



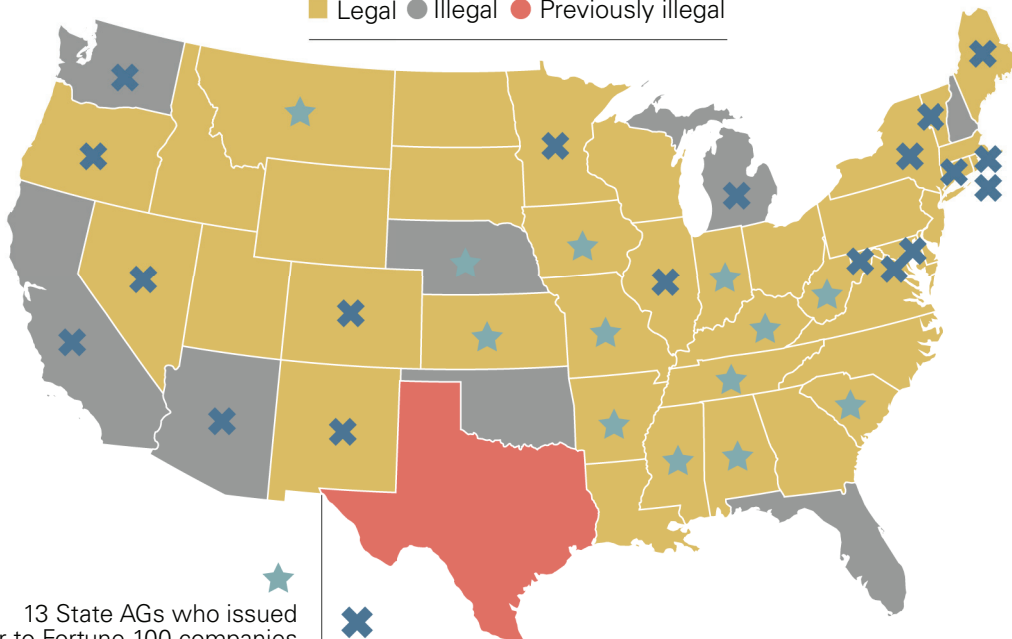
## Discrimination domino effect

In June the Supreme Court struck down race-based admissions in *Students for Fair Admissions versus Harvard and University of North Carolina*. The decision affects higher education but it signals legal risk in the workplace writ large, including **multifamily companies and Diversity, Equity, Inclusion practices.**

READ BOTH AG LETTERS:  
[yieldpro.com](http://yieldpro.com)

**Eight states had already banned racial priority in college admissions at the time of the Supreme Court decision**

■ Legal ● Illegal ● Previously illegal



★ 13 State AGs who issued letter to Fortune 100 companies informing them that racial preference of any type is illegal

✕ Letter from state AGs suggesting that DEI is legal



14th

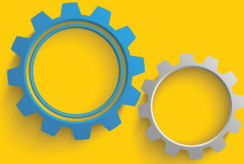
## amendment

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the U.S. and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (section 1)

**The Court concluded Affirmative Action is a violation of the 14th Amendment's Equal Protection Clause.**

(image: Martin Luther King, prominent leader of the civil rights movement, 1955-1968)

# WARNING



**We urge you to immediately cease any unlawful race-based quotas or preferences your company has adopted for its employment and contracting practices," state AGs warned big business. "If you choose not to do so, know that you will be held accountable—sooner rather than later—for your decision to continue treating people differently because of the color of their skin.**

*Excerpt from AG letter spurred by the Supreme Court banning Affirmative Action in June*

## Racial quotas are unconstitutional

In addition to the U.S. Constitution, a California court struck down a state law mandating that corporate board seats be reserved for people of minority groups. The court said quotas violated the state's constitutional guarantee that everyone be treated equally under the law.



## DEI: the next horizon

Corporate diversity, equity and inclusion (DEI) focuses on creating a more diverse workforce generally based on gender, race and sexual orientation. DEI is a subset of ESG, and falls under "social" in environmental, social and governance corporate programming. It also the most controversial part of ESG.

**72%**

of all new corporate directors at S&P 500 companies in 2021 were from unrepresented groups

**11%**

of all corporate directors are black

**30%**

of directors are women

### Affirmative Action has run its course

The Court did not change the precedent of *Grutter v. Bollinger* (a previous case upholding Affirmative Action) but rather determined it was no longer necessary or allowed

**60%**

DEI typically focuses on modifying a company's demographic makeup

### ESG/DEI

The affirmative action opinion will likely bleed into the ESG and DEI legal debate. Pending cases will be updated. New challenges brought.



## Eventually the Supreme Court will answer the constitutionality of DEI

The affirmative action decision is limited to government actions, specifically in higher education admission practices. However, principles expressed in one opinion are routinely quoted and applied to similar situations. As both are governed under the Civil Rights Act of 1964, with college admissions under Title VI and employers under Title VII, it is not unreasonable for legal challenges to apply this ruling to DEI.