

**Affirmative Action Overview & Case Studies**

Both issues came out of the 1960s, one under President Lyndon Johnson in 1965 and another under President Richard Nixon in 1969, with the intention of helping to correct more than a century of racial inequality.

In 1965, in the wake of massive grassroots protests, Congress passed the historic legislation that ensured the federal government would protect the right of African Americans to freely participate in the vote. Johnson responded to immense pressure that came from the Rev. Martin Luther King Jr. and civil rights protesters, who put themselves on the line and suffered violence to obtain this right.

[**Selected quotes from Supreme Court affirmative action**](http://www.cnn.com/2013/06/07/politics/court-affirmative-quotes/index.html)

* In 1969, the Department of Labor launched the Philadelphia Plan, requiring unions involved in projects receiving federal funds to hire a percentage of African Americans
* The goal of both programs, government to proactively tackle problems that aggravated racial equality. Johnson's speech in 1965 laid out the rationale
* In a powerful address at Howard University, he said: "You do not wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please. You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, 'you are free to compete with all the others," and still justly believe that you have been completely fair.

These programs have been controversial from the start.

[A summary of major upcoming Supreme Court decisions](http://www.cnn.com/2013/05/27/us/scotus-case-guide/index.html)

* As the late historian Hugh Davis Graham argued the goal, though more controversial, was to take stronger steps to design institutions that would not perpetuate racism.
* During the late 1960s, some members of the Nixon administration tried to push for changes to the Voting Rights Act that would have severely weakened the legislation, including dismantling the clearance provision that required governments holding elections to gain approval from the Justice Department to any changes in their voting process. But the supporters pushed back, and the laws remained intact.
* There have been repeated challenges to the Voting Rights Act and affirmative action, especially as it was extended into areas other than employment, such as education, but they have failed.
* Two key decisions will have huge ramifications. If the court begins to knock down these two pillars of civil rights policies, they would set back the government's power to deal with racial problems.

**Facts:**  
Supporters argue that affirmative action is necessary to ensure racial and gender diversity in education and employment. Critics state that it is unfair and causes reverse discrimination.

Racial quotas are considered unconstitutional by the [U.S. Supreme Court](http://www.cnn.com/2013/06/10/us/u-s-supreme-court-fast-facts/index.html).

The state of Texas replaced its affirmative action plan with a percentage plan that guarantees the top 10% of high-school graduates a spot in any state university in Texas. California and Florida have similar programs.

**Timeline (selected cases):**

**1954 -** The U.S. Supreme Court, in [Brown v. Board of Education](http://www.oyez.org/cases/1950-1959/1952/1952_1/), rules that the "separate but equal" doctrine violates the Constitution.

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**1961 -** President John F. Kennedy creates the [Council on Equal Opportunity](http://www.presidency.ucsb.edu/ws/?pid=58863) in an Executive Order. This ensures that federal contractors hire people regardless of race, creed, colour or national origin.

**1964 -** The [Civil Rights Act](http://www.ourdocuments.gov/doc.php?flash=true&doc=97) renders discrimination illegal in the workplace.

**1978 -** In [Regents of the University of California v. Bakke](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0438_0265_ZO.html), a notable reverse discrimination case, the Supreme Court rules that colleges cannot use racial quotas because it violates the Equal Protection Clause. As one factor for admission, however, race can be used.

Gratz v. Bollinger

**1995 -** The University of Michigan rejects the college application of Jennifer Gratz, a top high school student in suburban Detroit who is white.

**October 14, 1997 -** Gratz v. Bollinger, filed in federal court in the Eastern District of Michigan. The University of Michigan is sued by white students, including Jennifer Gratz, who claimed the undergraduate and law school affirmative action policies using race and/or gender as a factor in admissions is a violation of the Equal Protection Clause of the Fourteenth Amendment or Title VI of the Civil Rights Act of 1964.

[Grutter v. Bollinger](http://www.oyez.org/cases/2000-2009/2002/2002_02_241/)

**December 3, 1997 -** A similar case, [Grutter v. Bollinger](http://www.oyez.org/cases/2000-2009/2002/2002_02_241/), is filed in federal court in the Eastern District of Michigan. Barbara Grutter, denied admission to the University of Michigan Law School, claims that other applicants, with lower test scores and grades, were given an unfair advantage due to race.

**December 2000 -** The judge in the Gratz v. Bollinger case rules that the University of Michigan's undergraduate admissions policy does not violate the standards set by the Supreme Court.

**March 2001 -** The judge in the Grutter v. Bollinger case rules the University of Michigan Law School's admissions policy is unconstitutional.

**December 2001 -** The Sixth Circuit Court of Appeals hears appeals in both University of Michigan cases.

**May 14, 2002 -** The Sixth Circuit Court of Appeals reverses the district court's decision in Grutter v. Bollinger.

**January 17, 2003 -** The administration of [President George W. Bush](http://www.cnn.com/2013/07/07/us/george-w-bush-fast-facts/index.html) [files a friend-of-the-court](http://www.cnn.com/2003/ALLPOLITICS/01/16/bush.affirmativeaction/) brief with the Supreme Court, opposing the University of Michigan's affirmative action program.

**June 23, 2003 -** The Supreme Court rules on [Grutter v. Bollinger](http://www.law.cornell.edu/supct/pdf/02-241P.ZO) that the University of Michigan Law School [may give preferential treatment](http://www.cnn.com/2003/fyi/news/06/25/scotus/) to minorities during the admissions process. The Court upholds the law school policy by a vote of five to four.

**June 23, 2003 -** In [Gratz v. Bollinger](http://www.law.cornell.edu/supct/pdf/02-516P.ZO), the undergraduate policy in which a point system gave specific "weight" to minority applicants is overturned six to three.

**December 22, 2003 -** The Supreme Court rules that race can be a factor in universities' admission programs but it cannot be an overriding factor. This decision affects the Grutter and Gratz cases.

**November 7, 2006 -** The Michigan electorate strikes down affirmative action by approving a proposition barring affirmative action in public education, employment, or contracting.

**January 31, 2007 -** After the Supreme Court sends the case back to district court; the case is dismissed. Gratz and Hamacher settle for $10,000 in administrative costs, but do not receive damages.

**2008 -** Abigail Noel Fisher, a white woman, [sues the University of Texas](http://www.law.cornell.edu/supct/cert/11-345). She argues that the university should not use race as a factor in admission policies that favour African-American and Hispanic applicants over whites and Asian-Americans.

**July 1, 2011 -** An appeals court overturns Michigan's 2006 ban on the use of race and/or gender as a factor in admissions or hiring practices.

**November 15, 2012 -** The U.S. Sixth Circuit Court of Appeals [throws out Michigan's 2006 ban on affirmative action](http://www.cnn.com/2012/11/15/justice/michigan-affirmative-action-ban) in college admissions and public hiring, declaring it unconstitutional.

**June 24, 2013 -** The Supreme Court sends the University of Texas case back to the lower court for further review without ruling.

**October 15, 2013 -** The U.S. Supreme Court hears [oral arguments in a case concerning Michigan's 2006 law](http://www.cnn.com/2013/10/15/us/scotus-affirmative-action/index.html?iref=allsearch) on affirmative action.

**April 22, 2014 -** In a six to two ruling, the Supreme Court [upholds Michigan's ban](http://www.cnn.com/2014/04/22/justice/scotus-michigan-affirmative-action/) of using racial criteria in college admissions.

**July 15, 2014 -** [The U.S. Court of Appeals for the Fifth Circuit upholds the use of race by the University of Texas](http://www.ca5.uscourts.gov/opinions%5Cpub%5C09/09-50822-CV2.pdf) as a factor in undergraduate admissions to promote diversity on campus. [The vote is two to one.](http://tarltonguides.law.utexas.edu/fisher-ut)

**December 9, 2015 -** The U.S. Supreme Court hears oral arguments in the [University of Texas case regarding race as a factor in admissions policies](http://www.cnn.com/2015/12/09/politics/affirmative-action-supreme-court-university-of-texas/index.html).

**June 23, 2016 -** The U.S. Supreme Court [upholds the Affirmative Action program by a vote of four to three](http://www.cnn.com/2016/06/23/politics/supreme-court-abortion-affirmative-action-texas-immigration/) with Justice Elena Kagan taking no part in the consideration. The ruling allows the limited use of affirmative action policies by schools.