

AACRAO Guidelines in Preparation for Supreme Court Decision on SFFA v. UNC and SFFA v. Harvard

As we await the decision of the Supreme Court in the SFFA v. Harvard/University of North Carolina case on the use of affirmative action in admissions, AACRAO encourages members to begin to examine any admissions or recruitment practices that target populations of a specific race as well as their overall holistic/equity admissions practices.

AACRAO is providing this self-audit/guidance document to prepare our members for a possible major change in their ability to consider an applicant's race and ethnicity as part of a holistic/equity review in admissions. The outcome of this case is likely to have broader implications for targeted pre-college and recruitment programming, financial aid, scholarship awards, honors and first year experience programs as well as other areas where this consideration may apply. While a decision is not expected until the spring, it is important for institutions to be prepared to act once a decision has been made.

Waiting for a decision to occur before assessing your risk(s) and formulating a response is not recommended.

The categories listed below are intended to help you think through the kinds of programs your institution may offer that could reference race. Inclusion in the list does not necessarily mean that you will need to end the program post-decision. The exercise is intended to support a broad review of programming that *may* be impacted by a decision and should be included in a discussion of your relative risk as well as in the discussion of a mission and values-based communication plan and response post-decision.

What are the processes that could put your institution at risk?

- Race and ethnicity categorization that allows for additional consideration in your admissions or a selection process.
- The goal will be to move towards race-neutral policies that are not reliant on race or ethnicity identification.
- Admissions benefits for legacy or wealthy applicants, while technically not what the court will be ruling on, was discussed substantially and may be implicated in the decision.

What should you be doing now?

1. **Appoint a Review Team.** In order to ensure that you have identified all of your potential risk-factors, AACRAO recommends that you establish a review team in early 2023 that includes your institution's legal counsel. Because this decision could possibly implicate more than your admissions program, the team will need to be well-grounded in your institutional mission and vision, and should be cross-functional across all of your intake processes. In its review, the team will need to identify the areas in which your institution may be at risk should the Court significantly narrow or eliminate altogether any consideration of race in the admissions process, and any other programs that could be implicated due to their adjacency to admission. Their work should include vision, direction, response planning, impact and investment, compliance, communications, and stakeholder participation. ([2023 U.S. Supreme Court Ruling on Race in Admissions \(collegeboard.org\)](#))
2. **Conduct an audit.** Identify areas that might need to change should the court further narrow or eliminate affirmative action. This audit will establish a baseline inventory of all policies/procedures/practices associated with diversity, equity, and inclusion (DEI). ([2023 U.S. Supreme Court Ruling on Race in Admissions \(collegeboard.org\)](#)). You should include any legacy or donor considerations you may have in place.
 - Consider your admissions practice. Even if you follow [AACRAO's guidance on holistic admissions](#), it would be wise to give your policy a thoughtful and thorough review to identify any areas that may prove to be a barrier in admitting/awarding/selection processes. Holistic or equity admissions review remains the best race-neutral practice that includes noncognitive factors as well as contextual, experiential, and academic criteria. The practice considers each student individually on all pertinent factors regarding their ability to succeed at your institution, thrive, contribute to learning to and from peers, and contribute to the campus community and to society. ([Understanding Holistic Review in Higher Education Admissions \(collegeboard.org\)](#)) To be considered a best practice and mitigate risk, your holistic review should not involve or employ any affirmative action/racial preference measures. AACRAO's holistic methodology has been recognized by the U.S. Office of Civil Rights as a best practice. For more information on implementing holistic admissions, take [AACRAO's on-demand course](#) or reach out to [AACRAO Consulting](#) for an external review.

- Establish a baseline inventory of all policies/procedures/practices associated with diversity, equity, and inclusion (DEI). ([2023 U.S. Supreme Court Ruling on Race in Admissions \(collegeboard.org\)](#))
 - Consider campus-wide programs, including honors and first-year experience programs.
 - Review your current policies/practices/procedures where affirmative action (race and/or ethnicity,) is or may be a factor, no matter how minor.
 - Do you have any scholarships that are awarded to a specific racial group? Identify any funding that is directed to a racially specific population.
 - Consider any external partner programs that you may have developed to support diverse pipelines of students. Do you partner with specific organizations that cater to a particular racial category to develop a diverse pipeline in the recruitment process?
2. **Identify and articulate Mission alignment.** Determine where your policies, practices, procedures and programs are aligned with the institution’s mission. Be sure to include any relevant factors including unique history, character, aims, vision, and educational and societal contributions, and reinforce your institutional commitment to diversity, equity, and inclusion. ([Understanding Holistic Review in Higher Education Admissions \(collegeboard.org\)](#))
- Ensure that your policies have well-designed means and professional judgment. Be ready to explain educational outcomes sought to benefit all students.
 - Ensure that the same criteria, standards, processes are applied to every applicant, even as various factors may apply differently with different applicants. In order to accomplish this, staff must have adequate training that includes clear common protocols and resources.
 - Ensure integrity and accountability in your processes ([Understanding Holistic Review in Higher Education Admissions \(collegeboard.org\)](#)). If you have not already done so, develop a deliberative annual assessment of your admissions review that evaluates effectiveness and is well documented. An annual program review must
 - Be rigorous, consistent, fair, and flexible
 - Consider changing demographics, environmental factors, and legal compliance
 - Provides staffing and quality control
 - Ensure that training is current and consistent, to ensure that staff and reviewers have the requisite expertise, ethics, and have received cultural competency training

3. **Plan a response.** Each item on your list should be considered in terms of relative risk and importance to your overall program goals. Once you have identified the areas of potential risk or where you may be misaligned to your mission, you can begin to develop action plans on how to add and or strengthen race-neutral measures.
 - Are there areas that could be easily adjusted today without impacting your overall program? Are there programs that could threaten your overall admissions program if you needed to suddenly discontinue them?
 - Have you coded any race attributes into your system processing? Specifically identify any automated processes/coding that will need to be updated.
 - Review any metrics used in admission and recruitment decision-making that use race categorization.

4. **Develop internal and external communications.** The timing of a decision is uncertain and might require a rapid response. In order to ensure messaging consistent with the institution's mission and vision, the key themes should be developed in advance. The team should be ready to implement a campus-wide communication plan and training post-decision.
 - Identify how and who to inform regarding changes in policy/process/practice
 - Your communication plan must include internal and external stakeholders
 - Establish campus-wide training for all new policies/processes/practices

While the crux of this case is the consideration of affirmative action in college admissions, we know that a decision from the court could be applied more broadly. As AACRAO members prepare for the coming Supreme Court decision, it is imperative that you continue to keep holistic/equity admissions at the center of your process. An approach consistent with institutional mission and values will set a framework that minimizes disruption and allows for principled preparedness as we await the Court's decision.

For the latest information on this issue, visit

<https://www.aacrao.org/advocacy/issues/affirmative-action-challenge/>