
THE IMPORTANCE OF EDUCATING AND EMPLOYING A DIVERSE WORKFORCE



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Background

On June 29, 2023, in an alarming departure from 45 years of precedent, the U.S. Supreme Court struck down the race-conscious admissions policies of Harvard and the University of North Carolina as unconstitutional in *SFFA v. Harvard* and *SFFA v. UNC*. The Court called the pursuit of the educational benefits of diversity—including the interest in equipping students with the skills needed to thrive in the private sector in an increasingly pluralistic society—“plainly worthy” “commendable goals.” However, the Court held that those goals were insufficiently measurable to justify the consideration of race in admissions.

How will these cases affect the workforce and why does that matter?

As the Chair of the Equal Employment Opportunity Commission explained:

[The Court’s decision] does not address employer efforts to foster diverse and inclusive workforces or to engage the talents of all qualified workers, regardless of their background. It remains lawful for employers to implement diversity, equity, inclusion, and accessibility programs that seek to ensure workers of all backgrounds are afforded equal opportunity in the workplace.¹

Nevertheless, the Court’s decision makes it even more imperative for colleges and universities to identify alternative means to ensure a diverse student body and, thus, a diverse work force.

- For example, the experts in the Harvard case showed that, without the use of race in admissions, the share of African American and Hispanic or Other students enrolled at Harvard **would decrease by 45%.**²
- In California, after Proposition 209 barred state universities from considering race in admissions, the number of Black and Latinx students admitted to the University of California at Berkeley **dropped by 66% and 53%**, respectively, compared to the previous year.³
- And in Michigan, after the passage of Proposition 2 which similarly banned the use of race in admissions in that state, the underrepresented minority population at the University of Michigan **decreased by 12%** from 2006 to 2015 at the undergraduate school, despite attempts to use race-neutral alternatives.⁴

¹ Press Release, Charlotte A. Burrows, EEOC Chair, Statement from EEOC Chair Charlotte A. Burrows on Supreme Court Ruling on College Affirmative Action Programs on Supreme Court Ruling on College Affirmative Action Programs (June 29, 2023), <https://www.eeoc.gov/newsroom/statement-eeoc-chair-charlotte-burrows-supreme-court-ruling-college-affirmative-action#:~:text=%E2%80%9CToday's%20Supreme%20Court%20decision%20effectively,to%20ensure%20diverse%20student%20bodies.>

² *SFFA v. Harvard*, 980 F.3d 157, 191 (1st Cir. 2020).

³ *Prop. 209 Lands on UC*, L.A. Times (Apr. 1, 1998), <https://www.latimes.com/archives/la-xpm-1998-apr-01-me-34867-story.html>.

⁴ Br. for the University of Michigan as Amicus Curiae in Supp. of Resp'ts, *Fisher v. University of Texas at Austin*, 579 U.S. 365 (2016) (No. 14-981), 2015 WL 6748811, at *24–*28.

In addition to ensuring a diverse workforce, diverse colleges and universities foster essential job-related skills, such as critical thinking, problem solving, and the ability to work cooperatively. Thus, a workforce educated at less diverse schools will be less qualified:

- A diverse college experience better prepares students to participate in our nation’s civic life and globalizing economy. For many students, college is the first time they have meaningful opportunities to interact with people from vastly different backgrounds.
- One study found that attending a racially and ethnically diverse university significantly correlated to the development of cross-cultural workforce competencies for white students from both segregated and integrated neighborhoods.⁵
- Exposure to diversity also contributed to the development of leadership skills for white students from segregated neighborhoods.⁶
- Of the various diversity experiences at universities, racial diversity is the most strongly linked with cognitive growth.⁷

COMPANIES WITH PRO-DIVERSITY POLICIES ARE MORE INNOVATIVE, EVEN IN PERIODS OF ECONOMIC DOWNTURN.

⁵ Uma Jayakumar, *Can Higher Education Meet the Needs of an Increasingly Diverse Society? Campus Diversity and Cross-Cultural Competencies*, 78 Harv. Educ. Rev. 615, 632 (2008).

⁶ *Id.*

⁷ Nicholas A. Bowman, *College Diversity Experiences and Cognitive Development: A Meta-Analysis*, 80 Rev. Educ. Res. 4, 22 (2010).

Diverse teams are more innovative and productive.

Companies with pro-diversity policies are more innovative, even in periods of economic downturn. Researchers found that “pro-diversity policies are positively related to the number of new product announcements per R&D dollar spent by a firm.”⁸ The study also found that the “positive effect of pro-diversity policies on innovative efficiency is stronger during recessions... suggesting that building a reputation of pro-diversity and a culture of inclusion pays off” long-term.⁹

Companies whose workforces are racially and otherwise diverse are also better equipped to identify and address scientific and technological challenges, such as algorithmic bias in facial recognition software.¹⁰

Diverse teams tend to engage in a more rigorous and thoughtful decision-making process because of the greater potential of different viewpoints. This variety in perspectives pushes individuals to think critically.¹¹

In addition, “visible diversity can trigger positive behaviors of listening, questioning and diligent thinking in the visibly dominant majority.”¹² Diverse teams are thus “more likely to constantly reexamine facts and remain objective,” and “may also encourage greater scrutiny of each member’s actions.”¹³

⁸ Roger C. Mayer et al., *Do Pro-Diversity Policies Improve Corporate Innovation?*, 47 Fin. Mgmt. 617 (2018).

⁹ *Id.*

¹⁰ Alexander Amini et al., *Uncovering and Mitigating Algorithmic Bias Through Learned Latent Structure*, AIES '19: Proceedings of the 2019 AAAI/ACM Conference on AI, Ethics, and Society, 289-95 (Jan. 2019), <https://tinyurl.com/4kpmtvbn> (describing proposal to solve the problem that facial recognition algorithms trained with biased data—i.e., data in which certain segments of society are underrepresented—result in algorithmic discrimination).

¹¹ Juliet Bourke, *Which Two Heads are Better than One?: How Diverse Teams Create Breakthrough Ideas and Make Smarter Decisions* 7 (May 2016), <https://tinyurl.com/4fwn2rrx>; see also William J. Holstein, *Diversity is Even More Important in Hard Times*, N.Y. Times (Feb. 13, 2009) (“[I]t’s difficult, if not impossible, for [a] homogenous board[] to challenge and offer different perspectives, unique experiences and the broad-based wisdom that makes the board, and therefore the company, as effective as they can be.”).

¹² Bourke, *supra* note 8, at 13.

¹³ David Rock & Heidi Grant, *Why Diverse Teams are Smarter*, Harv. Bus. Rev. (Nov. 4, 2016).

Diverse companies are more successful.

In a 2019 study, companies in “the top quartile [] for ethnic and cultural diversity on executive teams” exhibited significant financial success, “with a 36 percent higher likelihood of outperformance on EBIT [earnings before interest and taxes] margin.”¹⁴

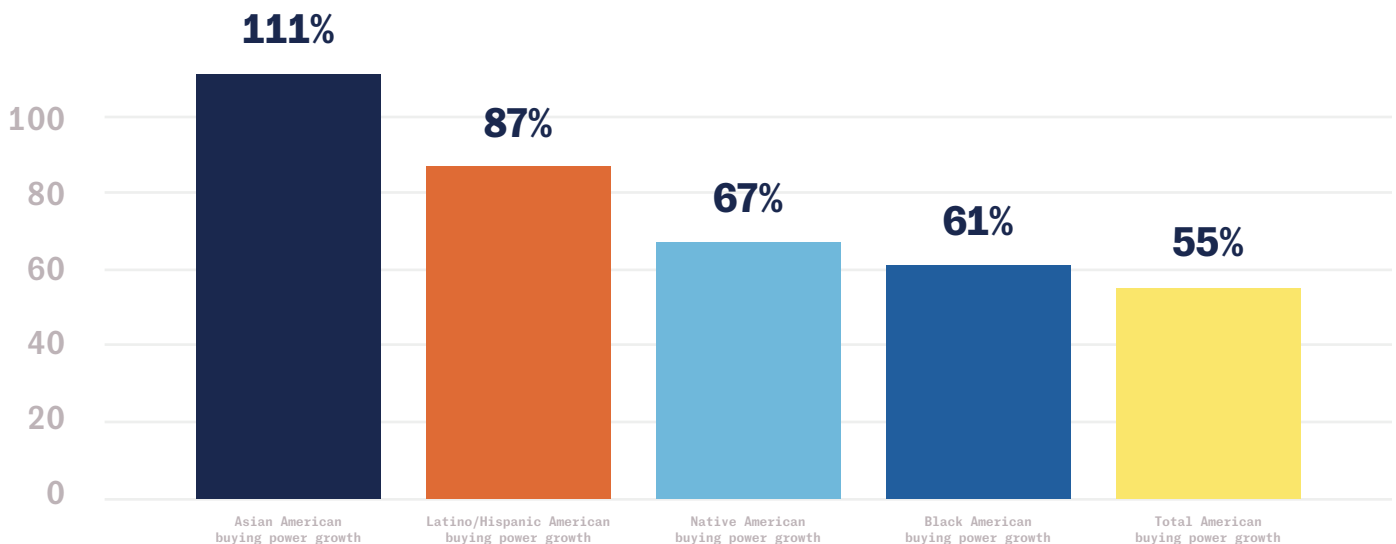
One meta-analysis found that “racial diversity is associated with increased sales revenue, more customers, greater market share, and greater relative profits.”¹⁵

- By contrast, a separate, more recent study concluded that venture-capital investment partners who shared the same ethnicity enjoyed 26.4% to 32.2% less success in their investments.¹⁶

Diverse companies serve customers better.

Diverse teams are necessary for the increasingly important ability to relate to people of other backgrounds. U.S. Census data indicates that the U.S. Diversity Index—a measure of the chance that two people chosen at random will be from different racial or ethnic groups—has increased to 61.1% in 2020 from 54.9% in 2010.¹⁷

Although the overall U.S. consumer base is already “barely 50 percent white,” that “number is likely to continue shrinking.”¹⁸ Between 2010 and 2020, Asian Americans’ buying power grew by 111%, Latino and Hispanic Americans’ buying power by 87%, Native Americans’ by 67%, and Black Americans’ by 61%.¹⁹ In comparison, the total U.S. buying power increased 55% between 2010 and 2020.²⁰



14 McKinsey & Co., *Diversity Wins: How Inclusion Matters* 20 (2020).
15 Cedric Herring, *Does Diversity Pay?: Race, Gender, and the Business Case for Diversity*, 74 Am. Soc. Rev. 208, 208 (2009); see also Cedric Herring, *Is Diversity Still a Good Thing?*, 82 Am. Soc. Rev. 868 (2017) (updating and reinforcing this analysis).
16 Paul Gompers & Silpa Kovvali, *The Other Diversity Dividend*, Harv. Bus. Rev. (July-Aug. 2018).

17 Stephanie Jensen, *U.S. Census data reveals growing racial and ethnic diversity*, Tableau (Jan. 13, 2022), <https://tinyurl.com/y99jyak4>.
18 Kasey Lobaugh et al., *The consumer is changing, but perhaps not how you think: A swirl of economic and marketplace dynamics is influencing consumer behavior*, Deloitte Insights (May 29, 2019), <https://tinyurl.com/5au9zv7t>.
19 J. Merritt Melancon, *Consumer Buying Power Is More Diverse Than Ever*, UGA TODAY (Aug. 11, 2021).
20 *Id.*