

(Slip Opinion)

OCTOBER TERM, 2022

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

Syllabus

**STUDENTS FOR FAIR ADMISSIONS, INC. v.  
PRESIDENT AND FELLOWS OF HARVARD COLLEGE**  
**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE FIRST CIRCUIT**

No. 20–1199. Argued October 31, 2022—Decided June 29, 2023\*

Harvard College and the University of North Carolina (UNC) are two of the oldest institutions of higher learning in the United States. Every year, tens of thousands of students apply to each school; many fewer are admitted. Both Harvard and UNC employ a highly selective admissions process to make their decisions. Admission to each school can depend on a student’s grades, recommendation letters, or extracurricular involvement. It can also depend on their race. The question presented is whether the admissions systems used by Harvard College and UNC are lawful under the Equal Protection Clause of the Fourteenth Amendment.

At Harvard, each application for admission is initially screened by a “first reader,” who assigns a numerical score in each of six categories: academic, extracurricular, athletic, school support, personal, and overall. For the “overall” category—a composite of the five other ratings—a first reader can and does consider the applicant’s race. Harvard’s admissions subcommittees then review all applications from a particular geographic area. These regional subcommittees make recommendations to the full admissions committee, and they take an applicant’s race into account. When the 40-member full admissions committee begins its deliberations, it discusses the relative breakdown of applicants by race. The goal of the process, according to Harvard’s director of admissions, is ensuring there is no “dramatic drop-off” in minority admissions from the prior class. An applicant receiving a majority of

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\* Together with No. 21–707, *Students for Fair Admissions, Inc. v. University of North Carolina et al.*, on certiorari before judgment to the United States Court of Appeals for the Fourth Circuit.

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the full committee's votes is tentatively accepted for admission. At the end of this process, the racial composition of the tentative applicant pool is disclosed to the committee. The last stage of Harvard's admissions process, called the "lop," winnows the list of tentatively admitted students to arrive at the final class. Applicants that Harvard considers cutting at this stage are placed on the "lop list," which contains only four pieces of information: legacy status, recruited athlete status, financial aid eligibility, and race. In the Harvard admissions process, "race is a determinative tip for" a significant percentage "of all admitted African American and Hispanic applicants."

UNC has a similar admissions process. Every application is reviewed first by an admissions office reader, who assigns a numerical rating to each of several categories. Readers are required to consider the applicant's race as a factor in their review. Readers then make a written recommendation on each assigned application, and they may provide an applicant a substantial "plus" depending on the applicant's race. At this stage, most recommendations are provisionally final. A committee of experienced staff members then conducts a "school group review" of every initial decision made by a reader and either approves or rejects the recommendation. In making those decisions, the committee may consider the applicant's race.

Petitioner, Students for Fair Admissions (SFFA), is a nonprofit organization whose stated purpose is "to defend human and civil rights secured by law, including the right of individuals to equal protection under the law." SFFA filed separate lawsuits against Harvard and UNC, arguing that their race-based admissions programs violate, respectively, Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment. After separate bench trials, both admissions programs were found permissible under the Equal Protection Clause and this Court's precedents. In the Harvard case, the First Circuit affirmed, and this Court granted certiorari. In the UNC case, this Court granted certiorari before judgment.

*Held:* Harvard's and UNC's admissions programs violate the Equal Protection Clause of the Fourteenth Amendment. Pp. 6–40.

(a) Because SFFA complies with the standing requirements for organizational plaintiffs articulated by this Court in *Hunt v. Washington State Apple Advertising Comm'n*, 432 U. S. 333, SFFA's obligations under Article III are satisfied, and this Court has jurisdiction to consider the merits of SFFA's claims.

The Court rejects UNC's argument that SFFA lacks standing because it is not a "genuine" membership organization. An organizational plaintiff can satisfy Article III jurisdiction in two ways, one of which is to assert "standing solely as the representative of its mem-

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bers,” *Warth v. Seldin*, 422 U. S. 490, 511, an approach known as representational or organizational standing. To invoke it, an organization must satisfy the three-part test in *Hunt*. Respondents do not suggest that SFFA fails *Hunt*’s test for organizational standing. They argue instead that SFFA cannot invoke organizational standing at all because SFFA was not a genuine membership organization at the time it filed suit. Respondents maintain that, under *Hunt*, a group qualifies as a genuine membership organization only if it is controlled and funded by its members. In *Hunt*, this Court determined that a state agency with no traditional members could still qualify as a genuine membership organization in substance because the agency represented the interests of individuals and otherwise satisfied *Hunt*’s three-part test for organizational standing. See 432 U. S., at 342. *Hunt*’s “indicia of membership” analysis, however, has no applicability here. As the courts below found, SFFA is indisputably a voluntary membership organization with identifiable members who support its mission and whom SFFA represents in good faith. SFFA is thus entitled to rely on the organizational standing doctrine as articulated in *Hunt*. Pp. 6–9.

(b) Proposed by Congress and ratified by the States in the wake of the Civil War, the Fourteenth Amendment provides that no State shall “deny to any person . . . the equal protection of the laws.” Proponents of the Equal Protection Clause described its “foundation[al] principle” as “not permit[ing] any distinctions of law based on race or color.” Any “law which operates upon one man,” they maintained, should “operate equally upon all.” Accordingly, as this Court’s early decisions interpreting the Equal Protection Clause explained, the Fourteenth Amendment guaranteed “that the law in the States shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the States.”

Despite the early recognition of the broad sweep of the Equal Protection Clause, the Court—alongside the country—quickly failed to live up to the Clause’s core commitments. For almost a century after the Civil War, state-mandated segregation was in many parts of the Nation a regrettable norm. This Court played its own role in that ignoble history, allowing in *Plessy v. Ferguson* the separate but equal regime that would come to deface much of America. 163 U. S. 537.

After *Plessy*, “American courts . . . labored with the doctrine [of separate but equal] for over half a century.” *Brown v. Board of Education*, 347 U. S. 483, 491. Some cases in this period attempted to curtail the perniciousness of the doctrine by emphasizing that it required States to provide black students educational opportunities equal to—even if formally separate from—those enjoyed by white students. See, e.g., *Missouri ex rel. Gaines v. Canada*, 305 U. S. 337, 349–350. But the

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inherent folly of that approach—of trying to derive equality from inequality—soon became apparent. As the Court subsequently recognized, even racial distinctions that were argued to have no palpable effect worked to subordinate the afflicted students. See, e.g., *McLaurin v. Oklahoma State Regents for Higher Ed.*, 339 U. S. 637, 640–642. By 1950, the inevitable truth of the Fourteenth Amendment had thus begun to reemerge: Separate cannot be equal.

The culmination of this approach came finally in *Brown v. Board of Education*, 347 U. S. 483. There, the Court overturned the separate but equal regime established in *Plessy* and began on the path of invalidating all *de jure* racial discrimination by the States and Federal Government. The conclusion reached by the *Brown* Court was unmistakably clear: the right to a public education “must be made available to all on equal terms.” 347 U. S., at 493. The Court reiterated that rule just one year later, holding that “full compliance” with *Brown* required schools to admit students “on a racially nondiscriminatory basis.” *Brown v. Board of Education*, 349 U. S. 294, 300–301.

In the years that followed, *Brown*’s “fundamental principle that racial discrimination in public education is unconstitutional,” *id.*, at 298, reached other areas of life—for example, state and local laws requiring segregation in busing, *Gayle v. Browder*, 352 U. S. 903 (*per curiam*); racial segregation in the enjoyment of public beaches and bathhouses *Mayor and City Council of Baltimore v. Dawson*, 350 U. S. 877 (*per curiam*); and antimiscegenation laws, *Loving v. Virginia*, 388 U. S. 1. These decisions, and others like them, reflect the “core purpose” of the Equal Protection Clause: “do[ing] away with all governmentally imposed discrimination based on race.” *Palmore v. Sidoti*, 466 U. S. 429, 432.

Eliminating racial discrimination means eliminating all of it. Accordingly, the Court has held that the Equal Protection Clause applies “without regard to any differences of race, of color, or of nationality”—it is “universal in [its] application.” *Yick Wo v. Hopkins*, 118 U. S. 356, 369. For “[t]he guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color.” *Regents of Univ. of Cal. v. Bakke*, 438 U. S. 265, 289–290.

Any exceptions to the Equal Protection Clause’s guarantee must survive a daunting two-step examination known as “strict scrutiny,” *Adarand Constructors, Inc. v. Peña*, 515 U. S. 200, 227, which asks first whether the racial classification is used to “further compelling governmental interests,” *Grutter v. Bollinger*, 539 U. S. 306, 326, and second whether the government’s use of race is “narrowly tailored,” *i.e.*, “necessary,” to achieve that interest, *Fisher v. University of Tex. at Austin*, 570 U. S. 297, 311–312. Acceptance of race-based state action

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is rare for a reason: “[d]istinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Rice v. Cayetano*, 528 U. S. 495, 517. Pp. 9–16.

(e) This Court first considered whether a university may make race-based admissions decisions in *Bakke*, 438 U. S. 265. In a deeply splintered decision that produced six different opinions, Justice Powell’s opinion for himself alone would eventually come to “serv[e] as the touchstone for constitutional analysis of race-conscious admissions policies.” *Grutter*, 539 U. S., at 323. After rejecting three of the University’s four justifications as not sufficiently compelling, Justice Powell turned to its last interest asserted to be compelling—obtaining the educational benefits that flow from a racially diverse student body. Justice Powell found that interest to be “a constitutionally permissible goal for an institution of higher education,” which was entitled as a matter of academic freedom “to make its own judgments as to . . . the selection of its student body.” 438 U. S., at 311–312. But a university’s freedom was not unlimited—“[r]acial and ethnic distinctions of any sort are inherently suspect,” Justice Powell explained, and antipathy toward them was deeply “rooted in our Nation’s constitutional and demographic history.” *Id.*, at 291. Accordingly, a university could not employ a two-track quota system with a specific number of seats reserved for individuals from a preferred ethnic group. *Id.*, at 315. Neither still could a university use race to foreclose an individual from all consideration. *Id.*, at 318. Race could only operate as “a ‘plus’ in a particular applicant’s file,” and even then it had to be weighed in a manner “flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant.” *Id.*, at 317. Pp. 16–19.

(d) For years following *Bakke*, lower courts struggled to determine whether Justice Powell’s decision was “binding precedent.” *Grutter*, 539 U. S., at 325. Then, in *Grutter v. Bollinger*, the Court for the first time “endorse[d] Justice Powell’s view that student body diversity is a compelling state interest that can justify the use of race in university admissions.” *Ibid.* The *Grutter* majority’s analysis tracked Justice Powell’s in many respects, including its insistence on limits on how universities may consider race in their admissions programs. Those limits, *Grutter* explained, were intended to guard against two dangers that all race-based government action portends. The first is the risk that the use of race will devolve into “illegitimate . . . stereotyp[ing].” *Richmond v. J. A. Croson Co.*, 488 U. S. 469, 493 (plurality opinion). Admissions programs could thus not operate on the “belief that minority students always (or even consistently) express some characteristic minority viewpoint on any issue.” *Grutter*, 539 U. S., at 333 (internal

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