

The Daily Tar Heel

Affirmative action to stay at UNC, for now

By: Sarah Brown – June 26, 2013

UNC's race-conscious admissions policy remains in place after months in limbo at the U.S. Supreme Court — but its long-term future is still uncertain.

The court ruled Monday to send *Fisher v. University of Texas* back to a lower court for review.

The ruling maintains that diversity at universities is a compelling government interest, though the justices' final stance on race-based admissions is still unclear.

"I don't think it's a complete win for either side," said Holning Lau, a UNC law professor. But Lau said it increases the pressure on the University of Texas-Austin — and all higher-education institutions — to justify the use of affirmative action.

"The Fifth Circuit has to do a more rigorous review to see if there were any alternatives ... that wouldn't specifically rely on race," he said.

Steve Farmer, vice provost for enrollment and undergraduate admissions at UNC, said the narrow ruling by the justices did not surprise him.

Farmer said UNC's admissions policy can be left intact for now — but he said he has not turned a blind eye to future implications of the ruling.

"The decision reminds us that we need to be very thoughtful about how we approach admissions in general — and the use of race or ethnicity in particular."

About one-third of UNC's student body are minorities — which Farmer said he attributes in part to a careful, legal consideration of race.

Seven states currently ban affirmative action in college admissions, affecting several of UNC's peer institutions.

The University of California at Berkeley has complied with a statewide ban on race-conscious policies for more than 15 years, and Michigan voters banned the practice in 2006.

Ilya Shapiro, an analyst at the libertarian-leaning Cato Institute, said before the court decision that he supports the gradual move away from using race as a factor.

"I think people should be judged by merit rather than skin color," Shapiro said.

Farmer said UNC has looked into race-neutral alternatives — including a shift from using race to socioeconomic status or implementing a policy akin to Texas’s Top Ten Percent plan. But he said the diversity of students in California and Michigan has suffered since the respective bans passed.

Berkeley’s proportion of underrepresented minority students plummeted by half after the race-neutral mandate was put in place.

“It’s not because the schools haven’t tried (to attract diversity),” Farmer said. “They just can’t get back to where they were before.”

Affirmative action is not straying far from the Supreme Court’s line of sight — the court will hear a case this fall on Michigan’s ban.

And Lau said *Fisher v. University of Texas* could return to the court in two or three years, though he said the prospect of a second hearing remains to be seen.

The final court decisions of the term are expected to trickle in by the end of the week.