

Chapter IV Developing Admissions Policies When Considering Race is Prohibited

Although the Constitution allows race-conscious admissions programs and the Supreme Court has held that diversity can be a compelling state interest, some states have passed laws banning the consideration of race in admissions decisions at public institutions. (See Chapter I.D.) In these states, public institutions are not allowed to have race-conscious admissions programs, even after the Court's decisions.

Nevertheless, public institutions in these states need not abandon the goal of educational diversity, or even a goal of racial and ethnic diversity. Both kinds of diversity can be compelling state interests. The challenge, however, is to further the compelling interest of diversity without considering race during the admissions process. Although an institution in this situation faces obstacles to creating a racially diverse student body, it can take steps to improve its chances of increasing diversity. This Chapter provides suggestions for institutions in these states seeking to further the goal of student body diversity without considering race in the admissions process.

Note: In many ways, the suggestions contained in this Chapter mirror those made in the sections discussing how to create a race-conscious admissions program. (See Chapter II.)

A. Reaffirm Your Commitment to Overall Diversity

An institution's first step should be to confirm its commitment to overall diversity. An institution should issue a policy statement that describes how diversity is an important admissions goal that furthers the educational mission of the school. It may also describe why diversity is especially important to the school's educational mission, so long as it makes clear that the institution does not consider race when making admissions decisions.

B. Develop an Inclusive Plan

1. Recruit Diverse Applicants

Many schools that cannot consider race in the admissions process spend more resources on recruiting qualified minority applicants. An applicant pool containing a more diverse group of qualified candidates provides an institution more opportunities to select a diverse student body.

Recruitment efforts include visits to high schools that historically have not sent students to the institution, scholarship programs, special orientation sessions for minority students, and retention programs. For a more detailed description of these recruitment efforts, see Appendix 4.

Example 1: The University of California, Berkeley, developed a multicultural recruitment center, which performs such tasks as assisting high school students in filling out their applications, conducting essay-writing workshops, and informing students of applicable scholarships and financial aid.

Example 2: The University of Texas at Austin developed a recruitment/scholarship program that uses an adversity index in considering student applications. Those who have excelled beyond their peers in academically inferior high schools are given special consideration.¹³⁹

2. Consider Test Scores in Context and Evaluate Other Factors

As noted earlier, a contextual evaluation of an applicant's test scores is important for many reasons. Studies show that the formulaic consideration of standardized test scores has a disparate impact on minority students. (See Chapter II.) A contextual evaluation will give an institution more flexibility and will let the school individually review each candidate's qualifications. Focusing on factors other than test scores will also help.

Example: Boalt Hall School of Law, University of California, Berkeley, explicitly states in its admissions policy that "numbers alone are not dispositive." The law school "seeks a student body with a broad set of interests, backgrounds, life experiences, and perspectives." Boalt will look to see whether an applicant experienced disadvantages that adversely affected his or her past performance, and then consider these obstacles in assessing the applicant's "potential to distinguish himself or herself in the study and practice of law."

Although a school cannot give a "plus" factor for race, it may still be able to increase the diversity of its student body by considering other factors that may result in more underrepresented minorities being admitted to the institution.

3. Ask Questions That Will Provide a More Complete Picture of the Candidate

Asking the right questions on an application will allow an institution to learn more about an applicant and may provide details of the applicant's life that would make him or her particularly attractive as a candidate. Three questions in particular will elicit information that may be helpful:

- How do you stand out from other candidates?
- How can you contribute to the diversity of this institution?
- What obstacles or challenges have you faced or overcome in your life?

These questions may give a school the information that will help it achieve its diversity goal.

Example:

The University of California, Hastings College of Law has a Legal Education Opportunity Program, which asks applicants to provide written responses to more than a dozen background questions, including:

- Identify and describe the community(ies) in which you resided from birth to age of college entry.
- Are you an immigrant or the child of immigrant parents? If yes, please include the country of origin and year of arrival in the U.S., as well as reason(s) for immigration.
- Describe your early educational experiences. Include elementary and junior high school experiences.
- Describe the financial situation of the family in which you were raised, from birth to age of college entry.¹⁴⁰

4. Engage in Individualized Review

In addition to asking the right questions and de-emphasizing test scores, it is important for institutions to review applications individually. Using a mechanical formula to review applications prevents a school from making individualized decisions and from considering important qualities that make certain applicants desirable.

An individualized review is the same type of review performed under race-conscious admissions programs. The only difference is that race ceases to be a “plus” factor. Nevertheless, reviewers may still consider and award a “plus” for other factors. Under this system of admissions, reviewers will be able to make a complete, overall evaluation of a candidate and determine whether he or she should be admitted.

5. Aim for Diversity of Experience

Although race may not be considered under an individualized review, admissions officers can aim to admit students with a diversity of experience. This type of diversity, which

exists in many forms, will help an institution achieve its educational mission of creating a vibrant academic community.

There are many ways to evaluate candidates for diversity of experience. Some institutions request personal statements, resumes, and activity sheets that reveal candidates' potential contributions to their respective educational institutions. In addition to the questions noted above, a school may wish to ask questions about an individual's background, life experiences, extracurricular or community service activities, geographic surroundings, and languages spoken.

Example: UC Berkeley, UCLA, and other University of California campuses place special emphasis on the personal statement. The institutions ask high school students to provide "an understanding of you as a unique individual" and to explain "factors outside of your high school environment that have either enhanced or impeded your academic and intellectual achievements." UCLA, as part of a comprehensive review of a student's entire application, then evaluates the personal statement on two separate sets of criteria. The first, the Personal Achievement Review, evaluates extracurricular activities, work, and volunteer experience. The second, the Life Challenge Level, considers obstacles a student faced in his or her environment, family, or personal life.

Similarly, many institutions solicit letters of recommendation that depict a candidate's individual qualifications and personal attributes and help an admissions office make an individual assessment of the applicant.

Example: Rice University, which was bound by the Fifth Circuit's ban on race-conscious admissions prior to the 2004 admission cycle, required freshmen applicants to provide letters of recommendation from their high school counselor and at least one academic teacher. In addition, Rice recommended, but did not require, that applicants participate in a personal interview on campus with admissions staff or off-campus with alumni representatives.¹⁴¹

Although they may be less effective than race-conscious admissions programs, these admissions techniques may help an institution further racial diversity in the student body. If nothing else, the admissions policy will create a student body that is more diverse generally. For additional information on the efficacy of "race-neutral" policies, please see Appendix 4.

Using a Race-Neutral, Individualized Review Admissions Process Will Not Guarantee a Racially Diverse Student Body

The steps outlined in this section aim to help public institutions in states that prohibit the consideration of race in admissions decisions. The admissions policies for public institutions in these states will be “race-neutral.” Although these institutions can take steps to achieve more racial diversity even without considering race, such policies are not necessarily workable alternatives for schools that may use race-conscious admissions policies. There is no guarantee that the policies outlined in this section will actually create a racially diverse student body. As noted above, there is no requirement that a school that can use race-conscious admissions policies use a “race-neutral” admissions program that will harm their educational values or their diversity goals.

Of course, an institution can retrospectively evaluate its program and determine whether a race-neutral, individualized-review admissions program would still allow it to reach its diversity goals as well as other academic objectives. If it does, the institution should then consider revising or ending its race-conscious admissions program.