

# Affirmative Action Beneath the Surface

Many critics of affirmative action in college admissions labeled it as an obstacle to a fair, merit-based system. Yet, contrary to this popular narrative, affirmative action was never a mechanism for discrimination, but rather an important safeguard of equality.

## So, What Is Affirmative Action?

Affirmative action refers to policies and programs that promote equal access to opportunities for historically underrepresented groups through the consideration of certain identity factors—**without negating relevant qualifications**.

Source: Vox

## A Brief, But Important History...

### 1935: Establishing Terminology

The term “affirmative action” was first attributed to the National Labor Relations Act, which prevented employers from discriminating against workers who were members of a labor union. The legislation was part of President Franklin D. Roosevelt’s New Deal reform package.



Source: The Balance

### 1964: Introducing Legislation

President Lyndon B. Johnson signed the Civil Rights Act, banning discrimination in private employment on the basis of race, religion, national origin, and gender. Title VII of the Act empowered the courts to invoke affirmative action against these systemic forms of discrimination.



Source: CNN

### 1965: A Formal Definition Emerges

President Johnson issued Executive Order (EO) 11246, which created two standards for affirmative action: **membership in a historically underrepresented group, and merit-based qualifications**. This EO became the blueprint for modern affirmative action programs.



Source: Setyan Law

### 1972-73: Role in Higher Education

Amendments to Title VI of the Civil Rights Act of 1964 enabled the federal government to extend non-discrimination principles to the sphere of higher education, prompting colleges to prioritize equitable representation on their campuses.



Source: Synapse

### 1978: *Regents of the University of California v. Bakke*

The Supreme Court determined that race could be used as one of several factors in evaluating a student’s application, but may not serve as the basis of a quota system that favors one racial group over another. This concept of “holistic review” was upheld by the Court in several cases before being overturned in 2023.

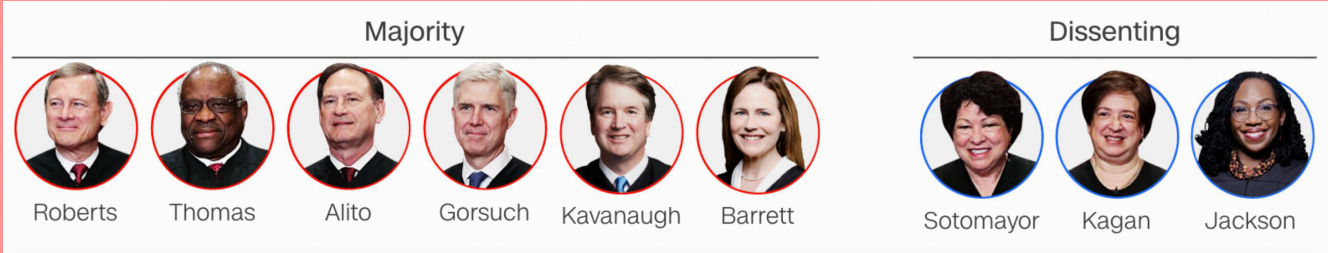


Source: Los Angeles Times



# Aftermath of *Students for Fair Admissions v. Harvard* (2023)

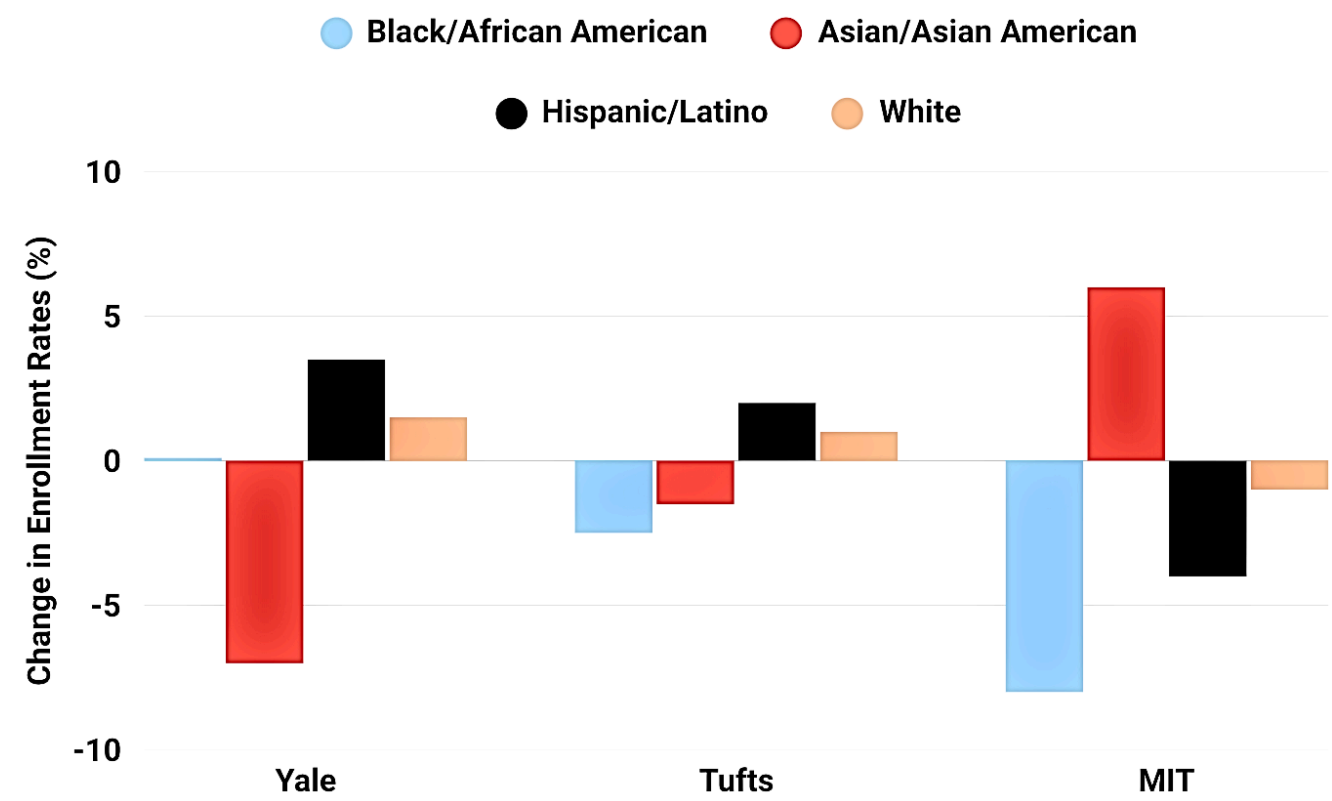
In a 6-3 ruling, the Supreme Court concluded that Harvard’s race-based admissions policies violated the Equal Protection Clause of the 14<sup>th</sup> Amendment, marking the end of affirmative action in higher education.



Sources: Oyez, CNN

## 1) Mixed effects on racial diversity among many elite colleges, with African American enrollment suffering the most.

While many schools, including Harvard, Yale, UNC, Tufts, MIT, and UVA, reported drop-offs in the enrollment rates of certain racial minorities in 2024, it’s too early to measure the full impact of the Court’s decision. Additionally, some schools have already made adjustments to their admissions policies to maintain diversity.



Source: Vox

## 2) Ending affirmative action served as a precursor to the ongoing, government-sanctioned assault on DEI initiatives.

On January 21, 2025, President Donald Trump issued EO 14173, which revoked the affirmative action provisions of EO 11246. Under the Trump administration, Students for Fair Admissions has also successfully terminated race-based admissions policies in the U.S. Military Academy, U.S. Air Force Academy, and U.S. Naval Academy.



Sources: The White House, Higher Ed Dive, Reuters

## 3) Schools are taking discreet action to preserve racial diversity on their campuses within a volatile political climate.

To learn more about these various initiatives, click on the links below:

[Affordable Action at Duke University](#)

[Direct Admissions Minnesota](#)

[Opportunity Atlas \(Yale University\)](#)

**Duke to Expand Aid for NC and SC Students**

Duke to provide full tuition for eligible students with family incomes below \$150,000

**DIRECT ADMISSIONS**

MINNESOTA

**OPPORTUNITY INSIGHTS**

United States Census Bureau

## 4) In the absence of affirmative action, our national culture has become more exclusionary.

Institutions of higher education were models of the intellectual and cultural diversity that America once strived for. But, in the absence of affirmative action, students have become more hesitant to express their racial identities in the application process, and are being exposed to rhetoric that portrays diversity as a threat to American identity. Consequently, the Supreme Court’s ruling will likely have a negative impact on national unity.

Sources: ACLU, New York Times

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