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# ILLINOIS COMMISSION ON EQUITABLE PUBLIC UNIVERSITY FUNDING

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## Illinois Commission on Equitable Public University Funding

October 20, 2023: 9:00am-11:00am CT

Meeting #10 Notes

### **Welcome & Introductions**

Executive Director Ginger Ostro opened the meeting with a welcome and shared general announcements that the meeting was being conducted via videoconference pursuant to rules adopted by the Commission at the May 30, 2023 meeting. Notice of the meeting was posted in accordance with Open Meetings Act. Executive Director Ostro reviewed the agenda.

### **Panel Presentations and Discussion**

EducationCounsel

Scott Palmer gave an introduction and background of EducationCounsel, of Zakiya Ellis and himself. Palmer and Ellis gave an overview of *Understanding SFFA and Its Potential Implications*.

#### *A Time for Leadership*

Now is the time for leadership, not retrenchment. We believe SFFA was wrongly decided (as a matter of evidence, reasoning, law, etc.), but it is the law. There remains many opportunities to advance diversity and equity. Some things under the law are knowable and some are unsettled. This presentation does not provide specific legal advice.

#### *The Court's SFFA Decision - Background*

- Under 14th Amend EPC and TVI, distinctions based on race are deemed "pernicious," "odious," and inherently suspect *regardless of which racial group is favored or disfavored*.
- "Race-conscious" actions will only be upheld where they pass "strict scrutiny," which requires a "compelling interest" plus "narrowly tailored" to achieve that interest.
- Prior to SFFA, SCT had found few interests sufficiently "compelling" including remedying specific policies related to an institution's own discrimination (not "societal discrimination") and *promoting education benefits of diversity in HED*.

#### *The Court's SFFA Decision - Holding*

SCT held unlawful Harvard/UNC's admissions policies under 14th Amend and TVI - finding for several reasons that they did not pass strict scrutiny, including that programs/rationale:

- Lacked "coherence" and "sufficiently focused and measurable objectives"
- Used race in a negative manner in "zero-sum" decisions and promoted racial stereotypes
- Lacked "meaningful endpoints"

This effectively overruled prior precedent in Bakke, Gratz/Grutter, Fisher, etc.

SCT did recognize "[N]othing in this opinion should be construed as prohibiting universities from considering an applicant's discussion of how race affected his or her life, but it through discrimination, inspiration, or otherwise," such as "a benefit to a student who overcame racial discrimination... tied to *that student's* courage and determination" or "a benefit to a student whose heritage or culture motivated him or her to assume a leadership role or attain a particular goal... tied to *that student's* unique ability to contribute to the university."

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## *The Court's SFFA Decision - Key Questions on Reach*

- How does SFFA affect HEd programs beyond admissions where they consider racial status on their face?
- How does SFFA affect facially race-neutral programs/policies that may be motivated in part by race-based intent?
- How might SFFA relate to other contexts (and other laws), such as K12 under 14th Amend/TVI, employment under TVII, or private contracts under §1981?

## *The Court's SFFA Decision - Implications*

Three key questions under 14th Amend/TVI:

- Is the action "race-based" under law?
- If so, does it confer cognizable "benefit or harm"?
- If so, is it supported by a compelling interest and narrowly tailored to achieve that interest?

## *A Key Moment for HEd (and Broader) Leadership*

Nothing in the Court's decision should affect higher education's authentic, core commitment to educational diversity and equity - including for students of color and students from other marginalized groups. This moment calls for leadership, not retrenchment - and the rise of a new, broader agenda.

## *A Potential Framework (and Examples) to Promote Hed Diversity and Equity*

### System-Level Strategies

- Increase investment in IHEs, including IHEs that serve large numbers of students of color/marginalized groups
- Increase transparency, timeliness, and amount of financial aid for low-income students
- Align pathways from K12 through postsecondary education and the workforce

### Outreach, Recruitment, and Pathways

- Partnerships with community colleges, college access organizations, and employers
- Dual Enrollment
- Pre-college counseling
- Pathways & bridge programs

### Admissions, Need-Based Aid & Affordability

- New admissions models
- Eliminate legacy preferences
- Reconsider early action/decision practices and test use policies
- Streamline transfer

### Supports for Belonging and Completion

- Culturally-relevant curriculum and pedagogies
- Emergency financial aid
- Campus climate assessments
- Advising, mentorship, and co-curricular engagements

EducationCounsel offered time for Q&A from the Commission members. The following questions/discussions were raised:

- Have there been any supreme cases that have dealt with states' ability to make financial decisions?
  - Not sure of any cases, but shouldn't think of decisions in boxes. Decisions on one case do not necessarily transfer

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- SFFA has put a lot of things in the gray area
  - We can only think of reasonable ways to lead at this moment
- We have a hold harmless in funding approach, could this justify race specific additives to the formula?
  - Not enough facts about IL's funding approach
  - State vs. institution role would be different
  - Institution focus would be helpful and important
- If we focus on legal arguments and try to be clever, what is the likelihood that we would just create legal challenges and publicize that distracts from students and goals?
  - Balancing issues would be the most important and not running towards the extremes of the issues
- Can we utilize proxies like pell-grant recipients or MAP recipients Need-based aid in the funding formula that address race-based goals?
  - Be clear about authentic interests whether in addition to or other than race. Other proxies should not trigger legal challenges. Justify measures authentically, they have individual merit and value.
- We have used data to identify priorities like specific student groups, which has been fact-based. Is there anything that could prevent us from continuing to do this?
  - Being data-driven is the right place to be. If you have multiple interests, make them clear, even think of things you may not be able measure now but may want to in the future
  - Arguments on both sides, but the best way is to be fact-based.
  - Be institution focused.

College Admissions Future Co-Laborative

OiYan Poon introduced herself and gave a short presentation.

## *Nine States with Affirmative Action Bans*

- California (1996)
- Washington (1998, rescinded 2022)
- Florida (1999)
- Michigan (2006)
- Nebraska (2008)
- Arizona (2010)
- New Hampshire and Oklahoma (2012)
- Idaho (2020)

## *Ideas and Efforts Across the United States*

### Outreach

- State funded student-initiated outreach
- MCAN work with Americorps: AdviseMI, College Bound MI, College Completion Corps
- College and Career Readiness high school class and state tech assistance programs
- School Counselor PD and Fellowship programs

### Partnership

- Colleges & targeted school districts, CBOs, community leaders, alumni groups
- HBCU, TCU, and MSI student grad & professional school pathways

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- Dual credit programs with targeted high schools

### Financial Aid and Promise Programs

- DACA in-state tuition & state aid
- Native American Opportunity Plans (in-state tuition and scholarships)
- 0%-1% interest rate state loans
- State programs to assist students and counselors to find scholarship and navigate aid systems
- Linking public assistance programs with students
- First-dollar vs. Last dollar free-college and Promise Programs targeting low-income and first-gen with cohort supports

### Admission/Enrollment Practices

- Expanded admission review eligibility
- SES content metrics and holistic review; first-gen tip and HBCU/TCU/MSI grad admission tip (proposed)
- Test-free
- Percent plans
- Ending legacy tips
- Community college to 4-year institution guaranteed transfer programs
- Course credit mobility
- Direct admissions (leveraging statewide data systems)

### Other

- High school-college curriculum alignment
- Improved cross-higher ed disaggregated system state data systems
- Faculty/staff hiring and promotion DEI evaluations
- State limits on out-of-state students
- HSI designation/funding pursuit
- Teacher ed programs for ethnic studies
- Adequacy Funding Formula vs. Performance-based Funding

OiYan Poon offered time for Q&A from the Commission members. The following questions/discussions were raised:

- Concerned about these solutions shifting burden from state to those on the ground
  - A lot of the work student-initiated and overwhelming vote to continue the work. Students willing to do work because states historically haven't stepped up.

### **Discussion**

The Commission members were given time and space to reflect and discuss the presentations and the progress of the Commission's work.

Commissioner Simón Weffer shared that the pause on meetings was not necessary; it stopped momentum and he asked for further information to better understand the decision to pause the work. Commissioner Weffer shared that the presentations and information shared would not have impacted the work. He also shared his frustration with the lack of communication, the lack of a schedule and the need to know how to move forward: should the Technical Modeling workgroup play it safe or be ambitious? Commissioner Weffer shared that he is on both the larger Commission and the Technical Modeling Workgroup and raised immense frustration with the "radio silence" over the last two months. There needs to be discussion of a realistic timeline and a charge for the workgroup to move forward with.

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Co-Chair Deputy Governor Martin Torres shared that the Governor's office reached out to the co-chairs and reiterated the importance and the goals of the Commission, but the reality that the landscape has changed. The conversation presented was to help develop a common understanding on how to move forward. There would not be pressure from the Governor's office, and the goal is still to create a formula that is better than what there is now.

Co-Chair Representative Carol Ammons shared that it was not her desire to pause the work and believed that the Technical Modeling Workgroup could have continued their work. She noted that the Commission should continue to move forward on the objectives in which the bill was passed and the Commission was formed. Representative Ammons shared that the work should not stop based on the Supreme Court's decision and noted that Co-Chair Senator Lightford also did not wish to pause.

Commissioner Robin Steans shared that the conversation reiterated the need for momentum and that what she heard during the presentations would not show a need for approaching the work differently. The presentations reaffirmed the data-drive approach and that they were motivating to keep pushing forward.

Gay Chase shared that there would be challenges due to the Supreme Court decision but hopes that it does not affect students of color. Nothing should be done that would impact the progress that has been made. The Commission should ensure equitable higher education for everyone in the state.

Executive Director Ostro noted that this doesn't change the commitment but gave a chance to have more context and return to the Technical Modeling Workgroup with an informed framework and greater understanding. The Commission would not set a schedule yet, but the November 20, 2023 meeting would continue as scheduled.

Commissioner Cherita Ellens noted that there was no new information shared during the presentations, but that since not every Commission member is deep in the work, there could be information that was new to someone. She hoped that the presentations gave clarity and shared that all institutions need adequate resources to meet the objectives put forth and to serve the populations well.

### **Public Comment**

Executive Director Ostro reminded members of the public that they have up to three minutes to provide public comment.

- Jennifer Delaney, member of the IBHE and professor of higher education at UIUC. Ms. Delaney shared that While it is helpful to discuss alternative metrics that can be used and there is value in focusing on metrics like first generation students and income status, she also want to urge the commission to focus on serving in-state residents (including migrants), which clearly serves a state purpose of producing well-educated residents for a thriving Illinois. Additionally, accountability is very important in this process and will drive how the formula is actualized. Ms. Delaney encouraged the group to identify benchmarks as part of this process. Ideally these benchmarks should be tied explicitly to state goals for higher education. The process of this commission has highlighted important overlapping areas in state funding for higher education. She urged the commission to be thoughtful and offer guidance for related areas that are outside the specific scope of the charge of the commission. Specifically, there is the need to reflect on the relationship between state funding for institutions and student financial aid, on the importance of stability in funding, and

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on providing alternative paths for admissions. The MAP program is one of the largest need-based grant aid programs in the nation. It remains a fairly pure need-based aid program, which results in a powerful tool for addressing inequities by income status. Ms. Delaney shared three areas where the MAP program could be enhanced: support increase funding for MAP building on the successes of the Governor in growing this program throughout his time in office; alter MAP to function more like Pell grants such that it could be used to cover the full cost of attendance, not only tuition and fees; consider the scope of the MAP program and if for-profit institutions sufficiently serve both state purposes and the public good to warrant their continuation in the MAP program. Fundamentally, stability in funding is difficult to address solely within the context of a funding formula. However, this issue is vital for the health and functioning of institutions, and for serving students throughout their degree programs that typically last longer than annual state budget cycles. Ms. Delaney encouraged the commission to seek funding models that directly address stability in funding, such as dedicated revenue streams, institutional ability to rollover funding year-to-year, moving parts of higher education funding streams to be part of the non-discretionary side of the state budget. The assumption that there will be ongoing growth in state support indefinitely is not consistent with past patterns and ignores the strong relationship between higher education funding and the business cycle, especially given higher education's status as a large discretionary spending category. She shared that the commission should be explicit about how the formula will work during years in which funding levels are decreased or held flat. Some of her research on stability in state support for higher education may be helpful for the commission to review. One accessible article from *The Chronicle of Higher Education* that might be helpful in thinking through the issue of stability and some options for solutions is: <https://www.chronicle.com/article/higher-eds-financial-roller-coaster>. Ms. Delaney's book on Volatility in State Support for higher education may also provide helpful guidance:

<https://www.aera.net/Publications/Volatility-in-State-Spending-for-Higher-Education>.

Ms. Delaney encouraged the group to consider supporting policies such as those outlined in the strategic plan that are race neutral. The primary policy she would like the group to consider is direct admissions programs that are race-blind, but when applied universally capture *all* students. Importantly direct admissions produce more equitable outcomes than alternative admissions models like precinct plans (such as Texas' 10% plan) that focus only on the highest-achieving students. Finally, Ms. Delaney shared that it is important to potentially reflect if the race-based language in the strategic plan should be altered, since many of the metrics laid out in the strategic plan are state goals related to closing race-specific equity gaps.

- Brandon Bisbey, a tenured faculty member at Northeastern IL University, a member of University Professionals of Illinois Local 4100, and the chair of the legislative committee of the NEIU chapter of UPI. During his 12 years at NEIU, Mr. Bisbey has seen firsthand the devastating effects of disinvestment in public higher ed in Illinois, the most obvious of which have been high levels of faculty attrition and precipitous decline in enrollments over the last decade. When he was hired in 2011 his department had eight tenured faculty—they are now down to three. It has been extremely difficult to attract and retain talented faculty since Rauner's manufactured budget crisis and the subsequent inadequate funding from the state. Just this year, Mr. Bisbey's department lost a brilliant young faculty member who had just earned tenure and was a major asset to the institution because they could not abide by the labor conditions caused by the lack of funding. These were the same conditions that led to strikes at several of our public institutions, many represented by UPI. In 2011,



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NEIU's enrollment was nearly nine thousand, now it is about half that much. Mr. Bisbey shared that while demographic changes are certainly part of this picture, they can't explain this drop by themselves. Many current, former, and potential students have been pushed out of, or away from his institution by rising tuition costs. NEIU's student body is largely working-class. The students are immigrants—documented, undocumented and "Daca-mented," veterans, transfers from community colleges, most of them work at least one job while they study. They come because NEIU teaches classes at times and in modalities that fit with their lives and work schedules, because they are understood, because NEIU knows how to meet them where they are and help them get where they want to be. But every semester many of them struggle to pay for course materials, or to make rent, or sometimes even to eat. This August, Mr. Bisbey found himself scrambling, once again, to try to cobble together enough funding to help a brilliant grad student—an undocumented, working-class migrant—finish his MA coursework. He shared that they are simply unable to offer the kind of support that UIC or U of I can give students because they don't get the kind of support those schools do from the state. Regional comprehensives like NEIU, Gov State, Chicago State, Northern, Eastern, Western, UI Springfield, are the true motors of economic mobility in Illinois but languish because their missions aren't based on research and their data don't align with standards written for larger institutions with more economically privileged student bodies. Given the makeup of the student bodies, this has grave implications for economic and racial justice—NEIU was the first public Hispanic-Serving Institution in Illinois—over 30% of the current students are Hispanic or Latino. NEIU has wonderful students and engaged, talented, productive faculty and staff who give it their all despite the situation—but adequate support is needed. Illinois is sometimes described as an oasis of progressive social policies in a desert of Midwestern conservatism. This is clearly true in terms of certain policy areas, like reproductive rights. His hope is that it can become true with regards to higher ed as well. Mr. Bisbey hopes to see an Illinois that bucks the tragic national trend of disinvestment in higher ed and begins to treat it as the public good that it is. But time is of the essence, things get worse for the students every day that there isn't adequate funding. Action is needed now.

- Olivia Cronk, a member of NEIU's UPI (union that represents tenure-track and contingent faculty and many staff members), and served on the Communications Team for union correspondence and organizing. Ms. Cronk shared that she wanted to advocate for prioritizing increased funding for NEIU and specifically speak to the way that the state's twenty years of defunding public higher education has created a social justice issue related to Writing. She has been a "full-time" instructor at NEIU for 14 years, teaching Composition, Creative Writing, and Literature to undergraduate and graduate students. She received two Excellence Awards, is the author of three full-length poetry collections, and co-edits a journal. As of 2023, she makes \$48,000 a year. She mentioned her salary not as a gripe, but to put these details into perspective. Ms. Cronk and three of her colleagues—all contingent faculty—built our Creative Writing Minor program and community with no budget and minimal other support. They work to facilitate a space wherein they emphasize Literature as a living body to which students contribute; this is explosively important when thinking about whose voices are present in the stream of Literature and who their students are; at NEIU, they serve primarily students from underrepresented groups. A classroom of writers might include a man in his 60s who works at a factory, a twenty-year-old single mother, a young man who has been incarcerated, a person in their 30s who is undocumented, many people who have experienced

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trauma/have trouble with their mental health/have trouble with their physical health. The program is explicitly invested in the interrogation of power. Last year, because of ongoing neglect of our institution, two of these colleagues with whom she built this amazing space could not return to NEIU. Because of an ongoing pattern of de-funding, disregarding and ignoring the life-changing power of our school, they lost two brilliant, nurturing, radically student-centered instructors. There is no one to teach certain genres, requests for letters of recommendation go unanswered, all of the uncompensated program work of building and supporting a community now falls on two people. Many students from across the university who would have entered the body of Literature, wherein they might process their own micro- and macro-level traumas by working with voice and effect and power and expression; who want to read and write in community with other people who are somehow like them, simply cannot, because of the school's financial woes. In 2017, when NEIU was a victim of Rauner's manufactured budget crisis, Ms. Cronk came to see NEIU's financial woes as such an obvious arm of racism and classism that it was scandalous. She sees the continued dismissal of regional public universities in the same way. NEIU is an exceptional space where things that are truly changing the world are happening right now but it needs immediate and substantial funding—real funding—to help stabilize, sustain, and grow in its work, which is: nourishing the intellectual lives of Illinoisans who are so often disempowered by our systems and institutions.

- Hannah Keller, the Midwest Policy Manager for Young Invincibles, a nonprofit nonpartisan policy advocacy organization, working with 18-34 year olds on health care workforce and higher education issues. Ms. Keller thanked the Commissioners, legislative leaders, state agency leads, educational institutional leaders and of course all the students worked for two years now on this systemic issue. She shared that state institutions have struggled with decreased state investments over the past few decades and students and families have carried the financial burden of college education for far too long. The lack of a standard transparent and equitable public university funding formula is an urgent issue and it cannot be ignored or pushed aside. Human visible space the commissioners for acknowledging that there is a real issue here. The education system is meant to provide for equal opportunities for students, but it cannot weight equities in funding resources that are not equitably distributed. Students in Illinois are not being served equitably because of the lack of a funding formula and it's leading Black, Brown and first generations and low-income students to work even harder to find the support they need to not only finish their degree, but engage in campus life, take advantage of internships, secure academic tutoring and more. Ms. Keller shared that it's not fair to them and it perpetuates systemic inequality. inequities. Young Invincibles asked all leaders here keep the momentum going after the commission and because this cannot be stated enough: the lack of a funding formula is a real problem leading to systemic inequity in our state's higher education system. It's leaving money on the table for unrealized student potential and jeopardizing the future prosperity of our state. Establishing a funding formula that is equity based also allows our public institutions and state agencies to keep working on their goal to reach full equity. Ms. Keller urged the Commission to listen to the students who are speaking out for what's right what's urgent.

### ***Action: Approval of minutes from June 29, 2023 Commission Meeting***

Katie Lynne Morton called the roll to approve the minutes from the June 29, 2023 meeting. Commissioner Simón Weffer motioned to approve the minutes. Commissioner Lisa Freeman



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seconded. The roll was called and fourteen commissioners approved, two commissioners abstained.

### ***Next Steps, Closing Announcements and Adjournment***

Executive Director Ostro shared that the next commission meeting will be held on November 20, 2023 at 9am. The Technical Modeling Workgroup will meet at its regularly scheduled Thursday morning time, October 26. At that meeting, the Workgroup would reflect on the discussion, what was heard from the experts, what was heard from the Commissioners and take a look at the framework to see how the discussion can and should inform the work going forward.

### *Commission Members in attendance*

Deputy Governor for Education Martin Torres, Co-Chair

Representative Carol Ammons, Co-Chair

Pranav Kothari, Co-Chair

Kim Tate, representative for Senate Majority Leader Kimberly Lightford, Co-Chair

John Coleman

Lisa Castillo-Richmond

Cherita Ellens

Lisa Freeman

Matt Bierman

Cheryl Green

Warren Richards

Aondover Tarhule

Dan Mahony

Ralph Martire

Brandon Schwab

Dr. Karen Colley

Robin Steans

Simón Weffer

Eric Zarnikow

### *Commission Members not in attendance*

Representative Dan Swanson

Senator Mike Halpin

Senator Dale Fowler

Representative Mike Marron

Senator Terri Bryant

Representative Katie Stuart

Sheila Caldwell

Dr. Wendi Wills El-Amin

Dr. Katrina Bell-Jordan

Guiyou Huang

Brandon Kyle

Zaldaynaka "Z" Scott

Respicio Vazquez

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Dennis Papini  
Jack Wuest

*Support Team Members in attendance*

Ginger Ostro  
David Antonacci  
Jaimee Ray  
Jerry Lazzara  
Dave Kelm  
Martha Snyder  
Will Carroll  
Toya Barnes-Teamer  
Nate Johnson  
Brenae Smith  
Katie Lynne Morton