

Strict scrutiny test is in two parts:

(1) you must articulate your educational interest in racial diversity and support this interest with current research about the educational benefits of racial diversity - this is how you meet the "compelling government interest" requirement; and (2) you must look at whether your use of race in school assignment is necessary to achieve the educational goal you articulated in (1) - this is the "narrowly tailored" requirement. To determine whether the use of race is necessary, you must look at the alternatives and make a conscious, informed decision that there is no other way to meet your goal. If you find an alternative that works as well, the law pretty much says you should use that alternative...

Now, here are the additional questions that your attorney posed for evaluating your current program to see if it is narrowly tailored (from my notes):

1. How flexibly is race used? Are there policies which allow exceptions to the rules?
2. Is race the sole criteria, or one of many? Do you use quotas at any point in the process?
3. Is there individualized consideration of students? or is each student treated as a racial category only?
4. What is the duration of your use of race? Do you examine the program each year to determine if it is really necessary to continue using race? or does it go on indefinitely?
5. Are there race neutral alternatives? (this is the big one that I discussed above)

So, I hope that is helpful. Let me know if there are any other questions I can help with. I am attending an institute on the use of race in college admissions at the Harvard Civil Rights Institute the first week of November. If the groups has specific questions, or program proposals ready at that time, I may be able to consult directly with the national experts in this field.