

THEMES AND DEBATE

Fostering Inequity in Health Care Training & Ultimately in Health: The US Supreme Court's Affirmative Action Ruling

Fomento de la desigualdad desde la formación en el cuidado a la salud y, en última instancia, en la impartición de salud: la sentencia de la Suprema Corte de los Estados Unidos sobre la discriminación positiva

Margo Lee Hill. Cheney American Indian Studies Office, Eastern Washington University, Cheney, WA, US
Email: mhill86@ewu.edu, <https://orcid.org/0000-0002-2847-1491>

Frank Houghton. Technological University of the Shannon, Limerick, Ireland.
Email: Frank.Houghton@TUS.ie, <https://orcid.org/0000-0002-7599-5255>

Mary Ann Keogh Hoss. Professor Emeritus, Eastern Washington University, Spokane, WA, US
Email: makhoss777@gmail.com, <https://orcid.org/0000-0003-0274-9966>

Received: May 30, 2024.

Accepted: September 3, 2025.

Conflicts of interest: None.

DOI: <https://doi.org/10.71164/socialmedicine.v19i1.2026.1765>

Abstract

In June 2023 the US Supreme Court overturned the last protections for Affirmative Action. Affirmative Action was an important factor in helping to ameliorate historical and contemporary injustices. This judgement will inevitably result in decreased numbers of Minority health professionals. This is at odds with the changing demographics of the US, and will no doubt result in poorer health outcomes for already disadvantaged populations. Diversity in healthcare professionals is crucial. Action must be taken to maintain and advance the Minority pipeline into the health professions.

Key words: Affirmative Action; healthcare; United States; health professionals; diversity

Resumen

En junio de 2023, la Suprema Corte de los Estados Unidos (EEUU) anuló las últimas protecciones vinculadas a la acción afirmativa. La acción afirmativa constituyó un factor importante para paliar injusticias históricas y contemporáneas. Esta sentencia desembocará inevitablemente en una disminución del número de profesionales en el cuidado a la salud pertenecientes a minorías. Esto contradice los cambios demográficos en Estados Unidos y, sin duda, dará lugar a afectaciones en el cuidado a la salud para poblaciones ya desfavorecidas. La diversidad entre los profesionales del cuidado a la salud es fundamental. Es necesario tomar medidas para mantener y ampliar la incorporación de las minorías en el ámbito de la atención a la salud.

Palabras clave: Acción afirmativa; atención a la salud; Estados Unidos; profesionales de la salud; diversidad



The US Supreme Court's dismissal of affirmative action protections represents a tragedy for minority health in the US. Affirmative action was introduced to help mitigate the worst current and historic injustices that continue to result in the under-representation of minorities in the health professions. It will certainly result in increased underrepresentation of minorities in the health professions. This is at odds with the changing demographics of the US and will result in both increased health inequalities, as well as decreased cultural competency among graduating health professionals. Even those minority members gaining access to the health professions training pipeline are at increased risk of dropping out due to isolation and other factors. Significant investment in attracting and supporting diverse students is required, as well as increased funding to support minority-focussed colleges to develop new medical schools based on a more inclusive approach.

Affirmative action is a downstream attempt to ameliorate the impacts of overt and structural racism.¹ It can serve to help redress historical intergenerational disadvantage. Focussing just on the last 150 years this argument is sometimes referred to as responding to the 'legacy of Jim Crow' in reference to the patchwork of local and State laws which enforced segregation and marginalisation of many minority populations, most notably African Americans.¹

Affirmative action is crucial to promote and maintain diversity in health professions training cohorts. Diverse learning environments are crucial to the development of rounded health professionals.¹ Diversity in health and medical training results in more positive interactions between health professionals and patients from diverse backgrounds. Diverse training cohorts also enhance learning and improve cross-cultural competency.² A critical mass of diverse students is also crucial to prevent increased Minority attrition as a result of the negative impacts of distress and isolation.³ Affirmative action has also been identified as a mechanism to reinforce multiracial democracy through promoting inclusion and engagement.¹

Affirmative action as it is known in the US, or positive discrimination as it is often termed in the UK and Ireland, involves policies, procedures, and practices designed to assist specific groups that have experienced historic systemic discrimination and historic injustice. It is used to try and promote equity and combat underrepresentation in areas such as education and employment. Under the US Civil Rights Act of 1964 affirmative action was recognised as a remedy to help remediate discriminatory practices by institutions and employers. The history of European settlement of the Americas may be described as an unholy trinity of racism, slavery, and genocide. The impacts of this in the US are still painfully obvious, and racism, discrimination, and exclusion are still an everyday experience for minority groups there.

Affirmative action was crucial in promoting the gradual inclusion and advancement of minority group members across the US in various avenues of employment and education over the last 50 years. Affirmative action policies grew considerably in the wake of the assassination of civil rights leader and non-violent activist Dr Martin Luther King Jr. in 1968.¹ In 1978 the University of California medical school's admissions policy, which reserved a certain number of seats for minority students, was contested by White applicant Allan Bakke. In this case, the Supreme Court's decision outlawed racial quotas but permitted the use of race as one of several considerations in admissions decisions. This ruling established diversity as a strong argument in favour of affirmative action, a revolutionary step.

However, such protections for affirmative action were overturned in June 2023 when the US Supreme Court rejected the legality of race-conscious affirmative action in college admissions programs. The Court held that Harvard and UNC's admissions programs, which consider race at various stages in the application process, violate the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. As Bhasin & Curfman note

'over the last four decades, race-conscious admissions policies have been the subject of

heated judicial and social controversy' in the US.⁵

The Supreme Court rulings will undoubtedly have a very negative effect on diversity in the education and training pipelines into health professions in the US. Evidence for this can be seen from individual States that had already overturned affirmative action.³⁻⁴ For example, an examination of the impact of affirmative action bans in six US states noted a 17% decline in graduations among students of colour on medical programs.²

There is a history of underrepresentation of minorities in the healthcare professions, particularly in the US.⁶⁻⁹ Looking at the infectious disease workforce Gil and Hardy have noted the origins of a leading professional society as being '*white, heterosexual, cisgender men of European origin*'.¹⁰

This history of exclusion is in part based on overt discrimination and exclusion from education. However, as well as overt racism, structural and systemic racism are also crucial factors in this imbalance. Profound educational inequality still exists in the US.¹ Minority students are far more likely to be educated in overcrowded and under-resourced settings. Evidence demonstrates that high-performing minority children are less likely to be assigned onto higher-level coursework than Caucasians of equivalent or reduced ability in mixed-race schools.¹¹ In terms of access to college Minority students are also less likely than their White counterparts to attend schools offering Advanced Placement (AP) opportunities which are looked on favourably by higher education institutions. AP courses allow secondary (high) school students to study higher-level courses, which often meet US university General Education Requirements for the first years at College. Even where AP courses are available to Minority students, they are less likely to apply and enrol for them, perhaps reflecting internalised cultural bias,¹² or external commitments to paid work to help support their family. They are similarly less likely to be referred by their teachers for such programs.¹²

University entry in the US is also strongly impacted by extracurricular activities which often

require time and resources, both of which disadvantage Minority students who are more likely to be raised in single-parent households and in households in which a parent/s may be working multiple minimum wage jobs.¹³ Access to university is also influenced by teacher and counsellor recommendations (references). Once again Minority students are at a distinct disadvantage on this criteria as both their teachers and their counsellors are working with much higher student to staff ratios than more affluent schools serving predominantly White students.¹⁴⁻¹⁷ The College admissions 'game' is skewed at every step against Minority students.¹

The problem with a lack of diverse health professionals is an issue at a variety of levels. First, because of the absolute lack of trained professionals across all such disciplines. It is crucial to utilise all available talent to meet this chronic and increasing deficit.¹ This issue has increased in importance in recent years as it is known that the COVID-19 pandemic has worsened physician and health personnel shortages.¹⁸

The second reason this lack of diversity is crucial is because the under-representation of diverse staff is undoubtedly reflected in adverse care experienced by Minority populations.^{9,19} This lack of diversity in health/ medical staff is particularly alarming, as it is distinctly at odds with the increasing diversity of the US population.³ This increasingly diverse population also has significantly worse health status and requires more appropriate resources, further emphasising the need for more diverse staff. The affirmative action ban will serve to exacerbate current inequities in health care provision and resulting health status.² On this issue Ogunwole *et al.* suggest that '*increasing diversity is the fulcrum for reducing health disparities*'.²⁰ Numerous studies have demonstrated that Minority health professionals are more likely to devote their careers to working with diverse populations.²¹ Such staff are also more likely to elicit trust, have higher rates of patient satisfaction,²¹ and can offer improved social support to in-group members.¹⁸ Not surprisingly, a health professional being able to speak their patient's native language often improves health outcomes. This can be

particularly important in managing complex health conditions, such as diabetes.²¹

What can be done in response to the US Supreme Court decision? A more holistic review of admissions is appropriate.²¹ Holistic review involves considering not only Grade Point Average (GPA) and standardized test results in the admission process, but also life experience and personal characteristics that fit with the university's diversity aims.²¹ Increased outreach into diverse communities is another tactic universities can adopt to maintain and promote diversity.⁵ Improved outreach could include increased recruitment efforts in high schools serving Minority populations and similar outreach initiatives in churches and community centers catering to diverse populations.⁵ Increased funding to support diversity via specific programs similar to the federal Health Careers Opportunity Program (HCOP) is also required,²¹ as well as improved support for more isolated minority students on training programs. The federal HCOP program provides funding to undergraduate campuses to "support comprehensive academic enrichment, advising, career development, mentorship and peer support to undergraduates from disadvantaged backgrounds who wish to become health professionals".²¹ Other potential actions include the development of new medical schools in Historically Black Colleges and Universities (HBCUs).²² Many HBCUs not only have excellent academic pedigrees, but also a "legacy of nurturing raw talent... [and] piercing negative inertia".²² It must be acknowledged that, as the University of California, Davis has demonstrated, achieving a diverse medical school is possible by addressing the barriers faced by minority students, but only by 'pushing back' against concerns over prestige in forms such as university ranking tables and reputational status.²³

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ISSN: 1557-7112