

Stanford SOCIAL INNOVATION Review

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Advocacy

Becoming Advocates for Equity

The Supreme Court's affirmative action decision highlighted a disconnect between the nonprofit sector's intentions and its actions.

By **Akilah Watkins** | Dec. 14, 2023



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The Supreme Court's June decision on affirmative action at US colleges and universities has raised profound concerns for the nonprofit sector. As the leader of Independent Sector, a national membership organization for nonprofits, foundations, and corporate giving programs, I've heard questions from changemakers across the country about how this decision affects their diversity, equity, and inclusion efforts, and whether it's a precursor to other challenges to nonprofit and philanthropic missions. These new questions demand not only our attention but also our renewed commitment to publicly advocating for the values that underpin our work.

While the legal impact of the Supreme Court's decision on affirmative action was limited to higher education, it has already had ripple effects across the charitable sector. The decision has caused concerns about how we award scholarships and grants, and about how we collect and apply demographic data. It has also led some organizations and leaders to question their ongoing focus on work related to diversity, equity, and inclusion.

We've also seen related lawsuits following the Court's decision in June. In fact, Independent Sector just filed an **amicus brief** with the Council on Foundations in support of the Fearless Fund, which is facing a **baseless lawsuit** filed by American Alliance for Equal Rights, an organization that has filed numerous anti-diversity lawsuits. We believe—and the courts **have ruled**—that philanthropic organizations and

individuals have the right to exercise their views through giving, as protected by the First Amendment. That includes efforts to support historically marginalized groups.

The Fearless Fund helps combat underfunding in venture capital for Black female entrepreneurs by providing grants, tools, and mentorship to Black women business owners. Clearly, any claim that it's discrimination to help Black women gain opportunity in a field where they are underrepresented ignores the history of our nation—and the present reality, which is that women entrepreneurs of color face a significant gap in venture capital funding.

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We know that we can't turn away from the broader context of racial injustice and hate in the United States. **Hate crimes are on the rise**, reaching their highest levels in at least three decades. Systemic racism and inequality continue to be an immense barrier to achieving a future where all people live in strong, healthy, and just communities. In the face of seismic shifts like COVID-19, protests following George Floyd's murder, **declining trust in the nonprofit sector**, and decisions like the Supreme Court's, it's crucial that we come together as a sector to rethink our next chapter. We must reflect on our values and where our sector is aligned, acknowledging the changes we've experienced and showing ourselves grace and compassion in understanding the work ahead of us.

Let's not ignore the progress we've made toward racial equity, especially within the charitable sector. A **2022 survey** found that 68 percent of nonprofits had increased their focus on racial equity over the past two years, and 95 percent had taken action on diversity, equity, and inclusion. Nonprofit leadership and **boards** are growing more diverse.

The Supreme Court's decision threatens this progress. That's why now, more than ever, we must stand in our courage as a sector. It takes courage to talk explicitly about racial equity; to ethically disaggregate data that reveals disparities; and to educate policymakers, boards, and trustees about racial equity. This is not a time for us to retreat, but rather for us to lean into our collective influence and power. While trust in nonprofits has declined, more than half of Americans still trust us to do what's right.

To drive transformative change, we need both courage and structural solutions. Philanthropy has a critical role to play. Nonprofits need grantmakers and foundations to champion their missions through unrestricted funding and general operating support, to double down on philanthropic commitments to racial justice, and to provide the resources for their grantees to advocate for policies that advance equity and justice in our communities.

Meanwhile, the structural, societal changes we seek do not happen on their own; they require policy advocacy. Yet, as our **recent research** makes clear, only 31 percent of nonprofits have advocated or lobbied over the last five years—less than half the percentage of two decades ago. When nonprofits sit on the sidelines of policy debates, we are leaving our power on the table to improve lives, strengthen society, and achieve our missions.

The affirmative action decision shows us how advocacy aligns with the missions of many nonprofits, if not all of them. A nonprofit's mission is the biggest determining factor for whether or not it advocates, but many nonprofits that report being committed to equity are not engaging in advocacy. While the majority of nonprofits have a diversity, equity, and inclusion statement, only 36 percent engage in policy activities aimed at creating more equitable systems.

The finding is clear: there's a disconnect between our sector's intentions and its actions. Nonprofits are doing important work every day to address pressing challenges and lift up those in need, from providing housing and nutrition, to giving spiritual and artistic inspiration, to activating relief in the face of emergency. However, to address the root causes of the systemic inequalities holding us back, we must also embrace our power to advocate for changes that will advance our collective missions and values.

Helping nonprofits more regularly and effectively engage in policy advocacy will take at least three things. It will take clearer rules about what types of advocacy and lobbying nonprofits are allowed to do, and what is rightfully prohibited. It will take user-friendly tools and training for nonprofits that help them become smart advocates. And, it will take money: funders must provide their grantees with the financial support needed to fully, sustainably advocate for policy change.

Nonprofits represent more than 10 percent of the private workforce and contribute 5.6 percent of GDP, making our voice vital in policymaking. Although nonprofits are among the most trusted institutions in the country and have a deep understanding of our communities, we don't have a seat at the federal decision-making table. The **Nonprofit SEAT Act** is a step in the right direction to ensure our sector

helps shape federal policy and collaborates with the government to advance the needs of the communities we serve.

We're at a pivotal turning point in the journey to creating a healthier, more racially just nation. Nonprofits need more spaces where leaders—especially leaders of color—can come together to find support, to develop their capacity, and to build strategic alliances. The Supreme Court's decision is a call to the sector to use our collective influence to advance policies that enable us all to thrive.

This article was adapted from Dr. Akilah Watkins' keynote address at the [2023 Nonprofit Management Institute](#).

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