

The Supreme Court Update - October 19, 2026

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by Andrew Brantingham, Liz Kramer, Ian Blodger, Jessica M. Leano, and Brock Huebner

On October 19, 2026, the Supreme Court of the United States granted certiorari in two cases:

Association for Education Fairness v. Montgomery County Board of Education, No. 26-12: Petitioner, the Association for Education Fairness, brought an equal protection challenge to admissions policies for competitive public magnet middle school programs in Montgomery County, Maryland. The schools used a lottery among students meeting specified academic criteria, including locally normed assessment scores. Petitioner alleged that the policies intentionally discriminated against Asian American students and reduced their admissions. The question presented is: Whether a plaintiff challenging a facially neutral admissions policy as racially discriminatory must establish that the targeted racial group suffered an aggregate disparate impact relative to its share of the applicant pool.

Department of Justice v. McNutt, No. 26-204: This case concerns federal law, first enacted in the 1860s, that bans home distilling of alcoholic spirits. Two federal circuit courts of appeals reached differing outcomes on whether the law represented an unconstitutional use of Congress's power to levy taxes, with the Fifth Circuit striking down the law and the Sixth Circuit upholding it. The question presented is: Whether the prohibition on the production of distilled spirits in particular locations, including "in any dwelling house" or "in any shed, yard, or inclosure [sic] connected with any dwelling house," 26 U.S.C. § 5178(a)(1)(B), is necessary and proper for carrying into execution Congress's enumerated power to lay and collect taxes.

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