



# Preparing for the US Supreme Court Decision on Use of Race in College Admissions

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June 2023

The US Supreme Court will soon release its decision on two distinct but related cases – *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina* – regarding the use of race and ethnicity in admissions at Harvard University and the University of North Carolina (UNC).

Although the ruling applies specifically to admissions at selective universities, companies and organizations should take steps now to review, sharpen and reinforce their diversity, equity and inclusion (DEI) strategies to be prepared for any decision.

Over 80 major American companies have visibly come out in support of race-conscious admissions through amicus briefs, but very few companies have issued public statements on the matter specifically. However, companies will find themselves in the spotlight again once a decision is announced, and questions will likely be raised from both external and internal stakeholders who want to know where the company stands.

Regardless of the scope of the ruling, employees may look to their company or organization's leadership for a response on the sensitive topics and themes of these cases, which include individual merit, systemic biases and historical disadvantage, and the value of DEI programs at large.

## How should companies get ready?

Current legal precedent allows universities to consider race and ethnicity as very limited factors within a student's profile for admission.

Given the court's conservative supermajority and Justice Ketanji Brown Jackson's recusal from the Harvard case, most legal experts anticipate that the court will further limit, if not eliminate, colleges' and universities' ability to incorporate race as a factor in admissions. There is also the possibility that the court could issue a more sweeping ruling that could have implications for employment practices and other uses of affirmative action.

At the core of these cases are questions related to recruiting, retaining, developing and advancing people from historically underrepresented groups. Equal employment opportunity practices already direct that employment decisions must be made based on merit.

But accounting for structural or cultural barriers faced by different communities, bias or underrepresentation – without giving differential treatment – is the difficult grey area companies must navigate in conversations with employees. The outcomes of these cases and the intensity and volume of public debate around issues of race and diversity will make those conversations even more complex.

Now is the time for companies and leaders to sharpen and embrace their DEI narratives and bring key stakeholders along on this important journey. Some key steps include:

1. **Understand current attitudes on this issue within your workforce**, and how you can cultivate dialogue and constructive feedback channels across your company/organization. The use of race in college admissions can be a polarizing topic, particularly among employee resource groups (ERGs) and individuals whose children are preparing to go through the college application process.
2. **Listen to your employees** through employee resource/affinity group conversations and existing listening mechanisms (e.g., internal surveys). Consider hosting facilitated, open discussions on the topic and its implications for your recruitment/hiring goals, inclusive culture and addressing systemic biases.
3. **Bring the outside in** by surveying key internal and external stakeholder sentiment and perceptions regarding your DEI strategy and its impact (particularly on talent retention and acquisition) after the rulings.
4. **Review your DEI narrative** and sharpen its connection with your business strategy and company values. It is important that your company stay consistent with prior statements and actions around racial equity/DEI. However, if there is a change in engagement – either an increase or decrease – that shift needs an explanation and narrative. Many companies signed on to amicus briefs in the Supreme Court cases to signal their support for the importance of diversity to business, national security and other sectors.
5. **Prepare an internal and external engagement framework and plan.** Internally, this means creating an effective feedback-to-decision-making process. Companies should understand current attitudes and implications of DEI strategy and specific talent acquisition goals and the impact on work culture (inclusion and belonging). They should conduct a dialogue with employees (across ERGs, managers and corporate leadership) and translate their learnings into tangible steps. Externally, this means developing a decision-making process for weighing in publicly and developing the company's positioning, holding statements and engagement plans for key stakeholders (e.g., employees, shareholders and the public/media).
6. **Focus your messaging on company values and commitments.** While there may be considerable or heated differences on the tactics that are used to achieve DEI goals, there is broad public support for the overall importance of diversity in education and the workforce.
7. **Take stock of notable company initiatives** and find the gaps in your DEI ambition and strategy to explore opportunities for new partnerships. This includes where your philanthropic dollars are going – especially if you invest in organizations that are working to support underserved communities of color. Also consider initiatives around college and career readiness programs, or those supporting Historically Black Colleges and Universities (HBCUs), Hispanic-Serving Institutions (HSIs) and Asian American and Native American Pacific Islander-Serving Institutions (AANAPISIs).

Brunswick's expertise in Higher Education and DEI brings an intersectional perspective to your larger narrative, strategy and stakeholder engagement.

## To continue the conversation:

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