

**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC.,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendant.

Civil Action No. 1:14-cv-14176-ADB

**MEMORANDUM OF *AMICI CURIAE* IN SUPPORT OF DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT ON REMAINING COUNTS II, III, V**

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## INTRODUCTION AND SUMMARY OF ARGUMENT

At the heart of this lawsuit is whether Harvard has the academic freedom to value racial diversity in ways in which our country has fallen short: bridging racial divides and instilling greater cross-cultural understanding among its talented student body of future leaders. Plaintiffs' lawsuit uses Asian Americans as a cover to force every institution of higher education in the United States to ignore the reality of a society where certain ethno-racial minorities, Asian Americans among them, encounter structural racism and implicit bias because of their identity.<sup>1</sup>

Amici are a diverse group of Asian-American, Black, Latino, Native American, and Pacific Islander students who seek to protect Harvard's freedom to consider race in admissions to the full extent allowed by law ("*Students*"). As a racially diverse cohort of applicants, current students, and alumni, *Students*<sup>2</sup> stand in solidarity to support Harvard's use of holistic admissions program and right to consider race to the full extent allowed by law. *Students* contend that Harvard needs to do more, not less, to ensure that underrepresented groups—Black, Latinos, Native Americans, Pacific Islanders, and various subgroups of Asian Americans (such as Vietnamese and Hmong)—enroll in greater numbers to fully harness the educational benefits of diversity. While *Students* desire even greater diversity, there is no question that Harvard's race-conscious admissions policy is constitutional.

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<sup>1</sup> *Students* use the term "ethno-racial" to recognize that an individual's identity arises out of both race and ethnicity, with the former generally referring to traits like skin color and the latter referring to shared customs, culture, and history. See, e.g., Dalton Conley, *What Is the Difference Between Race and Ethnicity?*, Race: The Power of an Illusion, PBS (2003), [https://www.pbs.org/race/000\\_About/002\\_04-experts-03-02.htm](https://www.pbs.org/race/000_About/002_04-experts-03-02.htm).

<sup>2</sup> *Students* submit this 30-page brief along with their declarations in accordance with this Court's Order authorizing *Students*' participation in this lawsuit. Memorandum and Order on Proposed Defendant-Intervenors' Motion to Intervene, Dkt. 52 at 23 (June 15, 2015). Consistent with the Order, *Students* also intend to file a motion opposing SFFA's Motion For Summary Judgment and to participate in any oral argument relating to summary judgment motions. If the case proceeds to trial, *Students* anticipate filing a motion for limited participation to develop a full record in defense of race-conscious admissions.

*Students'* brief provides the Court with information in three principal areas. *First*, *Students* affirm that ethno-racial diversity produces distinct benefits, including promoting interactions between students of different racial backgrounds that heighten cross-racial understanding, breaking down stereotypes, and enriching students' understanding of perspectives different than their own. *See Grutter v. Bollinger*, 539 U.S. 306, 330 (2003) ("The[] benefits [of diversity] are substantial."). Increased enrollment of underrepresented groups also helps alleviate the ethno-racial isolation experienced by these students at Harvard. *See Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 798 (2007) (Kennedy, J., concurring in part) ("[A] compelling interest exists in avoiding racial isolation[.]").

*Second*, *Students* explain how Harvard's current affirmative consideration of race complies with the parameters set forth by the Supreme Court: it is individualized and flexibly recognizes all forms of diversity and does not treat race as a predominant factor for any applicant. It serves to appreciate, and counterbalance, the pervasive inequities that persist across our society with regard to race, class, and the intersection between them.

*Third*, *Students* demonstrate that Harvard's interest in promoting greater representation of, and diversity within, students of color compels the continued consideration of race in Harvard's holistic, individualized admissions process, for at least two reasons. First, as SFFA's expert concedes, any "race-neutral" alternative would significantly reduce the admission of African Americans, to the detriment of both Black and non-Black students. Second, experience and prevailing research strongly suggest that when highly selective institutions stop considering race, all students of color—including Asian Americans—lose out and intra-racial group diversity declines.

*Students* would oppose any admissions system that intentionally seeks to negatively suppress any racial group. But, as *Students* will explain in their brief to be filed in August, this type of suppressive “negative action” is conceptually distinct from an affirmative race-conscious admissions program that flexibly considers race to better contextualize an applicant’s prior achievements and potential contributions.<sup>3</sup> There is simply no causal link in the record between Harvard’s individualized consideration of race to promote diversity and any bias against Asian-American students.

Accordingly, *Students* believe the record clearly supports summary judgment on Counts II, III, and V<sup>4</sup> in favor of Harvard’s individualized consideration of race in a manner that promotes greater representation of, and diversity within, students of color admitted to one of our nation’s most elite training grounds for educational opportunities and future leadership.

#### **INTEREST OF AMICI**

*Students* are a racially and ethnically diverse group that includes prospective students, current students, and alumni of Harvard, all of whom are intimately impacted by Harvard’s race-conscious policies. *Students* vary along numerous various dimensions: representing no less than 8 different ethnicities, 8 different class years, and 13 different academic concentrations. But *Students* share a common interest in defending Harvard’s freedom to narrowly consider race for the purpose of achieving greater levels of diversity on Harvard’s campus.

Amici Sarah Cole, Fadhil Moore, Arjini Kumari Nawal, Itzel Libertad Vasquez-Rodriguez, and Keyanna Wigglesworth were all students at Harvard when this action was filed

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<sup>3</sup> See William C. Kidder, *Situating Asian Pacific Americans in the Law School Affirmative Action Debate: Empirical Facts About Thernstrom’s Rhetorical Acts*, 7 Asian L.J. 29, 33, 60 (2000); Jerry Kang, *Negative Action Against Asian Americans: The Internal Instability of Dworkin’s Defense of Affirmative Action*, 31 Harv. C.R.-C.L. L. Rev. 1, 3-4 (1996).

<sup>4</sup> *Students* are not addressing Count I in this brief but may do so in subsequent briefs.

in 2014.<sup>5</sup> Now graduates, these *Students* identify with ethno-racial subgroups that have historically been underrepresented and marginalized at Harvard. While diverse in their racial backgrounds and academic interests, they all believe ethno-racial diversity significantly impacted their learning inside and outside of the classroom. Based on their experiences, they all desire a greater presence of underrepresented groups on campus. Three graduate amici submitted supplemental declarations to inform the arguments raised at summary judgment.<sup>6</sup> Itzel Libertad Vasquez-Rodriguez, who identifies as an indigenous Mexican-American or “Xicana,” believes that her ethno-racial identity “shaped my perspective and made me the critical thinker I am today.” (Itzel Libertad Vasquez-Rodriguez Supp. Decl. at ¶ 5.) Reflecting on her time at Harvard, Vasquez-Rodriguez found that significant representation of people of color “was critical to persist and excel at Harvard despite racial hostilities on campus that were both overt and subtle.” (*Id.* at ¶ 21.) Sarah Cole, who identifies as a Black American, is critical of the plaintiffs’ efforts to eliminate race from holistic admissions, noting, “to try to not see my race is to try to not see me at all.” (Sarah Cole Supp. Decl. at ¶ 6.) Cole desires a more racially diverse Harvard “that not only sharpens folks’ critical thinking, but also develops their capacity for empathy and regard for others by making its campus a space where the ‘others’ are allowed to safely exist and learn and teach.” (*Id.* at ¶ 11.) Fadhal Moore, who identifies as African-American, views the presence of same-race peers as critical to his success at Harvard, noting how his peers, “who feel more like family than anything at this point, ended up actually helping

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<sup>5</sup> Sarah Cole Decl., Dkt. 31, Ex. 1.10; Fadhal Moore Decl., Dkt. 31, Ex. 1.11; Arjini Kumari Nawal Decl., Dkt. 31, Ex. 1.12; Itzel Libertad Vasquez-Rodriguez Decl., Dkt. 31, Ex. 1.13; Keyanna Wigglesworth Decl., Dkt. 31, Ex. 1.14.

<sup>6</sup> Sarah Cole Supp. Decl.; Itzel Libertad Vasquez-Rodriguez Supp. Decl.; Fadhal Moore Supp. Decl.

me learn many of the cultural cues necessary to navigate a white world with which I and many of my peers were so unfamiliar.” (Fadhal Moore Supp. Decl. at ¶ 5.)

Amici Y.Z., D.L., T.D., J.L., A.Z., A.A., and S.C. are all of Asian heritage but differ in terms of their ethnicities, their families’ income, their SAT scores, and their families’ immigration histories. They are all current students at Harvard, and they all attest that they benefit from Harvard’s racial diversity. Y.Z., who identifies as Chinese American, immigrated from China when Y.Z. was four, grew up in an upper-middle class suburb, and appreciates how Harvard’s racial diversity has provided meaningful opportunities to “confront my own prejudices and privilege.” (Y.Z. Decl. at ¶ 6.) D.L., who identifies as Chinese American, spoke about the dangers of essentializing Asian Americans as “model minorities” while interviewing for Harvard and believes Harvard’s admissions office favorably viewed his sensitivity to race and discrimination. (D.L. Decl. at ¶ 5.) T.D., who identifies as Vietnamese American, moved to the United States at age eight, lived in a working-class neighborhood, graduated as the valedictorian of his high school, and was admitted to Harvard in spite of relatively low SAT scores. (T.D. Decl.) J.L. was born in Korea, grew up in Texas, and felt stereotyped by peers as “a hard working Asian.” (J.L. Decl. at ¶ 3.) J.L. freely discussed his “intersecting identities” in his Harvard application essay “with a heavy emphasis on his Korean identity.” (*Id.* at ¶ 5.) At Harvard, J.L. is engaged in research on racism, prejudice, and intersectionality. A.Z., who identifies as Chinese American, was routinely “teased for being Asian” while growing up in a predominately white suburb but now at Harvard “interact[s] with a much more diverse group of peers” and “feel[s] much more comfortable interacting with and working with people of different backgrounds.” (A.Z. Decl. at ¶¶ 4, 7.) A.A., who identifies as Chinese American and queer, believes Harvard admitted them despite grades that were “not the best” because their application

reflected their passion as a person “and part of that includes [A.A.’s] ethnic and racial identity.” (A.A. Decl. at ¶¶ 8-9.) A.A. observes that Harvard’s campus is “very diverse in some ways” but “still has a long way to go when it comes to diversity.” (*Id.* at ¶¶ 13, 16.) S.C., who identifies as Chinese American, grew up in a one-room San Francisco apartment and, to this day, serves as her parents’ “translators.” (S.C. Decl. at ¶¶ 3, 5.) S.C. ignored advice that her “Asian immigrant story” was overdone and her SAT scores too low for Harvard and wrote about growing up in an immigrant family and her passion for social justice. (*Id.* at ¶ 5.) S.C. believes she benefited from race-conscious admissions because it “allowed the College to look at me as a whole person and view my qualifications in the context of both my class and race.” (*Id.* at ¶ 6.)

Amici S.N., M.E., and M.A. plan to apply to Harvard and identify with historically marginalized minority groups (African American, Native American, and Pacific Islander, respectively). S.N. lives in a community that has experienced racially-motivated hate crimes. (S.N. Decl. at ¶ 5.) S.N. has exemplary qualifications and intends to apply to Harvard, in part, because S.N. wishes to attend a college that values diversity. (*Id.* at ¶ 13.) M.E. has cultivated strong ties to Native culture, dancing competitively at powwows and joining the Native American Club at a previous school. (M.E. Decl. at ¶¶ 10-11.) M.E. intends to apply to Harvard, but intends to select a college that has an active Native American community. (*Id.* at ¶¶ 12, 14.) M.A. reflects that their “Pacific Islander and biracial identity” has already caused them to “see that race is constructed and I can bring that important perspective to the college campus or dorm room.” (M.A. Decl., Dkt. 230, Ex. 2 at ¶ 10.) Attending a diverse college is important for M.A. because M.A. “would feel very isolated” without such diversity. (*Id.* at ¶ 9.) S.N., M.E., and M.A. are concerned that the relief sought by SFFA may limit access for such

underrepresented groups and result in an educational environment that is even less diverse and not as welcoming.

From their various vantage points, *Students* are well-qualified and uniquely positioned to deepen the Court’s understanding of: (i) the benefits that currently flow to *Students* based on Harvard’s pursuit of diversity across various dimensions (ii) Harvard’s current racial climate and the negative impact of reducing the representation of already underrepresented groups (iii) how race and ethnicity shaped the *Students’* experiences before, during, and after college and, consequently, how it shaped their application materials and should be considered to appreciate their accomplishments and potential contributions to Harvard’s campus community and beyond.

## ARGUMENT

### **I. Harvard Is Entitled to Consider Race in Admissions to Pursue the Benefits of a Racially Diverse Student Body Across Multiple Dimensions.**

#### **A. Diversity in Higher Education Remains Compelling—Indeed, Vital—in Today’s Society Largely Separated by Race.**

The Supreme Court has long recognized student body diversity as a compelling interest that justifies race-conscious admissions in higher education. *See, e.g., Fisher v. Univ. of Texas at Austin*, 136 S. Ct. 2198, 2210-11 (2016) (“*Fisher II*”). This interest stems from diversity’s numerous benefits within the academic environment and, more broadly, for our national progress and welfare. As recently as 2016, the Supreme Court reaffirmed that a diverse student body “promotes cross-racial understanding, helps to break down racial stereotypes, and enables students to better understand persons of different races.” *Id.* at 2210 (quoting *Grutter*, 539 U.S. at 330). It also facilitates “enhanced classroom dialogue and the lessening of racial isolation. . .” *Fisher v. Univ. of Texas at Austin*, 570 U.S. 297, 308 (2013) (“*Fisher I*”). These benefits extend beyond the college campus by contributing to the broader goal of “preparing students for work and citizenship” in our extraordinarily diverse society. *Grutter*, 539 U.S. at 331. As Justice

Powell reflected nearly forty years ago in *Bakke*, nothing less than “the nation’s future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this Nation of many peoples.” *Regents of Univ. of California v. Bakke*, 438 U.S. 265, 313 (1978) (“*Bakke*”) (internal quotation omitted).

That an ethno-racially diverse group of students have joined together as *Students* to champion Harvard’s right to consider race in admissions reflects the profound and continuing impact of race and ethnicity on a student’s life. This is not an issue we as a country have resolved: “Much progress remains to be made in our Nation’s continuing struggle against racial isolation.” *Texas Dep’t of Hous. & Cmty. Affairs*, 135 S. Ct. 2507, 2525 (2015). A holistic admissions policy that considers race, like Harvard’s, effectuates such progress by ensuring the “path to leadership [is] visibly open to talented and qualified individuals of every race and ethnicity” and by training “our Nation’s leaders” to engage successfully with today’s increasingly diverse citizenry and challenges. *Grutter*, 539 U.S. at 331-32.

Harvard agrees that “the need for student-body diversity is even more compelling today than it was at the time of *Bakke* and *Grutter*.”<sup>7</sup> Student body diversity is “integral” to Harvard’s mission because diversity exposes students to “new ideas, new ways of understanding, and new ways of knowing,”<sup>8</sup> and “prepares [Harvard students] to assume leadership roles in the increasingly pluralistic society.”<sup>9</sup> Moreover, Harvard has concluded that a reduction in African-American and Hispanic students risks exacerbating “ongoing feelings of isolation and alienation

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<sup>7</sup> Brief for Harvard University as Amicus Curiae Supporting Respondents at 7, *Fisher II*, 136 S. Ct. 2198 (2016).

<sup>8</sup> Report of the Committee to Study the Importance of Student Body Diversity, Dkt. 419, Ex. 45 at 8.

<sup>9</sup> *Id.* at 23.



among racial minorities in [its] community.”<sup>10</sup> *Students’* experiences confirm this conclusion and that Harvard has a principled and legitimate goal of pursuing diversity within its student body.

**B. Diversity—and Racial Diversity in Particular—Prevents Racial Isolation and Produces Distinct Educational Benefits.**

The benefits of ethno-racial diversity recognized by the Supreme Court<sup>11</sup> have long been confirmed by colleges<sup>12</sup> and empirical research.<sup>13</sup> These benefits accrue at the individual level (for minority and non-minority students), the institutional level, and the societal level.

On the individual and institutional level, numerous studies confirm that greater ethnic diversity provides vital support for underrepresented minorities, including: reducing tokenism and isolation,<sup>14</sup> promoting a sense of belonging,<sup>15</sup> and furthering overall student well-being and

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<sup>10</sup> Report of The Committee to Study Race-Neutral Alternatives, Dkt. 419, Ex. 47 at 9.

<sup>11</sup> *See, e.g., Bakke*, 438 U.S. at 315-19 (Powell, J., announcing the judgment of the Court); *Grutter*, 539 U.S. at 325; *Gratz v. Bollinger*, 539 U.S. 244, 275-76 (2003); *Fisher I*, 570 U.S. at 309; *Fisher II*, 136 S. Ct. at 2210.

<sup>12</sup> *See, e.g.,* The President’s Report 1993-1995, Dkt. 419, Ex. 41; Peter Salovey, Yale’s Commitment to Equity and Inclusion (May 10, 2018), <https://news.yale.edu/2018/05/10/yales-commitment-equity-and-inclusion>; University of Michigan, Diversity, Equity, and Inclusion: Strategic Plan Progress Report 2-7 (2017), [https://diversity.umich.edu/wp-content/uploads/2017/11/Diversity\\_Equity\\_and\\_Inclusion\\_Year\\_One\\_Progress\\_Report.pdf](https://diversity.umich.edu/wp-content/uploads/2017/11/Diversity_Equity_and_Inclusion_Year_One_Progress_Report.pdf).

<sup>13</sup> *See, e.g.,* Kristin Davies, Linda Tropp, Arthur Aron, Thomas Pettigrew, and Stephen Wright, *Cross-Group Friendships and Intergroup Attitudes*, 15 *Personality and Social Psychology* 332, 345 (2011); Nisha Gottfredson, Abigail T. Panter, Charles E. Daye, Walter F. Allen, and Linda F. Wightman, *The Effects of Educational Diversity in a National Sample of Law Students: Fitting Multilevel Latent Variable Models in Data with Categorical Indicators*, 44 *Multivariate Behavioral Research* 305, 326 (2009); Thomas Pettigrew and Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 *J. of Personality and Social Psychology* 751, 766 (2006); Angela Locks, Sylvia Hurtado, Nicholas Bowman, and Leticia Oseguera, *Extending Notions of Campus Climate and Diversity to Students’ Transition to College*, 31 *The Review of Higher Education* 257, 279 (2008).

<sup>14</sup> *See* Patricia Odell, Kathleen Korgen, and Gabe Wang, *Cross-Racial Friendships and Social Distance between Racial Groups on a College Campus*, 29 *Innovative Higher Educ.* 291, 303 (2005).

<sup>15</sup> *See* Locks et al., *supra* note 13, at 277.

retention.<sup>16</sup> *Students'* experiences demonstrate this firsthand. As Sarah Cole, a Black American graduate of Harvard (class of 2016), reflected:

I dream of a Harvard experience where I wasn't the only slave-descendant black person in my philosophy class, or volunteer program (serving black and brown kids), or teacher preparation program... It is not sustainable to expect individual students of color to be the lone workers helping to make their peers (and superiors) grow less biased.

(Sarah Cole Supp. Decl. at ¶ 10.) Itzel Libertad Vasquez-Rodriguez, an indigenous Mexican-American graduate of Harvard (class of 2017), similarly reflected:

I often felt incredibly isolated at Harvard... I felt more comfortable and confident sharing my opinions in spaces with higher levels of underrepresented students of color...[This] lowered the likelihood that I would be viewed as a "token" for my race.

(Itzel Libertad Vasquez-Rodriguez Supp. Decl. at ¶ 4.)

Greater racial representation combined with a holistic appreciation of difference also promotes increased diversity within a given racial category (intra-racial diversity),<sup>17</sup> which in turn can reduce isolation for students who identify with less-represented sub-groups or those with intersectional identities. For example, A.A., who identifies as Chinese American and queer (class of 2019), emphasized that she valued the diversity within Harvard's Asian-American community:

[At Harvard] I met other queer Asian Americans. I felt understood, like I didn't have [to] explain myself or filter myself to be accepted. It was a great experience for me... Harvard has several activist-oriented Asian American organizations on campus

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<sup>16</sup> See Mitchell J. Chang, *Does Racial Diversity Matter?: The Educational Impact of a Racially Diverse Undergraduate Population*, 40 *J. of College Student Development* 377, 391 (1999).

<sup>17</sup> *Grutter*, 539 U.S. at 319-20 (noting testimony that when a university's student body includes sufficient numbers of minority students "racial stereotypes lose their force because nonminority students learn there is no 'minority viewpoint' but rather a variety of viewpoints among minority students.").

that have provided me with community and opportunities to grow . . . . [T]he people in these organizations, such as the Harvard Queer Asian American and Pacific Islander Alliance, understand me . . . because they also understand what it is to be caught in liminal spaces of identity.

(A.A. Decl. at ¶¶ 11, 13, 14.)

Beyond the benefits flowing to minority students, studies confirm racial and ethnic diversity enhances learning for all students. Such shared benefits include: reduced prejudice;<sup>18</sup> improved cross-cultural understanding, comfort, and engagement;<sup>19</sup> enhanced problem-solving and academic abilities;<sup>20</sup> and a developed capacity for teamwork and leadership.<sup>21</sup> *Students'* experiences bear this out. For example, Y.Z., a Chinese American rising senior at Harvard (class of 2019), reflected on how Harvard's racial diversity helped her overcome previously held prejudices, explaining:

Coming from my suburb, Harvard seemed incredibly diverse to me. . . . I made many African American friends during my first year who shared perspectives with me I had previously not been exposed to. . . . I had many conversations about race and class with my friends that forced me to confront my own prejudices and privilege.

(Y.Z. Decl. at ¶ 6.) Fadhil Moore, an African-American graduate of Harvard (class of 2015), explained how having same-race peers at Harvard exposed him to a more diverse array of friends

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<sup>18</sup> See Kristin Davies et al., *supra* note 13, at 345; Nisha Gottfredson et al., *supra* note 13, at 326.

<sup>19</sup> See Mitchell J. Chang, Nida Denson, Victor Saenz, and Kimberly Misa, *The Educational Benefits of Sustaining Cross-Racial Interaction Among Undergraduates*, 77 J. of Higher Educ. 430, 430-55 (2006); Nida Denson and Mitchell Chang, *Racial Diversity Matters: The Impact of Diversity-Related Student Engagement and Institutional Context*, 46 Amer. Educ. Research J. 322, 343 (2009); Nida Denson and Shirley Zhang, *The Impact of Student Experiences with Diversity on Developing Graduate Attributes*, 35 Studies in Higher Educ. 529, 540 (2010).

<sup>20</sup> See Chang et al., *supra* note 19; Jiali Luo and David Jamieson-Drake, *A Retrospective Assessment of the Educational Benefits of Interaction Across Racial Boundaries*, 50 J. of College Student Development 67, 82 (2009).

<sup>21</sup> See Chang et al., *supra* note 19; Luo and Jamieson-Drake, *supra* note 20, at 67.

and opportunities on campus: “It was other black students who opened doors to other non-black spaces that I ended up loving be they academic, political, musical, or for public service.” (Fadhil Moore Supp. Decl. at ¶ 5.) D.L., a Chinese American rising junior (class of 2020), also reflected on how Harvard’s racial diversity has increased his cross-cultural understanding and engagement, sharing:

I am very involved in the hip hop dance team, through which I’ve had the opportunity to learn more about the place of hip hop dance in black culture and become friends with many brilliant students of diverse minority racial backgrounds. Overall, the diversity at Harvard that is made possible by its affirmative action program contributes tremendously to the school and to my personal experience.

(D.L. Decl. at ¶ 6.)

The benefits of racial diversity in higher education also extend to society at large. Studies have shown that greater racial diversity is associated with increased civic engagement<sup>22</sup> and increased preparation for leadership in a diverse, global economy.<sup>23</sup> Consistent with this research, *Students* affirm that Harvard’s racial diversity has buttressed their commitment to public service and has better prepared them to perform such service. For example, J.L., a Korean American rising senior (class of 2019), shared:

Since coming to Harvard, I have been very involved in the Phillips Brooks House Association (PBHA), the nation’s largest student-run public service non-profit that serves more than 10,000 individuals in and around the greater Boston area. PBHA is a hub for diverse student organizing on campus and has challenged me to develop a deeper commitment to social justice.

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<sup>22</sup> William G. Bowen and Derek Bok, *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions* (1998).

<sup>23</sup> Anthony Lising Antonio, “The role of interracial interaction in the development of leadership skills and cultural knowledge and understanding,” 42 *Research in Higher Education* 593 (2001).

(J.L. Decl. at ¶ 7.) Itzel Libertad Vasquez-Rodriguez, a Harvard graduate (class of 2017) who identifies as indigenous Mexican-American, reflected on how Harvard's diversity better prepared her to pursue social justice work in Peru after graduation. Itzel explained:

[Harvard's ethno-racial diversity] has given me the confidence and grace to work cooperatively with diverse groups of people. It also gave me the tools to promote equitable participation. By making sure that every voice in a room is heard, I'm able to strengthen discussions, problem-solve, and support solution-oriented efforts. . . . [T]he ethno-racial diversity at Harvard was fundamental in preparing me to advance positive change in my current and future professional endeavors.

(Itzel Libertad Vasquez-Rodriguez Supp. Decl. at ¶¶ 24-25).

As these statements underscore, the benefits of racial diversity on campus flow to students of all backgrounds, including Asian-American students. Declarants Y.Z., D.L., T.D., J.L., A.Z., A.A., and S.C. identify with Asian-American ancestry; they all emphatically contest SFFA's implication that Harvard's pursuit of racial diversity discriminates against Asian Americans.<sup>24</sup> Rather, these Asian-American *Students* attest that they benefit directly from Harvard's goal of promoting racial diversity through productive cross-racial interactions with peers.<sup>25</sup> *Students'* sentiments are corroborated by field research. Studies have demonstrated that interactions with a diverse student body, both in and out of the classroom, lead to positive learning and civic outcomes for Asian-American students.<sup>26</sup> Furthermore, research has indicated

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<sup>24</sup> Y.Z. Decl. at ¶¶ 7-8; D.L. Decl. at ¶ 8; T.D. Decl. at ¶ 8; J.L. Decl. at ¶ 6; A.Z. Decl. at ¶ 12; A.A. Decl. at ¶ 22; S.C. Decl. at ¶ 7.

<sup>25</sup> Y.Z. Decl. at ¶¶ 7-8; D.L. Decl. at ¶ 8; T.D. Decl. at ¶¶ 8-9; J.L. Decl. at ¶¶ 6-8; A.Z. Decl. at ¶ 10; A.A. Decl. at ¶ 23; S.C. Decl. at ¶¶ 7-8.

<sup>26</sup> See NYU CARE, *Asian Americans and the Benefits of Campus Diversity: What the Research Says* (2012); Patricia Gurin, Eric L. Dey, Sylvia Hurtado, and Gerald Gurin, *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 Harv. Educ. Rev. 330, 351-353, 354 tbl. 3 (2002); Mark E. Engberg and Sylvia Hurtado, *Developing Pluralistic Skills and Dispositions in College: Examining Racial/Ethnic Group Differences*, 82 J. Higher Educ. 416, 434 (2011) (observing that while "the effects of intergroup learning on the pluralistic measure

that racially diverse campuses benefit Asian Americans by reducing racial prejudices targeting Asian-American students and other students of color. A recent empirical study reported that Asian American and Pacific Islander (“AAPI”) students experienced direct racial hostility in the forms of racial bullying, racial slurs, and racial profiling.<sup>27</sup> The study also indicated Asian Americans experience indirect intimidation as a result of witnessing racist acts directed towards other students of color.<sup>28</sup> Studies show increased racial diversity serves to address this type of intimidation: universities that reach the highest levels of diversity have fewer incidents of racial hostility.<sup>29</sup>

Further, research has demonstrated that, as compared to socioeconomic or geographic diversity, racial diversity contributes to small-group discussions in unique ways which enhances students’ reasoning.<sup>30</sup> Research suggests that when a topic concerning racial inequality is addressed in a course, there will likely be greater variation in opinions and perspectives when the students are more racially diverse than if they were more socioeconomically diverse.<sup>31</sup> As *Student* Itzel Libertad Vasquez-Rodriguez, who identifies as indigenous Mexican-American and low-income, has explained:

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were significant for all other groups,” Asian-American students “seem to demonstrate the strongest benefit”).

<sup>27</sup> See Samuel D. Museus and Julie J. Park, *The Continuing Significance of Racism in the Lives of Asian American College Students*, 56 *J. College Student Dev.* 551, 553, 557-58 (2015).

<sup>28</sup> *Id.*

<sup>29</sup> See, e.g., Rebecca L. Stotzer and Emily Hossellman, *Hate Crimes on Campus: Racial/Ethnic Diversity and Campus Safety*, 27 *J. Interpersonal Violence* 644, 654-55 (2012).

<sup>30</sup> See Anthony L. Antonio, Mitchell J. Chang, Kenji Hakuta, David A. Kenny, Shana Levin, Jeffrey F. Milem, *Effects of Racial Diversity on Complex Thinking in College Students*, 15 *Psychological Science* 507, 507-10 (2004).

<sup>31</sup> See Mitchell J. Chang, M. Seltzer, and J. Kim, *Diversity of Opinions Among Entering College Students: Does Race Matter?*, Research paper presented at the National Academy of Education Annual Meeting, Toronto, Canada (2002).

[T]he experiences of people of color based on their appearance and ethno-race is distinct from their experiences based on class. . . . As a student of color, I often felt isolated and tokenized because of the color of my skin, my name, and my features. Greater socioeconomic diversity would not—on its own—have helped me feel less singled out based on my ethno-racial identity.

(Itzel Libertad Vasquez-Rodriguez Supp. Decl. at ¶ 22.)

In sum, *Students'* testimony highlights at least three ways that attending to demographic representation across the student body is necessary (though not sufficient) to harness the full benefits of diversity. First, greater numeric representation lessens the vulnerability felt by marginalized minorities,<sup>32</sup> thereby increasing their likelihood to participate rather than choose disengagement.<sup>33</sup> Second, such representation increases the likelihood that students will have more frequent and more meaningful encounters across race that are crucial to overcoming pre-existing biases.<sup>34</sup> Third, it allows for increasing differences *within* a particular racial group, which reduces prejudice and prevents the solidification of stereotypes by increasing exposure to the variety of intra-racial identities.<sup>35</sup>

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<sup>32</sup> See, e.g., Amana Lewis, Mark Chesler, and Tyrone A. Forman, *The Impact of 'Colorblind' Ideologies on Students of Color: Intergroup Relations at a Predominantly White University*, 69 J. of Negro Educ. 74, 82-84 (2000); Sharon Fries-Britt and Kimberly Griffin, *The Black Box: How High-Achieving Blacks Resist Stereotypes About Black Americans*, 48 J. of College Student Development 509, 514 (2007).

<sup>33</sup> See, e.g., Samuel Museus, Uma Jayakumar, and Thomas Robinson, *Modeling Racial Differences in the Effects of Racial Representation on Two-Year College Student Success*, 13 College Student Retention 549, 566 (2012).

<sup>34</sup> See Mariette Berndsen, Russell Spears, Joop van der Pligt, and Craig McGarty, *Illusory Correlation and Stereotype Formation: Making Sense of Group Differences and Cognitive Biases*, Stereotypes as Explanations (2002).

<sup>35</sup> See Scott Page, *The Diversity Bonus: How Great Teams Pay Off in the Knowledge Economy* (New Jersey: Princeton Univ. Press 2017); see also Grutter, 539 U.S. at 319-20.

**II. Harvard’s Holistic Admissions Review Properly Views Race as One of Many Factors That Contextualizes an Applicant’s Past Achievements and Future Potential.**

Race-conscious policies such as Harvard’s are designed to effectively achieve diversity by comprehensively evaluating applicants individually and holistically. Harvard’s race-conscious admissions process appropriately considers race as one of many factors that may shed light on an applicant’s past achievements and future potential. *See Bakke*, 438 U.S. at 316-18.

**A. Race and Racial Barriers Remain Factors in American Life Which Cannot and Should Not Be Ignored in the Admissions Process.**

*Grutter* recognized that present-day inequities provide a compelling justification for considering race because “[b]y virtue of our Nation’s struggle with racial inequality, [underrepresented] students are both likely to have experiences of particular importance to the . . . [s]chool’s mission, and less likely to be admitted in meaningful numbers on criteria that ignore those experiences.” 539 U.S. at 338. It cannot be disputed that race continues to impact individuals’ opportunities and outcomes irrespective of their socioeconomic status.<sup>36</sup>

Several studies have revealed how race independently shapes our experiences and worldviews. For example, a recent study found that in ninety-nine percent of America, Black boys fare worse than white boys raised in the same neighborhood whose parents earn similar incomes.<sup>37</sup> In the workplace, employers are less likely to hire African-American and Latino job applicants than applicants of other races with comparable qualifications and education levels.<sup>38</sup>

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<sup>36</sup> *See, e.g.*, Raj Chetty, Nathaniel Hendren, Maggie R. Jones, and Sonya R. Porter, “Race and Economic Opportunity in the United States: An Intergenerational Perspective,” Equality of Opportunity (Mar. 2018), [http://www.equality-of-opportunity.org/assets/documents/race\\_paper.pdf](http://www.equality-of-opportunity.org/assets/documents/race_paper.pdf).

<sup>37</sup> *See id.* at 6.

<sup>38</sup> Lincoln Quillian, Devah Pager, Ole Hexel, and Arnfinn H. Midtbøen, “Meta-analysis of field experiments shows no change in racial discrimination in hiring over time,” PNAS (Aug. 8, 2017) at 2, <http://www.pnas.org/content/pnas/early/2017/09/11/1706255114.full.pdf>.



Low-income Black and Latino families are also more likely to live in neighborhoods with concentrated poverty as compared to poor-whites.<sup>39</sup>

Racial inequities cut across multiple sectors—from education,<sup>40</sup> to our economy, to our criminal justice system and beyond. Children of color are more likely to be affected by exposure to high levels of poverty and violence at a young age, the effects of “toxic stress,” and inadequate housing and transportation.<sup>41</sup> Entering the classroom, students of color are thus more likely to attend schools that lack adequate funding, which means larger schools, larger class sizes, less challenging curriculums, and less qualified teachers.<sup>42</sup> Black workers are also paid less than their white counterparts in comparable jobs, and the wage gap is only growing.<sup>43</sup> In the criminal justice system, people of color are targeted by racially discriminatory laws and enforcement systems.<sup>44</sup> There are also tremendous *intraracial* disparities, particularly within the AAPI community. Many Southeast-Asian, Native-Hawaiian, and Pacific-Islander subgroups suffer from school segregation,<sup>45</sup> inadequate preparation for college,<sup>46</sup> and other barriers to higher education.<sup>47</sup>

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<sup>39</sup> Paul Jargowsky, “Concentration of Poverty in the New Millennium: Changes in Prevalence, Composition, and Location of High Poverty Neighborhoods,” Century Foundation and Rutgers Center for Urban Research and Education 5 (Dec. 2013).

<sup>40</sup> Jeremy Ashkenas, Haeyoun Park, and Adam Pearce, *Even with Affirmative Action, Blacks and Hispanics Are More Underrepresented at Top Colleges Than 35 Years Ago*, N.Y. Times (Aug. 24, 2017), <https://nyti.ms/2w0BE08>.

<sup>41</sup> Annie E. Casey Found., *Race for Results: Building a Path to Opportunity for All Children*, Kids Count Policy Report 3 (2014), <http://www.aecf.org/m/resourcedoc/AECF-RaceforResults-2014.pdf>.

<sup>42</sup> *See id.* at 4.

<sup>43</sup> Eleni Karageorge, *The Unexplainable, Growing Black-White Wage Gap*, Bureau of Labor Statistics (Nov. 2017) (finding that the wage gap also grew for Black women).

<sup>44</sup> Leadership Conference Education Fund, “Justice on Trial: Racial Disparities in the American Criminal Justice System” (2000), <http://archives.civilrights.org/publications/justice-on-trial/>.

<sup>45</sup> *See, e.g.*, Robert T. Teranishi, *Southeast Asians, School Segregation and Postsecondary Outcomes*, *Comm’n on Asian Am. Research in Higher Educ.* 3 (2004) (describing residential

In light of these race-based inequities, it is perhaps unsurprising that the “academic criteria” that SFFA vociferously promotes are laden with their own set of biases. The academic index score is influenced by standardized test scores (such as the SATs), rigorous, SAT2 subject tests, grades, and class rank. (SFFA Statement of Facts, Dkt. 414 at 22.) Far from being “objective” indicators of merit, these measurements favor certain groups over other, more marginalized communities. Numerous studies show that the SATs are skewed to favor wealthier students and disfavor underrepresented minority groups.<sup>48</sup> The criteria for curricular “rigor” are equally flawed: Black and Latino children consistently have less access to AP courses and other higher-level courses,<sup>49</sup> and even scholastic grades themselves are subject to implicit bias against students of color.<sup>50</sup> In sum, there is nothing more “objective” about academic scoring as compared to the numerous other criteria Harvard considers when selecting students that are

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isolation and ethnic enclaves among poor immigrant communities from Southeast Asia and the attendant educational inequities).

<sup>46</sup> See, e.g., The Campaign for College Opportunity, *The State of Higher Education in California* 27-31 (Sept. 2015), [http://collegecampaign.org/wp-content/uploads/2015/09/2015-State-of-Higher-Education\\_AANHPI2.pdf](http://collegecampaign.org/wp-content/uploads/2015/09/2015-State-of-Higher-Education_AANHPI2.pdf).

<sup>47</sup> *Id.* at 22-25 (Hmong and Cambodian children have the highest rates of poverty in California; more than two-thirds of Hmong, Samoan, Cambodian, and Vietnamese freshmen received need-based financial aid; large proportions of Vietnamese, Thai, Korean, Chinese, and Cambodian communities have limited English proficiency).

<sup>48</sup> See, e.g., Saul Geiser, “Norm-Referenced Tests and Race-Blind Admissions: The Case for Eliminating the SAT and ACT at the University of California,” UC Berkley CSHE 15.17 (Dec. 2017); Jay Rosner, *How the SAT Creates “Built-In Headwinds,”* Kidder and Rosner, 43 Santa Clara L. Rev. 131, 17 (2002).

<sup>49</sup> See U.S. Dep’t of Educ. Off. for Civil Rights, “Data Snapshot: College and Career Readiness,” Civil Rights Data Collection (Mar. 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-college-and-career-readiness-snapshot.pdf>; David Love, “Black and Brown Students Are Denied Access to Advanced Placement Courses, the New Jim Crow in Education,” Atlanta Black Star (June 4, 2018), <http://atlantablackstar.com/2018/06/04/black-and-brown-students-are-denied-access-to-advanced-placement-courses-the-new-jim-crow-in-education/>.

<sup>50</sup> Meike Bonfeld and Oliver Dickhäuser, “(Biased) Grading of Students’ Performance: Students’ Names, Performance Level, and Implicit Attitudes,” *Frontiers in Psychology* (May 9, 2018), <https://www.frontiersin.org/articles/10.3389/fpsyg.2018.00481/full#B46>.

diverse across many dimensions. Harvard’s holistic, individualized review is consistent with *Grutter’s* recognition that universities may need to consider race to counterbalance “criteria that ignore those experiences [of racial inequality].” 539 U.S. at 338. These types of disparities inform the admissions process in at least two meaningful ways. First, such inequities may indicate that an applicant can offer a distinct perspective once on Harvard’s campus. As a Black American, Sarah Cole asserts, “I knew the crucial importance of my voice and perspective, and many of my classmates and professors did, as well.” (Sarah Cole Supp. Decl. at ¶ 10.) As a low-income Chinese American, S.C. similarly testifies that her distinctive “humor, empathy, and humility,” which was praised by Harvard’s admissions officers, derive “largely from [her] Chinese heritage and low-income status.” (S.C. Decl. at ¶ 6.)

Second, such inequities shed light on the strengths of an applicant’s accomplishments, as many minorities must overcome race-based hurdles. As an example, an admissions officer reviewing T.D.’s application may view T.D.’s decision to enroll in a “humanities magnet program in high school to explore my linguistic capabilities” with even greater admiration after learning that T.D. (a Vietnamese immigrant) learned English in the United States, tried to overcome their accent, and endured racial slurs. (T.D. Decl. at ¶ 4.) Thus, the allegedly “color-blind” system SFFA proposes would effectively “end[] up conferring a preference for applicants for whom race does not matter, or more accurately, for those who do *not* suffer the traditional harms stepping from structural racism.”<sup>51</sup>

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<sup>51</sup> Mario L. Barnes, Erwin Chemerinsky, and Angela Onwuachi-Willig, *Judging Opportunity Lost: Assessing the Viability of Race-Based Affirmative Action After Fisher v. University of Texas*, 62 UCLA L. Rev. 272, 294-95 (2015) (internal quotation marks omitted, emphasis added).

**B. Harvard Flexibly Considers Race, Whereby Race is Not the Predominant Factor in Admissions.**

Harvard receives applications from many more academically qualified candidates than it could ever admit.<sup>52</sup> Admitting candidates based solely on academic scores is neither practically realistic, nor would it be desirable. Although academic qualifications, like grade point average and test scores, may be useful for threshold determinations about scholarly abilities, they are incomplete in revealing an applicant's professional potential or their ability to provide unique contributions to the educational environment. It is only after considering whether "an individual is capable of thriving academically at Harvard" that the Committee considers whether the "person behind the scores" demonstrates collective qualities suggesting they will become engaged citizens and citizen-leaders in an increasingly diverse, complex society.<sup>53</sup> Part of this assessment considers the applicant's contribution to the multifaceted diversity Harvard seeks across socioeconomic circumstances, talents, interests, viewpoints, ambitions, skills, and race.<sup>54</sup>

SFFA makes the bald assertion that race is a predominant factor in admissions for African-American and Hispanic applicants. (SFFA Memorandum for Summary Judgment, Dkt. 413 at 46-47.) But SFFA's claim vastly overstates the role race plays in decisions and effectively tries to overturn established Supreme Court precedent which allows race to play some role in applicant decisions. *See Bakke*, 438 U.S. at 316; *Grutter*, 539 U.S. at 319.

Contrary to SFFA's claim, any "tip" that race may provide does *not* operate as a trigger for admission. In fact, race explains far less about applicants' likelihood of admission than numerous other factors Harvard considers. (Card Report, Dkt. 419, Ex. 33 at ¶¶ 178-81, 195.)

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<sup>52</sup> Brief for Harvard University as Amicus Curiae Supporting Respondents at 16, *Fisher II*, 136 S. Ct. 2198 (2016).

<sup>53</sup> Interview Handbook 2013-2014, Dkt. 419, Ex. 54 at 13.

<sup>54</sup> *Id.* at 10-13.

Rather, to be admitted to Harvard, applicants must demonstrate multiple areas of strength. (*Id.* at ¶¶ 56-57.) Indeed, the vast majority of admitted students excel across multiple profile dimensions: 46% of admitted students, from applicants to the classes of 2014 through 2019, had profile ratings of 2 or better on at least three key dimensions. (*Id.* at ¶ 59 (1 being the highest rating, followed by 2, etc.)) Significantly, an applicant’s race only factors into the “overall rating” assigned by admissions officers and is never the sole factor determining admission. (*Id.* at ¶ 53.)

Moreover, SFFA ignores established Supreme Court precedent recognizing that, in a highly competitive admissions process, any attribute that is valued by the university—whether that be artistic ability, athletics, socioeconomic status, geographic origin, or race—may affect admissions outcomes but this does not render the policy unconstitutional. *See Grutter*, 539 U.S. at 337-40; *Bakke*, 438 U.S. at 323. In *Bakke*, Justice Powell approvingly discussed Harvard’s race-conscious admissions policy knowing that when the admissions committee “reviews the large middle group of applicants who are ‘admissible’ and deemed capable of doing good work in their courses, the race of an applicant may tip the balance in his favor.” 438 U.S. at 323. The *Grutter* and *Fisher II* Courts similarly upheld race-conscious admissions plans where race may have played an outcome determinative role for a limited number of applicants. *See Grutter*, 539 U.S. at 339; *Fisher II*, 136 S. Ct. at 2212.

### **III. Race-Conscious Admissions Policies Remain Necessary to Support the Type and Level of Demographic Representation which Will Produce Educational Benefits for All Students.**

SFFA’s own evidence reinforces the ongoing need for race-conscious admissions in order for Harvard to achieve the educational benefits of diversity. SFFA’s simulations of race-neutral admissions policies would significantly reduce Black students on campus, thereby impacting ethno-racial diversity at Harvard. (Card Rebuttal Report, Dkt. 419, Ex. 37 at ¶¶ 192-93, 196-97.)

Consequently, SFFA's models do not offer an acceptable race-neutral alternative to its holistic admissions program. Moreover, historical experience and prevailing research show that when highly selective institutions stop considering race, all students of color—including Asian Americans—lose out.

**A. SFFA Admits Its “Race-Neutral” Alternatives Would Reduce the Admission of African Americans at Harvard, Preventing Harvard from Harnessing the Full Benefits of Student Diversity.**

Before considering race in admissions, Harvard must conduct a serious, good faith review of workable race-neutral alternatives. *See Fisher II*, 136 S. Ct. at 2218; *Grutter*, 539 U.S. at 339. In doing so, however, Harvard is not required to exhaust every conceivable race-neutral alternative or “choose between maintaining a reputation for excellence [and] fulfilling a commitment to provide educational opportunities to members of all racial groups.” *Grutter*, 539 U.S. at 339. Alternatives that negatively impact campus climate or would not produce the educational benefits of diversity may be ineffective or unworkable. *See id.* at 340. Harvard may therefore reject race-neutral alternatives which decrease overall diversity or the representation of specific racial groups. *See id.* at 318-319 (recognizing that a critical mass of underrepresented students may be necessary to dispel stereotypes and reduce racial isolation). It is undisputed that *all* of the race-neutral alternatives proposed by SFFA are projected to significantly reduce the number of African-American students admitted to Harvard by nearly 30% or more. (Card Rebuttal Report, Ex. 37 at Ex. 6; *see also* SFFA Statement of Facts, at 190.) While such decreases may be acceptable to SFFA, they are not to *Students*. “There is little enough diversity as it is; without a conscious effort to maintain and grow a diverse student body, safe spaces and open dialogue will become harder to find.” (A.A Decl. at ¶ 21.) Moreover, in *Fisher II*, the Supreme Court found similar differences—increasing the portion of Hispanic students from 11% to 16.9% and African-American students from 3.5% to 6.8%—had a “meaningful” effect on

diversity. *Fisher II*, 136 S. Ct. at 2212. Thus, Harvard may seek to enroll a sufficient number of underrepresented minorities to ensure that they are “represented . . . meaningful[ly].” *See Grutter*, 539 U.S. at 316.

Holistic admissions policies rest on the premise that the consideration of individual qualifications, characteristics and experiences is necessary to admit not only the best applicants but to assemble the best mix of students. There are important distinctions that may exist both within and between racial groups. An institution may therefore be wary of race-neutral alternatives that cause a decline in any particular underrepresented minority group.<sup>55</sup> Minorities are not fungible, and each group’s representation independently affects the benefits of diversity and the conditions for meaningful participation and cross-racial interaction.<sup>56</sup> While the lack of diversity at Harvard contributes to “uncomfortable experiences” in the classroom, ethno-racial diversity challenges students to think differently about issues. (*See* A.A Decl. and Itzel Libertad Vasquez-Rodriguez Supp. Decl.)

Lumping different racial groups together is a tactic often used to argue that an institution has achieved “enough” diversity and should no longer be permitted to consider race.<sup>57</sup> Indeed,

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<sup>55</sup> Harvard has found that students of color and of diverse backgrounds are underrepresented in certain degree programs in patterns consistent with historical trends. *See, e.g.*, Harvard University Presidential Task Force on Inclusions and Belonging, “Pursuing Excellence on a Foundation of Inclusion,” [http://inclusionandbelongingtaskforce.harvard.edu/files/inclusion/files/harvard\\_inclusion\\_belonging\\_task\\_force\\_final\\_report](http://inclusionandbelongingtaskforce.harvard.edu/files/inclusion/files/harvard_inclusion_belonging_task_force_final_report).

<sup>56</sup> Proponents of race-neutral alternatives often presuppose that all members of underrepresented groups are interchangeable or that different racial groups contribute to campus diversity in the same way. But the courts have recognized that such stereotypes are antithetical to the goals of diversity: allowing nonminority students to appreciate that “there is no ‘minority viewpoint’ but rather a variety of viewpoints among minority students.” *See Grutter*, 539 U.S. at 320.

<sup>57</sup> Elise Boddie, *Commentary on Fisher: The Importance of Diversity Within Diversity*, SCOTUSBlog (Oct. 11, 2012), <http://www.scotusblog.com/2012/10/commentary-on-fisher-the-importance-of-diversity-within-diversity/>.

this is what SFFA argues here. By aggregating African-American, Hispanic, and students who self-identify as “other” in his simulations, Kahlenberg concludes that the “percentage of underrepresented minority students basically holds steady” because a rise in the percentage of Hispanic students counteracts the corresponding drop in the percentage of African Americans admitted to Harvard.<sup>58</sup> (Kahlenberg Rebuttal Report, Dkt. 419, Ex. 36 at 26-27.) This presumes that increasing the representation of one underrepresented minority group neutralizes a decline in another. Consequently, SFFA contends that race-neutral alternatives “would make Harvard *more* racially diverse.” (SFFA Memorandum for Summary Judgment at 51 (emphasis added).) This argument demonstrates SFFA’s misunderstanding of ethno-racial diversity.

*Students* assert that increasing the representation of one underrepresented group does *not* eliminate the effects of decreasing another group’s representation. *Students* also wholeheartedly reject SFFA’s assumption that such socioeconomic or geographic diversity would counteract any drop in racial diversity or that these benefits are interchangeable. (*Id.* at 50; Kahlenberg Rebuttal Report, Ex. 32 at 29.) Socioeconomic diversity allows students to appreciate the benefits of their own privilege. (*See* Y.Z. Decl.) But it does not create the same appreciation of differences as racial diversity: as one of the *Students* observed: “I felt an affinity to other people in my neighborhood because of our shared experience with poverty, but I did not feel like people understood my racial and ethnic identity.” (T.D. Decl. at ¶ 3.) Another *Student’s* views echo this statement: “I think racial diversity and socioeconomic diversity are both important. But the

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<sup>58</sup> In his race-neutral simulations, Kahlenberg analyzes the level of admitted African-American, Hispanic and “other” students collectively as “minority admitted shares.” Yet the Supreme Court analyzed the impact of diversity on different racial groups separately in *Fisher II*, noting that “27 percent [of undergraduate classes with at least five students] had only one African-American student” and “[t]welve percent of these classes had no Hispanic students.” 136 S. Ct. at 2212.



experiences of people of color based on their appearance and ethno-race is distinct from their experiences based on class.” (Itzel Libertad Vasquez-Rodriguez Supp. Decl. at ¶ 22.)

**B. When Highly Selective Institutions Eliminate Holistic Admissions Students of Color Are Negatively Impacted.**

Both historical experience and prevailing research demonstrate that, when highly selective colleges such as Harvard eliminate the use of race in admissions, white students benefit while students of color tend to lose out because of a decline in enrollment numbers of students of color and because of escalating racial isolation.

1. *Decreased Enrollment of Students of Color*

Race-neutral policies often confer a benefit for white applicants who have not been subjected to the harms associated with structural racism, while disadvantaging underrepresented minorities.<sup>59</sup> Proxies such as socioeconomic disadvantage or geographic diversity may not produce the meaningful levels of racial diversity on campus because not all disadvantaged youth are members of a racial or ethnic minority group and many underrepresented minorities live in concentrated areas.<sup>60</sup> In addition, there is research suggesting that income-based admissions

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<sup>59</sup> Mario L. Barnes et al., *supra* note 51, at 294-295.

<sup>60</sup> See Maria Cancian, *Race-Based Versus Class-Based Affirmative Action in College Admissions*, 17 J. of Policy Analysis and Management 94, 104 (1998). Socioeconomic disadvantage can be defined a number of different ways but simulations found substantial if “far from perfect” overlap between disadvantaged groups. Class-based preferences do not necessarily produce the same levels of racial diversity as race-based affirmative action. While minorities are disproportionately disadvantaged, overall there are greater numbers of low-income whites than low-income minorities. See also William Kidder, *How Workable are Class-Based and Race-Neutral Alternatives at Leading American Universities?*, 64 UCLA L. REV. DISC. 100, 111 (2016).

alone may actually *reduce* both racial and socio-economic diversity at some of the most selective colleges and universities.<sup>61</sup>

The impact of bans on affirmative action on underrepresented minority students is evident in the state systems that implemented percentage plans following such bans.<sup>62</sup> In addition to concerns that the success of such programs depends on underlying segregation of the K-12 school system, research suggests that percentage plans have not effectively replicated the level of racial diversity that institutions may have achieved prior to such a ban. This trend also is evident at the most highly selective institutions within those states that use percentage plans.<sup>63</sup>

Texas offers one example of a state that was required to eliminate race-based admissions. One researcher found that the end of affirmative action in Texas correlated with a decrease in the likelihood that minority students would request that their SAT scores be sent to in-state public colleges.<sup>64</sup> Another study found that the Texas plan was ineffective in maintaining racial or ethnic diversity at three of the state's most competitive public institutions—UT Austin, Texas A&M and Texas Tech University—in spite of the fact that two of those schools engaged in other

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<sup>61</sup> See Sean F. Reardon, Rachel Baker, and Daniel Kalsik, *Race, Income and Enrollment Patterns in Highly Selective Colleges 1982-2004*, at 2, Center for Education Policy Analysis, Stanford University (2012).

<sup>62</sup> Percentage plans are just one example of a race neutral alternative to holistic admissions. However, they offer the opportunity to evaluate application, admit and enrollment rates by racial group before and after a ban on race-conscious admissions. While the mechanics of each plan vary, as do the student-age racial demographics, it is possible to make some general observations about the impact of such bans on underrepresented minorities.

<sup>63</sup> See Catherine Horn and Stella M. Flores, *Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences* 42, The Civil Rights Project at Harvard University (2003).

<sup>64</sup> Data on where students send their SAT scores is often associated with where those students are choosing to apply. M. Long found that the percentage plan in Texas was associated with fewer racial and ethnic minorities applying to public flagship institutions which would make it more difficult for those schools to admit and enroll a diverse class. Mark C. Long, *College Applications and the Effect of Affirmative Action*, 121 *Journal of Econometrics* 319, 340 (2004).

measures designed to increase minority admissions.<sup>65</sup> The first post-*Hopwood* class at the University of Texas enrolled a much smaller number of underrepresented minorities and the percentage of White students in that cohort increased immediately after the ban. When viewed in light of the underlying demographic changes in the Texas student population, researchers have concluded that Hispanic students were more disadvantaged than White students at the state's top two institutions under the percentage plan.<sup>66</sup>

At the University of California ("UC"), the end of race-conscious admissions also reduced the likelihood that students of color were sending their SAT scores to in-state, public schools. In the first year after Proposition 209 was implemented, there were "dramatic declines" of 55% in admission offers to African Americans at UC Berkley and UCLA, California's most selective public universities.<sup>67</sup> Asian Americans also experienced a system-wide decline in their admit rate since Prop 209 was implemented, establishing that Asian Americans do not necessarily benefit under a race-neutral alternatives.<sup>68</sup> Moreover, the reduced number of underrepresented minorities admitted were more likely to enroll elsewhere following the enactment of Prop. 209, and survey data from eight of its campuses confirmed that Black and Latino students felt that the ban on affirmative action and low levels of campus diversity contributed to racial isolation and feelings that those students were less respected by their

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<sup>65</sup> See Mark Long and Marta Tienda, *Winners and Losers: Changes in Texas University Admissions post-Hopwood*, 30 *Educational Evaluation and Policy Analysis* 255, 255-80 (2008).

<sup>66</sup> Angel L. Harris and Marta Tienda, *Hispanics in higher education and the Texas top 10% law*, 4 *Race and Social Problems* 57, 57-67 (2012).

<sup>67</sup> William C. Kidder, *Two Decades After the Affirmative Action Ban: Evaluating the University of California's Race-Neutral Efforts* (Oct. 2015), [https://www.ets.org/Media/Research/pdf/kidder\\_paper.pdf](https://www.ets.org/Media/Research/pdf/kidder_paper.pdf).

<sup>68</sup> OiYan A. Poon, *Do Asian Americans Benefit From Race-Blind College Admissions Policies?*, National Commission on Asian American and Pacific Islander Research in Education 3 (2017), <https://files.eric.ed.gov/fulltext/ED573713.pdf>.

peers.<sup>69</sup> Data on the freshman admit pools spanning over ten years shows that underrepresented minorities were more likely to reject an offer from the University of California after Prop. 209.<sup>70</sup> Despite significant investment in race-neutral alternatives over 20 years, the UC system has never returned to its previous levels of diversity.<sup>71</sup>

## 2. *Increased Racial Isolation*

Dramatic decreases in the number of African-American students on campus would surely undercut “meaningful representation” of minorities, leaving them vulnerable to “feel[ing] isolated or like a spokesperson for their race.” *Grutter*, 539 U.S. at 318-19. *Students* assert that such cuts would harm all who benefit from a racially diverse campus, especially Asian-American, Black, Latino, and Native American students. There are courses in which there is an observable absence of Black students; decreasing the representation of Black students on campus would certainly impact the substantive discussion in those courses. (*See* Sarah Cole Supp. Decl. at ¶¶ 8-10; Fadhil Moore Supp. Decl. at ¶¶ 5-6; A.A. Decl. at ¶ 21; J.L. Decl. at ¶ 8.) Some student activities or groups still have a reputation for being elitist and white. (D.L. Decl. at ¶ 7.) Recently, students of color launched a multimedia campaign to highlight, explore, and affirm the diverse experiences and voices of Black students at Harvard and combat tokenism, stereotypes and isolation.<sup>72</sup> *Students* strongly believe that a reduction in the presence of Black students and any students of color would profoundly weaken their ability to have such concerns addressed on campus. (T.D. Decl. at ¶ 10; J.L. Decl. at ¶ 8.)

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<sup>69</sup> William C. Kidder, *Misshaping the River: Proposition 209 and Lessons for the Fisher Case*, 39 *J. of College and Univ. Law* 53, 55 (2013), <http://ssrn.com/abstract=2123653>.

<sup>70</sup> *Id.*

<sup>71</sup> William C. Kidder, *supra* note 67.

<sup>72</sup> *See* “I, Too, Am Harvard,” Tumblr (Aug. 7, 2014), <http://itooamharvard.tumblr.com/>.

Students from underrepresented Asian sub-groups may also experience a similar decline in enrollment and a concomitant increase in racial isolation (although it is more difficult to measure since disaggregated data do not exist). There is a tendency to view all Asians as a monolithic entity, which has “erased the complexity of the Asian-American experience.”<sup>73</sup> T.D. notes that, while there is a big presence of Chinese and Korean culture and community on campus, there is very little presence of Southeast Asian culture; the elimination of ethno-racial considerations in the admissions process would eliminate any opportunity to remedy the problems of isolation that Southeast Asian students like T.D. experience at Harvard. (T.D. Decl. at ¶ 8.)

As *Students* can attest, the life experiences of Asian Americans and Pacific Islanders reflect a wide variety of unique experiences reflective of a broad range of comparative privilege and disadvantage that institutions should be permitted to consider when making an offer of admission.<sup>74</sup> Generic references to “Asian American” students perpetuates the “model minority” myth and discounts the specific needs and challenges faced by distinct subgroups of Asian

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<sup>73</sup> See Julie S. Chung and Alexander Z. Zhang, *Students for Fair Admissions and Harvard Both Got It Wrong*, Harvard Crimson (July 18, 2018), <https://www.thecrimson.com/article/2018/7/18/chung-zhang-sffa-harvard-wrong/>. This is particularly stark, given that Asian Americans are the most economically unequal racial group in the United States. See also Rakesh Kochhar and Anthony Cilluffo, *Income Inequality in the U.S. Is Rising Most Rapidly Among Asians*, Pew Research Center (July 12, 2018), <http://www.pewsocialtrends.org/2018/07/12/income-inequality-in-the-u-s-is-rising-most-rapidly-among-asians/>.

<sup>74</sup> Two recent Op-Eds by Harvard students, including one of the amici that we represent, have borne out this underrepresentation of particular sub-groups with the Asian-American label: “[East Asian and Indian] are essentially the only two areas of Asia that I see represented at Harvard. It takes another person to remind me that the Philippines and Southeast Asian countries like Vietnam, Malaysia, Cambodia, and Thailand are also a part of this label.” Elizabeth Y. Sun, *Not Just “Asian,”* Harvard Crimson (Aug. 9, 2017), <https://www.thecrimson.com/article/2017/8/9/sun-not-just-asian/>; see also Julie S. Chung and Alexander Z. Zhang, *supra* note 73.

students. As already noted, the monolithic treatment of underrepresented sub-groups erases their varied ethnic, cultural, linguistic, socioeconomic, political and religious backgrounds. Research shows that many Southeast Asian students live in poverty.<sup>75</sup> Other Asian students, including members of Thai, Vietnamese, Korean, Hmong and Cambodian communities, experience significant language barriers.<sup>76</sup> Many Native Hawaiian and Pacific Islander students have low academic achievement, limited educational opportunities and require remediation in college.<sup>77</sup>

*Students* therefore believe that holistic admissions policies are necessary to allow Harvard to consider the unique educational inequities faced by underrepresented minorities. To realize the educational benefits of diversity, it is essential that Harvard has the freedom to better comprehend and account for the differences in social and economic advantage and the variations in educational opportunities experienced by these students.

### CONCLUSION

*Students* represent a broad cross-section of Harvard's racially and ethnically minority students, prospective students, and alumni. Their shared experience starkly shows that there continue to be race-based barriers to equal access and opportunity for all. Breaking down these barriers requires an ongoing effort to promote diversity and inclusion across our shared social institutions, including elite academic universities such as Harvard. Based on Harvard's current campus climate, race-conscious admissions practices remain necessary to promote such diversity and inclusion. For the foregoing reasons, this Court should affirm through summary judgment that Harvard's limited, individualized consideration of race to promote diversity complies with our Constitution.

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<sup>75</sup> See The Campaign for College Opportunity, *supra* note 46, at 22.

<sup>76</sup> *Id.* at 25.

<sup>77</sup> *Id.* at 27-31.

Respectfully Submitted,

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Dated: July 30, 2018

COUNSEL FOR *AMICI CURIAE*

**CERTIFICATE OF SERVICE**

In accordance with Local Rule 5.2(b), I hereby certify that this document filed through the ECF system on July 30, 2018 will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Lawrence Culleen  
Lawrence Culleen



**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS, INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF HARVARD  
COLLEGE (HARVARD CORPORATION),

Defendant.

Civil Action No. 1:14-cv-14176-ADB

**EXHIBITS FOR *AMICI CURIAE* MEMORANDUM IN SUPPORT OF DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT ON REMAINING COUNTS II, III, V**

Exhibit 1.1: Declaration of A.A.

Exhibit 1.2: Declaration of A.Z.

Exhibit 1.3: Declaration of D.L.

Exhibit 1.4: Declaration of J.L.

Exhibit 1.5: Declaration of M.E.

Exhibit 1.6: Declaration of S.C.

Exhibit 1.7: Declaration of S.N.

Exhibit 1.8: Declaration of T.D.

Exhibit 1.9: Declaration of Y.Z.

Exhibit 1.10: Supplemental Declaration of Sarah Cole

Exhibit 1.11: Supplemental Declaration of Fadhal Moore

Exhibit 1.12: Supplemental Declaration of Itzel Libertad Vasquez-Rodriguez

# **Exhibit 1.1**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,  
  
Plaintiff,  
  
v.  
  
PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),  
  
Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of A.A.**

I, A.A., declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Chinese American. I am currently a sophomore at Harvard College.
3. I grew up in a small suburb of a large city in the Midwest. This city has a history of racial division and gang activity. It is also geographically segregated, with white populations living in one area and Black and Latino populations living in another. I grew up in a suburb with a predominantly white population close to rural areas. Racist comments toward people of color are common there. Some comments are subtly racist: references to predominantly Black and Latino parts of the city as unsafe; students of a certain race being labeled as “troublemakers”; realtors giving coded messages about selling homes to “nice families” rather than to Black or Latino families. Others are more overt—for example, some people tell people of color to “go back to your country.” Particularly around the election, these comments were often targeted towards Muslim Americans. Recently, a particularly egregious hate crime occurred near the town where I grew up.
4. As a first-generation immigrant, my mother has struggled with a language barrier in America. She had to learn English on her own, and speaking English is still difficult for

1 her. I help her as much as I can, but she still has trouble with communicating when her  
2 children are not present. She has been working at the same place for the past ten years  
3 because the English-language interview process makes it hard for her to find another job.

4 5. I attended a private boarding school for high school. Over half of the students were white.  
5 About 20% were Asian, and about 5-7% were of other races. The environment was  
6 overwhelmingly upper class and privileged, and I often felt out of place. Being  
7 uncomfortable made it difficult for me to speak up in class or take full advantage of  
8 opportunities I might have had. I felt like there was a lot about myself I had to hide, and  
9 even a lot about myself that I did not know how to think about.

10 6. I experienced negative effects from stereotyping in school and in my community as a  
11 result of being Asian. People assumed I was from an upper or upper-middle-class  
12 background, and that I must be good at everything in school. These assumptions made it  
13 hard for me to ask for academic assistance, and also made me feel ashamed for not fitting  
14 into the mold of the “model minority.”

15 7. Assumptions and lack of understanding about my race have also made it difficult for me  
16 to seek help for mental health. I did not feel like therapists or my peers in high school  
17 could connect to the issues I was having. Talking to counselors and classmates about  
18 academic pressure, or about being a child of first-generation immigrants, or about my  
19 sexuality—all compounded by my identity as an Asian American—was hard when they  
20 did not understand those experiences. The mental health professionals at school were all  
21 white and seemed to only be comfortable discussing academic topics, even though these  
22 other parts of my life impacted my grades and mental wellness. Looking back, I realize I  
23 actually wanted to work through my relationship with my parents, but I was not given  
24 space to do that.

25 8. When I was applying to Harvard, I described my race as Asian American or Chinese  
26 American. I do not think disclosing my race and ethnicity hurt me in the admissions  
27 process. Ultimately, the application reflected who I am as a person, and part of that  
28 includes my ethnic and racial identity. So much of how I understand the world is based on

1 being Asian American—it affects how I understand racial dynamics, how I look at U.S.  
2 policy, and complicates how I look at the world. I would be a completely different person  
3 if not for my intersecting identities, and I cannot even imagine who I would be if those  
4 identities changed.

5 9. My grades in high school were good, but not the best. My school used an untraditional  
6 grading system, and my grades were usually around the equivalent of an A-. I struggled in  
7 some classes, including AP Chemistry where I received the equivalent of a C. My SAT  
8 scores were good: I had composite scores of 800 in math, 800 in reading, and 780 in  
9 writing. Overall, though, my grades and test scores were middle-of-the road—high  
10 enough to meet the minimum requirements, but not outstanding compared to other  
11 students at my school. Alone, they would not have made me stand out strongly on paper. I  
12 think my personal statement was what made my application compelling. I wrote about my  
13 love of astronomy and my relationship with my sister, and I think the emotion and passion  
14 I expressed far outweighed a list of my accomplishments.

15 10. Initially, I had not seriously considered attending Harvard. I was afraid that it would be  
16 similar to my high school—very upper class and elitist. Harvard has a history of being an  
17 institution for the elite, and I did not feel like I would belong. Additionally, as a STEM  
18 major, I was drawn towards schools with more of a focus in the sciences.

19 11. My parents convinced me to give Harvard a chance, and I soon realized that it wouldn't be  
20 as bad as I thought. At an event for incoming students, I attended a gathering for queer  
21 students, where I met other queer Asian Americans. I felt understood, like I didn't have  
22 explain myself or filter myself to be accepted. It was a great experience for me, and I keep  
23 in touch with the people I met there to this day. Seeing the "I, too, am Harvard" campaign  
24 created by Black students also changed my perception of the school. I found some  
25 unexpected parts of Harvard, and I thought that while Harvard can be a difficult place for  
26 a lot of students of color, students were actively trying to make Harvard a better place.

27 12. I decided to go to Harvard because I wanted to be in an environment and get an education  
28 that would help me become a well-rounded person, not just someone with technical skills.

1 I felt the school would help me gain a better understanding of the world and help me grow  
2 intellectually.

3 13. When I got to Harvard, I discovered that campus was very diverse in some ways—  
4 definitely more diverse than where I grew up in Midwest and where I went to high school.  
5 There are students with a wide array of experiences, of different nationalities, from  
6 different geographies, and from different socioeconomic backgrounds. Harvard has  
7 several activist-oriented Asian American organizations on campus that have provided me  
8 with community and opportunities to grow, including the Harvard Queer Asian American  
9 and Pacific Islander Alliance. I have also gotten involved in the push for an Asian  
10 American Studies program and a more robust Ethnic Studies program at large at Harvard.

11 14. Just as importantly, the people in these organizations, such as the Harvard Queer Asian  
12 American and Pacific Islander Alliance, understand me and understand what I am talking  
13 about without me having to explain all the layers of it, because they also understand what  
14 it is to be caught in liminal spaces of identity. I am grateful to know upperclassmen who  
15 are really honest about issues and difficulties they have faced on campus and offer advice,  
16 resources, and time to help me work through any problems. It has been particularly  
17 wonderful to find communities among queer people of color, and to find great allies who  
18 create spaces that are comfortable to exist in.

19 15. I have also had the opportunity to take classes that help me explore my identity in a  
20 meaningful way, such as an Asian American history class. Taking that class allowed me to  
21 learn a new way of thinking about the world, showed me more critical ways of  
22 approaching history, and provided a crucial underpinning to my understanding of myself  
23 as an Asian American.

24 16. At the same time, Harvard still has a long way to go when it comes to diversity.  
25 Historically, Harvard has not been a school for minorities. Even now, there are still legacy  
26 students and even a “Final Club” organizations that consist predominantly of white and  
27 wealthy students . Its existence speaks volumes about the school’s climate, and stands as a  
28 symbol of Harvard’s legacy of exclusivity around race, class, gender, and other issues that

1 persists today.

2 17. Although Harvard has diversified its student body considerably, there is still much  
3 progress that must be made to move Harvard towards a truly inclusive campus – beyond  
4 focusing on numbers, Harvard must take steps to make sure students become more aware  
5 of issues of race, class, sexuality, or social justice. One challenge is that there are very few  
6 Ethnic Studies classes, no multiracial centers, and ultimately a lack of spaces for ethnic  
7 students.

8 18. The counseling and psychological services are also limited at Harvard, and do not address  
9 my needs properly. For instance, when I try to discuss the mixed feelings I have about  
10 going home during breaks with my on-campus therapist, I feel like I have to put myself  
11 out there, explain things to greater degree than I feel comfortable, or add qualifiers to  
12 things I say in order for them to really understand where I'm coming from about what my  
13 family is like and why I feel conflicted about going home. It makes me wonder what kind  
14 of assumptions they might be making and what I have to be careful about describing,  
15 which can be very draining and counterproductive. Lack of culturally-specific academic  
16 and social resources, including diversity in counseling and mental health services, is a  
17 well-known issue at Harvard. In my freshman year, an Asian American student passed  
18 away due to mental health issues. Many students on campus of diverse backgrounds face a  
19 variety of issues, but Harvard's services do not provide adequate support for marginalized  
20 students.

21 19. Harvard needs to be more diverse, not just in terms of the student population, but also in  
22 terms of the faculty and the curriculum. For example, the highly-acclaimed Sociology  
23 department here has done work around race, but often fails to address migration and Asian  
24 American/Latinx/indigenous perspectives. Not having a sufficiently diverse classroom has  
25 also led to uncomfortable experiences when people say things that are somewhat  
26 offensive. There are moments when I find myself wanting to talk about race in a deeper,  
27 more nuanced way than people allow for.

28 20. Ethnic Studies, Indigenous Studies, and African American Studies classes have been the

1 few classes that critically look at race and complicate a white-Black binary. They have  
2 been the best classes I have taken at Harvard but are unfortunately, few and far between.  
3 For areas outside of African American Studies, there is very limited faculty—only two  
4 permanent Asian American Studies junior faculty, for example—which then limits the  
5 academic offerings for students in those areas.

6 21. In my view, Harvard's race-conscious admissions policy has made the diversity that exists  
7 possible and its elimination would have devastating consequences. There is little enough  
8 diversity as it is; without a conscious effort to maintain and grow a diverse student body,  
9 safe spaces and open dialogue will become even harder to find. For a student, diversity  
10 helps facilitate important conversations on campus. When there is a ethno-racially diverse  
11 student body, students are more willing to talk about issues of race, both on campus and in  
12 the world at large. Beyond campus, diversity facilitates open dialogues about immigration  
13 and other current events. Students are also exposed to different life experiences rather than  
14 being closed off from the rest of the world. Without students of different racial (and  
15 intersectional) backgrounds, it is difficult to talk about or even conceptualize different  
16 perspectives, both in the classroom and in the community. Taking away the race-  
17 conscious admissions policy and the diversity that results from it would be a huge loss to  
18 students at Harvard.

19 22. As an Asian American, I do not believe that Harvard's race conscious admissions policy  
20 hurt me. I disclosed my race and I did not have stellar grades, but I was accepted to  
21 Harvard most likely based on my personal statement, which reflected the diversity that I  
22 brought to campus. Since becoming a student at Harvard, I have benefitted from  
23 Harvard's race-conscious admissions policy because I have had the opportunity to find  
24 communities of color where I can explore my identity and be accepted. I also believe that  
25 I have contributed to Harvard's diversity because I am a queer Asian American. My  
26 identity has forced me to think about the world in a more complex way, and to ask  
27 questions that others might not know to ask. It helps me recognize issues in different  
28 spaces, such as the erasure of race in queer spaces, and the invisibility of queerness in



1 Asian spaces. Because of my perspective, I try to see the concrete impacts that actions or  
2 thoughts can have even outside of a group, how identity affects inter- and intra-group  
3 interactions, and where the complexities are when people talk about politics. I try to be  
4 cognizant of what being Asian American means in a political sense, and the diversity  
5 within the "Asian American" label. I also try to be aware of where diversity is lacking,  
6 and make an effort to create spaces and inserting diversity into the spaces that Harvard has  
7 to offer. This awareness allows me to think critically about my studies and increase  
8 collaboration among different groups of people.

9 23. Race-conscious admissions is not a panacea to centuries of white privilege at Harvard, but  
10 it is a necessary tool in a larger plan to increase diversity on campus and produce leaders  
11 that will be thoughtful, empathetic, and critical thinkers in the world. The elimination of  
12 race-conscious admissions will hurt everyone on campus, including prospective and  
13 current Asian American students.

14  
15 I declare under the penalty of perjury under the laws of the United States of America and the  
16 State of California that the foregoing is true and correct and that this declaration was executed on  
17 July 27, 2017, in Los Angeles, California.

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# **Exhibit 1.2**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of A.Z.**

I, **A.Z.**, declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I consider myself a first-generation Chinese American immigrant. I was born in Canada, lived in China for a little over 3 years, and moved back to Canada before finally immigrating to the United States. I am also an Asian athlete, leader, and creative in the media and entertainment industry.
3. I am currently in my junior year at Harvard.
4. Growing up in the predominantly white suburbs of Portland, Oregon, I was frequently teased for being Asian and because I was already very shy, which manifested itself in a tendency to make jokes about my own race and appease my bullies to make friends. However, as I started exploring sports and other new activities in high school and maturing as an individual, I started to value myself more and build up confidence. Later in high school, I joined my city/county youth policy body, which also served as a youth development program focusing on social justice, pushing me to think more critically about the importance of my racial identity. Especially during senior year, I started identifying more strongly with the “angry Asian” ethos – that of social consciousness and resistance

1 towards the status quo.

2 5. While applying to college, I tried my best to emphasize my diverse experiences,  
3 community involvement, and leadership skills, since I felt like those were the traits that  
4 would most distinguish me from not only “other Asians” but also most applicants in  
5 general. My personal essay focused on my social development from childhood through  
6 high school, a shift from a shy, anti-social kid to a community member who truly valued  
7 his connections with others.

8 6. My application to Harvard was almost an after-thought, just something I tossed in because  
9 I already had my essays ready. I’d say my applicant profile was pretty stereotypical for a  
10 successful Harvard app – great test scores, perfect grades, community service, leadership,  
11 sports, a couple national awards – so I wanted my essays to humanize me a bit more,  
12 hence the story of my social development. For Harvard specifically, I actually think the  
13 most impactful component of my application was my alumni interview, which was  
14 conducted by someone who had been doing them for over 20 years. The interviewer was  
15 so interested in my experiences after the first interview, which lasted two hours, that he  
16 invited me back for a second two hour interview. These consisted mostly of us chatting  
17 and me going through my life experiences and my various views of the world. The  
18 interviewer told me that I was one of the greatest applicants he had ever received, and he  
19 and I still keep in close contact. I’m actually very curious to check out my application file  
20 to see what kind of impact the interview may have had.

21 7. Since coming to Harvard, I’ve interacted with a much more diverse group of peers than  
22 before. Interestingly, most of my friends now are Asian, which contrasts my previous  
23 white community. Most of my other friends are also people of color. I’ve learned a great  
24 amount about other people’s worldviews and cultures, which has definitely bolstered my  
25 own perspective. As I’ve matured through college, I now feel much more comfortable  
26 interacting with and working with people of different backgrounds.

27 8. As an example, a lot of the friends I’ve made are African-American, and since I study,  
28 dance to, and work in hip-hop, a black cultural product, they’ve given me a much more

1 educated and conscious understanding of hip-hop's significance and the role various races  
2 play within it. More broadly, I think African American students at Harvard are huge  
3 drivers of community building.

4 9. I have always gotten the sense that certain white groups on campus just don't like to  
5 associate with Asians, particularly when we're affiliated with an Asian cultural  
6 organization. There isn't anything overt so much as they simply avoid contact with us. My  
7 interactions with various Person Of Color (POC) groups have been relatively free of any  
8 discomfort or microaggressions. I think one of the main impediments to a healthy racial  
9 climate at Harvard is the lack of tangible space, staff, and resources dedicated to cultural  
10 groups on campus.

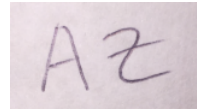
11 10. I believe race is a key aspect of identity that no other quality can completely capture or  
12 account for in any quantitative or qualitative analysis. Racial diversity is thus important in  
13 the way that any diversity exposes people to new perspectives. I do think that race *and*  
14 class diversity are equally important in affirmative action programs, since there is so much  
15 class diversity even within racial groups. Current classifications for racial groups are also  
16 imperfectly constructed and misconstrue reality.

17 11. I think racial diversity has definitely benefited my life by bringing me so many friends  
18 with different experiences. But it is important that discussions about diversity do not  
19 tokenize racial minorities by viewing them as important for white "learning," since we  
20 rarely get anything out of it while spending tons of energy "teaching."

21 12. I think Harvard has many things it needs to fix when it comes to its race, and I don't think  
22 Harvard has demonstrated that it cares enough for any racial minority. However, I  
23 ultimately support race-conscious admissions because race is a key part of someone's  
24 background and should therefore be considered when reviewing applications.

25 I declare under the penalty of perjury under the laws of the United States of America and the  
26 State of New York that the foregoing is true and correct and that this declaration was executed on  
27 7/27/2018, in New York, New York.

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A.Z.

# **Exhibit 1.3**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of D.L.**

I, D.L., declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Chinese American. I am currently a sophomore (Class of 2020) at Harvard University majoring in Physics and Philosophy.
3. My parents grew up in mainland China and came to the United States on student visas. I grew up in Chelmsford and moved to Carlisle, Massachusetts at the beginning of middle school. Both communities are predominantly white, although Carlisle is wealthier and less diverse. I attended Concord-Carlisle High School, a high-performing public school in Massachusetts. There were very few people of color in any of my classes, and the few people of color were usually Asian. Despite the generally liberal bent of Carlisle, both overt and subtle expressions of racism occurred when I was in high school. For example, one student wrote F\*\*\* N\*\*\*\*\* with gummi bears in the inside of a cupboard at the library and a staff person at the school spoke to me very slowly because he thought that I was an exchange student.
4. In high school, I did well academically. I had a 4.4 weighted GPA and I scored 2360 on the SAT. I was also involved in many diverse extracurricular activities, including being



1 captain of the debate team, winning state championships in debate and ranking in the top  
2 50 in the country in debate. I was also captain of the dance club, president of the chorus,  
3 and the lead in a Phantom of the Opera production. I also had the opportunity to conduct  
4 scientific research with a postdoc fellow at MIT, create a science club where we explored  
5 an area of science not covered by classes, and I won first place in a science fair.

6 5. I applied early action to Harvard. Given my strong academic credentials, my high school  
7 counselor advised me that Harvard and other top universities may be targets based on my  
8 credentials but reach schools because of the competitiveness of the process. In my  
9 application, I disclosed that I was Chinese American. For a moment, I hesitated, but I  
10 decided to include it because that it was important to my identity. In my essay, I talked  
11 primarily about my passion for many disparate activities. I did not discuss race in my  
12 essays, but it did come up during my interview. I was interviewed by an Asian American  
13 law professor who asked me about the positioning of Asian Americans in United States  
14 politics. I discussed how the model minority myth essentializes Asians and obscures the  
15 discrimination that Southeast Asians experience, which is so different from the East Asian  
16 experience. I also pointed out that the model minority myth perniciously uses Asian  
17 Americans as a measuring stick, which hurts all people of color. Upon viewing my  
18 admissions file, I saw that my interviewer indeed noted that he was particularly impressed  
19 by our discussion of race since “the subjects [I] addressed call for a sophisticated  
20 understanding of equality and discrimination.” I ended up getting into Harvard during the  
21 early admission process. In addition, 2 other people from my high school class were also  
22 admitted, one of whom was also Asian even though Asians make up a very small  
23 percentage of the school.

24 6. At Harvard, I have become much more interested in activism. I am involved in the Task  
25 Force on Asian and Pacific American Studies (TAPAS), which is pushing for an ethnic  
26 studies department and provides a space for progressive Asian American students to  
27 dialogue about important issues. I really appreciate the diversity at Harvard. There is a  
28 strong presence of Asian Americans, which was lacking in the communities where I grew

1 up, and the opportunity to interact with many students of diverse backgrounds that I rarely  
2 interacted with before. For example, I am very involved in the hip hop dance team,  
3 through which I've had the opportunity to learn more about the place of hip hop dance in  
4 black culture and become friends with many brilliant students of diverse minority racial  
5 backgrounds. Overall, the diversity at Harvard that is made possible by its affirmative  
6 action program contributes tremendously to the school and to my personal experience.

7 7. At the same time, there are still a lot of problems at Harvard. The "Finals Club," an  
8 invitation-only fraternity that is notorious for its elitism, whiteness, and high records of  
9 sexual assault, continues to exist on campus. Very few Asians or other men of color are  
10 invited to join Finals Club. The Administration has also been resistant to investing in  
11 institutional reforms that could have a deep impact on racial climate on campus, such as  
12 creating an ethnic studies department or creating Bridge program for low-income students  
13 (created just this year after a long effort of student advocacy).

14 8. Although affirmative action does not solve all of the problems with racial inequity at  
15 Harvard, I believe that it is a good policy to help minority students and the diversity that it  
16 creates benefits everyone. The lawsuit conflates Harvard's race-conscious admissions  
17 policy, which properly accounts for race, with a policy that actively suppresses Asian  
18 American enrollment. While it is possible that implicit biases exist, these biases are not  
19 related to Harvard's affirmative, race-conscious policy which is a huge benefit to students  
20 of color including Asian-Americans. If there is progress to be made in ensuring a fair  
21 evaluation of each applicant there is no reason why it needs to be at the expense of a policy  
22 that properly accounts for ethno-racial life obstacles and creates a better learning  
23 environment for all.

24 I declare under the penalty of perjury under the laws of the United States of America and the  
25 State of California that the foregoing is true and correct and that this declaration was executed on  
26 April 27, 2018, in Cambridge, Massachusetts.

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28 DL

# **Exhibit 1.4**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of J.L.**

I, J.L. declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Korean American. I am currently a junior at Harvard University, majoring in Cognitive Neuroscience and Evolutionary Psychology with a secondary in History of Art and Architecture.
3. I was born in Korea and immigrated to Texas when I was five years old. I grew up in Flower Mound, Texas, an affluent suburb of Dallas that is predominantly white. My parents own a donut shop and have worked incredibly hard to provide my older brother and I with the privileges of a middle class lifestyle. My parents only knew how to speak broken English and I frequently had to serve as their interpreters. Many of my high school peers stereotyped me as a hard working Asian with no other passions besides homework and studying.
4. I attended Flower Mound High School, one of the best public high schools in Texas. At Flower Mound, I excelled academically, but art was my true passion. I played violin, served as the President of the Art Club/ National Art Society, founded an advocacy organization and served as the Vice President of Creative Engagement and Design, and

1 received numerous awards for my artwork, including a Gold Seal at the Visual Arts  
2 Scholastic Event, the most prestigious art award available for Texas high school students.  
3 I also engaged in significant public service in high school, including volunteering at my  
4 church during my summers.

5 5. I scored a 2330 on my SAT and graduated 6th in my class. I applied to every Ivy League  
6 college except the University of Pennsylvania, including early action to Yale, but I was  
7 rejected or waitlisted at every school except Harvard. In my general application, I  
8 discussed my love of art, but in my Harvard supplement, I discussed my intersecting  
9 identities, with a heavy emphasis on my Korean identity.

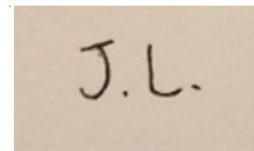
10 6. I do not believe that Harvard uses affirmative action to discriminate against Asian  
11 Americans. After all, I freely discussed my racial background in my essay and was still  
12 admitted, even though a college consultant told me that I did not have a shot at any Ivy  
13 League school. I also believe that my college application experience highlights the fact  
14 that college admissions is about more than merit because I was accepted to only one Ivy  
15 League school even though they all have similar standards for admission.

16 7. In addition to benefiting directly from Harvard's race conscious admissions policy, I  
17 believe that I have also benefited indirectly. Harvard is substantially more diverse than  
18 my homogeneously white high school and it has given me the opportunity to interact with  
19 many different people. I believe that Harvard's race conscious admissions policy is  
20 responsible for much of its diversity. Since coming to Harvard, I have been very involved  
21 in the Phillips Brooks House Association (PBHA), the nation's largest student-run public  
22 service non-profit that serves more than 10,000 individuals in and around the greater  
23 Boston area. PBHA is a hub for diverse student organizing on campus and has challenged  
24 me to develop a deeper commitment to social justice. I am currently an Officer for PBHA  
25 and I also serve as the Co-Director of the Boston Refugee Youth Enrichment (BRYE)  
26 program, which serves low-income youth in Dorchester. I have also engaged in  
27 psychology research on racism, prejudice, intersectionality, and the development of  
28 hierarchies in children.

1 8. Overall, the presence of students of color on campus is vital to the College's student  
2 organizations, its learning environment, and mission for public service and social justice.  
3 So many students engaged in social justice work approach it through the lens of their own  
4 experiences. If there were fewer underrepresented minorities on campus, Harvard would  
5 lack a divergent set of perspectives to help inform our social justice work. The  
6 community would absolutely suffer, particularly given that the advocacy on campus is  
7 really cross-racial. Students of all races and ethnicities have advocated for an ethnic  
8 students program, for additional spaces for students of color, and for the University to  
9 change how its signals importance on campus with portraits, seals, and names of  
10 buildings.

11 9. I support Harvard's race-conscious admissions policy. I wrote freely about my Korean  
12 heritage and its impact on my life during the admissions process and I was admitted, even  
13 though I was not admitted to any other Ivy League school. My application experience  
14 demonstrates that Harvard (and other Ivy League schools) evaluate many factors in  
15 making admissions decisions and are not actively discriminating against Asian Americans.  
16 Race conscious admissions is not a panacea for all of the inequity in the education system  
17 or on college campuses, but I believe it is a critical policy to open the doors to an elite  
18 university like Harvard for all students of color, including Asian Americans like me.

19 I declare under the penalty of perjury under the laws of the United States of America and the  
20 State of California that the foregoing is true and correct and that this declaration was executed on  
21 March 20<sup>th</sup>, 2018, in Cambridge, Massachusetts.

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25 J.L.  
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# **Exhibit 1.5**

**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS, INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF HARVARD  
COLLEGE (HARVARD CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**DECLARATION OF M.E.**

M.E., pursuant to 28 U.S.C. Section 1746, declares the following:

1. My name is M.E.. I am 15 years old.
2. I am entering 10th grade at a large public high school.
3. I am Native American, with a tribal enrollment in the Gila River Indian Community.
4. There is a 6% Native American population at my school.
5. I am enrolled in my school district's gifted and talented program.
6. This program operates as a school-within-a-school. Admission into the program is based on a Cognitive Abilities Test (cogAT), essays, and an interview. There are very



few Native students in the program.

6. I take mostly Academy Honors classes. Some of my classes are Advanced Placement. My current high school is my second high school. I originally started my freshman year at a larger high school with a International Baccalaureate Program. I liked that high school because it had a strong Native American community. Unfortunately, I was bullied for months by a non-Native older student. I believe the bullying was related to my high grades. When the bullying became physical, my sister and I sought help from administration. Nothing seemed to change. I transferred after Spring Break.

8. In addition to high school, I take classes at a local college. A special college program provides scholarships and college advising to Native American high school students. This summer, I took a college success course and a Native American Studies course. This fall, I will be taking Introduction to Sociology.

9. I participate in basketball. I also volunteer at an animal shelter.

10. I dance competitively at powwows, which are Native American social events. I have a large extended family, many of whom live on the reservation. They are my link to my culture.

11. At my previous high school, I was very active in the Native American Club, earned several Native American Scholar Awards, and was inducted into the Native American Honors Society. I enjoyed these connections to the community.

12. I am more likely to select a college that has an active Indian community.

13.. I would like to be a veterinarian someday. I try to take rigorous science and math courses. I will continue to challenge myself in college.

14. When I apply to college, I plan to apply to Harvard University. I will also apply for financial aid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this day, July \_\_\_\_\_, 2018.

**M.E.** *[Signature of minor redacted with minor's consent]*

M.E.

# **Exhibit 1.6**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of S.C.**

I, S.C. declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Chinese American. I am currently a junior at Harvard University.
3. I grew up in San Francisco, California where I lived in a one-bedroom apartment with my parents and my three siblings. My parents came to the U.S. in the 1980s under family- sponsorship visas. My dad is a restaurant worker and my mom stayed home to take care of my siblings and I. We lived at the intersection of Nob Hill and the Tenderloin, neighborhoods overlapping in zip codes that starkly differ in average income, such that my elementary school, while fairly well-funded, was only a few blocks from liquor stores and strip clubs. The area where I lived was racially diverse and experienced a significant influx of Asian immigrants during that time. Growing up, and to this day, I serve as my parents' translators, wrangling the legal jargon of bills into plain English to Chinese and back.
4. I attended Lowell High School in San Francisco, which is a public magnet high school. At

1 Lowell, I served as president of the student body for three years, volunteered with the Red  
2 Cross, and served as a peer mentor. I also interned at outLoud Radio, representing queer  
3 youth voice, joined the UCSF Youth Steering Committee to identify and address issues  
4 that young women face in today's society, and interned at the UCSF Mission Bay Cellular  
5 & Molecular Pharmacology Labs, where I worked with my mentor to build a microscope  
6 system capable of tracking stem cell growth. I did well in school, but I did not have a  
7 perfect GPA and I was not valedictorian. I scored 2150 on my SAT, which is far lower  
8 than the average SAT score of 2229 for my class.

- 9 5. When I told my high school counselor that I was applying to Harvard, he cautioned me  
10 that people with higher scores had not gotten in. Other counselors advised me against  
11 writing an Asian immigrant story in my personal statement because it was overdone and  
12 might hurt my chances of getting into a good school. I did not follow my counselor's  
13 advice. In my personal statement, I wrote about my Chinese immigrant parents, my role as  
14 a translator, and the struggle that immigrants face in this country. During my interview, I  
15 discussed how I saw my interests in both politics and science as part of a larger interest in  
16 social justice, stemming from my own experiences. I spoke candidly about having one of  
17 my first internships via a program supporting underrepresented minorities in computer  
18 science and how I viewed my role on student government in light of my responsibility and  
19 connection to others.
- 20 6. To my surprise, I was admitted to Harvard and provided a generous financial aid package.  
21 After I became a student at Harvard, I looked at my application file and discovered that  
22 my leadership abilities, and diverse academic interests, which drew largely from my  
23 Chinese heritage and low-income status, weighed strongly in favor of admission as a  
24 positive indication of my "humor, empathy, and humility," notwithstanding my lower than  
25 average SAT scores and imperfect GPA. I don't think that I was admitted because I am  
26 Chinese, but I believe that I benefitted from Harvard's race conscious admissions policy  
27 because it allowed the College to look at me as a whole person and view my qualifications  
28 in the context of both my class and race.

1 7. I do not believe that Harvard uses affirmative action to discriminate against Asian  
2 Americans in their admissions process. Since coming to Harvard, I have engaged in many  
3 campus activities to promote the interests of Asian Americans. For example, I am the  
4 Campus Liaison for APIAVote, a national nonpartisan organization that works with  
5 partners to mobilize Asian Americans and Pacific Islanders in electoral and civic  
6 participation. I am one of the directors of the Chinatown Citizenship program with the  
7 Phillips Brooks House Association, and I am a co-coordinator and organizer for the Task  
8 Force on Asian and Pacific American Studies, which is working towards creating a center  
9 for the study of race and ethnicity at Harvard that would support undergraduate students,  
10 graduate students, and faculty in Asian American Studies.

11 8. I support Harvard's race-conscious admissions policy. I wrote and spoke freely of my  
12 Chinese descent during the admissions process and my GPA and SAT scores were lower  
13 than average, yet I was admitted, which suggests that Harvard evaluates many other  
14 factors in determining merit and are not actively discriminating against Asian Americans.  
15 In fact, I believe that Harvard's race conscious admissions policy benefitted me because it  
16 allowed the admissions officers to consider the role of my race on my life experiences and  
17 achievements. Race conscious admissions is not a panacea for all of the inequity in the  
18 education system or on college campuses, but I believe it is a critical policy to open the  
19 doors to an elite university like Harvard for all students of color, including Asian  
20 Americans like me.

21 I declare under the penalty of perjury under the laws of the United States of America and the  
22 State of California that the foregoing is true and correct and that this declaration was executed on  
23 03/08/2018, in Cambridge, Massachusetts.

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25   
26 S.C.

# **Exhibit 1.7**

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION

STUDENTS FOR FAIR ADMISSIONS, INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF HARVARD  
COLLEGE (HARVARD CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

DECLARATION OF S.N.

S.N., pursuant to 28 U.S.C. Section 1746, declares the following:

1. My name is S.N., I am under 18 years of age and I am fully competent to make this Declaration.
2. I attend a public high school, where I have recently completed the 11<sup>th</sup> grade.
3. I am African American.
4. At my school, roughly 40% of students are classified as a minority, but it does not feel this way in reality.
5. In the past calendar year alone, my county has dealt with several racially motivated hate crimes, with one specifically taking place at my school. The main target of these hate crimes has been the African American community of which I am a part.



6. Unfortunately, this is not a new phenomenon, but rather one that I have dealt with for the majority of my time in public school.
7. When it comes to my scholastic success, I do not fit the general stereotype that my school has perpetuated for students that look like me. This school year 6 out of my 8 classes were of the Advanced Placement level, and the remaining 2 were rigorous honors courses.
8. My junior year class schedule included AP United States History, Honors Spanish V, AP Spanish Language, AP Language and Composition, and 2 semesters of both AP Calculus and AP Chemistry. With this course rigor, I'm ranked 5th out of a class of 547 students.
9. In addition to my dedication within the classroom, I am also an active participant in several extracurricular activities. I am currently serving as the Low Winds Captain in my school's marching band. I am also a part of several organizations including: National Honor Society, National Spanish Honor Society, Math Honor Society, Science Honor Society, Leo Club, and National Achievers Society.
10. Although I am on track to become the President of several of these organizations in the coming months, I am most proud of my involvement in the National Achievers Society and its promotion of minority excellence within the school and the community as a whole. Being that we are all high school students with college on the horizon, we often discuss the application process, and specifically affirmative action and what it means to us.
11. While it is true that my GPA, test scores, and extracurricular passions may set me apart from the application pool, I am also aware that my race does the same. I

wholeheartedly support affirmative action in the college admissions process and understand that we have not outgrown the need for specific measures to compensate for a host of ways in which the playing field is far from level.

12. With my current career plan to merge fiction and reality using burgeoning concepts like nanotechnology, high fidelity simulation, nonlinear modeling and clinical informatics, I have accepted that I will be in school for quite some time.
13. It is important to me to be in an educational environment that values diversity and represents an inclusive community. I plan to apply to several elite colleges and universities including Harvard University.
14. I'm informed that in documents filed this summer in this case, there is an indication that one possible result of Harvard not considering race in admissions would be a reduction in African American students at Harvard. With the abundance of racial inequality that already exists in the college admissions process, the possibility that this will grow at Harvard is thoroughly troubling. The higher education system produces the success that it does because of its diversity and pretending that race plays no factor in this diversity is futile.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this day, July 28, 2018.

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S.N.

# **Exhibit 1.8**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of T.D.**

I, T.D. declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Vietnamese American. I am currently a junior at Harvard University.
3. I was born in Vietnam and lived there until I was 8 years old. My family immigrated to the United States in 2006 to provide my sister and I with more opportunities. We moved to a working class neighborhood in the San Fernando Valley region of Los Angeles. My neighborhood was mostly black and Latino, with some Filipino families. I felt an affinity to other people in my neighborhood because of our shared experience with poverty, but I did not feel like people understood my racial and ethnic identity. For example, I was frequently called “chink” and “chinito” even though I am Vietnamese.
4. I did not speak English when I arrived in the United States and I was ridiculed at school for my accent, which made me avoid speaking in class because I felt that my voice did not matter. For an entire year, I put a pencil between my teeth to read hundreds of books out loud to improve my pronunciation. I also challenged myself by joining a humanities magnet program in high school to explore my linguistic capabilities. Yet, to this day, people sometimes still say they do not understand me.

- 1       5. As I grew up, I disassociated myself with my ethnic identity. I did not hang out with  
2       recent immigrants or participate in anything related to the Vietnamese community.  
3       However, in high school, I started to learn about race and had the opportunity to focus on  
4       my own identity struggles. Through these classes, I began to understand how the Asian  
5       American identity had been constructed, why people called me Chinese, and the  
6       importance of my Vietnamese identity.
- 7       6. When I applied to Harvard, I had good grades, but I did not have competitive SAT scores.  
8       I scored a 2080 on the SAT and the average score for UCLA and UC Berkeley admits is  
9       2100. Initially, I did not intend to apply for Harvard or any Ivy League school because I  
10      did not think that I was competitive. I applied to Harvard three days before the deadline  
11      and I was surprised when I was admitted.
- 12     7. Although I don't know for sure, I think that my personal statement helped me get into  
13      Harvard. If you get into Harvard, you can review your file. The one thing that stood out  
14      from me about the comments on my file is that my personal statement reflected that I had  
15      a "good sense of myself." In my personal statement, I talked about my experience as an  
16      immigrant, the challenges that I faced as an English Learner, and my racial and ethnic  
17      identity. My life experiences have been shaped in large part by my race and ethnicity,  
18      which was reflected in my personal statement. Therefore, I believe that I benefitted from  
19      Harvard's race conscious admissions policy because it allowed the University to look at  
20      me as a whole person and take into account the adversity that I have overcome because of  
21      my race.
- 22     8. I do not believe that Harvard discriminates against Asian Americans. Statistically, there  
23      are more Asian American students at Harvard than other communities of color, such as  
24      African Americans and Latinx students. However, Harvard's race conscious admissions  
25      policy does not make it a model school. In fact, there are still many problems with  
26      diversity at Harvard, which continues to be dominated by white students. Asian  
27      Americans are the second largest group at Harvard, but the University fails to take into  
28      account the diverse needs of this broad population. The University does not provide

1 adequate community spaces for ethnic groups to converge and explore ethnic-specific  
2 identity questions. There is a big presence of Chinese and Korean culture and community  
3 on campus, but very little presence of Southeast Asian culture.

4 9. Within the classroom, racial diversity in my Public Health class broadened my  
5 understanding of race, power, and ethics within the scientific community. Specifically, a  
6 classmate pointed out to me that nearly all of the case studies presented in class performed  
7 experiments on certain racial groups, namely individuals in Africa or low-income  
8 communities of color. This helped create a body of public health theory grounded in the  
9 perspectives of white people and often imposed on communities of color. I probably  
10 would not have noticed these trends if my classmate had not pointed it out. As an Asian-  
11 American, they were probably more sensitive to this racial pattern and helped give me a  
12 more nuanced and complex understanding of the ethical dilemmas within scientific  
13 research. It was also made me realize that our casebook could perpetuate stereotypes  
14 about people of color by portraying them as "subjects" of research, reducing them to  
15 scientific study rather than full humans. It was important that there were people of color in  
16 the room who were students studying the cases, not merely "subjects" of them. This  
17 reduced the likelihood of perpetuating a prejudiced view of people of color.

18 10. Having students of color on campus is critical to our learning, both in- and outside of the  
19 classroom. If Harvard had fewer students of color, I think the public service perspective,  
20 in particular, would be very different. It's so critical to truly understand the experiences  
21 of the communities we are serving and a diverse group of students of color are central to  
22 that. It was also the Black student groups on campus that really pushed for spaces to find  
23 solace and wrestle with the arrest of the Black Harvard College student. This push  
24 benefitted Harvard's broader community and racial climate, particularly for students of  
25 color.

26 11. Clearly, race-conscious admissions cannot create the inclusive culture and diversity that is  
27 ideal at Harvard, but it is a necessary, albeit insufficient strategy to achieve diversity. If  
28 Harvard eliminated its race-conscious admissions program, the admissions committee

1           could not have considered the role of my race on my life experiences and achievements  
2           and I do not know if I would have been admitted. Therefore, I believe that race-conscious  
3           admissions is critical to opening the doors to an elite university like Harvard for all  
4           students of color, including Asian Americans like me.

5           I declare under the penalty of perjury under the laws of the United States of America and the  
6           State of California that the foregoing is true and correct and that this declaration was executed on  
7           07/27/18, in Cambridge, Massachusetts.

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T.D.

# **Exhibit 1.9**



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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of Y.Z.**

I, Y.Z., declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Chinese American. I am currently a junior at Harvard University majoring in Government with a minor in Economics.
3. I was born in Sichuan province in China. I lived in China until I was four years old with my grandparents. In 2002, I joined my parents in Boston, where they were studying. Initially, I lived in Quincy, a very diverse city near Boston with a large Asian population. After my dad finished his doctorate, we moved to Brookline, a modest-sized town adjacent to Boston that was much wealthier and whiter than Quincy. However, due to the Metropolitan Council for Educational Opportunity (METCO) integration program that brought diverse students from Boston into Brookline public schools, I grew up having friends from diverse backgrounds.
4. When I was 12, my family moved to an upper-middle class suburb on Long Island that is well-known for its top-ranked public schools. My town was not diverse; the vast majority of people are white and there is also a sizeable Asian population, but almost no African American or Latino families. In high school, I benefitted from the vast

1 resources available at my school and gravitated towards activities like speech and debate  
2 and Model United Nations. These activities provided me with lots of writing and oral  
3 advocacy opportunities that helped tremendously during the college application process.  
4 Like most students in my community, my parents had the resources to send me to private  
5 SAT prep classes that helped me raise my score from 1980 on my first practice test to  
6 2350 when I actually took the SAT.

7 5. I applied to 11 colleges, including Harvard, Princeton, and Yale. I applied early decision  
8 to Princeton and was deferred and ultimately rejected. I was waitlisted at Yale, John  
9 Hopkins, and Washington University. However, I was accepted to Harvard. I disclosed  
10 my race in my application and I do not believe that it was used against me in the  
11 admissions process. After all, I was admitted to Harvard when I was rejected or waitlisted  
12 at other Ivy League schools.

13 6. Coming from my suburb, Harvard seemed incredibly diverse to me. Harvard has a large  
14 Asian American population (22 percent) and I made many African American friends  
15 during my first year who shared perspectives with me I had previously not been  
16 exposed to. During my freshman year, I had many conversations about race and  
17 class with my friends that forced me to confront my own prejudices and privilege.  
18 Growing up, I did not recognize my privilege because I was surrounded by privilege. I  
19 thought that everyone took test prep classes and scored above 2200 on the SAT. I did not  
20 realize how much the SAT was a “teach to the test” kind of exam that I did well on merely  
21 because my parents had the resources to provide me with test prep classes, a privilege that  
22 many of my friends lacked. I did not realize that the extracurricular activities that I loved  
23 and that gave me an edge in the college admission process, like speech and debate and  
24 Model United Nations, were not available to all students. I am glad that Harvard  
25 considers race in its admissions policy so that it gives full consideration to brilliant  
26 students like my friends who may not have had the resources to take test prep classes and  
27 therefore have lower scores than people like me, even though they are equally, if not more  
28 qualified to be at Harvard.

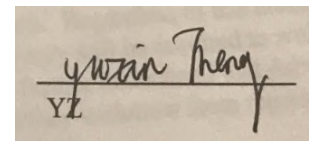
29 7. I support affirmative action for all minority groups, including racial minorities. I have a

1 disability. Ever since I was five years old, I have lived with a diagnosis of muscular  
2 dystrophy, which requires me to use a walker on some days. I wrote about my disability in  
3 my application essays and I believe that helped me to get into Harvard. No one makes a  
4 fuss about the admissions office considering my ability to overcome challenges posed by  
5 my disability as a sign of my strengths, resilience, and unique perspective. There is no  
6 reason why overcoming the limitations in opportunities due to race should not be  
7 considered in the same way as a potential sign of strength, resilience, and unique  
8 perspective.

9 8. I also believe that the majority of Harvard students support race-conscious admissions and  
10 it is our voice, rather than our parents, that should be leading the conversation on this  
11 issue because we are the most affected. I am the Treasurer for the Phillip Brooks  
12 House Association (PBHA), a student run non-profit that serves more than 10,000  
13 constituents every year. Many diverse students participate in PBHA and most of the  
14 students that I've spoken to support affirmative action, even if their parents have very  
15 different views. I am also very involved with an Asian American Sisterhood and I have  
16 spoken to several members who have all told me that they support affirmative action.  
17 Affirmative action is not enough to address the vast disparities in educational opportunity  
18 that exist in K-12 education, but it is an important equity tool and I believe that the  
19 diversity and climate at Harvard would suffer tremendously if it were eliminated.

20 I declare under the penalty of perjury under the laws of the United States of America and the  
21 State of California that the foregoing is true and correct and that this declaration was executed on  
21 March 27, 2018, in Cambridge, Massachusetts.

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Yuzan Zheng  
YZ

# **Exhibit 1.10**

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of Sarah Cole**

I, Sarah Cole, declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as Black American. I am originally from Kansas City, Missouri. I graduated from Harvard College in 2016 and Harvard Graduate School of Education in 2017. I currently serve as a public schoolteacher in Washington, D.C.
3. I began planning to get into an excellent college in middle school. I knew in order to get into the college of my dreams (at the time it was Columbia), I had to receive an excellent high school education. In order to receive that education, I couldn't go to my neighborhood high school, which lacked full accreditation; I needed to receive a scholarship to attend a private school with a reputation for being rigorous and preparing students for college. In order to receive such a scholarship, I had to be an exceptionally strong middle school student, and so, at twelve years old, I carried the weight of my future and committed to being my best self. It paid off. I received a nearly full-ride scholarship to attend the most prestigious private, college preparatory high school in my city. Although the education I received at my new school was incredible, it cost me socially: I was one of only a handful of black students at the school. I felt culturally, socially, and

1 racially isolated. However, that handful was a mighty handful, and we supported each  
2 other through the casual racism we frequently encountered.

3 4. My college counselor convinced me I should apply to Harvard my senior year. He thought  
4 I had a good shot at getting into the school. I applied, and I was admitted. I cried when I  
5 opened the email because I felt that the acceptance validated the hard work and sacrifices I  
6 had made since middle school, but I did not actually want to attend Harvard. My  
7 classmates, counselor, family, and friends were baffled. How could I say no to Harvard?  
8 The truth was, I was not interested in spending four years at a school for rich white kids,  
9 especially after I had just done that for high school. I was not willing to make that  
10 sacrifice again. However, I received a free trip to visit Harvard, and that experience  
11 completely changed my mind.

12 5. Harvard's Undergraduate Minority Recruitment Program (UMRP) connected me with a  
13 young black woman, with whom I am still friends, to be my host. I ate dinner with her  
14 friends at a table full of black students, and I was in shock over how much I related to  
15 them, their jokes, their cultural references. At that moment I saw them, and they saw me.  
16 We were a bunch of black kids sitting in a dining hall probably built by our ancestors.  
17 Harvard may have had a long history of educating only wealthy white men, but that was  
18 not the case any longer. Right then, I decided I could be a student at Harvard because I  
19 had seen other students who looked and spoke like me.

20 6. Race-blind admissions is an act of erasure. To try to not see my race is to try to not see me  
21 at all. No aspect of my life has been untouched by my race. The story my application told  
22 was impressive on its own, but it was richer, more powerful, more impressive because of  
23 my race. I did not just commit to excelling when I was a preteen-- I did so despite being  
24 told by multiple white teachers that I was not good or smart enough. I did not just have  
25 one of the highest GPAs at my high school; I earned those grades while being called a  
26 "nigger," told I did not belong, and bullied over the shape of my full lips. I did not just  
27 apply to the top colleges; I did so while working a part-time job where customers laughed  
28 at me in my Stanford shirt because I did not "look like" I could get into a school like that.

1 I did not just get competitive SAT scores, I got them on a test known for racial bias. A  
2 good admissions officer understands the impact race has on the lives of all their  
3 applicants, and they must take that into consideration as they choose a class of students  
4 they want to thrive at and contribute to their school community.

5 7. Ultimately, my time at Harvard College was challenging not because of the academics,  
6 but because of the overwhelming pervasiveness and steadfastness of white, wealthy  
7 culture there. Although other students of color were a saving grace, our numbers proved to  
8 be inadequate. By my sophomore year, I began working with other students of color to  
9 demand that the school do better by its students of color. For every request we made, we  
10 were given excuses that would have been laughable if we were not so desperate for  
11 change. We were told Harvard could hire more faculty of color, but none were qualified.  
12 We were told Harvard could offer cultural competency trainings to faculty, but that none  
13 would attend. We were told Harvard could enroll more students of color, but were asked  
14 whether there were already enough.

15 8. It was most clear to me that there were not enough people of color during the fall of my  
16 junior year at the height of awareness of police brutality against black people. I saw how  
17 much the black students on campus were hurting, and I felt it myself, too, but our  
18 classmates, our white friends seemed painfully oblivious. We planned a march to call  
19 attention to police brutality during a run Harvard students do every semester in the center  
20 of campus. During our march, we saw some students were supportive of our efforts, but  
21 we also received countless vulgar words and gestures from white Harvard students. I was  
22 physically assaulted by a large, white male student - all because we dared to assert that  
23 Black Lives Matter. People joke that Harvard is a bubble because it is so detached from  
24 the real world, but racism permeates all things, and it is alive and well inside the "bubble."

25 9. These experiences led me to know too intimately the need for more students of color *and*  
26 for real cultural shifts to adjust for our growing presence on campus and in America.  
27 Race-conscious admissions acknowledge and honor the challenges many students of color  
28 must overcome in order to be competitive applicants. This is a start, but an inadequate

1 one. There needs to be more active recruitment of students of color, especially those from  
2 particularly marginalized backgrounds, so that they can build community and contribute  
3 to the necessary shifting of culture at Harvard.

4 10. I dream of a Harvard experience where I wasn't the only slave-descendant black person in  
5 my philosophy class, or volunteer program (serving black and brown kids), or teacher  
6 preparation program. In all of those spaces, especially the latter, I knew the crucial  
7 importance of my voice and perspective, and many of my classmates and professors did,  
8 as well. I was often thanked for contributions in class. But that work was exhausting. It is  
9 not sustainable to expect individual students of color to be the lone workers helping to  
10 make their peers (and superiors) grow less biased.

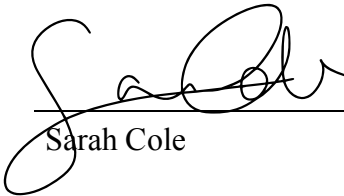
11 11. Harvard is shaping many of the world's leaders. It produces politicians, doctors,  
12 government workers, researchers, teachers and so many other change agents. This fact  
13 makes the importance of diversity on its campus particularly acute. Harvard already serves  
14 as a pipeline into these leadership fields, and it could be a pipeline that supports the  
15 diversification of these fields, so they can better reflect the diversity of the world.  
16 Furthermore, Harvard could be a pipeline that not only sharpens folks' critical thinking,  
17 but also develops their capacity for empathy and regard for others by making its campus a  
18 space where the "others" are allowed to safely exist and learn and teach.

19 12. For centuries, people of color in the Western world have been seen as less than, or not  
20 fully human because of our races. Race-conscious admissions turns this Western tradition  
21 on its head. It requires admissions officers to try to see us fully as our whole human  
22 selves. A departure from race-conscious admissions means reverting to that racist  
23 tradition. It means reneging on Harvard's commitment to diversity and developing world  
24 class leaders. The argument that race-conscious admissions is allowing some less  
25 deserving students of color to attend Harvard while preventing other, more deserving  
26 students of color is lazy, manipulative scapegoating. It relies on an underlying assumption  
27 that white students must be entitled to "their" seats at the school, and so, of course,  
28 students of color must fight over those remaining. I see through this age-old attempt to pit



1 people of color against each other, and stand with all who challenge inequitable  
2 understandings of “fair” college admissions.

3 I declare under the penalty of perjury under the laws of the United States of America and the  
4 District of Columbia (D.C.) that the foregoing is true and correct and that this declaration was  
5 executed on July 27, 2018, in Washington, D.C.

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Sarah Cole

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**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of Fadhal Moore**

I, Fadhal Moore, declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am an alumnus of Harvard College, Class of 2015, and I unapologetically identify as African-American. I currently serve as a middle school teacher in Washington, D.C.
3. My path to Harvard was not paved with gold. It was a beaten, earnest path through poverty, proud but mediocre public schools, and sometimes hunger. I grew up the eldest of five children in a seven-person family supported by my father's teaching salary. I entered the college admissions process largely ignorant of its twists and turns and unable to find much help from my well-meaning yet over-burdened high school counselors, who were each tasked with supporting over 350 students. That being said, I entered the process with that aforementioned feeling that I was all too familiar with: hunger. I consumed every bit of information that I could about how to fulfill my post-secondary dreams, how to step into that bubble of a world that I felt had long been denied to me and those whose shoulders I stood upon. That hunger helped me to gain not only admission, but a full-scholarship to Harvard University.
4. Since then, I have learned quite a lot about what Harvard refers to as its holistic

1 admissions process and how it takes, among a bevy of factors, an applicant's race into  
2 account when making their decisions about whether or not to admit them. I  
3 wholeheartedly support this process. When choosing its freshman class, Harvard College  
4 is creating a community, not a business. If there is no critical mass of minority students in  
5 attendance at the school, many of those who do attend may feel quite lost.

6 5. When I found myself on Harvard's campus as a freshman in the fall of 2011, saying I  
7 dealt with culture shock would be putting it lightly. I had entered a world of wealth and  
8 white upper/upper-middle class culture in which I was a stranger. My saving grace was  
9 Harvard's black community. A black student from Harvard was the first person affiliated  
10 with the university to contact me after my acceptance. Fellow black freshmen were able to  
11 commiserate with me about the specific challenges of adapting to this new world while  
12 still having brown skin. The Black Students Association and Black Men's Forum  
13 provided me with spaces to express every part of myself be it culturally or intellectually.  
14 These people, who feel more like family than anything at this point, ended up actually  
15 helping me learn many of the cultural cues necessary to navigate a white world with  
16 which I and many of my peers were so unfamiliar. It was other black students who opened  
17 doors to other non-black spaces that I ended up loving be they academic, political,  
18 musical, or for public service. It was other black students who made this school one that I  
19 would grow to call home.

20 6. I see race-based admissions policies through the lens of social justice. The history of  
21 America and its relationship with black residents of this country is a story of plunder, a list  
22 of countless injustices that have yet to be accounted for. When Lyndon B. Johnson pushed  
23 for affirmative action in his Executive Order 11375 in 1965, he made a point to say that  
24 the order was there "to correct the effects of past and present discrimination." If Harvard  
25 and other institutions are to try their best to counteract these effects, they must be  
26 conscious of the races of their applicants when making admissions decisions. Otherwise,  
27 lonely students of color will quickly become tokenized figures - even more so than they  
28 already are in these spaces - and will have the weight of the world and its history on their

1           shoulders as they are expected to be the sole representative of their race and culture.

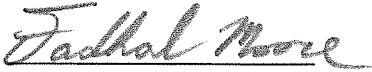
2           In addition, their experiences may be quite arduous upon arrival if, while making what is  
3           one of the biggest transitions anyone ever makes, they find themselves unable to find  
4           people who look like them, people who talk like them, people who understand the very  
5           specific struggle that accompanies being a brown face in sea of white wealth. It will be  
6           hard for them to stand up to the inevitable discrimination that they will face in these  
7           spaces alone. Whenever I felt as if my place at Harvard or in this country was under  
8           attack, I had a community who was ready to meet with me, write with me, march with me,  
9           and fight with me.

10          7. Many have argued that these race-based admissions policies put students in at these  
11          institutions who cannot handle the rigor and obscure the merit of other hard-working  
12          applicants who may be of lighter hue. I would hope that, with those who posit these  
13          notions, we can have a productive discussion on merit. Admission to college should be  
14          merit-based in the sense that it ensures that students can thrive and make the best use of  
15          the resources available to them so that they - and subsequently our society - may thrive.  
16          (Incidentally, my peers of color at Harvard did just that, likely more so than some legacy  
17          admittees.) Where our beliefs diverge is that I believe race-based considerations are  
18          inherently merit-based considerations. To take into account the centuries of denied access  
19          to wealth and quality education that black people have had to overcome is the logical path  
20          to considering the merit of an applicant. Even more well-off black candidates have to deal  
21          with the stress of being black in this country and have families that had to fight all too  
22          hard to achieve all that they have.

23          8. When I applied some seven years ago, I had a great SAT score but it was below the  
24          average Harvard freshman's. My application, just like everybody else's, had to be looked  
25          at holistically. This includes my race, which has unfortunately been the source of many of  
26          the hardships my family has endured. For those who say that I did not "deserve" my spot,  
27          I would encourage them to look at the A's I earned while I was there.

28          I declare under the penalty of perjury under the laws of the United States of America and the

1 District of Columbia (D.C.) that the foregoing is true and correct and that this declaration was  
2 executed on July 27, 2018, in Washington, D.C.

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# **Exhibit 1.12**

**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT COURT OF MASSACHUSETTS  
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS,  
INC,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF  
HARVARD COLLEGE (HARVARD  
CORPORATION),

Defendants.

Civil Action No. 1:14-cv-14176-DJC

**Declaration of Itzel Libertad Vasquez-  
Rodriguez**

**I, Itzel Libertad Vasquez-Rodriguez, declare the following:**

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I identify as indigenous Mexican-American, or “Xicana”. My mother’s side is Cora, a tribe from Nayarit, Mexico. I also identify more broadly as Latina. My ethno-racial identity intersects with my identity as a low-income, cisgender woman.
3. I attended Harvard from the Fall of 2013-Spring 2017. I graduated cum laude with highest honors in Sociology. I minored in Economics, received a citation in Spanish, and a certificate in Latin American Studies.
4. I became aware of my ethno-racial identity from a young age. For example, my Mayan first name is a constant reminder of my identity. I grew up understanding that my culture and traditions were different than many of my peers.



5. My Xicana identity shaped my perspective and made me the critical thinker I am today. Being Xicana meant that I grew up in a bicultural home, and was open to many ideas and ways of life. It also meant that from a very young age, I understood injustice firsthand, and noticed inequalities in my community. This knowledge instilled in me a need to fight for social justice; which in part, is what has propelled me to do well in school.
6. At the same time, being Xicana taught me from an early age that I would be critiqued for my appearance, and would be stereotyped. In high school, I was aware that I was one of the few Latinxs in AP and honors classes, and this pushed me to work harder, so that I could prove that Latinxs *are* smart.
7. In high school, I participated in various extracurriculars in addition to taking on a rigorous academic course load. For instance, I was on the varsity cross country and track team for three years, and I was captain in both sports for my last two years. I was an editor for our school newspaper for two years, participated and held leadership positions in a number of school clubs, and volunteered outside of school. In terms of my academics, I was a National AP Scholar, National Hispanic Recognition Program Scholar, took community college courses during the summers, and graduated with a 4.5 GPA.
8. I initially did not plan to apply to Harvard. I was worried that the school was too white, elite, and expensive. I also was worried that the social scene at a school like Harvard would be unsafe and alienating for a student like myself coming from a diverse area of Southern California. It was not until my junior year that I seriously considered applying, because someone suggested it to me. It was important to me that Harvard considered race in admissions. I wanted to attend a school that considered the whole person and took into account my unique perspectives as a Xicana. I believed that if a school took race into account in their admissions process, they would have a more diverse student body that

would more accurately represent the U.S. population and, therefore, be a more inviting and forward-thinking institution.

9. My college application highlighted my strengths and accomplishments, including those arising from my Xicana identity. One of my college essays was about my experience as a Latina growing up in Southern California and attending public schools. I shared how I was excluded at times, but these experiences helped me develop a strong sense of self and empathy for those who are “other-ed”. I also highlighted my involvement in the Spanish Club and the Latino Club at my high school. Beyond my own essays, one of my recommendation letters touched on my volunteer work on behalf of Native and Latinx students in our school’s academic program. During the interview, I spoke candidly about my Latina identity and how it has affected and influenced many of my life experiences.
10. When I was accepted to Harvard, other students claimed that it was only because I was Latina; nevermind the fact that I had a 4.5 gpa and had scored a 4 or higher on 10 AP tests. Similar types of assumptions were made about me by some of my classmates at Harvard. I knew that this type of simplistic, reductionist thinking was rooted in racial prejudice. When I had the patience and energy, I engaged with my peers to point out the flaws in their biased assumptions. These conversations were important and there must be more of them, but they were also tiring for me. To sustain my energy for these constant interactions, I found solace from my fellows students of color.
11. The representation of students of color was integral to my ability to learn, grow, and thrive at Harvard. This was true in several respects. At Harvard, I was challenged to think differently about issues based on my interactions with classmates whose ethno-racial identities were different than my own. For example, I learned more about the Palestinian-Israeli conflicts because of Palestinian students on-campus who held events and drew

parallels to the Latinx experience in the US.

12. My understanding was also greatly broadened by the level of diversity within given ethno-racial groups at Harvard. Such diversity counteracted my assumptions and gave me a more nuanced understanding of ethnic and racial experiences in this country and abroad. For example, my interaction with Afro-Latinxs at Harvard broadened my understanding of the Latinx identity in the US. I learned more about the African diaspora in Latin America. My Afro-Latinx colleagues also helped me become a better advocate by improving my ability to understand the distinct challenges faced by individuals with intersecting racial identities. For example, through conversations and events thrown by Harvard Fuerza, one of the many Latinx student groups on campus, I heard again and again from my Afro-Latinx colleagues that their Latinx identity is often overlooked in Black spaces. Some of my friends explained how their identities and their countries' histories (ex: the Dominican Republic and/or Cuba) are often overlooked in Latinx spaces as well. Because of these conversations, I felt emboldened to ensure that when I was in Latinx spaces, I would bring in histories and experiences of Afro-Latinxs, and try to be as inclusive of this community as I could. My interactions with Central Americans also impacted my own assumptions of what it means to be a Latinx. Having Central American students in class pushed me to think outside of my Mexican-American experience and to challenge the stereotypes that are often placed on Central Americans.
13. Harvard's diversity also allowed me to trace common interests across race which deepened my understanding of social challenges and solutions. For example, I befriended many undocumented students within different ethno-racial groups. Hearing and learning about their experiences made me hyper-aware of my privileges as a U.S. citizen, regardless of race. It also challenged me to think about ways to support non-U.S. citizens.

I think their presence greatly improved my academic experience at Harvard, because their point of view was powerful and they, as a group, challenged the University to provide more resources for undocumented students.

14. Harvard's diversity also allowed for powerful cross-racial coalition-building which taught me how to effectively advocate for structural changes that can serve the broader community. As one example, I worked alongside two Asian-American students (and a diverse coalition of students and professors) to fight for the creation of an Ethnic Studies Department and/or research center at Harvard. We helped to plan a full-day winter session course on the history and significance of Ethnic Studies. We also co-created student groups that advocate for Ethnic Studies on campus. In a short amount of time, we were able to meet with numerous deans, professors, and university administrators and advocate for more resources for Ethnic Studies. We even created syllabi for a general-education course in Ethnic Studies. Altogether the effort spanned three years. An Ethnic Studies track was approved my senior year, which represented a significant step towards our goal. I felt incredibly supported in this environment, and it is one of the most transformational experiences I had while at Harvard.

15. As another example of cross-racial advocacy, I joined a 3-week strike on behalf of dining hall workers which was led by a diverse coalition of students, dining hall workers, and Harvard staff members. It was only by creating cross-cultural coalitions that we were able to unite students and mobilize them to support our dining hall workers. It was pivotal that we had a diverse coalition because our dining hall workers were also a diverse group; it made all the difference that we had students who could translate and identify with our dining hall workers.

16. These interactions across race and ethnicity taught me to challenge my own assumptions

and use more inclusive language. It deepened my understanding and empathy for those whose lived experiences differ from my own. I also learned to be a better listener.

17. While Harvard's diversity provided many opportunities for learning, I felt that the university generally lacked sufficient levels of ethno-racial diversity. I often felt incredibly isolated at Harvard, especially my first two years. I was one of only a few Latinxs in my residential house. I had better relationships with the dining hall staff, who were mostly people of color, than I did with other students. I was also the only Latina in the Harvard Track and Field program for many years. Though I loved the team, I inherently felt like an outsider, and had a hard time relating to many of the team members. I could never fully be myself, because I knew most people on the team would not understand me.
18. This lack of ethno-racial diversity was not only socially isolating, but often academically isolating. My classrooms often lacked other students of color, which greatly exacerbated the pressure I felt to be a spokesperson for Latinx students and other marginalized racial groups. It made me more cautious to share my own thoughts and perspective in class out of concern that anything I said would feed into stereotypes that classmates held about me based on my background.
19. I felt more comfortable and confident sharing my opinions in spaces with higher levels of underrepresented students of color. This higher representation lowered the likelihood that I would be viewed as a "token" for my race. It also helped me shoulder the difficulty of responding to any insensitive remarks made in class, making class less exhausting and painful.
20. Knowing that environments with a strong presence of students of color strengthened my comfort and confidence, I gravitated towards cultural groups where I could express myself

fully. I was an active member of numerous Latinx and Native American student groups, including: RAZA, Fuerza Latina, Latinas Unidas, Concilio Latino, HLSA (Harvard Latino Student Alliance), Native Americans at Harvard College (NAHC), and the larger Native American group at the university (HUNAP). I also actively participated in the “Ethnicity, Migration, and Rights Student Advisory Council”, which was a diverse coalition of students interested in Ethnic Studies. I also derived peer support from the Mellon Mays scholar program, which brought together 20 students dedicated to diversifying the professoriate. We were majority non-white and most of us were doing research focused on non-white groups and communities.

21. I really only felt a sense of belonging in environments that were majority people of color. This sense of belonging was critical to persist and excel at Harvard despite racial hostilities on campus that were both overt and subtle. I often felt unwelcome due to racially insensitive comments. For example, I was asked on multiple occasions by random acquaintances “where are you really from?” or “were you born here?”. I similarly felt intimidated when, the day after Trump was elected, a group of white boys assaulted my Dominican-American professor in what appeared to be a racially-motivated attack. The presence of other racial minorities helped me recover from such hostile intimidation and regain a sense of belonging. With such support, I was able to engage more fully and effectively inside and outside of the classroom.
22. As a person who identifies as both low-income and Xicana, I think racial diversity and socioeconomic diversity are both important. But, the experiences of people of color based on their appearance and ethno-race is distinct from their experiences based on class. As such, socioeconomic diversity cannot provide a substitute for racial diversity. For example, people of color who are from middle- and upper-class backgrounds face barriers

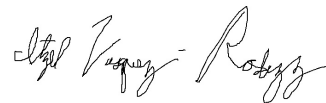
that their white counterparts do not face. Moreover, racial diversity provides distinct benefits in terms of the campus environment. As a student of color, I often felt isolated and tokenized because of the color of my skin, my name, and my features. Greater socioeconomic diversity would not—on its own—have helped me feel less singled out based on my ethno-racial identity. You cannot see somebody's class-status in the same way as you can see their ethnicity and/or race. The stereotypes are also different.

Increased racial representation made me feel more comfortable participating, regardless of socioeconomic diversity. Moreover, racial diversity broke down a different set of prejudices and assumptions.

23. Since graduation, I have been working in Peru with indigenous communities. Specifically, I am serving as a student service group coordinator for an NGO in the Sacred Valley of Peru that focuses on secondary education for Quechua girls in the region. In October, I will start as a California Assembly Fellow in Sacramento, California.
24. While I think Harvard could benefit from greater ethno-racial diversity, the diversity that did exist better prepared me to work in a diverse, global workforce. The most transformational experiences I had at Harvard were in non-white workspaces. I learned to value my beliefs and my history; with this strong sense of self, only then was I able to appreciate and advocate for myself and other underrepresented individuals. Having the proper language to comfortably interact with people of different ethno-racial identities has given me the confidence and grace to work cooperatively with diverse groups of people. It also gave me the tools to promote equitable participation. By making sure that every voice in a room is heard, I'm able to strengthen discussions, problem-solve, and support solution-oriented efforts.
25. Altogether, the ethno-racial diversity at Harvard was fundamental in preparing me to

advance positive change in my current and future professional endeavors. I believe that Harvard is not diverse enough, and should further its efforts to recruit and support students of color. Banning race-conscious admissions would move the university backwards, rather than forwards, in terms of offering quality educational opportunities and training to the next generation of leaders.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on July 26, 2018, in Ollantaytambo, Peru.



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**Itzel Libertad Vasquez-Rodriguez**