

Future of Admissions Race-Conscious Admission Guide

Overcoming obstacles, staying true to our values



The prospect of the U.S. Supreme Court prohibiting in some way the consideration of race in admission poses a wide range of potential challenges to our ongoing efforts to build a legal profession that reflects our society. While the Court's imminent ruling creates a great deal of uncertainty and concern, this is not a time to surrender. Instead, it is time to be creative, think about our values, and reimagine how we can maintain and advance the diversity of our profession and provide access to justice for all.

This guide is designed to help law school admission professionals prepare for the upcoming SCOTUS ruling, which is widely expected to prohibit, or significantly constrain, the consideration of race in admission.

Timing

Many expect the Court's final decision by June as it wraps up its work for the 2022 session.

What to Expect: Possible Impact to Operational Plans

The exact scope and content of the Court's ruling is not yet known, but these considerations can help you prepare:

- The Court's ruling may impact private and public institutions differently, which could have an impact on planning.
- Federal laws and the ABA will likely still require that you know and subsequently report the racial makeup of your applicants and matriculants. However, the Court's ruling may mean that race should not be included as a consideration in your admission process.
- Diversity will still be a core component of LSAC's mission, and the majority of our member schools will continue to hold diversity in high regard, but there may be fewer approaches or tools to achieve this goal. Examples of potential approaches that may continue to be permitted depending on the Court's ruling include:
 - Offering opportunities for prospective/admitted students from underrepresented backgrounds to come to campus and to learn more about programs designed for them.
 - Awarding achievement fellowships for students who overcome significant personal, educational, or socioeconomic hardships. For example, the UCLA Law Fellows program is one such program that recently celebrated its 20th anniversary.
 - Reconsidering graduate scholarships to promote diversity in terms or factors other than race, such as personal experiences, world views, etc.
 - Asking during the admission process if applicants value diversity, rather than making a judgment based on race or ethnicity.
 - Additionally, outside organizations or alumni groups may still be able to fund diversity scholarships that use race as a factor.



Be aware that many students may feel targeted by the filing of these lawsuits and the impending SCOTUS decision. In addition, students who have experienced race-based traumatic stress as a consequence of discrimination, exclusion, or other unjust treatment may be further traumatized in the wake of the SCOTUS ruling. These students may also feel discouraged to apply to college and law school, and may see higher education as increasingly hostile toward them and who they are as people.

- There may be short-term drops in applicants and applications. LSAC will be working to try to offset these impacts.
- Depending on when the Court issues its ruling, you may want to rethink your summer plans; there will likely be many demands on your time for planning above and beyond a typical summer.

Prepare to Adapt

Applications

- Consider changes now.
 - Data collection will still be required from your institution and the ABA.
 - Consider adding race-neutral questions.
 - Review and update your approach because how and what you ask hinges on the SCOTUS decision.
 - Consider how you will structure your data.
- Recognize factors that lead to success.
 - If you haven't already, consider performing validity or correlation analysis for factors that are critical to your school's goals and vision using LSAC's yearly data collection.
- Take into consideration socioeconomic background and other factors that are not deemed inapplicable by law, such as:
 - High school attendance (and the demographics of the specific high school community)
 - Contribution to particular programs at the school
 - Detailed background about family and challenges
 - Family income and asset levels (socioeconomic status or SES)
 - Any information about adversity or challenges (consider offering examples such as: socioeconomic, health, complex family, immigration, foster care, abuse, etc., to provide a deeper sense of who an individual is and what their strengths are)
 - Seek an applicant's life experiences in application essays

What to Do

- Take inventory of all the ways you use race now, where you include it in reporting, etc.
 - Where might you need to eliminate race as a data point or factor?
 - Look at all essay prompts, at a minimum.
 - You can unblind race information in fields to meet ABA standards that ask, "Are you making best efforts to create diversity?" Based on the experience of several states, ABA site visits will likely take into consideration any relevant SCOTUS decisions.
- Review your admission policy.
 - You could refer to a general holistic process in which you take many things into account, but race is not one of them.
 - Be sure that an admissions committee of faculty reviews any proposed revisions to ensure the best outcome and to get buy-in and support from important stakeholders.



- Marshal your human resources.
- Law School Dean
 - Is the dean talking to the central university?
 - What is going on elsewhere in the university?
 - Is the law school free to act independently, or is it part of a general plan?
 - Are there initiatives you want to pursue in response to the SCOTUS ruling? New initiatives may add costs, so it is important to know what the budget will be. Identify funding sources, both internal and external.
 - What are the rules or procedures surrounding access to general counsel? Can you go directly to general counsel, or are you required to go through your dean? Seek meetings with your general counsel now so that you can obtain their advice and support in planning.
- Recruitment and Admissions Office
 - Determine whether recruitment and admissions officials should advise individuals to discuss experiences in their application.
 - Form an admissions committee/task force to forge a faculty-approved policy.
 - Consider specific programs and outreach to specific demographics, and the prospect of amplifying programs, focusing attention on your ability to reach out to targeted sources (e.g., test prep, LSAT scores, etc.).
 - You may be recruiting people to apply to your school in the future when you may not be able to take race into account in making your admission decisions, so consider disclosing this explicitly.
 - Consider increasing need-based aid.
 - Take inventory of any race-based recruitment programs your institution is involved with; evaluate them based upon the SCOTUS decision.
- Law School Faculty
 - Pull together a faculty committee to help.
 - Faculty are well-versed in constitutional law and familiar with diversity issues.
 - Law schools can declare values (for example, "We believe it is important for lawyers to understand how to serve communities."). Align those values for admissions and scholarship allocation.
- Law School Admission Colleagues
 - While schools do compete, and all schools will likely be scrambling to react to whatever the Court rules, there is still an opportunity for our community to share ideas, tips, and best practices, so long as none of the shared ideas, tips, and best practices negatively impact student choices; avoid creating agreements among member schools. LSAC will continue to support this constructive exchange.
 - Consider looking to colleagues in your geographic area for support.
 - Get meetings on the books now, even if you might have to cancel them later.
- Alumni
 - Alumni may be able to help promote diversity in ways that you cannot, as long as they are separate from the university.
 - Alumni groups or university alumni foundations may be able to continue to offer restricted donations/fundraise for dedicated scholarships, recruitment budgets, and outreach programs that are specifically race-conscious.



- Communicate Now
 - Start your messaging early, as the admission process will have a new look and will likely be a longer process.
 - Depending on the Court's ruling, diversity may be impacted in ways that are difficult or impossible to overcome, and it could take many years to recover from this impact.
 - Deans and faculty need to be aware of this potential impact to diversity so that they can assist in outreach and other efforts consistent with the SCOTUS decision.
- LSAC is here to help. There are options in Unite/ACES and in LSAC's Flex App, in addition to other resources and guidance on our Future of Admissions web page. LSAC can also help to advise on and perform some of the work listed above through its Strategic Research and Legal Education Consulting services.

What to Avoid

Do not offer or give legal advice — even though others in the university might be tempted to ask for it.

Note: Please know that nothing in this document constitutes legal advice from LSAC and there is no attorney-client privilege created with any member school based upon any information, guidance, documents, and materials LSAC provides its members to prepare for the forthcoming SCOTUS decision involving race-based admissions. Members should seek legal guidance from their institutional counsel.



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