

Below is the executive summary of **Forward!**, an in-depth report on housing and equity policymaking at UT-Austin.

The report is divided into three main sections:

- I. Housing – providing the foundational analysis necessary for decision-makers to expedite a rapid expansion of on-campus housing.
- II. Equity – chronicling UT-Austin’s policy responses to court guidance on affirmative action since *Hopwood v. Texas* in 1996, with discussion of several current potential Equal Protection violations.¹
- III. Synthesis – a framework for better aligning housing and equity policy, with ten supporting recommendations.

The report describes the relationships, organizational processes, and incentive structures guiding decision-makers responsible for the strategic implementation of housing and equity policy at UT-Austin. The report combines institutional histories with longitudinal data sets to define the total set of known knowledge for the interrelated topics which in an ideal world would serve as the basis for housing and equity policymaking. Institutional histories are presented through a comprehensive, side-by-side examination of many types of internal documents, including task force reports, master plans, Board of Regents meeting minutes, budgets, internal market data, and miscellaneous communications.

The report contains analysis of two longitudinal data sets which establish previously unknown long-term operational trends. The first data set tracks the Capital Improvement Program of UT-System from 1991-2020 with emphasis on examining the role of housing expenditures at the System level. The second data set examines UT-Austin’s Housing and Dining budget from 1996-2021, providing a longitudinal view at the institutional level.

The report makes the case that a strategy of aggressively building additional on-campus housing is the most cost-effective big-money bet UT-Austin can make towards remedying nagging equity issues. The report also argues the meaning of *the state’s compelling interest in diversity in higher education* and presents a theoretical contingency model for an equity commitment in the event that current race-based programming is found to be unconstitutional.

Forward! has numerous implications for *Students for Fair Admissions, Inc. v. University of Texas et al.*, a current affirmative action challenge alleging discrimination at UT-Austin. Under the legal standard of *strict scrutiny*, this on-campus housing expansion plan is presented as a viable, race-neutral alternative which achieves *the state’s compelling interest in obtaining the benefits of diversity* as well or more effectively than current policy. Under *strict scrutiny*, this is argued to be a legally triggering event requiring the university to engage in *serious consideration* of the report’s plan and recommendations.

¹ All legal assertions were reviewed several times by renowned legal historian Paul Finkelman.

Section I – Housing

When considered as a suite, topics analyzed in this section provide the necessary background to allow UT-System and UT-Austin to consider, in strictly financial terms, an aggressive, expedited on-campus housing expansion policy at UT-Austin. Topics examined include system and institutional planning, capacity benchmarking, location, cost, and finance considerations. This level of detail is necessary to refute the assertion which has governed UT housing policy over the past several years: that the students and the University are best served by leaving the niche student housing market in the hands of private development. Additionally, this background is designed to allow for the development of a knowledge base capable of overcoming risk-aversion promoted within the organizational structure itself.

When considered individually, these topics also have practical implications. The overview of the Capital Improvement Program may help the Board of Regents and certain UT-System offices improve budgetary policy by providing a new perspective on the value of supporting housing as a capital improvement system wide. Analysis in this chapter may also spur additional conversation regarding the ideal level of capital improvement funding.

The longitudinal study of the Housing and Dining budget may help UT-Austin leadership set policy, including determining the best paradigm for rate setting. A key discovery is that the Housing and Dining budget is fundamentally scalable, suggesting greater economic efficiency as on-campus housing capacity grows. The best model for aligning housing with equity policy was found to center on maximum expansion, including generating liquidity through above-market segment capture; proceeds then would be applied to an endowment addressing affordability.

Discussion of the on-campus housing benchmark overviews the many different processes UT has undergone to determine the ideal benchmark. This is to allow today's policymakers to accurately determine a benchmark with a historical perspective prior to embarking on a campaign of housing expansion.

The full consideration of the University's historical approach to determining locations for potential housing expansion is prerequisite to expediting a comprehensive expansion plan. The completed review of all relevant documents allows the University to avoid the common delays and pitfalls which have plagued previous processes.

Finally, the section on finance describes with longitudinal perspective how UT-System has financed student housing. This includes discussion of a potentially key funding mechanism which is not well known, the Brackenridge Tract Fund. The Fund explicitly grants the Board of Regents an eminent domain power for land adjoining campus, provided the funding for the acquisition is secured from revenues of the Brackenridge Tract. It is highly relevant to generate a knowledge base around the Fund since it suggests alternate models and leverage points relevant to on-going closed-door negotiations between the City and the University for the future of the Brackenridge Tract.

Section II – Equity

This report originally germinated on the topic of housing without any consideration to a potential relationship with equity policy at UT-Austin. As my research progressed, I began to search for potentially catalytic rationales, people, and conversations capable of increasing the likelihood that the university seriously consider my housing recommendations; in turn, this led me to a deeper examination of equity, a major theme at the forefront of ongoing quasi-negotiatory conversations at UT-Austin since summer 2020. In this report, equity is addressed in formal, legalistic terms, relying on both 1st and 14th Amendment rationales as expressed in landmark Supreme Court affirmative action cases. This analysis may provide firm basis for novel legal defense strategies relevant to *Students for Fair Admissions*.

This section argues that the expansion of on-campus housing as previously presented qualifies as a race-neutral method which obtains *the educational benefits that flow from a diverse student body* as well or better than current university policy. Under *strict scrutiny*, this is a triggering event for the required consideration of this plan as a workable alternative to the more direct uses of race currently employed by the University. Additionally, several potential Equal Protection violations are discussed. Interested parties can find research on this topic throughout, but particularly on pages 99-100, 108-109, 112, and 115-117.

This past year's conversation on race at UT has required a tremendous amount of stakeholder bandwidth yet has yielded a still murky path forward. In the public sphere, *equity* and *diversity* are currently politically charged buzzwords more likely to conjure the image of an argument between opposing factions than to express the academic ideals of *speculation, experimentation, and creation*. This document attempts to move that conversation forward.

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Equity policy at UT-Austin has been highly responsive to affirmative action litigation. This includes the familiar litigation where UT-Austin has been party as a defendant – *Hopwood, Fisher I, Fisher II*, and now *Students for Fair Admissions* – as well as national landmark cases such as *Grutter v. Bollinger* and *Gratz v. Bollinger*.

This section tracks UT-Austin's responses to new legal regulatory environments by reviewing documents which were responsive to contemporary Supreme Court guidance on affirmative action.

Finally, this section provides background to help UT determine if it is out of compliance with current legal standards or engaging in discriminatory practices. Such an exacting exploration is appropriate in preparation for *Students for Fair Admissions*, which alleges that UT discriminates against Black students in admissions by operating a quota system. Should it be ruled by a court that discrimination is a current practice, this report offers a potential strategy to allow the University to save face and simultaneously remedy the situation. Significant housing expansion is offered as a potentially anticipatory defense to the charge that the University acts as a *bad actor*, which is a legal standard plaintiff hopes to establish as a basis for having affirmative action law completely overturned by the Supreme Court.

Section III – Synthesis

This section defines relationships between equity and housing at UT-Austin and provides comprehensive policy recommendations. This section establishes a framework for raising the efficiency and efficacy of the equity commitment, including recent investments such as the Texas Advance Commitment and the Dell Scholars program. Key metrics considered include graduation rate, retention rate, GPA, engagement, affordability, and admissions. This section also includes a line-by-line critical examination of the constitutional claims in *Students for Fair Admissions*. On-campus housing expansion was determined to be the most cost-effective big-money bet UT could make to address equity issues across campus. Additionally, housing expansion was found to be highly cost-effective on its own terms, capable of aiding UT-System in meeting the demands of state population growth both financially and infrastructurally.

The 10 major policy recommendations are as follows:

- 1) **Build** student housing at most sites identified as priority locations in the 2015 Student Life Master Plan.
- 2) **Build** a new student life neighborhood centered around the Thompson Conference Center and consider adjacent land acquisition.
- 3) **Utilize** public-private partnerships to obtain additional capacity for graduate housing after RFS-bond-financed expansion hits the maximum allowable debt ratio.
- 4) **Engage** in a public-private partnership for student housing at the HealthSouth site. This has several critical implications for equity and for solving phasing issues at the Brackenridge Tract and is the most immediate of all the recommendations. This recommendation has the potential to create a domino effect in multiple areas with a financial and strategic impact far outstripping obtainable benefits at that site.
- 5) **Expedite** a targeted update of the 2013 Residence Hall Needs Assessment.
- 6) **Widen** the housing and dining budget's profit margin and collect the annual profits into an equity endowment targeting housing relief.
- 7) **Create** a multi-generational expansion model for UT-Austin at the site of the Morris Williams golf course in accordance with projected state population growth.
- 8) **Maximize** the value of the Brackenridge Tract by acquiring future rights to Morris Williams as a part of negotiations.
- 9) **Seek** a qualified legal opinion to determine if this thesis constitutes a workable, race-neutral alternative to race-based admissions policies, therefore precluding various uses of race under strict scrutiny. UT must determine if this compels the university to adopt this plan, or if the adoption of this plan would potentially aid the university's defense in *Students for Fair Admissions*.
- 10) **Include** bicycle thoroughfares in the East Mall redesign to allow for reduced travel time between core and central campus, in anticipation of the future growth of central campus.

Full report available at forwardthesis.com