

LEGACY ADMISSIONS

May 24, 2024

By: Ruth Terry

Children of alumni and donors often get preferential treatment in the admissions process at many colleges and universities, a practice that many argue creates an uneven playing field for others seeking to attend those institutions. Last summer's Supreme Court ruling against race-conscious admissions policies in higher education has reinvigorated debate about legacy preferences. While the ruling dealt a blow to affirmative action for people of color and many low-income students, some argue that legacy admissions amount to affirmative action for white, wealthy students and undermine meritocracy and racial diversity, particularly at elite Ivy League institutions. Others, including college administrators, say legacy admissions build community and encourage donations. Since the high court ruling, Democratic and Republican policymakers have introduced or revived bills to disallow the practice, a move that many education policy experts, advocacy organizations and student groups favor. Some universities have already abandoned legacy preferences, while others — including Ivy League institutions Brown, Harvard and Yale — have opted to continue the status quo while reviewing their legacy policies. Experts predict that in the wake of the ban on affirmative action, it will be increasingly difficult for colleges and universities to defend legacy preferences.

The Issues

Last August, The New York Times ran a video featuring Ivy League legacy admits, students who received special consideration during the admissions process because they were related to alumni.

Despite having benefitted from legacy preferences, they now oppose the practice.

“Legacy admissions is affirmative action for the rich,” Yoni Rechtman, a graduate of Amherst College, a prestigious liberal arts college in Massachusetts that abandoned legacy preferences in 2022, said. “If you hear someone talking about limiting who can live in a neighborhood or have a certain job, it is discriminatory. For some reason, in legacy admissions, we hold that up to be virtuous... Ending legacy admissions just seems like a layup for equality.”

But not everyone agrees, including some students and alumni of color. They argue that it's counterproductive to end the practice just as applicants of color are finally getting to benefit from it in significant numbers. “Banning legacy admissions is not going to stop Ivy League institutions from being white-dominated — but it would stop Black alumni from being able to give their descendants the leg-up

long enjoyed by white applicants,” Amanda J. Calhoun, a Black anti-racism educator and Yale alum, wrote in Newsweek. “Black alums, and other alums of color, deserve to enjoy that privilege for a few centuries, too.”

The Supreme Court’s June 2023 ruling in *Students for Fair Admissions v. Harvard*, which effectively banned affirmative action policies at higher education institutions that receive federal funding, has reignited decades-old debate around the fairness of legacy admissions, says James Murphy, deputy director of higher ed policy at Education Reform Now, a left-leaning nonprofit advocacy group that supports public education initiatives and is based in Washington, D.C.

“It gave it an injection of adrenaline,” Murphy says, referring to the effect of the ruling on the debate over legacy admissions. Immediately after the ruling, he says, politicians, including President Biden, were on news shows and social media saying that the end of affirmative action needs to also spell the end of legacy admissions.

Democrats and Republicans have introduced bills at the state and federal levels to do just that.

On March 8, Virginia Gov. Glenn Youngkin signed into law a bill prohibiting legacy admissions at all the state’s public universities. Lawmakers in California, Connecticut, Maryland, Massachusetts, Minnesota, New York and Pennsylvania are calling for similar action, largely with bipartisan support.

At the federal level, last year, Sen. Jeff Merkley, D-Ore., and Rep. Jamaal Bowman, D-N.Y., revived the Fair College Admissions for Students Act, while Sens. Todd Young, R-Ind., and Tim Kaine, D-Va., introduced the Merit-Based Educational Reforms and Institutional Transparency Act (MERIT Act). Both bills would disallow legacy admissions at colleges that receive federal funding. 5

Opinions for and against for legacy admissions cut across partisan and demographic lines, with conservatives and progressives making similar arguments for and against the practice.

Though no Republicans have yet endorsed the Merkley and Bowman’s bill, some GOP politicians, including Sens. Tim Scott, R-S.C., and Bill Cassidy, R-La., have publicly criticized legacy admissions.

Sen. J.D. Vance, R-Ohio, who graduated from Yale Law School, said admissions ought to be “based on merit, not on who you knew, who your parents were, and what your race is.”

Nationwide, 28 percent of four-year public and private colleges consider legacy in their admissions process — a figure that more than doubles for highly selective schools that admit 25 percent or fewer applicants, according to an Education Reform Now analysis of the most recent National Center for Education Statistics data.

Ivy League schools face the most scrutiny when it comes to legacy admissions because they have so many qualified applicants and admit so few students, Murphy says. Many supporters of the policy argue that

legacy admissions foster a family-like, intergenerational culture that bonds alumni to current and prospective students, staff and the whole institution.

In his 2022 faculty address, Duke University President Vincent Price maintained that legacy admissions are integral part of what made the institution a family. “The idea that you would ban legacy admissions, or ban any particular factor as a consideration, is troublesome,” he continued.

“We think it’s an important part of who we are as an institution that creates a community that persists long after somebody graduates,” Princeton President Christopher L. Eisgruber wrote in *The Philadelphia Inquirer* last year.

Some students, as well as university leadership, feel the force of this argument. Catherine Rampell, an opinion columnist at *The Washington Post*, attended Princeton and while a student there wrote a piece for *The Chicago Tribune* in 2006 in which she compared the university to a family whose alumni are kin. “By definition, the academic quality of the student body does not suffer in taking a legacy over an equally-qualified non-legacy, but there is a moral opportunity cost, a disloyalty, in not doing so,” she said.

Even at Amherst college, which eliminated legacy admissions in August 2023 with the goal of advancing equity among its student body, Matt McGann, dean of admissions, acknowledged that some alumni were disappointed with the decision. “I think there were some who felt that, perhaps, it was some retreat from the idea of intergenerational community that we tried to build.”

Others contend that legacy admissions are a win for diversity because they afford less-privileged students access to the same networks as their already well-connected peers, helping them build social and professional capital. And some institutions are trying to reinvent legacy admissions to be more inclusive as an alternative to ending them.

“Consider one of the chief advantages of attending a highly selective liberal arts college: the network,” Steven B. Gerrard, a philosophy professor at Williams College, a liberal arts college in Williamstown, Mass., wrote in *The Washington Post*. While legacy students can turn to family members for career advice and opportunities, a first-generation student can enjoy similar benefits through the alumni network, “gaining through her hard work some of the advantages her privileged classmates simply inherited,” he continued.

Some nonlegacy students support legacy admissions for the same reason.

“Putting non-legacy students in contact with legacy students creates social and professional connections that otherwise might never have occurred,” Anthony DiMauro, a New York University philosophy major in 2020, wrote. “Gaining access to upper-class professional networks affords non-legacy students the legacy edge. Legacy admits aren’t an affront to equal opportunity — they’re a boon to it.”

Proponents have long argued that legacy admissions present financial benefits to colleges and universities.

“Maintaining a good and loyal relationship with alumni is important for financial reasons,” Rampell wrote in the 2006 opinion piece. “Not only is there an incentive to give money when the school shows loyalty to its alumni, there is also an incentive to stop giving when the school rejects your obviously brilliant kid. Granting extra consideration to a few meritorious legacies diminishes a deterrent to donations.”

In a 2018 report on race-neutral ways to improve campus diversity, a Harvard committee wrote that the financial support from alumni helps fund the financial aid policies that promote the diversity and excellence of the student body. “Although alumni support Harvard for many reasons, the committee is concerned that eliminating any consideration of whether an applicant’s parent attended Harvard or Radcliffe would diminish this vital sense of engagement and support,” the report said.

If legacies do encourage donations, Robert Hall, an economics professor at Stanford, said, they allow the school to afford to accept more students. Thus, a place taken by a legacy doesn’t necessarily mean one denied to another student. “A limit on favoritism to donors would cut capacity as well as allocating it to top kids,” he said. University of Chicago economics professor Robert Shimer agreed, saying “Class size is not fixed. Without donors, class sizes may well be smaller.”

However, some studies question whether legacy admissions really affect donations. Opponents say there is little evidence to support this claim.

“The biggest argument in favor of legacy preferences is that they supposedly bring in more money, but it’s not clear that’s true,” Richard Kahlenberg, a policy expert and editor of *Affirmative Action for the Rich: Legacy Preferences in College Admissions*, one of the few scholarly investigations of the topic, said.

A 2022 study found that legacy students were more likely to have “wealthier parents who are materially-positioned to be more generous donors” and to donate more after graduating than non-legacies. However, earlier research published by Kahlenberg showed no statistically significant relationship between legacy preferences and alumni giving at top universities.

According to the student newspaper *The Harvard Crimson*, which has repeatedly called for Harvard to change its admissions policies to eliminate legacy preferences, the lack of such preferences at MIT, which abandoned the practice in 2006, and Amherst, which announced an end to legacy admissions in 2021, has not deterred fundraising efforts.

Legacy admissions are “basically a shakedown operation where you’re telling alumni . . . ‘Give more money or your kid won’t get some special consideration,’” Kahlenberg says. “I think it’s troubling in that respect.”

They also may run afoul of IRS rules for tax-deductible donations, Yair Listokin, a tax policy expert and deputy dean of Yale Law School, says.

“Donations to universities are deductible under the tax code,” he explains. “It’s emphatically not supposed to be fee for service.... Donations of alumni, particularly as their kids may or may not be applying to that school, in a world of legacy admissions, that increasingly looks less like a charitable gift and more like a payment for a service, namely, getting your kid into the school.”

But money is not the only way that alumni networks benefit schools.

Those donations can come in the form of time and talent, says Jayson Weingarten, senior consultant at Ivy Coach, a company that helps high-net-worth families navigate the college admissions process. That can mean sitting on boards, attending events and hiring recent graduates. “The school wants to continue benefiting from all of the hard work, all of the power, all of the position, the prestige that alumni have,” he says. Most schools are concerned that eliminating legacy practices would be detrimental to this type of alumni engagement, he says.

After decades of more inclusive admission practices, alumni of color at Ivy League and other highly selective schools are finally able to take advantage of legacy preferences within their families, leading some to argue in favor of continuing the practice.

“Now you have Black and brown students who have gained access to these institutions — whether it’s because of affirmative action or not,” James Morgan III, a historian and doctoral fellow at George Mason University, says. “When you attack legacy admissions, it’s not just white students” who are affected.

Some Ivy League alumni of color have spoken out against ending legacy admissions as a result.

“After the Supreme Court’s decision last June dismantling affirmative action, this movement to end legacy admissions can be viewed as another blow to ambitious Black children — the ones whose parents were part of the first generation of nonwhites to matriculate at elite institutions in significant numbers,” Nick Chiles, a best-selling author and University of Georgia journalism professor, wrote in *The Hechinger Report*. “We finally made it in the door, and now they are seeking new ways to slam the door behind us.”

However, many opponents of legacy preferences, including legislators, education experts and even Ivy League alumni (some themselves legacies) and college students, argue that they undercut the goals of higher education, overwhelmingly favor rich, white applicants and marginalize a diverse range of people from other backgrounds.

“I think the question is how do you continue to create a culture where education is the goal for every single part of our community?” Scott, the Republican South Carolina senator and Trump vice presidential hopeful, said on “The Faulkner Focus,” a Fox News show. “One of the things that Harvard could do to

make that even better is to eliminate any legacy programs where they have preferential treatment for legacy kids, not allow for the professors — their kids to come to Harvard as well.”

Kahlenberg says legacy admissions are “anti-meritocratic” because they provide an unearned advantage for already privileged students. Moreover, they are “bad for civil rights, because white people disproportionately benefit from legacy preferences,” he said.

Disaggregated data about the racial composition of legacy students at elite schools is not available, and schools rarely make public their admissions practices, Murphy, of Education Reform Now, says.

However, detailed information about Harvard’s admissions policies revealed during the Supreme Court case shows that 70 percent of the school’s legacy applicants between 2014 and 2019 were white and were almost six times more likely to be admitted as their nonlegacy counterparts.

“While race-neutral on their face, too, these preferences undoubtedly benefit white and wealthy applicants the most,” conservative Supreme Court Justice Neil Gorsuch wrote about legacy admissions in his concurring opinion last year to dismantle affirmative action.

Since the decision, the Department of Education’s Office of Civil Rights (OCR) has opened two investigations to determine whether legacy policies at Harvard and the University of Pennsylvania violate the Civil Rights Act of 1964 by discriminating against students of color.

“The data shows that if you were to eliminate donor and legacy preferences, then the admission rates for applicants of color would increase, and the admission rates for white applicants would decrease,” Michael Kippins, a fellow at Lawyers for Civil Rights, the Boston-based legal advocacy group whose complaint led to the OCR’s investigation of Harvard, says.

For example, he says, if a school’s policy has the effect of limiting or discriminating against people of color, and letting them in at lower rates as a result, that is a violation of Title VI of the Civil Rights Act, which prohibits discrimination based on race, color or national origin in programs or activities that receive federal funds. While opinions vary about the potential impacts of ending legacy preferences, there is scant data to inform actual policymaking, experts say.

The Department of Education only began requiring schools to report whether they consider legacy last year, so no trend data is available. Also, the data are aggregated, making it impossible to analyze legacy admissions against demographic indicators such as race, gender, test scores or GPA.

Information reported to the Common Data Set is only available if individual schools choose to publish the data on their websites. The Common Data Set is populated by a survey compiled by U.S.

News and World Report, Peterson’s and the College Board, which colleges and universities complete to be considered in those organization’s rankings.

“The few research papers published on legacy preferences typically do not identify the colleges and universities in their data sets, which makes it impossible to hold them accountable,” Murphy wrote in a 2022 issue brief.

The picture is further complicated because schools define and weigh legacy status differently and, in the wake of the Supreme Court’s affirmative action ruling, prominent schools have become even more tight-lipped about their admissions policies, The Washington Post reported last year.

“Legacy” typically means immediate family members who are alumni, Weingarten, of Ivy Coach, says, but some schools also include extended family members or donor relationships.

Some schools are looking to revamp what legacy means to be more reparative, rather than eliminating it. For example, at Swarthmore College in Pennsylvania, it is possible to be both a first-generation student and a legacy admit because the school considers siblings in its legacy admissions process, Jim Bock, the school’s dean of admissions, told The Christian Science Monitor in 2020.

In a bolder vision of what reparative legacy admissions could look like, in 2016, Georgetown University broadened its definition of legacy status to include the descendants of enslaved Africans who labored at the school.

Historically Black Colleges and Universities (HBCUs) — institutions formed before the Civil Rights Act of 1964 to create educational and vocational opportunities for Black people — also have a very different relationship to legacy when compared to predominantly white institutions. Except for legislation such as Merkley and Bowman’s, which carves out a possible exemption for HBCUs, it is unclear how sweeping bans on legacy preferences might affect them.

“When we talk about legacies in the African American community . . . we’re still only one or two generations removed from people who only had access to a grade-school education,” Chelsea Holley, admissions director at Spelman College, a historically Black women’s college founded in 1881 in Atlanta, told The New York Times. “So this idea of privilege being passed down doesn’t ring the same for our schools.”

Morgan, the George Mason University fellow, was the first person in his family to go to Howard University, a prestigious HBCU in Washington, D.C. He says he would love to see that tradition continue.

“If they decide to go somewhere else, then that’s fine,” Morgan says of his potential future children. “But if they did go to Howard, and they were able to check that box and say, ‘Yes, my father went to Howard,’ I would love that. For me, it will be a continuance of that journey.”

The benefits conferred by legacy status also vary by institution.

For example, Princeton says it uses legacy as a “tie-breaker” between equally qualified candidates,

reported NJ.com earlier this year. At Harvard, legacy status is one of many “plus factors that might tip an applicant into Harvard’s admitted class.” Others include a connection to a wealthy donor or being an athlete, according to Lawyers for Civil Rights.

A 2004 article reported that the legacy boost to applicants at elite colleges was then equivalent to that of a 160-point better SAT score. More recently, Opportunity Insights, a policy-focused think tank at Harvard, concluded that legacy applicants at the 12 Ivy League and “Ivy-plus” schools in the study were “nearly four times as likely to be admitted as [nonlegacy] applicants with the same test scores.”

Harvard’s admissions policies becoming public knowledge during the Supreme Court case was a key reason that Lawyers for Civil Rights was able to bring a compelling complaint against them to the OCR, Kippins says, though he suspects legacy practices at Harvard are similar to comparable schools.

While a number of institutions that consider legacy preferences in their admissions process closely guard their admissions data, they likely operate in much the same way as Harvard where white applicants get the majority of the benefit, Kippin says.

Evidence presented during the 2023 Supreme Court case revealed that even within the school’s pool of legacy applicants, Harvard admitted white legacies at higher rates than legacy students of color.

“[T]here should be no scenario where a qualified person of color stares at a rejection letter while a less-qualified white applicant gets to celebrate being the third or fourth in line in their family to attend a university,” Kippins says.

But according to Jeremiah Quinlan, Yale University’s dean of undergraduate admissions, ending legacy preferences would do little to boost admissions for applicants from less-privileged backgrounds.

“We are skeptical that a ban on legacy preferences in admissions would have a material effect on representation of low-income, first-generation or under-represented students,” he said in testimony against the Connecticut bill aimed at eradicating legacy preferences in college admissions. “Indeed, Yale has already realized a dramatic increase in the representation of these students on our campus in the past decade, without eliminating other admissions preferences,” through need-based financial aid and recruiting initiatives aimed at increasing the number of low-income and first-generation students.

Data shows most Americans view legacy preferences unfavorably. A 2022 survey by Pew Research found 75 percent of Americans said whether an applicant’s relative was an alumni should not be a factor in admissions decisions. That same year, 90 percent of college admissions officers opposed the practice.

“The idea that this practice has gone on for decades is, frankly, untenable,” Kippins says. The Supreme Court’s decision to end affirmative action in higher education admissions makes it especially important to break down the barriers, such as legacy admissions and donor legacy preferences, that make it hard for

people of color to get into some of these schools, he says. Since 2015, more than 100 colleges and universities have abandoned legacy preferences, with universities including Carnegie Mellon and Wesleyan dropping them soon after the Supreme Court case last summer.

“An applicant’s connection to a Wesleyan graduate indicates little about that applicant’s ability to succeed at the University, meaning that legacy status has played a negligible role in our admission process for many years,” the school’s president, Michael Roth, said in a statement last July. “Nevertheless, in the wake of the recent Supreme Court decision regarding affirmative action, we believe it important to formally end admission preference for ‘legacy applicants.’ ”

Still, many schools are continuing their legacy preferences, including the University of North Carolina, Chapel Hill, which was at the center of the Supreme Court decision. The Washington Post reported that more than 100 selective schools, including the eight Ivies, still consider applicants’ legacy status. Many schools declined to comment on the issue or said only that they are reviewing their policies.

Background

Roots of Legacy Admissions

Though many Ivy League institutions were founded on principles of equality, in practice, historically marginalized minority groups did not have the same access to higher education as affluent, white students who benefited from preferential admissions policies.

Legacy admissions has its roots in antisemitism and religious intolerance, as a gatekeeping measure to keep Jewish people out of higher education, National Geographic reported in July 2023.

The eight Ivy League schools founded in the colonial and preCivil War era primarily recruited white, Protestant men from select independent and boarding schools, which led to racially and religiously homogeneous student bodies.

After the Civil War, educational opportunities at all levels expanded for free and formerly enslaved Black Americans. Schools for Black children proliferated during the Reconstruction Period following the Civil War.

Community leaders also established the first HBCUs to provide educational opportunities and upward social mobility for formerly enslaved and free Black people.

At predominantly white Ivy Leagues, admissions standards were “relatively lax,” with school affiliation being a key method to establish and cement elite social networks and class hierarchy through the early 1900s.

Between 1875 and the end of World War I, secondary education curricula and college admissions criteria

became increasingly formalized. In 1900, the College Board was created to establish learning standards for secondary school students. In 1926, it offered the first SAT, which stood for Scholastic Aptitude Test, to assess student knowledge in selected subjects deemed necessary for success in college. SAT scores became one of many admissions criteria used to evaluate applicants to four-year colleges and universities.

Although it was a step towards using objective metrics, critics have questioned the impartiality of the SAT as a measure of academic capacity, noting that Carl Brigham, a psychology professor at Princeton and a eugenicist who believed in the intellectual inferiority of Black people, helped develop the test, according to the National Education Association, the public school teachers' union.

Still, mass education reforms, an overall more educated populace and an influx of Jewish immigrants continued to increase the number and diversity of applicants to Ivy League schools. In the face of rapid demographic change, administrators created legacy admissions as “one of many mechanisms that social and religious elites used to perpetuate Anglo-Protestant dominance” in education, Purdue University sociologists Deborah L. Coe and James D. Davidson wrote in 2011.”

“Charged with protecting their institutional interests, the presidents of the Big Three [Harvard, Yale, and Princeton] wanted the latitude to admit the dull sons of major donors and to exclude the brilliant but unpolished children of immigrants, whose very presence prompted privileged young Anglo-Saxon men — the probable leaders and donors of the future — to seek their education elsewhere,” sociologist and University of California, Berkeley, professor Jerome Karabel, wrote in *The Chosen: The Hidden History of Admission and Exclusion at Harvard, Yale, and Princeton*.

David Brooks, a Jewish, center-right New York Times columnist, cast those leaders' motivations in a more nuanced light in his 2005 review of *The Chosen*. “The people who ran these schools weren't anti-Semitic reactionaries; they were progressives,” he wrote. “They believed in democracy and inclusion. They respected scholarly excellence. . . . Yet on the other hand, they felt that their job was to do more than pump information into the heads of hard studying brainiacs. They sensed that mediocre students like [U.S. President Franklin D.] Roosevelt really did possess a set of virtues that needed to be protected and cherished.”

Dartmouth College became one of the first schools to institute a legacy policy to admit “all properly qualified sons of Dartmouth alumni and Dartmouth college officers” into the Class of 1926. Princeton also started legacy admissions in 1922.

The number of applicants to four-year colleges spiked again after World War II. More than 8 million veterans went to college on the G.I. Bill — an educational benefit for returning servicemen aimed at helping them reenter the workforce, but one not available in practice to many Black soldiers — within

seven years of its enactment.

Other factors underlying the diversification of the U.S. college population included cheaper transportation costs and geographic mobility, increased standardized testing and formerly male-only institutions beginning to enroll women. Together, these shifts “enabled the recruitment of highly talented students from across the nation,” to colleges and universities, according to a 2003 working paper from the National Bureau of Economic Research.

By 1950, college enrollment at U.S. colleges and universities reached 2.7 million, nearly double the number of students a decade prior.

Amid this surge in enrollment, students and alumni within the Ivy League were already questioning the fairness of legacy preferences in admissions, Murphy says.

Alumni argued with each other in a Princeton alumni magazine in the 1950s over whether legacy admissions should exist, Murphy says. Even though the university had a largely white and wealthy population, some alumni still favored abandoning the admissions policy.

In 1966, R. Inslee Clark, dean of admissions at Yale, reduced the weight of legacy preferences to bring “the admissions rate of legacy applicants closer to that of non-legacy applicants,” The New York Times reported.

Alumni who wanted to maintain the racial and socio-economic status quo decried the decision. Conservative pundit William F. Buckley, Jr., was one such champion of the sentiment, lamenting that a “Mexican-American from El Paso High with identical scores on the achievement test . . . has a better chance of being admitted to Yale than Jonathan Edwards the Sixteenth from Saint Paul’s School.”

Landmark legislation in the 1960s, including the Civil Rights Act of 1964 and the Higher Education Act of 1965, promoted educational opportunities for women and people of color and created financial opportunities for people from poorer backgrounds, respectively.

On June 28, 1978, the landmark Supreme Court case *Regents of the University of California v. Bakke* ruled 8-1 that schools could employ affirmative action policies and consider “racial background as one of many holistic factors in admissions decisions.”

However, “[I]n 1978, the Supreme Court justified affirmative action not as reparations for a terrible past, but with the argument that diversity promotes ‘cross-racial understanding and the breaking down of racial stereotypes,’ ” The Economist wrote. “It was always odd that affirmative action was crafted for the benefit of black students’ white peers.”

Since then, Black, Hispanic and Asian college enrollment has increased at least 14 percentage points for each group.

While some affirmative action critics worried that white applicants could lose coveted university spots to minority applicants, it was more likely that they'd lose a spot to a legacy, John K. Wilson, author of *The Myth of Political Correctness: The Conservative Attack on Higher Education*, wrote in 1995. But at the time there was “no crusade against legacies, especially not among the educated lite of affirmative action critics who are its beneficiaries.”

In 2003, Sen. Ted Kennedy, D-Mass., introduced legislation that would have required colleges and universities to report detailed demographic information about legacy admits. The bill ultimately failed. That same year, Sen. John Edwards, D-N.C., also a candidate for president, voiced his opposition to legacy admissions on the campaign trail.

A growing body of research in subsequent years began to shed light on the impact of legacy preferences in elite college admissions. A 2009 paper revealed that legacy applicants at 30 elite institutions in the study were three times more likely to be admitted than non-legacies.

The following year, *Affirmative Action for the Rich: Legacy Preferences in College Admissions*, the scholarly investigation edited by Kahlenberg, was published.

While more than 100 institutions have abandoned legacy admissions since 2015, many others still rely on it. More recently, legislators and policy experts have increasingly called for an end to legacy preferences at the state or federal rather than individual institution level.

In 2019, California State Rep. Phil Ting, a Democrat, introduced legislation to ban legacy preferences at schools enrolled in the CalGrant financial aid program, which offers need-based tuition coverage for eligible California students. Three years later, Merkley and Bowman introduced their bill in Congress. Both bills were revived after the Supreme Court's June 2023 ruling against affirmative action.

Anticipating the high court ruling against affirmative action, in early 2023, Kahlenberg proposed an alternative admissions model that would end both racial and legacy preferences and give a boost to socio-economically disadvantaged students. “The case for Kahlenberg's proposal gets stronger every year,” New York Times columnist Brooks wrote, referring to the model. “If the Supreme Court ditches racial preferences it becomes overwhelming.”

Current Situation

Government Actions

The Supreme Court's ruling in *Students for Fair Admissions* paved the way for a wave of proposals to end legacy admissions. Prompted by Biden, last September the Department of Education published a report recommending that schools remove legacy admissions to improve diversity.

The OCR is also currently investigating whether legacy practices at Harvard and the University of

Pennsylvania violate Title VI of the Civil Rights Act, which prohibits institutions that receive federal funding “from discriminating in their programs and activities on the basis of race,” Kippins, of Lawyers for Civil Rights, says.

Also at the federal level, two congressional bills with different strategies for ending legacy admissions are awaiting action. Kahlenberg says one approach is to deny federal funding to institutions that have legacy admissions policies. “There’s another version which says you can’t get accredited,” he says.

Bowman, the cosponsor of one of the bills, said the Supreme Court’s decision, which will “see colleges across the country get even richer and whiter than they already are,” makes the legislation even more necessary.

If passed, Merkley and Bowman’s bill would amend the Higher Education Act of 1965 to disallow schools that use legacy preferences from participating in federal student aid programs.

It would also allow the Secretary of Education to make a special exception for legacy admissions at HBCUs and tribal colleges that serve Native American communities, “if the institution demonstrates that the preferential treatment is in the best interest of students who have been historically underrepresented in higher education.”

Young and Kaine introduced their MERIT Act last November, which would expand the Higher Education Act to include new accreditation standards that preclude legacy admissions.

State legislators are also advancing legislation against legacy preferences.

Two months prior to the Supreme Court ruling, Massachusetts representatives Simon Cataldo and Pavel Payano, both Democrats, introduced a bill to impose a tax on schools that use legacy preferences. The tax levied on Harvard alone could reach \$100 million. The bill is awaiting a hearing in the state Senate.

The Association of Independent Colleges and Universities of Massachusetts voiced opposition to the bill.

“Admissions policies used by our institutions are as varied and diverse as the institutions themselves,” association president Rob McCarron told Inside Higher Ed. “Any effort that seeks to impose a punitive and likely unconstitutional tax on a college’s endowment is concerning and reflects that many do not understand exactly what a college endowment is, what it is not, and how it can be used.”

Though he prefers an outright ban, Kahlenberg says there was “an elegant nature to that proposal, because it was taking money from institutions that were discriminating based on ancestry and giving it to community colleges, who really need the funds.”

Anticipating the eventual negative impact of the Supreme Court affirmative action ruling on legacy

admissions, in July 2023, Pennsylvania state Sen. Anthony Williams, a Democrat, sent a memorandum asking fellow lawmakers to consider similar legislation.

In the first legislative sessions of this year, lawmakers in multiple states took action to dismantle legacy admissions.

Democrats in New York introduced legislation currently in the committees of both houses of the state legislature, which would classify legacy policies at institutions across the state as “discriminatory and inequitable.”

The New York Civil Liberties Union endorsed the bill, while the New York’s Commission on Independent Colleges and Universities reversed its previous position against legislative efforts to ban legacy admissions.

“While legacy admission has been an important recruitment tool for some New York colleges, we recognize the public’s perception that the practice also has the effect of expanding privilege instead of opportunity,” Commission President Lola Brabham said soon after the Supreme Court decision.

In a show of bipartisan support, Maryland delegates overwhelmingly passed legislation, now awaiting action in the Senate, that would prohibit legacy preferences at the state’s public and private universities beginning in July.

A similar bill was introduced in the Minnesota Senate this year.

In California, this year Assemblyman Phil Ting, D-San Francisco, reintroduced a 2019 bill that would bar private schools such as Stanford, the University of Southern California and Santa Clara University — the schools which, statewide, currently provide the greatest advantage for legacies — from taking part in the CalGrant financial aid program that awards full-tuition coverage for students in need. In April, the bill passed the state Assembly and was referred to the Senate.

Connecticut’s bipartisan bill S.B. 203, which would prohibit schools from asking applicants about their legacy status, drew criticism from Quinlan, Yale’s dean, who said it “would undermine the autonomy of colleges and universities in Connecticut, public or private, religious-affiliated or secular, to shape their campus culture and community in accordance with their different missions and academic judgment.” The bill failed to advance in the state Senate on May 2.

University Actions

Universities are under increased scrutiny and facing mounting pressure from the public, alumni, students and faculty to end legacy admissions.

Student groups and faculty at Cornell, Tufts and Yale have recently passed resolutions calling for an end

to legacy preferences at their schools. Students at Brown are mobilizing around #LeaveYourLegacy, a national campaign against legacy admissions spearheaded by EdMobilizer, an advocacy group focused on improving higher education opportunities for first generation and lower-income students.

“This is the moment for universities to change behavior,” Kahlenberg says. “And I think it’s likely that many universities will end legacy preferences or be forced to by legislation.” Amid the controversy, Carnegie Mellon, the University of Maryland, the University of Pittsburgh, Virginia Tech and Wesleyan University have chosen to voluntarily eliminate legacy preferences.

“If we’re doing all these other things to increase diversity, especially in light of the court decision, and we still said, ‘Yes, we can give alumni a preference,’ that would make us hypocrites,” Roth, Wesleyan’s president, said of the first prestigious school to phase out legacy preferences after the Supreme Court ruling.

Though they are currently continuing legacy preferences, Brown, Dartmouth, Harvard and Yale say they are reviewing existing their policies.

Brown spokesperson Brian Clark says the university will do a deep dive into the data analysis and consider such things as community input. “Those will help unpack a range of complex questions that have emerged and help Brown determine the best way to move forward with a policy that upholds the University’s commitments to excellence, access and diversity,” he says. Administrators at Yale, where legacies comprise 11 percent of the 2027 class, a slight percentage decrease from the previous two years, are also examining their legacy strategy.

“We are trying to ask, ‘Is it getting in the way of diversifying our applicant pool, or is it not?’ ” Yale president Peter Salovey said in a panel discussion last October regarding legacy admissions. “And then we will make the decision on the basis of that, rather than what the political pressure is.”

Outlook

Leaving Legacy Admissions

With affirmative action no longer a viable strategy for creating diverse college campuses, some experts forecast that legacy admissions will soon be a thing of the past.

“Universities felt very good about themselves on the issue of race because they were using race-conscious admissions. Now that’s gone,” Murphy says. “The issue of legacy preferences has been elevated, and universities are finding themselves on the wrong side of a civil rights issue. I think that goes against their self-image. I think it will be particularly difficult to sustain.”

Should the OCR investigations into Harvard and University of Pennsylvania conclude that their legacy policies violate Title VI, it will likely have implications for other institutions, Kippins, of Lawyers for Civil

Rights, says.

The Department of Education has broad powers to enact and enforce regulations barring discrimination in higher education, including rules dictating that legacy preferences meet certain requirements or be banned altogether because of their historical impact on people of color, Kippins says.

Murphy says he believes that if proposed federal and state bills ever reached the floor for a vote, or if they were embedded into larger legislative packages, they would pass with bipartisan support.

Still, some experts predict that pressure for colleges and universities to end legacy admissions will continue to mount, particularly if admissions data show a drop in enrollment by people of color.

Kahlenberg says many universities will report their racial demographics for the admitted student class this spring, the first since affirmative action was disallowed by the Supreme Court. “And if there’s a fall in racial diversity, then the pressure will increase dramatically to end legacy preferences,” he says. “In light of the Supreme Court decision, I think they’re even harder to defend than they used to be.”

Despite supporters’ consistent refrain that ending legacy preferences will harm alumni donations, Roth said he believes the opposite will be true.

“If I thought I couldn’t raise money because of this [ending legacy admissions], I would have to find a different line of work, because this is the right thing to do,” Roth said, adding that he thinks Wesleyan alumni would be pleased to support an institution that aligns with their values.

Given its prestige and sizable endowment, “to suggest that people will not apply to, affiliate themselves with, or donate to Harvard simply because it eliminated Donor and Legacy Preferences strains logic,” Lawyers for Civil Rights wrote in its complaint to OCR against the university.

The controversy over legacy admissions at Ivy League schools and other elite, predominantly white institutions may become more irrelevant to Black students, who are expected to increasingly apply to HBCUs in the post-affirmative action era.

“Black students have quietly slowly rediscovered HBCUs . . . not just because of legacy admissions,” Morgan, of George Mason University, says. He said he believes that George Floyd’s murder, controversy around teaching Black history and cost — HBCUs tend to be more affordable, according to U.S. News and World Report — are all contributing factors. “People want to go to places where they feel safe.”

Still, among nation’s elite, predominantly white institutions, experts caution that eradicating legacy preferences may not be a panacea for inequality in higher education.

“The way to solve the exclusionary practices present in many elite institutions is not to eliminate legacy admissions, especially now that there are more people of color than ever before who are legacies,”

Calhoun, the Black anti-racism educator and Yale alum, wrote in Newsweek. “It is to add policies that redistribute the wealth and privileges that advantage wealthy white applicants over others.”