POV: Working in Admissions During the Ruling on Affirmative Action

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Cover Page Footnote
[1] I use an “x” in hxstory and hxstorically to challenge patriarchy in the normative spelling of the word.

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POV: Working in Admissions During the Ruling on Affirmative Action
Kirsty Nicole Bayo-ang Bocado

Affirmative action has existed to help students from historically marginalized communities have equitable opportunity to receive admissions into institutions of higher education. There are many perceptions of what affirmative action is. It is important to understand the context behind why affirmational action came about in the first place and what purpose it serves students. In recent history, the US Supreme Court ruled against affirmative action. This was a decision that set back our efforts of supporting students’ access to higher education. As an admissions counselor at a Hispanic-serving institution in the New York City metropolitan area, I witnessed how this decision affected admissions and higher education. As a higher education practitioner, I realized that we need to educate folks about affirmative action and the importance of honoring students’ backgrounds and identities in the admissions process. This article will help the audience gain an understanding of what affirmative action is, learn knowledge of affirmative action through the years, recognize the impact of the US Supreme Court ruling on affirmative action, and gather actions to support students.

Keywords: affirmative, action, admissions, US supreme court, ruling, court case, students, admissions counselors, higher education

Kirsty Nicole's [they/them] life activities (playing piano, violin, trombone, and guitar, freestyle street dancing, rock climbing, running, and playing tennis) inform their research interests on accessibility, (dis)ability, education, environmental justice, equity, inclusion, involvement, marginalized identities, mental health awareness, neurodivergence, queer justice, racial justice, social justice, sustainability and more. Through activism and community organizing, they study student activism, student leadership, educational systems, collective people power, and the (r)evolution of the masses.
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What is Affirmative Action?
As defined by scholars in higher education, affirmative action is a practice that considers factors such as a student’s race in possible admission to a university (Hurtado, Alvarez, Guillermo-Wann, Cuellar, & Arellano, 2012). This practice serves to make higher education accessible to students of all backgrounds, regardless of race and other factors. It is implemented in various workplaces and most recently, it was brought to light in the context of higher education.

Colleges and universities were not initially set up to welcome all students. Traditionally, they were theologically based with access primarily for White Christian men; Women were not allowed access, and neither were Black and Indigenous people of color (BIPOC) (Cuyjet, Linder, Howard-Hamilton, Cooper, 2016). Whether public or private, flagship or branch, liberal arts or tech, institutions of higher education have evolved and are bringing in more diverse pools of admitted students each year.

Affirmative action stemmed from the civil rights movement in the 1960s (Gururaj, Somers, Fry, Watson, Cicero, Morosini, & Zamora, 2020). The civil rights movement was a pivotal point in history, fighting against racial discrimination and fighting for equal rights (Gururaj et al., 2020). It was also the foundation for the establishment of affirmative action, fighting systemic racism then and today. Unequal access to educational opportunities is part of systemic racism (Gururaj et al., 2020). Affirmative action addresses this unequal access that affects BIPOC so that they may rise above the disadvantages of their backgrounds and have opportunities in higher education.

The Hxstory of Affirmative Action and Previous Court Cases
Affirmative action was one of many policy responses to exclusion, racial discrimination, and systemic racism. The intention of affirmative action was to be more inclusive of historically marginalized groups while also giving them more representation in higher education sectors (Hurtado, et al., 2012) Even before 2023, there have been several cases of anti-affirmative action legislation and communities fighting against affirmative action throughout history. Because of the public’s inaccurate perceptions of affirmative action and because of (to be blunt) blatant racism, there have been many challenges to affirmative action being implemented.

Particularly, folks against affirmative action have felt that they are experiencing “reverse racism” (Gururaj et al., 2020). However, reverse racism does not exist. Racism is based on power structures. Marginalized and oppressed groups do not exist in positions of power to be “reverse racist.” I will discuss two court cases where affirmative action has been challenged.

Regents of The University of California v. Bakke (1978) was considered the first real case of affirmative action. The court upheld affirmative action as something constitutionally protected (University of California Regents v. Bakke 1978). Constituents recognized diversity to be a compelling state interest. In addition, this case created the diversity rationale which was used to uphold affirmative action as a compelling, national interest (University of California Regents v. Bakke 1978).

In Grutter v. Bollinger (2003), the admissions process was put under strict scrutiny to
determine how exactly they used race as a factor and if the process was truly holistic. To pass strict scrutiny, the legislature must have passed the law to further a "compelling governmental interest," and must have narrowly tailored the law to achieve that interest. In this case, the “compelling governmental interest” was furthering diversity. However, some people attacked affirmative action, arguing that “any consideration of race is unfair discrimination.” (Harpalani, 2020).

As one can see, affirmative action has been challenged throughout the years. Because of these challenges, institutions have had to argue that diversity is indeed important. They have also had to prove that diversity contributes to some sort of beneficial and productive interest, whether for the state or for the nation.

**US Supreme Court’s Ruling on Affirmative Action and the Impact on Students, Admissions Counselors and Higher Education**

Legal issues in higher education are prevalent. The US Supreme Court’s recent ruling on affirmative action is not a new instance of affirmative action being at stake although it was the first instance that truly took away affirmative action and caused tangible changes. The ruling created more uncertainty for high school students applying to college. The US Supreme Court decided on this ruling in the cases of *Students for Fair Admissions v. President and Fellows of Harvard* and *Students for Fair Admissions v. University of North Carolina*. Essentially, what this means is that they ruled against the use of race in college admissions and deemed that admissions processes at Harvard and University of North Carolina at Chapel Hill were unconstitutional. In particular, the lawsuits claimed that this admissions policy discriminated specifically against Asian-American and White applicants and students. To explain further, the US Supreme Court ruled that Harvard and UNC’s use of race in college admissions violated the 14th Amendment’s Equal Protection Clause.

Many practitioners in the higher education community disagreed with this decision. In addition to various statements put out by presidents and administrations of various colleges and universities, there was also public outcry over this ruling. The detriment of this ruling set back years and years of initiatives. It felt like we made backward progress on what the civil rights movement and other movements have been trying to achieve. Instead of continuing to work for a more equitable society, this decision seemed to diminish our society’s development with diversity and inclusion. Affirmative action was a precedent-backed process that could uphold diversity and inclusion in higher education. “While we are dismayed by this outcome, we are resolute in our effort to continue to pursue diversity and equity in college admission policy and practice. I would like to echo Justice Ketanji Brown Jackson’s dissent in which she wrote, ‘deeming race irrelevant in law does not make it so in life.’” (A.B. Pérez, personal communication, June 29, 2023).

Race is relevant in law, in life and in diverse campus communities. The ruling had immense implications for college admissions processes and the campus communities (Knox, 2023). Students benefit from exposure to others of all backgrounds and identities (Lu, 2022). The ruling proved even more our reason to continue fighting for equity and access in education for all students. “While there is no one size fits all solution and we certainly do not have all the answers, let us reaffirm a commitment to ensuring that all students are seen, respected, and welcomed at every campus
community.” (R. Stamm, personal communication, June 29, 2023).

Many practitioners also wondered about the ruling’s impact on missions and visions of universities and what this meant regarding their commitment to students. There were public statements that reiterated legacies of providing access and opportunities to learners of all backgrounds. “This is evident in our longstanding programs created to serve many different populations of diverse learners...programs that serve diverse learning styles...and in our commitment to providing flexible pathways to non-traditional learners. Our commitment to serving and providing access and opportunity to a new generation of students is unwavering and unaltered.” (M. J Avalroni, personal communication, June 30, 2023).

**My Commitment to Students as an APIDA Identifying Admissions Counselor**

As an admissions counselor, I read hundreds of thousands of applications every admissions cycle. It is an honor to evaluate every student holistically and thoroughly. I evaluate their grades, resumes, essays, letters of recommendation. We see confidential and private information as well as important and necessary information. As someone working in a Hispanic-serving institution in the New York City metropolitan area, I recognize the importance of giving equitable access to students of many backgrounds.

Being race-blind is not as beneficial as folks may think it is. Being race-blind prevents one from recognizing the obstacles and struggles a person of a historically marginalized identity faces. Ignoring race means ignoring someone’s background, culture, and identity. Also, in the recent ruling, it was claimed that there was discrimination against White and Asian Americans, which is a claim that has been brought up before (Hartocollis, 2020). As an APIDA identifying person, I do not agree that there was discrimination against my race. If anything, it is more discriminatory to decrease the racial diversity in the composition of the student body.

If we are to critique affirmative action, it is important for schools to reevaluate other policies such as legacy admissions policies, which give preference to children of alumni and donors, and therefore advantage students who already come from advantaged backgrounds (Hurtado et al., 2012). In a simulation study of three forms of affirmative action, Massey and Mooney (2007) concluded that “Black and Latin@ students enrolled under race-conscious affirmative action were more likely to persist at the end of their junior year despite lower grades, compared to legacy admits who earned low grades and were more likely to drop out, as well as athlete admits who were also more likely to drop out.” The race-conscious action for Black and Latin@ students had the most positive effects in terms of student retention. The legacy affirmative action is presumably “colorblind,” however, these students who are given preferential treatment tend to be White and is, therefore, a biased institutional policy (Hurtado et al., 2012).

The direct attack on race being used in affirmative action is absurd compared to the lack of criticism against legacy admissions policies and athlete admissions policies. Again, it is important to remember that considering race takes into account students of historically marginalized backgrounds. In contrast, legacy admissions policies and athlete admissions policies often favor students from already advantaged and privileged backgrounds.
Affirm and Take Action for our Students

As we support students’ journeys after K-12, we know that they have opportunities to pursue two-year programs, four-year programs, trade schools, the military, and so on. For those of us that work in colleges and universities, we must continue to affirm our students that we offer all of them equitable opportunity and access into higher education. Despite the ruling, we can still revamp the college admission process with diversity and inclusion still at the forefront.

Research shows that diversity benefits all students and all citizens (Gururaj et al., 2020). Racial and ethnic diversity in education leads to greater productivity, innovation and cultural competency. “Diversity” is not only a compelling state and national interest in higher education. Diversity is also relevant and a reality in our lives.

As admissions counselors, we experienced much anger, disappointment, and frustration. We have channeled this outrage into raising awareness, implementing more inclusive programming, requiring more extensive Diversity Equity Inclusion Access (DEIA) training, and empowering our students in tangible ways. There are various ways for higher education practitioners and admissions counselors to take action for our students.

First, we must educate ourselves on the history of affirmative action to be able to provide context and facts to opponents who are uninformed about affirmative action or against it. By having an established foundation of what affirmative action is, we can continue to objectively educate others. Some people simply do not know what affirmative action or have misconceptions about it. It is our duty as educators to give people the context and facts.

Next, we must be aware of affirmative action being challenged over the years in various court cases. By gathering the history of previous court cases, we can be prepared for future instances of challenge and pushback. We can build a compelling case of arguments against potential challenges and threats.

Also, we must recognize the impact of the US Supreme Court ruling on the students that we serve. Some students were very upset and needed affirmations and validation from us. By reaching out to them and bridging the gap of support, we could show that we are there for them and still honor their backgrounds.

In addition, we can continue to be a part of trainings related to diversity, equity, inclusion, and access. We can learn to recognize our own privileges and biases and how this makes us better advocates. We can learn how to use our power to vote for fair policies. Many of these trainings can teach us other ways to get involved outside of the institution, such as in government or boards.

Further, we must commit to anti-racism practices and teachings. The opposition to affirmative action was based on a lot of misconceptions and racism. We must not be tolerant of racism and be vehemently anti-racist. This includes evaluating and dismantling practices and teachings that may have been in place for a long time.

Lastly, we can uphold our students’ campaigns, events, and programming. Especially since many of our students host events related to culture and heritage, we can be present either by advertising their events or actually showing up. It makes an impact on students when the administration is actively involved in their efforts and empowering them.
Conclusion

Affirmative action is a valuable part of our history and our future. Despite the public’s opposition to affirmative action, those of us in admissions and higher education know the importance of it. We are our students’ advocates on the frontlines. As it has been challenged over the years, and most recently voted against in 2023, we are aware there is still work to do in furthering and embracing diversity. As an APIDA admissions counselor, I vouch for students of all backgrounds, especially those that are historically marginalized and oppressed. I will continue to take action for students and for diversity. I urge all of us in admissions and higher education to continue offering accessibility and equitable opportunity and to honor all students and diversity.
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What to Know About Race-Conscious Admissions.