ACGME efforts to support DEI education and resident diversity s/p the SCOTUS decision on race-conscious admissions

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ACGME Foundational Principles

• Ground the need for diversity in the mission of achieving improvement in health of individuals and population health. As such, elimination of health disparities of marginalized communities is a true north for advancing change

• Workforce diversity has multiple benefits that can be used to benefit the elimination of health and healthcare disparities
  • Disproportionate tendency for racially concordant patient-physician relationships
  • Improved patient-physician outcomes with concordant relationships
  • Improved patient outcomes through physician advocacy
  • Enhanced research agenda with diverse physicians in academic medicine
  • Increased mentoring for minoritized trainees and students in the learning environment
  • Enhanced capacity to demonstrate compassionate care for all to dominant culture colleagues and to provide physician advocacy for minoritized patients and communities
Race-conscious admissions

Students for Fair Admissions, Inc. v. President and Fellows of Harvard College; Students for Fair Admissions, Inc. v. University of North Carolina

Nos. 20-1199 and 21-707
Supreme Court of the United States
Argued October 31, 2022

Berkeley University student Calvin Yang, center flanked by Edward Blum at Press Club in Washington, Thursday, June 29, 2023. (AP Photo/Jose Luis Magana)
“Do No Harm” Act S.B. 410
Missouri

Forbids teaching of DEI ideologies and requirement of such for employment and education in healthcare. This includes measurement of health equity.

Defines "Academic standards" as grade point average, standardized test scores, or other metrics.

All schools of medicine shall require the MCAT as one of the requirements for admission.

Requires that institutions shall not reduce the academic standards for the admission of new students into, or the advancement of current students within, healthcare-related academic programs.
DEI Legislation Tracker

Explore where college diversity, equity, and inclusion efforts are under attack.

By Chronicle Staff

*The Chronicle* is tracking legislation that would prohibit colleges from having diversity, equity, and inclusion offices or staff; ban mandatory diversity training; prohibit institutions from using diversity statements in hiring and promotion; or prohibit colleges from using race, sex, color, ethnicity, or national origin in admissions or employment. All four proscriptions were identified in model state legislation proposed this year by the Goldwater and Manhattan Institutes.

Updated July 14, 2023.

We are tracking 40 bills in 22 states. So far,

- 40 bills have been introduced.
- 7 bills have been tabled, failed to pass, or vetoed.
- 7 bills have become law.
- 29 bills have final legislative approval.

[Article Link](https://www.chronicle.com/article/here-are-the-states-where-lawmakers-are-seeking-to-ban-colleges-dei-efforts?cid=gen_sign_in)
What Would the Legislation Restrict?

DEI Offices and Staff

Mandatory DEI Training

Diversity Statements

Identity-Based Preferences for Hiring and Admissions

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Letter to the GME Community from Thomas J. Nasca, MD, MACP, President and Chief Executive Officer of the ACGME: Why Workforce Diversity Matters to Health Care and Graduate Medical Education

Dear Colleagues in the Graduate Medical Education Community,

The United States Supreme Court is soon to issue decisions in actions brought by Students for Fair Admissions, Inc. against Harvard College and the University of North Carolina. Although these cases address consideration of race in undergraduate admissions (covered under Title VI of the Civil Rights Act of 1964), the decision may have implications for undergraduate medical education and possibly for accreditation of graduate medical education (GME). When these decisions are issued and after review and consideration of them, the ACGME will release a statement addressing
Follow-Up to Dr. Nasca’s June 13 Letter to the Community after Supreme Court Decision Regarding College Admissions and Race

This is a follow-up to the June 13 Letter to the Community addressing the accreditation implications of the Students for Fair Admissions, Inc v. President and Fellows of Harvard College Supreme Court case.

Dear Members of the Graduate Medical Education Community,

On June 29, 2023, the United States Supreme Court issued its decisions in Students for Fair Admissions, Inc v. President and Fellows of Harvard College, addressing the consideration of race-based affirmative action in university admissions. Since that decision and the passage of certain state laws that limit diversity, equity, and inclusion activities, the ACGME has received inquiries relating to the accreditation standards that require engaging "in practices that focus on mission-driven,
Follow-up

- ACGME reaffirms its commitment to its requirements to focus on diversity through a mission-driven, ongoing, systematic effort of recruitment and retention of a diverse and inclusive workforce of residents, fellows, faculty members, senior administrative GME staff members and other relevant members of its academic community.

- The rationale for this is to hold true to ACGME’s mission to improve health and population health. Elimination of racial and ethnic health disparities is central to improving health of society.

- ACGME requirements do not require race-based affirmative action to achieve diversity and the decision does not require programs to change their current selection practices.
Common Program Requirement I.C.

I.C. The Program, in partnership with its Sponsoring Institution, must engage in practices that focus on mission-driven, ongoing, systematic recruitment and retention of a diverse workforce of residents, fellows (if present), faculty members, senior administrative staff members, and other relevant members of its academic community. (Core)
I.C. misconceptions

• There is no curricular content mandate from ACGME to teach principles of DEI and antiracism, but it is a good idea to address these elements because it can improve inclusion, belongingness, and retention

• The review committees are measuring substantial compliance through monitoring the number of new residents you bring into your program year over year

• Retention doesn’t matter if your recruitment efforts are robust

• Mere compliance with EEOC requirements, ignoring diversity because of colorblindness philosophies, or inaction due to conservative interpretations of laws are not consistent with substantial compliance
The SCOTUS ruling was narrowly constructed to only address Title VI provisions of the Civil Rights Act of 1964 which concerns admission to education and professional education programs. It eliminates the consideration of race as a criterion for admission, whether used positively or negatively. It does not address employment decisions which are covered under Title VII provisions and currently forbid racial discrimination.

Resident selection is a process of employment and hiring. The NRMP does not permit a direct application-admission decision as it is currently constructed.

There is no ban on the use of race to develop the applicant pool for hiring.
The current SCOTUS decision only impacts Title VI

Section 601 of title six of the Civil Rights Act of 1964 (42 U.S.C. §2000d) states no person in the United states shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Focus is on educational institutions’ admissions processes
Title VII is not subject to any change based on the most recent SCOTUS decision (29 June 2023)

Title VII of the Civil Rights Act of 1964 – 42 USC§2000e-2(a)

(a) Employer practices

It shall be an unlawful employment practice for an employer -

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

Focus is on corporate employer processes
Private employment falls under Title VII and is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), currently led by Charlotte A. Burrows, who has emphasized that the SCOTUS decision has no bearing on its work.

“It [The SCOTUS decision] does not address employer efforts to foster diverse and inclusive workforces or to engage the talents of all qualified workers, regardless of their background. It remains lawful for employers to implement diversity, equity, inclusion, and accessibility programs that seek to ensure workers of all backgrounds are afforded equal opportunity in the workplace.”

Charlotte A. Burrows, JD  
Chair of the Equal Employment Opportunity Commission

Follow-up

The SCOTUS ruling was narrowly constructed to only address Title VI provisions of the Civil Rights Act of 1964 which concerns admission to education and professional education programs. It eliminates the consideration of race as a criterion for admission, whether used positively or negatively. It does not address employment decisions which are covered under Title VII provisions and currently forbid racial discrimination.

Resident selection is a process of employment and hiring. The NRMP and SF Match do not permit a direct application-admission decision as currently constructed.

There is no ban on the use of race to develop the applicant pool for hiring.
Annenberg Inclusion Initiative

The Inclusion Rider, created by the USC Annenberg Inclusion Initiative, the law firm of Cohen Milstein, and Pearl Street Films, is a provision included in the contract of an actor, director, or writer requiring inclusion of women and other underrepresented groups at the interview and casting stages, and demands “affirmative efforts” to hire those individuals.

Akin to the “Rooney Rule” of 2002 for head coach hiring in the National Football League.

Mansfield rule of 2017 stipulates that each stage of your hiring process be composed of at least 30% qualified candidates of color before proceeding.

Focus is to enrich the diversity of the recruitment pool prior to decision-making within the hiring process whereby race and other explicitly focused targets can be used as a means to create a more diverse pool.
Production of clinicians is a long-term process with multiple points of intervention

Elementary
- Mini-medical school
- Effective exposure to STEM
- Reading and math skill development
  - Algebra by 8th grade

High School
- Research, shadowing and mentoring opportunities
  - Effective counselling and course selection from the beginning
  - Development of test-taking skills

College & Postbaccalaureate
- Effective counselling and specialty exposure from the beginning
- Development of test-taking skills
  - Productive research opportunities
  - Community engagement
  - Leadership experiences
  - Disciplined preparation in basic sciences

Medical school M1-M2
- Using and choosing effective away rotations
  - Effective counselling and sponsorship
  - Development of test-taking skills
  - Specialty career focus
  - Effective executive skills development
  - Focus on professionalism development
  - Holistic admissions and intentional ranking

Medical school M3-M4

“Remote the entry of students into medicine, so there’s nothing we can do to advance diversity”
ACGME Common Program Requirement
II.A.4.a).(2)

The program director must design and conduct the program in a fashion consistent with the needs of the community, the mission(s) of the Sponsoring Institution, and the mission(s) of the program (Core).

Background and Intent: The mission of institutions participating in graduate medical education is to improve the health of the public. Each community has health needs that vary based upon location and demographics. Programs must understand the structural and social determinants of health of the populations they serve and incorporate them in the design and implementation of the program curriculum, with the ultimate goal of addressing these needs and eliminating health disparities.
Residents must demonstrate an awareness of and responsiveness to the larger context and system of health care, including the structural and social determinants of health, as well as the ability to call effectively on other resources to provide optimal health care (Core).

Background and Intent: Medical practice occurs in the context of an increasingly complex clinical care environment where optimal patient care requires attention to compliance with external and internal administrative and regulatory requirements.
Common Program Requirement VI.B.5.

VI.B.5. Programs, in partnership with their Sponsoring Institutions, must provide a professional, equitable, respectful, and civil environment that is free from discrimination, sexual and other forms of harassment, mistreatment, abuse, or coercion of students, residents, faculty, and staff. (Core)
Describe how the program will achieve/ensure diversity in resident/fellow recruitment, selection, and retention.

Describe in detail what efforts your specific program is doing to advance diversity, equity, and inclusion for residents/fellows. Evidence-based strategies and program success stories are strongly encouraged. Examples should only include efforts the affiliated medical school or the Sponsoring Institution is doing if it is done in partnership with your program, which is encouraged. Do not copy and paste diversity and inclusion policies and statements. This is an opportunity to describe the practices instituted in your program to result in a diverse recruitment and retention strategy and to create an inclusive clinical learning environment. 

Include any numerical data that supports the success of these efforts.
ACGME DEI update

• ACGME Equity Matter 2.0 is being launched and there is a webinar Wed, 11/15 at 2 pm CT

• Revamp of the Barbara Ross Lee, DO Award for DEI

• Foundations of DEIA textbook

• Specialty by specialty data analysis on the state of diversity and related research and data improvement

• Continuing improvement of complaints and concerns process and planning of a summit on how to eliminate mistreatment in the CLE

• Planning a summit to discuss how medical education to improve care of disabled individuals can be implemented

• Launch of the Equity Matters Resource Collection

• Maintaining a robust educational program with external presentations and implementing new programs at the Annual Educational Conference
Ward Connerly

Sacramento businessman and former University of California Regent (Appointed in 1993).

Anti-affirmation activist and organizer with a devotion to the idea of utter colorblindness.

In 1997, Connerly founded the American Civil Rights Institute, which advocated for ballot measures to prohibit sex-based and race-based preferences modeled on Proposition 209 in Washington, Michigan, Colorado, Nebraska, Arizona, and Oklahoma.

“There was a time when affirmative action had a value. There was discrimination in all sectors of California and we needed some sort of shock treatment. The time has come to take off the training wheels.”

On July 20, 1995, the UC Board of Regents voted to 15-10 to eliminate race-based and gender-based preferences in hiring and contracting and 14-10 to race-based and gender-based preferences in university admissions issuing a Special Policy 1 (SP1) and SP2

Ballot initiative authored by Glynn Custard and Thomas Wood, that would become Proposition 209 was filed less than a month afterwards; they asked Connerly to chair the campaign to support the ballot initiative.

California Proposition 209 passed in 1996 with 54.6% of the vote and an 81% drop in the number of admission offers to African Americans from Berkeley’s Boalt Hall law school obtained in 1997
Post prop 209 consequences

Figure 1: Number of Acceptances Offered to Minority California Residents by California Medical Schools, 1990-2007*

* For this report, applicants identifying themselves as Hispanic/Latino, Black/African American, American Indian/Alaska Native, or Native Hawaiian/Other Pacific Islander are considered to be “minority” residents.

# Ward Connerly ballot measures

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<th>Year</th>
<th>Position</th>
<th>Status</th>
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[https://ballotpedia.org/Ward_Connerly](https://ballotpedia.org/Ward_Connerly)
Chilling effect of prop 209

While there has been some recovery of losses in Latinx and Black/African American matriculants that occurred immediately after Proposition 209 was enacted, progress has been limited.

Because the Latinx population of California grew tremendously during these 30 years, from 26 percent (1990) to 39 percent (2019) of the population, the number of Latinx medical students has fallen further behind the numbers needed to provide ethnically concordant care.

Black/African American matriculation increased primarily in the UC medical schools. In California’s private medical schools, the proportion of Black/African American students matriculating fell over the 30-year period, from 6 percent (1990) to 5 percent (2019).

Efforts to increase diversity in California

- AAMC Project 3000 by 2000
- MMFPE, SMEP, SMDEP, SHPEP

The six PRIME programs, with the first begun in 2004, are innovative medical school programs focused on increasing the number of physicians committed to caring for the underserved populations of California. The programs provide dedicated education and additional training to students to prepare them to meet the needs of medically underserved populations. It expanded the number of first-year seats at the five UC medical schools that existed prior to the enactment of Proposition 209 (UC Davis, UCI, UCLA, UCSD, and UCSF). Each of the six programs (including UC Merced San Joaquin Valley PRIME) has supplemental admissions criteria.

- Implementing holistic review, a framework for incorporating a wide range of factors into admissions decisions aside from those of the dominant cultural normative factors.

Can you predict who is more likely to serve underserved and marginalized communities?

AAMC Matriculating Student Questionnaire

AAMC Graduating Student Questionnaire


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Figure 4. Number of Latinx Matriculants to Public and Private California Medical Schools from 1990 – 2019

Source: Association of American Medical Colleges Applicant Matriculant Data File, authors’ tabulation.
Figure 6. Number of Black/African American Matriculants to Public and Private California Medical Schools from 1990 – 2019

Source: Association of American Medical Colleges Applicant Matriculant Data File, authors’ tabulation.

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Note: The "Non-U.S. Citizen and Non-Permanent Resident" category may include students with unknown citizenship. Matriculants who declined to report gender are not reflected.

Each academic year includes applicants and matriculants that applied to enter medical school in the fall of the given year. For example, academic year 2022-2023 represents the applicants and matriculants that applied to enter medical school during the 2022 application cycle.