

# The Impact of the Recent Supreme Court Ruling on the Dermatology Recruitment Pipeline

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## PRACTICE POINTS

- The 2023 ruling by the Supreme Court of the United States on the use of race-based criteria in college admissions may have implications for the selection of individuals into the dermatology workforce.
- We highlight the impacts of these decisions at the college, medical school, and dermatology residency levels and provide context for future directions in the selection processes for practicing dermatologists.

The 2023 ruling by the Supreme Court of the United States (SCOTUS) on the use of race-based criteria in college admissions may have implications for the selection of individuals into the dermatology workforce. This article highlights the impact of these decisions at the undergraduate, medical school, and graduate medical education levels, as well as within the field of dermatology.

The ruling by the Supreme Court of the United States (SCOTUS) in 2023<sup>1,2</sup> on the use of race-based criteria in college admissions was met with a range of reactions across the country. Given the implications of this decision on the future makeup of higher education, the downstream effects on medical school admissions, and the possible further impact on graduate medical education programs, we sought to explore the potential impact of the landmark decision from the perspective of dermatology residency program directors and offer insights on this pivotal judgment.

## Background on the SCOTUS Ruling

In June 2023, SCOTUS issued its formal decision on 2 court cases brought by the organization Students for Fair Admissions (SFFA) against the University of North Carolina at Chapel Hill<sup>1</sup> and Harvard University (Cambridge, Massachusetts)<sup>2</sup> that addressed college admissions practices dealing with the use of race as a selection criterion in the application process. The cases alleged that these universities had overly emphasized race in the admissions process and thus were in violation of the Civil Rights Act of 1964 as well as the 14th Amendment.<sup>1,2</sup>

The SCOTUS justices voted 6 to 3 in favor of the argument presented by the SFFA, determining that the use of race in the college admissions process essentially constituted a form of racial discrimination. The ruling was in contrast to a prior decision in 2003 that centered on law school admissions at the University of Michigan (Ann Arbor, Michigan) in which SCOTUS previously had determined that race could be used as one factor amongst other criteria in the higher education selection process.<sup>3</sup> In the 2023 decision siding with SFFA, SCOTUS did acknowledge that it was still acceptable for selection processes to consider “an applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise.”<sup>2</sup>

## Effect on Undergraduate Admissions

Prior to the 2023 ruling, several states had already passed independent laws against the use of affirmative action or race-based selection criteria in the admissions process at public colleges and universities.<sup>4</sup> As a result, these institutions would already be conforming to the principles set

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forth in the SCOTUS ruling and major changes to their undergraduate admissions policies would not be expected; however, a considerable number of colleges and universities—particularly those considered highly selective with applicant acceptance rates that are well below the national average—reported the use of race as a factor in their admissions processes in standardized reporting surveys.<sup>5</sup> For these institutions, it is no longer considered acceptable (based on the SCOTUS decision) to use race as a singular factor in admissions or to implement race-conscious decision-making—in which individuals are considered differently based solely on their race—as part of the undergraduate selection process.

In light of these rulings, many institutions have explicitly committed to upholding principles of diversity in their recruitment processes, acknowledging the multifaceted nature of diversity beyond strictly racial terms—including but not limited to socioeconomic diversity, religious diversity, or gender diversity—which is in compliance with the interpretation ruling by the US Department of Education and the US Department of Justice.<sup>6</sup> Additionally, select institutions have taken approaches to explicitly include questions on ways in which applicants have overcome obstacles or challenges, allowing an opportunity for individuals who have had such experiences related to race an opportunity to incorporate these elements into their applications. Finally, some institutions have taken a more limited approach, eliminating ways in which race is explicitly addressed in the application and focusing on race-neutral elements of the application in their approach to selection.<sup>7</sup>

Because the first college admission cycle since the 2023 SCOTUS ruling is still underway, we have yet to witness the full impact of this decision on the current undergraduate admissions landscape.

### Effect on Medical School Admissions and Rotations

Although SCOTUS specifically examined the undergraduate admissions process, the ruling on race-conscious admissions also had a profound impact on graduate school admissions including medical school admission processes.<sup>1,2,8,9</sup> This is because the language of the majority opinion refers to “university programs” in its ruling, which also has been broadly interpreted to include graduate school programs. As with undergraduate admissions, it has been interpreted by national medical education organizations and institutions that medical schools also cannot consider an applicant’s race or ethnicity as a specific factor in the admissions process.<sup>1,2,8,9</sup>

Lived individual experiences, including essays that speak to an applicant’s lived experiences and career aspirations related to race, still can be taken into account. In particular, holistic review still can be utilized to evaluate medical school candidates and may play a more integral role in the medical school admissions process now than in the past.<sup>8,10,11</sup> After the ruling, Justice Sonia Sotomayor noted that “today’s decision leaves intact holistic college

admissions and recruitment efforts that seek to enroll diverse classes without using racial classifications.”<sup>1</sup>

The ruling asserted that universities may define their mission as they see fit. As a result, the ruling did not affect medical school missions or strategic plans, including those that may aim to diversify the health care workforce.<sup>8,10,11</sup> The ruling also did not affect the ability to utilize pathway programs to encourage a career in medicine or recruitment relationships with diverse undergraduate or community-based organizations. Student interest groups also can be involved in the relationship-building or recruitment activities for medical schools.<sup>8,10,11</sup> Guidance from the US Department of Education and US Department of Justice noted that institutions may consider race in identifying prospective applicants through recruitment and outreach, “provided that their outreach and recruitment programs do not provide targeted groups of prospective students preference in the admissions process, and provided that all students—whether part of a specifically targeted group or not—enjoy the same opportunity to apply and compete for admission.”<sup>12</sup>

In regard to pathways programs, slots cannot be reserved and preference cannot be given to applicants who participated in these programs if race was a factor in selecting participants.<sup>8</sup> Similarly, medical school away electives related to diversity cannot be reserved for those of a specific race or ethnicity; however, these electives can utilize commitment to stated aims and missions of the rotation, such as a commitment to diversity within medicine, as a basis to selecting candidates.<sup>8</sup>

The ruling did not address how race or ethnicity is factored into financial aid or scholarship determination. There has been concern in higher education that the legal framework utilized in the SCOTUS decision could affect financial aid and scholarship decisions; therefore, many institutions are proceeding with caution in their approach.<sup>8</sup>

### Effect on Residency Selection

Because the SCOTUS ruling references colleges and universities, not health care employers, it should not affect the residency selection process; however, there is variability in how health care institutions are interpreting the impact of the ruling on residency selection, with some taking a more prescriptive and cautious view on the matter. Additionally, with that said, residency selection is considered an employment practice covered by Title VII of the Civil Rights Act of 1964,<sup>13</sup> which already prohibits the consideration of race in hiring decisions.<sup>7</sup> Under Title VII, it is unlawful for employers to discriminate against someone because of race, color, religion, sex, or national origin, and it is “unlawful to use policies or practices that seem neutral but have the effect of discriminating against people because of their race, color, religion, sex ... or national origin.” Title VII also states that employers cannot “make employment decisions based on stereotypes or assumptions about a person’s abilities, traits, or performance because of their race, color, religion, sex ... or national origin.”<sup>13</sup>

Importantly, Title VII does not imply that employers need to abandon their diversity, equity, or inclusion initiatives, and it does not imply that employers must revoke their mission to improve diversity in the workforce. Title VII does not state that racial information cannot be available. It would be permissible to use racial data to assess recruitment trends, identify inequities, and create programs to eliminate barriers and decrease bias<sup>14</sup>; for example, if a program identified that, based on their current review system, students who are underrepresented in medicine were disproportionately screened out of the applicant pool or interview group, they may wish to revisit their review process to identify and eliminate possible biases. Programs also may wish to adopt educational programs for reviewers (eg, implicit bias training) or educational content on the potential for bias in commonly used review criteria, such as the US Medical Licensing Examination, clerkship grades, and the Medical Student Performance Evaluation.<sup>15</sup> Reviewers can and should consider applications in an individualized and holistic manner in which experiences, traits, skills, and academic metrics are assessed together for compatibility with the values and mission of the training program.<sup>16</sup>

### Future Directions for Dermatology

Beyond the SCOTUS ruling, there have been other shifts in the dermatology residency application process that have affected candidate review. Dermatology programs recently have adopted the use of preference signaling in residency applications. Preliminary data from the Association of American Medical Colleges for the 2024 application cycle indicated that of the 81 programs analyzed, there was a nearly 0% chance of an applicant receiving an interview invitation from a program that they did not signal. The median signal-to-interview conversion rate for the 81 dermatology programs analyzed was 55% for gold signals and 15% for silver signals.<sup>17</sup> It can be inferred from these data that programs are using preference signaling as important criteria for consideration of interview invitation. Programs may choose to focus most of their attention on the applicant pool who has signaled them. Because the number and type of signals available is equal among all applicants, we hope that this provides an equitable way for all applicants to garner holistic review from programs that interested them. In addition, there has been a 30% decrease in average applications submitted per dermatology applicant.<sup>18</sup> With a substantial decline in applications to dermatology, we hope that reviewers are able to spend more time devoted to comprehensive holistic review.

Although signals are equitable for applicants, their distribution among programs may not be; for example, in a given year, a program might find that all their gold signals came from non-underrepresented in medicine students. We encourage programs to carefully review applicant data to ensure their recruitment process is not inadvertently discriminatory and is in alignment with their goals and mission.

### REFERENCES

1. *Students for Fair Admissions, Inc. v University of North Carolina*, 567 F. Supp. 3d 580 (M.D.N.C. 2021).
2. *Students for Fair Admissions, Inc. v President and Fellows of Harvard College*, 600 US \_\_\_\_ (2023).
3. *Grutter v Bollinger*, 539 US 306 (2003).
4. Saul S. 9 states have banned affirmative action. here's what that looks like. *The New York Times*. October 31, 2022. <https://www.nytimes.com/2022/10/31/us/politics/affirmative-action-ban-states.html>
5. Desilver D. Private, selective colleges are most likely to use race, ethnicity as a factor in admissions decisions. Pew Research Center. July 14, 2023. Accessed May 29, 2024. <https://www.pewresearch.org/short-reads/2023/07/14/private-selective-colleges-are-most-likely-to-use-race-ethnicity-as-a-factor-in-admissions-decisions/>
6. US Department of Education. Justice and education departments release resources to advance diversity and opportunity in higher education. August 14, 2023. Accessed May 17, 2024. <https://www.ed.gov/news/press-releases/advance-diversity-and-opportunity-higher-education-justice-and-education-departments-release-resources-advance-diversity-and-opportunity-higher-education>
7. Amponsah MN, Hamid RD. Harvard overhauls college application in wake of affirmative action decision. *The Harvard Crimson*. August 3, 2023. Accessed May 17, 2024. <https://www.thecrimson.com/article/2023/8/3/harvard-admission-essay-change/>
8. Association of American Medical Colleges. Frequently asked questions: what does the Harvard and UNC decision mean for medical education? August 24, 2023. Accessed May 17, 2024. <https://www.aamc.org/media/68771/download?attachment%3Fattachment>
9. American Medical Association. Affirmative action ends: how Supreme Court ruling impacts medical schools & the health care workforce. July 7, 2023. Accessed May 17, 2024. <https://www.ama-assn.org/medical-students/medical-school-life/affirmative-action-ends-how-supreme-court-ruling-impacts>
10. Association of American Medical Colleges. How can medical schools boost racial diversity in the wake of the recent Supreme Court ruling? July 27, 2023. Accessed May 17, 2024. <https://www.aamc.org/news/how-can-medical-schools-boost-racial-diversity-wake-recent-supreme-court-ruling>
11. Association of American Medical Colleges. Diversity in medical school admissions. Updated March 18, 2024. Accessed May 17, 2024. <https://www.aamc.org/about-us/mission-areas/medical-education/diversity-medical-school-admissions>
12. United States Department of Justice. Questions and answers regarding the Supreme Court's decision in *Students For Fair Admissions, Inc. v. Harvard College and University of North Carolina*. August 14, 2023. Accessed May 29, 2024. [https://www.justice.gov/d9/2023-08/post-sffa\\_resource\\_faqs\\_final\\_508.pdf](https://www.justice.gov/d9/2023-08/post-sffa_resource_faqs_final_508.pdf)
13. US Department of Justice. Title VII of the Civil Rights Act of 1964. Accessed May 17, 2024. <https://www.justice.gov/crt/laws-we-enforce>
14. Zheng L. How to effectively—and legally—use racial data for DEI. *Harvard Business Review*. July 24, 2023. Accessed May 17, 2024. <https://hbr.org/2023/07/how-to-effectively-and-legally-use-racial-data-for-dei>
15. Crites K, Johnson J, Scott N, et al. Increasing diversity in residency training programs. *Cureus*. 2022;14:E25962. doi:10.7759/cureus.25962
16. Association of American Medical Colleges. Holistic principles in resident selection: an introduction. Accessed May 17, 2024. <https://www.aamc.org/media/44586/download?attachment>
17. Association of American Medical Colleges. Exploring the relationship between program signaling & interview invitations across specialties 2024 ERAS® preliminary analysis. December 29, 2023. Accessed May 17, 2024. <https://www.aamc.org/media/74811/download?attachment>
18. Association of American Medical Colleges. Preliminary program signaling data and their impact on residency selection. October 24, 2023. Accessed May 17, 2024. <https://www.aamc.org/services/eras-institutions/program-signaling-data#:~:text=Preliminary%20Program%20Signaling%20Data%20and%20Their%20Impact%20on%20Residency%20Selection,-Oct.&text=Program%20signals%20are%20a%20mechanism,whom%20to%20invite%20for%20interview>