



## Asian American Coalition for Education

September 12, 2023

Ms. Jenny Rickard  
President & Chief Executive Officer  
Common Application Organization  
3003 Washington Boulevard  
Arlington, VA 22201-2117

**Subject: AACE Urges Common Application Organization Faithfully Implement the Supreme Court's SFFA Decision, Handle Student Race Data Lawfully**

Dear Ms. Rickard:

On behalf of the Asian American Coalition for Education (AACE), a national alliance of over three hundred Asian American organizations fighting for students' equal education rights, I write to urge the Common Application Organization to faithfully implement the Supreme Court's decisions in *Students for Fair Admissions, Inc. v. Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina*.

On August 25, 2023, AACE issued a comprehensive policy statement titled "[It's Time for All American Colleges to Restore Meritocracy in Their Admission Processes](#)" urging all American colleges and their partnering organizations to faithfully implement the Supreme Court's SFFA decisions and to restore meritocracy in college admissions.

To comply with the Supreme Court decisions, AACE, in section 1.4, specifically recommended colleges and their partner organizations, to include the Common Application Organization, to: "Handle student race data lawfully: If required by the law, statistical data regarding students' race should be collected and stored in a separate database not accessible by admissions officers or other participants of student evaluation during the admissions process. It can be only used for post-admission statistical reporting."

We recently received complaints from Asian American parents that, in the current college application cycle, the CommonApp still collects student race and ethnicity data. We are very concerned that the CommonApp's race and ethnicity data will still be used in

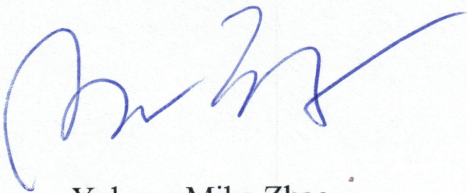
furtherance of the now-unconstitutional and illegal practice of race-based affirmative action.

**Therefore, we urge the Common Application Organization to immediately implement an automated process that will store applicants' race and ethnicity data in a manner not accessible to university admissions officers or other participants of the student admissions and evaluation process while the admissions process is ongoing. We recommend that race and ethnicity data be transmitted by the CommonApp to colleges only after the conclusion of the admission cycle and in a manner consistent with all applicable laws.**

AACE and our partner organizations will continue to actively monitor colleges and universities' admissions practices. Any use of race or race proxies during college admissions by colleges or their enabling partner organizations is a blatant violation of the Supreme Court's rulings and will trigger legal action, to include class action lawsuits and demands for damages and injunctive relief.

I look forward to hearing from you regarding CommonApp's plan to faithfully implement the Supreme Court's recent rulings on college admissions.

Sincerely,



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Attachment: AACE Policy Statement: **It's Time for All American Colleges to Restore Meritocracy in Their Admission Processes**



## **Asian American Coalition for Education**

### **It's Time for All American Colleges to Restore Meritocracy in Their Admission Processes**

Since our nation's birth, meritocracy and equal opportunity have been among the key principles which enabled America to attract talent from all over the world, build this country into the most advanced nation in the world, and achieve unmatched progress in social justice. Equal opportunity and meritocracy are the bedrock of the American Dream, which promises each citizen an equal opportunity to achieve success and prosperity through hard work, determination, and initiative.

For decades, college admissions have failed to provide equal opportunity to all Americans by adopting many policies that undermined meritocracy. Race-based affirmative action imposed unjust discrimination against Asian and other racial groups. As the Supreme Court clearly explained in its decisions, the college application process is a zero-sum game—while the intent of affirmative action might have been to help some racial groups, this could only be achieved by harming other racial groups. In addition, colleges frequently favor the children of faculty, staff, alumni, and donors. Furthermore, athletic programs have been abused by allowing otherwise academically unqualified applicants into universities and providing an opportunity for corruption in the admissions process, as was exposed by the college admissions scandal of 2019. Further still, in the wake of the Covid-19 pandemic and George Floyd's tragic death, over one thousand colleges and universities made standardized tests optional for their admissions.

Driven by "racial equity" ideologies, these assaults on equal treatment and meritocracy have caused tremendous harm to America. First, it creates racial division and racial discrimination by treating Americans differently based on their race or ethnicity. In addition, by not admitting the best and brightest into our nation's top colleges, these ideologies exacerbate our nation's STEM (Science, Technology, Engineering and Math) talent shortage, jeopardizes America's technological leadership in the world, and harms our national security. Furthermore, it creates a "mismatch" effect by admitting unqualified students into the colleges, where many of them fail to graduate or underperform and develop unjustified resentment towards

this country. When our nation is faced with unprecedented competition from international rivals, it is imperative to restore meritocracy in our educational institutions in order to maintain America's technological and economic competitiveness.

On June 29, 2023, the Supreme Court found race-based affirmative action to be both unconstitutional and in violation of the Civil Rights Act, thus eliminating one of the major barriers for America to achieve equal treatment and meritocracy. About a month later, on July 25, 2023, the U.S. Department of Education initiated an investigation into Harvard University for its use of legacy and donor preferences in admissions, a positive step in restoring meritocracy in America.

However, on July 26, 2023, the U.S. Department of Education held a "National Summit on Equal Opportunity in Higher Education," where many speakers hand-picked by the Biden Administration openly advocated "creative" ways to circumvent the Supreme Court's rulings. Contrary to the summit's name of promoting equal opportunity, this summit promoted many measures intended to create equal outcome, such as canceling standardized tests, using "transfers" from community colleges as a backdoor to enhance racial diversity in four-year colleges, and using direct admissions to circumvent the admissions process entirely.

On August 14, 2023, the U.S. Departments of Education and Justice issued guidance titled "[Questions and Answers Regarding the Supreme Court's Decision in Students for Fair Admissions, Inc. v. Harvard College and University of North Carolina.](#)"

In blatant violation of the rulings, which also bans use of race proxies in college admissions, the guidance advocates that "[i]n identifying prospective students through outreach and recruitment, institutions may, as many currently do, **consider race** and other factors that include, but are not limited to, geographic residency, financial means and socioeconomic status, family background, and parental education level. For example, in seeking a diverse student applicant pool, institutions may direct outreach and recruitment efforts toward schools and school districts that serve predominantly students of color and students of limited financial means. Institutions may also target school districts or high schools that are underrepresented in the institution's applicant pool by focusing on geographic location..."

Recklessly, while America is faced with a serious STEM (Science, Technology, Engineering and Math) shortage and our K-12 education is well behind China and other industrial nations, the Department of Education does not focus on how to improve our nation's educational quality. In this guidance, it even suggests

“institutions may investigate whether the mechanics of their admissions processes are inadvertently screening out students who would thrive and contribute greatly on campus. An institution may choose to study whether application fees, **standardized testing requirements, prerequisite courses such as calculus**, or early decision timelines advance institutional interests (inexplicitly racial diversity).” Clearly, The Biden Administration supports colleges’ further elimination objective and rigorous admissions standards in their pursuit of “increasing access for underserved population[s]”

Condoned by the Biden Administration, the radical left in America has not given up their ideologies of using social engineering programs to undermine American meritocracy.

On behalf of over 300 Asian American organizations nationwide, AACE calls for colleges nationwide to take the following concrete steps to restore meritocracy in their admissions processes:

**1. Colleges should faithfully implement the Supreme Court’s decisions on affirmative action**

The Supreme Court found the use of race in admissions to be both unconstitutional and a violation of the Civil Rights Act. As such, proxies for race or ethnicity are also illegal in admissions.

While educational institutions may be tempted to use essays, zip codes, high school of graduation, socio-economic status, or other non-race factors to intentionally favor certain races, the Supreme Court has already addressed the use of race proxies. Responding to a dissent’s allegation that non-race factors could be intentionally used to further racial diversity, Chief Justice John Roberts wrote: “[D]espite the dissent’s assertion to the contrary, universities may not simply establish through application essays or other means the regime we hold unlawful today. (A dissenting opinion is generally not the best source of legal advice on how to comply with the majority opinion.) ‘[W]hat cannot be done directly cannot be done indirectly. The Constitution deals with substance, not shadows,’ and the prohibition against racial discrimination is ‘levelled at the thing, not the name.’”

To this effect, AACE recommends the following measures:

**1.1. Stop using race or ethnicity in the applications process**

## 1.2. Adopt blind rating approach

Much like blind grading, remove information from an application (at the time when an application is rated or judged for a decision on admission or denial) that would indicate an applicant's race, such as first and last name, zip code, parent's names and educational institutions, or names of social clubs;

## 1.3. When considering applicants' experiences, treat each applicant as an individual and not as a member of any racial group

As the Supreme Court rulings specified regarding a student writes race in an essay: "A benefit to a student whose overcame racial discrimination, for example, must be tied to that student's courage and determination. Or a benefit to a student whose heritage or culture motivated him or her to assume a leadership role or attain a particular goal must be tied to that student's unique ability to contribute to the university. In other words, the student must be treated based on his or her experiences as an individual—not on the basis of race."

1.4. Handle student race data lawfully. If required by the law, statistical data regarding students' race should be collected and stored in a separate database not accessible by admissions officers or other participants of student evaluation during the admissions process. It can be only used for post-admission statistical reporting.

1.5. Eliminate use of proxies for race or ethnicity, such as geographic areas of residence, zip code, family background, school districts, or names of individual schools, throughout the admissions process. Similarly, use of community outreach programs to recruit students from allegedly underserved or under-resourced areas is a thin proxy for race that should cease to be used. To faithfully implement the Supreme Court's rulings, colleges should treat all students of all racial groups the same.

1.6. Keep admissions data for at least seven years, in line with the statute of limitation for civil rights violations.

AACE and our partnering organizations will continue to actively monitor colleges and universities' admissions practices. Any use of race or race proxies during college admissions is a blatant violation of the Supreme Court's rulings and will trigger legal action, to include class action lawsuits and demands for damages and injunctive relief.

## **2. A university's educational program should drive admissions criteria**

Colleges and universities should tailor their admissions criteria to the purpose of their academic programs. For example, in addition to sufficient academic readiness, admissions criteria for business or public policy programs should place reasonable weight on applicants' leadership skills and the diversity of students' ideas and experiences than those of other majors of study. In a similar vein, admission criteria for STEM programs should place more value on academic performance on STEM subjects. Perceived introvertedness should not be considered a weakness for STEM applicants.

Though an individual student's unique experiences or personality characteristics may contribute to student learning, it should not be the dominant factor to consider in admissions. Colleges should prioritize criteria that measure an applicant's potential to succeed in college. In this regard, uniqueness is an unhelpful characteristic, as many successful students, and people generally, share many similar characteristics, such as a solid academic foundation, strong intellectual curiosity, motivation, grit in overcoming adversity, and civic behaviors.

## **3. Rely on objective measures in admissions**

Objective measures, such as standardized test scores, grade point average, and number of Advanced Placement classes and scores, and winning of objectively judged competitions, should be the primary means of judging applicants. Relevant subjective measures such as leadership skills could be used for appropriate fields of studies, such as business management or public policies. However, over reliance on subjective measures may lead to manipulation, abuse, or racial discrimination through more nebulous means. Colleges and universities that ceased using standardized tests before or since the COVID 19 pandemic should restore use of standardized tests.

## **4. Cease use of legacy and other favoritism programs**

AACE firmly believes that programs that favor children of faculty, staff, alumni, and donors are immoral and should not be legal. In addition to negatively and disparately impacting Asians, such programs generally disfavor blacks and Hispanics as well, which likely drives the Department of Education's recent investigation against Harvard's legacy admissions preferences.

Thankfully, the solution to legacy and other favoritism programs is simple: Stop giving preference to children of faculty, staff, alumni, and donors.

## **5. Regulate and monitor athletic recruits**

According to studies and recent criminal investigations, athletic programs have led to corruption and unfair treatment of other college applicants. Such programs need to be strictly regulated and monitored in several ways.

First, the number of athletic recruits should correlate with the needs of the athletic program; in other words, the number of athletic recruits admitted should be no more than is necessary for the program. Second, students enrolled through athletic programs must participate in their sports programs. Third, colleges and universities must audit their athletic programs to ensure student athletes actually participate in their sports teams with proven skills and ensure an athletic program is not used as a pay-for-admissions workaround to the admissions process. Fourth, student athletes should be subject to the adequate academic standards similar to all other applicants.

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**Finally, AACE urges American governments at the federal, state, and local levels to take concrete measures to address the root causes of the failing K to 12 education system in American inner cities.**

It is not meritocracy, but politicians' failure to provide adequate K-to-12 education to too many black and Hispanic children that has caused a lack of racial diversity in colleges and universities. Without enough college-ready black and Hispanic high school graduates in the pipeline, colleges had to use race-based affirmative action to artificially improve their admissions. Affirmative action treated Asian Americans as scapegoats to cover up the failures of those politicians who manage America's inner cities.

For too long, American society has ignored this policy failure of those who run America's inner cities. After the Supreme Court's rulings on affirmative action, it is time to hold these politicians and governments accountable. Improving K-to-12 education in America is the only constitutional and effective way to enhance diversity in American higher education.

**Asian American Coalition for Education**

August 25, 2023