute the missing variables?

13 Q. Yes.

14 A. Well my high-level instruction would be that the
15 efforts should be race-neutral. And then he would make
16 the decision on the best way to implement the model in a
17 fashion that's race-neutral and that addresses the
18 common problem in these types of simulations, that some
19 variables are missing.

20 Q. So once you gave him the high-level direction to
21 implement that model, would he come back to you and
22 discuss with you, "Here's how I intend to deal with

1 missing variables." Or would you basically have
2 delegated that choice to him?

3 A. Well, given his extensive experience in this
4 area, I would delegate that to him.

5 Q. Do you know how Professor Arcidiacono
6 standardizes SAT scores?

7 A. I don't.

8 Q. And there's a program, I'll spell the name out
9 for you and for the Court Reporter. But it's a
10 Kahlenberg, K-A-H-L-E-N-B-E-R-G underscore race-neutral
11 model dot DO program. Are you familiar with that?

12 A. I'm not.

13 Q. And do you know if that's the underlying model
14 that is used to run all those simulations off of?

15 A. The name is suggestive. But I don't -- I haven't
16 looked at that model.

17 Q. Do you know what it means to allow variables to
18 interact with each other from a statistical standpoint?

19 A. Yes.

20 Q. What does it mean?

21 A. When you're looking at a number of variables in
22 an equation, one might want to know, for example, how an

1 SES preference applies differently to different races.
2 And so the interaction between socioeconomic status and
3 race would be an example of looking at that question.

4 Q. So from a statistical or econometric point of
5 view, do you know what the risks and benefits are of
6 allowing different variables to interact with each
7 other?

8 MR. STRAWBRIDGE: Object to the form of the
9 question.

10 A. Again, I asked Professor Arcidiacono to provide
11 his best judgment on the best way to conduct a
12 race-neutral alternative. And given his extensive
13 experience, that's something I deferred to him on.

14 BY MR. FITZGERALD:

15 Q. And the model, as run in your January report, was
16 run on only UNC applicants. Correct?

17 A. That's correct. In all of those, right.

18 Q. And it was used to calculate status quo results.
19 Correct?

20 A. Yes.

21 Q. Whose decision was it to run the model only
22 against applicants in January?

1 apply to a selected college.

2 Q. Do you know what year that study was?

3 A. 2009.

4 Q. Aside from the Bowen study, are you aware of any
5 other studies specific to North Carolina?

6 A. There may be other studies. But off the top of
7 my head, it was the Bowen study that I was thinking of
8 in particular.

9 Q. Just for the record, you're referring to the
10 rebuttal report, which would be Exhibit 2.

11 Do you know if Professor Arcidiacono's academic
12 index is incorporated into your simulations?

13 A. So I asked Professor Arcidiacono to use UNC's
14 holistic admissions. So that would be the basis for his
15 simulations.

16 Q. Are you aware of whether or not Arcidiacono's
17 academic index comes from UNC's calculations, or is it
18 something he created on his own? If you know.

19 A. So the academic index is something that's used at
20 other universities as well.

21 Q. Do you know if the academic index as constructed
22 by Professor Arcidiacono is used by Carolina?

1 A. Well, Carolina has a system of looking at the
2 strength of the program that a student is taking, as
3 well as SAT scores and grades. So what I asked
4 Professor Arcidiacono to do was look at UNC's system, as
5 opposed to something UNC is not using.

6 Q. So to your understanding, do you know if
7 Professor Arcidiacono was using any measures that were
8 not themselves being used by Carolina?

9 A. I'm not aware of any.

10 Q. And do you know if the Arcidiacono academic index
11 is used by Carolina?

12 A. Carolina certainly considers SAT's and GPA's,
13 which is the basis for the academic index. I don't know
14 whether they use something called the academic index.

15 Q. Do you know if the academic index is used in the
16 models that were running your simulations?

17 A. My understanding is Professor Arcidiacono was
18 seeking -- or what I asked him to do was to use the
19 holistic models that -- the holistic process that UNC
20 employs, as closely as possible. That was my
21 instruction.

22 Q. If we assume for the moment that Carolina doesn't

1 details about the most accurate way to do that, I would
2 leave to him.

3 Q. Do you know if he compared applicants across
4 years? In other words, did he have applicants in one
5 admission cycle compete only against applicants in that
6 same cycle? Or did he combine years and have applicants
7 as a whole -- as a pool -- compete against the other
8 applicants?

9 A. I know the results are presented in terms of
10 annual results. But in terms of -- you're talking about
11 the composite number?

12 Q. Yes. His methodology. Did he have 2016 and 2017
13 applicants treated similarly? Or did he treat 2016
14 applicants separate in a pool for just that year, and
15 then treat 2017 applicants in a pool for just that year?

16 A. Again, I asked him to present the data in the
17 most accurate way possible, and then left the judgment
18 to him for the best way to do that.

19 Q. As you sit here now, do you know which way he did
20 it?

21 A. I well, I know when we looked at the -- if I'm
22 understanding your question right -- when we look at the

1 A. Professor Arcidiacono.

2 Q. Did you edit it in any way?

3 A. It's possible. In our process, he and his team
4 would provide the results, and I would suggest to him,
5 "Well, I think it would be clearer if we did it this
6 way." So it's possible I edited this.

7 Q. As you sit here now, do you recall whether you
8 edited this table or not?

9 A. I don't recall.

10 Q. As you sit here now, do you know if in running
11 this simulation Professor Arcidiacono had the applicants
12 in 2016 sort of compete only against the other
13 applicants in 2016, or against the other applicants
14 across 2016 and 2017? If you know.

15 MR. STRAWBRIDGE: Object to the form of the
16 question.

17 A. So I would assume that they were completing
18 within each class.

19 BY MR. FITZGERALD:

20 Q. And in your January simulations -- in appendix C,
21 are all the tables from Professor Arcidiacono?

22 A. Yes.

1 Q. The footnote may be distracting from the
2 question, so pretend I didn't put that shiny object in
3 front of your eyes. Do you understand whether Professor
4 Arcidiacono used all of the variables provided by UNC in
5 constructing his model?

6 MR. STRAWBRIDGE: Same objection.

7 A. It's my understanding that Professor Arcidiacono
8 was trying to replicate a holistic admissions that would
9 look at the different types of ratings that UNC used in
10 its system. And then would turn off various preferences
11 that I asked him to erase; like legacy and the like.

12 BY MR. FITZGERALD:

13 Q. Do you know if Professor Arcidiacono omitted any
14 of the UNC variables in his model, setting aside
15 whatever you asked him to turn off?

16 A. All I know is that I asked Professor Arcidiacono
17 to replicate as closely as possible the current
18 holistic-admissions process in the race-neutral
19 simulations.

20 Q. You don't know whether he included all variables
21 that Carolina had or not. Is that fair to say?

22 A. All I know is the instructions I gave to him. I

1 which race in fact was being used to complete the class.

2 Q. So with regard to that understanding, you took a
3 different approach and wanted not to use a data set that
4 included consideration of race. Do you agree with
5 Professor Hawksby that by her doing it she was doing
6 something that would statistically benefit your model?

7 A. I found it very strange. But, yes, it would as a
8 statistical matter, include race. In the admissions
9 process, then it's not race-neutral. I didn't
10 understand the concept at all.

11 Q. But do you agree by doing that it would
12 statistically benefit your model in terms of producing
13 the results of producing diversity --

14 MR. STRAWBRIDGE: Object to the form of the
15 question.

16 A. Yes. Oh, I'm sorry --

17 MR. FITZGERALD:

18 Q. In the context of a race-neutral alternative,
19 what do you understand "workable" to mean?

20 A. Well, there are a variety of factors that I look
21 at to consider whether a race-neutral alternative is
22 workable. I guess it's devised primarily into two

1 parameters. I think, you know, in looking at whether
2 there are educational benefits derived from diversity,
3 you'd want to look at a mix of factors: Racial;
4 socioeconomic; and geographic. And so a modest decrease
5 in racial diversity would ultimately depend on kind of
6 the bigger picture.

7 BY MR. FITZGERALD:

8 Q. I'm just trying to get my arms around when you
9 say "a modest decrease", are you talking about a 1
10 percent, 10 percent, 30 percent decreasing racial
11 diversity --

12 A. I mean, I think a -- I guess I wouldn't --
13 without knowing the whole picture, I wouldn't want to
14 put an exact number on it of like 1 or 10. One would
15 want to look at a variety of factors in making that
16 judgment: The history at UNC, for its levels of racial
17 diversity in the past; what the Supreme Court has said
18 on the percentages that are relevant for critical mass.
19 And the reason I hesitate to say "a ten percent decrease
20 is problematic, or one percent is not", is that we want
21 to know the base. So if the university had 70 percent
22 of African-American and Latino representation, and you

1 said there would be a 20 percent decrease, it could be
2 -- you could still get the educational benefits of
3 diversity conceivably. So I think it's really better to
4 look at a concrete case as opposed to having a blanket
5 rule as to what percentage decrease is viable, what's
6 not.

7 Q. How do you define "tolerable administrative
8 expense"?

9 A. Well, the Supreme Court has had that language --
10 I think we're still waiting for more guidance on that.
11 The way I interpret that is that if a race-neutral
12 alternative required, for example, an admissions officer
13 to personally go out and talk to every student who'd
14 apply, that would involve an intolerable administrative
15 expense. But beyond that, we don't have much guidance.

16 Q. And how do you quantitatively measure the
17 educational benefits of diversity?

18 A. Quantitatively?

19 Q. Yeah. Can you quantitatively measure the
20 educational benefits of diversity, and if so how?

21 A. Well, there have been -- studies were cited in
22 the Grutter case that sought to look at, to measure the

1 recalibrate and say, "Were we really providing a
2 meaningful consideration to the socioeconomic status?"

3 BY MR. FITZGERALD:

4 Q. And how would you combine efforts to employ
5 multiple race-neutral strategies? How would one
6 implement multiple race-neutral strategies at once?

7 A. Well, I think that's what UNC and other
8 universities say they're doing now. You could have, as
9 UNC does, the C-step program that is recruiting
10 community college students; you could also provide
11 weight to socioeconomic status; you could eliminate
12 consideration of legacy in admission. These are not
13 contradictory ideas; they can all be done at once.

14 Q. Are any of your race-neutral alternatives
15 contradictory?

16 MR. STRAWBRIDGE: Object to the form of the
17 question.

18 A. Off the top of my head, I don't see any of these
19 as contradictory.

20 BY MR. FITZGERALD:

21 Q. What about the approach that focuses on high
22 schools and taking the top X percent and limiting it to

1 Q. Now in your reports you talk about James Ryan and
2 Tom Kane, asking the question whether or not a plan
3 produced 60 percent as many minorities enrolled, as
4 compared to the status quo, whether or not that would be
5 sufficient. Do you recall that question?

6 A. Yes.

7 Q. What is your opinion on that, as to whether or
8 not that plan produced 60 percent as many diverse admits
9 would be acceptable?

10 MR. STRAWBRIDGE: Object to the form of the
11 question.

12 A. I think I'd need to know more information: I'd
13 need to know what the effect is on socioeconomic
14 diversity; what the effect is on geographic diversity;
15 what the effect is on academic preparedness. I think
16 there would be a variety of things one would have to
17 look at before making a hard judgment about that sort of
18 analysis. In addition, I guess, as I mentioned earlier,
19 if a school had 80 percent African-American and Latino
20 representation, then a 60 percent -- if the change
21 resulted in 60 percent of those numbers might in some
22 circumstances be one where you could still get the

1 educational benefits of diversity.

2 BY MR. FITZGERALD:

3 Q. So you would not rule out a plan as a workable
4 race-neutral alternative if it resulted in only 60
5 percent as many minorities enrolled as the status quo?

6 MR. STRAWBRIDGE: Object to the form of the
7 question.

8 A. Yeah, I mean, I guess -- I don't like to make
9 snap judgments, so I'd want to know more information
10 about all the various factors that go into the change
11 before ruling something out.

12 BY MR. FITZGERALD:

13 Q. So do you agree with me on that fact alone, that
14 minority enrollment alone decreased from 60 percent from
15 what it, was would not rule out a race-neutral
16 alternative for you?

17 A. In many cases it might. But I would have to know
18 all of the other results, and kind of the baseline
19 percentages for African-American Latino numbers before
20 categorically saying it's unacceptable.

21 Q. Do you offer an opinion as to how UNC should
22 assess a change in academic preparedness, beyond your

1 they have access to anything else?

2 A. I think they could have access to, in essence,
3 what they want. Beyond the confines of the FAFSA and
4 the CSS, they could ask applicants to provide
5 information on wealth.

6 Q. But my question is: Do you believe that
7 currently Carolina has access to data that you don't
8 have beyond the FAFSA and the college board data you
9 referenced?

10 A. Oh, I see. No, those are the two that I can
11 think of off the top of my head.

12 Q. And currently, what's your understanding of how
13 many colleges currently focus on wealth data presently?

14 A. I know of one institution that has focused on
15 wealth, it's UCLA Law School. There may be others that
16 I'm not aware of, but that's the one I know has focused
17 on wealth.

18 Q. Would you agree you're not aware of any
19 undergraduate institutions that have focuses on wealth
20 currently?

21 A. Again, because I'm not aware of it does not mean
22 it doesn't exist. But off the top of my head, I don't

1 know of an undergraduate institution that uses wealth.

2 Q. Let's talk about some specific race-neutral
3 alternatives, and talking about Simulation 3 in the
4 January report. How did you come to determine the size
5 of the preference you wish to afford the SES category
6 students?

7 A. So there were two factors that went into this.
8 The most important by far from my standpoint is: What
9 size preference will achieve the educational benefits of
10 diversity and maintain strong academic standards? And
11 so rather than coming up with an idea in the abstract of
12 what size preference it should be, I think that's the
13 most important determinate. Having said that, there are
14 some guide posts as well -- kind of a second source of
15 potential information in informing the size of the
16 preference -- would go to the existing preferences, the
17 size of the existing preferences. So it's relevant to
18 look at, okay, what does UNC do with respect -- what
19 size preference does it give for other categories?

20 Q. What's the metric you use to assess the size of
21 the preference for other categories?

22 A. It's the Logit coefficient.

1 Q. And in the context, what do you understand "rare"
2 to mean?

3 A. Well, Professor Hawksby's report, in her footnote
4 she talks about the chances of -- kind of what Professor
5 Arcidiacono explained to me was kind of the more
6 accurate way of describing "increased chances". And yet
7 in her text she used this 21.2 percent chance of
8 admission. So that was the initial flag for the idea
9 there was a concern here. And then in the next sentence
10 I go on to say: "The immediate admission probability
11 for a socioeconomically disadvantaged student or for a
12 family and neighborhood bump is just 2.7 percent."
13 Which gives you -- that's the median -- and so suggests
14 the 21.2 percent chance is not typical.

15 Q. And is the information that Professor Arcidiacono
16 provided to you reflected anywhere in your work papers
17 or appendix?

18 A. I assume it's in the work papers, yes.

19 Q. You assume. Do you know, or do you just assume?

20 A. I haven't seen the work papers, so I don't know.

21 Q. Who prepared the work papers?

22 A. Professor Arcidiacono.

1 ethnic, and geographic diversity.

2 Q. And just to be clear, you have not done a
3 simulation involving UNC and admissions tied to college
4 board clusters. Correct?

5 A. I have done simulations in other cases using
6 college board cluster data, which gives me confidence
7 that with national data it is possible to create
8 diversity using these college board clusters. It's
9 promising, but I haven't done it with UNC data.

10 Q. In what other cases did you do the simulations
11 involving college board clusters?

12 A. That was in the Harvard case.

13 Q. I'm going to turn to the topic of financial aid.
14 I think we've covered this, but I want to make sure:
15 You didn't do an analysis of where the funding of
16 increased financial aid would come from. Correct? If
17 Carolina were to increase financial aid?

18 A. Right. I did a high-level analysis of UNC's
19 resources, generally compared to other universities;
20 mechanisms it could enact in order to save money from
21 other programs that could be applied to financial aid
22 for disadvantaged students; policies it could enact to

1 A. I think in the report I said there were 400-some
2 students -- let me see, I can check to make sure I got
3 that right. I'm sorry. 140 students.

4 Q. I'm going to turn to legacy preferences. And in
5 your January report at page 56 you state that -- I'll
6 find it here -- at the beginning of the last paragraph
7 you make the comment: "It should be noted that limiting
8 legacy preferences is workable race-neutral strategy."
9 Do you see that sentence?

10 A. Yes.

11 Q. Do you believe that standing alone, eliminating
12 legacy preferences is a workable race-neutral strategy?

13 A. That's not how I evaluate any of these
14 race-neutral strategies. I think they work best in
15 combination with one another.

16 Q. That's what I want to clarify. So you're not
17 proposing that eliminating legacy preferences as a
18 stand-alone race-neutral alternative is a workable
19 strategy. Correct?

20 A. I'm not proposing it as a stand-alone, no.

21 Q. In all of your simulations, legacy preferences
22 have been removed. Correct?

1 has resulted in terms of generating qualified applicants
2 who can then be admitted into the college?

3 A. I don't know of any analysis. Which doesn't mean
4 that they don't exist -- I just don't know off the top
5 of my head of an analysis of that particular program.
6 Which underlines the point, I think, that none of these
7 individual initiatives necessarily, by themselves,
8 produce the results that we want. It's in combination
9 with others that you can build a more powerful result.

10 Q. And one last question. Do you know if there's
11 any on that topic -- sorry, you got your hopes up --

12 MR. STRAWBRIDGE: So stipulated.

13 BY MR. FITZGERALD:

14 Q. What analysis, if any, has been done about the
15 cost effectiveness of programs designed to address
16 disadvantaged schools -- in terms of pay off, in terms
17 of diversity in admissions?

18 MR. STRAWBRIDGE: Object to the form.

19 A. I don't know of a cost analysis that's been done
20 on that question.

21 BY MR. FITZGERALD:

22 Q. Have you told us your reactions to Professor

1 some options, and then I would make the final call.

2 Q. And do you remember discussing those options with
3 regard to that particular decision as you sit here now?

4 A. I don't.

5 Q. And you've mentioned a number of times that there
6 are three sort of different aspects of diversity that
7 add to the educational benefits of diversity: Racial
8 diversity, socioeconomic diversity, and geographic
9 diversity. Correct?

10 A. That's correct.

11 Q. Do you agree with me that each of them provide a
12 distinct benefit to the educational mission?

13 A. Yes. I would say they each offer something
14 distinctive.

15 Q. Then, with regard to Professor Hawksby's
16 treatment of race-neutral alternatives, in your opinion
17 is there a race-neutral alternative that Professor
18 Hawksby should have evaluated, but did not, as of the
19 June report?

20 MR. STRAWBRIDGE: Object to the form of the
21 question.

22 A. Well, I certainly have lots of objections to the