



CONSERVATIVE LEGAL ATTACKS ON RACE CONSCIOUSNESS

LEADING WITH RACE IN CLIMATE SOLUTIONS

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Introduction

The opponents of racial justice have been mounting increasingly effective legal attacks on race-conscious policy and action. The recent Supreme Court decision to ban affirmative action is one example among many.

The stakes are high for climate and racial justice advocates. It is imperative that we understand the nature of these attacks and who is behind them. The [Leading with Race in Climate Solutions](#) project is dedicated to helping leaders navigate these issues and forge effective strategies.

This document contains articles referencing recent legal and political attacks on race-based¹ policies across the private sector, government, schools and universities, and philanthropy. Excerpts of each article are provided - full articles can be found at respective links.

Attacks on Government

Minority Business Support and Contracting

[Alameda County sued by anti-affirmative action group over public contracts policy. Group says race should not be a factor in choosing public contractors - Mercury News](#)
8/1/22

The lawsuit took aim at the San Francisco Bay Area county's Public Works Agency and the General Services Agency, arguing that procurement programs that included minority-business "participation goals" were discriminatory. The County won in court, but the plaintiffs have appealed in an apparent effort to elevate the case to the Supreme Court.

[Cook County retooled a grant program for minority-owned businesses in the Chicago area after a lawsuit from a white chiropractor - Chicago Sun Times](#)
3/17/23

The grant program, announced in 2022, had planned to distribute \$71 million dollars in COVID relief. Over 22,000 eligible businesses applied for grants, before the County decided to rescind the program, remove race-conscious criteria, and require businesses to re-apply.

[SBA program upended in wake of Supreme Court affirmative action ruling](#)
9/7/23

A judge struck down a provision of a federal program meant to help minority-owned businesses, a ruling that could imperil other programs that benefit underrepresented groups. Thousands of Black, Latino and other minority business owners are scrambling to prove that their races put them at a "social disadvantage" after a federal judge declared a key provision of a popular federal program unconstitutional, extending the U.S. Supreme Court's recent retreat from affirmative action.

Diversity, Equity, and Inclusion

[A former employee in the City of Seattle filed a federal civil rights lawsuit - Fox News](#)
11/29/22

The employee is claiming anti-White discrimination and a 'racially hostile work environment' related to his required participation in a workshop on Undoing Institutional Racism that was part of the City's Race and Social Justice Initiative (RSJI). See [more](#).

¹ Race-based policies are those that explicitly use race as a decision or selection criterion, generally at the individual level. Race-conscious policies are those that may have a racial goal and are aware of racial context but don't explicitly use race as a decision-making criterion for allocation of funds or benefits at the individual level. All race-based policies are also race-conscious, but not all race-conscious policies are race-based. For more, see [Advancing Racial Equity: Legal Guidance for Advocates by Stephen Menendian](#)

['America Is Under Attack' Inside the Anti-D.E.I. Crusade - The New York Times](#)

1/20/24

In late 2022, a group of conservative activists and academics set out to abolish the diversity, equity and inclusion programs at Texas' public universities. The campaign quickly yielded results: In May, Texas approved legislation banishing all such programs from public institutions of higher learning.

Race-based Funding Programs

[Stephen Miller's American First Legal beats Biden in court while pledging to battle 'anti-white bigotry' - The Washington Post](#)

12/12/22

Casting itself as "the long-awaited answer to the ACLU," AFL has weaponized the grievance politics embodied by Trump's "Make America Great Again" movement through dozens of federal lawsuits, challenging efforts to remedy racial disparities, support LGBTQ students and expand the pool of early voters.

[Analysis: Biden debt relief plan disappoints Black farmers for avoiding race - Reuters](#)

8/17/22

Some Black farmers say they are disappointed by a new U.S. agriculture debt relief program that stands to save thousands of farmers from foreclosure, after the plan failed to specifically target minorities as they had hoped. More: [Black Farmers Refuse to Back Down After Federal Judge Dismisses Suit - Capital B News](#) 5/23/23; [USDA begins accepting discrimination relief applications from farmers - CNN Politics](#) 7/7/23

[How agencies will decide who gets funds for those facing pollution and health issues- NPR](#)

8/30/23

The White House wants to direct more funding to communities dealing with high levels of pollution and health problems. But how agencies determine who qualifies for the money has some researchers worried.

[Supreme Court ruling entangles Biden's environmental justice efforts - E&E News by POLITICO](#) / [See also Inside Climate News on same topic.](#)

6/29/23

In outlawing consideration of race in admissions, the Supreme Court has dealt a blow to colleges seeking to diversify their student bodies — and potentially presented a new hurdle for the Biden administration's efforts to address pollution in predominantly Black communities.

Policies

[This rich California city is using the affirmative action ruling to stop affordable housing - San Francisco Chronicle](#)

9/1/23

Meet the wealthy Los Angeles County community of La Cañada Flintridge, which argued that building affordable apartments where they haven't traditionally been built is racially discriminatory — mostly against rich white people.

[EPA Is Backing Down From Environmental Justice Cases Nationwide - The Intercept](#)

For a little while, it seemed like Cancer Alley would finally get justice. But just when the EPA appeared poised to force the LDEQ to make meaningful changesOpens in a new tab, Louisiana Attorney General Jeff Landry — now the state's governor — sued. Landry's suit challenges a key piece of the agency's regulatory authority: the disparate impact standard, which says that policies that cause disproportionate harm to people of color are in violation of the Civil Rights Act.

Attacks on Private Sector

General

[The Campaign against affirmative action shifts to corporate America](#)

7/19/23

Warning against 'race-based quotas,' 13 Republican attorneys general have [taken aim at company diversity programs](#), including Microsoft's 2020 pledge to double Black leaders and suppliers. [21 other State Attorneys General write their own letter to Fortune 100](#) to reassure and applaud efforts to address inequities.

[The Legal Assault on Corporate Diversity Efforts Has Begun - Wall Street Journal](#)

8/8/2023

Conservative legal activists [successfully challenged](#) the use of affirmative action by universities. Now they are going after diversity initiatives widely deployed across American corporations. Some companies are already reconsidering their efforts.

Diversity, Equity, and Inclusion

[Affirmative Action Ruling May Upend Diversity Hiring Policies, Too - The New York Times](#)

6/30/23

As a legal matter, the Supreme Court's rejection of race-conscious admissions in higher education does not in itself impede employers from pursuing diversity in the workplace. But many experts argue that as a practical matter, the ruling will discourage corporations from putting in place ambitious diversity policies in hiring and promotion — or prompt them to rein in existing policies — by encouraging lawsuits under the existing legal standard.

[Ex-Trump administration officials target corporate diversity efforts | Reuters](#)

8/18/23

Activision Blizzard Inc ([ATVI.O](#)) and Kellogg Co ([K.N](#)) have joined a growing list of major U.S. companies to face claims from a group founded by former Trump administration officials that efforts to diversify their workforces amount to illegal discrimination.

[Ed Blum, Activist Behind Supreme Court Affirmative-Action Cases, Is Now Suing Law Firms - Wall Street Journal](#)

8/22/23

The [conservative advocate](#) who engineered the lawsuit behind the U.S. Supreme Court's June decision [to end race-conscious affirmative action](#) in college admissions on Tuesday sued two law firms that offer fellowships for diverse candidates. One of the firms capitulated and [opened the fellowship program to all students](#).

[Diversity Program Foes Turn to Civil War-Era Law in Court - Bloomberg Law](#)

8/31/23

Several suits filed on behalf of White workers following the US Supreme Court's decision outlawing affirmative action in higher education are banking on a Civil War-era statute guaranteeing equal rights to Black Americans to challenge the legality of corporate diversity, equity, and inclusion policies.

[Meta-Backed Diversity Program Accused of Anti-White Hiring Bias - Bloomberg Law](#)

9/5/23

Meta Platforms Inc. and three entertainment industry groups are the latest to face a lawsuit alleging that a workplace diversity program intentionally discriminates against White men and women.

[NASCAR, Rev Racing sued for 'discrimination' against white males - On3](#)

11/2/23

A group called America First Legal is behind a lawsuit that aims to target NASCAR and Rev Racing for "discrimination." The legal group is led by Stephen Miller. Miller was an advisor to former President Donald Trump. The group seeks to get the Equal Employment Opportunity Commission to investigate NASCAR and the racing team.

[IBM Diversity Efforts Targeted by Stephen Miller's Legal Group - Bloomberg Law](#)

12/12/23

Former Trump adviser Stephen Miller's America First Legal has requested the nation's top federal civil rights agency investigate IBM Corp. over diversity-focused employment and executive pay policies that the conservative group says comprise illegal sex and race discrimination.

Private Venture Capital

[Conservative activist behind US affirmative action cases sues venture capital fund - Reuters](#)

8/2/23

A group founded by the conservative activist instrumental in the U.S. Supreme Court's June decision [rejecting affirmative action](#) in collegiate admissions on Wednesday sued an Atlanta-based venture capital fund that supports Black women who own small businesses, accusing it of unlawful racial discrimination. The nonprofit American Alliance for Equal Rights, founded by affirmative action foe [Edward Blum](#), said in its [lawsuit](#) that the firm, called Fearless Fund, is violating Section 1981 of the Civil Rights Act of 1866, a U.S. law barring racial bias in private contracts, by making only Black women eligible in a grant competition.

[Black women-owned US venture capital fund counters conservative's race lawsuit - Reuters](#)

8/11/23

The founders of a venture capital fund devoted to funding Black women-owned businesses on Thursday defended their efforts to support underrepresented entrepreneurs in the face of a lawsuit by a conservative activist accusing it of racial discrimination.

Attacks on Schools and Universities

[Conservatives seek control over public universities with state bills - Washington Post](#)
6/3/23

Conservative lawmakers have accelerated efforts to try to rein in what they see as liberal indoctrination on college campuses, with dozens of state bills igniting debates in recent months over academic priorities and how public universities should operate.

[Conservative legal group threatens to sue law schools over racial preferences - Reuters](#) 7/5/23

Law schools that give preferences to minorities and women in admissions and hiring risk getting sued by America First Legal, the conservative legal group warned in a letter to 200 U.S. law schools following last week's U.S. Supreme Court decision on affirmative action.

[After Supreme Court victory, anti-affirmative action group turns to military academy exemption - Reuters](#)

8/3/23

The group that took its case against affirmative action in college admissions to the U.S. Supreme Court and won is seeking to end an exemption for military schools, the founder of Students for Fair Admissions said on Thursday. Edward Blum's group launched its new campaign with a website called [West Point Not Fair](#) on which it asks: "Were you rejected from West Point? Or the Naval Academy or the Air Force Academy? "It may be because you're the wrong race."

[Supreme Court Is Asked to Hear a New Admissions Case on Race - The New York Times](#)

8/21/23

A divided three-judge panel of the U.S. Court of Appeals for the Fourth Circuit [ruled in May](#) that Thomas Jefferson, a public school in Alexandria, Va., did not discriminate in its admissions. The Pacific Legal Foundation, a libertarian law group, wants the Supreme Court to overturn that decision, arguing that the school's new admissions policies disadvantaged Asian American applicants.

[Oklahoma governor signs executive order defunding DEI efforts in public colleges | CNN Politics](#)

12/15/23

Oklahoma Republican Gov. Kevin Stitt has signed an [executive order](#) that defunds diversity, equity and inclusion offices and programs in state agencies, including public colleges. The executive order, signed Wednesday, prohibits state funding and state "property or resources" from being used for such efforts.

[Exclusive: UNC pays anti-affirmative action group \\$4.8 million after US Supreme Court loss - Reuters](#)

The University of North Carolina has agreed to pay \$4.8 million to cover the fees and expenses of a group founded by affirmative action critic Edward Blum that won a U.S. Supreme Court challenge to the school's consideration of race in student admissions.

Philanthropy's Role in Standing Up to Attacks

[It's Open Season on Civil Rights. Philanthropy Must Not Retreat](#) by Stacey Abrams and Julian Castro - Philanthropy.com

10/2/23

As a new Supreme Court session begins today, philanthropy needs to ready its resources to fight back against a slew of court challenges that threaten the very notion of diversity, equity, and inclusion.

[Letters to the Editor: Stacey Abrams and Julián Castro Are Right: Retreat on Civil Rights Isn't an Option](#) - Philanthropy.com

10/16/23

Stacey Abrams and Julián Castro's recent [op-ed](#) brilliantly captured the need for philanthropy to forcefully fight right-wing Supreme Court victories. I've spent my career fighting for racial equity under the cloud of [Proposition 209](#) — the 1996 California law that prohibits government institutions from considering race, ethnicity, or sex in employment, contracting, or education. I've advised clients concerned that the law prevents them from implementing strategies to address racism, including collecting racial demographic information related to salary, establishing equity standards in the legalization of the sale of marijuana, and redoing grant-making criteria to ensure funds are accessible to a diverse pool.