



Students for Fair Admissions
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Edward Blum
President

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Re: Annual Report of Students for Fair Admissions (SFFA)

Dear SFFA Member,

It is a pleasure for me to highlight in this annual report some of SFFA's activities during this past year and alert you to a few important events scheduled for later this year.

Harvard – Appeal to the First Circuit

As you all know by now, on October 1, 2019, the district court in Boston ruled in favor of Harvard in our landmark admissions lawsuit, *Students for Fair Admissions v. Harvard*. While we were disappointed with the ruling, we have been prepared from the outset for this case to go to the appellate courts regardless of the outcome.

Writing for the Wall Street Journal, columnist Jason Riley penned an insightful essay about the judge's opinion. Here is an excerpt:

It's bad enough that Judge Allison Burroughs's decision . . . blessed Harvard's admissions policies. What's equally disturbing is that she also ignored the history. Harvard boasts that it vets applicants using a "holistic" approach that weighs social characteristics as well as test scores. What often goes unmentioned is that Harvard and other schools developed this approach a century ago for the express purpose of excluding Jews.

In her ruling, Judge Burroughs writes that a "partial cause" of racial disparities in admissions rates is that "Asian American applicants' disproportionate strength in academics comes at the expense of other skills and traits that Harvard values." She says it's "possible" that the Asian applicants "did not possess the personal qualities that Harvard is looking for at the same rate as white applicants." Moreover, "it

would be unsurprising to find that applicants that excel in one area, tend to be somewhat weaker in other areas.” To Jews, such language and reasoning might sound painfully familiar. And if a judge today wrote that blacks or Hispanics excel at sports and have outgoing personalities, so it would be really surprising if they flourished academically as well, liberals would be calling for his head.

A few days after the district court’s decision, SFFA filed a notice of appeal with the U.S. Court of Appeals for the First Circuit. The appeals court issued a briefing schedule in early-January and has scheduled an oral argument through a video conference on September 16, 2020 at 9:30 AM ET. I encourage you all to watch the oral argument! You can do so at this link: https://www.youtube.com/channel/UCiq_Kg0zEPrijMEK_s-KP5_g/.

While no one knows how long it will take for the First Circuit to issue an opinion, it would not be surprising if we received a ruling from the court of appeals in early 2021.

University of North Carolina – Off to Trial

Another important event coming up for our organization is the bench trial in our challenge to the University of North Carolina’s admissions policies, *Students for Fair Admissions v. Univ. of North Carolina*. The trial was originally scheduled for the spring of 2019 but was rescheduled to November because of Covid-19. It is possible that the trial will occur “virtually” and so will not be in person in the courthouse. If the trial is open to the public by video conference, I will send out the video link as we approach that date.

University of Texas at Austin – A New Development

As you may recall, SFFA sued UT-Austin in Texas state court in 2018 alleging the school was not permitted under the Texas Constitution and Texas state law to use racial or ethnic classifications or preferences in the admissions process. In early July, we dropped this lawsuit and shortly thereafter filed a new lawsuit against UT-Austin in federal court.

Here is the background. In 2016, the Supreme Court in *Fisher v. University of Texas* found that UT-Austin’s race-based admissions policies—as implemented in 2008—were lawful under the Equal Protection Clause. But the Supreme Court warned that “affirmance of the University’s admissions policy today does not necessarily mean the University may rely on that same policy without refinement.” UT-Austin had an “ongoing obligation to engage in constant deliberation and continued reflection regarding its admissions policies,” including whether “changing demographics have undermined the need for a race-conscious policy.”

Things in Texas have changed dramatically since 2008 when Ms. Fisher filed her lawsuit. In 2008, the majority of those admitted to UT-Austin were white. By 2018, however, barely a third of those admitted to UT-Austin were white. Texas’s race-neutral Top Ten Percent Plan has driven this increased diversity.

As I said in our press release announcing the lawsuit, “The Supreme Court did not give the University of Texas a blank check to use race-based preferences in perpetuity, and the university has failed its obligation to reexamine its policies. This blatant failure to follow the Court’s

instructions is confirmation that *Grutter* will need to be overruled in order to restore the Equal Protection Clause's command of racial neutrality." I will keep you updated on the progress of this important new lawsuit as it progresses.

Wisconsin Teacher Loan Program and the Office for Civil Rights

Another SFFA project we initiated this year was to file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), challenging the legality of the Wisconsin Teacher Loan Program. This program allows the state of Wisconsin to forgive student loans to individuals who are willing to teach STEM courses in certain underperforming schools throughout the state. While this is a laudable goal, only racial minorities are eligible for this loan forgiveness program, which we believe falls far outside of what is fair and, most importantly, legal.

A few weeks ago, I had a conference call with OCR to answer questions about our complaint. While it is unclear what, if anything, OCR will do about this program, it is encouraging that this program is on their radar screen.

The DOJ's Finding of Intentional Discrimination by Yale

In August, after a two-year investigation, the U.S. Department of Justice found that Yale University's admissions policies discriminate against Asian-American and White applicants in violation of our nation's civil rights laws.

Many of our members and many in the media have reached out to us asking for our views. Below were my comments to the press:

We applaud the Justice Department's extensive investigation into Yale's racially discriminatory admissions policies.

The Justice Department's findings of decades-old, purposeful racial discrimination in admissions is not surprising since all of the Ivy League and other competitive universities admit to using racial classifications and preferences in their admissions policies. This investigation reinforces the need for all universities to end race-based admissions policies.

Our nation's civil rights laws and Constitution must be interpreted to forbid the use of race and ethnicity in college admissions. In our multi-racial and multi-ethnic nation, the admissions' bar cannot be raised for some races and ethnicities, and lowered for others.

This development against Yale is more evidence of the effect of our movement. Our members have been critical in raising awareness about racial discrimination in admissions. Through our advocacy and our litigation, we are making progress. Keep up the fight! We will be monitoring this case closely.

The Fight to Save Proposition 209

As many of you know, a statewide vote will take place this November to overturn Prop. 209—the voter initiative that outlawed the use of racial preferences in education, employment, and contracting in 1996. Many of our members have reached out to me to ask how they can get involved to help oppose the return of racial preferences in California.

Our friends have organized a new group to prevent this from passing—it's called “Californians for Equal Rights—No on Prop 16.” Their website is: <https://californiansforequalrights.org/>. SFFA made a generous donation last month and has endorsed this endeavor.

Prop 16 would allow California universities to deny admission to students because of their race. I encourage all our members to oppose this voter initiative.

A Call to Action

Please feel free to share this letter with friends and family. SFFA is always looking to add new members who have been recently rejected from universities. In particular, we are looking for students who were recently rejected from Harvard, the University of North Carolina, and the University of Texas. If you know of any student who was rejected from these schools in 2021, please encourage them to contact us and to join our organization.

As always, we will continue to provide you with regular updates of SFFA's activities throughout the coming year. Membership participation is critical to SFFA's success. We will again be holding members-only conference calls. Your ideas, comments, and suggestions about the future of our organization and our movement are vitally important. I encourage all of you to join these calls and to converse with me and our Board of Directors.

I would like to thank all of our members who have donated to SFFA. Litigation, unfortunately, is expensive. And we will have more expenses in the future, including the trial in North Carolina, the appeal in Harvard, and the new litigation against the University of Texas. Your donations are much appreciated.

Finally, many thanks for your kind notes and emails during these difficult times for our nation.

Sincerely,



Edward Blum
President, Students for Fair Admissions
www.studentsforfairadmissions.org