



Lawsuit Against Harvard Could Unravel Diversity

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July 16, 2018

A lawsuit filed against Harvard University that claims too few Asian-Americans are accepted to the vaunted college could do the opposite — eliminate race-conscious admissions nationally.

"It could end the use of racial preferences," said Ilya Shapiro, a senior Cato Institute fellow who specializes in constitutional studies.

The suit was filed by Students for Fair Admissions (SFFA) — a group started by Edward Blum, a legal activist who opposes the consideration of race in college and university admissions. Blum recruits plaintiffs, in this case Asian-American students, and pays their legal fees through donations that fund him.

The plaintiffs allege that Harvard's admissions process is unconstitutional because it uses racial quotas, makes race the dominant factor in admissions rather than one of many, and has not fairly considered race-neutral alternatives. They said it is biased against Asian-Americans and that the placements go to other minorities.

About 40,000 students apply to Harvard every year, but fewer than 6 percent are accepted. Asian-Americans make up 22.2 percent of students who were accepted into the class of 2022. According to the U.S. Census Bureau, Asian-Americans constitute 5 percent of the national population.

International students made up 12.4 percent of the same class. Nearly 50 percent of international students in the U.S. are from China or India.

"Asian-[American]s are held to a higher standard than whites, African-Americans and Hispanics," Blum told VOA.

Harvard denies this accusation, saying it considers a mix of factors, does not discriminate against Asian-Americans, and does not have quotas.

"Admissions officers seek ... to discern whether an applicant demonstrates outstanding and unusual intellectual ability, capacity for leadership, creative ability or athletic ability," reads a Harvard court document. "Admissions officers also look for individuals who have been able to

transcend difficult circumstances by achieving academic, extracurricular and personal distinction in the face of hardship."

The school accuses SFFA of being "a litigation vehicle designed to further the ideological objectives of its founder, Mr. Blum" rather than "a true membership organization that can sue on behalf of its members."

In 2008, Blum enlisted Texan Abigail Fisher to sue the University of Texas, who alleged she was denied admission because of minority quotas. The school won that case.

Campus diversity is a contentious debate.

Racial quotas in university admissions were banned in 1978 by the U.S. Supreme Court when Allan Bakke won his case against the University of California, claiming he was not given a slot in medical school because they went to minority students. However, colleges and universities that receive any federal funding have been allowed to consider race in their admissions mix to ensure student populations are diverse, a move commonly known as affirmative action.

But that, too, is changing. In early July, the Trump administration withdrew guidelines issued by his predecessor, former President Barack Obama, that encouraged legal affirmative action.

"The general counsels of all of these schools are going to be talking to [their] presidents and deans and saying, 'Look, we're on notice now. We can't just hide behind this guidance. We have to look at what we're doing, how we're using race, to make sure that there are no race-neutral means to achieve the same diversity that we want,'" said Shapiro.

Opponents of affirmative action argue that students should be considered on merit alone. Still others say colleges should create a diverse class by considering economic status, meaning poor white students would be ranked higher than wealthy African- or Asian-American students.

Harvard said their admissions approach is holistic, meaning it looks at the whole person, including "the most exceptional academic, extracurricular, personal, and athletic ratings," according to a court filing.

Student Julie Yao, who transferred from Dickinson College in Pennsylvania to Barnard College in New York, said as a Chinese-American, she worries that the SFFA case will result in fewer seats for non-white students.

"It really infuriates me because it's almost like there are only a hundred seats for all students at a college," Yao said, "but there are only 20 open for diversity admissions."

"Why are we only fighting for so few spots?" she asked.

Her parents see the lawsuit differently.

"When I went home for a weekend this summer, my mom was actually telling me how her friends are telling people to fund this lawsuit," she said.

"Asian-Americans can be the victim of discrimination by a university in admissions," said Kimberly West-Faulcon, a civil rights attorney and law professor at Loyola Law School in Los

Angeles. "The way you figure that out is to compare the Asian-American admission rate to the white admission rate."

Releasing too much information about their process "would disadvantage low-income applicants who can't afford the consultants and directly impair Harvard's ability to recruit and admit a diverse class each year," Harvard spokesperson Rachael Dane wrote in a statement.

The U.S. Department of Justice is investigating whether Harvard should be forced to reveal more details about its admissions process, and recently urged the court hearing the SFFA case to make more information in the lawsuit public.

"We are greatly encouraged that this [Trump] administration so far has asked the court to make public the information that Harvard turned over to us," said Blum. "We are delighted that an administration is demanding that there be full transparency for the American public."

Harvard questions the Justice Department's timing and approach.

"The Department cribs all but one of the cases it cites from SFFA's March 30 letter, and for certain issues, it provides no authority beyond simply citing SFFA's letter" for the request, William Lee, an attorney for Harvard, was quoted in the news site [Politico](#).

Shapiro said he sees the case reaching the Supreme Court.

"The challengers here are unlikely to settle. In two years or so, we could see this at the Supreme Court," he said. If so, he predicts the court would rule in June 2020.

"Harvard will continue to vigorously defend its right, and that of all colleges and universities, to consider race as one factor among many in college admissions, which has been upheld by the Supreme Court for more than 40 years," Dane wrote.

International applicants don't have to worry about how the ruling will affect them.

"International applicants are compared to other international applicants," said West-Faulcon. The ruling "would not affect the admissions of an international student applying from an Asian country."