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July Tip of the Month: Supreme Court DEI Decisions Raise Questions for Employers



On June 29, 2023, the U.S. Supreme Court ruled in *Students for Fair Admissions v. President and Fellows of Harvard College* and *Students for Fair Admissions v. University of North Carolina* that the race-conscious admission practices used by Harvard College and the University of North Carolina, where the schools considered applicants' race as a factor in the admissions process, violated the Constitution and Title VI of the Civil Rights Act of 1964. While these rulings specifically addressed the college admissions process, employers can expect increasing scrutiny regarding their corporate diversity, equity, and inclusion (DEI) initiatives, potentially seeking to apply the Supreme Court's reasoning to the employment context. Indeed, less than a month after the Supreme Court's ruling, state attorneys general from 13 states signed a public letter to the CEOs of *Fortune* 100 companies suggesting that the *Student for Fair Admissions* decisions implicate corporate DEI programs. Accordingly, while the legal landscape for corporate DEI programs technically remains unchanged, employers should proactively assess their DEI initiatives to ensure ongoing compliance.

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