IN THE SUPREME COURT OF THE UNITED STATES

No. 20-1199

STUDENTS FOR FAIR ADMISSIONS, INC., PETITIONER

v.

PRESIDENT AND FELLOWS OF HARVARD COLLEGE

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE, FOR DIVIDED ARGUMENT, AND FOR ENLARGEMENT OF TIME FOR ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case; that the time allotted for oral argument be enlarged to 70 minutes; and that the time be allotted as follows: 35 minutes for petitioner, 15 minutes for the United States, and 20 minutes for respondent. Petitioner and respondent consent to this motion.

This case presents two questions concerning the continuing ability of colleges and universities to consider race as a limited part of a holistic admissions processes under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., which this Court has interpreted to prohibit "only those racial classifications that would violate the Equal Protection Clause" if employed by a state actor. Grutter v. Bollinger, 539 U.S. 306, 343 (2003) (citation omitted). The United States has a substantial interest in the resolution of those questions. The United States has authority to enforce the Equal Protection Clause in the context of public university admissions. 42 U.S.C. 2000c-6. The United States is also responsible for enforcing Title VI. See 42 U.S.C. 2000d-1. And the United States has a vital interest in ensuring that our Nation's institutions of higher education -- including the military's service academies -- produce graduates who come from all segments of society and who are prepared to succeed and lead in an increasingly diverse Nation.

At this Court's invitation, the United States filed an amicus brief in this case at the petition stage. In that brief and in its merits-stage amicus brief, the United States argued that Grutter correctly held that the educational benefits of student-body diversity are a sufficiently compelling interest to justify narrowly tailored consideration of race in university admissions; that this Court should not overrule Grutter and its other precedents permitting such limited consideration of race; and that

the lower courts correctly applied this Court's precedents in rejecting petitioner's challenges to Harvard's admissions policies.

The United States has previously presented oral argument as amicus curiae in cases involving related issues, including in the cases that petitioner now contends should be overruled. See Grutter, supra; Gratz v. Bollinger, 539 U.S. 244 (2003); Fisher v. University of Texas, 570 U.S. 297 (2013); Fisher v. University of Texas, 136 S. Ct. 2198 (2016). In light of the substantial federal interest in the resolution of the questions presented, the United States' participation at oral argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

AUGUST 2022