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## Supreme Court Ruling Must Lead to Action to Advance Opportunity in Postsecondary Education Equity in Higher Education Is—and Should Remain—a Core Value

The disappointing Supreme Court decision in the *Students for Fair Admissions v. Harvard/UNC* cases—in which the Court held, 6-to-3, that race-conscious admissions processes at private and public universities were a violation of the Equal Protection Clause—must be met with new resolve to go further to achieve equity in higher education.

Access to postsecondary education, including selective colleges and universities, is an essential pathway to economic achievement and social mobility, and an educated workforce makes our society stronger. Diversity in postsecondary education leads to diversity in leadership, which is critical to the functioning of every sector of our society, including the military and government as well as the corporate and business sectors.

Latinos today are nearly 20% of the nation and 20% of those enrolled in postsecondary education, but they [remain underrepresented](#) at selective colleges and universities. While Latino students are **24% of high school graduates, they are just 14%, on average, of the overall student body at selective colleges.**

The opportunity for Latino students to attend and graduate from selective post-secondary schools is important for both the community and our nation's future. Selective colleges make up a small segment of the higher education sector, but they serve as a pipeline to the highest levels of leadership in this country. The pipeline to leadership provided by selective institutions matters: Latinos are [just 4%](#) of large U.S. companies' most senior executives, and [1% of all local and federal elected officials](#). Even with the ability, prior to the decision, for race-conscious admissions programs at selective schools, enrollment of Black and Latino students in selective colleges and universities badly lagged the demographics of high school graduates.

Notably, the Court's decision was limited to its review of a single subject: consideration of race as a factor in college admissions. This decision should not disturb institutional commitments to diversity, equity, and inclusion among the study body or in hiring and retention in educational or other employment settings, and it should not be treated as an impediment to creating welcoming spaces for Latinos and other people of color. Moreover, nothing in the Court's

decision affects the ability of institutions of higher education to maintain commitments to improving diversity and equity as a focus of their mission as institutions.

At the same time, the Court's action is consequential. As Justice Kagan observed during oral arguments in the cases, such a decision could trigger "a precipitous decline in minority admissions." When Proposition 209 barred race-conscious admissions in California in 1996, Latino student admissions at UCLA and Berkeley dropped by half. Although there has been improvement after decades of recruitment and changes to admissions practices, there still is work to do: in 2019, more than half of California's public high school graduates identified as Hispanic, but Latinos were just 25% of the first-year student body at all University of California schools, and 15% of first-year students at the Universities of California at Los Angeles and Berkeley.

Institutions at every level must act to avert similar declines in enrollment. A new resolve to advance postsecondary educational equity will require coordinated efforts by policymakers at all levels (including education leaders and executives), alongside support from community-based organizations. **The Supreme Court's decision should be a wake-up call: achieving measurable progress on equity in education must be a central focus of how we all think about our shared prospects for realizing the American dream.**

### **Supporting First Generation Latino Students and Building an Inclusive Campus**

Latinos are more likely to be first-generation college students than any other racial or ethnic group. Approximately [70% of Hispanic students](#) are the first in their families to attend college. For this reason, Latinos and other students of color could benefit from specific programs that support navigating the complex college-going process—applying for college, understanding financial aid options, and being connected to resources that help students complete their degrees. First-generation college students contribute grit, resilience, and fresh perspectives to [higher education institutions](#).

Though definitions of [first-generation college students](#) vary, most colleges and universities consider students whose parents do not have four-year college degrees to be first-generation, a definition that includes students whose parents completed associate programs or attended college but did not graduate.

To achieve a postsecondary education, many first-generation students also must address steeper academic and financial challenges than students with a family member who completed college.

### Supporting First Generation Latino Students and Building an Inclusive Campus (Continued)

Under the Supreme Court decision, colleges and universities may use alternative considerations, including if a student qualifies as a first-generation student, as a basis for recruiting, admitting, and retaining students that are resourceful and hardworking.

To reach and support such students will require schools to conduct outreach using nontraditional methods, including: 1) expanding or altering the schools they visit or recruit from; 2) providing support for application and financial aid processes that are simple, clear, and consistent over the course of student's studies; and 3) by creating specific and intensive supports on campus, including counseling, support for financial aid decision-making, and taking steps to create a welcoming and supportive community that both connects students with culturally appropriate resources and facilitates community.

### A New Commitment to Higher Educational Opportunity

Several overarching themes emerge that can generate meaningful educational access for Latino students and students of color.

For example:

- **Admissions practices such as legacy and donor admissions programs that favor privilege must make way for practices that are more equitable and inclusive.** By some estimates, [more than 40% of seats](#) at selective colleges can be taken by legacy applicants, recruited athletes, the children of large donors, and other special categories. At Harvard, for example, [legacy applicants are five times more likely to be accepted than non-legacy applicants](#), and the [vast majority](#) of students advantaged by these programs are white.
- **Postsecondary school admissions offices should develop and integrate tools to provide context for socioeconomic and other adversity factors that were overcome by a student.** Students from the lowest income families are [only 8% of the incoming class at selective colleges](#), and considerations of economic circumstances for a student continue to be permitted by law. Indeed, the Court's majority argument is clear that the circumstances impacting a specific student may be considered as evidence of the grit, resilience, and determination a student's performance demonstrates. In context, factors such as the quality of educational preparation available to that student through the K-12 public schools, the level of coursework available to a student, their family wealth and income, and whether the student is the first in their family to attend college, as well as their immigration status and culture, can all be part of developing an understanding of their ability to achieve. Students should also be encouraged to share their stories of

hardship and struggle, as personal evidence of the impact of racialized experiences on a student is specifically allowed by the Court's decision.

- **Institutions should collaborate to strengthen culturally competent outreach, support, and recruitment to expand the applicant pool and connect with students who are worthy of consideration by schools.** A range of stakeholders can help invest in the development, expansion, or replication of model intervention programs that facilitate and connect Black and Latino students to high-quality post-secondary education institutions. These services or programs can include student counseling and mentoring by both college students who were similarly situated and by trusted organizations, providing financial support for applications, and creating [automatic admissions programs](#) for schools that dramatically widen and deepen the pool of applications (including widening it to include more [first-generation students](#)). Specific programs to support, welcome, and retain first-generation students and other underserved students with a wide range of services both before applying and while on campus will pay dividends in fostering a more diverse student body.
- **Offices charged with working with students to address their financial aid needs must make that process simpler and more transparent.** Students are confused by inconsistent and unclear processes for applying for and receiving financial aid. This makes decision-making by prospective students difficult. Systems for awarding and communicating with prospective students about financial aid, including merit aid, currently involve high degrees of complexity, uncertainty, and financial risk for students. Simpler, more transparent and clear systems are badly needed if institutions seek to be truly welcoming for students with less wealth at home and far fewer resources to navigate such systems.
- **States and districts should improve college readiness for K-12 students by increasing access and success in rigorous and advanced coursework, including access to dual enrollment.** Black, Latino, and Native American students, students with disabilities, and students from low-income families are underrepresented in advanced programs and courses. While 10% of students in schools in this country participate in the Advanced Placement program, just over 1 in 20 low-income Black and Native American students participate in Advanced Placement. In addition, even when Black, Latino, and Native American students participate, they are [less likely to experience success](#).
- **Postsecondary institutions should end their overreliance on testing and course requirements for admission.** These requirements should be rethought and taken down where they are unnecessary for academic attainment, particularly in light of the inequitable distribution of course offerings in K-12 schools. Wherever standards and practices are persisting out of habit and creating unnecessary barriers for students, they should be addressed with an eye to supporting students as they continue to develop their potential.

## Specific Policy Recommendations to Prevent Further Damage to Educational Equity

A renewed commitment to advancing educational opportunities in postsecondary education will require changes and action from a range of institutions. For example:

### The Biden Administration should:

- Strengthen its commitment to education equity by issuing an Executive Order or taking executive action that would 1) reinforce that racial equity and diversity in higher education remains a national imperative; 2) direct agencies to issue nondiscrimination guidance and to quickly provide legal and policy clarity on what the decision does and does not mean for institutions of higher education; and 3) direct agencies, as appropriate, to step up their civil rights monitoring and enforcement.
- Quickly issue a response from Secretary Cardona to provide clarity for institutions about what the decision does—and does not—mean in practice for colleges and universities. The Office of Civil Rights at the Department of Education should provide timely guidance and should step up monitoring and enforcement to ensure that an overreaction does not result in discrimination against students of color.
- **The Department of Education should** treat this decision as a call to action to think more deeply about equity in college readiness for K-12 students. We agree with our partner, The Education Trust, [which proposed](#) that “the federal government can provide funding and guidance to states and local education agencies to ensure that students of color, English learners, and students from low-income backgrounds can access and succeed in advanced courses,” which are often required at selective colleges and universities. In addition, the Department should support efforts to prepare more high school educators that are qualified to teach advanced courses; encourage high schools to offer a greater selection of advanced courses and dual enrollment options; and provide programs that cover the costs of exam fees for students from low-income backgrounds.
- We encourage the **U.S. Department of Education** to pursue its [consideration](#) of expanding data collection related to college admissions. The National Center for Education Statistics should increase data transparency throughout the admissions process by collecting and reporting data disaggregated by race and ethnicity for applications and admissions, not just enrollment, to better identify barriers and concerns at the front end of the application process. The DOE should further provide guidance to postsecondary institutions on how to separate data collection and monitoring by schools from admissions processes using internal firewalls that ensure compliance with the Court’s decision.

### Congress should:

- Enact legislation that requires institutions of higher education that receive federal funding to end admissions practices that favor more wealthy and privileged students, such as legacy and donor admissions.

- Make postsecondary education truly affordable for students by creating a federal/state partnership that would cover the full cost of education for Pell-eligible and other lower-income students.
- Increase funding for Minority Serving Institutions (MSIs), which are widely predicted to see an uptick in applications in light of the Supreme Court decision. These include historically Black colleges and universities (HBCUs), Hispanic-serving institutions (HSIs), and other minority-serving institutions, which, given decades of federal disinvestment and the existence of a donor base impacted by structural barriers to wealth creation, would benefit from larger and more sustained investments by the federal government so that they can increase capacity and serve more students.
- Enact legislation that encourages states to expand practices that can help close equity gaps in advanced courses and programs. For example, the [Advanced Coursework Equity Act](#), filed in 2020, would provide resources to states and districts to close opportunity gaps by implementing practices and policies that are proven to work, including automatic enrollment policies, open enrollment, and universal screening for advanced courses and programs to ensure that all students who could benefit from these programs are identified.
- Provide funding and support for schools that provide a “plus factor” for applicants from lower-wealth backgrounds, increase the enrolled percentage of students who would be the first in their family to earn a college degree, and enroll high numbers of Pell Grant recipients.
- Fund and expand programs like GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs) and TRIO (federal outreach and student services programs designed to identify and provide services for individuals from disadvantaged backgrounds) that provide supports for first-generation and low-income students in navigating the college application process, including training program staff regarding the implications of the SCOTUS decision and its limitations.
- Improve postsecondary outcomes by increasing funding for the Postsecondary Student Success Grants that support institutions of higher education in implementing evidence-based practices that increase college re-enrollment, retention, and completion.
- Establish a grant program for meaningful and actionable equity audits that provide resources for institutions to examine internal policies and practices, and, based on findings, address gaps in student outcomes by race, ethnicity, gender, income, or other relevant factors.

#### **Governors and State Lawmakers should:**

- Evaluate the implications of policies such as [“top 10 percent” plans](#) building on that build on the one employed in Texas, which admits to its state-funded universities all in-state students that rank in the top 10% of their high school’s graduating class and whether similar programs based on socioeconomic factors are viable and would



increase racial and/or economic diversity. (One [exception is the University of Texas at Austin](#), which requires that 75% of UT-Austin's freshman class must be automatically admitted if they graduated from a Texas public high school in the top 6% of their class.) Notably, whether such programs advance educational equity depends on the underlying demographics of a state as well as the level of complementary supports, including for admissions, retention, and affordability.

- Measure and take steps to address the implications of inequitable effects related to college readiness for K-12 students, ensuring the equitable distribution of effective teachers and resources, high-quality college and career counseling, and test preparation in schools from lower-income school districts and areas. States should also map inequities in the distribution of and placement in courses, including Advanced Placement math and science courses, that prepare all students to fairly compete for college consideration, and they should work to address the gaps while sharing their findings with the public and institutions of higher education, which should take them into account.
- Increase funding for need-based grants and scholarships and curtail funding for state merit-based aid to provide comprehensive funding where possible that covers tuition, fees, and living expenses. Evidence demonstrates that programs that combine a scholarship or other guarantee of unconditional funding (with simple administrative requirements) *with* dedicated academic and other supports for high school students in schools with historically low college-going rates are the most effective. Such programs should also be designed to meet the needs of and support first-generation college students and should provide resources in multiple languages for both parents and students.
- While much of the conversation related to race-conscious admissions focuses the broader discussion on highly selective schools, the vast majority of students in this country attend non-selective and open-access institutions—approximately only [10% of students](#) are enrolled in institutions that have admission rates below 30%. States should invest more heavily in the non-selective public institutions that educate a majority of students so that institutions can better serve all enrolled students and help them achieve academic, economic, and social mobility.
- Pass legislation that would impose [“public service” fees](#) on elite schools that continue the use of legacy and donor preferences and redirect those funds to other under-resourced public institutions in the state.

#### **Colleges and Universities should:**

- Not overreact to the decision. Our attention and intention will be needed to maintain vibrant and diverse practices in outreach and support for prospective students. This should include increasing need-based financial aid for all students that qualify, making financial aid offers simple clear, and transparent, and developing

intentional supports that underscore belonging for communities of color, first-generation, and undocumented students on campus.

- Ban enrollment practices that favor privilege—institutions of higher education should immediately end legacy and donor admissions, as well as [early admission or other decision](#) practices that require commitment before receiving a financial aid offer, a practice that disproportionately benefits upper-income students.
- Merit-based financial aid should also be replaced with need-based aid that empowers students to rise above a family's financial circumstances and access the best education they can.
- Reconsider entrance requirements that disproportionately and adversely impact admissions for black, Latino, and other under-represented groups, such as the imposition of requirements for courses that may not be available to all students and an over-emphasis on college entrance exams. Credit and recognition for students' language skills should also fully value bilingual and multicultural students who may have acquired fluency at home.
- Account for socioeconomic background in admissions decisions, including Pell Grant status and first-generation college status, to create a more inclusive environment. Four-year institutions should remove barriers for transfer students by partnering with community colleges and non-traditional institutions to ensure that students have access to clear, articulated pathways.
- Take concrete steps to improve college retention and completion for underserved students, including for first-generation students, by providing enhanced academic tutoring, advising, and other services that help low-income students stay enrolled (e.g., transportation stipends, emergency small-dollar grants, and access to safety net programs like SNAP).
- Foster a welcoming environment for underserved students by providing culturally competent supports and instruction; continuing to pursue diversity in hiring, retention, and promotion of staff at all levels; and deepening, funding, and developing ethnic studies programs and centers that reaffirm students' cultural backgrounds, perspectives, and identities.

### Students should:

- Continue to pursue opportunities at the nation's most selective schools.
- Register and vote, demand that schools live up to their commitments to diversity and inclusion, and demand a process for student input where they can inform actionable recommendations on improvements needed to create welcoming environments that improve educational equity.

**For additional information on the work of UnidosUS on educational equity**, please contact Roxanne Garza, Deputy Director, Education Policy Project, Policy and Advocacy, at [rgarza@unidosus.org](mailto:rgarza@unidosus.org) or Laura MacCleery, Senior Director, Policy and Advocacy, at [lmaccleery@unidosus.org](mailto:lmaccleery@unidosus.org).