



US affirmative action ruling may harm health equity

Health and science groups warn the Supreme Court's decision threatens workforce diversity and patient care. Susan Jaffe reports from Washington DC.

Leading medical and scientific organisations have criticised the June 29 US Supreme Court decision severely limiting how colleges and universities consider an applicant's race in the admissions process. A 6 to 3 majority abandoned 45 years of legal precedent protecting affirmative action, which is widely expected not only to reduce the number of Black and Latinx college students but also roll back their representation in medicine, law, science, and other postgraduate programmes, diversity advocates say.

"This ruling is bad for health care, bad for medicine, and undermines the health of our nation", said American Medical Association President Jesse Ehrenfeld. "A physician workforce that reflects the diversity of the nation is key to eliminating racial inequities." The Association of American Medical Colleges (AAMC) said that the "decision demonstrates a lack of understanding of the critical benefits of racial and ethnic diversity in educational settings and a failure to recognize the urgent need to address health inequities". AAMC's *amicus curiae* brief to the Supreme Court in support of affirmative action was joined by the American Medical Association and 44 other organisations representing medical groups and educational institutions.

"I was grief stricken" about the decision, said Shirley Malcom, Director of STEM Equity Achievement Change initiative at the American Association for the Advancement of Science (AAAS). "You have to put aside your grief, and bring up the kind of righteous indignation that has brought me through 50 years", said Malcom, who faced discrimination growing up in Alabama and eventually earned a PhD in ecology and a Master's in zoology. "This is a momentary setback", she said, noting that the Court did not totally

ban affirmative action. AAAS, one of the world's largest multidisciplinary scientific organisations, is convening a virtual town hall on July 7, about the Court's decision.

Arghavan Salles, a Clinical Associate Professor at Stanford University School of Medicine (Stanford, CA) and a member of *The Lancet's* Advisory Board on Racial Equity, said the Court's ruling "feels very much like taking 10 000 steps backward". Affirmative action is "at least an attempt to balance the scales a little bit and try to create a little bit of equity", she said.

The decision came in a lawsuit filed by Students for Fair Admissions, a group backed by conservative donors, claiming that the admission programmes at Harvard College and the University of North Carolina discriminated against White and Asian-American applicants by giving Black applicants preferential treatment. But the lawsuit did not target special consideration given to student athletes and students whose parents donate money or are alumni.

Chief Justice John Roberts, writing for the majority, concluded that both institutions violated the equal protection clause of the Constitution's 14th Amendment. Their admissions policies "employ race in a negative manner, involve racial stereotyping and lack meaningful end points", he wrote. "We have never permitted admissions programs to work in that way, and we will not do so today."

Roberts' opinion was supported by the three justices nominated by former President Donald Trump—Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett—as well as Justices Samuel Alito and Clarence Thomas. In a separate concurring opinion, Thomas wrote that "Racialism cannot simply be undone by different or more racialism".

Justice Ketanji Brown Jackson, appointed in 2022 by President Joe Biden, sharply criticised the majority in her dissenting opinion, joined by fellow liberal Justices Sonia Sotomayor and Elena Kagan. "Given the lengthy history of state-sponsored race-based preferences in America", Jackson wrote, "to say that anyone is now victimized if a college considers whether that legacy of discrimination has unequally advantaged its applicants fails to acknowledge the well-documented 'intergenerational transmission of inequality' that still plagues our citizenry".

However, Roberts did not completely exclude racial factors: "...Nothing in this opinion should be construed as prohibiting universities from considering an applicant's discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise". That exception is crucial, said Geoffrey Young, AAMC's Senior Director for Transforming the Health-Care Workforce. Race can be used in the admissions process if it is considered in a wider context of an individual's lived experiences. "You can't just check a box, and then use that to make a decision about one's admission to medical education."

Some schools have already successfully adopted that approach, known as "holistic review". Although California banned affirmative action in public education in 1996, Black, Hispanic, Latinx, and Native American students now represent almost 50% of the student body at the UC Davis School of Medicine, said Associate Dean of Admissions Mark Henderson. Unless more institutions use holistic review, he worries that diversity will decline and "patients will suffer".

Susan Jaffe

For the AAAS town hall on the decision see <https://www.aaas.org/programs/diversity-and-law/resources>