THE IMPACT OF COURT AND LEGISLATIVE DECISIONS ON POLICIES AND PRACTICES REGARDING RACE-TARGETED FINANCIAL AID AT SELECTED PUBLIC UNIVERSITIES IN VIRGINIA

by

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(ABSTRACT)

There have been numerous legal challenges to affirmative action programs in education. Two legal decisions that have directly affected race-targeted financial aid programs in Virginia schools are the court ruling in Podberesky v. Kirwan, (1994) and the Virginia statute: Participation in or Eligibility for Certain State-Supported Financial Aid Programs (VA Code Ann. s. 23.7.1:02, 1993). In this study the impact of the court ruling and state statute was examined at three public institutions in Virginia to determine (a) how knowledgeable the participants from each institution were about the court and legislative decisions, and (b) how the participants from each institution were applying the state law and ruling to their scholarship, grant and fellowship programs.

In-depth information was gathered through interviews with administrators and faculty from each institution. One interview instrument was developed and tested in a pilot study. Construct validity of data was reasonably ensured by tape-recording interviews and allowing each respondent to review their interview transcript for accuracy. Single-case and stacked matrices were used to organize and analyze data within and between institutions.

The degree of knowledge about the court and legislative decisions varied within and across institutions. Overall, respondents in all three schools were more familiar with
the court ruling than the statute.

The main effects of the court ruling and state statute were: (a) a decrease in the number or race-based awards, (b) the exclusion of race-specific language in donor scholarship and fellowship agreements, and (c) an increased awareness about issues surrounding race-targeted financial aid awards.

Both race-targeted and single-race awards, funded by private and public dollars, were still being distributed at all three institutions. Most respondents felt that neither the statute or court ruling would affect future recruiting efforts of minority students. All three institutions were still very committed to increasing diversity on campus.
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# Table of Contents

Abstract ................................................................. ii

Acknowledgements ..................................................... iv

List of Tables ............................................................ viii

**Chapter 1: Overview of Study** ........................................ 1
  Introduction ........................................................... 1
  Purpose of Study ..................................................... 6
  Research Questions .................................................. 7
  Limitations of the Study ............................................. 8
  Operational Definitions ............................................. 8
  Overview of Remaining Chapters .................................. 10

**Chapter 2: Research Methodology** ................................. 11
  Introduction ........................................................... 11
  Procedures ........................................................... 11
  Confidentiality ....................................................... 13
  Data Collection ....................................................... 13
  Data Management .................................................... 15
  Data Analysis ........................................................ 15
  Reliability and Validity ............................................. 16

**Chapter 3: Literature Review** ..................................... 18
  Separate but Equal Doctrine ....................................... 19
  Desegregation in Higher Education ............................... 21
  Affirmative Action .................................................. 25
  Race-Targeted Financial Aid ....................................... 30
  Related Legal Issues Since Podberesky v. Kirwan ............... 39

**Chapter 4: Research Findings and Analysis** ....................... 45
  Introduction ........................................................... 45
  Institution 1 .......................................................... 45
  Institution 2 .......................................................... 78
TABLE OF CONTENTS (Continued)

Institution 3 ................................................................. 107
Comparison of Results Between Institutions ................... 135

Chapter 5: Discussion and Implications for Policy, Practices,
and Research .......................................................... 147

Impact of the Court Ruling and the State Statute on Policies and
Practices for Race-Targeted Scholarships, Grants and
Fellowships .............................................................. 147

The Future of Affirmative Action Programs and
Race-Targeted Financial Aid ......................................... 151

Researcher's Commentary .............................................. 154

References ....................................................................... 158
Court Cases ...................................................................... 164
Statutes ........................................................................... 166
Appendices ..................................................................... 167
Vita ............................................................................... 182
LIST OF SUMMARY TABLES OF FINDINGS AND CONCLUSIONS

Institution 1

<table>
<thead>
<tr>
<th>Table</th>
<th>Research Question</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 6</td>
<td>Research Question 1: Knowledge of Court Ruling</td>
<td>46</td>
</tr>
<tr>
<td>Table 7</td>
<td>Research Question 2: Knowledge of State Statute</td>
<td>48</td>
</tr>
<tr>
<td>Table 8</td>
<td>Research Question 3: Change in Number of Race-Targeted or Single-Race Scholarships, Grants and Fellowships</td>
<td>50</td>
</tr>
<tr>
<td>Table 9</td>
<td>Research Question 4: Public vs. Private Funds</td>
<td>53</td>
</tr>
<tr>
<td>Table 10</td>
<td>Research Question 5: Race Criterion</td>
<td>56</td>
</tr>
<tr>
<td>Table 11</td>
<td>Research Question 6: Minority Enrollment</td>
<td>59</td>
</tr>
<tr>
<td>Table 12</td>
<td>Research Question 7: Application of Court Ruling and State Law</td>
<td>61</td>
</tr>
</tbody>
</table>

Institution 2

| Table 13 | Research Question 1: Knowledge of Court Ruling         | 79   |
| Table 14 | Research Question 2: Knowledge of State Statute        | 81   |
| Table 15 | Research Question 3: Change in Number of Race-Targeted or Single-Race Scholarships, Grants and Fellowships | 83   |
| Table 16 | Research Question 4: Public vs. Private Funds          | 87   |
| Table 17 | Research Question 5: Race Criterion                    | 89   |
LIST OF TABLES (Continued)

Table 18  Research Question 6: Minority Enrollment ...................... 91

Table 19  Research Question 7: Application of Court Ruling

and State Law ............................................ 93

Institution 3

Table 20  Research Question 1: Knowledge of Court Ruling .............. 108

Table 21  Research Question 2: Knowledge of State Statute .............. 110

Table 22  Research Question 3: Change in Number of

Race-Targeted or Single-Race Scholarships,

Grants and Fellowships .............................. 112

Table 23  Research Question 4: Public vs. Private Funds .............. 114

Table 24  Research Question 5: Race Criterion ............................ 117

Table 25  Research Question 6: Minority Enrollment .................... 119

Table 26  Research Question 7: Application of Court Ruling

and State Law ............................................. 121
CHAPTER 1

Overview of Study

Introduction

Since early Colonial America, perceptions about race have influenced judgements and decisions about people's intelligence and abilities (Herrstein & Murray, 1994; Plessy v. Ferguson, 1896). During the 19th century, three prevailing assumptions existed about race classifications: (a) people's racial characteristics could not be altered by exposure to environmental changes, (b) a racial hierarchy existed where white Americans were considered superior to African Americans, and (c) to ensure successful growth of the country, the white race must remain pure, and therefore separated from African Americans (Banks, 1995). These assumptions about African Americans resulted in wide-spread segregation in most public domains (Fetzer, 1993; Wisotsky, 1980). Separate facilities for African Americans and white Americans were legal, as long as they were "equal" (Plessy v. Ferguson, 1896).

Attitudes about race began to change in the early to mid-1900s. Differences between racial groups were thought to be the result of environmental circumstances, rather than inherent physical, psychological and cultural attributes. Characteristics linked to African Americans were judged more as a consequence of their living conditions, rather than inbred traits. African Americans had the same potential as white Americans, given equal opportunities
and benefits (Banks, 1995). While this view of race was not universally accepted, changes in attitudes about African Americans were evident in court decisions and governmental operating policies. The effects of these decisions were first noticed in public education and government hiring practices.

In education, the Supreme Court acknowledged the disparities in "separate" educational facilities for African Americans and whites (Brown v. Board of Education, 1954; Sweatt v. Painter, 1950). Brown II (1955), and ordered desegregation in all public elementary and secondary schools but only implied this directive in previous court decisions to public colleges and universities.

After Brown, many states continued to maintain racially-segregated colleges and universities. Higher education institutions in the south were the primary resistors to desegregation efforts. In 1969, Virginia along with nine other southern and border states were ordered to submit an individual desegregation plan aimed at dismantling their existing dual-systems of higher education. These plans included affirmative action goals for increasing minority student populations in predominately single-race colleges and universities (Adams v. Richardson, 1973).

Affirmative action has been used to remedy a long history of discrimination against African Americans (and other protected classes) by directly or indirectly awarding jobs, admission to universities, financial aid, and
other goods and services (Barr, 1990). Such programs have sought to bring about fairness and equality in hiring practices and participation in educational programs previously denied to many minorities and women (Wilson, 1995).

Affirmative action was established in the 1960s through a series of presidential Executive Orders aimed at eliminating discriminatory employment practices for government agencies and federal contractors (Fetzer, 1993; Hall, 1991). Executive Order 10925, issued in 1961 by John F. Kennedy, established the President's Committee on Equal Employment Opportunity to execute the order's directives (Cahn, 1995).

The order prohibited discrimination in employment practices by federal contractors "...because of race, creed, color or national origin" (Cahn, 1995, p. xi). In addition, all contractors were to take "affirmative action" to ensure that the nondiscriminatory policies were enforced (Cahn, 1995). Affirmative action standards were established to ensure that employment decisions would be the result of only relevant job specific criteria. A person's race, religion or ethnic background were considered irrelevant and illegal criteria (Cahn, 1995).

Title VI and Title VII of The Civil Rights Act of 1964 expanded the scope of nondiscrimination and affirmative action. Title VI (42 U.S.C. sec. 2000d) prohibits discrimination on the basis of race, color, or national origin in any program in public or private institutions that receive federal funds.

Title VII (42 U.S.C. sec. 2000e-2[a]) is similar in purpose to Executive
Order 10925 by prohibiting discrimination in employment practices. In addition to EO 10925, Title VII covers sex, race and national origin and applies to any business with 15 or more employees. Title VII was applied to federal institutions in 1972.

In 1965, President Lyndon B. Johnson issued Executive Order 11246 further expanding the role of affirmative action and the commitment to enforce such programs in the federal government. In 1967, the order was changed to prohibit discrimination on the basis of sex, consistent with Title VII of the Civil Rights Act. President Johnson also dismantled the Committee on Equal Employment Opportunity and transferred all enforcement power to the United States Secretary of Labor. In 1971, President Richard M. Nixon administered Revised Order No. 4 that required all federal contractors to create and implement an adequate affirmative action program to correct the underutilization of minority groups and women in their organizations (Cahn, 1995).

Since the 1970s, many predominately white, public higher education institutions strived to increase and retain minority student enrollments. Affirmative action programs, such as race-targeted scholarships, grants and fellowships, were established to increase diversity in the student population as well as rectify the effects of prior discriminatory practices (Regents of the University of California v. Bakke, 1978; Wygant v. Jackson Board of Education, 1986).
Race-targeted aid has been determined as an important and effective tool for accomplishing these goals (Baida, 1994). According to the American Council on Education, approximately 45,000 students at four-year colleges received race-targeted scholarships. In 1993, the General Accounting Office estimated that 64 percent of all private and public undergraduate schools provided one or more race-targeted scholarships (Baida, 1994). These findings indicate that many students have benefitted from race-conscious aid.

Much controversy surrounds affirmative action programs. Proponents argue that it is imperative that preferential treatment continue for those protected criteria of race, sex, and ethnic background in order for minorities and women to overcome a history of exclusion from employment and educational opportunities (Wilson, 1995). Opponents claim that affirmative action programs violate the premise that these protected criteria should be irrelevant in the decision-making process (Newton, 1995).

There have been numerous legal challenges to affirmative action programs. In a recent court ruling most relevant to Virginia colleges and universities, the Fourth Circuit Court of Appeals struck down the Banneker Scholarship program, a four-year, full-tuition benefit exclusive to African-Americans attending the University of Maryland at College Park (Podberesky v. Kirwan, 1994). The Court determined that race could not be used as a mandatory qualification for admission into the program (38 F.3d 161-162). Prior
to this court ruling, a Virginia Statute was passed in 1993, prohibiting the use of race and ethnic origin as selection criteria for any state-supported financial aid programs (Participation in or Eligibility for Certain State-Supported Financial Aid Programs [VA. Code Ann. s. 23.7.1:02, 1993]). These legal restrictions come at a time when colleges and universities still seek to increase minority student populations, as well as develop a better sensitivity and understanding about racial issues and various ethnic cultures on campus. In addition, the Virginia Statute is in conflict with the Adams legislation that ordered the state to desegregate its colleges and universities. Virginia has not received any official notice as to the status of compliance as outlined under Adams (S. Janosik, Office of the Secretary of Education, Commonwealth of Virginia, personal communication, August 19, 1996).

In this study the impact of the court ruling and state statute was examined at three public institutions in Virginia to determine (a) how knowledgeable the participants in each institution were about the court and legislative decisions, and (b) how participants in each institution were applying the court ruling and law to their scholarship, grant and fellowship programs.

**Purpose of the Study**

The purpose of this study was to determine the impact of *Podberesky v. Kinwan* (1994) and the Virginia Statute, Participation in or Eligibility for Certain State-Supported Financial Aid Programs, (VA. Code Ann. s. 23.7.1:02, 1993) on
policy decisions and practices for race-targeted scholarships, grants and fellowships at three public universities in Virginia with predominantly white undergraduate and graduate student populations.

Research Questions

1. How knowledgeable are the participants in each institution about the court ruling in Podberesky v. Kirwan, 1994?

2. How knowledgeable are the participants in each institution about the Virginia statute: Participation in or Eligibility for Certain State-Supported Financial Aid Programs, (VA. Code Ann. s. 23.7.1:02, 1993)?

3. How has the number of race-targeted and single-race scholarships, grants and fellowships changed at each institution since the 1993 Virginia state statute or the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

4. How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

5. How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

6. How has the court ruling or Virginia state statute affected the minority enrollment at each institution?

7. How is each institution applying the 1994 court ruling or the 1993 Virginia state statute to their scholarship, grant or fellowship programs?
Limitations of the Study

The data is limited to those practices that the respondents chose to report. Responses may by limited and incomplete due to the status of my investigation. Data may not include "exceptions" to current or prior practices. All quotes provided in this document are direct quotes and written verbatim as given by the respondent. Interpretations of each quote are left up to the reader.

Operational Definitions

Fellowship: A fellowship is defined as any monetary award, resource or benefit, distributed by the university, that is given to a graduate student where the recipient is not required to reimburse or repay the university for the monetary award, resource or benefit. Fellowships can be funded from public sources such as federal or state agencies or from private sources such as private gifts to the university in the form of an endowment.

Financial aid: In this study, financial aid will be limited to scholarships, grants, fellowships and work-study programs that are available to assist students in financing their education.

Grant: A grant is also a form of financial aid that does not have to be repaid. Grants that are generated internally are usually attached to the school foundation or to money that is coming to the university through the foundation and can then be awarded to faculty, students or staff for a specific academic curriculum, university program or project. Grants can also be funded from
external sources such as federal or state organizations. These are pass-thru monies that the institution is receiving for a specific academic curriculum or university program or project.

Institutions: Case studies were conducted on only three higher education institutions in Virginia, therefore the research findings may not apply to other universities or colleges in the state. Generalizations and conclusions drawn from the data are restricted to those schools in the study. The three institutions selected are public, four-year colleges or universities in Virginia with predominately white undergraduate and graduate student populations. To ensure confidentiality, the names of the institutions are withheld in this document.

Minority: This term refers to a group or individual differing in race, religion, or ethnic origin, from the majority of a population (Staff, 1990). In the context of the "Equal Protection Clause" of the Constitution, it means "an identifiable and specially disadvantaged group" (Gifis, 1991). This study will focus only on race and be limited to the federally recognized racial categories of African American, American Indian, Asian American, and Hispanic.

Race-neutral: Benefits are not awarded on the basis of race or national origin (Department of Education, 1994). Scholarships, grants and fellowships that are race-neutral do not consider race or national origin as part of the selection criteria.
Race-targeted/race-based: Benefits are awarded on the basis of race or national origin (Department of Education, 1994). Scholarships, grants and fellowships are exclusive to those students who are of a particular race(s) or national origin(s).

Scholarship: A scholarship is defined as any monetary award, resource or benefit, distributed by the university, that is given to an undergraduate or graduate student, where the recipient is not required to reimburse or repay the university for the monetary award, resource or benefit. Scholarships are usually funded from private sources such as private gifts donated to the university in the form of annual awards or endowments.

Overview of Remaining Chapters

The research methodology is outlined in chapter two. Covered in chapter three, is a review of pertinent literature, case law and statutes. In chapter four, research findings are provided and analyzed. Chapter five includes a discussion about the research findings and implications for future research.
CHAPTER 2

Research Methodology

Introduction

This chapter contains (a) procedures for legal research and intrinsic case studies, (b) selection of the research sample, (c) parameters for confidentiality, (d) data collection procedures, (e) data management, (f) data analysis tools, and (g) reliability and validity issues.

Procedures

Legal Research

Legal research methods were used to investigate and review significant court rulings and constitutional and statutory law, to analyze legal reasoning and decisions pertinent to discrimination in higher education admissions policies and scholarship, grant and fellowship awards. This research approach examined court cases from the Supreme Court, federal circuit and district court levels, and federal and state statutory law tracing the previous and current legal rationales and policies regarding race-targeted scholarships, grants and fellowships.

One aspect of this research was to explore the history of the Virginia statute: Participation in or Eligibility for Certain State-Supported Financial Aid Programs (VA. Code Ann. s. 23.7.1:02, 1993) to determine the reasons for the law’s passage.
Intrinsic Case Studies

In-depth information about race-targeted scholarships, grants, and fellowships at each university was collected using an intrinsic case study approach (Stake, 1995). A cross-case analysis was also used to compare data between the three schools (Miles & Huberman, 1994).

Case study research focuses on decision-making: why and how the decisions are made; how the decisions are implemented; and what the results are from the decisions (Yin, 1994). An intrinsic case study examines closely a particular person, problem, incident, or office to learn as much as possible about that specific case (Stake, 1995). A cross-case analysis matches the data from each case to determine similarities or differences between the cases or program areas (Yin, 1994).

**Selection of the research sample.** The universities included in this study were three public universities in Virginia with predominately white student populations. These schools were also chosen because they (a) were similar in stature as public, research/doctoral degree-granting institutions, and (b) were perceived to have significant private and public funding sources that supported scholarship, grant and fellowship awards.

**Selection of individual participants within each institution.** Scholarships, grants, and fellowships were administered to undergraduate and graduate students and were awarded through financial aid and admissions offices,
colleges, schools or departments. These financial awards were funded through private gifts donated to a university, and from public monies distributed by federal, state, or local government organizations.

To understand how scholarship, grant and fellowship programs operated at each school, staff members were interviewed from: (a) the student financial aid office, (b) the undergraduate student admissions office, (c) the development office or the university foundation office, (d) the graduate school office, and (e) academic colleges or departments. Individuals selected to participate in the study were identified by referrals from administrators at each school. Participants were chosen based on their perceived knowledge and involvement with the selection or distribution practices of scholarship, grant or fellowship awards.

Confidentiality

The names of the institutions and individual participants were withheld in this paper to ensure the confidentiality of those respondents. All participants were sent an "informed consent form" (appendix A) which they were required to sign and return. Audio tapes, transcripts and data matrices were coded to hide the identities of the respondents.

Data Collection

Researching Virginia State Legislation

The legislative process for the statute, "Participation in or Eligibility for
Certain State-Supported Financial Aid Programs" (VA. Code Ann. s. 23.7.1:02, 1993), was traced in the *Acts of the General Assembly* (1993) and from legislative reports and other relevant documents obtained from The Division of Legislative Services for the Virginia General Assembly. Additional insights about the statute were gathered through interviews with current members of the House of Delegates who worked directly with the bill's legislative process during the 1993 legislature.

**Collecting Data From the Universities**

An in-depth case study was conducted for each university through a series of in-person and telephone interviews. Respondents were asked the same questions from a pre-designed interview instrument (appendix B). Multiple sources of evidence were gathered by conducting interviews with administrators and faculty in different areas of the university.

**Procedures for conducting interviews.** Individuals were contacted by phone and asked to participate in the study. After each verbal confirmation was received, a letter (appendix C) was sent with the following information: (a) confirmation of the date and time of the interview, (b) a description of the study and specific information about the phone interview, and (c) a consent form to be signed and returned, and (d) the interview instrument.

Each interview was about forty-five minutes to one hour in length. All participants were asked the same set of questions which they received prior to
the actual interview. Additional probing questions were asked as needed for clarification. All interviews were tape-recorded with the permission of the respondent. Participants were informed of the tape-recording in their confirmation letter and again before the start of the actual interview. Handwritten notes were also taken during each interview.

Interview tapes were transcribed and handwritten notes were typed as separate documents. Participants were mailed a copy of their transcript to review for accuracy and return with any corrections.

**Data Management**

All data were organized in a physical filing system. Transcribed interview summaries and other supporting materials were arranged in files by institution. Interview audio tapes and transcripts were coded to ensure confidentiality and easy retrieval.

Two different sets of matrices were used to organize and analyze the data. A matrix is a display of data in rows and columns (Miles & Huberman, 1994). Raw data matrices organized responses by interview questions. The table of findings and conclusions matrices were organized by research question and summarized responses of each participant by institution. Stacked matrices were used for cross-case analyses between institutions.

**Data Analysis**

The following tools were used to analyze the research data.
Single-case matrices. Single case matrices were created to organize and analyze information collected from interview and research questions. The matrices: (a) combined similar ideas, (b) displayed the most important responses for each interview and research question, and (c) allowed comparisons of data within and between institutions. Two sets of single-case matrices were created.

The "Raw Data Matrices" (appendix D) compiled each participant's responses to each interview question. The responses were then analyzed for patterns, themes and distinctive comments to create the second set of single-case matrices, the "Table of Findings and Conclusions (appendix E)." These matrices summarized and combined the information from the "Raw Data Matrices" to organize and analyze data by each research question. By reviewing answers across each row of the matrix a profile of each respondent was established. Reading down each column compared each participant's answer to a particular interview or research question within one institution.

Stacked matrix. The Table of Findings and Conclusions matrices were stacked by research question for cross-case comparisons between institutions (appendix F).

Reliability and Validity

To increase reliability in the data, it was important to conduct all research procedures in a very systematic and consistent manner. Several techniques were used to ensure this consistency in the data collection, (a) interviews were
conducted in a similar fashion using the same interview instrument, (b) case matrices allowed consistent documentation and analysis of research findings, and (c) a pilot study was conducted consisting of five interviews to check for consistency in the interpretations of and responses to the questions.

Three approaches were used to address construct validity: (a) multiple sources of evidence, (b) review of transcripts by respondents, and (c) tape-recording of interviews. Multiple sources of evidence provided a more comprehensive and accurate perspective of the research findings. This was accomplished by collecting data from university administrators and faculty from different areas of the university. Tape-recording the interviews and allowing respondents to check their interview transcript, helped ensure reasonable accuracy of the data being collected, and increased the overall validity of the research findings.
CHAPTER 3

Literature Review

Racial discrimination is deep-rooted in American history and cultural meaning. As early as Colonial America, race determined a person's status and rights in society (Wisotsky, 1980). In the Confederate states, an African American slave was considered an inherent property right and discrimination by race was permissible under state law (Fetzer, 1993; Hall, 1992). By the Revolutionary War, more than 500,000 African Americans were indentured servants in the United States (Bell, 1973).

The Civil War ended slavery and also changed the scope of federal law concerning racial issues. Following the war, Congress enacted the Thirteenth, Fourteenth and Fifteenth amendments to the Federal Constitution that legally abolished slavery and established individual and civil rights for African Americans (Hall, 1992). While federal law established freedom and citizenship for African Americans, it could not ensure and protect these rights. In Civil Rights Cases (1883), the Supreme Court removed the federal government from civil rights enforcement, shifting this responsibility to the discretion of the states (Bell, 1973).

The need for civil rights for African Americans was not a pervasive feeling among white Americans. Many whites regarded African Americans as subordinate to their own "white" race and, therefore, unworthy of equal status in
society (Wisotsky, 1980). These values encouraged federal legislation that established and reinforced segregation laws, particularly in the South (Bell, 1973; Konvitz & Leskes, 1961).

**Separate but Equal Doctrine**

An important case testing the strength of segregation law was *Plessy v. Ferguson* (1896), where a Louisiana state statute was challenged for requiring separate railroad cars for African Americans and white Americans. In its ruling, the Supreme Court established the "separate but equal" doctrine as precedent for dealing with public accommodations (163 U.S. 537,540). State statutes requiring separate facilities for African Americans and whites were acceptable and constitutional as long as they were "separate but equal". A common perception of the *Plessy* decision was the belief that African Americans were an inferior race -- a prevailing stigma still attached to many African Americans today (Hall, 1992; Wisotsky, 1980). Following this ruling, separate accommodations for African Americans and whites were created for nearly every public facility and service including transportation, eating establishments, medical and athletic facilities, libraries and schools (Konvitz & Leskes, 1961).

**Challenges to "Separate but Equal"**

The "separate but equal" doctrine withstood legal challenges until the early twentieth century, when the Supreme Court struck down various states' discriminatory practices against racial minorities in public higher education. In
Missouri, the Court invalidated an admissions plan that paid tuition for African Americans to attend law schools out-of-state, but barred African Americans from attending their own state law school (Missouri ex rel. Gaines v. Canada, 1938). In Oklahoma, the Court banned the school's practice of allowing African Americans to attend graduate school but physically separating them from their white American peers (McLaurin v. Oklahoma State Regents, 1950). In Texas, the Court concluded that a separate African American law school was functionally and substantively unequal to its white American counterpart at the University of Texas, requiring admittance of African Americans to the University of Texas Law School (Sweatt v. Painter, 1950).

These cases were particularly significant, because they examined for the first time the meaning of "equal treatment" for African American and white American students in public higher education. The rulings also emphasized the Supreme Court's shift towards protecting the civil rights of minorities, laying the foundation for the future reversal of the "separate but equal" doctrine (Hall, 1992; Olivas, 1989).

The Supreme Court's landmark decision Brown v. Board of Education of Topeka (1954) declared "separate but equal" facilities unconstitutional under the equal protection clause of the Fourteenth Amendment (347 U.S. 483, 495). Racially-segregated public schools were inherently unequal and deprived African American children of the same quality education afforded their white peers.
(347 U.S. 493). In Brown v. Board of Education (Brown II) (1955), the lower courts were given authority to desegregate schools "with all deliberate speed" (349 U.S. 294, 1955).

During the 1960s and 1970s, numerous court cases defined and tested the remedies used to desegregate public schools. While the federal courts had mandated desegregation in elementary and secondary schools, this "affirmative duty" was only implied to higher education institutions. Into the late 1960s, there was little guidance as to the level of compliance required for public colleges and universities (Connell, 1993; Fienburg, 1993).

Desegregation in Higher Education

After the Brown decision, there was continued resistance to desegregate colleges and universities. While several exclusively white universities in Mississippi were under court order to admit blacks, there was little progress towards dismantling dual-systems of higher education (Ayers v. Allain, 1987). The states most resistant to desegregation efforts were Alabama, Louisiana, Mississippi, Florida, Georgia and South Carolina (Connell, 1993).

In 1969, the United States Department of Health, Education and Welfare (HEW) determined that the state of Virginia, along with nine other southern and border states were still operating racially-segregated higher education systems in violation of Title VI of the Civil Rights Act of 1964 (Olivas, 1989). Title VI forbids discrimination on the basis of race, color, or national origin in any program
receiving federal funds (Barr, 1988; Emanuel, 1993). While HEW requested each state to submit a desegregation plan, the agency did little to enforce compliance or stop federal funds from being dispersed to these states (Connell, 1993).

In *Adams v. Richardson* (1973), HEW was charged with failure to enforce Title VI regulations and was ordered to implement immediate compliance standards. Under these guidelines, several plans were submitted to HEW and accepted. In 1977, the court ruled these plans ineffective and ordered HEW to create more specific criteria aimed at statewide desegregation of higher education institutions (356 F. Supp. 92).

The criteria established by this court order provided a framework of commitments, goals and timetables focused on four major areas: (a) the dismantling of dual system structures, (b) increasing enrollments of white students at historically Black institutions and African American students at historically white institutions, (c) increasing the number of African American faculty, staff and members of governing boards, and (d) reporting progress and overseeing compliance standards (Connell, 1993; Southern Education Foundation, 1995).

While compliance efforts diminished in the 1980s, the *Adams* litigation impacted desegregation results in higher education and established guidelines still used to measure a state’s compliance with Title VI requirements (Southern
Education Board, 1995). Adams also initiated the involvement of the federal government in higher education desegregation cases against Mississippi, Louisiana, and Alabama (Connell, 1993).

In response to continued inequality in public universities in Mississippi, a class-action suit was filed against the state of Mississippi for continuing a racially-segregated higher education system. Ayers v. Allain (1975) spent twelve years in litigation attempting to persuade the state of Mississippi to voluntarily dismantle their dual education system. Mississippi’s one major concession -- the adoption of race-neutral mission statements -- did little to help integrate student populations at either historically Black institutions or historically white institutions. Reaching no workable plan, the case went to trial in 1987 (Connell, 1993; Southern Education Foundation, 1995).

In the lower courts’ rulings, both the District Court and 5th Circuit Court of Appeals concluded that the state of Mississippi was in compliance with Title VI standards as long as each institution applied racially neutral policies that were implemented in good faith and did not contribute to racial identification of individual schools (Connell, 1993; Fienberg, 1993). The Ayers plaintiffs appealed this ruling to the Supreme Court. Joined by the federal government in their suit, the case became United States v. Fordice (1992) (Southern Education Foundation, 1995).

Fordice was the first Supreme Court case after Brown to focus on
desegregation and inequality in higher education. In Fordice, the court established precedent that higher education must hold to the same level of compliance as required for elementary and secondary public schools (112 S.Ct. 2730, 2732). Public universities must adopt aggressive affirmative action plans that will remove all evidence of de jure segregation (Fienberg, 1993).

In addition to Mississippi, the Fordice decision affects sixteen other states, including Virginia, whose dual-system of higher education is being examined by the courts (Fienburg, 1993). The ruling has already been applied to higher education cases in Louisiana and Alabama (Knight v. Alabama, 1994; United States v. Louisiana, C.A. No. 80-3300-A) resulting in similar mandates that were imposed in Mississippi (Southern Education Foundation, 1995).

The State of Virginia's Response to Adams v. Richardson (1973)

As a result of the guidelines outlined in Adams, Virginia developed a desegregation plan entitled, "The Virginia Plan for Equal Educational Opportunities in Higher Education" (referred to as the "desegregation plan" or "Virginia Plan"). In response to this plan, The State Council for Higher Education in Virginia (SCHEV) created financial aid incentives to increase minority populations in the state's public colleges and universities. These programs have been funded each year at the discretion of the Virginia General Assembly. Current programs include: (a) the Graduate Dean's Scholarship, (b) the Commonwealth Fellowship, (c) The Undergraduate Student Financial Assistance
(Last Dollar) Program, and (d) the Virginia Transfer Grant. Originally the awards were targeted to a single-race, African American students. As the political climate changed in the early 1990s, the awards expanded from targeting only African Americans to including all minority groups as defined by the federal ethnic reporting classifications: (a) Black, Non-Hispanic, (b) American Indian or Alaskan Native, (c) Asian or Pacific Islander, and (d) Hispanic (B. Bell, SCHEV, personal communication, October 29, 1996).

Under the Virginia Plan, Virginia has been required each year to report the progress of its goals to the Office of Civil Rights (OCR). In 1994, the state was given permission to voluntarily report the progress of its goals, however, this did not release Virginia from compliance with the guidelines established in Adams. OCR still reserves the right to monitor and audit all public higher education institutions at any time (S. Janosik, Office of Secretary of Education, Virginia, Personal communication, August 19, 1996).

**Affirmative Action**

Many affirmative action programs were created in business, industry and education during the 1970s and 1980s to increase opportunities for minorities. Race-conscious programs have been justified and implemented to: (a) remedy past discriminatory employment or admissions practices, (b) create diversity and racial balance in underrepresented employee and student populations, and (c) deter any current inadvertent bias that may exist (Lockhart, Kamisar, Choper,
Shiffrin & Fallon, 1996). Proponents of affirmative action programs see societal benefits from a diverse racial and ethnic balance in business, government and education that reflects the general population (Lockhart et al.) The preferential treatment given to minorities has instigated many legal challenges from nonminorities who contend they were unfairly barred from the minority-exclusive benefits.

**Challenges to Affirmative Action in Higher Education**

Graduate school admissions programs were the first to contend with the issue of reverse discrimination. In each case, the plaintiff charged he was denied admission because of the minority set-aside, which unfairly chose students on the basis of race (Defunis v. Odegard, 1974; Regents of University of California v. Bakke, 1978).

In *Defunis*, the University of Washington's Law School's race-targeted admissions process was challenged. Defunis, a white male applicant filed suit after he was denied admission to the law school. The state trial court declared the minority-preference admissions plan unconstitutional, and Defunis was admitted to the school in fall of 1971. However, the Washington State Supreme Court reversed this decision, citing compelling state interests for the minority set-aside. While Defunis appealed his case to the U.S. Supreme Court, he was permitted to remain in school (507 P.2d 1169, 1973).

By the time the case reached the Supreme Court, Defunis was in his final
year of law school, ready to graduate. Defunis was granted the right to complete his degree at the University of Washington's Law school, if he chose to do so. The court however, chose not to answer the constitutional question of whether the law school's admission policy was discriminatory (416 U.S. 312; Lockhart, et al., 1996).

Following Defunis, additional cases were evaluated in lower courts that further challenged the existence of minority-preference admissions in professional graduate school programs. From the seven cases originally filed between 1974 and 1978, only one plaintiff successfully proved discriminatory admissions practices (Hupart v. Board of Higher Education of the City of New York, 1976). In the remaining cases, the courts upheld the affirmative action programs, because the plaintiffs failed to prove that their nonminority status was the sole factor denying their admission (Thomas & Hirschman, 1995).

In Regents of University of California v. Bakke (1978) the Supreme Court considered for the first time the impact of minority-targeted programs on majority students. Bakke, struck down an affirmative action admissions program at the University of California at Davis Medical School that used a quota system reserving 16 out of 100 slots for minority student applicants. As a white male applicant, Bakke claimed reverse discrimination on the premise he was denied admission because of his race. (438 U.S. 265).

The first part of the Bakke decision banned the University's admissions
quota and ordered that Bakke be admitted to school. The second part of the ruling determined that colleges and universities could use race as a "plus" factor and one of several selection criteria to further a "compelling state interest" of obtaining a diverse student body (438 U.S. 320). Bakke is still considered a leading case regarding the constitutionality of affirmative action programs.

Following Bakke, two key university affirmative action admissions programs were upheld applying the reasoning outlined in the Bakke decision. The admissions programs were justified by each state court because they furthered the states' interests of creating a "diverse student body" and "alleviating past discrimination" (McDonald v. Hogness, Wash. 1979; DeRonde v. Regents of the University of California, Cal. 1981). Both rationales were cited as permissible goals for implementing affirmative action programs in higher education institutions (Kaplin, W. A. & Lee, B.A., 1995).

**Affirmative Action Programs in Business and Industry**

Affirmative action programs in the business sector have involved intentional quota systems or other minority set-asides aimed at increasing the number of minorities (and women) in the workforce. These programs have been examined to determine the "burden" or "undue harm" on nonminorities (Fullilove v. Kluczynski, 1980; Metro Broadcasting, Inc. v. FCC, 1990; Wygant v. Jackson Board of Education, 1986).

In Wygant, an employee lay-off provision that retained "less-senior"
minority employees over "more-senior" white employees was found to cause disproportionate harm to the white employees. This ruling determined that a race-conscious remedy may only be used if the plan is narrowly-tailored to achieve the specific goals of that plan, based on past discrimination and does not cause undue harm to nonminorities (106 S.Ct. 1869, 1870).

In Fullilove (1980), the Court determined that a ten percent quota of public works contracts restricted to minority-owned businesses posed no hardship on nonminority businesses because the quota represented only a very small percentage of the total available contracts (100 S. Ct. 2776). In Metro Broadcasting, the minority-targeted broadcast licensing program was also upheld because the minority set-aside was a very small proportion of the total number of license applications filed (110 S. Ct. 3002).

The race-conscious affirmative action plans in Fullilove and Metro Broadcasting were also defended because they served important governmental objectives of diversity and were substantially related to the achievement of this goal (100 S. Ct. 2772, 2796; 110 S.Ct. 3008).

Consensus on Legal Standards for Affirmative Action Cases

From the Bakke Court until 1989 there was no consensus as to which legal standards of review should be applied to Title VI affirmative action cases. In the case, City of Richmond v. J.A. Croson (1989), the Supreme Court reached consensus that all state and local government affirmative action programs would
be examined under the two-prong strict scrutiny analysis. This strict standard required all race-conscious programs to have a compelling objective that is narrowly-tailored to achieve that goal (822 F.2d [4th Cir.] 1359).

_Croson_ involved a challenge to a minority set-aside contract agreement that awarded at least thirty-percent of all subcontracting work to minority businesses in an effort to eliminate the effects of past discrimination in the construction industry. The Court ruled against the program finding no proof of previous discrimination in the Richmond construction industry to justify the set-aside quota. Applying the strict scrutiny analysis, the program failed to show a compelling objective that was narrowly tailored to remedy past discrimination (822 F.2d [4th Cir.] 1358, 1361).

The ruling in _Croson_ was particularly significant because it signaled the Court’s shift from race-targeted to race-neutral goals (Bistline, 1993). The unyielding interpretation by the Court also suggested that most race-conscious programs would be ruled unconstitutional. Historically, Supreme Court decisions that have applied the two-prong test to race or ethnic categories have struck down the program or statute in every case (Howd, 1992).

_Race-Targeted Financial Aid_

Similar to race-conscious admissions programs, race-targeted financial aid has been used to remedy past discrimination and increase minority student enrollments in colleges and universities. While other criteria have been
considered, most race-targeted scholarships have been awarded to students simply because of their race or ethnic origin (Bistline, 1993). Some students who have been excluded from this set-aside funding source have challenged the existence of this method of affirmative action (Bistline, 1993). Colleges and universities that award race-preference scholarships must adhere to the principles under Title VI, the Fourteenth Amendment Equal Protection Clause, and more recently, The Department of Education (DED) "Guidelines".

**Title VI**

In its original form, Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin in any program or activity receiving federal funds (42 U.S.C. sec. 2000d). This coverage was expanded to include education in 1972 (Barr, 1990). The Civil Rights Restoration Act of 1987 revised Title VI coverage to include all university functions, rather than just specific programs or activities. The new statute implies that if any part of the university receives federal financial assistance, the entire university must comply with Title VI standards. In its expanded form, Title VI pertains to all public and most private colleges and universities (Howd, 1992).

**Fourteenth Amendment**

Ratified in 1868, following the Civil War, the Fourteenth Amendment was originally created to provide and protect newly freed slaves' citizenship rights, guaranteeing "due process" and "equal protection" of the laws (Gifis, 1991). Any
person living in the United States is guaranteed the individual rights of life, liberty and property. Violations of the Fourteenth Amendment claim infringement of a liberty or property right (Lockhart et al., 1996). Most plaintiffs in affirmative action law suits claim discrimination of their rights under the Equal Protection Clause or Title VI.

**The Department of Education Guidelines for Affirmative Action Programs**

While colleges and universities were expected to comply with standards under Title VI and the Fourteenth Amendment, there were no specific standards established for awarding race-targeted financial aid. In response to continued debate over race-targeted scholarships, DED Secretary Richard Riley issued policy guidelines that took effect May 24, 1994 (Baida, 1994; Thomas & Hirschman, 1995).

According to the policy, a college or university can voluntarily implement race-targeted financial aid and other-race and national origin-based programs: (a) to remedy past discrimination showing a strong basis in evidence or determined by judicial, administrative or legislative findings; (b) to create a diverse student enrollment, (c) as permitted by a federal statute, or (d) at a college or university not receiving any type of federal financial aid (Department of Education, 1994).

Consistent with *Croson*, race-targeted scholarships designed to create racial diversity, must have a "compelling objective" that is "narrowly-tailored" to
eliminate the effects of prior discrimination on a college or university campus (822 F.2d [4th Cir.] 1359). In addition, the institution must consider (a) the effectiveness of less-intrusive and race-neutral methods to achieve their objective, (b) the scope and duration of the plan, (c) the means used to regularly evaluate the need of the race-conscious remedy, and (d) the effect of the plan on those students excluded from the set-aside financial aid (Department of Education, 1994).

Colleges and universities were given two years from the policy’s effective date of May 24, 1994, to bring all student financial aid programs into compliance with the new guidelines (Thomas & Hirschman, 1995). On September 7, 1995, the DED sent a letter to colleges and universities reaffirming the DED guidelines as presented in May 1994 (Wolk, 1995).

Limitations of Race-Targeted Scholarships

Virginia state statute. A Virginia statute was passed in 1993 as a means to ensure that no state-supported financial aid award was restricted to only one racial minority or ethnic group (Participation in or Eligibility for Certain State-Supported Financial Aid Programs [VA. Code Ann. s. 23.71:02, 1993]):

Participation in and eligibility for state-supported financial aid or other higher education programs designed to promote greater racial diversity in state-supported institutions of higher education shall not be restricted on the basis of race or ethnic origin and any person who is a member of any
federally recognized minority shall be eligible for and may participate in such programs, if all other qualifications for admission to the relevant institution and the specific program are met. (p. 210)

This legislation was prompted by a group of Filipino students, community leaders, professors and instructors in the Virginia beach area who were concerned about Filipino students' ability to compete equally for financial aid (F. Wagner & B. McDonnell, Virginia General Assembly, Virginia Beach district, personal communication, September 17, 1996). This group brought to the attention of Virginia House Delegate Frank Wagner a financial aid application for the Virginia Transfer Grant, a state-funded program sponsored by SCHEV (B. Bell, SCHEV, personal communication, October 29, 1996). The application form came from Norfolk State University (an historically Black institution) and was restricted to only white/Caucasian students. Applications for the Virginia Transfer Grant also existed at Old Dominion University (an historically white institution) except these forms were targeted to only African Americans. In both cases, Filipino students were ineligible to apply for this financial aid award. The Filipino community asked Delegate Wagner to sponsor legislation that would help them compete equally for state financial aid monies (F. Wagner, personal communication, Virginia General Assembly, September 17, 1996).

As a result of this conflict, Delegate Wagner helped pass the legislation. The law was passed and added to a section of the Virginia Code as a general
policy statement, to put in "black letter law" the General Assembly's intent that colleges and universities could not discriminate in financial aid matters on the basis of race or ethnic origin (B. McDonnell, personal communication, Virginia General Assembly, September 17, 1996). Before this legislation was passed, the Virginia Code stood silent on the issue of race-exclusive aid (F. Wagner & B. McDonnell, Virginia Beach district, Virginia General Assembly, personal communication, September 17, 1996).

There was little debate or controversy over the introduction of this bill. Wagner indicated that while he lobbied heavily for the passage of the bill, he credited its victory to the convincing and moving testimony given by Filipino citizens during the committee hearings. The bill passed unanimously in both the Virginia House and Senate and was supported and signed by Governor Wilder (F. Wagner, personal communication, Virginia General Assembly, September 17, 1996).

**Podberesky v. Kirwan (1994)**

The most recent case involving race-targeted scholarships that applies to Virginia colleges and universities is Podberesky v. Kirwan (1994). A unique aspect of this case is that Podberesky was a minority student who was refused admission into the race-based Banneker scholarship program because he was not African American (Thompson, 1994). The Fourth Circuit Court of Appeals struck down the Banneker program because it was not narrowly-tailored to
redress past discrimination at the University of Maryland at College Park (38 F.3d 161 [4th Cir. 1994]).

The Benjamin Banneker Scholarship program was a merit-based, four-year, full-tuition scholarship exclusive to African Americans attending the University of Maryland at College Park (Thompson, 1994). The program was started in 1978 as part of a mandated affirmative action plan to remedy past discrimination at the University (Thompson, 1994). In addition to paid tuition, students received additional perks such as priority housing, admission to the University's Honors Program and special research opportunities (Baida, 1994; Bistline, 1993). Podberesky initially filed suit in the fall of 1990 claiming violation of the Fourteenth Amendment, Title VI and 42 U.S.C. s.1981, 1983 (956 F.2d. 52 [4th Cir. 1992]).

The district court ruled in favor of the University finding significant evidence of present effects of past discrimination. Applying the standards in United States v. Paradise (1987), the Court upheld the Banneker Program finding it was narrowly-tailored and deemed an appropriate race-conscious remedy (764 F.Supp 366). The circuit court reversed and remanded the case requiring the University to clearly demonstrate evidence of present effects of past discrimination on campus (956 F.2d. 57 [4th Cir. 1992]).

The district court in Podberesky III (D. Md. 1993) ruled again in favor of the University finding strong evidence to justify a race-based scholarship (838 F.
Supp. 1084-1097). Analyzing the meaning of "present effects," the court determined that the University only had to show a "strong evidence of some present effects" to justify the scholarship (838 F. Supp. 1083). To support their claim, the University of Maryland compiled extensive statistical and interview data from university reports, faculty, staff and students and produced a 61-page document that outlined four present effects of previous discrimination against African Americans: (a) the University's negative reputation in the African American community, (b) a prevailing perception of a hostile campus climate towards African Americans, (c) low enrollment and high attrition rates of African Americans, and (d) underrepresentation of African Americans in the student population (838 F. Supp. 1082).

The Fourth Circuit Court in Podberesky IV (1994) again reversed and remanded the case determining that the district court had incorrectly found that (a) there was sufficient evidence of past discrimination, and (b) that the Banneker program was narrowly-tailored. The circuit court rejected the University's evidence, noting it lacked justifiable facts and reasoning (38 F.3d 147[4th Cir.]). The court attributed the first two effects -- a poor reputation and hostile climate-- to overall societal discrimination and not to unique conditions at the University of Maryland (38 F.3d. 156).

In review of the other two findings -- low enrollment and high attrition of African-American students and a underrepresentation of African Americans in
the student body-- the court concluded that the University had incorrectly calculated their population pool from which they derived their statistical facts (38 F.3d 156, 158). In addition, the court could make no justifiable connection between the University's low enrollment of African Americans and the need for the Banneker Program (38 F.3d. 161).

The circuit court determined that the Banneker program was not narrowly-tailored based on the following reasons: (a) high-achieving students, regardless of race, were not members of the student population that the University had previously discriminated against; (b) admitting out-of-state students to the program did not address the narrowly-tailored objective of increasing student enrollment from Maryland high schools; (c) the University had used an arbitrary reference pool to determine the enrollment percentage of African Americans; and (d) the University had not proved that race-neutral remedies had been unsuccessful in increasing minority student enrollment (38 F.3d 158-161).

The University of Maryland justified its selection of high-achieving African Americans as a means to recruit "role-models" for other African American students on campus. The circuit court dismissed this argument using the Supreme Court's ruling in Wygant, which rejected "role models" and "mentors" as a justifiable reason for race-conscious remedies (106 S.Ct. 1657).

The Fourth Circuit granted summary judgement for the plaintiff and ordered the University of Maryland to reconsider Podberesky's application for
admission and discontinue using race as an admissions criteria (38 F.3d 161-162). The University appealed this ruling to the United States Supreme Court (Wells & Strope, 1996).

The Supreme Court chose not to hear the appeal, therefore allowing the lower court’s decision to stand (Associated Press, May 23, 1995). Consistent with the Fourth Circuit ruling in Podberesky IV and the 1994 DED guidelines, race-targeted scholarships are legal as long as they are "narrowly-tailored" to "remedy the present effects of past discrimination" (Department of Education, 1994; City of Richmond v. Croson, 1994). Race-conscious remedies may not be implemented to (a) improve a negative reputation in the minority community, (b) improve a "hostile environment" on a college or university campus, or (c) provide role models for other minority students (38 F.3d 156).


Since Podberesky v. Kirwan (1994), two additional court cases and a complaint filed with the U.S. Department of Education have further threatened the existence of affirmative action programs.


In Adarand v. Pena (1995) Adarand, a sub-contracting firm, brought suit against the Department of Transportation’s (DOT) incentive program that rewarded major government contractors for hiring minority subcontractors (as defined by the Small Business Act on which the program was based). While the
nonminority firm, Adarand, submitted the lowest bid for the proposed DOT contract, a minority business was awarded the contract instead. The main contractor received compensation for the minority hire (63 U.S.L.W. at 4525). Adarand brought suit against DOT claiming discrimination and violation of the firm's equal protection rights under the fifth amendment.

The ruling in Adarand defined that all racial and ethnic classifications imposed by any level of government (federal, state, local) must be analyzed by a court under the "strict scrutiny" doctrine. This ruling is consistent with Croson, but overruled Metro Broadcasting, where only an intermediate level of scrutiny was necessary to test the legality of a government affirmative action program. In applying Adarand, affirmative action programs will only survive the strict scrutiny standard if there is a "compelling" reason for the race-based measure that is "narrowly-tailored" to further the government's purpose. The Court's ruling did not clarify whether the goals of "remedying past discrimination" or "furthering racial or ethnic diversity" would meet the strict scrutiny test (Office of Legal Council, U.S. Department of Justice, 1995). Adarand also opened the door for more court challenges against federal affirmative action programs (The Washington Post, 1995).


In the most recent case challenging an affirmative action admissions program, Cheryl Hopwood, along with three other white plaintiffs claimed they
were discriminated against when the University of Texas Law School denied their admission and admitted less-qualified African Americans and Mexican Americans through the use of a percentage quota system. The plaintiffs cited violations of the Fourteenth Amendment and Title VI indicating that any preferential treatment given to a specific group based on race was unconstitutional (861 F. Supp. 553).

The 1992 admissions process in question used different screening procedures for reviewing minority and nonminority applicants falling in the "discretionary zone" (not admitted, but still under consideration) resulting in preferential treatment of minority applicants (861 F.Supp. 560).

The application of strict scrutiny was used to determine whether the law school's admission program served "a compelling governmental interest" and if it was "narrowly tailored to the achievement of that goal" (861 F.Supp. 569). The law school used a number of defenses to prove compliance under the strict scrutiny test, including: (a) diversity and underrepresentation, (b) present effects of past discrimination, (c) societal discrimination, and (d) mandates outlined by OCR under Adams, which resulted in goals of five percent African Americans and ten percent Mexican Americans in each year's freshmen class (861 F.Supp. 563, 570).

The district court found two of the law school's defenses as serving compelling state interests: (a) the use of race as a remedial action in removing
the present effects of past discrimination, and (b) the goal of achieving a diverse
student body (861 F.Supp 571, 573). The court upheld the law school's use of
race as a "plus" factor for minority applicants but found its 1992 admissions
process of separate screening for minority and nonminority applicants not
narrowly tailored and in violation of the Equal Protection Clause (861 F.Supp.
579).

The Plaintiffs were granted the right to reapply to the University's Law
School for the 1995-96 school year without additional administrative fees. In
addition, their admissions applications were to be reviewed comparatively with all
other applicants for that school year (861 F.Supp. 585). Unsatisfied with this
verdict, the plaintiffs appealed the ruling to the 5th Circuit Court of Appeals.

The Fifth Circuit Court of Appeals reversed and remanded the decision,
finding that the law school lacked a compelling justification under the Fourteenth
Amendment to continue their affirmative action admissions program (78 F.3d
934, [5th Cir. 1996]). The school was ordered to discontinue using race as a
factor in all law school admissions decisions (78 F.3d 935). The University of
Texas Law School appealed this decision to the Supreme Court in March 1996
(Roser, M. A. & Phillips, J., 1996). In July 1996 the Court chose not to hear the
case and, therefore, let stand the 5th Circuit Court of Appeals ruling (Philips,
1996, July 2).

In essence, the Fifth Circuit ruling overturned Supreme Court Justice
Powell's decision in *Bakke*, where the criteria of race could be used as one of several decision factors to increase minority student populations and promote the goal of a diverse student population (78 F.3d 944). The Attorney General of Texas re-emphasized the court's ruling indicating that no college or university in the state could use "race" as a factor to admit students or award financial aid (Phillips, 1996, July 3). On August 21, 1997, the Attorney General distributed guidelines to colleges and universities specifying race-neutral criteria to be used in all admission and financial aid decisions (Brooks, P., 1997, January 23).

Had the Supreme Court chosen to review *Hopwood*, it would have had the opportunity to determine the fate of affirmative action programs in higher education across the United States. While the 5th Circuit Court's decision by law, only applies to higher education institutions in its jurisdiction (Louisiana, Mississippi, and Texas), the decision is predicted to impact affirmative action programs throughout the United States (Phillips, 1996, July 2).

**Complaint Filed with The U.S. Department of Education's Office of Civil Rights**

Christopher Thompson, a white student at the Northern Virginia Community College, Annandale Campus, filed a complaint with the U.S. Department of Education's Office of Civil Rights in September 1996 challenging the constitutionality of a minority scholarship at his school. The complaint is the first of its kind in Virginia to test the constitutionality of a minority or race-based scholarship. It is also the first challenge to a race-based scholarship that is

43
entirely funded and managed by private donors (O'Harrow, 1996).

Thompson has based his complaint on the court ruling in Podberesky v. Kirwan (1994) where the University of Maryland was ordered to discontinue the Banneker scholarship, an award exclusive to African Americans. The decision in Podberesky is still precedent for colleges and universities in Virginia, Maryland, West Virginia, North Carolina and South Carolina (O'Harrow, 1996).

The scholarship in question at Northern Virginia Community College is the Leslie V. Forte scholarship, established for the first black professor of English at the Annandale campus. The award is open to all federally recognized racial and ethnic minority categories and is given to five students annually in the amount of $500 grants.

School officials feel the complaint will be dismissed because the scholarship is solely supported by private rather than public funds and is open to all recognized racial and ethnic minority classifications (unlike the Banneker scholarship that was exclusive to African Americans and funded by public monies). The Department of Education is now considering the complaint (O'Harrow, 1996).
CHAPTER 4

Research Findings and Analysis

Introduction

The research findings for each of the three institutions are presented in this chapter. The data are organized by research question and reported for each institution. Comparisons are also reported among institutions.

Institution 1

Question 1:

How knowledgeable are the participants about the court ruling in Podberesky v. Kinwan, 1994?

Degree of knowledge. Respondents indicated a high level of knowledge about the court ruling, however, some of the interpretations were inconsistent with the amount of knowledge stated.

Seven of the eight respondents said they were familiar with the court ruling and provided an interpretation (table 6). Respondents learned about the court ruling from various sources. Three respondents belonged to a university committee that discussed the Podberesky case and related issues. Four respondents said they read the court cases and articles from the popular press. Only one of the eight respondents was unfamiliar with the court ruling and could not provide an interpretation.

Interpretations. Several different interpretations were given. Only one of
### TABLE 6

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 1:** How knowledgeable are the participants about the court ruling in *Podberesky v. Kirwan*, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
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<tbody>
<tr>
<td>632001</td>
<td>- Indicated familiarity (T-4-1)</td>
<td>- &quot;They don't like the idea of race-based scholarships and fellowship&quot; (T-4-1)</td>
</tr>
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<td></td>
<td>- Attended committee meetings with legal office about outcomes of case (T-4-1)</td>
<td>- Indicated didn't have a description of race for any financial support... however, the majority may be used for minorities... nothing is described or labeled as being race-specific (T-4-4a-1)</td>
</tr>
<tr>
<td>633302</td>
<td>- Indicated familiarity</td>
<td>- &quot;The University of Maryland cannot rely on its past history of de jure segregation in setting aside race-exclusive scholarships. It doesn't apply to our particular process. Our institution is not the University of Maryland. We have a different history here in our state&quot; (T-4-1)</td>
</tr>
<tr>
<td></td>
<td>- Used own knowledge of the Supreme Court rulings, beginning with <em>Brown</em>. Has knowledge of the history of Title VI and the Equal Protection Clause (T-4-1)</td>
<td>- Maryland did not have to use race-exclusive scholarships to get where they wanted (T-4-1)</td>
</tr>
<tr>
<td>644003</td>
<td>- Not familiar (T-4-3)</td>
<td>- No interpretation (T-4-3)</td>
</tr>
<tr>
<td>6513004</td>
<td>- Indicated familiarity (T-4-4)</td>
<td>- Never gave interpretation, just talked about how it related to the institution (T-4-4)</td>
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<td></td>
<td>- Discussed in committee meetings. University officials sought advice of the attorney general... this was handled by the highest level of administration (T-4-4)</td>
<td>- &quot;Since we're in the 4th district, same district as the University of Maryland and I'm afraid if the case were brought here, I'm afraid the findings would be similar&quot; (T-4-4)</td>
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<tr>
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<td>- &quot;Our interpretation is that we are very vulnerable, partly because we are in the same district, federal district...&quot; (T-4a-4)</td>
</tr>
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### TABLE 6a

Institution 1

**Summary Table of Findings and Conclusions**

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</thead>
</table>
| 655005       | - Familiar, in general terms  
- Attended sessions with university legal office (T-4-5) | - "Any awarding of funds on the basis of race is unconstitutional"  
(T-4-5)  
- "[The ruling] exists at this point for the states in our region..."  
(T-4-5) |
| 6611006      | - Indicated familiarity (T-4-6)  
- Informed by knowledge of existing law and federal guidelines (T-4-6) | - "The University of Maryland made an error in specifying only one race, which is African Americans...If they had been following the existing federal guidelines which include Hispanics, Native Americans, ... and so on, they would have been in compliance"  
(T-4-6) |
| 6119307      | - Indicated familiarity (T-4-7)  
- Read the case...the district and appeals court cases. Has worked 25 years in this area (T-4-7) | - "You can't have race specific things unless it is defined in the words of the court, finely-tailored, to address the existing discrimination...that since we're in the jurisdiction of that court, that's the law"  
(T-4-7) |
| 6113308      | - Indicated familiarity (T-4-7)  
- Gained information through readings (T-4-8) | - "For public funds affected by that jurisdiction, that a public institution could not voluntarily discriminate solely on the basis of race"  
(T-4-8) |

**Conclusions**

- Overall, somewhat knowledgeable about ruling. University-wide committees keep administrators informed about ruling and related issues  
- Some interpretation did not support indicated knowledge  
- Majority of respondents interpreted the court ruling to mean that race-based scholarships and fellowships are illegal. Respondents felt the ruling banned single-race awards  
- Some interpretations were vague and left out key elements of ruling
**TABLE 7**

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 2:** How knowledgeable are the participants about the 1993 Virginia statute: Participation in or eligibility for certain state-supported financial aid programs [Va. Code Ann. § 23.7-1:02, 1993]?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>632001</td>
<td>Not familiar (T-4-1)</td>
<td>Gave no interpretation (T-4-1)</td>
</tr>
<tr>
<td>633302</td>
<td>Not familiar (T-4-2)</td>
<td>Gave no interpretation (T-4-2)</td>
</tr>
<tr>
<td>644003</td>
<td>Not familiar (T-4-3)</td>
<td>Gave no interpretation (T-4-3)</td>
</tr>
<tr>
<td>6510004</td>
<td>Not familiar (T-4-4)</td>
<td>Gave a vague interpretation after being read the statute</td>
</tr>
<tr>
<td></td>
<td>Asked to be told what the statute was about (T-4-4)</td>
<td>&quot;...Some people felt that takes a different position on what we've been doing. However, the overriding issue as far as the university is concerned is the Bakke Supreme Court ruling which is the law of the land&quot; (T-4-4)</td>
</tr>
<tr>
<td>6555005</td>
<td>Knew it existed but didn't know specifics (T-4-5)</td>
<td>Gave no interpretation (T-4-5)</td>
</tr>
<tr>
<td>6611006</td>
<td>Not familiar (T-4-6)</td>
<td>Gave no interpretation (T-4-6)</td>
</tr>
</tbody>
</table>
**TABLE 7a**

Institution 1

**Summary Table of Findings and Conclusions**

**Research Question 2:** How knowledgeable are the participants about the 1993 Virginia statute: Participation in or eligibility for certain state-supported financial aid programs [(Va. Code Ann. s.23.7-1:02,1993)]?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
</table>
| 6119307      | - Indicated familiarity (T-4-7)  
               - Read statute, spoke with Governor Wilder (T-4a-7) | "It is that we’re following the federal definitions of racial minority"  
               - Indicated statute was passed by the General Assembly to get back at Governor Wilder (T-4-7) |
| 6113308      | - Indicated familiarity (T-4-8)  
               - Attended meetings to get briefings on topic (T-4-8) | "Again our required participation as a result of a consent decree or other restriction that we attempt to be equal opportunity" (T-4-8) |

**Conclusions**

- Majority of respondents were not familiar with the state statute. Only two respondents were aware of the statute and could give interpretations
- Vague interpretations. Neither of the two respondents addressed the specifics of the statutes
**TABLE 8**

Institution 1

Summary Table of Findings and Conclusions

*Research Question 3*: How has the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

|--------------|------------------------------------|------------------------------------------|-----------------------------------|------------------------------------------|
| 632001       | - Yes, some from Federal funding, some from company, and private donors discontinued - all discontinued a couple of years ago (T-2-1) - Yes, several have been discontinued (T-2-1) | - None indicated (T-3-1) | - Yes  
- "I would say there are sources of money, the majority of which are race-targeted in their use" (T-2-1) | "Some would be a majority of race-targeted - black targeted" (T-2-1)  
- "... We don't have a name that is associated with them like that [minority] so if you were to look at my books, it's not going to have that kind of title on it, even though it's used mainly for that" (T-3-1) |
| 633302       | - None indicated (T-2-2) | - Yes, five were discontinued - One, donor moves scholarship to different universities (T-2-2) - Four were stopped because of Podberesky (T-3-2) | - Yes, there are currently six which are race related (T-2-2) | "Yes, one from the Commonwealth of Virginia earmarked for African Americans (T-2-3-2) |
| 644003       | - None indicated (T-2-3) | - None indicated (T-3-3) | - Yes, several donors support scholarships to attract students of color (T-2-3) - There are various (race-related) ones in different academic areas (T-2-3) | - None indicated (T-3-3) |
TABLE 8a

Institution 1

Summary Table of Findings and Conclusions

Research Question 3: How has the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6510004</td>
<td>- Yes, one state award was discontinued in the 1980s (T-2a-4)</td>
<td>- Yes, major university award was changed from a single-race (African American) to include all federally recognized races. Change was due to Ponderasky (T-2-4)</td>
<td>- Yes, major university award now for all &quot;other-race students&quot; (T-2-4)</td>
<td>- Two private scholarships targeted to African American students (T-3-4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>- Major university award may return to single-race (T-3-4)</td>
</tr>
<tr>
<td>655005</td>
<td>- Yes, one scholarship from the 1970s for White, Christian Southern women was discontinued a while ago (T-2a-5)</td>
<td>- Major university award was changed from a single-race (African American) to include all federally recognized minorities (T-2-5)</td>
<td>- Yes, the Virginia Transfer Grant and the Last Dollar program. Both Commonwealth of Virginia Programs (T-2-5)</td>
<td>- Yes, one privately funded scholarship restricted to African Americans (T-2a-5)</td>
</tr>
<tr>
<td>6011006</td>
<td>- Yes, some private donors scholarships have changed (T-2-6)</td>
<td>- None indicated (T-3-6)</td>
<td>- Yes, race is used as a component of diversity awards (T-2-6)</td>
<td>- Indicated no knowledge of any. Referred to federal guideline restrictions (T-3-6)</td>
</tr>
<tr>
<td>6119307</td>
<td>- Yes, a fund started in 1969 has been discontinued. It stopped three years ago (T-2a-7)</td>
<td>- Yes, a scholarship for white Christian women stopped in the 1960s (T-3-7)</td>
<td>- Yes, Commonwealth Fellowship awarded by SCHEV (T-2-7)</td>
<td>- None indicated (T-3-7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- A privately funded scholarship considers race (T-2-7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- The Virginia Graduate Dean's Award (T-2a-7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- SIB (T-2-2a-7)</td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 8b

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 3:** How has the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6113308</td>
<td>- None indicated (T-2-8)</td>
<td>- None indicated (T-3-8)</td>
<td>- Yes, single-race awards (T-2-8)</td>
<td>&quot;Yes, the institution awards a significant amount of money restricted to African Americans&quot; (T-3-8)</td>
</tr>
<tr>
<td>Conclusions</td>
<td>- Yes, the majority of respondents indicated changes. Several scholarships were discontinued</td>
<td>- Yes, several single-race scholarships were discontinued</td>
<td>- Yes, the university is awarding a number of race-targeted awards</td>
<td>- Yes, at least one that is funded from public dollars. Several single-race scholarships are also awarded, funded from private funds</td>
</tr>
<tr>
<td>Participants</td>
<td>Race or Single-Race Scholarships, Grants or Fellowships from Public Funds?</td>
<td>Race or Single-Race Scholarships, Grants or Fellowships from Private Funds?</td>
<td>Interpretation of Court Ruling or State Statute According to Public or Private Funding Sources</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>632001</td>
<td>- None indicated. (T-2-1)</td>
<td>- Unclear. &quot;I would say there are sources of money, the majority of which are race-targeted in their use&quot; (T-2-1)</td>
<td>&quot;I think we’ve been very careful in not defining funding sources as strictly race-based&quot; (T-5-1)</td>
<td></td>
</tr>
<tr>
<td>633302</td>
<td>- Yes, there is a scholarship set aside for African Americans supported by state funds (T-1b-2-2)</td>
<td>- The majority of scholarships that exist are from private funds (T-1a-2)</td>
<td>&quot;...We broadened our category for the major race-based scholarship...diversity cannot be a &quot;sham&quot; concept used to cover distribution of public funds on the basis of race&quot; (T-4b-2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Other-race-based or race-related scholarships exist. It's unclear whether they're from public funds or private funds (T-1a-2-2)</td>
<td></td>
<td>- Expanding criteria for many race-related scholarships. &quot;We don't want to present a situation where someone takes a look at it and says, well you may call it diversity, but really what it is is race. You're using race as a basis for distribution of public... and that's prohibited specifically by Pothieresky (T-4d-2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>&quot;Instead of race being the major exclusive condition for access to some funds that has been changed across the board&quot; (T-5-2)</td>
<td></td>
</tr>
</tbody>
</table>
TABLE 9a

Institution 1

Summary Table of Findings and Conclusions

Research Question 4: How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships from Public Funds?</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships from Private Funds?</th>
<th>Interpretation of Court Ruling or State Statute According to Public or Private Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>644003</td>
<td>- None indicated (T-2-3-3)</td>
<td>- Yes, there are scholarships that are for students of color supported from private funds (T-2-3)</td>
<td>- No interpretation given (T-4-3)</td>
</tr>
<tr>
<td>6510004</td>
<td>- Yes, a major university award supported by public funds was targeted to African Americans - As a result of Podberesky, the criteria has been expanded (T-2-4)</td>
<td>- Yes, a couple of scholarships have been identified as being supported from private funds (T-2-4)</td>
<td>- In response to Podberesky case, we actually did take the major university award and broadened it to include six categories, but we may be going back to single-race specific on that&quot; (T-4-4)</td>
</tr>
<tr>
<td>655005</td>
<td>- Yes, the major university award exists (T-3-5) - The Virginia transfer grant program and Last Dollar program supported by state funds (T-2-8)</td>
<td>- Unclear if it is private funds (T-1-2-5)</td>
<td>-&quot;Any awarding of funds on the basis of race is unconstitutional&quot; (T-4-5)</td>
</tr>
<tr>
<td>6611006</td>
<td>- None indicated (T-2-3-6)</td>
<td>- There are diversity scholarships that are open to all races (T-1-2-6)</td>
<td>- No interpretation given (T-4-5-6)</td>
</tr>
<tr>
<td>Participants</td>
<td>Race or Single-Race Scholarships, Grants or Fellowships from Public Funds?</td>
<td>Race or Single-Race Scholarships, Grants or Fellowships from Private Funds?</td>
<td>Interpretation of Court Ruling or State Statute According to Public or Private Funding Sources</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>E119307</td>
<td>- Yes, Commonwealth fellowships supported by SCHEV. There are two others also supported by the state (T-2-2a-7)</td>
<td>- None indicated (T-3-7)</td>
<td>- No interpretation given (T-4-5-7)</td>
</tr>
<tr>
<td>E113308</td>
<td>- Yes, minority scholarships exist from state funds (T-1a-8)</td>
<td>- Yes, a few scholarships exist. Two are restricted to African American (T-1a-2-8)</td>
<td>&quot;For public funds affected by that jurisdiction that a public institution could not voluntarily discriminate solely on the basis of race&quot; (T-4-8)</td>
</tr>
<tr>
<td>Conclusions</td>
<td>- Yes, there is at least one single-race scholarship that still exists. Several other race-targeted scholarships are also awarded</td>
<td>- There are race-targeted scholarships and fellowships and several single-race scholarships and fellowships supported by private funds</td>
<td>- Caution in regards to how funds are defined. Concern about public funds being used for race-targeted scholarships</td>
</tr>
</tbody>
</table>
TABLE 10

Institution 1

Summary Table of Findings and Conclusions

Research Question 5: How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Recruiting Tool</th>
<th>Promote Diversity</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Other Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>632001</td>
<td>&quot;It's money that [the department] wouldn't get unless they are going the extra yard to add a person on that's above what their budget can handle...The department has all the students...It can handle. It had a good minority applicant it wants to admit...The student is marginal; we have the funds to support that&quot; (T-3a-1)</td>
<td>&quot;[Race] not heavier, no, we'll go just a little bit lower in academic performance because of a race-based decision&quot; (T-3a-1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>633302</td>
<td>- Used as a recruiting tool targeted for outstanding African American students (T-2-2)</td>
<td>- Used to increase the number of African American students (T-2-2)</td>
<td>&quot;...In approximately a dozen awards. [It is considered equally with other criterion]&quot; (T-3-2)</td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 10a

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 5:** How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Recruiting Tool</th>
<th>Promote Diversity</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Other Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>644003</td>
<td>- &quot;Several donors have given money to certain scholarships to retain and attract students of color&quot; (T-2b-3)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>651004</td>
<td>- A major university award used to attract outstanding African American students (T-2-4)</td>
<td>- Several university awards are targeted towards African American students (T-2-4)</td>
<td>- In several scholarships, race is used as the primary criterion (T-3a-4) - &quot;[race] sort of puts students in a separate category...they wouldn't be in that consideration. If it was not for race...so [race] is a trigger (T-3b-4)</td>
<td></td>
</tr>
<tr>
<td>655005</td>
<td>- A major university award used to attract outstanding African American students (T-2-5)</td>
<td>- Several scholarships targeted towards African American students (T-2-5)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## TABLE 10b

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 6:** How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Recruiting Tool</th>
<th>Promote Diversity</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Other Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>6611006</td>
<td></td>
<td>&quot;Race is used as a component of diversity&quot; (T-2-6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>&quot;[Race] is used under the category of diversity. The assumption is that a university requires a diverse group of people to make it a decent learning institution&quot; (T-3-8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6119307</td>
<td></td>
<td>- There are more applicants who can do the work; there are places and then with the shrinking budgets...so you're selecting from a pool of people who are qualified to do that -- minority status is under-represented; It is a plus, but not a deciding factor&quot; (T-3-3a-7)</td>
<td>Yes, race is used as a plus factor</td>
<td></td>
</tr>
<tr>
<td>61133008</td>
<td></td>
<td>- Race used to target African American students (T-3-8)</td>
<td>Yes, several scholarships targeted towards African American students (T-2-8)</td>
<td></td>
</tr>
</tbody>
</table>

**Conclusions**

- The criterion of race was used primarily to promote and increase diversity within the university. "Race" is used as a plus factor or weighted more heavily in decisions for several scholarships.
**TABLE 11**

Institution 1

**Summary Table of Findings and Conclusions.**

**Research Question 6:** How has the court ruling or state statute affected the minority enrollment at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Current Minority Population?</th>
<th>Future Recruiting Efforts of Minority Students?</th>
</tr>
</thead>
<tbody>
<tr>
<td>632001</td>
<td>- No, doesn't see an effect on the current population. Believes minority population is increasing slowly but surely (T-5-1)</td>
<td>- No, doesn't think it will affect recruiting efforts. Doesn't think that money is what deters minority students from the institution. &quot;I think the things that hurt us the most is not the money, it's just not having a larger Black population...not living in an area with a larger middle class community&quot; (T-5-1)</td>
</tr>
<tr>
<td>633302</td>
<td>- Yes, has seen an effect. Sent only half the number of admissions offers to African Americans as compared to the previous year (T-5-2)</td>
<td>- Yes, believes there could be an effect. &quot;Scholarship distribution is extraordinarily important...I mean that is the key&quot; (T-5-5a-2) - The court ruling ended a very successful recruiting program aimed at recruiting African Americans. (T-5b-2) &quot;I would say 3/4 of [African Americans] were admitted because of that program&quot; (T-5b-2)</td>
</tr>
<tr>
<td>644003</td>
<td>- No, did not indicate any effects (T-5-3)</td>
<td>- Unsure, doesn't know if it will affect this institution but thinks it will. I have an overall effect on many institutions' ability to recruit students of color (T-5-3) - &quot;...The litigation that has taken place and rulings that have come forth out of that litigation, I imagine will have a chilling effect on what students of color think about going to...what might be perceived as a predominately white institution and particularly how that institution responds to it (T-5a-3)</td>
</tr>
</tbody>
</table>
### TABLE 11a

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 6:** How has the court ruling or state statute affected the minority enrollment at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Current Minority Population?</th>
<th>Future Recruiting Efforts of Minority Students?</th>
</tr>
</thead>
<tbody>
<tr>
<td>6510004</td>
<td>- Students have raised concerns about the possible effects of the court ruling. &quot;Concern has been raised...through gatherings and meetings, discussion groups, letters to the editor, although I can't cite any editorials in the student press&quot; (T-5b-4) - Haven't seen an effect in numbers (T-5a-4) - There has been an effect that African American students and many other students have been deeply affected by the possible harm this could bring to the enrollment of African Americans here (T-5a-4)</td>
<td>- &quot;It could affect future recruitment efforts&quot; (T-5b-4)</td>
</tr>
<tr>
<td>6611306</td>
<td>- &quot;It's too soon to know about numbers&quot; (T-5b-6)</td>
<td>- Yes, feels it could result in fewer minority students enrolling at this institution but thinks it's too soon to know the effects (T-5-6) - It will affect policy-making in terms of how scholarships are allotted (T-5-6)</td>
</tr>
<tr>
<td>6119307</td>
<td>- Doesn't think there has been any effects (T-5a-7)</td>
<td>- No, doesn't think it will affect future recruiting efforts (T-5a-7)</td>
</tr>
<tr>
<td>6113308</td>
<td>- Doesn't know of any effects. The enrollment of minority students has not gone down and the amount of aid offered has not decreased (T-5-4)</td>
<td>- Yes, if the Supreme Court determines that race-targeted aid is illegal (T-5-8)</td>
</tr>
</tbody>
</table>

**Conclusions**

- The majority of respondents have not seen any effects. Have not noticed a decrease in the number of minorities. Some students have raised concerns about the ruling
- The majority of respondents feel the court ruling may have some effect on future recruiting efforts. Several respondents think it is just too soon to know the effects. Two respondents did note some effects on recruiting efforts. Several effective recruiting programs were discontinued due to the ruling
TABLE 12

Institution 1

Summary Table of Findings and Conclusions

**Research Question T:** How is each institution applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects or Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>632001</td>
<td>- No changes indicated. &quot;Once again, we weren't in the situation where we had money that we were only giving to Blacks...or only to any group&quot; (T-4-1)</td>
<td>- &quot;In national trends that are guided by political will, fiscal restraints, people feeling that there is much less money now for everyone, more scrutiny is needed as to what you do. Some are feeling that the work of promoting equity, race-wise has been done or it is fairly even now and, therefore, there is no need to do anything special or extraordinary. So you have a number of ill-formed, non-data driven political and, of course, cultural issues that are there. Frankly, hysteria and uninformed action in this whole area and it makes me very uncomfortable...we'll wait and see&quot; (T-5-5a-1)</td>
</tr>
<tr>
<td>633002</td>
<td>- The institution's statement of their position on affirmative action was published in the application brochure. This was discontinued for the 1995-96 school year. &quot;...We were going to concentrate our affirmative action efforts on African Americans. We no longer state that&quot; - [It stopped] last year as a result of <em>Podberesky</em>&quot; (T-4-4a-2) - Broadened category to award race-based scholarships (T-4-2) - Some [race-targeted] awards were dropped (T-4c-2)</td>
<td>- &quot;Private funds are drying up because that now that race-based or race-exclusive scholarships have been tainted with illegality...people who in good faith who want to conform to the law are changing the criteria to scholarships and those who were participating in race-based scholarships with less than full enthusiasm are taking advantage of those and withdrawing&quot; (T-5a-2) - Watching court cases closely...&quot;We want to move in such a way to prevent a lawsuit&quot; (T-5b-2) - &quot;I've been able to see first hand what affirmative action can do...We're talking basically a 12-year period of time...It's very frustrating...You think you've accomplished something and you turn around and it is being overturned...It is never done&quot; (T-5b-5c-2)</td>
</tr>
</tbody>
</table>
### TABLE 12a

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 7:** How is each institution applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects or Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>644083</td>
<td>- No changes indicated (T-4-3)</td>
<td>&quot;The donors make up their minds what is important to them. If a donor or a corporation or foundation says this is an issue that they believe in, then I think the institution is going to listen to that and see whether or not there is a way for the institution to honor the desires of a donor...we are not here to interpret the case law, we're trying to maintain good and creative relationships between the university and the people who support it&quot; (T-5-5a-3)</td>
</tr>
<tr>
<td>6510004</td>
<td>- Yes, the court ruling has had a very great effect of causing us to look very closely--examine very closely what our programs are (T-5-4)</td>
<td>&quot;We believe we're doing the right thing. We believe there is still a necessity for it...so that it has had a sort of reinforcing effect that this is not time to stop&quot; (T-5-4)</td>
</tr>
</tbody>
</table>

"The conditions for Black students...particularly African American students, and in many respects are worse now than when we started this desegregation plan" (T-5a-4)

"I think most of us in the country, at least in the universities and colleges have felt that we were doing the right thing. In fact we've been beaten over the head for years by the Office of Civil Rights and all of a sudden they are throwing the...switch and saying, Ok, It's over. Well, I don't believe things change quite that rapidly, and I think we all hope we can arrive at some point in this country when race does not have to be a factor...I think that is a long time in coming. I think we have a lot of correction to do" (T-5-5a-4)
### TABLE 12b

**Institution 1**

**Summary Table of Findings and Conclusions**

**Research Question 7:** How is each institution applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects or Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>655005</td>
<td>Yes, changes have occurred. &quot;Rather than having a couple of programs that are specifically targeted to Black kids--African American kids, they have been opened to--the quote is&quot; underrepresented minorities&quot; so I think that has been pretty much a direct result of it (the ruling)&quot; (T-5a-5)</td>
<td>&quot;I'm concerned about the constraints that keep you from being able to use your money to get the students that you would like to have there, and it does rather appear the court ruling makes that difficult to do&quot; (T-5a-5)</td>
</tr>
<tr>
<td>6511006</td>
<td>No specific changes indicated (T-5-6)</td>
<td>&quot;It has fueled the position of those who have been against it from the word go. In other words...if you are in favor of or you are not in favor of--the court rulings give you further support in one direction or another&quot; (T-5-6)</td>
</tr>
</tbody>
</table>
### Summary Table of Findings and Conclusions

**Research Question 7:** How is each institution applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects or Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>6119307</td>
<td>- No specific changes indicated (T-5a-7)</td>
<td>- &quot;For my entire life, race has always been an issue in every national every state campaign. Now it's just another code word...It takes about 100 years to get out of...For the law to work slowly and change because those kinds of things are so emotionally charged&quot; (T-5-7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- &quot;The Lynch pin of bigotry is against Black people in this country (T-5-7)&quot;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- &quot;The foundation of discriminations against women, against Hispanics and other persons of color, etc. has been because of the history of slavery--anti-Black. You do away with that and all other discriminations dissipate and the whole structure falls down&quot; (T-5-5a-6b-7)</td>
</tr>
<tr>
<td>6113308</td>
<td>- No changes so far. &quot;We made a conscious decision not to make any changes based on press releases or something that applied to another jurisdiction&quot; (T-5-2)</td>
<td>- &quot;I think...a lot of places have prematurely panicked and changed policies when if they should have just held firm and waited to see what happened&quot; (T-5a-8)</td>
</tr>
<tr>
<td></td>
<td>- &quot;It's under study and under discussion. We'll go on and do what we have been doing and until someone says we can't do it&quot; (T-5-8)</td>
<td></td>
</tr>
<tr>
<td>Conclusions</td>
<td>- Some changes have occurred. A major university award's criteria was broadened. Mainly, the issue is under study, and there is more caution and concern over race-targeted financial awards. Other respondents indicated there were no changes due to the court ruling</td>
<td>- Most respondents feel it is important to continue race-targeted financial aid awards</td>
</tr>
</tbody>
</table>
the eight respondents mentioned that the court ruling prohibited single-race scholarships. Five of the eight participants thought the ruling prohibited all race-based or race-exclusive scholarships. One respondent thought public funds could not be used for any race-based decisions. One respondent talked about elements of the case, but never gave an interpretation, except to say that since the State of Virginia is in the same circuit as the State of Maryland, the court ruling applied to Virginia schools as well.

Specific comments:

"Any awarding of funds on the basis of race is unconstitutional. The ruling exists at this point for the states in our region...."

"The University of Maryland made an error in specifying only one race, which is African American...."

"You can't have race-exclusive things unless it is defined in the words of the court, 'finally-tailored to address the existing discrimination'....That since we're in the jurisdiction of that court, that is the law."

"For public funds affected by that jurisdiction that a public institution could not voluntarily discriminate solely on the basis of race."

"Since we're in the fourth district, same district as the University of Maryland and I'm afraid if the case were brought here, I'm afraid the findings would be similar."
Question 2:

How knowledgeable are the participants about the 1993 Virginia State Statute?

**Degree of knowledge.** The majority of the respondents were unfamiliar with the state statute (table 7). Five of the eight respondents had never heard of the statute and could not give an interpretation. One respondent knew the statute existed but was unable to give an interpretation.

Only two respondents were familiar with the statute and provided interpretations. One of the two respondents indicated he had spoken directly to former Governor Wilder to learn about the statute. The other respondent received his information by attending special meetings held to discuss this topic.

**Interpretations.** Both interpretations of the state statute were incomplete and left out key elements of the statute. One respondent said the statute implied the university should follow the federal definitions of racial minority. The second respondent felt the statute meant that the university must provide equal opportunity.

**Specific comments:**

"It is that we're following the federal definition of racial minority."

"Again our required participation as a result of a consent decree or other restriction that we attempt to be equal opportunity."
Comparison of knowledge between the court ruling and state statute.
Participants were more familiar with the court ruling than the state statute. Seven of the eight respondents indicated familiarity with the court decision while only two respondents said they were knowledgeable about the statute. Only one respondent was unfamiliar with both the court ruling and the state statute.

While participants indicated familiarity with the court ruling, their degree of knowledge varied. Most interpretations were vague and missing key elements of the ruling. The two interpretations provided for the statute were also unclear.

Question 3:
What has been the effect on the number of race-targeted and single-race scholarships, grants or fellowships at each institution since the 1993 Virginia statute or the 1994 court ruling?

Change in numbers of race-targeted or single-race scholarships, grants or fellowships. The institution has seen changes in both the number of race-targeted and single-race scholarships, grants and fellowships. Five of the eight respondents saw a decrease in the number of race-targeted scholarships, grants and fellowships (table 8). One of the awards that was discontinued was federally-funded, while the others were stopped by either companies or other private donors. These awards were discontinued in the last two years.

Four of the eight respondents cited a decrease in the number of single-
race scholarships, grants and fellowships. In one area, four single-race scholarships were stopped due to Podberesky. A major university award was also discontinued as a single-race scholarship targeted to African Americans. As of fall 1995, this award was broadened to include all federally recognized racial minorities.

Current status of race-targeted and single-race scholarships, grants, or fellowships. At the time of this study, all respondents indicated they were currently awarding race-targeted or single-race scholarships, grants or fellowships. All respondents were awarding race-targeted scholarships or fellowships, while six of the eight respondents were currently giving single-race awards. Four of the six respondents identified single-race awards exclusive to African Americans.

Supporting race-targeted scholarships and fellowships has continued to be an important goal for many private donors. Philanthropic gifts have continued to be given for scholarships and fellowships that have been used to attract and retain "students of color."

Specific comments:

"I would say there are sources of money, the majority of which are race-targeted in their use."

"We don't have a name [minority] that's associated with them like that. So if you were to look at my books, it's not going to have that kind of title on it, even
though it's used mainly for that."

"We have $__ restricted to African American students. It's a fellowship. They are distributed by department based on enrollment. The only restriction is that the recipient be an African American."

"Others [minority fellowships or scholarships] exist....Not published, but they probably do [exist]."

"Out of ___ graduate students, in terms of special [race-targeted] funds maybe three dozen--30-35."

"There are fellowships and grants. And I said minority because some of those funds are used not on a race-targeted....But for instance, our grants would be a majority of race-targeted--Black-targeted."

"I know there have been several donors who think....Who have found it important enough to donate money to certain scholarships that were to retain and attract students of color."

**Question 4**

How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

**Race-targeted or single-race awards supported by public funds.** Public funds are defined as dollars coming from state or federal programs or authorized by the state legislature.
Four of the eight participants named race-targeted scholarships or fellowships supported by public funds (table 9). Three of the race-targeted programs mentioned were supported by SCHEV. One respondent named a single-race scholarship exclusive to African Americans supported by public dollars, but did not specify the specific funding source. Two respondents indicated that a major university award, supported by public dollars was changed from a single-race award for African Americans to a scholarship open to all federally recognized racial minorities. The scholarship’s criteria changed as result of Podberesky.

Race-targeted or single-race awards supported by private funds. Private funds are donations from alumni or friends of the university including charitable contributions from corporations. Private donors fund endowed scholarships and fellowships as well as annual scholarship and fellowship awards.

Four of the eight participants indicated awarding race-targeted scholarships or fellowships funded by private dollars. One respondent named several single-race scholarships supported by private donors. Three of the eight participants did not identify a public or private funding source for the scholarships or fellowships they identified.

Interpretation of the court ruling or state statute according to public or private funding sources. Most of the participants did not identify a connection between the court ruling or state statute and funding sources for scholarships,
grants or fellowships. Only four of the eight participants gave interpretations and these responses varied.

Two respondents said they were now very cautious in defining any funding source as only race-based because there was a concern that the use of a scholarship to increase diversity could be conceived as a method to illegally disburse public funds for race-based purposes. One respondent thought it was unconstitutional to award any funds on the basis of race regardless of the funding source. Another respondent thought race could not be used as a major selection criterion for access to some funds, but did not specify the type of funds.

**Specific comments:**

"For public funds affected by that jurisdiction that a public institution could not voluntarily discriminate solely on the basis of race."

"Any awarding of funds on the basis of race is unconstitutional."

"Diversity cannot be a 'sham' concept used to cover distribution of public funds on the basis of race."

"We don't want to present a situation where someone takes a look at it [our scholarships] and says, well you may call it diversity, but really what it is, is race. You're using race as a basis for distribution of public [funds] and that's prohibited specifically by Podberesky."

"Instead of race being the major exclusive condition for access to some funds that has been changed across the board."
"I think we've been very careful in not defining funding sources as strictly race-based."

**Question 5**

How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

**How the race criterion was used.** All eight participants said the race criterion was used to promote diversity within the university (table 10). One respondent noted that a diverse university population was essential "to make it a decent learning institution." The university's goal of diversity has been to increase the number of African American students on campus. Four respondents identified several race-specific scholarships and fellowships exclusive to African Americans.

The race criterion in awards was also used as a recruiting tool. Many scholarships and fellowships were created to attract outstanding African American students to the institution. Several private donors have specifically donated to scholarship or fellowships funds because of their strong desire for the university to "retain and attract students of color".

Five of eight participants said the race criterion was weighted more heavily than other selection criteria in awarding scholarships, grants or fellowships. Three respondents indicated race was definitely a "plus" factor or a
"trigger." One respondent indicated that race was the extra factor that triggered a race-based decision. Sometimes academic standards were lowered slightly in order to admit an African American student into a particular program. Only one respondent said the race criterion was considered equally with other criteria in all of their scholarships.

Specific comments:

"[Race] not heavier, no, we'll go just a little bit lower in academic performance because of a race-based decision."

"[A major university award] exists to attract the most outstanding African American candidates."

"[Race] sort of puts students in a separate category. They wouldn't be in that consideration if it was not for race....So it [race] is a trigger."

"There are more applicants who can do the work than there are places and then with the shrinking budgets. So you're selecting from a pool of applicants who are qualified. Minority status is underrepresented—it is a plus, but not a deciding factor."

"In approximately a dozen awards [race is considered equally with other criteria]."

Question 6

How has the court ruling or state statute affected the minority population
at each institution?

Current minority population. Six of the eight respondents reported no changes in the current minority population due to the court ruling or state statute (table 11). Four of the eight participants felt the actual headcount of minority students had stayed consistent, while one respondent thought the minority population was "increasing slowly but surely." One respondent thought it was too soon to determine any effects in the student population.

Some changes have occurred. One respondent noted that admission offers sent to African American students for the 1996-97 school year was one-half of the number of offers sent the previous year. According to SCHEV's "headcount reports" from fall 1992 to fall 1996 for this institution, there was a 4.79 percent decrease in the African American student population. The largest change in this student population occurred between 1994 and 1995 with a 4.06% decrease. There may be many factors that have contributed to the overall decline in the African American students, and there were no direct data at the time of this research to indicate the court ruling or state statute was the reason for the reported decline.

Other effects. One respondent noticed that the court ruling had affected students' attitudes about the campus environment and sensitivity about racial issues. Students raised concerns about the possible effects of the court ruling by
attending gatherings, meetings and by sending letters to the editor of the campus newspaper.

**Future recruiting efforts of minority students.** The majority of respondents felt the court ruling or state statute could affect future recruiting efforts of minority students. Two of the eight respondents cited the possible loss of scholarship and fellowship dollars for minority students might discourage or prevent African American students from attending college. One respondent thought the litigation would have a "chilling effect" on how students of color perceived predominately white institutions. As a result, how this institution and other schools responded to the court ruling would most likely affect a minority student's choice as to where to go to college.

Two of the eight respondents thought the court ruling or state statute would not have much of an effect on recruiting. One respondent felt that money was not the motivating factor for African American students to attend this institution. Other factors such as the geographic location of the institution and lack of a larger existing African American student population on campus were more powerful deterrents. Another respondent felt the court ruling could affect recruiting efforts, but it was too soon to know the effects.

**Specific comments:**

*Students who come from family situations in which college isn't necessarily looked upon as a real possibility....where the parents haven't been in
school, sometimes need special incentives. I think this is often the case for African American families. And I think the extra incentive of just a bit more grant money than loan money...scholarship money...often is just the extra boost that those families need. So the [court ruling] may affect future minority enrollment."

"Scholarship distribution is extraordinarily important. I mean that is the key."

"The court ruling ended a very successful recruiting program aimed at recruiting African Americans. I would say three-fourths of [African Americans] were admitted because of that program."

**Question 7**

How are the institutions applying the 1994 court ruling or the 1993 state statute to their scholarship, grant or fellowship programs?

**Procedural or policy changes.** Only three of the eight respondents cited policy or procedural changes due to the court ruling or state statute (table 12). One major policy change was to stop or alter some programs and polices specifically for African American students. These changes have included:

(a) discontinuing the university affirmative action statement that specified concentrated efforts to attract African American students. The statement was not published in the 1995-96 application brochure, (b) changing a major university award from a single-race scholarship exclusive to African Americans to an award
for all federally recognized racial minorities, and (c) broadening several other race specific awards targeted only to African Americans to include any "underrepresented minority." Another respondent said the court ruling caused them to look at all of their programs very closely.

The majority of respondents indicated no policy or procedural changes had occurred. One respondent said the university was not giving money specifically to African Americans so no changes were needed.

Other effects. For some respondents, the court ruling reinforced their desire to continue awarding minority scholarships and fellowships. For other respondents there was more caution and concern in promoting race-targeted efforts.

Specific comments:

"We believe we're doing the right thing. We believe there is still a necessity for it. So that it has had a sort of reinforcing effect that this is not time to stop."

"The court ruling has had a very great effect of causing us to look very closely....Examine very closely what our programs are."

"I think a lot of places have prematurely panicked and changed policies when they should have just held firm and waited to see what happened."

"I'm concerned about the constraints that keep you from being able to use your money to get the students that you would like to have there. And it does
rather appear the court ruling makes that difficult to do."

"I've been able to see first hand what affirmative action can do. It's very frustrating. You think you've accomplished something and you turn around and it is being overturned. It is never over."

Institution 2

Question 1

How knowledgeable is each institution about the court ruling in Podberesky v. Kirwan, 1994?

Degree of Knowledge. One-half of the respondents were knowledgeable about the court ruling, but were not familiar with the case's cite, Podberesky v. Kirwan. Three of six respondents needed clarification about the case before they could interpret the ruling (table 13). Respondents learned about the court ruling by reading articles and talking to other university administrators. Three participants were unfamiliar with the court ruling and could not provide an interpretation.

Interpretations. Interpretations about the court ruling varied. Two of the six respondents connected the use of specific funds with race-based scholarships, grants and fellowships. One respondent thought that all race-based awards and financial aid were prohibited. Another respondent said only public funds were excluded from specific race-based scholarships or fellowships. Two respondents viewed the court decision as prohibiting only race-specific or single-race
**TABLE 13**

Institution 2

**Summary Table of Findings and Conclusions**

Research Question 1: How knowledgeable are the participants about the court ruling in Podberesky v. Kirwan, 1994?

<table>
<thead>
<tr>
<th>Participant</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>639301</td>
<td>- Indicated yes, didn't recognize it by name though (T-4a-1) - &quot;Ok, yes, I have read a great deal about that, but I would not have known that those were the parties in the suit&quot; (T-4a-1) - Gained knowledge through Chronicle, newspaper, and from conversations with financial aid officers and from conferences (T-4a-1)</td>
<td>&quot;Well, as I understand it, it precludes any kind of use of money that involves race as the sole criterion&quot; (T-4a-1)</td>
</tr>
<tr>
<td>6411002</td>
<td>- Yes, is familiar. &quot;I'm somewhat familiar with it... was that the Maryland case?&quot; (T-4-2) - Husband is lawyer. Talked with individual working at University Foundation who is an alumnus and a lawyer. Spoke also with Vice-President for Development. Hasn't read anything (T-4-2a-2)</td>
<td>&quot;From what I understand, that was not based on private support, that was based on public support to the University of Maryland, and that essentially Maryland was told that they could no longer designate public funds -- the state of Maryland could no longer designate public support for specific race-based scholarships&quot; (T-4-2)</td>
</tr>
<tr>
<td>652003</td>
<td>- Indicated some knowledge, but really wasn't familiar (T-4-3) - Asked for a copy of the case and was trying to read and interpret it (T-4-3)</td>
<td>couldn't give an interpretation of the ruling (T-4-3)</td>
</tr>
<tr>
<td>662004</td>
<td>- Yes, familiar. &quot;Now is that the Maryland case?... Yes, in general...my knowledge is not very great about it&quot; (T-4-4)</td>
<td>&quot;As I remember, it has been applied, it generally states that race, at least at Maryland, race-exclusive scholarships are not permitted&quot; (T-4-4)</td>
</tr>
<tr>
<td>6111005</td>
<td>- Not familiar (T-4-5)</td>
<td>No interpretation given (T-4-5)</td>
</tr>
</tbody>
</table>
### TABLE 13a

**Institution 2**

**Summary Table of Findings and Conclusions**

**Research Question 1:** How knowledgeable are the participants about the court ruling in *Podberesky v. Kirwan*, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6123006</td>
<td>Yes, somewhat familiar. Interpretation was a bit vague. &quot;Is that the Maryland case?&quot; Ok, I am generally familiar with it&quot; (T-4-6)</td>
<td>&quot;Both that one and the Texas decision are as I understand it would... If upheld might force some change in what is still the law for the land, which is the Bakke decision. So we're at the point we are aware of the Bakke decision and that is the law of the land&quot; (T-4-6)</td>
</tr>
</tbody>
</table>

| Conclusions | - Three of six respondents indicated familiarity. Interpretations varied. Two participants were not familiar | - Two respondents connected the use of specific funds with race-based awards. One respondent thought that all race-based scholarships, financial aid were prohibited. Another respondent indicated only public funds were excluded from specific race-based scholarships. Two respondents felt the ruling prohibited race-specific scholarships. One respondent referred to the Bakke decision and the law of the land. Two respondents gave no interpretation |
TABLE 14

Institution 2

Summary Table of Findings and Conclusions

Research Question 2: How knowledgeable are the participants about the 1993 Virginia statute: Participation or eligibility for certain state-supported financial aid programs [Va. Code Ann. s.23.7-1:02, 1993]?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>639301</td>
<td>Somewhat familiar, &quot;I may be familiar with it but I don't know it by that name&quot; (T-4a-1)</td>
<td>&quot;I know there has been some action by the Virginia General Assembly to specify that use of particular financial aid monies should not be differential based on race&quot; (T-4a-1)</td>
</tr>
<tr>
<td>6441002</td>
<td>Not familiar (T-4-2)</td>
<td>No interpretation given (T-4-2)</td>
</tr>
<tr>
<td>6522005</td>
<td>Not very familiar (T-4-4)</td>
<td>Interpretation vague (T-4-3)</td>
</tr>
<tr>
<td>61111005</td>
<td>Knowledgeable (T-4-4)</td>
<td>&quot;My interpretation is that scholarships and assistantships through the department need to be based on financial need and merit that students have been able to prove and basically, that's what we base all of our awards on&quot; (T-4-3)</td>
</tr>
<tr>
<td>611105</td>
<td>Not familiar (T-4-5)</td>
<td>&quot;Now this is the one that states that any program for one minority group must be available to all&quot;</td>
</tr>
</tbody>
</table>

- A state sponsored program that takes minority status into consideration has to be available to members of all minority groups so that would apply in our cases, as far as we can tell, to the Last Dollar Program
- "It was a statute that nobody saw it, and it passed rather inadvertently and without full knowledge of those who voted for it so it kind of sits out there" (T-4-5)
TABLE 14a

Institution 2

Summary Table of Findings and Conclusions

Research Question 2: How knowledgeable are the participants about the 1993 Virginia statute: Participation or eligibility for certain state-supported financial aid programs [Va. Code Ann. s.23.71:02.1993]?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6123006</td>
<td>- Not familiar (T-4-6)</td>
<td>- No interpretation given (T-4-6)</td>
</tr>
</tbody>
</table>

Conclusions

- Only two of the six respondents were knowledgeable about the statute. Three respondents were not familiar while one respondent indicated familiarity, but gave a vague interpretation.

- Two respondents gave interpretations. Respondents indicated some monies could not be used for race based decisions. One respondent said the statute meant that financial awards need to be given based on need and merit only. One respondent indicated that state-sponsored programs must consider all federally-recognized minority groups.
**TABLE 15**

Institution 2

Summary Table of Findings and Conclusions

**Research Question 3:** How has the effect on the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

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</thead>
<tbody>
<tr>
<td>639301</td>
<td></td>
<td>- Yes, diversity scholarships were once targeted to African Americans</td>
<td>- No, not at undergraduate level, race is one of the factors used in the diversity awards, but not the only factor (T-2-1)</td>
<td>- Yes, but&quot;with the exception of those graduate fellowships that I mentioned, not that I'm aware of&quot; (T-3-1)</td>
</tr>
<tr>
<td></td>
<td>&quot;We had situations at our institution where we have encouraged donors to be more broad in their thinking because we won't be able to administer it [otherwise]&quot; (T-3-2)</td>
<td>- Changed when first Banneker decision came down (T-2-1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6411002</td>
<td></td>
<td>- Yes, the Foundation targeted to white students only. That stopped a number of years ago (T-2-2)</td>
<td>- No, we do have scholarships designated for under-represented populations or minorities. Race is not the only criteria. Under-represented can mean a geographic preference, as well as a racial minority preference (T-2a-2b-2)</td>
<td>- &quot;Not that I am aware of. I haven't raised $'s for one that would to go to a single race&quot; (T-3-2)</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>652003</td>
<td>- Nothing in books published as a minority or race-targeted scholarship.&quot;But going back through records over the years and looking at the students of color in the program, awards certainly were given to students of color&quot; (T-2-3)</td>
<td>- None indicated, but this was only the participant's third year on the job. It's possible there were some prior to the participant's arrival (T-3-3)</td>
<td>- No specific ones indicated (T-2-3)</td>
<td>- None indicated (T-3-3)</td>
</tr>
</tbody>
</table>
**TABLE 15a**

Institution 2

**Summary Table of Findings and Conclusions**

Research Question 2: How has the effect on the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>662304</td>
<td>None indicated (T-2-4)</td>
<td>Yes, &quot;The diversity scholars program at one time was exclusively for African American students&quot; (T-2b-4)</td>
<td>[The diversity funds and the Last Dollar funds] they're not race-targeted, they are diversity targeted (T-2b-4)</td>
<td>&quot;The one grad school, they are doing some targeting of funds specifically to African Americans I believe... (T-2b-4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&quot;The achievement scholars part of the national merit program [was targeted to African Americans] through private money&quot; (T-2b-4)</td>
<td></td>
<td>&quot;Financial aid packaging policy and that is distinctly different for Virginia African Americans. We meet 100% of the financial need of one-time Virginia African Americans in grants&quot; (T-3a-4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&quot;Now, in fact, recipients are heavily members of minority groups...&quot; (T-2a-4)</td>
<td></td>
<td>&quot;Of the ___ African Americans enrolled, that majority are Virginians - 50-60% of them are on financial aid.&quot; (T-3b-4)</td>
</tr>
<tr>
<td>61111005</td>
<td>None indicated (T-2-5)</td>
<td>None indicated (T-2-5)</td>
<td>Yes, Commonwealth graduate fellowships (T-2-5)</td>
<td>None indicated (T-2-5)</td>
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</tr>
<tr>
<td>6123006</td>
<td>- None indicated (T-2-6)</td>
<td>- &quot;I think that way back when, the state had a target for African Americans, but I think that has been dropped, and I think that has been dropped by CHEV as well. I don't know the year, 6 or 7 years ago&quot; (T-3-6)</td>
<td>- Yes, &quot;There was a bit of money years ago under the old desegregation plan that each institution filed. What I have done since then is held some money back so that if departments have identified minority students who are well qualified then we put a package together to make it possible for them to attend (T-2a-6)</td>
<td>- None indicated (T-2-5)</td>
</tr>
</tbody>
</table>

Research Question 3: How has the effect on the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?
**TABLE 15c**

**Institution 2**

**Summary Table of Findings and Conclusions**

**Research Question 3:** How has the effect on the number of race-targeted or single-race scholarships, grants, and fellowships changed at each institution since the 1993 Virginia statute and the 1994 court ruling? Is each institution currently awarding race or single-race scholarships, grants and fellowships?

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Conclusions</td>
<td>Respondents indicated there have been no changes in the number of race-targeted awards. One of the six respondents was unsure, because she had only been in her job three years and couldn't tell from the records whether there had been changes. She did indicate that a number of awards were given to students of color</td>
<td>Four of six respondents indicated changes in the numbers of single-race awards. The major change was with a major university award that was changed from an award targeted to African Americans to a &quot;diversity&quot; award broader in scope. Two respondents indicated no changes</td>
<td>Four of six respondents identified race-targeted scholarships or fellowships that the institution was currently awarding. Respondents differed in their opinion as to how the race component in the diversity award is evaluated. One respondent identified it as a race-targeted award while another respondent said the award did not consider race as necessarily an important component</td>
<td>Only two respondents identified single-race awards currently being given. The institution's financial aid packaging policy has a single race-component to it. All African American Virginians are guaranteed 100% of their indicated need. The General Assembly has given funds to support this effort. The feeling is that the court ruling applies to only merit scholarships, not to other forms of financial aid</td>
</tr>
<tr>
<td>Participants</td>
<td>Race or Single-Race Scholarships, Grants or Fellowships from Public Funds?</td>
<td>Race or Single-Race Scholarships, Grants or Fellowships from Private Funds?</td>
<td>Interpretation of Court Ruling or State Statute According to Public or Private Funding Sources</td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>--------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| 639301       | - Yes, some programs at the graduate level targeted to African American students  
- Funded by both private and federal dollars (T-2a-2b-1)                  | - Race is a factor in the diversity awards, but not the only factor (T-2-1) | - Can't use particular financial aid monies for decisions based on race (T-4a-1)  
- "There has been some action by the Virginia General Assembly to specify that the use of particular financial aid monies should not be differential based on race" (T-4a-1)  
- The court case precludes any kind of use of money that involves race as the sole criterion (T-4a-1) |
| 6411002      | - None (T-2-2)                                                              | "No, ... I haven't raised any dollars for one that would go to a single-race" (T-2-3)  
- Scholarships have been designated for underrepresented-population which can include race, but other criteria as well. Scholarships are endowed (T-2-2a-2b-2) | "You can't use public monies for race specific scholarships" (T-4a-4a-2)  
- We need to be less specific in our language when we establish scholarships. Use underrepresented" (T-4b-4c-2)  
- Even though the Maryland case apply to public funds, we need to be careful using private funds as well, avoid race-exclusive language (T-4b-2) |
| 652003       | - Scholarships have been given that have targeted race, but the funding source was not specified (T-2-3) | - None identified (T-3-3)                                               | - No interpretation given (T-4-3)                                                         |
# TABLE 16a

Institution 2

**Summary Table of Findings and Conclusions**

**Research Question 4:** How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships from Public Funds?</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships from Private Funds?</th>
<th>Interpretation of Court Ruling or State Statute According to Public or Private Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>662004</td>
<td>- Yes, the Last Dollar program and the Virginia transfer grants are from state monies (T-1a-4)</td>
<td>- One graduate school is awarding funds to African Americans students; funding source not specified (T-2b-4)</td>
<td>- [The state statute implies] a state sponsored program that takes minority status into consideration has to be available to members of all minority groups (T-4-4)</td>
</tr>
<tr>
<td></td>
<td>- The diversity scholarships are from state funds, although these awards look at more than just race. They target underrepresented populations (T-1-4)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>61111005</td>
<td>- Commonwealth graduate fellowships sponsored by SCHEV (T-1a-5)</td>
<td>- None indicated (T-3-5)</td>
<td>- No interpretation given (T-4-5)</td>
</tr>
<tr>
<td>6123006</td>
<td>- Yes, race targeted fellowships supported by SREB state funds (T-2-6)</td>
<td>- None indicated (T-3-6)</td>
<td>- No interpretation given (T-4-6)</td>
</tr>
</tbody>
</table>

**Conclusions**

- Four of six respondents indicated single-race or race-targeted awards supported by public dollars. One of the six respondents indicated race-targeted awards were given, but did not identify the funding source.

- Three out of six respondents indicated race-targeted or single-race awards from private funds. One award that was identified was a fellowship exclusive to African Americans in a graduate program.

- Five of six respondents gave an interpretation of the court ruling on statutes as they apply to public or private funding sources. Three of six respondents cited institutions using public funds with race-based scholarships or fellowships. One respondent did not provide an interpretation. A concern about public funds was also acknowledged.
## Table 17

**Institution 2**

**Summary Table of Findings and Conclusions**

**Research Question 5:** How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Recruiting Tool</th>
<th>Promote Diversity</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Other Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>539301</td>
<td></td>
<td>- &quot;For our scholarships, it is one of many factors we look at in the diversity scholarships. That would be the only place that race is one factor among others.&quot;</td>
<td>- Race criterion is weighted more heavily in the graduate fellowships (T-3a-1)</td>
<td></td>
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</tr>
<tr>
<td>6411002</td>
<td>- &quot;We do have scholarships that have been designated for underrepresented populations or minorities&quot; (T-2-2)</td>
<td>- &quot;We certainly seek to have a diverse population here. If we can provide support to affect a diverse population, that's what the support is for&quot; (T-3-2)</td>
<td></td>
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<tr>
<td></td>
<td>- Used to attract underrepresented populations and minorities to campus (T-2-2)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>652003</td>
<td></td>
<td>- &quot;We're a small program...and we look for real diversity with in the class, but we really don't look at race, per se&quot; (T-3-3)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TABLE 17a

Institution 2

Summary Table of Findings and Conclusions

Research Question 5: How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Recruiting Tool</th>
<th>Promote Diversity</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Other Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>652004</td>
<td>- Graduate school has funds to actively recruit African American student (T-3-4)</td>
<td>- Race is factor in the 25 diversity scholarships given annually</td>
<td>- Yes, race is weighted more heavily in a graduate school program that targets African American students (T-3-4)</td>
<td></td>
</tr>
<tr>
<td>6111005</td>
<td>- One fellowship is awarded to encourage students of color to pursue an advanced degree (T-1a-5)</td>
<td>- Race is weighted more heavily in one fellowship (T-1a-5)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6123006</td>
<td>&quot;I think we follow the policy which the Supreme Court enunciated in the Bakke decision&quot; (T-3-6)</td>
<td>- Race is considered...&quot;it's more of a subjective weighing&quot; (T-3b-6)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Conclusions
- Five of six respondents said the race criterion was used in scholarships or fellowships to increase diversity on campus. Race was also used as a recruiting tool to attract more minority students to the institution
### Summary Table of Findings and Conclusions

**Research Question 6:** How has the court ruling or state statute affected the minority enrollment at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Current Minority Population?</th>
<th>Future Recruiting Efforts of Minority Students?</th>
</tr>
</thead>
</table>
| 639301       | - Noticed decline in the number of African American students over the past two years. Population was stable "until 1993-94 when we started making some significant changes. We have had a decline...would be close to a 20% decline of the freshman class" (T-5b-1) | - Yes, "One of our biggest difficulties in recruiting African American students in particular is that they do tend to get better financial aid and merit awards at other institutions" (T-5-1)  
- "Any curtailing of our ability to offer particularly African American students better financial aid or merit scholarships hurts in recruiting"  
- Has done a systematic calling effort to students of color who decline admission and their reason consistently for not coming to this institution is "better financial aid or merit scholarships at a competing institution" (T-5b-5c-1) |
| 6411002      | - Hasn't noticed any changes (T-5-2)  
- Doesn't think there has been a positive or negative effect."It's been business as usual" (T-5-2) | - Doesn't think it will have an effect as long as the institution can continue to raise scholarship support and offer need-based support (T-5-5a-2)  
- "The only thing that would affect it if we were told you may not raise any money with any restrictions..." (T-5a-5b-2) |
| 652003       | - Indicated no effects (T-5-3)                                                             | - No effects indicated (T-5-3)                                                                                                                                                 |
| 61111005      | - No changes indicated (T-5b-5)                                                            | - Difficulty in attracting students to the campus has to do with the institution's history  
- "I think with our area having our history that makes it more difficult to recruit students of color...this is not a tradition that they are comfortable with and certainly not one they identify with so that has made the attraction of students with color here significant" (T-5b-5) |
**TABLE 18a**

Institution 2

**Summary Table of Findings and Conclusions**

Research Question 6: How has the court ruling or state statute affected the minority enrollment at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Current Minority Population?</th>
<th>Future Recruiting Efforts of Minority Students?</th>
</tr>
</thead>
<tbody>
<tr>
<td>61111006</td>
<td>- No changes indicated (T-5b-5)</td>
<td>- Difficulty in attracting students to the campus has to do with the institution's history</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- &quot;I think with our area having our history that makes it more difficult to recruit students of color...this is not a tradition that they are comfortable with and certainly not one they identify with so that has made the attraction of students of color here difficult&quot; (T-5b-5)</td>
</tr>
<tr>
<td>6123006</td>
<td>- &quot;Not yet&quot; (T-5-6)</td>
<td>- &quot;We'll see. It depends on how the state makes available a significant amount of money and that is of critical importance to our efforts. So I think we're very concerned about the state policy in affirmative action because that provides a significant portion of our funding and it's very important to our goal of enfranchising students -- increasing diversity&quot; (T-5-5a-6)</td>
</tr>
</tbody>
</table>

**Conclusions**

- Only one respondent indicated changes in the current minority student population
  - A decline in the number of African American students on campus. One respondent hasn’t noticed a positive or negative effect -- no changes yet

- Three respondents thought the court ruling or statute might affect future recruiting efforts. One respondent noted that the institution lost many African American students because competing institutions offered better financial aid packages. Two other respondents thought it was the institution’s history and geographic location that affected recruiting efforts of African American students in particular
<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects and Additional Comments</th>
</tr>
</thead>
</table>
| 839301       | - Changes have occurred in some awards criteria and financial aid packing. Moved away from single race to a "much broader diversity scholarship program." That was a direct result of the *Bakke* cases" (T-4a-1)  
- "We've always differentially packaged based on factors like academic merit and multi-cultural recruitment. We are moving away from those factors but we've not totally moved away from those yet" (T-4a-1)  
- "We have a somewhat more equal financially packaging policy now as a result of the Virginia statute, but not totally equal" (T-4b-1) | - "I think it's a difficult situation. I think there is certainly a shifting of a tide across the country in terms of the general public's willingness to increase access for minority students. I think we see that playing out all over the place -- everything from law schools to undergraduate scholarships, admissions decisions, as well as the use of monies to increase access. I think the feelings are understandable but whether it is in the best interest of all of us, is really -- remains to be seen" (T-5-5a-1) |
| 6411002      | - No changes have occurred so far in policies or procedures concerning the scholarship program" (T-4-4a-2)  
- Less specific language is used in scholarship agreements. Now use "underrepresented populations" instead of minority (T-4b-4c-2) | - "We have had discussions about this and no scholarships have been raised [race or minority targeted] since this happened...But if we were to submit a request for support, we would probably leave it more open. But again, this isn't policy, this was just discussion" (T-4-2)  
- "It was a serious enough ruling that it caused some of our alumni to ask what we were doing and if we would have to change the way we were doing what we were doing" (T-5-2)  
- "It was recommended to us that we be less specific in our language. When we establish scholarships--to use "underrepresented populations instead of minority...to make it less restrictive" (T-4b-4c-2) |
<p>| 652003       | - No changes indicated (T-4-3) | - &quot;I think part of the problem with Virginia, and particularly this institution, goes back to its history. It carries with it some of the old stigmas and past history with it&quot; (T-5-3) |</p>
<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects and Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>662004</td>
<td>- ___ change in the major university occurred, changing it from a single-race award for African Americans to a broader diversity award. The race exclusive packaging policy for financial aid has not changed and the institution was given extra funds from the General Assembly to help be more in compliance (T-4-4)</td>
<td></td>
</tr>
<tr>
<td>6111005</td>
<td>- No changes indicated. Was not familiar with either the court ruling or state statute (T-4-5)</td>
<td>- &quot;There was a heightened awareness certainly and more intensity in our efforts to recruit students of color&quot; (T-5b-5)</td>
</tr>
<tr>
<td>6123006</td>
<td>- No changes indicated. They are still proceeding following the Bakke decision (T-4-6)</td>
<td>- &quot;I would say that the culture, the informal culture, at this institution is to try to encourage people from diverse backgrounds and even disadvantaged backgrounds to participate in higher education so we use what we have to help people&quot; (T-5-6)</td>
</tr>
<tr>
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<td></td>
<td>- Feels it is important to [increase minorities] in terms of providing role models for students. &quot;It's important to have a variety of points of view in scholarships including people from diverse racial and ethnic groups so all of those efforts are important to higher education, and I think we have made good progress&quot; (T-5a-5b-6)</td>
</tr>
</tbody>
</table>
### TABLE 19b

Institution 2

**Summary Table of Findings and Conclusions**

**Research Question 7:** How is each institution applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Effects and Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conclusions</td>
<td>- Only two of six respondents noted changes in policies or procedures. The major change has been with the major university award. It changed from single-race to a broader diversity award</td>
<td>- It has heightened people's awareness about the issues and continued reviews and discussions. One respondent indicated that the court ruling caused some alum to contact the university to determine what actions were being taken in response to the ruling</td>
</tr>
</tbody>
</table>
scholarships. One respondent talked about the Bakke decision, instead of Podberesky, indicating that Bakke was still the law of the land.

Specific comments:

"As I remember it has been applied, it generally states that race, at least at Maryland, race-exclusive scholarships are not permitted."

"Both that one and the Texas decision are as I understand it would, if upheld, might force some change in what is still the law for the land, which is the Bakke decision. So we're aware of the Bakke decision and that is the law of the land."

"It precludes any kind of use of money that involves race as the sole criterion."

"The State of Maryland could no longer designate public support for specific race-based scholarships."

Question 2:

How knowledgeable is each institution about the 1993 Virginia State Statute?

Degree of knowledge. Three of six respondents had never heard of the statute and could not give an interpretation (table 14). Another respondent indicated knowledge about the statute, but provided a vague interpretation. One respondent said her area tried to get a specific interpretation from SCHEV, but
never received one. Three of six respondents were knowledgeable and provided interpretations.

Interpretations. One respondent thought the statute restricted the use of some financial aid monies for race-based awards, but did not specify the type of restricted funds. One respondent said the statute meant that all state-sponsored programs must consider all federally-recognized minority groups when using race as a selection criterion. Another participant said the statute meant that financial aid awards should be based on need and merit only.

One respondent commented that the 1993 state statute was not widely used or known about — "It passed rather inadvertently and without full knowledge of those who voted for it. So it kind of sits out there."

Specific comments:

"I know there has been some action by the Virginia General Assembly to specify that use of particular financial aid monies should not be differential based on race."

"A state-sponsored program that takes minority status into consideration has to be available to members of all minority groups."

"My interpretation is that scholarships and assistantships through the department need to be based on financial need and merit that students have been able to prove."
Comparison of knowledge between the court ruling and state statute.

Half of the respondents were familiar with either the court ruling or state statute. Three of six respondents said they were knowledgeable about the court ruling, while three of six respondents were familiar with the state statute. Interpretations varied for both the court ruling and state statute.

Question 3:

What has been the effect on the number of race-targeted and single-race scholarships, grants or fellowships at each institution since the 1993 Virginia Statute or the 1994 court ruling?

Change in the numbers of race-targeted or single-race scholarships, grants or fellowships. Respondents at this institution indicated little change in the number of race-targeted scholarships. Five of six respondents said there had been no changes in the number of race-targeted awards (table 15). One participant said that in the past, some donors were encouraged to be "more broad in their thinking" when establishing scholarships or fellowships.

Another respondent was unsure of any previous changes because she had only been in her job three years. There were indications in the office records that a number of awards had been given to "students of color," but there were no records indicating that the fellowships or awards were specifically race-targeted in purpose.

There have been significant changes in the number of single-race awards.
Four of six respondents noted single-race awards that had changed or were eliminated. The most notable change was the major university scholarship that switched from a single-race award for African Americans to a diversity award targeting underrepresented populations.

Current status of race-targeted scholarships grants or fellowships. At the time of this study, four of six respondents said they were currently awarding scholarships, grants or fellowships that used race as a selection criterion. Respondents' opinions differed as to how the race component was evaluated in the university diversity scholarships. One respondent identified it as a race-targeted award, while another respondent said that race component was not necessarily an important component of the award. Only two of the six respondents identified current single-race scholarships or fellowships. These awards existed at the graduate level.

While not a merit award, the institution's financial aid packaging policy has a single-race component to it. All African Americans who were Virginia residents were guaranteed 100 percent of their indicated need. This financial aid program received funds from the Virginia General Assembly.

Specific comments:

"We had situations at our institution where we have encouraged donors to be more broad in their thinking because we won't be able to administer it [otherwise]."
"The one graduate school -- They are doing some targeting of funds specifically to African Americans I believe...."

"Our financial aid packaging policy is distinctly different for Virginia African Americans."

"Of the__African Americans enrolled, that majority are Virginians -- 50-60 percent of them are on financial aid."

"There was a bit of money years ago under the old desegregation plan that each institution filed. What I have done since then is held some back so that if departments have identified minority students who are well-qualified, then we put a package together to make it possible for them to attend."

**Question 4**

How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

*Race-targeted or single-race awards supported by public funds.* Four of six participants were providing race-targeted or single-race awards supported by public dollars (table 16). Four of the scholarship and fellowship programs were sponsored by SCHEV. One respondent identified some single-race fellowships at the graduate level exclusive to African Americans as funded by both public and private dollars. A major university award was identified as being supported by public and private dollars.
Also supported by public funds, was the financial aid packaging program targeted to African Americans. A respondent from the institution said the financial aid program was still receiving funds appropriated by the Virginia General Assembly.

Race-targeted or single-race awards supported by private funds. Three of six respondents named race-based or single-race awards funded by private dollars. One respondent identified a single-race fellowship at the graduate level for African Americans. One respondent was not aware of any race-targeted or single-race scholarships or fellowships, but identified some endowed scholarships that were designated for underrepresented populations. These awards could include race as a criterion, but were not defined as race-targeted awards.

Interpretation of the court ruling or state statute according to public or private funding sources. Several interpretations were given. Three of six respondents cited restrictions associated with using public dollars for race-based scholarships or fellowships. One respondent said all race-based awards were prohibited, while one respondent said public dollars may not be used for race specific scholarships.

Another respondent felt the institution needed to be cautious about privately-funded programs, as well as those sponsored by public funds. All scholarships and fellowships should avoid race-exclusive language by using
the term "underrepresented populations" instead of "minority."

Specific comments:

"We can't use public monies for race specific scholarships."

"The court ruling precludes any kind of use of money that involves race as the sole criterion."

"[The state statute implies] a state sponsored program that takes minority status into consideration has to be available to members of all minority groups."

"[It] was recommended to us that we be less specific in our language when we establish scholarships."

Question 5

How is the criterion of "race" used in awarding scholarships, grants, or fellowships at each institution?

How the race criterion was used. Five of six respondents said the race criterion in scholarship or fellowship awards was used to promote diversity on campus (table 17). One respondent reported that his area followed the guidance outlined in the Bakke decision, allowing race-based decisions to foster diversity within the student population. The respondent's position was that Bakke was still the "law of the land."

The race criterion was also used as a recruiting tool. Both scholarships and fellowships were created to attract, in particular, African American students
to campus. Two respondents identified graduate fellowships specifically created to encourage students of color to pursue an advanced degree at this institution.

Three of six respondents said the race criterion was weighted more heavily than other criteria in awarding scholarships and fellowships. One respondent said that in the selection process, race was not assigned a numerical rating, but instead was weighted subjectively with the goal in mind of increasing the number of students from "diverse or disadvantaged backgrounds." One respondent reported that race was one of several criteria that was considered in the university diversity award.

Specific comments:
"Race is considered....it's more of a subjective weighting."

"For our scholarships, [race] is one of many factors we look at in the diversity scholarships. That would be the only place that race is one factor among others."

Question 6

How has the court ruling or state statute affected the minority population at each institution?

Current minority population. Respondents have noticed little change in the current student population due to the court ruling or state statute. One of six respondents reported a decline in the number of African American students over
the past year, noting this student population was stable until the 1993-94 school year (table 18). One respondent said there could be changes, but did not specify the changes that had occurred. Four of six respondents indicated no changes were evident. One respondent said, "It's been business as usual."

According to SCHEV's headcount reports from fall 1992 -- fall 1996, there has been a 4.55 percent decrease in the number of African American students for this institution, while the biggest decrease of 3.04 percent occurred between 1992 and 1993. There could be many reasons for this decline and there were no data at the time of this study to indicate that the court ruling or state statute was the reason for the decrease.

**Future recruiting efforts of minority students.** Four of six respondents thought the ruling or statute might affect future recruiting efforts of minority students. Three of six respondents said money was a critical factor to recruiting African American students. One respondent said the institution has lost many African American students to competing institutions because of better financial aid offers. A decrease in scholarship and fellowship funds would most likely prevent African Americans from attending this institution. Two other respondents thought it was the institution's history and geographic location that were the greatest obstacles to recruiting African American students.

**Specific comments:**

"It depends on how the state makes available a significant amount of
money and that is of critical importance to our efforts. So I think we're very concerned about the state policy in affirmative action because that provides a significant portion of our funding. And it's very important to our goal of increasing diversity."

"Any curtailing of our ability to offer particularly African American students better financial aid or merit scholarships hurts us in recruiting."

"One of our biggest difficulties in recruiting African American students in particular is that they do tend to get better financial aid and merit awards at other institutions."

"I think with our area having our history, that makes it more difficult to recruit students of color....This is not a tradition that they are comfortable with and certainly not one they identify with. So that has made the attraction of students of color here difficult."

Question 7

How are the institutions applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant or fellowship programs?

Procedural or policy changes. Only three of six respondents reported changes in policies or procedures at their institution (table 19). One major change was the selection criteria for a major university award, changing it from a single-race award to a broader diversity award. Changes have also occurred in
the development area. Donors who seek to promote diversity have been encouraged to use less specific language in their scholarship or fellowship agreements. The term minority has been replaced with "underrepresented populations," a phrase more inclusive of different student populations.

Other effects. Other effects have resulted due to the court ruling. One respondent said that some alumni have shown concern and contacted the institution to find out what the institution's response has been to the court ruling. One respondent reported the court decision prompted discussion about their scholarship procedures, but no changes had been made. Another respondent felt the court ruling heightened their awareness and intensified their efforts to "recruit students of color."

Another respondent felt a diverse student population was crucial to the higher education environment. Efforts to achieve this diversity were extremely important and should be continued.

Specific comments:

"I think part of the problem with Virginia and particularly this institution goes back to its history. It carries with it some of the old stigmas and past history with it."

"I would say that the culture -- the informal culture at this institution is to try to encourage people from diverse backgrounds and even disadvantaged backgrounds to participate in higher education. So we use what we have to help
people."

"It's important to have a variety of points of view in scholarships including people from diverse racial and ethnic groups. So all of those efforts are important to higher education."

"I think it's a difficult situation. I think there is certainly a shifting of a tide across the country in terms of the general public's willingness to increase access for minority students. I think we see that playing out all over the place. I think the feelings are understandable, but whether it is in the best interest of all of us is really -- remains to be seen."

Institution 3

Question 1

How knowledgeable is each institution about the court ruling in Podberesky v. Kirwan, 1994?

Degree of knowledge. Five of the eight respondents indicated familiarity with the court ruling, however, three of these respondents did not recognize the case by name and needed some explanation before they could determine their degree of knowledge (table 20). Six of the eight respondents gave an interpretation. One respondent, even though unfamiliar with the specific case, gave an interpretation based on "things he had heard." Two of the respondents were unfamiliar with the court ruling and could not provide an interpretation.

Interpretations. All six respondents said the court ruling prohibited the
TABLE 20
Institution 3
Summary Table of Findings and Conclusions

Research Question 1: How knowledgeable are the participants about the court ruling in Podberesky v. Kirwan, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>4234001</td>
<td>- Somewhat familiar. Didn't recognize case by name (T-4-1)</td>
<td>- &quot;The university should not be using state money towards scholarships that are limited to one particular ethnic or racial group&quot; (T-4-1)</td>
</tr>
<tr>
<td>4242002</td>
<td>- Somewhat familiar. Didn't recognize case by name (T-4-2)</td>
<td>- Avoid any scholarship that mentions race unless it is specifically for diversity and must be open to all federally recognized minorities (T-4-2)</td>
</tr>
<tr>
<td>4252003</td>
<td>- Overall, not familiar (T-4-3) - &quot;I've heard that it has stirred things up in the scholarship and financial aid community, overall, I'm not familiar with it&quot; (T-4-3)</td>
<td>- No answer (T-4-3)</td>
</tr>
<tr>
<td>4261004</td>
<td>- Somewhat familiar—but didn't recognize case by name—needed some explanation before responding and what name of state case was (T-4-5)</td>
<td>- With public dollars you can't be specific with races; with private dollars you can (T-4-4)</td>
</tr>
<tr>
<td>4302005</td>
<td>- Not very familiar—didn't recognize case by its name, but gave an interpretation (T-4-5)</td>
<td>- &quot;It was determined that we should be careful in how we're doing it...We should be safe with private dollars&quot; (T-4-4)</td>
</tr>
<tr>
<td>5133006</td>
<td>- Yes, familiar with court ruling (T-4-6)</td>
<td>- School of thought that race-targeted or specifically-targeted scholarships were not appropriate (T-4-5)</td>
</tr>
<tr>
<td>5293007</td>
<td>- No knowledge (T-4-7)</td>
<td>- Struck down single-race scholarships and awards, can't single out one particular race to the disadvantage of all others (T-4-6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- No answer (T-4-7)</td>
</tr>
</tbody>
</table>
**TABLE 20a**

Institution 3

**Summary Table of Findings and Conclusions**

**Research Question 1:** How knowledgeable are the participants about the court ruling in *Podberesky v. Kirwan*, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6663008</td>
<td>- Familiar with ruling (T-4-8)</td>
<td>- Single-race scholarships and fellowships are illegal (T-4-8)</td>
</tr>
<tr>
<td>Conclusions</td>
<td>- Respondents were somewhat familiar with the ruling</td>
<td>- Varied interpretations of court ruling. Majority of respondents said the court ruling struck down single-race awards</td>
</tr>
</tbody>
</table>
**TABLE 21**

Institution 3

**Summary Table of Findings and Conclusions**

**Research Question 2:** How knowledgeable are the participants about the 1993 Virginia Statute: Participation in or eligibility for certain state-supported financial aid programs [VA Code Ann. s.23.7-1:02,1993]?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
</table>
| 4234001      | - Somewhat knowledgeable (T-4-1) | - Restricts the use of race as a criterion in awarding financial aid. Doesn’t apply to private dollars (T-4-1)  
- Relates to need-based, not merit-based awards (T-4-1) |
| 4242002      | - Very knowledgeable (T-4-2) | - Precluded by state statute from limiting scholarships to any specific race (T-4-2)  
- “We try to avoid any scholarship that mentions race unless it is specifically to provide for racial diversity, and it has to include the terminology that would be inclusive of all federally-recognized minorities...interpret the statement and court ruling identically” (T-4-2) |
| 4252003      | - Yes, knowledgeable (T-4-3) | - “Race can’t be the major criterion in awarding scholarships” (T-4-3)  
- You need to look at all minorities when awarding scholarships that are affected by the state matching program (T-4-3) |
| 4261004      | - Not very familiar, couldn’t give any specifics (T-4-4) | - Gave no interpretation (T-4-4) |
| 4302006      | - Not familiar (T-4-5) | - Heard things were going on, but didn’t know specifics (T-4-5) |
| 5133006      | - Not familiar (T-4-4) | - Gave no interpretation (T-4-4) |
| 5293007      | - Yes, knowledgeable (T-4-7) | - State funds can’t be restricted to a particular ethnic or gender group (T-7-7)  
- Funds must be available to all minorities—must be treated equally in target pool (T-6-7) |
### TABLE 21a

**Institution 3**

**Summary Table of Findings and Conclusions**

**Research Question 2**: How knowledgeable are the participants about the 1993 Virginia Statute: Participation in or eligibility for certain state-supported financial aid programs [VA Code Ann. s.23.7-1:02,1993]?  

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>663008</td>
<td>Somewhat familiar (T-6-8)</td>
<td>State of Virginia has made a ruling that single-race fellowships are not legal (T-6-8)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Conclusions</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority of respondents were knowledgeable</td>
<td>Varied interpretations of state statute. State funds can't be restricted to one race</td>
</tr>
</tbody>
</table>
### TABLE 22
Institution 3

**Summary Table of Findings and Conclusions**

**Research Question 3:** How has the number of race-targeted and single-race scholarships, grants, and fellowships changed at each institution currently awarding race or single-race scholarships, grants, and fellowships?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4234001</td>
<td>- No changes (T-2-1)</td>
<td>- No changes (T-3-1)</td>
<td>- Yes (T-2-1)</td>
<td>- Yes (T-3-1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Black Virginian resident scholarship (T-1a-1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Academic scholarships (T-1b-1)</td>
<td></td>
</tr>
<tr>
<td>4242002</td>
<td>- Most have been established in last 2-3 years (T-2-2)</td>
<td>- No response (T-3-2)</td>
<td>- Yes (T-2-2)</td>
<td>- No - we are precluded by state statute (T-3-2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>&quot;Of the 1400 we have less than 10 that have that sort of wording [race] in them&quot; (T-2b-2)</td>
<td></td>
</tr>
<tr>
<td>4252003</td>
<td>- Not sure what happened prior to 1995-96 (T-2-3)</td>
<td>- Not sure what happened prior to 1995-96 (T-3-3)</td>
<td>- Yes (T-2-3)</td>
<td>- Sometimes - will consider donor's wishes (race component) if all other criteria is equal... (T-3-3)</td>
</tr>
<tr>
<td>4261004</td>
<td>- Yes, decreased the number by one (T-2-4) funds</td>
<td>- No changes (T-3-4)</td>
<td>- Yes (T-2-4)</td>
<td>- Yes (T-3-4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Black Virginian resident scholarships (T-1-4)</td>
<td></td>
</tr>
<tr>
<td>4302005</td>
<td>- No changes (T-2-5)</td>
<td>- No changes (T-3-5)</td>
<td>- Yes (T-2-5)</td>
<td>- Not aware of any (T-2-5)</td>
</tr>
<tr>
<td>5133006</td>
<td>- Yes - decreased in number public funds (T-2-6)</td>
<td>- Yes - decreased in number (T-3-6)</td>
<td>- Yes (T-2-6)</td>
<td>- Yes (T-3-6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>&quot;At least one college has an informally set-aside of 10% for minority merit-based scholarships&quot; (T-2a-6)</td>
<td></td>
</tr>
</tbody>
</table>
<p><strong>TABLE 22a</strong></p>

Institution 3

**Summary Table of Findings and Conclusions**

Research Question 3: How has the number of race-targeted and single-race scholarships, grants, and fellowships changed at each institution currently awarding race or single-race scholarships, grants, and fellowships?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5293007</td>
<td>- No changes (T-2-7)</td>
<td>- No changes (T-2-3)</td>
<td>Yes, some targeted for African Americans (T-2-7)</td>
<td>- Yes (T-3-7)</td>
</tr>
<tr>
<td>663008</td>
<td>- Yes, decreased in number - public funds (T-2-8)</td>
<td>- Yes, decrease in number (T-3-8)</td>
<td>- Yes, several state awards (T-2-8)</td>
<td>- No (T-3-8)</td>
</tr>
<tr>
<td>Conclusions</td>
<td>- Some changes -- a decrease in the numbers awarded</td>
<td>- Some changes -- a decrease in the numbers awarded</td>
<td>- Institution is still awarding race-targeted awards includes several state awards</td>
<td>- Institution is still awarding single-race awards</td>
</tr>
</tbody>
</table>
## TABLE 23

Institution 3

Summary Table of Findings and Conclusions

Research Question 4: How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships From Public Funds</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships From Private Funds</th>
<th>Interpretation of Court Rulings or State Statute According to Public or Private Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>434001</td>
<td>- None (T-1b-1a-2a)</td>
<td>- Yes, both race and single-race scholarships are awarded (T-2a-3-1)</td>
<td>- The state statute has little bearing on awards from private dollars. Scholarships awarded from this office that are race targeted are supported by private dollars (T-4-1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Neither court ruling or state statute apply to the race-targeted scholarships because they’re supported by private dollars (T-2-1)</td>
</tr>
<tr>
<td>4242002</td>
<td>- None (T-1-2-2)</td>
<td>- Yes, race-targeted but not single race (T-2-2b-2e-3-2)</td>
<td>- Precluded by the state statute from limiting the scholarships to any specific minorities. We continue to accept contributions for scholarships or fellowships that are outside of the state statute. It’s ok to promote diversity, but scholarships must be open to all minorities</td>
</tr>
<tr>
<td>4252003</td>
<td>- Doesn’t specify any (T-1a-1c-2-3)</td>
<td>- Yes, race-targeted but to single-race (T-2-2a-3)</td>
<td>- In one scholarship a preference is made for African Americans, but the state statute is followed in awarding this scholarship (T-3-3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- One scholarship specifies desire for African Americans, not clear that it isn’t awarded to just African Americans (T-4-3-3)</td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 23a

**Institution 3**

**Summary Table of Findings and Conclusions**

**Research Question 4**: How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships From Public Funds</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships From Private Funds</th>
<th>Interpretation of Court Ruling or Safe Statute According to Public or Private Funding Sources</th>
</tr>
</thead>
</table>
| 4261004      | - None (T-1-4)                                                           | - Yes, both race and single race (T-1-1a-1b-2-2a-3-4)                     | - We should be safe with private dollars (T-4-4)  
Appears there was a concern about the use of public dollar for race-targeted, but not the use of private dollars for the same purpose (T-4-4)  
- Warned from financial aid the use of private dollars for race-specific scholarships may be prohibited at some point (T-5-4) |
| 4302005      | - Yes, race-targeted but not single-race (T-1a-5)                        | - Yes, race-targeted but not single-race (T-2-3-5)                        | - Race-targeted or single-race scholarships may not be appropriate (T-4-5)  
- No specifics on thoughts of whether public or private funds are in jeopardy (T-4-5)  
- Not aware of specific ruling or statute (T-4-5) |
| 5133006      | - Yes, those that are eligible for matching state funds. (no indication which, if any are race or single-race) (T-1e-6) | - Yes, race-targeted, single-race are not awarded as written policy, but are awarded in practice (T-3-6) | - There is an awareness or interpretation that public funds are handled differently (T-4-6)  
- Cannot single out one race or another when awarding scholarships or fellowships (T-4-6)  
- A private donor can still express a desire to focus on one of the races (T-4-4a-6) |
| 5293007      | - Yes, race-targeted, does not specify single-race (T-1a-1d-1e-7)       | - Yes, race-targeted and single-race (T-1b-2-2c-2d-3-7)                   | - State statute specifies that state funds can't be restricted to a particular ethnic or gender group (T-4-7) |
| 663008       | - Yes, race-targeted fellowships, but not single-race (T-1a-4-8)        | - Yes, race-targeted fellowships but not single-race (T-1b-2a-3-8)        | - State statute and court ruling imply that single-race scholarships and fellowships are illegal (T-4-8) |
TABLE 23b

Institution 3

Summary Table of Findings and Conclusions

Research Question 4: How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships From Public Funds</th>
<th>Race or Single-Race Scholarships, Grants or Fellowships from Private Funds</th>
<th>Interpretation of Court Ruling or State Statute According to Public or Private Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conclusions</td>
<td>- One-half of the respondents identified race or single-race scholarships, fellowships or grants from public funds</td>
<td>- All respondents indicated awarding race or single-race scholarships, fellowships or grants from private funds</td>
<td>- Varied interpretations regarding the use of public or private funds for race or single-race scholarships, fellowships or grants. One respondent noted that state funds can't be used for race-specific awards</td>
</tr>
</tbody>
</table>
### TABLE 24

**Institution 3**

**Summary Table of Findings and Conclusions**

**Research Question 5:** How is the criterion of "race" used in awarding scholarships, grants, and fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Other Use</th>
<th>Recruiting Tool</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Promote Diversity</th>
</tr>
</thead>
<tbody>
<tr>
<td>434001</td>
<td></td>
<td></td>
<td>- Used in those scholarships that are targeted for other race (T-1a-1b)</td>
<td></td>
</tr>
<tr>
<td>4242002</td>
<td></td>
<td></td>
<td></td>
<td>- To promote racial diversity. &quot;I think at least 2/3 of the seven or eight endowments that we have that mention racial diversity all came along in the last two or three years&quot; (T-5-2)</td>
</tr>
<tr>
<td>4252003</td>
<td></td>
<td></td>
<td>- Looks at all minority groups equally when awarding scholarships (T-3-3)</td>
<td></td>
</tr>
<tr>
<td>4261004</td>
<td></td>
<td></td>
<td>- To increase the number of African American scholars and help in the recruitment process (T-5-4)</td>
<td>- Increase the number of different races on campus. To create diversity (T-5a-5b-4)</td>
</tr>
<tr>
<td>4352005</td>
<td></td>
<td></td>
<td>- To increase the number of minorities in a particular college curriculum and career field (T-1a-3-5)</td>
<td>- To increase the number of minorities on campus (T-3-5)</td>
</tr>
</tbody>
</table>
### TABLE 24a

**Institution 3**

**Summary Table of Findings and Conclusions**

**Research Question 5:** How is the criterion of "race" used in awarding scholarships, grants, and fellowships at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Other Use</th>
<th>Recruiting Tool</th>
<th>&quot;Race&quot; Criterion Weighted More Heavily?</th>
<th>Promote Diversity</th>
</tr>
</thead>
<tbody>
<tr>
<td>5133006</td>
<td>- Important philanthropic agenda of corporation of other donor to increase the number of minorities on campus (T-4-6)</td>
<td>- &quot;To increase the number of minorities in a particular college or career field&quot; (T-2a-2b-2c-2d-6)</td>
<td></td>
<td>- To diversity student body (T-1-1a-6)</td>
</tr>
<tr>
<td>5293007</td>
<td>- Used as a marketing tool to compete for African American students (T-5c-5d-7) - Improve recruitment of minorities (T-5-7)</td>
<td></td>
<td>- Yes, in race-targeted and single-race targeted scholarships (T-1d-1e-2c-3-7)</td>
<td></td>
</tr>
<tr>
<td>663008</td>
<td></td>
<td></td>
<td>- Yes, for race-targeted scholarships race is weighted more heavily (T-3-8) - Other scholarships and fellowships - race isn't a selection criteria at all (T-3a-8)</td>
<td></td>
</tr>
</tbody>
</table>

**Conclusions** - The race criterion is used primarily as a recruiting tool and to increase diversity on campus. Also viewed as an important philanthropic goal by many corporations.
### TABLE 25

Institution 3

Summary Table of Findings and Conclusions

**Research Question 6:** How has the court ruling or state statute affected the minority population at each institution?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Current Minority Population</th>
<th>Future Recruiting Efforts of Minority Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>4234001</td>
<td>- No effect, positive or negative from either the Maryland case or the Virginia statute (T-5c-1)</td>
<td>- Recruiting may be hampered because scholarship dollars affect a student's decision or influences the student as to where to go to school. If we lose scholarship dollars, we may not be able to compete for minority students (T-5a-5b-5c-1)</td>
</tr>
<tr>
<td>4242002</td>
<td>- Doesn't think there has been any effect because many minorities were getting financial aid before the legal decision. Have a very small number of minority-targeted scholarships to begin with (T-5-2)</td>
<td>- Doesn't think there will be a negative impact because those who donate money are more interested that the students needs money, not what race of ethnic background they are! Donors will give money regardless of the race - a real color-blind approach when raising money - when most donors decide to give (T-5-5a-2)</td>
</tr>
<tr>
<td>4252003</td>
<td>- No changes (T-5-3)</td>
<td>- No, more concerned about money that can be used by all students. We are targeting a combination of need and merit-based awards (T-5-3)</td>
</tr>
<tr>
<td>4261004</td>
<td>- No, doesn't think so. In the past couple of years thinks that the number, specifically of African American students, has been increasing (T-5-4)</td>
<td>- Doesn't think so because if a specific group of monies is taken away, and it is important for the university to attract minority students, they will find money from another source (T-5-4)</td>
</tr>
<tr>
<td>4302005</td>
<td>- Doesn't think there has been any effects (T-5-5)</td>
<td>- Thinks the change in political climate may make it more difficult to attract funds for scholarships and fellowships. This in turn might affect recruiting efforts (T-5-5)</td>
</tr>
</tbody>
</table>
| 5133006      | - No comment on effects on current student population  
|              | - Efforts to increase and retain number of minority students continues (T-5-6) | - Doesn't feel decisions will affect recruiting efforts because a student's decision to attend this institution is based on more factors than just scholarship or fellowship availability (T-5-6) |
**TABLE 25a**

Institution 3

**Summary Table of Findings and Conclusions**

*Research Question 6: How has the court ruling or state statute affected the minority population at each institution?*

<table>
<thead>
<tr>
<th>Participants</th>
<th>Current Minority Population</th>
<th>Future Recruiting Efforts of Minority Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>529307</td>
<td>- No knowledge of changes (T-5-7)</td>
<td>- Possibly there will be an effect because minorities are traditionally a poorer segment of the population. If there are fewer scholarship dollars to offer minorities, possibly some won't or can't come. This college loses minority students to other schools because the other schools offer more money (T-5-7)</td>
</tr>
<tr>
<td>663008</td>
<td>- Doesn't know or isn't sure if minority enrollment is down, but thinks that is due to factors other than the legal decisions (T-6-8)</td>
<td>- Hopes it doesn't have an impact, not sure though. Thinks there will be a shift as to where and how students get funding (T-5-8)</td>
</tr>
<tr>
<td>Conclusions</td>
<td>- No changes due to the court ruling or state statute</td>
<td>- Court ruling and state statute seen as having very little effect on recruiting efforts. Minority students choose this institution for reasons beyond financial aid</td>
</tr>
</tbody>
</table>
### TABLE 26

**Institution 3**

**Summary Table of Findings and Conclusions**

**Research Question 7:** How is each institution applying the 1994 court ruling or the 1993 Virginia statute to their scholarship, rant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Changes or Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>4234001</td>
<td>After the Maryland case was settled, the university took a careful look at how it was spending their money; may have been some modification from that review–had no specifics. Had no scholarship equivalent to the Maryland program so didn't have to change anything (T-4-1)</td>
<td>Feels statute has little bearing on scholarships awarded from private dollars (T-4-1)</td>
</tr>
<tr>
<td>4242002</td>
<td>Changed review process for writing fund-raising proposals (T-4-2) - Communicated constraints to fund-raising staff who in turn makes prospective donors aware of legal constraints (T-4-2) - Makes sure any race-targeted donor agreements include all federally-recognized minorities, and are not race-specific (T-4-2)</td>
<td>Avoid any scholarships that mention race unless it is to provide racial diversity (T-4-2)</td>
</tr>
<tr>
<td>4252003</td>
<td>Provided information about legal restraints out to staff and deans (T-4-3) - Change in how development officers write their agreements (T-4-3)</td>
<td>If we have any questions, we check with legal council (T-4-3)</td>
</tr>
<tr>
<td>4261004</td>
<td>Was warned about possible changes for the use of private dollars--warned private dollars may not be open to specific races. Stopped awarding supplement to National achievement award, because it came from public dollars (T-4-4)</td>
<td></td>
</tr>
<tr>
<td>4302005</td>
<td>No changes, continuing on course until told to change or do something different (T-4-5) - &quot;We set this course because we believed it was the right thing to do, and I think simply because others folk are thinking differently...That's no reason for us to change what we thought was the appropriate course&quot; (T-4-4a-5)</td>
<td>Since legal decisions, more convinced than ever that they are doing the right thing. Believes the President and institution are still committed to increasing the minority population on campus (T-5-5a-6)</td>
</tr>
</tbody>
</table>
TABLE 26a

Institution 3

Summary Table of Findings and Conclusions

Research Question 7: How is each institution applying the 1994 court ruling or the 1993 Virginia statute to their scholarship, rant, or fellowship programs?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Procedural or Policy Changes</th>
<th>Other Changes or Effects</th>
</tr>
</thead>
</table>
| 5133006      | - Different way of handling public v. private funds for private funds as it is OK to focus on races, while with public funds -- can't focus on a particular race over another (T-4-6)  
- When talking to corporations about scholarship donations, the donors are made aware of the limits imposed by the court ruling -"can't single out one particular race to the disadvantage of another" (T-4-6)  | - Heightened awareness about issues. (T-4-6)  
- Even with recent court decision, legal activities, corporations still think it is important or express a belief that targeting minority students for scholarships is important and a priority for their philanthropic agenda (T-5-6) |
| 5293007      | - No actual procedural or policy change. Talked a lot about it. Attempt to pay closer attention and be more aware of what we're doing now and plan to do (T-4-7) | - There is an awareness and a caution about how we award scholarships and fellowships. We are keeping things to ourselves to avoid scrutiny. Believe they are "within the law" as to how they award scholarships and fellowships. Will continue what they are doing unless told to stop (T-4-7) |
| 663008       | - No changes (T-4-8) | - Thinks ruling may make it more difficult to find funding for minority students. Minority enrollment is down, but thinks this is due to factors other than court decisions (T-4-7) |
| Conclusions  | - Half of the respondents indicated some changes due to the court ruling or state statute. Most changes occurred in the area of fund raising. There was also a heightened awareness about the issue as well as caution. |
institution from giving single-race scholarship or awards. Two participants concluded the court ruling made it illegal to use public or state funds for specific-race scholarships. One participant thought the institution must avoid any scholarship that mentions race unless it is to further diversity on campus and then the scholarships must be open to all federally recognized minorities.

Specific comments:

"It struck down single-race scholarships and awards....Can't single-out one particular race to the disadvantage of all others."

"With public dollars you can't be specific with races, with private dollars you can."

"[The] University should not be using state money towards scholarships that's limited to one particular ethnic or racial group."

"Avoid any scholarships that mentions race unless it is specifically to provide racial diversity and it has to include the terminology that would be inclusive of all federally recognized minorities."

Question 2

How knowledgeable is each institution about the 1993 Virginia state statute?

Degree of knowledge. Five of the eight respondents indicated familiarity with the state statute (table 21). One of the five respondents had someone
explain the statute just before participating in the interview because she was unfamiliar with this particular law. Three of the respondents were unfamiliar with the state statute and could not provide an interpretation. Participants learned about the statute through conversations with the university’s legal counsel.

**Interpretations:** Two respondents viewed the state statute as restricting single-race scholarships and fellowships. These respondents concluded that public or state dollars may not be used for single-race scholarships or fellowships. One respondent determined that the statute prohibited the use of race as a criterion for any scholarship supported by state dollars. One respondent said the restriction applied to all need-based financial aid funded by state dollars, but not to merit-based awards funded by private monies.

**Specific comments:**

"State funds cannot be restricted to a particular ethnic or gender group....You can award scholarships to minorities but in doing so, Hispanics, Asians, African Americans must be treated equally as being the target pool, as opposed to -- you can't say I'm only going to give it to African Americans."

"The State of Virginia has made a ruling that single-race fellowships are not legal."

"Race cannot be the major criterion in awarding scholarships. You need to look at all minorities when awarding scholarships that are affected by the state matching program."
"I'd say it would have very limited if any bearing on the awarding of those private dollars."

Comparison of Knowledge Between the Court Ruling and State Statute by Participant

Three of the eight respondents were familiar with both the court ruling and state statute. Their degree of knowledge and interpretations varied for both the court decision and state law. One half of the participants were familiar with either the court ruling or state statute but not both. The degree of knowledge and interpretations about the legal decisions varied.

From the eight participants only one was unfamiliar with both the court ruling and state statute; however, this participant did have an overall awareness that issues were being discussed about race-targeted financial aid.

Question 3

What has been the effect on the number of race-targeted and single-race scholarships, grants or fellowships at each institution since the 1993 Virginia statute or the 1994 court ruling?

Change in the numbers of race-targeted or single-race scholarships, grants or fellowships. The institution has witnessed some slight changes in the number of race-targeted and single-race scholarships and fellowships. Three of eight respondents indicated a decrease in the number of race-targeted
scholarships, grants and fellowships (table 22). These awards were discontinued because they were funded by state or federal dollars. Two of the three respondents also cited a reduction of single-race scholarships.

One respondent expressed that the institution had no more than seven or eight scholarship or fellowship endowments that specified race as a selection criterion. About half of these endowments were established within the last two or three years in the midst of the current legal controversies. These endowments are race-targeted but not specific to a single race.

One respondent was not able to answer because clear records did not exist for scholarships, grants or fellowships awarded prior to the 1995-96 school year. The loss of records was due to the record-keeping procedures by administrators who previously worked in the office. Staff changes occurred and a new system was implemented in 1995.

**Current status of race-targeted and single-race scholarship or fellowships.**

As of June 1996 all respondents cited they were awarding scholarships or fellowships that targeted race as a selection criterion. Awards were funded from both public and private funds.

Half of the respondents indicated they were awarding single-race scholarships. These awards were funded from a mixture of public and private dollars. Three respondents indicated they were not awarding any single-race scholarships or fellowships. One of these respondents had previously awarded
single-race fellowships targeted for African Americans but has discontinued this award.

Another respondent cited flexibility in their awarding procedures. Sometimes the donor's request for a race-specific scholarship will be considered if all criteria are equal between the minority candidate and the non-minority candidate and the non-minority candidate can be given another monetary award in place of the donor's scholarship. It appears this is a judgement call made at the time scholarship monies are disbursed, and there is no indication as to how often this scholarship has been given to a minority student instead of a white student.

Three respondents did note that while race-targeted or single-race scholarships may not be "in writing," the scholarships are being awarded "in practice" as race-targeted or race-specific.

Specific comments:

"[A] corporation has a minority scholarship award for students ... [for a specific academic discipline], and in fact they are increasing support for that award....They're intensifying."

"One college has a....merit-based scholarship given by a donor. I don't know how formal this is, but it has informally set aside 10 percent of the scholarship awards for minority students, and so I know that each time that the dean makes the awards he always points out the number of African
American and other minority students that received the awards."

"I have seen examples where year after year the focus is on a certain minority. Right now, I think predominately the focus is on African American students at this university -- but it is not in writing, and I think if challenged, people would say that they don't do that."

**Question 4**

How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

**Race-targeted or single-race awards supported by public funds.** Four of the eight respondents identified having race-targeted scholarships, fellowships or grants supported by public funds (table 23). Two of the four respondents cited race-targeted but not single-race awards, while two of the four respondents did not specify whether their awards were race-targeted or single-race.

**Race-targeted or single-race awards supported by private funds.** All eight respondents reported having race-targeted or single-race scholarships or fellowships funded by private dollars. One-half cited both race-targeted and single-race awards funded by private donations while the other half offered only race-targeted awards.

**Interpretation of the court ruling or state statute according to public or private funding sources.** There were varying interpretations of how the court
ruling and state statute applied to public or private funding sources. Five of the eight respondents felt the court ruling or state statute established rules for using private and public funds for race-targeted or single-race scholarships. Three respondents felt that public monies could not fund single-race scholarships or fellowships, but could fund awards open to all minority groups.

One respondent indicated that race-targeted or single-race awards were legal as long as they were funded by private dollars. Another respondent interpreted the legal decisions to mean that public monies could not be used to fund any race-targeted or single-race scholarships or fellowships.

Specific comments:

"The university should not be using state money towards scholarships that are limited to one particular ethnic or racial group."

"We are precluded by state statute from limiting the scholarships to any specific minority.... We do not accept contributions for scholarships that are outside of that state statute."

"So they thought, well, we should be safe with private dollars because people shouldn't be able to tell you how to spend the money. Certainly with public dollars you couldn't do anything specific with specific races."

"A private donor can still express a desire to focus on one of the races."

"I'm not going to say that we're knowingly doing something illegal because I don't believe that. I am saying that no one has come and said you can't do that."
And I have asked. We're going to continue doing it until someone says, no you can't do that with that money."

Question 5

How is the criterion of "race" used in awarding scholarships, grants or fellowships at each institution?

How the race criterion was used. Respondents reported two primary ways in the race criterion was used in awarding scholarships, grants or fellowships. Half of the respondents used the criterion of race as a recruiting tool (table 24). Certain colleges and departments offered financial awards to compete for minority scholars and increase the number of minority students in their academic curriculum. One respondent noted that they lose minority students to other institutions because of lack of scholarships or financial aid dollars. Two respondents indicated a specific focus on recruiting African American scholars.

Another focus of the "race" criterion is diversity. Half of the respondents used the race criterion to promote diversity in their specific department, college or the institution as a whole.

One respondent reported that corporations still see minority-targeted scholarships and fellowships as an important philanthropic goal. Corporations have sought to increase the number of other-race students in specific academic curricula, which they hope in turn will increase the number of minorities working
in those professions in the future.

Some corporations have verbally communicated an interest in recruiting African American students with their scholarship or fellowship awards, but because of the legal constraints, the race-specific request is not found in the written award agreement. It is then left up to those individuals who award the money as to whether the corporation's "wish" will be honored.

Question 6

How has the court ruling or state statute affected the minority population at each institution?

Current minority population. Respondents reported no changes or evidence of change in the current minority population due to the court ruling or state statute. One respondent felt that there was too small a number of minority-targeted scholarships to have an effect on the minority student population as a whole (table 25). Another respondent thought the minority student population had decreased in number, but felt the contributing factors were unrelated to the court ruling or state statute.

According to SCHEV's "headcount reports" from fall 1992 to fall 1995, there was a 7.5 percent decrease in the number of African American students at this institution. However, from fall 1995 to fall 1996 the institution realized a 2.4 percent increase in this specific student population. This resulted in an overall
decrease of 5.2 percent in the number of African American students from 1992-1996. There may be a number of factors that contributed to the overall decline of African American students, and there is no direct data at the time of writing this paper to indicate that the court ruling or state statute was the reason for this decrease.

**Future recruiting efforts of minority students.** Three of the eight respondents felt the court ruling or state statute would affect recruiting efforts of minority students. Their comments centered around the loss of dollars to support scholarships and fellowships for minority students which could discourage or prevent other-race students from attending the institution.

The majority of the respondents, however, felt the legal decisions would not deter minority students from attending the institution. Two respondents thought there may be a shift in funding sources but not a loss of dollars to support minority recruiting efforts.

There were also comments regarding why minority students chose to attend this institution. One respondent felt the availability of race-specific dollars had little to do with a minority student's decision to attend this school. Other respondents cited the opposite — that the scholarship or fellowship dollars were very important and needed to recruit top minority students. Another respondent emphasized that the financial need for many minority students was much greater because they were from less affluent backgrounds. Without the race-targeted
financial aid, they would not be able to afford the cost of higher education.

A final comment addressed the motivation behind philanthropic donations. One respondent emphasized that the motivation for donors to give scholarship or fellowship dollars was to support the financial need of any student who needed money, regardless of ethnic background. It is believed that donors will not stop supporting the institution because they can’t be race-specific.

Specific comments:
"I think the decisions involved in minority students deciding to come to this institution are driven by many other factors....That this is only one."

"If a specific group of money is taken away and it is important to the university to attract those students, they’ll find money from some other sources."

"Minorities, traditionally, .... Are the poorer segment of the population. They rely more on scholarships and grants and fellowships than others from the majority population."

"I think the court decision reflects a change in political climate. I think if the change in political climate makes it more difficult for us to attract outside funds to support scholarships and fellowships, then I think it will have to have an effect."

Question 7

How are the institutions applying the 1994 court ruling or the 1993 Virginia Statute to their scholarship, grant or fellowship programs?
**Procedural or policy changes.** Half of the respondents indicated no policy or procedural changes due to the court ruling or state statute (table 26). Of the changes that were reported, most of them involved development or fund-raising functions. One noted change was in how fund proposals were to be written. All donor agreements that include a race-targeted request must now be open to and include all federally-recognized minorities in the written document. These constraints were communicated to all development officers who, in turn, will now communicate the legal guidelines to prospective donors.

Another policy change was to discontinue a supplemental award to the National Achievement scholarship because it was funded by public dollars. The National Achievement base award is still being given to African American students because this component of the award is funded by private dollars.

**Other effects.** The other major change that occurred was in how the respondents now viewed race-targeted scholarships, grants and fellowships. Some respondents indicated a heightened awareness about this issue as well as a caution. Other respondents stated a stronger commitment than ever to continue their minority scholarships and fellowships despite the legal decisions. Corporate donors also have continued their commitment to minority-targeted scholarships as part of their philanthropic agenda.

**Specific comments:**

"The hardest thing about the different rulings. I understand the philosophy
behind it, but I also think that it's important to look at the demographics of the state, the type of institution you're working at and also the population of the different races of students on campus. Because if you're to meet either the level of the population that's within the nation and your campus is not close to those percentages, then you need some type of avenue of trying to attract those students to create the diversity which most people, I think, would like to see in a college environment."

"I'm not sure I agree with them, mainly because I'm working in the thick of it, and I have to try to answer questions and explain things. I understand why the decisions were made, and I guess it's not really for me to question because it's my job to administer under the law and that's what I do."

"I think we're doing the right thing....We've made this commitment....I think the university as a whole made this commitment....We're going to hold this commitment until somebody bangs us over the head and tells us to stop doing it."

Comparison of Results Between Institutions

Question 1

How knowledgeable is each institution about the court ruling in Podberesky v. Kirwan, 1994?

Degree of knowledge. There were varying degrees of knowledge about the court ruling within each institution. Participants from Institution 3 provided the
most accurate and complete interpretations, while participants from Institution 2 were the least familiar with the court decision. Some respondents from Institutions 2 and 3 were unfamiliar with the cite, Podberesky v. Kirwan, and needed clarification about the case before they could provide interpretations. At least two respondents from each institution were knowledgeable about the court ruling. In all three institutions, participants from Admissions, financial aid and development were more knowledgeable about the court ruling than participants from academic areas.

Respondents used several sources to learn about the court case. Respondents from Institution 1 belonged to a committee specifically created to discuss Podberesky and other related issues. Respondents from Institutions 2 and 3 read professional journal and news articles and discussed the issues with colleagues.

**Interpretations.** Different interpretations were given by respondents from each institution. Many interpretations were vague or left out key elements of the ruling. The most common response given was that the court ruling prohibited all race-based scholarships and fellowships. Nine of the 22 participants in the study said the court ruling banned race-specific awards. Three of 22 participants said it was illegal to use public funds for specific-race awards, while two of the 22 respondents thought public monies could not be used for any race-targeted decision.
Question 2

How knowledgeable is each institution about the 1993 Virginia State Statute?

Degree of knowledge. There were varying degrees of knowledge about the state statute between institutions. Participants from Institution 3 were the most familiar with the state statute, while participants from Institution 1 were the least knowledgeable. At least three participants from each institution had heard of the statute and provided an interpretation.

Respondents received information about the statute through a variety of sources. Respondents from Institution 1 learned about the statute in committee meetings. Respondents from Institutions 2 and 3 received briefings from their legal counsel or discussed the issue with colleagues.

A respondent from Institution 2 commented that this particular statute was not widely known about, "It passed rather inadvertently and without full knowledge of those who voted for it. So it kind of sits out there."

Interpretations. Interpretations about the state statute varied. Eleven of 22 respondents in this study provided an interpretation. The most common response cited a restriction placed on race-based awards; however, interpretations varied as to the types of restrictions associated with these awards. Three of the 22 respondents in the study said that state funds could not be used for race-exclusive awards. Four of 22 respondents thought that state
programs could only consider minority status if all federally-recognized racial minority groups were considered. One respondent felt the statute meant the need to provide equal opportunity, while, another respondent felt the statute had no bearing on programs supported by private dollars.

**Comparison of knowledge between the court ruling and state statute.**

More participants in each institution were knowledgeable about the court ruling. Only two of the 22 participants were unfamiliar with both the state statute and the court decision. Interpretations for both the court ruling and statute varied within and between institutions.

Respondents in Institutions 1 and 2 looked more to the court ruling for guidance in their scholarship or fellowship program. Respondents in Institution 3 referred primarily to the state statute guidelines.

Respondents had varying opinions as to how the court ruling or state statute was to be applied to their scholarship, grant or fellowship programs. There were also varying levels of concern about the legal ramifications of the ruling or law. Respondents from Institution 3 were the most evasive and guarded with their answers. Several made specific statements that their programs were in compliance with the law.

From the widely varying opinions, it seemed that many respondents were unclear about the actual meaning of the court ruling and state statute or how the ruling and law were to be applied to their scholarship, grant or fellowship...
programs.

Question 3

What has been the effect on the number of race-targeted and single-race scholarships, grants or fellowships at each institution since the 1993 Virginia Statute or the 1994 court ruling?

Change in the number of race-targeted or single-race scholarships, grants or fellowships. Respondents in all three institutions have reported a decrease in the number of race-targeted and single-race scholarships or fellowships. The most noticeable changes were in the number of single-race awards. Institutions 1 and 2 changed their major university scholarship from a single-race award for African Americans to an award broader in scope. A respondent from Institution 1 cited four single-race scholarships in one academic area that had been stopped because of Podberesky. Respondents from Institution 2 also identified several single-race scholarships that had either changed their selection criteria or had been eliminated.

Current status of race-targeted and single-race scholarships, grants or fellowships. At the time of this study, respondents from all three institutions reported awarding race-targeted or single-race scholarships, grants or fellowships. Single-race awards existed at all three institutions, mainly at the graduate school level and targeted to African American students. One
respondent said his institution awarded a considerable amount of money to African American students.

Respondents from Institutions 1 and 3 said race-targeted scholarships and fellowships continued to be an important philanthropic goal of private donors. A respondent from Institution 2 said private donors were encouraged to broaden their thinking when establishing scholarships and fellowships for the university, in an effort to move away from strictly race-based criterion.

Respondents from Institution 3 indicated, that while a donor's request for a race-targeted criterion was not "written" in the formal scholarship or fellowship agreements, the awards were often distributed "in practice" as race-targeted or race-specific.

Question 4

How do policies and practices differ for race-targeted scholarships, grants or fellowships depending on public or private funding sources?

Race-targeted or single-race awards supported by public funds. Respondents from all three institutions identified race-targeted scholarships and fellowships supported by public dollars. Institutions 1 and 2 distributed several race-targeted scholarships or fellowships sponsored by SCHEV. Single-race awards sponsored by public funds existed at Institutions 1 and 2.

Institution 2 identified single-race awards at the graduate level exclusive
to African Americans. Institution 2 also had a financial aid packaging policy that included a single-race component. All African Americans who were also Virginia state residents were guaranteed 100 percent of their indicated need. At the time of this study, this program received monies from the Virginia General Assembly. A respondent from Institution 2 who explained the packaging policy said that because this financial aid was disbursed by "need" rather than "merit" the program was allowed to continue. Respondents from Institution 3 identified only race-targeted awards from public dollars.

Race-targeted or single-race awards supported by private funds. All three institutions awarded race-targeted and single-race awards funded by private monies. Four of eight respondents from Institution 3 identified only single-race awards, while other respondents from the same institution mentioned both race-targeted and single-race awards. One-half of the respondents in Institutions 1 and 2 reported awarding race-targeted or single-race scholarships or fellowships.

Interpretation of the court ruling or state statute according to public or private funding sources. Interpretations varied in each institution. Respondents in institution 3 thought that public monies could not be used to fund single-race awards, but could support awards open to all federally-recognized minority groups. Respondents from Institution 2 said there were restrictions for public monies associated with race-based awards, but did not specify the restrictions.

Some participants in the study thought all race-targeted awards were
illegal, regardless of the funding source, while other participants felt race-based awards were permitted, as long as they were supported by private dollars. Respondents from Institutions 1 and 2 felt their schools should be cautious in defining any funds—public or private—as race-based.

Question 5

How is "race" used in awarding scholarships, grants or fellowships at each institution?

How the race criterion was used. Respondents from all three institutions reported two primary ways the race criterion was used in awarding scholarships, grants, or fellowships.

The majority of respondents said the purpose of race-targeted awards was to increase diversity on campus. Respondents from all three institutions sought to increase the number of minority students with the goal of diversifying the student population. One respondent commented that a diverse university population was essential "to make it a decent learning institution."

The race criterion in awards was also used as a recruiting tool. Respondents from all three institutions identified scholarships or fellowships targeted to minority populations. Many of the awards were exclusive to African American students.

Respondents from Institutions 1 and 3 indicated the desire of many
private donors, including corporations to "retain and attract students of color."
A respondent from Institution 3 said that many corporations have verbally
communicated an interest in recruiting African American students with their
scholarship or fellowships awards, but because of the legal constraints, the
race-specific request was not found in the written agreement. It was then up to
administrators who awarded the money to honor the donor's "wish."

Is the race criterion weighted heavier than other selection criteria?
Respondents from all three institutions said the race criterion was weighted more
heavily in some scholarships or fellowships. For single-race awards, race was
the deciding factor. For other awards "race" was viewed as a "plus" factor or a
"trigger."

A respondent from Institution 2 said that in the selection process, race
was not assigned a numerical rating, but instead was weighted subjectively with
the goal of increasing the number of students from "diverse or disadvantaged
backgrounds."

**Question 6**

How has the court ruling or state statute affected the minority population
at each institution?

**Current minority student population.** The majority of respondents from all
three institutions reported no changes in the current minority student population.
Respondents from Institution 1 thought the minority population had stayed the same, while another respondent from the same institution thought it was too soon to determine any effects. Respondents from Institutions 2 and 3 reported a slight decline in the African American student population. Both respondents felt there were contributing factors unrelated to the court ruling or state statute that caused the decline.

According to SCHEV's "headcount reports" from fall 1992 to fall 1996 all three institutions in this study have seen up to a five percent decrease in their African American student population. At the time of this research, there was no direct data to link the decline in the student population to the court decision or state statute. All three of these schools have historically found it difficult to attract African Americans and other minority students to their campus. Geographic location and the lack of existing minority populations are only a couple of reasons respondents gave that impeded recruitment efforts.

**Future recruiting efforts of minority students.** Some respondents from all three institutions felt the court ruling or state statute could affect future recruiting efforts of minority students. Several respondents commented that the possible loss of dollars or race-based scholarships and fellowships might discourage or prevent other-race students from attending the institution. One respondent said their school loses many African American students to competing universities because of better financial aid offers. Another respondent thought the litigation
would have a "chilling effect" on how "students of color" perceived predominately white institutions. Respondents from all three schools felt that other factors such as, geographic location, the institution's history and lack of existing African American students on campus were greater obstacles to recruiting African American students.

**Question 7**

*Procedural or policy changes.* About one-half of the respondents from each institution cited policy or procedural changes. Institution 1 altered some programs and policies specific to African American students. Some of these changes included broadening several race-specific awards to include any "underrepresented minorities." The university also discontinued their affirmative action statement that specified concentrated efforts to attract African American students.

Institution 2 changed the criteria in their major university scholarship from a single-race scholarship exclusive to African Americans to an award for "underrepresented populations."

Most of the changes reported in Institution 3 occurred in the development or fund-raising functions. All donor agreements with a race-based request were now open to and included all federally-recognized minorities.

*Other effects.* Respondents from all three institutions felt the court ruling
and state statute increased their awareness about the issues surrounding race-
targeted financial aid and intensified their commitment to continue supporting
race-based scholarships and fellowships. Many respondents felt there was still
a need for race-based awards and were concerned about the change in attitudes
about affirmative action programs.
CHAPTER 5

Discussion and

Implications for Policy, Practices and Research


The main effects of the court ruling and state statute on policies and practices regarding race-targeted awards in the three institutions were (a) the change in the number of race-based awards, (b) the change in practices for creating donor agreements for scholarships and fellowships, and (c) the change in attitudes and perceptions about race-based awards.

Change in Number of Race-Based Scholarships, Grants or Fellowships

One effect of the court ruling or state statute was the decrease in the number of race-specific awards at all three institutions. Institutions 1 and 2 saw the largest decrease in the number of single-race awards. Four of eight respondents from Institution 1 and four of six respondents from Institution 2 noted single-race awards that had changed their selection criteria or had eliminated the single-race awards altogether. Both institutions broadened the selection criteria of their major university award from race-specific to including all federally recognized minorities plus other underrepresented populations. A respondent from Institution 2 also said that donors have been encouraged to
broaden their thinking when indicating their interest in race-targeted scholarships or fellowships.

Three of eight respondents from Institution 3 saw a reduction in the number of single-race awards but noticed very little change in the number of awards that were open to all federally-recognized minorities.

SCHEV also changed the criteria in five single-race awards originally targeted to African Americans to including all minority groups as defined by the federal ethnic reporting classifications: (a) Black, Non-Hispanic, (b) American Indian or Alaskan Native, (c) Asian or Pacific Islander, and (d) Hispanic. These programs included: (a) The Graduate Dean’s Scholarship, (b) The Commonwealth Fellowship, (c) The Undergraduate Students Financial Assistance (Last Dollar) Program, and (d) The Virginia Transfer Grant. (B. Bell, SCHEV, personal communication, October 29, 1996). All three institutions reported receiving funds from SCHEV for some of these race-targeted awards. Respondents from Institutions 1 and 3 indicated that while the SCHEV awards had been changed, the focus of these awards was still to recruit African American students.

Changes in Donor Agreements

Another change that occurred due to the court ruling and state statute was the way in which formal donor agreements are written. Respondents from institutions 2 and 3 changed policies for writing donor agreements for
scholarships and fellowships. In Institution 2, there was concern about the use of the term "minority" or any term that denoted race in donor agreements. The new policy replaced the term "minority" with a more inclusive term, "underrepresented populations." Even though the term was changed, comments from respondents made it seem that the recipients of these awards were most often racial minorities, as opposed to other underrepresented populations. There appeared to be a strong commitment by both the university and private donors to continue to increase the number of African Americans and other racial minorities on their campus.

Respondents from Institution 3 cited similar concerns about including race-targeted criteria in their scholarships or fellowships. The new policy allows donors who wish to attract minority students to include race as one selection criteria, as long as the awards remain open to all federally-recognized racial minorities. While single-race scholarships or fellowship requests no longer appear "in writing," comments from participants made it seem that "in practice" the minority awards are most often used as single-race awards, targeted to African American students.

**Changes in Perceptions and Attitudes About Race-Targeted Awards.**

**Legal liability.** All three institutions were very concerned about how constituents to the university perceived their financial aid programs, as well as, their efforts to increase diversity on campus. Each institution appeared to be
in conflict over their concerns about possible legal threats and meeting the expectations of the many constituents associated with the university.

It is clear that respondents from each institution perceived an increased threat of future lawsuits. Because of legal liability, respondents from all three institutions said that most university records, such as donor agreements for scholarships and fellowships, publications, university mission statements and other written documents will exclude race-targeted language or intent. In practice, however, it would appear each institution will continue to promote diversity on campus, and in particular, continue specific efforts to recruit and retain African American students.

Respondents from all three institutions indicated that money was an important factor in recruiting African American students. Respondents from institutions 2 and 3 said they have lost African American students to other institutions due to better financial aid programs. How can institutions continue to be competitive and recruit and retain African American students if funding sources for race-specific scholarships, grants and fellowships no longer exist? This issue needs further investigation.

**Heightened awareness.** The court ruling and state statute also increased the awareness of the respondents about the issues surrounding race-based scholarships and fellowships. Even for respondents who were unfamiliar with the court ruling or state law, they were aware that race-targeted awards were being
threatened.

The court ruling and statute caused respondents to examine their scholarship, grant and fellowship programs and in some cases redefine awards and alter policies and procedures associated with their awards processes. Overall, respondents indicated there were very few changes in their financial awards systems due to the court ruling or state statute. Instead, the ruling and statute reaffirmed respondents' convictions to continue supporting and distributing race-targeted awards. This is due to each institution's strong belief that a diverse university population of students, faculty and staff is essential to an effective learning environment. Some respondents in Institutions 1 and 3 said they would continue their special efforts to recruit African Americans, as well as, other minority students until they were forced to stop.

There was also an increased concern about the future of all race-targeted awards and other affirmative action programs. Some respondents from all three institutions expressed uncertainty as to how to further diversity on campus without specific programs and awards targeted to this effort.

The Future of Affirmative Action Programs and Race-Targeted Financial Aid

Affirmative action continues to be hotly contested on college campuses. The future of affirmative action programs and race-targeted scholarships and fellowships will depend on future laws. The most recent legal challenges to affirmative action are California's Proposition 209, Hopwood v. Texas, (1996)

Proposition 209, passed by California voters in November 1996, bans racial preferences in public hiring, contracting and education in the state. With the passage of this law, California became the first state to attempt to eliminate all affirmative action programs (Claiborne, July 16, 1997).

Some California schools have already seen the effects. In addition to Proposition 209 the University of California—San Diego's Board of Regents banned race, ethnicity and gender in their admissions criteria. The new standards took effect for all graduate school programs beginning fall 1997. In the absence of Affirmative Action, the University of San Diego's Medical School admitted no African American students out of 200 African American applicants. Fewer Hispanic students were also admitted. Similar effects were evident in three California law schools. The significant drop in minority enrollment has prompted a federal investigation into the new race-neutral admissions policies (Associated Press, 1997).

Like the ban imposed on California's higher education system, the ruling in *Hopwood* also struck down racial preferences in admissions in all higher education institutions in the 5th Circuit (Texas, Louisiana and Mississippi). In Texas, the State Attorney General also interpreted the decision to prohibit race-based scholarships, recruitment and tutoring programs (Roser, July 19, 1997).
The effects of Hopwood are evident in the 1997 freshman classes at the two largest universities in Texas: The University of Texas and Texas A&M University. The freshmen classes at each university have seen a significant decline in African American students: a 38.3 percent drop at the University of Texas and a 29 percent drop at Texas A&M University. The number of Hispanic students also decreased at both universities (Roser, July 19, 1997).

The drop in minority enrollment was partly due to the decline in the number of minority student applicants (Brooks, February 27, 1997). Many minority students simply chose not to apply. The reasons for the low applicant rate of minority students is unknown and needs further research.

The most recent affirmative action case was accepted by the Supreme Court to be heard during the new session beginning in October. Piscataway Board of Education v. Taxman, (1997) centered around affirmative action employment practices, where a white teacher was dismissed in order to retain an African American teacher's job, in essence to preserve diversity within an academic department in the school. At stake, was the question of "diversity" and possibly the Bakke ruling, which has been the law of the land since 1978 (Greenhouse, August 10, 1997). The case however, was settled out of court, leaving the role of race in employment decisions and other affirmative action efforts unresolved (Shepard, November 22, 1997).
Future laws and court rulings will determine the ultimate fate of race-targeted financial aid and other affirmative action programs. California's Proposition 209 and Hopwood have already banned race-targeted aid in their respective states. These measures could just be a preview of what the future holds for all affirmative action efforts.

**Researcher's Commentary**

**Varying Degrees of Knowledge About the Court Ruling and State Statute**

One finding from this study was the varying degrees of knowledge about the court ruling and state law among respondents within each institution. Respondents had different levels of knowledge about the court decision and statute and had varying opinions about how to apply the legal guidelines to their financial aid awards programs. This resulted in different applications of the court decision and state law within each institution and between institutions.

Knowledge about the court ruling and state statute also varied among respondents in each institution. Overall, respondents from the areas of admissions, financial aid and development were more familiar with both the state statute and court ruling than respondents from other areas of the university. This could be because staff from these areas most directly and more frequently deal with scholarship and fellowship awards.

Another reason for the varied levels of knowledge among participants could be a result of how respondents learned about the law or court ruling. Of
the respondents who were familiar with either the court ruling or state law, most learned about the ruling or law from secondary sources such as professional journals, the popular press or discussions with other colleagues in their profession. Some respondents from Institution 1 said they were a member of a university committee specifically devoted to discussing issues about race-targeted financial aid and admissions policies. Respondents from institutions 2 and 3 did not report belonging to any organized committee.

Only two of the twenty-two respondents read the ruling from the text of the court case and five of the twenty-two respondents had read the state law. In addition, five of the twenty-two respondents said they had spoken directly to their university legal counsel for guidance on either the law or court ruling.

There appeared to be no consistent method of disseminating information about the court ruling or state law in any of the three institutions. This may have contributed to the varying degrees of knowledge and different applications of the court decision and state law within and between institutions.

Knowledge about the court ruling and state statute also differed between respondents from admissions, financial aid and development. In institutions 2 and 3, development officers were the most familiar with the state law and court ruling. This may be due to the fact that development officers most often raise the funds and write the donor agreements that establish scholarships and fellowship awards. An understanding of the law is important to ensure legal contracts
between the donor and the university. The responses given from participants in Institution 1 did not provide a complete picture of the level of knowledge of the court ruling or state statute of the development staff.

As the law and political environment continue to change, it is imperative that university staff who work with scholarships, grants and fellowships are informed about legal issues and laws that apply to these awards. A consistent method of disseminating pertinent legal information would help ensure a consistent interpretation and application of the law and other legal rulings as they apply to their financial aid awards programs.

**Conclusion**

As administrators continue to make admissions and financial aid decisions about students, it seems they will possibly struggle between decisions that are legally right versus decisions based on what they feel are right. Participants in all three institutions stated they were unhappy with the changing law and said that in spite of the legal constraints they would continue their efforts to further diversity on campus. Some implied they would continue their special programs (legal or not) until they were forced to stop. So, what if administrators in Virginia who work with admissions programs and financial aid awards are told to stop all affirmative action efforts? What can and will administrators do to further diversity on their respective campuses and increase access to
educational opportunities in light of the new and pending legal restrictions?

These questions need further investigation.
References


Shepard, S. (1997, November 22) Suit-settled, but race’s role in hiring is not.


NASPA Public Policy Advisory #4. National Association for Student Personnel Administration. Washington, DC.

Court Cases


Ayers v. Allain, 893 F.2d 732 (5th Cir. 1990).


Civil Rights Cases, 109 U.S. 3, 3 S.Ct. 18 (1883).


Hopwood v. State of Texas, 78 F.3d 932 (5th Cir. 1996).


Knight v. Alabama, 14 F.3d 1534 (11th Cir. 1994).


Plessy v. Ferguson, 163 U.S. 537, 26 S.Ct. 1138 (1896).
Podberesky v. Kirwan, 38 F.3d 147 (4th Cir. 1994).


Taxman v. Board of Education of the Township of Piscataway, 91 F.3d 1547 (3rd Cir. 1996).


United States v. Louisiana, C.A. No. 80-3300-A


Statutes


Title VII of the Civil Rights Act of 1964 (42 U.S.C. sec. 2000e-2(a)).

VA Code Ann. s.23.7.1::02, 1993.
APPENDICES

A. Informed consent form
B. Interview instrument
C. Correspondence to participants
D. Sample matrix: single-case matrix, raw data matrix for one respondent
E. Sample matrix: single-case matrix, findings and conclusions table
F. Sample stacked matrix
G. Procedures for conducting interviews and handling data
APPENDIX A

Virginia Tech
Informed Consent for Participants
of Investigative Projects


Principal Investigator: Deborah S. Harris, doctoral candidate in educational administration

I. THE PURPOSE OF THIS RESEARCH

The purpose of this study is to determine the impact of *Podberesky v. Kirwan* (1994) and the Virginia statute, Participation in or Eligibility for Certain State-Supported Financial Aid Programs, (VA Code Ann. s. 23.7-1:02, 1993) on policies and practices for race-targeted scholarships, grants, and fellowships for undergraduate and graduate students at three public universities in Virginia with predominately white student populations.

II. PROCEDURES

In-depth information about race-targeted scholarships, grants, and fellowships will be gathered using an intrinsic case study approach. Evidence from multiple sources will be collected by conducting interviews with university administrators and reviewing university documents and other archival information.

You are asked to participate in a telephone interview, approximately 45 minutes in length. In addition, you will be asked to supply specific data, publications, and other documents from your institution/college/department that provide information about scholarships, grants, and fellowships.

Your interview will be tape-recorded. Tape-recording is necessary to ensure accuracy of the information being collected. You will have an opportunity to review the interview transcript for accuracy. The audio tapes will be erased upon final defense of the dissertation (in September or October 1996).

III. EXTENT OF ANONYMITY AND CONFIDENTIALITY

Names of participating schools, individuals, and their job titles will not be recorded on audio tapes or reported in the data analysis or the dissertation. Lists of contact names, addresses and telephones numbers will be retained only by the researcher and will be destroyed upon final defense of dissertation. Any data and internal documents provided will have your school's name and other identifiers removed and will be labeled and organized by a number or other code. Data will be reported across schools and within schools. Since there will be more than one respondent at each institution, data will be reported as aggregates so no one individual can be identified with any of the information gained.

IV. APPROVAL OF RESEARCH

This research project has been approved, as required, by the Institutional Review Board for projects involving human subjects at Virginia Tech, by the Department of Educational Leadership and Policy Studies and by the researcher's dissertation committee.
Should you have any questions about the research or its procedures, you can contact:

Deborah Harris
Researcher
540-951-0941*

Dr. David Alexander
Faculty Advisor
540-231-5642

Ernest R. Stout
Chair, IRB, Research Division
540-231-8359

* After June 20, 1996: (512) 555-7654, Austin, TX

 VIII. SUBJECT'S PERMISSION

(Please read the statement below, sign and date form, and return in standard business envelope provided.)

I have read and understand the informed consent and conditions of this project. I hereby acknowledge the above and give voluntary consent for participation in this project.

Signature of Participant date

Please Print or Type Your Name

169
APPENDIX B

Interview Questions

Scholarship, Grant and Fellowship Operations

1. Does your (institution/college/department) award scholarships? Grants? Fellowships? (a) If not, what is your role with scholarships, grants and fellowships in your (institution/college/department)?

2. Please give me your definition of a (a) Scholarship, (b) Grant, (c) Fellowship

3. Please name the types of (a) Scholarships, (b) Grants, and (c) Fellowships awarded by your (institution/college/department)?

4. How are scholarships awarded at your (institution/college/department)?
   (a) Who makes decisions on who receives these awards? (b) How are they administered? (c) Who oversees the accounts?

5. How are grants awarded? (a) Who makes decisions on who receives these awards? (b) How are they administered? (c) Who oversees the accounts?

6. How are fellowships awarded? (a) Who makes decisions on who receives these awards? (b) How are they administered? (c) Who oversees the accounts?

7. Do you administer any scholarships, grants or fellowships from public funds (money allocated from state or federal government sources)? (a) If so, name the awards.

8. Do you administer any scholarships, grants, or fellowships from private funds (monetary gifts given to the university)? (a) Identify these awards (b) How do you define private funds

9. How are scholarships, grants, and fellowships publicized in your (institution/college/department)?

10. Does your (institution/college/department) currently award race-targeted scholarships, grants, or fellowships? (a) If so, please describe the awards. (b) Is the award(s) renewable or a 1-year only award? (c) If you do not currently award race-targeted scholarships, grants, or fellowships, did your

170
(institution/college/department) ever administer such awards? (d) If so, how many were awarded in each category? (e) When did your (institution/college/department) stop these awards?

11. Does your (institution/college/department) currently award any single-race scholarships, grants, and fellowships? (a) If so, please describe the awards. (b) Is the award(s) renewable or a 1-year only award? (c) If you do not currently award single-race scholarships, grants or fellowships did your (institution/college/department) ever administer such awards? (d) If so, how many were awarded in each category? (e) When did your (institution/college/department) stop these awards?

12. Does your (institution/college/department) currently consider “race” as one selection criterion along with other selection criteria in awarding any scholarships, grants, or fellowships? (a) If so, in how many awards in each category? (b) Is the race criterion weighted more heavily than other criterion?

Knowledge and Interpretation of the Court Ruling and State Statute


14. How do you interpret the ruling in Podberesky v. Kirwan (1994) as it applies to your scholarship, grant, and fellowship awards process? (a) How did you arrive at your interpretations? (b) What information did you use?

15. Are you familiar with the 1993 Virginia Statute, (Participation in or Eligibility for Certain State-Supported Financial Aid Programs, [VA. Code Ann. s. 23.7:1:02, 1993])?

16. How do you interpret the 1993 Virginia Statute as it applies to your scholarship, grant and fellowship awards process? (a) How did you arrive at your interpretations? (b) What information did you use?

17. Has your scholarship, grant and fellowship selection or administration process changed due to the court ruling? the Virginia Statute? (a) If so, what have been the changes? (b) If not, what, if any changes are planned?

18. Does your (institution/college/department) have any policies or specific programs aimed at increasing your minority student population? (a) If so, please describe the policies? (b) Are the policies or program plans stated in writing? If so, where are the policies stated?
Future of Race-Targeted Scholarships

19. What has been the effect(s) of the court ruling and the Virginia Statute on policies and procedures at your (institution/college/department), concerning race-targeted scholarships, grants, and fellowships?

20. Have the court decision and Virginia statute affected the current minority student population at your institution? (a) If so, describe the changes

21. Have any minority students lost their scholarship, grant, or fellowship?

22. Do you think the recent court decision and Virginia statute will affect your ability to attract future minority students to your (institution/college/department)?

(a) Why or why not?

23. Do you have any additional comments to add?
APPENDIX C

May 12, 1996

Dear _____:

Thank you for agreeing to participate in my study about race-targeted scholarships. The data I will be collecting is for my dissertation entitled, "The Impact of Court and Legislative Decisions on Policies Regarding Race-Targeted Scholarships, Grants, and Fellowships at Selected Public Universities in Virginia."

Our interview is scheduled for May 13 at 3:00 p.m. and should last about 45-50 minutes. The interview will be tape-recorded and you will have an opportunity to review the interview transcript for accuracy.

Enclosed is a consent form that you will need to sign and return immediately in the enclosed business envelope. Also included with this correspondence are: (a) a description of the study, and (b) the interview instrument.

Thank you again for participating in my study. I look forward to speaking with you on May 13. I can be reached at (540) 555-1234 with any questions.

Sincerely,

Deborah S. Harris

enc.

cc: Dr. David Alexander, Committee Chair
### TABLE 1

Institution 3  

**Raw Data Matrix:** Interview Questions

<table>
<thead>
<tr>
<th>Participant</th>
<th>Type of Scholarship</th>
<th>Type of Grant</th>
<th>Type of Fellowship</th>
<th>Private or Public Funds</th>
<th>Criteria</th>
<th>Who Decides</th>
</tr>
</thead>
</table>

### TABLE 2

Institution 3  

**Raw Data Matrix:** Interview Questions

|-------------|------------------|-----------------------------------------|------------------------|-------------------------------------------------|-------------|

### TABLE 3

Institution 3  

**Raw Data Matrix:** Interview Questions

<table>
<thead>
<tr>
<th>Participant</th>
<th>Types of Single Race Scholar, Grant, Fellows</th>
<th>Renewable or One Year?</th>
<th>Any Single Race Scholars, Grants, Fellows Stopped?</th>
<th>When, Way Stopped?</th>
<th>Use of &quot;Race&quot; of Selection Criteria</th>
</tr>
</thead>
</table>
### TABLE 4

Institution 3

**Raw Data Matrix: Interview Questions**

<table>
<thead>
<tr>
<th>Participant</th>
<th>Familiarity With Court Ruling</th>
<th>Interpretation</th>
<th>Familiarity with State Statute</th>
<th>Interpretation</th>
<th>Procedural Changes?</th>
<th>Policy Changes?</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

### TABLE 5

Institution 3

**Raw Data Matrix: Interview Questions**

<table>
<thead>
<tr>
<th>Participant</th>
<th>Types of Affirmative Action Programs</th>
<th>Effects of Court Ruling</th>
<th>Effects of State Statute</th>
<th>Change in Current Minority Student Population</th>
<th>Effects on Recruitment of Minority Students?</th>
<th>Additional Comments</th>
</tr>
</thead>
<tbody>
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</tr>
</tbody>
</table>
TABLE 6

Institution 1

Summary Table of Findings and Conclusions

Research Question 1: How knowledgeable are the participants about the court ruling in Podberesky v. Kirwan, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
</table>
| 632001       | - Indicated familiarity (T-4-1)  
- Attended committee meetings with legal office about outcomes of case (T-4-1) | - "They don't like the idea of race-based scholarships and fellowship" (T-4-1)  
- Indicated didn't have a description of race for any financial support...however, the majority may be used for minorities...nothing is described or labeled as being race-specific (T-4-4a-1) |
| 633302       | - Indicated familiarity  
- Used own knowledge of the Supreme Court rulings, beginning with Brown. Has knowledge of the history of Title VI and the Equal Protection Clause (T-4-1) | - "The University of Maryland cannot rely on its past history of de jure segregation in setting aside race-exclusive scholarships. It doesn't apply to our particular process. Our institution is not the University of Maryland. We have a different history here in our state" (T-4-1)  
- Maryland did not have to use race-exclusive scholarships to get where they wanted (T-4-1) |
| 644003       | - Not familiar (T-4-3) | - No Interpretation (T-4-3) |
| 6510004      | - Indicated familiarity (T-4-4)  
- Discussed in committee meetings. University officials sought advice of the attorney general...this was handled by the highest level of administration (T-4-4) | - Never gave interpretation, just talked about how it related to the institution (T-4-4)  
- "Since we're in the 4th district, same district as the University of Maryland and I'm afraid if the case were brought here, I'm afraid the findings would be similar" (T-4-4)  
- "Our interpretation is that we are very vulnerable, partly because we are in the same district, federal district..." (T-4a-4) |
<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>655005</td>
<td>- Familiar, in general terms</td>
<td>- &quot;Any awarding of funds on the basis of race is unconstitutional&quot; (T-4-5)</td>
</tr>
<tr>
<td></td>
<td>- Attended sessions with university legal office (T-4-5)</td>
<td>- &quot;[The ruling] exists at this point for the states in our region...&quot; (T-4-5)</td>
</tr>
<tr>
<td>6611806</td>
<td>- Indicated familiarity (T-4-6)</td>
<td>- &quot;The University of Maryland made an error in specifying only one race, which is African Americans...if they had been following the existing federal guidelines which include Hispanics, Native Americans, ... and so on, they would have been in compliance&quot; (T-4-6)</td>
</tr>
<tr>
<td>6119307</td>
<td>- Indicated familiarity (T-4-7)</td>
<td>- &quot;You can't have race specific things unless it is defined in the words of the court, finely-tailored, to address the existing discrimination...that since were in the jurisdiction of that court, that is the law&quot; (T-4-7)</td>
</tr>
<tr>
<td>6113308</td>
<td>- Indicated familiarity (T-4-7)</td>
<td>- &quot;For public funds affected by that jurisdiction, that a public institution could not voluntarily discriminate solely on the basis of race&quot; (T-4-8)</td>
</tr>
<tr>
<td></td>
<td>- Gained information through readings (T-4-8)</td>
<td>- Majority of respondents interpreted the court ruling to mean that race-based scholarships and fellowships are illegal. Respondents felt the ruling banned single-race awards</td>
</tr>
<tr>
<td></td>
<td>- Some interpretation did not support indicated knowledge</td>
<td>- Some interpretations were vague and left out key elements of ruling</td>
</tr>
</tbody>
</table>

**Conclusions**

- Overall, somewhat knowledgeable about ruling. University-wide committees keep administrators informed about ruling and related issues
- Some interpretation did not support indicated knowledge
### TABLE 6

Institution 1

**Summary Table of Findings and Conclusions**

**Research Question 1**: How knowledgeable are the participants about the court ruling in *Podberesky v. Kirwan*, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>

### TABLE 13

Institution 2

**Summary Table of Findings and Conclusions**

**Research Question 1**: How knowledgeable are the participants about the court ruling in *Podberesky v. Kirwan*, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
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<tbody>
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</table>

### TABLE 20

Institution 3

**Summary Table of Findings and Conclusions**

**Research Question 1**: How knowledgeable are the participants about the court ruling in *Podberesky v. Kirwan*, 1994?

<table>
<thead>
<tr>
<th>Participants</th>
<th>Degree of Knowledge</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>
APPENDIX G

Procedures for Conducting Interviews and Handling Data
(from a novice’s perspective)

Equipment needed:

1. Cassette tape recorder: purchase a recorder that has a jack for an external microphone and can be run on batteries (an outlet may not always be available). Batteries usually are not included and will have to be purchased separately (purchase extra batteries). My cost: $30.00 (Radio Shack).

2. External microphone: Tape recorders have internal microphones, but for in-person interviews an external microphone produced better results. I purchased a microphone with a stand so I could take notes rather than hold the microphone. Some mics also have "on/off" switches which will stop and re-start the tape recorder, once it is recording. My cost: $12.00 (Radio Shack).

3. Telephone recording device: For conducting telephone interviews, this device was plugged into the tape recorder and the telephone to record the conversation. The device also stopped and started the recorder automatically. All participants were informed of the tape-recording before the interview. My cost: $20.00 (Radio Shack).

4. Cassette audio tapes: purchase a good quality cassette tape. Cassettes are marked by the amount of time on both sides of the cassette, for example, a 60-minute cassette has 30 minutes on each side of the tape. Each of my interviews was less than one hour in length. I purchased "120 min. cassettes" so I could conduct each interview without turning over the cassette tape. My cost: 2-pk audio tape, $3.49; 3-pk audio tape, $5.99 (low noise, high density, Radio Shack).

5. Cassette tape transcriber: the transcriber played back the audio tapes while I typed a transcript. The unique features of this machine are its speed control dial and foot pedal. The speed control dial varied the rate of the conversations on the audio tape. The foot pedal allowed me to play and reverse the tape as needed and made the transcribing process easier and quicker. My cost: $50.00 (rented from Austin area business).
Interview Procedures

Contacting survey participants:

Each participant was contacted by phone and asked to participate in the study. After a verbal confirmation was received the following information was sent including: (a) a letter confirming participation and a brief description about the study and interview process, (b) a consent form to be signed and returned with a return envelope, (c) the interview instrument.

Additional steps:

1. After receiving verbal confirmation, I checked the spelling of the person's name, their correct title and mailing address.

2. For phone interviews, I verified the phone number. Many participants gave me their direct line, rather than their secretary's number.

Interview process:

1. In-person interviews:
   a. Confirmed appointment day before interview
   b. Tested equipment before interview; pointed microphone towards participants; checked to make sure voices were recording and audible before starting interview
   c. I tried to eliminate extraneous noise in room such as a fan, air conditioner, etc. I did a sound check to make sure voices were still audible, if noise could not be eliminated
   d. Need to let the tape run for about 10-15 seconds before starting to speak (there is lead tape at the beginning of each cassette)
   e. At the beginning of each interview I gave the date and time of the interview as an identifier. To help ensure confidentiality, the person's name, their title and the name of their institution was not mentioned on the tape
   f. Make sure background noise is removed or at a minimum. Also do not breath into the microphone. The microphone will pick up all noises and may mask the voices on the tape
   g. Each cassette tape and tape box was labeled with only the interview date and time
   h. Asked questions from interview instrument and follow-up questions for clarification when necessary
   i. Rewound tape and played a portion of it to make sure the interview was recorded.
2. Phone interview: I followed the same procedures as above, except I used a telephone recording device instead of an external microphone.

**Interview Instrument**

1. A pilot study tested the interview instrument. At the end of each interview I asked for suggestions for any modifications to the instrument. After each of the first four interviews, the instrument was modified. No further modifications were made after the fifth interview.

2. I noticed that I phrased some questions differently, depending on who I was interviewing. Follow-up questions also varied according to where the participant worked.

3. I found it was important to listen very carefully to the answers in order to ask appropriate follow-up questions. I had to listen extra closely to those individuals who had heavy accents or spoke less distinctly. These audio tapes were also more difficult to transcribe.

**Data Management**

**Transcripts**

1. Each transcript was labeled with the institution's code, interview code and the date and time of the interview. To help ensure confidentiality, the participant's name, job title, and name of the institution was not identified in the transcript.

2. Transcripts were double spaced; each page was numbered and contained a "footer" with the date and time of the interview for identification.

3. The interviewer was identified by a "Q" (for question) and the participant's answers were labeled with an "A" (for answer). Interviews with multiple participants, were labeled as "A1", "A2", etc.

**Organization of Data**

1. Files were created for each school; all internal documents and data were coded.

2. All computer files were saved on the hard-drive and back-up on computer disks, disks were labeled with contents and dated. The most current versions of each dissertation chapter and document were saved on a separate disk from the older versions; each new version of a file was renamed and dated.

3. All data will be destroyed and audio tapes erased upon submission of final copy of dissertation to the Graduate School.
VITA

EDUCATION

Ph.D., Higher Education Administration, December 1997
Virginia Tech, Blacksburg, Virginia

M.S., Education, College Student Personnel Administration, August 1984
Ohio University, Athens, Ohio

B.S., Industrial Design, Visual Communications, June 1982
The Ohio State University, Columbus, Ohio

Basic Mediation Training (40 hrs.), Certified Mediator, July 1996
A.A. White Dispute Resolution Institute, University of Houston, Houston, Texas

HIGHER EDUCATION EXPERIENCE

Graduate Assistant, Department of Educational Leadership and Policy Studies, College of Human Resources and Education, Virginia Tech, Blacksburg, Virginia, 9/95 - 5/96

Fundraising Graduate Intern, University Development, Virginia Tech, 5/94 - 6/95

• Coordinator, Senior Challenge Program, Annual Giving
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Communications Graduate Intern, University Relations/Publications, Virginia Tech, 5/93 - 9/94

Educational Contractor, Southwestern Region Vision in Education Laboratory, University of North Carolina-Greensboro, Greensboro, NC, 5/94 - 7/94

Assistant Director for Student Services, University Placement Services, Virginia Tech, 7/88 - 8/93
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PROFESSIONAL ORGANIZATIONS

Fundraising Volunteer, Virginia Tech Hokie Club, 1993 - 1995

Middle Atlantic Placement Association (MAPA), 1986 - 1994
• 1992 Outstanding Volunteer Service Award
• Chair, MAPA Forum, two-day workshop, 1992

Blacksburg, Jaycees, 1986 - 1993
• Chairperson of the Board, 1990 - 1991
• President, 1989 - 1990

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