

Auditing Restricted Use Scholarship and Program Funds: Preparing for the Supreme Court Affirmative Action Rulings

By [Elizabeth Manchester](#)

Introduction:

As the Supreme Court prepares to rule on two landmark affirmative action cases (*Students for Fair Admissions Inc. v. President and Fellows of Harvard College* and *Students for Fair Admissions Inc. v. University of North Carolina*), auditing restricted use scholarship funds or program funds becomes increasingly important. Educational institutions and affiliated entities must ensure that funds designated for specific purposes, such as promoting diversity and inclusion, are being appropriately utilized and comply with legal and regulatory requirements. The regulatory landscape may very well change after the rulings. Understanding the institution's potential exposure and obligations to donors are crucial.

Interim Steps in Advance of the Rulings:

- Audit all restricted use funds, particularly those with preferences or restrictions based on race, sex, and other protected classes. Understand the program's objectives, assess risk areas, and develop an audit plan.
- Review gift agreements and governing documents for restricted funds. Scrutinize the obligations of the institution to consult with the donor, if possible, to amend the use of the funds.
- Discuss the importance of honoring donor intentions and ensuring that funds are used as intended, especially in cases where scholarships are specifically designated for underrepresented or disadvantaged groups. Creatively contemplate other ways to benefit these types of populations.
- Contemplate the need for a petition to the appropriate entity or court to amend the fund use.
- Communicate and summarize your findings appropriately and assemble a team to respond to next steps if necessary.
- Discuss the potential implications of the Supreme Court rulings on the institution's programs, particularly those aimed at promoting diversity and inclusion.

Conclusion:

Auditing restricted use funds is crucial for educational institutions. By following best practices and staying informed about emerging developments, organizations can maintain positive donor relationships and remain compliant.

We at [Partridge Snow & Hahn](#) have a multifaceted [Nonprofit & Tax-Exempt Group](#) to guide you through the advice necessary to discuss charitable giving options. Connect with [Elizabeth Manchester](#) to learn more on this topic and other crucial areas unique to nonprofit, tax-exempt, and charitable planning programs.

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