

Policymakers Should Use Supreme Court Cases on Racial Preferences to Launch Reform of College Accreditation

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KEY TAKEAWAYS

The Supreme Court has the chance in two upcoming court opinions to reject race-based college admission policies that allow racial discrimination in higher education.

Requiring that race not be a factor in school admissions would be a crucial step in pushing academia away from racial prejudices and more toward student merit.

Some colleges may ignore such a ruling and find workarounds. Lawmakers can lessen racial bias by restructuring the college accreditation process.

The U.S. Supreme Court is expected to issue an opinion this year on *Students for Fair Admission v. University of North Carolina* and *Students for Fair Admission v. Harvard*, potentially rejecting race-based college admission policies. Racial preferences, as practiced in academia and elsewhere, by definition, discriminates against individuals based on their race. Radical academics and writers, including the founders of critical race theory, have long supported the use of race as a predominant factor in postsecondary and graduate school admissions.¹

If the Court issues an opinion against racial preferences, will the decision finally eradicate critical race theory's pernicious influence? What would the ruling mean for students and families nationwide who are already confused by the opaque application review processes of colleges and universities?

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If the Court rules as it should that postsecondary institutions cannot use race as a factor in school admissions, that decision will be a crucial step away from racial prejudice and towards meritocracy and colorblindness—two pillars of the civil rights movement.² Some schools may ignore the ruling and unlawfully continue these practices because many employ dozens (and in some cases, more than a hundred) administrative staff who enforce racial bias, including through the application of critical race theory on campus.³

Other college officials might want to abandon racial prejudice in school operations, but biased college accreditors may coerce them into maintaining discriminatory policies. Accrediting institutions hold enormous sway over university operations and push schools to adopt policies based on critical race theory, such as diversity training programs and the mis-named diversity, equity, and inclusion (DEI) offices at schools around the U.S.

When accreditors promote DEI or “anti-racist” policies, they are endorsing a racially biased theory designed to disrupt America’s institutions that originated in Marxism. Critical race theorists regularly define the terms “equity” and “anti-racism” as equal *outcomes* produced through government coercion and racial discrimination. These racial ideologues admit that critical race theory was “organized by a collection of new-Marxist intellectuals” and “former New Left activists,” with one critical race theorist describing Marx’s analysis of capitalism as “dazzling.”⁴ “Anti-racists” believe that capitalism and white racism are conjoined twins and that the solution is discrimination against people from certain ethnicities not deemed “marginalized.”⁵ Critical race theory favors “revisionist history” that alters the retelling of events from American history so that the revision “square[s] more accurately” with its radical ideology.⁶

The *North Carolina* and *Harvard* cases have highlighted colleges’ racially biased practices. Students for Fair Admissions, a nonprofit membership group, filed lawsuits against Harvard and the University of North Carolina alleging that the schools use discriminatory practices in their admissions programs.⁷ Students for Fair Admissions wants to “restore the original principles of our nation’s civil rights movement: A student’s race and ethnicity should not be factors that can either harm or help that student gain admission.”⁸

Accreditors, however, also contribute to the prejudicial environment in college admissions through their accrediting requirements. Lawmakers must reform the postsecondary accreditation system. What may sound like merely a set of bureaucratic reforms to the accrediting process would

be, in fact, a long-overdue reform of higher education, improving student access to institutions, allowing colleges to make decisions in students' best interests instead of under pressure from federal rules, and provide more transparency for students and families in the college application process.

Accreditors and the Woke Vice Grip

An estimated 85 percent of colleges are accredited by a handful of regional accreditors, and accreditation is a requirement for postsecondary schools that enroll students who use federal loans to pay tuition.⁹ More than half of individuals who completed a certificate degree, associate's degree, or bachelor's degree use a federal student loan at some point in their postsecondary experience.¹⁰ Over 90 percent of all college loans are underwritten by the federal government, so postsecondary institutions have little choice but to seek and maintain accreditation with a federally approved accreditor. (Seven accreditors accredit most postsecondary institutions in the U.S.)¹¹

In order to be accredited, school officials must align school policies with accreditors' standards. These standards are not simply a list of health and safety rules and certain academic expectations. In fact, accreditors are as ideologically radical as the institutions they accredit. This is not surprising, as some two-thirds of the individuals who perform the accrediting and review processes—called commissioners—are employees at colleges and universities that engage in, and fully support, racial discrimination in admissions and the teaching of critical race propaganda.¹²

Accreditors are aligned with radical positions on race commonly found in higher education:

- The Western Association of Schools and Colleges' (WASC's) Senior College and University Commission (WSCUC) mentions "diversity, equity, and inclusion" five times in its new standards guidebook, adopted in November 2022.¹³ The accreditor offers training sessions for schools to help college administrators "use a justice, equity, diversity and inclusion (JEDI) lens in order to navigate complex institutional priorities," a session meant to "transform" these radical racially focused ideas into "action."¹⁴
- The Southern Association of Colleges and Schools Commission on Colleges supports the expansion of DEI offices on their accredited schools' campuses.¹⁵

- The Northwest Commission on Colleges and Universities lists a set of “anti-racism resources” on its website, which includes material produced by the radical Southern Poverty Law Center’s education arm, Learning for Justice.¹⁶ The material includes information on “identity, power, and justice,” along with “gender-neutral practices.” The resource page also includes an article from Racial Equity Tools called “Whiteness and White Privilege,” which, again, is not focused on student achievement or success but on identity politics and critical race theory.
- The Middle States Commission on Higher Education signed on to an amicus brief supporting “the legality and value of race-conscious admissions” in the *North Carolina* and *Harvard* cases.¹⁷
- The Higher Learning Commission provides “diversity, equity, and inclusion” resources on its website and highlights accredited institutions that provide such offices and training on their campuses. Such offices promote the discriminatory ideas of critical race theory, such as intersectionality and so-called antiracism.¹⁸ A significant body of research and surveys, though, have shown that diversity and “antibias” programs do not change individual attitudes and behavior.¹⁹
- The WASC’s Accrediting Commission for Community and Junior Colleges released a “Policy on Social Justice” in June 2021 pledging to create a “climate” of “anti-racism” among accredited schools.²⁰ The accreditor will select more reviewers based on race, not experience or skill, and will “infuse anti-racism discussions” into professional development programs.²¹
- At its 2022 annual meeting, the New England Commission of Higher Education (NECHE) held a session on “gender inclusivity”; two sessions on “equity”; and a closing keynote presentation on the need for DEI in science, technology, engineering, and math (STEM) education.²²

Racial prejudice permeates higher education, not just by virtue of the courses and activities hosted by institutions themselves but by the race-consciousness pushed by organizations that accredit them—with the backing of the federal government.

Policy Recommendations for Lawmakers

To change the college accrediting process, state and federal lawmakers should:

- **Eliminate the requirement that colleges use government-sanctioned accreditors.** Higher education needs quality-control measures just as any other industry does. Today, however, just because a college is accredited by a government-approved accreditor does not signal excellence—or even quality. Currently, higher education is conspicuous for perennially rising costs above inflation and a lack of improved student achievement. According to research using student results from the Collegiate Learning Assessment (CLA) in colleges across the U.S., “American higher education is characterized by limited or no learning for a large proportion of students, and persistent or growing inequalities over time.”²³ Researchers find that “three semesters of college education...have a barely noticeable impact on students’ skills in critical thinking, complex reasoning, and writing.”²⁴
- **Allow state university systems to leave the federal accrediting system and choose new accreditors.** State postsecondary institutions should be able to leave the current accreditation system and find accreditors that are not sanctioned by the federal government without risk of their institutions being deemed ineligible for federal student aid.

Federal lawmakers should:

- **Explicitly state in federal law that any business or institution can become a recognized accreditor.** Colleges would then be incentivized to find the best institutions to certify their academic programs, choosing accreditors most appropriate for their mission. Schools and their accrediting agencies would develop records of success or failure based on student performance and operational integrity that would help parents to choose the best school for their children. Currently, accreditation is a process that contributes to ideological conformity, not institutional quality.
- **Consider proposals that require colleges and universities to be responsible for paying back some percentage of the loans on**

which students at their institutions have defaulted. Lawmakers should consider proposals that hold colleges and universities accountable for the quality of their services. In 2022, Senator Rick Scott (R-FL) introduced a proposal that would require universities to pay up to 10 percent of loans held by students who are in default.²⁵

- **Repeal the “elastic clause.”** Currently, the Higher Education Act (HEA) endows accreditors with an unlimited ability to require colleges adopt standards outside the scope of the HEA. Congress should amend the HEA so that this “elastic clause” is no longer available to accreditors as a means of conditioning an institution’s access to Title IV funds on standards not included in the HEA.

Conclusion

The expected Supreme Court’s ruling in both the *North Carolina* and *Harvard* cases could produce an opinion that rejects racial discrimination and restores meritocracy and colorblindness to their proper place in college admissions. State and federal lawmakers should restructure the college accreditation process and give schools more autonomy to choose the organizations and even businesses that accredit their institutions and academic departments, weakening the biased federal accreditation cartel. These policy changes would repair the accreditation process so that a school’s accreditation is not a rubber stamp signifying compliance with the woke orthodoxy but serves as an indication of school quality.

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Endnotes

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