

A DEI Dilemma: Race Versus Merit & an Erosion of Academic Civility

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The Supreme Court's decision in Students for Fair Admissions v. Harvard & UNC (2023) and the U.S. Department of Education's (DOE, 2025) recent enforcement guidance has declared race-based preferences in education unconstitutional and illegal. This case study examines the legal and ethical conflicts surrounding Diversity, Equity, and Inclusion (DEI) policies at a Midwestern university, where faculty disagreements over equity definitions escalated into public confrontations and a hostile work environment. The research highlights how DEI initiatives, initially rooted in affirmative action, have evolved into quota-based frameworks that prioritize race over merit and economic hardship. The Supreme Court and DOE now prohibit racial balancing in admissions, hiring, scholarships, and financial aid, with non-compliant institutions facing federal penalties. With President Trump's 2025 revocation of Executive Order 11246, the policy landscape has decisively shifted against DEI mandates, signaling the end of race-based affirmative action in federally-funded institutions; institutions must now embrace merit-based policies or risk legal consequences.

Keywords: diversity, equity, inclusion, racism, supreme court, policy implementation, higher education

LITERATURE REVIEW

Diversity, Equity, and Inclusion (DEI) policies evolved from U.S. Affirmative Action (AA), which began with President Kennedy's 1961 Executive Order 10925, requiring non-discrimination in government hiring. President Johnson's 1965 Executive Order 11246 expanded this to include sex and demanded active measures to ensure fair treatment. The Civil Rights Act of 1964 banned discrimination based on race, color, religion, sex, or national origin, but did not mandate racial quotas (Harvard, 2015, 2016; MacLaury, 2020).

While originally intended to address under-representation and promote equal opportunities, Affirmative Action gradually incorporated preferences and quotas, despite no explicit legal mandate. The concept of MINORITY "set-asides" in contracting emerged to ensure that minority-owned businesses received a specified amount of government contracts. These set-asides were quotas, allocating a certain percentage of contracts to minority-owned firms. This was intended to counteract historical disadvantages faced by minority businesses and ensure their participation in government procurement; in practice, Blacks in the upper-income strata were given preferences over Whites in the lowest quintile.

Legal challenges and court rulings played significant roles in shaping the implementation of quotas. Landmark cases like Regents of the University of California v. Bakke (1978) prohibited strict racial quotas but allowed race to be considered as one factor among many in admissions decisions. This nuanced approach led to the development of policies that, while not explicit quotas, effectively operated as such by setting goals for minority representation (Anderson, 2004; Nakamura, et.al., 2020). In the Supreme Court

case *Grutter v. Bollinger*, 539 U.S. 306 (2003), Chief Justice William Rehnquist argued that the university admissions system was, in fact, a thinly veiled and unconstitutional quota system.

In the 1980s, the focus shifted towards framing diversity as beneficial for business, leading to increased spending on diversity initiatives. By 2020, the global diversity market was worth \$7.5 billion, with significant growth after George Floyd's murder in 2020. As of 2024, Affirmative Action rhetoric has shifted to DEI, but nine states have banned its use in hiring (Read, 2021; Economist, 2022).

In 2021, the Students for Fair Admissions (SFA) petitioned the Supreme Court of the United States (SCOTUS) to review the University of North Carolina (UNC) and Harvard's race-based admissions. SFA maintained that they violated Title VII of the Civil Rights Act, which bars entities that receive federal funding from discriminating based on race (Howe, 2022). On June 29, 2023, the SCOTUS ruled in favor of the Students for Fair Admissions (6-3 against UNC & 6-2 against Harvard) writing that "*eliminating racial discrimination means eliminating all of it...the guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color*" (SCOTUS, 2023, p. 4). Hence, the Supreme Court's 2023 decision in *Students for Fair Admissions v. Harvard* rejected race-based affirmative action in college admissions, citing a lack of measurable objectives and potential for racial stereotyping (SCOTUS, 2023).

McClellan (2023) wrote, "if the Supreme Court holds that race-conscious admission is unconstitutional, addressing racially disparate impacts perpetuated through other college admissions policies will become even more critical to ensuring that pathways to college remain open to students of all racial backgrounds." These "other college admissions policies" are under the DEI umbrella, and have the intent of circumventing the SCOTUS ruling, which sets the stage for this case study. The case study background is shown chronologically, and then the discussion articulates the areas of disagreement between different world views and legal interpretations.

CHRONOLOGY OF EVENTS

Far-left advocates believe that Diversity, Equity, and Inclusion (DEI) policies are essential in promoting fairness and representation in higher education. However, implementation can lead to significant conflicts, particularly when definitions are unclear. This case study examines a conflict at a Midwestern University (MidwestU), focusing on the perspectives of Dr. John Smith, a faculty member concerned about DEI definitions and terms of reference; Dr. Bartolo Durazo, the Vice President for DEI; and Mr. White, another Faculty Senator. All names have been changed to protect individual privacy, but misspellings taken from the official transcripts of Senate proceedings were left intact.

Dr. John Smith Senate Speech

John Smith, from the College of Business, expressed concerns at a Faculty Senate meeting about a proposal to include DEI mandates in the Faculty Handbook without clear definitions. He emphasized the importance of equality, not equity, and individual merit, citing his experiences and background. Dr Smith's comments follow:

"My name is John Smith. I'm from the Department of Marketing in the College of Business and I think we all are doing very, very well at this university. I've been at several other universities that I think our diversity ... I give us an A+ from my own personal perspective. Over the last seven years inclusion, I give us an A+ on inclusion. But then when we start talking equity, everything's in definitions and we know that equality is constitutionally supported, guaranteeing equal treatment under the law. Equity initiatives may involve prioritizing certain groups, whether in the classroom and employment, but can be seen as contradictory to individual merit and fairness principles. So I think that this University already embraces equality, but the tie between equity and the Supreme Court decision on affirmative action lies in the acknowledgement of preferential treatment based on group identity.

Often, as in affirmative action, it undermines the principles of individual merit and fairness. Our university should strive for a level playing field where all individuals have equal opportunities to succeed, regardless of racial or ethnic backgrounds. Advocating for cautious approach to the equity portion of DEI is crucial. Recognizing potential legal challenges that may arise. The recent Supreme Court decision signifies a move towards race-neutral strategies, and our HSI must be mindful of constitutional and hence legal considerations. So I think one of the key things on this is that we need ‘terms of reference’ to ensure that we are focused on constitutional and legal agreement in what we’re trying to accomplish.

And I say this as a person who was raised in Hispanic household, you know, with a Mexican mom, and raised in a black neighborhood. So you know, it’s very, very sensitive to me, but I want to know exactly what we’re getting into – (pointing to the white board) specifically on each one of these things. You know when we’re talking structural equity, I read the stuff that’s, you know, on the faculty Senate website, but equity and structural equity, there’s a difference. And without ‘terms of reference’ – an agreed upon terms of reference – I don’t know what that is. Thank you very much.”

Mr. White’s Comments

Mr. White, a liberal arts instructor and Faculty Senator, supports DEI initiatives, criticizing the Supreme Court’s recent shift towards color-blind policies. White argued that such policies uphold white supremacist ideals and hinder progress towards true equity. White advocates for a commitment to equity in university policies. His Faculty Senate transcript follows:

“Hi everyone. Can you hear me feeling a little sick? So forgive me. I just want to share that I could not disagree with Smith’s notion more. Smith made an important note that words have meaning. None of the words added to this motion detract from individual merit or fairness. In fact, increasing structural equity in valuing a wide array of services in our institution in the hidden labor of our colleagues of all identities is valued in tenure and evaluation guidelines. These comments in the Supreme Court’s recent shift in legal language market regression to color-blind policies that continue to speak to the idea of merit-based processes that hide status quo instruments, **white supremacist ideals and ideologies**, and the policies and procedures within the university. Recent studies in our locale continue to demonstrate that society is more segregated now than it was prior to Brown vs Board and other historical integration efforts. Committing to equity and policy, procedure and ideology marks a movement toward an improved institution, and a healthier workplace and increases opportunity and access for our colleagues in this institution and for our students in their lives beyond the institution. We cannot allow our regression to federal color-blind policies bully us as faculty members and members of the professoriate and of employees of this University.”

Dr. Bartolo Durazo’s Comments

Vice President Bartolo Durazo, who was *not* a Faculty Senator, argued for the necessity of *equity* in DEI policies, stressing that equity aims to address systemic discrimination and achieve equivalent outcomes for historically underrepresented groups. He highlighted his desire to tie DEI efforts to social identities.

“You put the red line or it’s back up. I don’t know which slide where there’s like five of them. Like, you understand? I do. Umm, we’re going backwards, right? You that’s service. Just very alright, may start. Janet Helms, James Banks, Williams, Harvey, Damon Williams, Sonia Nieto, Roland Smith, Benjamin Reese. So, if you don’t know a lot of those names, you’re not an expert in the field. So, I would just start there.

I'm hearing what's been said, but the idea of equity, even when we think about the cases, we could go back to Mendez, Westminister, Brown versus Board, Grutter v. Bollinger, Kelly versus Bakke and the most recent decisions that have been made right now around Harvard and North Carolina, the misconception around equity is that equity is not defined by equality.

Now if we want to flow on an equality framework, then let's just be an institution that says we go with equality. Let's see how students that make decisions, whether or not this University is the place for them.

However, equity as defined is in the cannon, not a perspective.

The cannons scholarship of the work, historically and politically, and it three before is the process of creating equivalent outcomes from members of historically underrepresented in the press groups.

Equity is about moving towards ending systemic discrimination and exclusion against people based on their identity and background and focuses on filling areas where gaps exist based on institutional needs to achieve diversity and inclusion.

And we remove social identities from equity... (it) is no longer equity by definition structurally and at the individual level. That's the cannon.

What I'm asking us today to consider and let me know when I'm up with time is to really lean behind the work.

This is a threshold moment for this University: either we will lean into equity and every way it means and represents how it serves and who it serves, or let's just think what equality.

But let's also be clear, then what equality is, and if that's what this University is, then let's just put it out there.

Maybe that'll affect students come in here or not. I don't know. Is it worth the risk? I'm just simply asking people to consider that cause it's also tied to the Civil Rights Act of 1964, particularly protected identities.

Equity is specifically tied to race, color, religion, sex, including pregnancy, sexual orientation, gender identity, national origin, disability, and genetic background. Outside of that scope, there's other protected identity.

I understand the importance of viewpoint diversity.

I get it when academia, but when we think equitably and lean into equity and must be tied to social identities and politically, historically, the exclusion of who was out, equity is more about mending and its furnace than it is about fairness and the way we understand it itself.

- If you have 5 and you need 5, you get 5.
- If you have 8 and you need 2, you get 2.
- If you have eight, or if you have two and you get 8 to get to 10, the person that already has 9 doesn't also get 8 because that other person got eight.

That's **equity** in the practical sense. We vote on anything that doesn't tie social identities; we are going against everything this institution represents."

Dr. John Smith

John Smith returned to the podium to respond to the prior two speakers and said:

"Yes, believe it or not, I was raised by a Hispanic mother in a black neighborhood, and as soon as I hear someone online saying "white supremacy" or you're trying to implement white supremacy: that is a non-starter.

Number two, I do appreciate your clarification Bartolo, but you did not clarify my question. My question was *What is structural equity?* Is that different than equity or is it something totally different; that was not resolved. And the only way we can resolve this kind of thing, which is very political, is to have a list.

And I will tell you I used to work for the Department of State. I used to write treaties, so I was that high-ranked guy in five different embassies. And one of the big things you do before you write a treaty is you have “terms of reference” and I will tell you all about it. Now, until I find out what is the difference is between equity and structural equity? (and) What’s the difference between white superiority versus whiteness? There are a whole bunch of definitions out there.

I have published on it, so I am a little bit of an expert, not as expert as you are, but the definitions are all over the place. And that’s why in a faculty handbook, that all of us in this room and everybody online is going to be held to, we should have those terms of reference. Thank you very much.”

DISCUSSION

The conflict between Dr. John Smith, Mr. White, and Vice President Bartolo Durazo centers around the interpretation and future implementation of DEI (Diversity, Equity, and Inclusion) policies in the Faculty Handbook.

Key Points of Contention

Definition and Implementation of Equity

- John Smith is concerned about the lack of clear definitions for terms like “equity” and “structural equity” in the DEI mandates. He advocates for equality and individual merit and fears that equity initiatives may lead to preferential treatment based on group identity, which he sees as contradictory to fairness and individual merit.
- Bartolo Durazo argues that equity is necessary to address systemic discrimination and achieve equivalent outcomes for historically underrepresented groups. He emphasizes that equity must be tied to social identities and is about creating fair outcomes based on individual and institutional needs, not merely equal treatment.

Impact of DEI Policies

- Mr. White supports DEI initiatives and criticizes the recent Supreme Court shift towards color-blind policies, which he believes uphold white supremacist ideals and hinder progress towards true equity. He advocates for a commitment to equity in university policies to improve opportunities and access for all.

Approach to DEI Policy Language

- Smith calls for precise and agreed-upon definitions in the Faculty Handbook to ensure everyone understands what is being mandated. He emphasizes the importance of clarity and legal considerations in the implementation of DEI policies compliant with the SOCTUS ruling.
- Durazo disagrees on the importance of clarity; his focus is more on the practical application of equity to address systemic issues and achieve fair outcomes. He believes the university should commit to equity by addressing social identities and systemic discrimination.

In summary, the disagreement revolves around the definition, interpretation, and implementation of DEI policies, specifically the role of equity. Dr. Smith is concerned about clarity and fairness, while White and Durazo advocate for the necessity of equity to address historical and systemic discrimination without providing the requested definitions in the Faculty handbook.

TABLE 1
CONSTITUTIONAL EQUALITY VERSUS RACE-BASED EQUITY

Dr. John Smith's View	Mr. White's View	VP Bartolo Durazo's View
<ul style="list-style-type: none"> · Emphasizes equality & individual merit. · Believes in clear definitions & terms of reference for policies to ensure fairness. · Concerned that equity initiatives might undermine merit and fairness. · Stresses adherence to constitutional and legal considerations, especially considering recent Supreme Court decisions. 	<ul style="list-style-type: none"> · Strongly supports DEI initiatives and is critical of colorblind policies. · Believes that color-blind policies uphold white supremacist ideals and ideologies. · Argues for policies that explicitly address systemic inequalities and hidden labor within the university. · Sees equity as essential to correcting systemic issues and promoting genuine fairness. 	<ul style="list-style-type: none"> · Advocates for equity to address systemic discrimination and achieve equivalent outcomes for historically underrepresented groups. · Focuses on the practical application of equity tied to social identities and systemic issues. · Believes committing to equity involves recognizing and addressing historical and systemic inequalities. · Ignores requests for precise definitions and is more concerned w/ implementation of equity policies

Mr. White's Motte & Bailey Fallacy

Mr. White's use of the term "white supremacist ideals and ideologies" to describe any opposition to DEI changes in the faculty handbook is not only inflammatory but also a textbook example of the Motte and Bailey fallacy. This rhetorical tactic involves retreating to a more defensible, less controversial position (the Motte) when challenged, while advancing a much more extreme claim — in this case, labeling dissent as "white supremacy" (the Bailey) — when unopposed.

In this case, White's claim that those who advocate for color-blind, merit-based policies are upholding white supremacist ideals serves to shut down legitimate debate by equating racism with a sincere desire for fairness and equality under the law. This misrepresents the intentions and beliefs of those who oppose the DEI mandates and quotas and demeans them, reducing complex discussions to ad hominem attacks.

Such rhetoric is detrimental to productive discourse and undermines the foundational principles of academic freedom and intellectual diversity. By labeling opponents in such a manner, White avoids engaging with the substantive concerns about DEI policies, such as the need for clear definitions and the potential for these policies to contradict the principle of individual merit. Research shows how DEI, CRT, and Anti-Racist theorists are factually wrong, and how they have skewed logic in public dialogue to deliberately obfuscate their real intent (Baker, 2022; 2023; 2024a; 2025).

Durazo's Argument From the Position of Authority

Vice President Bartolo Durazo's argument for DEI policies heavily relies on an appeal to authority by citing recognized experts and canonical scholarship in the field asserting that equity must address social identities and systemic discrimination to achieve fair outcomes. He references landmark legal cases to bolster his stance and states that without knowledge of several authoritative authors, one lacks the expertise to critique DEI policies. While these appeals can lend credibility, they fail to address the substantive concerns about the need for clear definitions and the practical implications of these policies, making his argument more about leveraging authority than engaging with contentious issues.

Durazo's perspective can be seen as aligned with Marxist or socialist doctrines, emphasizing redistributive justice and the allocation of resources based on need rather than merit (Marx, et.al., 1848). Equity involves ensuring everyone gets what they need, regardless of status and individual effort which echoes Marxist principles of addressing systemic inequalities and prioritizing collective well-being over

individual merit. By focusing on social identities and historical exclusion, this viewpoint seeks to rectify past injustices through targeted interventions, reflecting a broader critique of capitalist and merit-based systems (Baker, 2024b).

If Durazo conducted unbiased research, then he would discover there are 1.6 million Hispanic millionaires and 1.7 million Black millionaires in the United States (300% more than Latin America and Africa respectively). If the United States had a racial caste system insinuated by Durazo, then there would be few Black or Hispanic millionaires (Baker, 2022; Baker, 2023a/b; Bell, 2023; McCain, 2023).

The Second Altercation After the Senate Meeting Concluded

After the Faculty Senate meeting, where the inclusion of DEI language in the Faculty Handbook was voted on, VP Bartolo Durazo verbally assaulted Dr. John Smith. Despite opposition from Smith and other Senators, the Faculty voted for inclusion of DEI in the Faculty Handbook. Following the meeting, Durazo confronted Smith, accusing him of not understanding DEI issues due to his perceived racial identity. This confrontation, witnessed by departing Senators, escalated tensions and highlighted the deep divisions over DEI policies.

- Following the Faculty Senate meeting, VP Bartolo Durazo approached Dr. John Smith and made a comment to the effect of, “Oh, we’re gonna yell and get loud now,” during which spittle reportedly landed on Dr. Smith’s face. At this time, several senators were exiting the meeting, which had formally concluded. More notably, the Vice President for Diversity, Equity, and Inclusion (VP-DEI) approached Dr. Smith with a notably hostile tone and demeanor.
- VP Durazo repeatedly stated, “You are white, so you just don’t get it. You don’t understand.”
- Dr. Smith responded, “I am not white, meaning Anglo. I am Hispanic, I am Black, I’m Asian, and I’m Irish. I have DNA tests to support this, but I was raised in a Hispanic household in a Black neighborhood. I was the minority!”
- VP Durazo continued to reiterate the phrase, “You’re white, you don’t get it,” multiple times, in a manner that appeared increasingly agitated and emotionally charged.
- Dr. Smith further explained that many members of his family were raised in South Chicago and had been victims of violent crime. He stated that his brother had been stabbed, his sister and mother had been raped, and his cousin Carol had been raped, stabbed, and shot.
- In response, VP Durazo declared, “Nothing happened to **YOU**, so you do not understand gringo!”
- Several Faculty Senators turned to observe VP Durazo’s verbal engagement with Dr. Smith. During this public confrontation, his conduct was widely regarded as inconsistent with the expectations of professionalism, particularly for someone serving as Vice President of Diversity.
- Dr. Smith stated, “Cálmate, Licenciado. I do not believe this is the appropriate time, place, or venue. I came from the bottom 5% of the US economy. I grew up on one meal a day. I weighed 90 pounds entering high school and 105 to 110 pounds upon graduation. I joined the Army because they promised me three meals a day. I am the first person in my family to attend and graduate from college, and the first to leave the ghetto. I understand the *perceived* need for DEI, but all I requested was clear, agreed-upon definitions.”
- At one point, an unnamed Black female senator walked past the exchange and shouted, “You trying to put us back into Jim Crow!” Dr. Smith calmly replied, “I just asked for definitions,” then she departed abruptly.

VP Durazo eventually disengaged from the hostile encounter. However, the confrontation had already drawn significant attention, resulting in public embarrassment for those expressing concern about the DEI additions to the Faculty Handbook. Moreover, VP Durazo refused to include the requested definitions, effectively creating a moving goal post or a shifting standard for future interpretation.

An Analysis of the Confrontation

Durazo's behavior could indeed be seen as discriminatory. By repeatedly asserting that Smith "didn't get it" due to his perceived white racial identity, Durazo dismissed Smith's personal experiences and contributions based solely on his appearance (Smith is a light-skinned Hispanic). This undermined the principle of evaluating individuals on their life experiences and merit and created a divisive and hostile atmosphere. Such actions are contrary to the goals of DEI, which should aim to foster understanding and inclusion rather than alienation and exclusion based on superficial judgments.

Vice President Durazo's publicly hostile confrontation with an untenured junior faculty member Professor Smith raises serious concerns about a hostile work environment. Durazo's position of institutional authority amplifies the power imbalance, creating an atmosphere of intimidation and suppression of dissent. By aggressively dismissing opposition to DEI changes as "white supremacist ideals and ideologies," Durazo not only weaponizes rhetoric to silence debate but also chills open discourse—undermining both academic freedom and the principles of professional conduct. Given his senior role, his behavior is inappropriate and potentially an abuse of power, fostering a climate of fear and coercion that discourages faculty members from engaging in critical discussions. If such behavior is tolerated, it sets a precedent that stifles intellectual diversity and discourages dissenting voices, thereby eroding the integrity of faculty governance and institutional decision-making.

Legal and Ethical Considerations

The Supreme Court ruled that the admissions programs at Harvard and UNC cannot be reconciled with the Equal Protection Clause. These programs lack focused and measurable objectives for using race, employ race negatively, involve racial stereotyping, and lack meaningful endpoints. Universities can consider an applicant's discussion of how race affected their life but cannot indirectly use race as a basis for admissions decisions. The ruling emphasizes that benefits to students should be tied to individual achievements, not racial identity (SCOTUS, 2023).

The Court criticizes universities for focusing on skin color over individual experiences, skills, and lessons learned. This approach, the Court argues, leads to increased racial polarization and factionalism, which the Constitution was meant to prevent. It highlights that racial categories are socially constructed and fluid, making it impossible to definitively determine a person's race based on appearance alone. The Court asserts that all racial categories are stereotypes that do not accurately reflect individuals' experiences and viewpoints. According to the Court, the solution to racial issues lies in treating everyone equally before the law, regardless of race, as promised in the Constitution, fostering true diversity of thought and individuality (SCOTUS, 2023).

The conflict raises important legal and ethical questions, particularly in light of recent Supreme Court decisions on affirmative action versus DEI policies. The altercation also highlights ethical concerns about handling the complaint by the Equal Opportunity (EO) Office and the responsibilities of university leadership in fostering a respectful and inclusive environment for everyone including Whites and Asians.

CONCLUSION

The case study underscores the need for clear definitions and terms of reference for DEI policies at this University. We recommend steps to address stakeholder concerns and prevent similar conflicts, including transparent policy development and effective communication. This displayed a faculty in distress, which was made worse through poor communications, poor leadership, and discriminatory behavior by senior personnel in the University. Within a week after the confrontation in the Faculty Senate, the Office of Diversity and Inclusion sent out a climate survey to the entire staff and faculty that included definitions for the key terms, which Dr. Smith had requested; these DEI terms and a critique follow:

Diversity, Equity, and Inclusion (DEI) Terminology

DEI has three components:

Diversity

Definition: Diversity, generally speaking, refers to the range of human differences, including but not limited to race, ethnicity, gender, gender identity, sexual orientation, age, social class, physical ability or attributes, religious or ethical values system, national origin, and political beliefs. The concept of diversity as related to equity and inclusion is an understanding that some people with differing social identities have been systemically left out, behind, and treated unfairly due to their identity or identities. It's about recognizing that certain benefits or opportunities might be given to some groups more than others.

Critique: Most conservatives prioritize individualism over group identity, advocating for treating individuals uniquely rather than categorizing them by race, gender, or religion. They endorse government neutrality, opposing intervention that favors or disadvantages specific groups, fearing potential overreach and infringing individual liberties. While acknowledging historical injustices, policies should address individual actions and equal opportunities rather than relying on affirmative action, DEI quotas, or preferential treatment based on group identity; allowing individuals to form relationships based on shared values without restrictions from policies focusing on group disparities.

Inclusion

Definition: Inclusion exists when traditionally marginalized individuals and groups feel a sense of belonging and are empowered to participate in the majority culture as full and valued community members, shaping and redefining that culture in different ways.

Critique: The definition of inclusion, centered on empowering traditionally marginalized groups, raises concerns about unequal treatment. Emphasizing historical injustices are perceived as inconsistent with the principle of treating everyone equally. Focusing solely on marginalized groups will inadvertently exclude or diminish the struggles of poor individuals, including poor whites. Conservatives argue for considering socioeconomic status, regardless of race, to ensure fair and unbiased approaches to inclusion. For six decades, a wealthy Black would be given preferences in admissions, scholarships, and government contracts over an impoverished White person.

Equity

Definition: Equity is about making sure everyone has an *equivalent outcome*, especially those who have been historically underrepresented and oppressed groups. Equity is about ending systemic discrimination against people based on their identity and background, and it focuses on building areas where gaps exist in institutional needs to achieve diversity and inclusion.

Critique: Using a constitutional lens, the provided definition of equity raises concerns, especially considering the SCOTUS (2023) ruling underlining equal protection. The definition's focus on equivalent outcomes for historically underrepresented groups might conflict with the constitutional principle of color-blind equal treatment. The SCOTUS (2023) ruling emphasizes the unconstitutionality of racial discrimination, suggesting that equality, treating individuals without regard to race, is constitutionally sound, while equity, emphasizing specific outcomes for certain groups, could be perceived as illegal or constitutionally problematic.

Adverse Impact

Fryer (2022) suggests that the overall impact of diversity, equity, and inclusion (DEI) training may turn adverse, particularly when such training is mandatory. Haskell (2024) found that DEI instruction can increase prejudice, specifically targeting the Caucasian majority. Cooper et al. (2023) find no evidence that DEI Action Plans improve organizational effectiveness. Sowell (2020) highlights concern regarding the use of group quotas and subjective criteria in university admissions. The imprecise nature of the term "DEI" complicates effective definition and implementation. Despite the proliferation of various programs, DEI initiatives may not adequately address core issues, with individual-level interventions such as diversity training potentially diverting attention from more significant contributors to disparities (al-Gharbi, 2020). Rufo (2023) recommends dismantling all the unconstitutional DEI programs.

Survey data from Resume Builder (2023) indicates ongoing discrimination, with 16% of corporate hiring managers reporting instructions to deprioritize white male candidates. Legal challenges against overreaching DEI measures have led to some states defunding unconstitutional DEI offices (FIRE, 2023/2024; Daymon Johnson, 2023; Atterbury, 2023; Runnels, 2023; Walker, 2023; SCOTUS, 2023).

In 2023, over 160 retired military officers had advocated for the removal of DEI programs from the Department of Defense (FO4A, 2023; Boehlke, 2023), citing concerns about tokenism and conflicts with merit-based objectives. Criticism has been levied against diversity & inclusion for reducing the concept of change to mere demographic attributes, neglecting diversity of thought, and revealing biases against White and Asian individuals. An example of this bias is seen in Mayor Michelle Wu's exclusion of white elected officials from a holiday celebration, which is perceived as emblematic of anti-white racism and has contributed to increased scrutiny of DEI initiatives (Yancey-Bragg et al., 2023). Adams, et.al. (2024) highlighted that lawmakers in 30 states introduced or passed over 100 bills to restrict or regulate DEI initiatives, reflecting a growing backlash.

The addition of undefined DEI language in the Faculty Handbook raises significant concerns about faculty performance reviews becoming subjective and biased. Without clear definitions and measurable objectives, evaluations may be inconsistent and influenced by personal biases, undermining fairness and merit-based assessment. This ambiguity can lead to discrimination, as highlighted by Haskell (2024) and Cooper et al. (2023), who found that poorly defined DEI initiatives can increase prejudice and fail to improve organizational effectiveness. Additionally, the lack of clarity might result in legal challenges and undermine the institution's reputation. Clear, objective criteria are essential to ensure fair and consistent employee evaluations.

EPILOGUE

The Supreme Court's decision in *Students for Fair Admissions v. Harvard & UNC* and the U.S. Department of Education's (DOE, 2025) latest enforcement guidance make it clear that race-based education preferences are illegal and unconstitutional. The ruling reaffirmed that the Equal Protection Clause of the Fourteenth Amendment prohibits treating individuals differently based on race in any educational setting. The DOE has now extended this principle beyond admissions, declaring that race-based policies in hiring, scholarships, financial aid, housing, discipline, and other academic programs violate federal law. Institutions that fail to comply with these legal standards may face investigations, lawsuits, and loss of federal funding (DOE, 2025).

One of the most troubling aspects of affirmative action and DEI policies has been their prioritization of race over economic hardship. This has led to situations where an upper-income Black or Hispanic student may receive preferential treatment over an impoverished White or Asian student, despite the latter facing greater social, economic, or financial obstacles. The DOE has made it clear that institutions may not use identity-based criteria to allocate resources, and any attempt to circumvent this ruling—such as using “holistic” admissions, personal essays, or eliminating standardized testing to achieve racial balancing—violates Title VI of the Civil Rights Act of 1964. Schools must now ensure that aid and admissions decisions are based on merit and need, rather than racial identity (DOE, 2025).

The DOE has also taken a firm stance against the use of race-based proxies in education. Institutions cannot implement policies that, while appearing neutral, are designed to achieve racial quotas or disproportionately favor certain groups. This includes DEI initiatives that pressure faculty and administrators to make hiring and admissions decisions based on racial or gender identity rather than individual qualifications. The DOE's directive prohibits educational institutions from engaging in any form of racial balancing, whether direct or indirect. Institutions attempting to subvert these requirements will be subject to federal penalties (DOE, 2025).

The argument that racial disparities automatically indicate systemic discrimination is fundamentally flawed. The DOE has reinforced that numerous factors, including personal effort, economic background, and family circumstances influence differences in educational and professional outcomes. Schools can no longer justify discriminatory policies under the guise of “equity” or “social justice.” The law mandates

equal opportunity not forced or mandated equal outcomes. The presumption that racial disparities are inherently the result of bias ignores the complexities of individual achievement and societal factors (DOE, 2025).

On January 22, 2025, President Trump revoked Executive Order 11246, eliminating affirmative action requirements in federal contracting and employment. This order aligns with the Supreme Court's ruling and the DOE's enforcement actions, ensuring that all government-funded programs adhere to constitutional principles of colorblind equality. Under this new policy, DEI-based hiring mandates and workforce balancing efforts are prohibited and federal contractors must affirm that they will not engage in racial or gender-based discrimination. Schools and universities that receive federal funding must now demonstrate compliance with these legal standards or risk severe financial and legal consequences (Trum, 2025; DOE, 2025).

With the Supreme Court's ruling, the Department of Education's enforcement guidance, and President Trump's executive order, the legal and policy landscape has shifted decisively against DEI-based racial preferences. Institutions must immediately reevaluate their policies to ensure full compliance with constitutional and statutory requirements. Any school that continues to prioritize race in admissions, hiring, or funding decisions is not only violating federal law but also exposing itself to potential lawsuits and financial penalties. The federal government has now made it clear that the era of race-based affirmative action and DEI mandates has come to an end.

ACKNOWLEDGEMENT

This article is dedicated to Justice Clarence Thomas, whose steadfast commitment to the principle of colorblind justice reflects his belief that the Constitution guarantees equal treatment under the law, not outcomes based on race. His enduring defense of individual liberty and equal protection has shaped a judicial legacy grounded in the conviction that justice should be blind to color and rooted in character, merit, and the rule of law.

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