

## WHEN AFFIRMATIVE ACTION IS BANNED, MINORITY APPLICANTS TO COLLEGE HAVE A HARDER TIME – EVEN IN NEIGHBORING STATES

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The consideration of race as one factor in college admissions was once legally acceptable all over the United States – as codified in the landmark Supreme Court ruling in the 1978 *Bakke* case. Over the last fifteen years, however, statewide bans and patchwork judicial rulings have banned affirmative action in some states, while allowing a limited version to continue in others.

Researchers have looked at the impact of banning affirmative action on college admissions for particular states or universities. But we are the first to analyze the effects nationwide. The bans do matter, we find, influencing institutional practices and making admission to selective public universities harder not only for minority students applying in states where preferences have been ruled out, but also for those applying from neighboring states.

### The Shifting Legal Terrain

Since the 1990s, statewide bans and uneven federal court rulings have created a patchwork of affirmative action policies across the nation.

- The 1996 *Hopwood* decision by the Fifth Circuit Court of Appeals and the 2001 *Johnson* ruling by the Eleventh Circuit Court of Appeals rejected affirmative action as previously practiced at the University of Texas Law School and the University of Georgia. These decisions affected public institutions throughout the respective circuit jurisdictions, spanning Texas, Louisiana, and Mississippi plus Georgia, Alabama and Florida.
- Ambiguity left by varied federal court rulings was settled by the Supreme Court in the *Grutter*, *Gratz*, and *Fisher* decisions rendered in 2003 and 2013. These decisions clarified but limited the use of racial criteria in college admissions. However, they did not provide uniform guidelines nationwide, because state bans on affirmative action remained in effect.
- Statewide efforts to restrict the use of race in college admissions started when California and Washington voters banned affirmative action at public institutions in 1996 and 1998. Florida followed suit in 1999, when Governor Jeb Bush signed an executive order eliminating affirmative action in public employment, contracting, and college admissions. More recently, popular referenda instituted statewide bans in Michigan (2006), Nebraska (2006), Arizona (2010), and Oklahoma (2012). A 2008 attempt failed in Colorado.

### A New Look at State Experiences

No empirical analysis, however, has yet provided a nationwide snapshot to look at how college admissions practices vary in states that have banned affirmative action compared to those where it remains permissible. To develop such an analysis we use nationally representative data from

the U.S. Department of Education for high school students who applied to college in 1992 and 2004, which allows us to estimate the magnitude of the change in the eight “post-affirmative action” states: Alabama, California, Florida, Georgia, Louisiana, Mississippi, Texas, and Washington. During the interval between 1992 and 2004, all of these states were affected by statewide bans or Circuit Court rulings against affirmative action. Other U.S. states, meanwhile, have been affected only by the Supreme Court’s *Grutter* and *Gratz* rulings, under which limited forms of affirmative action remain permissible.

To see what changed between 1992 and 2004, we looked at the fates of applicants to colleges and universities in the various states, considering both highly selective colleges and others which have less elevated standards for admission. We probed to see whether changing legal environments affected the use of preferences and admission chances for minority students.

### The Very Real Impact of Affirmative Action Bans

Our findings document telling changes across time – and clear contrasts between states where affirmative action continues to be practiced and those where it has ceased for legal reasons.

- Across the period from 1992 to 2004, **we find a substantial and statistically significant decline in the use of affirmative action** criteria by colleges across the United States – **yet all of this decline can be attributed to the eight states where affirmative action was legally banned, and we find no significant decline in the rest of the states.**
- **As public institutions in the eight states that banned affirmative action ceased giving admissions preferences to minorities, comparable institutions in the other states continued to give a real boost to minority applicants.** For the states that continued to allow preferences, we looked closely at relatively selective colleges and universities where the typical (or “median”) enrollee had an SAT score of 1,100 or higher. A minority applicant to these institutions was 19 percentage points more likely to be admitted than a comparable non-minority applicant in 1992, and this advantage remained at 18 percentage points in 2004. Similar continuities in the use of affirmative action preference to boost chances for minority applicants hold when we add private institutions to the analysis.
- **Our nationwide analysis identified an additional pattern never before documented: college-bound minority students have different opportunities depending on whether neighboring states allow affirmative action.** A simple thought experiment suggests how this works. For a minority student in Las Vegas who wants to attend a selective university, all of the good options are located in California; but her chances for admission have been reduced since that state banned affirmative action in 1996. By contrast, a minority student in Chicago still has better chances at leading public universities in her own state as well as in Minnesota, Indiana, and Wisconsin, none of which as yet ban affirmative action.

In short, our research shows that affirmative action bans really do reduce college admissions opportunities. As bans on affirmative action spread, they will have spreading implications for minority college applicants and the social mix of students studying at colleges and universities, affecting entire regions, not just the states that enact the bans.

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Read more in Grant H. Blume and Mark C. Long, “Changes in Levels of Affirmative Action in College Admissions in Response to Statewide Bans and Judicial Rulings.” *Educational Evaluation and Policy Analysis* 36, no. 1 (forthcoming).