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Harvard bias trial to spotlight use of race in college admissions

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A lawsuit challenging the use of race as a factor in U.S. college admissions will go to trial in Boston on Monday, when Harvard University will face accusations that it discriminates against Asian-American applicants.

The lawsuit, backed by the Trump administration, could eventually reach the Supreme Court, giving the newly cemented five-member conservative majority a chance to bar the use of affirmative action to help minority applicants get into college.

“The case is critically important as it’s really about diversity at colleges all across the country,” said Nicole Gon Ochi, an attorney at Asian Americans Advancing Justice—Los Angeles who supports Harvard in the case.

Students for Fair Admissions (SFFA), founded by anti-affirmative action activist Edward Blum, sued Harvard in 2014, contending it illegally engages in “racial balancing” that artificially limits the number of Asian-American students at the Ivy League school.

The U.S. Justice Department, which launched a related probe of Harvard after Republican President Donald Trump’s election, has backed the group, saying the Cambridge, Massachusetts, university has not seriously considered alternative, race-neutral approaches to admissions.

Conservatives argue that affirmative action, which aims to offset historic patterns of racial discrimination, can hurt white people and Asian Americans while helping black and Hispanic applicants.

SFFA said that its analysis of Harvard admissions data shows that Asian-American applicants are less likely to be admitted than their white, Hispanic or black counterparts.

Harvard denies discriminating against Asian Americans, saying their rates of admission have grown significantly since 2010. Asian-Americans, who represent about 6 percent of the U.S. population, make up 23 percent of Harvard’s current freshman class.

It notes that the Supreme Court has previously held that colleges have an interest in enrolling diverse groups of students and may consider race as one factor among many when reviewing applications.

The last time the nation’s top court examined the issue was in 2016, when conservative Justice Anthony Kennedy joined the court’s liberals to allow race to be considered in college

admissions. Kennedy's replacement, Brett Kavanaugh, could be more likely to vote to bar its use.

"This is one area where there could be a significant change by replacing Kennedy with Kavanaugh," said Ilya Shapiro, a senior fellow at the libertarian Cato Institute.

The Justice Department last month opened a probe into whether Yale University also discriminates against Asian Americans, and SFFA has a similar case pending against the University of North Carolina at Chapel Hill on behalf of white students.

"A student's race or ethnicity should not be a consideration in university admissions," Blum said.