



AMERICAN ASSOCIATION FOR ACCESS, EQUITY AND DIVERSITY ASSAILS THE US SUPREME COURT'S DECISION AS FREEZING IN TIME THE MARCH TOWARDS RACIAL DIVERSITY

ASSOCIATION OF EQUAL OPPORTUNITY PROFESSIONALS URGES THE NATION'S ACADEMIC INSTITUTIONS TO "STAY THE COURSE" DESPITE THE U.S. SUPREME COURT'S DECISION ON RACE-CONSCIOUS ADMISSIONS

For Immediate Release: June 29, 2023

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Washington, DC – June 29, 2023. The American Association for Access, Equity and Diversity (AAAED), a national not-for-profit association of equal opportunity, diversity and affirmative action professionals, strongly urges the nation's academic institutions to "stay the course" despite the U.S. Supreme Court's decision in *Students for Fair Admissions Inc. v. President & Fellows of Harvard College and Students for Fair Admissions Inc v. the University of North Carolina (SFFA)*.¹ In SFFA, the plaintiffs, including White and Asian-American students, asked the Court to rule that race-conscious higher education admissions programs should be declared unconstitutional under the 14th Amendment to the Constitution and under Title VI of the Civil Rights Act of 1964. In both cases, the lower courts found no discrimination and upheld the principle that diversity in admissions is a compelling interest under the Constitution.

Reversing 45 years of judicial precedent, the Supreme Court ruled today that the Harvard and UNC admissions programs were unconstitutional and violated Title VI of the Civil Rights Act of 1964. It also determined that the 14th Amendment was colorblind: "Eliminating racial discrimination means eliminating all of it. Accordingly, the Court has held that the Equal Protection Clause applies 'without regard to any differences of race, of color, or of nationality' — it is 'universal in [its] application.'"

Founded in 1974 as the American Association for Affirmative Action, AAAED is the longest-serving organization of Equal Opportunity Professionals. For 49 years, the Association has stood for equal opportunity in education, employment and contracting.

AAAED Executive Director Shirley J. Wilcher stated that "the Supreme Court is attempting to freeze in time the march toward racial diversity by invoking the 14th Amendment and asserting that this amendment, enacted to erase the vestiges of slavery, is color-blind to the continued scourge of racial discrimination and exclusion in the United States." She added: "By erasing 45 years of precedent, those who were intended to benefit are least likely to do so."

The Association urges that despite the Court's failure to respect forty-five years of precedent, there is much that colleges and universities can do to promote diversity within their student population. Wilcher added: "Students remain free to highlight in their essays their own lived experiences as children

¹ Nos. 20-1199 & 21-707. For a copy of AAAED's *Amicus Curiae* Brief, go to: <https://www.aaaed.org/images/aaaed/NC%20Amicus%20Brief.pdf>

of color and their ability to overcome challenges they experienced by virtue of their race and ethnicity. Nothing in the Court’s decision would prevent that, nor would it preclude the use of scholarships, need-blind admissions, transfer programs and targeted recruitment efforts that include underrepresented minority groups.”

At this critical time, when students of color may feel unsure about applying for admission to colleges and universities affected by this ruling, the Association recommends that institutions amplify their messages of welcome and inclusivity and increase efforts to ensure a respectful and welcoming campus climate. Academic institutions should also enlist the assistance of their alumni networks and private nonprofit organizations, and consider expanding their partnerships with middle school and high school pipelines, community colleges, Historically Black Colleges and Universities, Tribal Colleges and Universities and Hispanic-serving institutions.

“Academic institutions should also work with corporations and government agencies to help to identify and mentor a diverse pool of students who will enhance the pipeline of applicants including individuals of all ethnicities, genders and abilities. Private foundations, unconstrained by the ruling, should increase their efforts to provide academic and financial support for talented underrepresented students seeking access to competitive institutions of higher education.”

Carol Ashley, Esq., an attorney with Jackson Lewis P.C., the firm that co-authored the amicus curiae brief for the organizations, stated: “Colleges and universities should remember that the civil rights laws protect underrepresented students of color as well, and they should review their admissions programs and strategies to promote nondiscrimination, equal education opportunity and equal protection of the laws. All sectors must work to ensure that the progress made through DE&I and affirmative action programs is not lost.”

Dean Sparlin, Esq., a former member of the AAAED Board and co-author of the brief, added: “We emphasize that the *SFFA* decision is limited to higher education admissions programs at selective colleges and universities where race was one of many factors in the selection of applicants. This decision does not govern any other sphere including employment and contracting.”

The Association urges educators to “stay the course” and consistent with their academic missions, continue to support affirmative action and the benefits that flow from diversity. Wilcher added: “Much work remains to be done to develop the next generation of diverse leaders. Forty-five years of equal opportunity and diversity policies in higher education will not end today. We will persist.”

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