

**SLOWING PROGRESS OR DRAMATIC BACKLASH?
DEI IN HIGHER EDUCATION AND
U.S. “CULTURE WARS”**

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President

American Friends of the Alexander von Humboldt Foundation,

Washington DC

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Alexander von Humboldt
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The June 29, 2023 decision of the U.S. Supreme Court: Is this the end of DEI?

SCOTUS rules against affirmative action in college admissions

Colleges and universities can no longer consider race in their admissions processes after the US Supreme Court ruled against affirmative action, overturning decades of precedent that has benefitted Black and Latino students.

Majority



Roberts

Thomas

Alito

Gorsuch

Kavanaugh

Barrett

Dissenting



Sotomayor

Kagan

Jackson

Source: US Supreme Court, Students for Fair Admissions, Inc. v. President and Fellows of Harvard College

Graphic: Annette Choi, CNN

"Many universities have for too long...concluded, wrongly, that the touchstone of an individual's identity is not challenges bested, skills built, or lessons learned but the color of their skin. [...] Our constitutional history does not tolerate that choice."

Majority opinion, U.S. Supreme Court ruling against affirmative action on June 29, 2023



DEI:
What are we talking about?

ng DEI



Diversity

is the presence of different people, backgrounds, and experiences within a given setting, like a workplace.

Equity

is ensuring that processes and systems are impartial, fair, and provide equal access to possible outcomes for everyone.

Inclusion

is the practice of ensuring that everyone has a sense of belonging in a community or organization.

Diversity is where everyone is invited to the party.

Inclusion means that everyone gets to contribute to the playlist.

Equity means that everyone has the opportunity to dance/experience the music.

University of Michigan inaugural

Chief Diversity Officer Robert Sellers

<https://diversity.umich.edu/about/defining-dei/>



“The difference between diversity and inclusion is being invited to a house and being able to rearrange the furniture.”

Jane Silber
Board Member, Canonical Ltd.



The Origins of DEI in the
United States



Civil Rights Act, 1964,
prohibited discrimination in public
places, provided for the integration
of schools and other public facilities,
and made employment
discrimination illegal.



Began and held at the City of Washington on Tuesday, the seventh day of January,
one thousand nine hundred and sixty-four

An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

TITLE I--VOTING RIGHTS

Sec. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 99), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall--

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974-74e; 74 Stat. 88); *Provided, however*, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

"(3) For purposes of this subsection--

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable



Back to 2023

SUPREME COURT OF THE UNITED STATES

Syllabus

**STUDENTS FOR FAIR ADMISSIONS, INC. v.
PRESIDENT AND FELLOWS OF HARVARD COLLEGE**

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIRST CIRCUIT

No. 20-1199. Argued October 31, 2022—Decided June 29, 2023*

Harvard College and the University of North Carolina (UNC) are two of the oldest institutions of higher learning in the United States. Every year, tens of thousands of students apply to each school; many fewer are admitted. Both Harvard and UNC employ a highly selective ad-

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Majority



Roberts Thomas Alito Gorsuch Kavanaugh Barrett

Dissenting



Sotomayor Kagan Jackson

Source: US Supreme Court, Students for Fair Admissions, Inc. v. President and Fellows of Harvard College
Graphic: Annette Choi, CNN

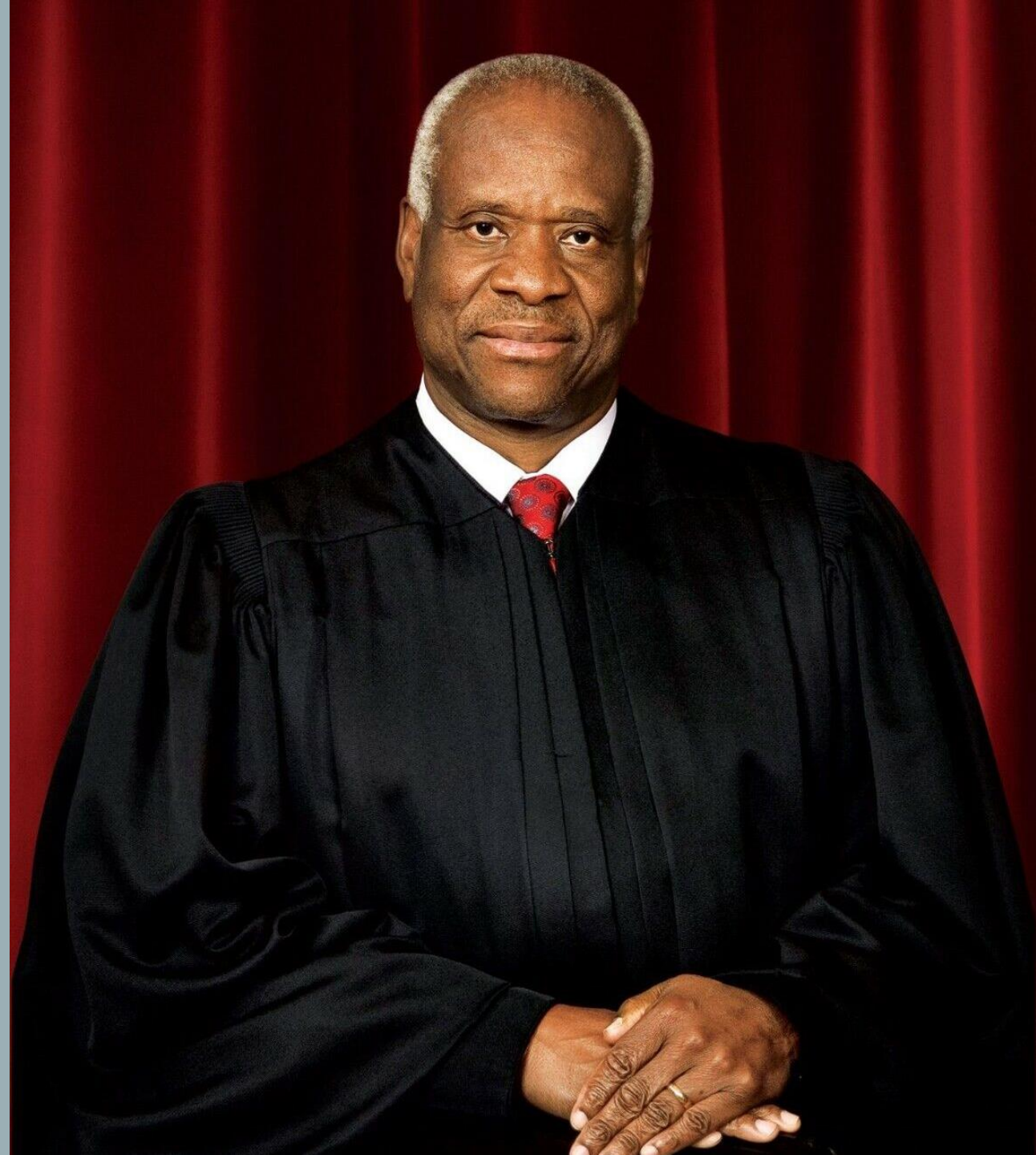
“Until we have equality in education, we won’t have an equal society.”

Sonia Sotomayor,
U.S. Supreme Court Justice



“I’ve heard the word ‘diversity’
quite a few times, and I don’t have
a clue what it means”

Clarence Thomas,
U.S. Supreme Court Justice



Battlefields of U.S. “Culture Wars”:
Identity and politics

"If you look at the way this has actually been implemented across the country, DEI is better viewed as standing for discrimination, exclusion and indoctrination."

Ron DeSantis,
Governor of Florida



Battlefields of U.S. “Culture Wars”:
Identity and retail



Battlefields of U.S. “Culture Wars”:
Identity and retail



Battlefields of U.S. “Culture Wars”:
Identity and beer



Battlefields of U.S. “Culture Wars”:
Identity and beer



Institutions of higher education:
Another battlefield of
U.S. “Culture Wars”?!



The incredibly diverse
landscape of U.S. higher
education:

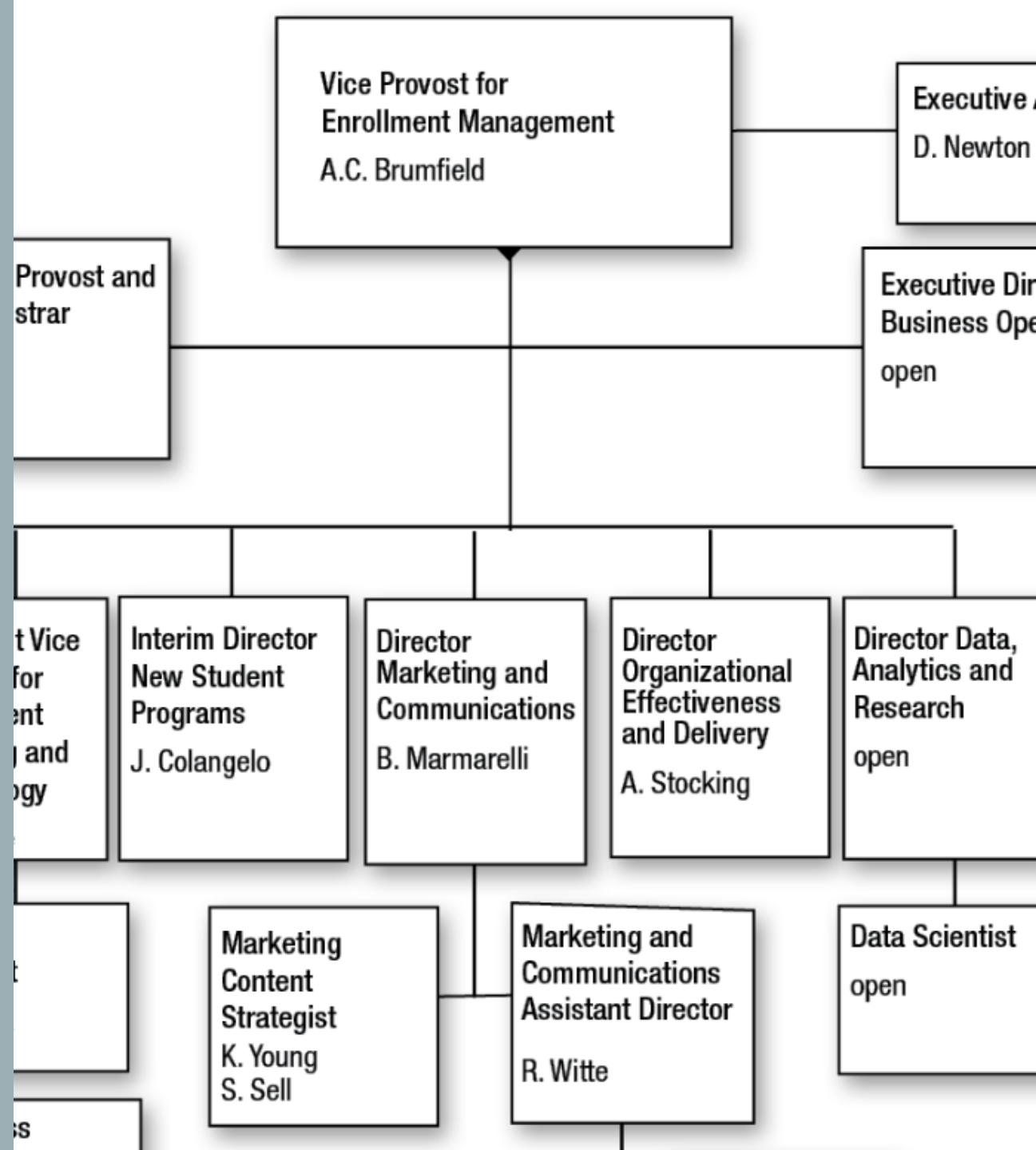
DEI traditions, tools, and
status quo



The Vice Provost leads the Office of Enrollment Management (OEM), which manages U-M's enrollment functions to efficiently optimize students' experiences throughout their engagement, from prospect to alumni. The division collaborates with campus partners, faculty, and staff, in support of the university's mission and commitment to academic quality, accessibility, diversity, equity, and inclusion.

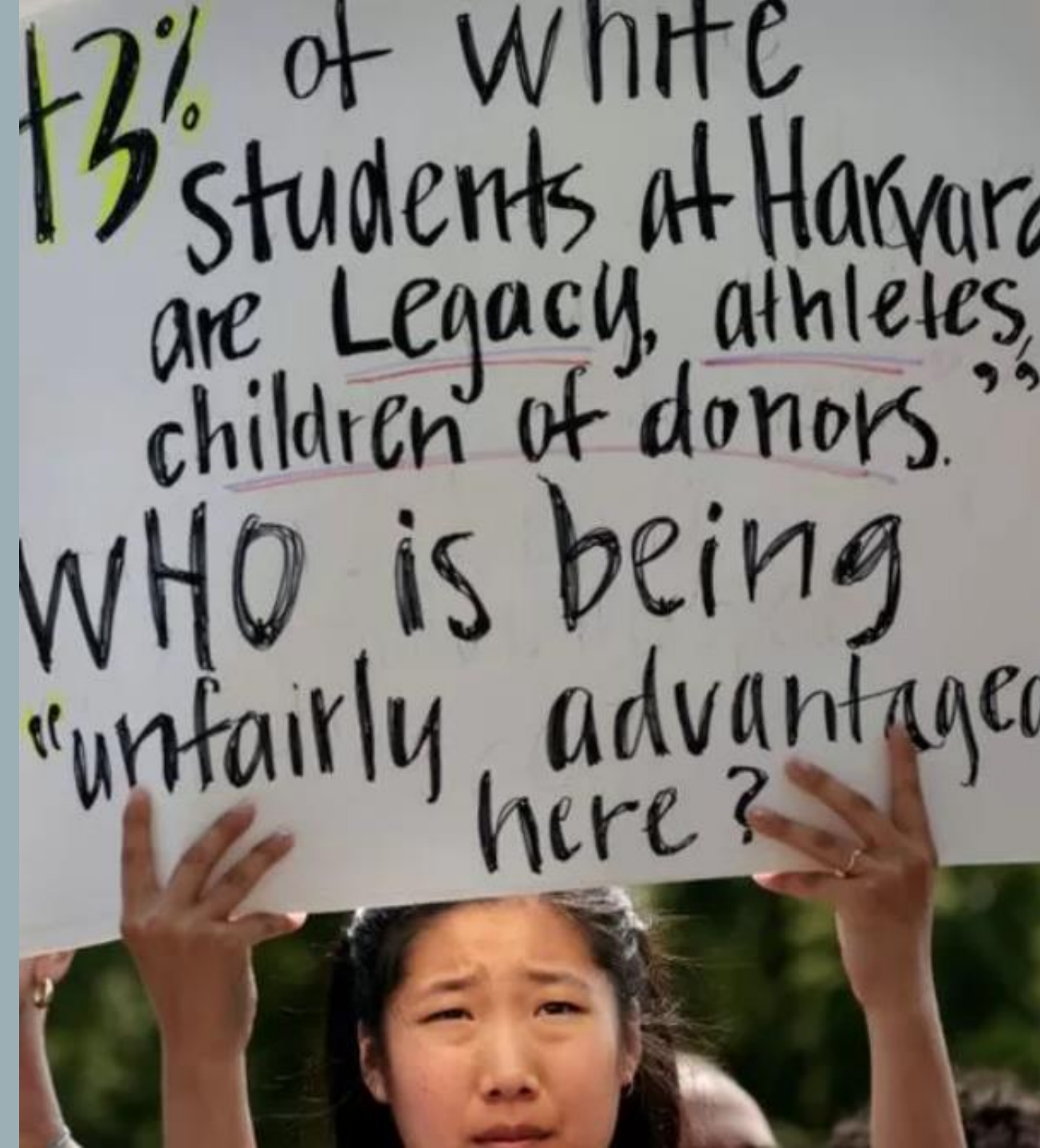
University of Michigan

<https://provost.umich.edu/vice-provost-areas/enrollment-management/>



**BUT: WHAT ABOUT DEI AFTER THE U.S. SUPREME
COURT TERMINATED AFFIRMATIVE ACTION?!**

Unexpected Fallout:
A new focus on legacy admissions



The end of affirmative action:
California has been there,
done that.



End of affirmative action:
The “California precedent”

"The state shall not discriminate against, or grant preferential treatment, to any individual group, on the basis of race, sex, color, ethnicity or national origin, in the operation of public employment, public education, or public contracting."

CA. Prop. 209, 1996



2020: Ca. Prop. 16

Affirming the end of affirmative action in California.

GENERAL ELECTION

PROP 16 - AFFIRMATIVE ACTION

Yes

44%



5,021,100

✓ No

56%



6,410,500

REPORTING

SEARCH

Yes

5,820,050 51%

G

No

5,578,299 49%

Promoting and practicing DEI.
Beyond affirmative action.
Holistic approaches and specific
tools.

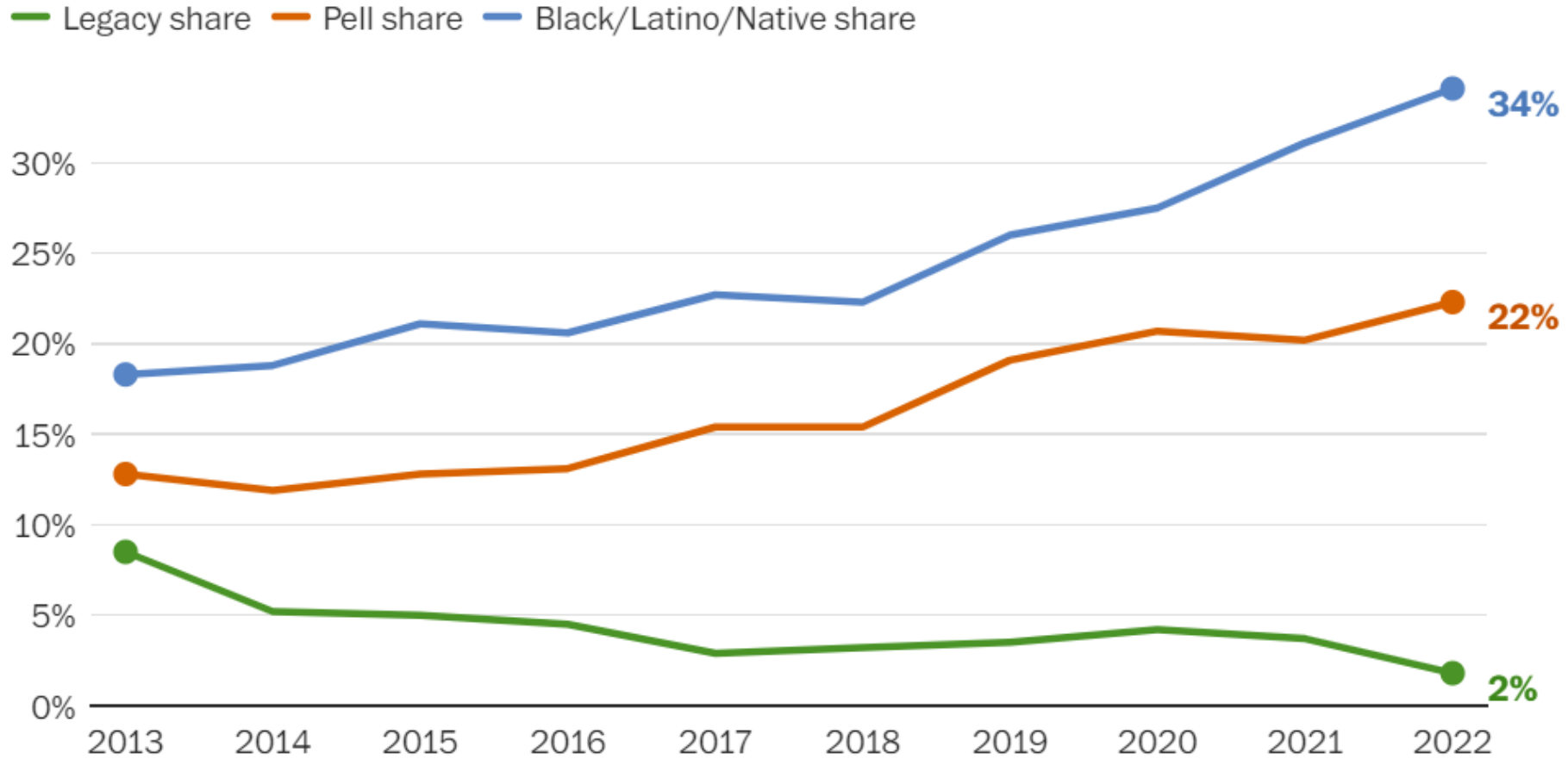


Promoting and practicing DEI.
Beyond affirmative action.



Johns Hopkins University, transformed

More freshmen come from underrepresented minority groups or have enough need to qualify for Pell grants. Far fewer have "legacy" ties to alumni who are parents, grandparents or siblings.



Source: Johns Hopkins University and federal IPEDS data

NICK ANDERSON / THE WASHINGTON POST

The Fight about DEI will go
on.

Especially in Presidential
campaign season.



DEI has come a long way in
the USA.

And it will continue to
evolve.



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