



HIGH COURT CONSIDERS RACE CARD IN STUDENT ADMISSIONS

The Supreme Court is revisiting the issue of whether schools should be able to consider race in enrollment – and the decisions could affect millions of students.

The Supreme Court ruled "separate educational facilities are inherently unequal" in 1954, ending racial segregation in public schools. In the aftermath, schools struggled to adhere to the court's decision and define the government's role in desegregation.

The court will revisit the issue of race in public school enrollment this December as they hear two court cases, one from Seattle and the other from around Louisville, Ky.

Using race in enrollment

The cases hail from different areas of the country, but in both cities, school officials are trying to mirror diversity in their communities by considering race when making school assignments.

Jefferson County School System (JCSS) in Louisville serves an estimated 35-38 percent minority student population and hopes to keep a range of 15-50 percent black students at each school.

Parents can choose which school they wish their child to attend, and racial balance at the school is one of several factors the district uses when making place assignments, says Pat Todd, executive director of student assignment for the JCSS.

The Seattle Public School System (SPSS) utilized a racial tie-breaker until 2000, when it decided to suspend the method after the lawsuit was filed. Parents could select their children's schools, and race was the tiebreaker used, after the presence of siblings, if a school was "oversubscribed."

Harry Korrell, attorney for the plaintiffs in the Seattle case, claims that the system violates the rights of some students and doesn't even effectively diversify the classrooms.

But Gary Ikeda, general counsel for SPSS, said classrooms are less diverse. With the racial tiebreaker, the entering freshman class at the popular Ballard High School in 2000 was 54.2 percent non-white; without the tiebreaker the class would have been 33 percent non-white.

The student population on a whole is 60 percent non-white and 40 percent white.

The decision in this case will affect approximately 47 million students in this country, said Sharon Browne, attorney with the Pacific Legal Foundation.

Arguments for and against

The legal factors are many: the plaintiffs will argue that the use of race is a violation of the equal protection clause of the 14th Amendment. That clause says that "no state shall... deny to any person within its jurisdiction the equal protection of the laws" – in effect that all people must be treated equal under the law.

In 2003, the Supreme Court ruled on two similar cases from the University of Michigan, declaring that the use of race in admissions must be narrowly tailored and must exist to correct a past wrong.

Opponents of such programs argue that they are not narrowly tailored and that school districts are attempting to combat segregated housing patterns with such programs.

Korrell says earlier Supreme Court decisions ruled that "overcoming effects of general societal discrimination is not a compelling interest to justify a racial classification."

"It is then unconstitutional to use race to overcome the purely voluntary choices of parents about where to send their kids to school."

Others argue that this case is about what role communities can play in shaping themselves.

"It really goes toward the ability of communities to make decisions about the face of their schools and diversity within them," Ikeda said.

Former Justice Sandra Day O'Connor held the swing vote in the case that narrowly upheld UM's law school admissions policies.

Justice Samuel Alito, who has a conservative record when it comes to race issues, took her seat, leaving some to speculate whether the Supreme Court would uphold its 2003 ruling.

A color-blind society?

And legal aspects aside, the usefulness of such programs is hotly contested, as communities question when and if societies can ever truly be color-blind.

Raoul Cunningham, president of the Louisville chapter of the National Association for the Advancement of Colored People, supports Jefferson County's program.

"It has a positive effect on all students," Cunningham said. "They all receive a better academic education and a better appreciation of political and cultural surroundings."

Sam Corbett, former school board member for Jefferson County, said the plan enabled his children to attend more diverse schools and function better in society.

"For me, it was important that my kids be exposed to [racial and socioeconomic diversity] because that's the world we're living in and the world we're surviving in," Corbett said.

Without such a program, "schools would re-segregate," said Cunningham. "Our housing patterns would not support an integrated school system."

Others disagree.

"We will never return to the 1950s," said Honi Goldman, a public relations representative for the attorney in the Louisville case.

"We may choose to live in a housing pattern with people that are familiar to us, but we will certainly never regulate by law such housing patterns, such a code of conduct that separates people."

-- *By Stephanie Taylor, NewsHour Extra*

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