

Students for Fair Admissions v. Harvard College

I. Key Laws and Cases Discussed

1. *Students for Fair Admissions v. Harvard* (2023)
 - Context: Central to the discussion as the recent Supreme Court decision that reshaped the legal framework for affirmative action in higher education.
 - Main Importance: The case declared race-conscious admissions unconstitutional under the Equal Protection Clause of the Fourteenth Amendment, effectively ending affirmative action policies that had been in place for decades. The ruling emphasizes the protection of individual rights over collective goals, such as diversity.
2. *Grutter v. Bollinger* (2003)
 - Context: Examined as a crucial precedent for affirmative action before *SFFA v. Harvard*, showing how diversity was once seen as a compelling state interest.
 - Main Importance: The decision upheld the University of Michigan Law School's affirmative action policy, stating that race could be used as a factor in admissions under strict scrutiny. This case was pivotal in affirming that diversity serves a compelling educational interest, but also set the standard for narrow tailoring.
3. *Regents of the University of California v. Bakke* (1978)
 - Context: Discussed to illustrate the early legal groundwork for race-conscious admissions policies.
 - Main Importance: This case was significant for striking down racial quotas while simultaneously upholding the constitutionality of considering race as one factor in admissions. It established the precedent that diversity could be a legitimate goal for colleges and universities, influencing subsequent affirmative action policies.
4. *Fisher v. University of Texas at Austin* (2016)
 - Context: Discussed as a recent reaffirmation of race-conscious admissions policies prior to *SFFA v. Harvard*.
 - Main Importance: The Court upheld the University of Texas's use of race in admissions, ruling that it met the requirements of strict scrutiny. The case reinforced the notion that diversity can justify the limited use of race in admissions, provided that it is narrowly tailored and no viable race-neutral alternatives exist.
5. Fourteenth Amendment of the U.S. Constitution

- Context: A key legal foundation throughout the discussion, as the Equal Protection Clause of the Fourteenth Amendment is central to the debate over the constitutionality of race-conscious admissions.
 - Main Importance: The Fourteenth Amendment guarantees equal protection under the law and has been at the heart of challenges to affirmative action. Cases like *SFFA v. Harvard* have invoked the Fourteenth Amendment to argue that race-conscious policies in admissions violate the constitutional guarantee of equal treatment.
6. Title VI of the Civil Rights Act of 1964
- Context: Discussed in connection with the legal framework governing discrimination in federally funded institutions, such as universities.
 - Main Importance: Title VI prohibits discrimination based on race, color, or national origin in any program or activity receiving federal financial assistance. In cases like *SFFA v. Harvard*, this law was used to challenge affirmative action policies on the grounds that they resulted in discrimination against certain racial groups, particularly Asian Americans in the Harvard case.
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II. Understanding the Constitutionality of Affirmative Action Before *SFFA v. Harvard*

The constitutionality of affirmative action in higher education admissions has long been governed by two key legal frameworks: the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964. Although these laws still form the legal basis for evaluating race-conscious admissions policies, their interpretation has evolved significantly with recent rulings, particularly *Students for Fair Admissions v. Harvard*.

1. Equal Protection Clause of the Fourteenth Amendment

The Fourteenth Amendment, ratified in 1868, mandates that no state shall "deny to any person within its jurisdiction the equal protection of the laws." In cases involving race-conscious admissions, the Supreme Court has applied strict scrutiny, the most rigorous standard of judicial review. To pass strict scrutiny, an admissions policy must:

- Serve a compelling governmental interest, and
- Be narrowly tailored to achieve that interest.

For decades, the Court recognized diversity in higher education as a compelling interest, allowing limited use of race as one of many factors in admissions. This was upheld in cases like *Grutter v. Bollinger* (2003), where the Court ruled that the University of Michigan Law School's admissions policy, which considered race holistically, was constitutional under the Equal Protection Clause. Similarly, *Fisher v. University of Texas* (2016) reaffirmed that race-conscious policies could be lawful if no workable race-neutral alternatives were available.

However, the Court has consistently held that racial quotas violate the Equal Protection Clause. In *Regents of the University of California v. Bakke* (1978), the Court ruled that strict racial quotas were unconstitutional, but it allowed race to be used as one factor among many in admissions to promote diversity.

2. Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance, which includes nearly all public and private universities. Title VI claims related to race-conscious admissions policies have traditionally been interpreted in parallel with the Equal Protection Clause, meaning that if a policy meets the strict scrutiny standards of the Fourteenth Amendment, it generally complies with Title VI.

For example, in *Gratz v. Bollinger* (2003), the Supreme Court found that the University of Michigan's undergraduate admissions policy, which automatically awarded points based on race, violated Title VI because it was too rigid. Conversely, *Grutter* upheld the law school's more nuanced approach under both Title VI and the Fourteenth Amendment.

In *Students for Fair Admissions v. Harvard* (2023), plaintiffs argued that Harvard's admissions policy discriminated against Asian American applicants in violation of Title VI.

III. Analysis of *Students for Fair Admissions v. Harvard*

In *Students for Fair Admissions v. Harvard* (2023), the Supreme Court ruled that race-conscious admissions policies at Harvard University and the University of North Carolina (UNC) violated the Equal Protection Clause of the Fourteenth Amendment.

The majority opinion, written by Chief Justice John Roberts, focused on three major aspects of the decision:

1. Failure to Satisfy Strict Scrutiny

The Court applied the rigorous standard of strict scrutiny to Harvard and UNC's race-conscious admissions policies, a test that has been central to the constitutionality of such policies since *Bakke*. For a policy to survive strict scrutiny, it must serve a compelling governmental interest and be narrowly tailored to achieve that interest.

Chief Justice Roberts acknowledged that while diversity in education is an important objective, the race-conscious policies used by Harvard and UNC failed the second prong of strict scrutiny—narrow tailoring. The majority opinion emphasized that the schools' admissions processes lacked clarity on how race was being weighed, and there was no clear "end point" by which the universities could stop using race as a factor in admissions. Roberts pointed out that affirmative action policies, as structured by these institutions, risked perpetuating racial stereotypes by continuing to consider race as a central factor in decision-making.

2. Individual Rights Over Collective Benefits

The Court emphasized the importance of individual rights, asserting that race-conscious admissions policies violate the Equal Protection Clause because they treat applicants as part of racial groups rather than as individuals. Chief Justice Roberts stated that the Constitution's guarantee of equal protection requires that the government and institutions treat individuals on their own merits, without regard to race.

In this context, the Court rejected the argument that the collective benefits of diversity, which were recognized in *Grutter*, could justify the differential treatment of individuals based on their race. The decision reflects a heightened concern for individualized consideration rather than allowing racial classifications to play a significant role in shaping the applicant pool.

Justice Clarence Thomas, concurring in the majority, argued that such policies were inconsistent with the original intent of the Fourteenth Amendment and that using race as a factor in admissions amounts to a form of unconstitutional discrimination.

3. Exploration of Race-Neutral Alternatives

The Court further ruled that both Harvard and UNC failed to adequately explore race-neutral alternatives to achieve diversity in their student bodies. Roberts stressed that schools must consider race-neutral methods, such as those based on socioeconomic status or geographic diversity, which could serve as substitutes for race-conscious admissions while achieving similar outcomes. The majority opinion contended that the institutions did not sufficiently demonstrate why race-neutral alternatives could not achieve their diversity goals.

This requirement to exhaust all race-neutral options imposes a stricter standard on universities moving forward. Any future attempts to consider race in admissions would face intense scrutiny, requiring clear evidence that no viable race-neutral alternatives exist.

Key Implications of the Decision

- 1. Race as a Factor in Admissions is Prohibited** The ruling effectively bars universities from using race as a factor in admissions decisions. Institutions that had relied on such policies to foster diverse educational environments will need to significantly revise their admissions processes. This is likely to result in a reduction of racial diversity at selective universities, as race can no longer be considered a factor to address historical and systemic inequities.
- 2. New Emphasis on Race-Neutral Alternatives** The decision places the onus on universities to pursue race-neutral methods of achieving diversity. Many schools are expected to focus more on socioeconomic status, geographic diversity, or first-generation status in their admissions criteria to maintain some level of diversity. Additionally, admissions offices may need to adjust recruitment strategies to target underrepresented groups through non-racial metrics.
- 3. Potential Legal Challenges to Other Diversity Programs** The decision could have a broader impact beyond university admissions. While the ruling directly affects higher education, it raises questions about the constitutionality of other policies that consider race, such as workplace diversity initiatives or government contracting programs. These programs may now be more vulnerable to legal challenges under the Equal Protection Clause or Title VI of the Civil Rights Act, especially if they explicitly consider race.

4. Justice Ketanji Brown Jackson's Dissent In her dissent, Justice Ketanji Brown Jackson criticized the majority opinion, arguing that race-conscious admissions policies help counterbalance the enduring effects of past discrimination. Jackson emphasized that ignoring race would not make racial inequality disappear and that affirmative action policies were necessary to create equal educational opportunities.

5. Impact on Private Institutions and Title VI The ruling applies not only to public universities bound by the Fourteenth Amendment but also to private institutions like Harvard, which are subject to Title VI of the Civil Rights Act of 1964. Title VI prohibits racial discrimination in institutions that receive federal funds, and the Court has historically aligned its interpretation of Title VI with the Equal Protection Clause. Thus, private universities that receive federal funding must also comply with the decision, removing race-conscious admissions from their practices.