



## News

### Andrew Gordon Discusses Potential Impact of Supreme Court Affirmative Action Cases on Company DEI Programs

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Hinshaw partner Andrew Gordon discussed in *SHRM Magazine* how two higher education affirmative action cases being considered by the U.S. Supreme Court could impact company diversity, equity, and inclusion (DEI) programs. Gordon said that the rulings are likely to create a "ripple effect far beyond the classroom."

Gordon noted that while the two cases filed against Harvard University and the University of North Carolina are being analyzed under Title VI of the 1964 Civil Right Act, rather than Title VII, rulings in education cases can also have implications on workplace issues. "[H]istorically, courts have looked at rulings in Title VI affirmative action cases and imputed those rulings, to a certain degree, on Title VII cases, which is why employers should pay close attention to the Supreme Court's rulings in these decisions," Gordon said.

Gordon also noted that businesses should anticipate that changes to company DEI policies and programs might be necessary to ensure that they are not interpreted as imposing quotas based on race or other non-mutable characteristics. "If existing policies or programs could be interpreted as imposing such impermissible quotas, employers should then seek to revamp those policies or programs in ways that still advance workplace diversity without operating as a per se quota," Gordon said.

[Read the full article \(subscription required\)](#)

"SCOTUS Reconsidering Affirmative Action—Are DE&I Programs Next?" was published on November 21, 2022.

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