

Nos. 20-1199 and 21-707

In The
Supreme Court of the United States

STUDENTS FOR FAIR ADMISSIONS, INC.,
Petitioner,

v.

PRESIDENT AND FELLOWS OF HARVARD COLLEGE,
Respondent.

STUDENTS FOR FAIR ADMISSIONS, INC.,
Petitioner,

v.

UNIVERSITY OF NORTH CAROLINA, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of
Appeals for the First and Fourth Circuits

BRIEF OF FAITH ORGANIZATIONS AS *AMICI*
CURIAE IN SUPPORT OF RESPONDENTS

Rodney Slater
Corrine Irish*
**Counsel of Record*
SQUIRE PATTON
BOGGS (US) LLP
2550 M Street, NW
Washington, DC 20037
(202) 457-6346
corrine.irish@squirepb.com

Keith Bradley
SQUIRE PATTON
BOGGS (US) LLP
717 17th Street, Suite 1825
Denver, CO 80202

Chase Goldstein
Andrew Yu-Chih
SQUIRE PATTON
BOGGS (US) LLP
555 South Flower Street
31st Floor
Los Angeles, CA 90071

Counsel for Amici Curiae

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 <u>Constitutional Provisions</u>	
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 <u>Other Authorities</u>	
<i>2018 Crime In Texas – Executive Summary</i> , TEXAS DEPARTMENT OF PUBLIC SAFETY https://www.dps.texas.gov/sites/default/files/ s/documents/crimereports/18/executivesum mary.pdf	17
<i>2021 Hate Crime in California</i> , CALIFORNIA DEPARTMENT OF JUSTICE, Jun. 28, 2022, https://oag.ca.gov/system/files/attachments/ press-docs/Hate%20Crime%20In%20CA% 202021%20FINAL.pdf	17

<i>About CRLMC</i> , Council of Religious Leaders of Metropolitan Chicago ("CRLMC"), https://www.crlmc.org/aboutcrlmc.html	18
<i>About the ELCA</i> , EVANGELICAL LUTHERAN CHURCH IN AMERICA ("ELCA"), https://www.elca.org/About	10
<i>Archbishop Kurtz Expresses 'Grief and Deep Sadness' Over Charleston Church Shooting</i> , USCCB, June 19, 2015, https://www.usccb.org/news/2015/archbi- shop-kurtz-expresses-grief-and-deep- sadness-over-charleston-church-shooting	20
Bible, New International Version	5, 6, 7
<i>Book of Discipline Section 1: The Churches</i> , UNITED METHODIST CHURCH, 2016, available at, https://www.umc.org/en/content/book-of- discipline-120-ff-section-1-the-churches	9
C. Robinson et al, <i>11 Killed in Synagogue Massacre; Suspect Charged With 29 Counts</i> , NY TIMES, Oct. 27, 2018, https://www.nytimes.com/2018/10/27/us/ active-shooter-pittsburgh-synagogue- shooting.html	16
<i>Community Outreach Ministries</i> , ABHMS, https://abhms.org/ministries/healing- communities/neighborhood-action/	13

Crime in Texas 2020, TEXAS DEPARTMENT OF PUBLIC SAFETY,
<https://www.dps.texas.gov/sites/default/files/documents/crimereports/20/2020cit.pdf> 16, 17

The Editors of the Encyclopedia Britannica, *Samaritan*, BRITANNICA
(updated May 4, 2021), May 22, 2022,
<https://www.britannica.com/topic/Samaritan> 7

E. Smith, *Hate Crime Recorded by Law Enforcement*, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, 2010-2019, at
<https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/hcrle1019.pdf>
(September 2021) 16

FACT SHEET: President Biden Reestablishes the White House Office of Faith-Based and Neighborhood Partnerships, THE WHITE HOUSE (Feb. 14, 2021),
<https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/14/fact-sheet-president-biden-reestablishes-the-white-house-office-of-faith-based-and-neighborhood-partnerships/> 13

10 Facts You Should Know About American Baptists, AMERICAN BAPTIST CHURCHES USA, <https://www.abc-usa.org/10facts/> 8

- How Strategic and Authentic is Our Diversity; A Call for Confession, Reflection and Healing Action*, ELCA, adopted Aug. 9, 2019, available at https://download.elca.org/ELCA%20Resource%20Repository/Strategy_Toward_Authentic_Diversity.pdf?_ga=2.197349869.333905562.1658513717-393549660.1658513717 12
- How We Serve*, UNITED CHURCH OF CHRIST, <https://www.ucc.org/what-we-do/> 13
- Intercultural Ministries*, AMERICAN BAPTIST HOME MISSION SOCIETIES (ABHMS), <https://abhms.org/ministries/developing-leaders/intercultural-ministries/> 13
- J. Delores et al, *Learning: The Treasure Within. Report to UNESCO of the International Commission on Education for the Twenty-first Century*, UNITED NATIONS EDUCATIONAL SCIENCE, AND CULTURAL ORGANIZATION (1996) 21
- J. Patterson, *United Methodists speak out in wake of synagogue shooting*, UM NEWS, Oct. 29, 2018, <https://www.umnews.org/en/news/united-methodists-speak-out-in-wake-of-synagogue-shooting> 19

- K. Roose, *On Gab, an Extremist-Friendly Site, Pittsburgh Shooting Suspect Aired His Hatred in Full*, NY TIMES, Oct. 28, 2018, <https://www.nytimes.com/2018/10/28/us/gab-robert-bowers-pittsburgh-synagogue-shootings.html>..... 18
- M. Berman, *Prosecutors say Dylann Roof ‘self-radicalized’ online, wrote another manifesto in jail*, WASH. POST, Aug. 22, 2016..... 18
- M. Kinard & D. Lavoie, *Court Upholds Death Sentence for Church Shooter Dylann Roof*, AP NEWS, Aug. 25, 2021, <https://apnews.com/article/religion-389bcc56019f268cb1056e37a517bd6c>..... 15
- Mar Muñoz-Visoso, *Mandate*, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS (“USCCB”), <https://www.usccb.org/committees/cultural-diversity-church> 4, 11
- Mission Statement*, AMERICAN BAPTISTS, <https://www.abc-usa.org/mission-statement/> 8
- Mission*, UNITED CHURCH OF CHRIST, <https://www.ucc.org/mission/> 8
- Mission & Vision*, ELCA, <https://www.elca.org/About/Mission-and-Vision> 10

- Our People*, UNITED METHODIST CHURCH,
<https://www.umc.org/en/who-we-are/our-people> 9
- P. Helsel & R. Elbaum, *8 Dead in Atlanta-area Spa Shootings, Suspect Arrested*,
 NBC NEWS, Mar. 17, 2021,
<https://www.nbcnews.com/news/us-news/3-dead-shooting-georgia-massage-parlor-suspect-loose-n1261262> 16
- People of Many Backgrounds*, UNITARIAN
 UNIVERSALIST ASSOCIATION,
<https://www.uua.org/beliefs/who-we-are/backgrounds> 10
- Press Release, The Council of Bishops
 African Methodist Episcopal Church,
*Statement from A.M.E. Bishops on
 Charleston anniversary*, June 17, 2016,
 available at
<https://disciples.org/ecumenical/statement-m-e-bishops-charleston-anniversary/>..... 21
- Qur'an..... 6
- R. Winthrop, *Learning to Live Together:
 How Education Can Help Fight
 Systemic Racism*, BROOKINGS INSTITUTE,
 June 5, 2020,
<https://www.brookings.edu/blog/education-plus-development/2020/06/05/learning-to-live-together-how-education-can-help-fight-systemic-racism/>..... 21

Response to the Synagogue Massacre in Pittsburgh, Pennsylvania, CRLMC, Oct. 29, 2018, <https://www.crlmc.org/response-to-tree-of-life-massacre.html>..... 19

S. Venkatraman and C. Adams, *Black, Asian and Latino Communities All Faced Mass Shootings in 2 Weeks. How They're Showing Support*, NBC NEWS, May 26, 2022, <https://www.nbcnews.com/news/nbcblk/black-asian-latino-communities-faced-mass-shootings-2-weeks-showing-surcna30504> 16

Statement of U.S. Bishop Chairmen in Wake of Death of George Floyd and National Protests, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, May 29, 2020, <https://www.usccb.org/news/2020/statement-us-bishop-chairmen-wake-death-george-floyd-and-national-protests>..... 14

Torah 5

'United against hate': UN chief and religious leaders honour victims of Pittsburgh synagogue shooting, UN NEWS, Oct, 31, 2018, <https://news.un.org/en/story/2018/10/1024542>..... 18

Z. Laub, *Hate Speech on Social Media: Global Comparisons*, COUNCIL ON FOREIGN RELATIONS, Jun. 7, 2019, <https://www.cfr.org/backgroundunder/hate-speech-social-media-global-comparisons> 17

INTERESTS OF AMICI CURIAE¹

Amici are religious bodies and organizations committed to preserving and developing faith-teaching and ministry that reflects and is relevant to the multicultural society they serve. *Amici*, therefore, have a strong interest in ensuring that all students, including members, youth leaders and future ministers of their faith, receive an education that affords them experience, engagement and critical dialogue with others from diverse backgrounds. *Amici* seek to nurture young people and give them the tools they need to reach their full potential, including being equipped for the pluralistic and multicultural society in which *amici* minister and serve.

The General Synod - United Church of Christ - The General Synod is the representative body of the United Church of Christ (“UCC”) and is composed of Local Church delegates chosen by the Conferences, voting members of the United Church of Christ Board who have been elected by General Synod, delegates from Historically Underrepresented Groups, and ex officio delegates. The UCC is a diverse community of Christians that come together as one church to join faith and action. The UCC was formed in 1957 by the union of the Evangelical and Reformed Church and the General Council of the Congregational Christian Churches of the United States in order to

¹ No counsel for a party authored this brief in whole or in part, and no person other than amici and their counsel made a monetary contribution to fund the preparation or submission of this brief. Petitioner and Respondents have filed blanket consents to amicus briefs with the Court.

express more fully the oneness in Christ of the churches composing it, to make more effective their common witness in Christ, and to serve God's people in the world. The UCC has nearly 4,800 Local Churches in the United States, with a membership of nearly 775,000. The General Synod of the UCC, various settings of the UCC, and its predecessor denominations, have a rich heritage of supporting diversity. In 1981 at its thirteenth gathering, the General Synod passed a foundational resolution entitled "Affirmative Action in Church and Society" and in 1995 at its twentieth gathering the General Synod passed a resolution entitled "Recommitment to Affirmative Action in Light of Recent Supreme Court Decisions."

American Baptist Home Mission Societies ("ABHMS") answers God's call to live out Christian faith and transform individuals, congregations and communities by developing Christ-centered leaders, networks and programs committed to witness and evangelism, social justice, discipleship and mission work across the United States and Puerto Rico. Missionaries of all types partner with ABHMS daily to minister to those in need. A central part of ABHMS's mission is a commitment to sharing and learning across cultures, and the common understanding that the church is enriched when the contributions of all are engaged in its witness and mission. Through cultural awareness and sensitivity skill development, racial reconciliation training and dialogue, intercultural development tools and coaching, and coordination of activities that promote cross-cultural learning opportunities, ABHMS helps congregations and individuals develop cultural awareness and sensitivity for building a just and inclusive church. ABHMS is also committed to

providing and supporting educational opportunities that enable and empower students and ministerial leaders to grow both personally and professionally.

The African Descent Lutheran Association of the ELCA (“ADLA-ELCA”) is the Ministry within the Evangelical Lutheran Church in America (“ELCA”) focused on engaging and investing in the interests and capacity of ELCA members of African descent – those who self-identify as Black, African Caribbean, African American, African Nationals and others of African ancestry. The ELCA is one of the largest Christian denominations in the United States, with nearly 3.3 million members in more than 8,900 worshipping communities in the US and Caribbean. The ALDA-ELCA seeks to strengthen the hand of the ELCA for building a multicultural church. In 2005, the ELCA’s Church-wide Assembly approved the ELCA African Descent Strategic Plan – a plan that continues to be implemented and is focused on initiatives such as increasing visionary pastoral leaders prepared or preparing to serve that are of African descent; and increasing the number of African descent congregations.

The National Council of the Churches of Christ in the USA (“NCCUSA”) is a diverse covenant community of 37 member communions and over 30 million individuals –100,000 congregations from Protestant, Anglican, historic African-American, Orthodox, Evangelical, and Living Peace traditions – in a common commitment to advocate and represent God’s love and promise of unity in the public square. In 1963, the NCCUSA adopted a Human Rights Policy Statement that declared the inherent worth, rights, and responsibilities of all persons. The NCCUSA remains steadfast in its work to end racism and

transform the church and society into a reflection of the inclusive and equitable reign of God.

SUMMARY OF ARGUMENT

In a multicultural society, diversity in higher education is essential to obtaining the necessary growth and experience to lead and serve in both secular and religious spaces. As religious institutions, we understand that a calling to serve *all* those in need and to spread the Word of God requires cultural competencies that allow meaningful engagement with people of all ethnicities and races.

A diverse faith experience is a value that is enshrined in religious teachings. Moreover, having a diverse faith community and serving a diverse population are stated missions for many religious organizations and denominations. Yet, experience teaches that achieving those goals requires more than simply stating those desired outcomes. Rather “to be effective in a diverse environment, the right knowledge, attitudes and skills need to be developed.”² A rejection of the compelling interest of diversity in education ignores this unassailable truth.

The consequences of a failure to meaningfully foster diversity is evident today in the miseducation that is flourishing within the country. Racial, ethnic and religious hatred are fed by division and the

² Mar Muñoz-Visoso, *Mandate*, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS (“USCCB”), <https://www.usccb.org/committees/cultural-diversity-church> (last visited, July 19, 2022).

absence of any meaningful engagement across cultures. It is in that isolation that false information is disseminated – often through the internet – and fomented into violent action. Racial and religious violence has found its way into our most sacred spaces. We cannot be silent.

Diversity must be maintained as a compelling interest in our educational institutions so that we may continue to build “a more perfect Union,” U.S. CONST., Preamble – one that engages with and seeks to understand our differences, rather than erases or ignores them.

ARGUMENT

I. Religious Teachings Affirm the Value of Diversity

The Bible recounts the Apostle John stating “I looked, and there before me was a great multitude that no one could count, from every nation, tribe, people and language, standing before the throne and before the Lamb.” *Revelations* 7:9 (“Bible, New International Version (“NIV”)). It also extolls Paul preaching: “From one man God made every nation of the human race, that they should inhabit the whole earth.” *Id.*, *Acts* 17:26. The Torah states that: “When a stranger resides with you in your land, you shall not wrong him. The stranger who resides with you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the land of Egypt: I Adonai am your God.” *Leviticus* 19:33-34 (Torah). The Torah’s book of Isaiah also teaches that: “For my House shall be called a house of prayer for all peoples.” *Isaiah* 56:7 (Torah). Similarly, the Qur’an

highlights the importance of human diversity: “O mankind, We have created you male and female, and appointed you races and tribes, that you may know one another. *Al-Hujuraat* 49:13 (Qur’ān).

In the Christian faith of *Amici*, the Bible describes the kingdom of heaven as a diverse makeup of people from every culture – a great multitude or a feast to which all are invited. See, *Matthew* 8:11 (NIV), (“I say to you that many will come from the east and the west, and will take their places at the feast with Abraham, Isaac and Jacob in the kingdom of heaven”); *Matthew* 22:1-10 (Jesus telling a parable comparing the kingdom of heaven to a wedding banquet where all are invited); *Luke* 14:15-24 (Jesus telling the parable of the Great Banquet); *Revelations*, 19:6-8 (describing a great multitude in heaven).

The Bible exalts a radical inclusivity where believers from every nation, speaking their own language, can understand the other as though they were hearing their own native tongue. See, *Acts* 2:1-21 (NIV). Biblical teachings are filled with examples of the spiritual validation that comes when cultural boundaries are crossed and a community embraces a new cultural group. See, e.g., *Acts* 8:26-40 (NIV) (recounting the story of Philip baptizing an Ethiopian); *Acts* 19:1-21 (describing Paul’s travels to Ephesus and the miracles God performed through Paul). The New Jerusalem – a holy city gifted to humanity from God – is described as a city where “[o]n no day will its gates ever be shut, for there will be no night there” and [t]he glory and honor of the nations will be brought into it.” *Revelations* 25-26 (NIV).

The teachings of Jesus specifically instruct inclusivity and acceptance for his followers.

*“And who is my neighbor?”*³

As part of the Great Commandment, Jesus tells the disciples, “You shall love your neighbor as yourself.” *Mark* 12:31 (NIV). One of the Bible’s most beloved parables is the story of the “Good Samaritan” – where Jesus responds to the question “And who is my neighbor?” from an expert in Law who sought to challenge Jesus as he spread this commandment and the Gospel in the community. *See Luke* 10:25-37 (NIV). Jews and Samaritans did not regard each other as neighbors and Jews held Samaritans in low esteem.⁴ However, the “Good Samaritan” ministered to a Jewish man who was beaten and left for dead by robbers at the side of the road and was a “neighbor” to the man in need. *See Luke* 10:25-37 (NIV). Christian and other faith-teachings adopt a broad view of neighbor-ship and community so as to include those that may be of different faiths, cultures and background.

The mission to connect with and understand people of varying cultures remains a fundamental tenet of faith to *amici* and many other faith-based organizations.

³ *Luke* 10:29 (NIV).

⁴ The Editors of the Encyclopedia Britannica, *Samaritan*, BRITANNICA (updated May 4, 2021), May 22, 2022, <https://www.britannica.com/topic/Samaritan>. (last visited July 20, 2022).

II. Diverse College Campuses Are Necessary to the Missions of Religious Denominations and Faith Based Organizations.

Many prominent faith organizations and denominations share a mission of achieving and/or maintaining a diverse and inclusive membership. *Amicus*, the General Synod of the United Church of Christ's mission statement embraces an inclusive agenda for the Church: "United in Spirit and inspired by God's grace, we welcome all, love all, and seek justice for all."⁵

American Baptist Churches USA ("American Baptists"), an organization comprised of 1.3-million members and over about 5,000 congregations,⁶ attests that:

As a people of prayer, purpose, and passion, we are in the forefront of creating a community of faith where people of every race, nationality and culture gather as one in worship, service and work.⁷

The United Methodist Church, which "connects more than 12 million members on four continents,

⁵ *Mission*, UNITED CHURCH OF CHRIST, <https://www.ucc.org/mission/> (last visited July 22, 2022).

⁶ *10 Facts You Should Know About American Baptists*, AMERICAN BAPTIST CHURCHES USA, <https://www.abc-usa.org/10facts/> (last visited July 22, 2022).

⁷ *Mission Statement*, AMERICAN BAPTISTS, <https://www.abc-usa.org/mission-statement/> (last visited July 22, 2022).

and engages in ministry all around the world”⁸ has outlined the following as its principles:

We are called together for worship and fellowship and for the upbuilding of the Christian community. We advocate and work for the unity of the Christian church. We call all persons into discipleship under the Lordship of Jesus Christ.

As servants of Christ we are sent into the world to engage in the struggle for justice and reconciliation. We seek to reveal the love of God for men, women, and children of all ethnic, racial, cultural, and national backgrounds and to demonstrate the healing power of the gospel with those who suffer.⁹

The Evangelical Lutheran Church in America (“ELCA”) - one of the largest Christian denominations in the United States, with nearly 3.3 million members in more than 8,900 worshipping communities in the US

⁸ *Our People*, UNITED METHODIST CHURCH, <https://www.umc.org/en/who-we-are/our-people> (last visited July 22, 2022) (“We speak many languages, come from various cultures, and span generations. Yet, we are united in our faith in Jesus Christ.”).

⁹ *Book of Discipline Section 1: The Churches*, UNITED METHODIST CHURCH, 2016, available at, <https://www.umc.org/en/content/book-of-discipline-120-ff-section-1-the-churches>.

and Caribbean,¹⁰ - has identified as one of three “priority areas” having “A Welcoming Church: Engaging new, young and diverse people.”¹¹

With inclusion and diversity as a core value, the ELCA has attested that:

As Christ’s church, we value the richness of God’s creation and offer a radical welcome to all people, appreciating our common humanity and our differences. We are a church that does not view diversity as a barrier to unity. We recognize and will challenge dynamics of power and privilege that create barriers to participation and equity in this church and society. . . .¹²

The Unitarian Universalist Association and its 1000+ member organizations have a faith tradition that is diverse and inclusive and affirms that “Guided by our faith in the worth and dignity of all, we build community that includes—a faith that welcomes you in your wholeness.”¹³

¹⁰ *About the ELCA*, EVANGELICAL LUTHERAN CHURCH IN AMERICA (“ELCA”), <https://www.elca.org/About> (last visited July 22, 2022).

¹¹ Mission & Vision, ELCA, <https://www.elca.org/About/Mission-and-Vision> (last visited July 22, 2022).

¹² Id.

¹³ People of Many Backgrounds, UNITARIAN UNIVERSALIST ASSOCIATION, <https://www.uua.org/beliefs/who-we-are/backgrounds> (last visited July 22, 2022).

As religious denominations and faith-based organizations seek to sustain and build multicultural memberships, there is a recognized need for education and experience to achieve a diverse and inclusive worship experience. For example, the United States Conference of Catholic Bishops observed that:

Catholic parishes are moving from mono-cultural patterns to ones we call “shared,” that is, to parishes in which more than one language, racial or cultural group seek to celebrate the Eucharist and embody Christian community. For ministers and pastoral workers to be effective in this diverse environment, the right knowledge, attitudes and skills need to be developed.¹⁴

Mar Muñoz-Visoso, MTS Executive Director of the Secretariat of Cultural Diversity in the Church, *Mandate*

As with the Nation generally, the future of religious organizations and denominations – and more specifically the expansion of their memberships – “depends upon leaders trained through wide exposure’ to the ideas and mores of students as diverse as this Nation of many peoples.” *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 312, 313 (1978) (quoting *Keyishian v. Bd. of Regents of the Univ. of the State of N.Y.*, 385 U.S.

¹⁴ Mar Muñoz-Visoso, *Mandate*, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS (“USCCB”), <https://www.usccb.org/committees/cultural-diversity-church> (last visited, July 19, 2022).

589, 603 (1967)). In trying to move toward “Authentic Diversity,” – demographically matching the ethnic and racial composition of its community - the Evangelical Lutheran Church of America (“ELCA”), a predominately white, middle class church, has recognized as a barrier that ELCA colleges, universities, and seminaries are overwhelmingly white communities at “all levels of staff, faculty, students, and decision-making bodies.”¹⁵ The ELCA recognized that the “inadequacy of theological education and leadership formation in our church should be addressed by engaging voices from the margins” and giving equitable opportunities to students, faculty and staff of color.¹⁶

Also critical to the mission of *amici* and other faith groups is outreach to and engagement with the greater community beyond the walls of the church — teaching and fostering respect for those of different faiths, opinions, and beliefs. *Amicus* American Baptist Home Mission Societies (ABHMS) has a 150 year history of ministering to diverse populations and has recognized the need to “equip leaders with the ability to engage in multicultural settings” and “to model an environment for genuine intercultural

¹⁵ *How Strategic and Authentic is Our Diversity; A Call for Confession, Reflection and Healing Action*, ELCA, adopted Aug. 9, 2019, 5, available at https://download.elca.org/ELCA%20Resource%20Repository/Strategy_Toward_Authentic_Diversity.pdf?_ga=2.197349869.333905562.1658513717-393549660.1658513717 (last visited July 22, 2022).

¹⁶ *Id.*, at 5.

engagement and relationship building.”¹⁷ ABHMS’s Community Outreach Ministries supports a network of Christian Centers across the country to help them address the specific needs of their respective communities.¹⁸ Similarly the UCC engages locally, nationally and globally to minister and provide social services to multicultural communities.¹⁹

The importance of faith-based organizations in our communities was recognized by President Bush’s creation of the first Office of Faith-Based and Community Initiatives in 2001.²⁰ This office continued in some form under multiple administrations and was reestablished by the current administration as the “White House Office of Faith-Based and Neighborhood Partnerships” to further empower the community outreach and service efforts of faith based organizations.²¹

¹⁷ *Intercultural Ministries*, AMERICAN BAPTIST HOME MISSION SOCIETIES (ABHMS), <https://abhms.org/ministries/developing-leaders/intercultural-ministries/> (last visited July 22, 2022).

¹⁸ *Community Outreach Ministries*, ABHMS, <https://abhms.org/ministries/healing-communities/neighborhood-action/> (last visited July 22, 2022)

¹⁹ *How We Serve*, UNITED CHURCH OF CHRIST, <https://www.ucc.org/what-we-do/>

²⁰ FACT SHEET: President Biden Reestablishes the White House Office of Faith-Based and Neighborhood Partnerships, THE WHITE HOUSE (Feb. 14, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/14/fact-sheet-president-biden-reestablishes-the-white-house-office-of-faith-based-and-neighborhood-partnerships/>.

²¹ *See id.*

In the wake of the 2020 killing of George Floyd, seven U.S. bishop chairmen of committees within the U.S. Conference of Catholic Bishops issued a statement that made abundantly clear the need and importance of an environment where people of diverse backgrounds can engage and learn from one another.

We join our brother bishops to challenge everyone to come together, particularly with those who are from different cultural backgrounds. In this encounter, let us all seek greater understanding amongst God's people. So many people who historically have been disenfranchised continue to experience sadness and pain, yet they endeavor to persevere and remain people of great faith. We encourage our pastors to encounter and more authentically accompany them, listen to their stories, and learn from them, finding substantive ways to enact systemic change. Such encounters will start to bring about the needed transformation of our understanding of true life, charity, and justice in the United States. Hopefully, then there will be many voices speaking out and seeking healing against the evil of racism in our land.²²

²² *Statement of U.S. Bishop Chairmen in Wake of Death of George Floyd and National Protests*, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, May 29, 2020, <https://www.usccb.org/news/2020/statement-us-bishop-chairmen-wake-death-george-floyd-and-national-protests> (last visited July 19, 2022).

Outreach and ministry to multicultural communities requires an educational environment that provides students, faith leaders and volunteers the ability to dialogue with a diverse population—to challenge and be challenged on assumptions about different cultures and cultural norms; and to grow as a person and in faith with a greater understanding of how to serve and fellowship with communities that may be different from one’s own. For religious denominations and organizations to properly prepare their members to minister to and partner with diverse communities, it is imperative that members be exposed to diversity in ways that allow students of faith to explore new points of view and “reexamine their most deeply held assumptions about themselves and their world.” *Christian Legal Soc’y v. Martinez*, 130 S. Ct. 2971, 2999 (2010) (Kennedy, J. concurring) (quoting *Bakke*, 438 U.S. at 312, 313, n.48.

III. As We Bear Witness to Increased Intolerance, Misinformation and Racial, Ethnic and Religious Violence, Diversity in Higher Education is More Important than Ever Before.

In 2015, 21-year old Dylann Roof opened fire during the closing prayer of a Bible study at Mother Emanuel AME Church in Charleston, South Carolina murdering nine black parishioners of that church in a racist rampage.²³ In 2018, eleven members of the Tree of Life Synagogue in Pittsburg were murdered

²³ M. Kinard & D. Lavoie, *Court Upholds Death Sentence for Church Shooter Dylann Roof*, AP NEWS, Aug. 25, 2021, <https://apnews.com/article/religion-389bcc56019f268cb1056e37a517bd6c> (last visited July 20, 2022).

by a man shouting anti-Semitic slurs – a rampage described as one of the deadliest against the Jewish community.²⁴ In 2021, eight people were killed in a spree of deadly attacks in the Asian American community in Atlanta.²⁵ This year, racially-biased killings seemed to have escalated.²⁶ More broadly, data collected by the FBI shows that from 2010 to 2019, the number of hate crime incidents recorded by law enforcement rose 10% while the total volume of reported crime including both hate and non-hate incidents—decreased 22% during the same period.²⁷ In recent years some of the country’s largest states have experienced a double digit (or greater) increase in hate crimes. *See, Crime in Texas*, TEXAS DEPARTMENT OF PUBLIC SAFETY (“TDPS Report”) 2020

²⁴ C. Robinson et al, *11 Killed in Synagogue Massacre; Suspect Charged With 29 Counts*, NY TIMES, Oct. 27, 2018, <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html> (last visited July 20, 2022)

²⁵ P. Helsel & R. Elbaum, *8 Dead in Atlanta-area Spa Shootings, Suspect Arrested*, NBC NEWS, Mar. 17, 2021, <https://www.nbcnews.com/news/us-news/3-dead-shooting-georgia-massage-parlor-suspect-loose-n1261262> (last visited July 20, 2022).

²⁶ *See, e.g.*, S. Venkatraman and C. Adams, *Black, Asian and Latino Communities All Faced Mass Shootings in 2 Weeks. How They’re Showing Support*, NBC NEWS, May 26, 2022, <https://www.nbcnews.com/news/nbcblk/black-asian-latino-communities-faced-mass-shootings-2-weeks-showing-su-rca30504> (last visited July 20, 2022) (discussing a series of mass shootings in communities of color within a 2-week span in 2022).

²⁷ E. Smith, *Hate Crime Recorded by Law Enforcement*, U.S. DEPT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, 2010-2019, at <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/hcrle1019.pdf> (September 2021) (last visited July 20, 2022).

(reporting a 35% increase in hate crimes since 2019);²⁸ TDPS Report 2018 (reporting a 100% increase in hate crimes since 2017);²⁹ *2021 Hate Crime in California* CALIFORNIA DEPARTMENT OF JUSTICE (reporting that hate crime offenses increased 42.1% from 2020 to 2021).³⁰

These forces of hate are amplified and encouraged by misinformation spread across the Internet and social media. According to the Council on Foreign Relations: “As more and more people have moved online, experts say, individuals inclined toward racism, misogyny, or homophobia have found niches that can reinforce their views and goad them to violence.”³¹ For example, prosecutors said the Charleston church shooter engaged in a “self-learning process” online that led him to believe that the goal of

²⁸ *Crime in Texas 2020*, TEXAS DEPARTMENT OF PUBLIC SAFETY, <https://www.dps.texas.gov/sites/default/files/documents/crimereports/20/2020cit.pdf> (last visited July 20, 2022).

²⁹ *2018 Crime In Texas – Executive Summary*, TEXAS DEPARTMENT OF PUBLIC SAFETY <https://www.dps.texas.gov/sites/default/files/documents/crimereports/18/executivesummary.pdf> (last visited July 20, 2022).

³⁰ *2021 Hate Crime in California*, CALIFORNIA DEPARTMENT OF JUSTICE, Jun. 28, 2022, <https://oag.ca.gov/system/files/attachments/press-docs/Hate%20Crime%20In%20CA%202021%20FINAL.pdf> (last visited July 19, 2022).

³¹ Z. Laub, *Hate Speech on Social Media: Global Comparisons*, COUNCIL ON FOREIGN RELATIONS, Jun. 7, 2019, <https://www.cfr.org/background/hate-speech-social-media-global-comparisons> (last visited, July 20, 2022).

white supremacy required violent action.³² Similarly, the 2018 Pittsburgh Synagogue shooter was a participant in the social media network Gab, a site that has become a haven for white extremists.³³ There, prior to the killing, he espoused the conspiracy that Jews sought to bring immigrants into the United States, and render whites a minority.³⁴

In these troubling times, faith leaders have called for a coming together across racial and cultural backgrounds to achieve a greater understanding and stand against hate.³⁵

For example, the Council of Religious Leaders of Metropolitan Chicago (CRLMC), a faith-based non-profit representing six million people,³⁶ in response to the Tree of Life killings expressed their outrage of “the increasing normalcy of racist violence in a sacred

³² M. Berman, *Prosecutors say Dylann Roof ‘self-radicalized’ online, wrote another manifesto in jail*, WASH. POST, Aug. 22, 2016, <https://www.washingtonpost.com/news/post-nation/wp/2016/08/22/prosecutors-say-accused-charleston-church-gunman-self-radicalized-online/>

³³ K. Roose, *On Gab, an Extremist-Friendly Site, Pittsburgh Shooting Suspect Aired His Hatred in Full*, NY TIMES, Oct. 28, 2018, <https://www.nytimes.com/2018/10/28/us/gab-robert-bowers-pittsburgh-synagogue-shootings.html>

³⁴ *See id.*

³⁵ *See, e.g., ‘United against hate’: UN chief and religious leaders honour victims of Pittsburgh synagogue shooting*, UN NEWS, Oct. 31, 2018, <https://news.un.org/en/story/2018/10/1024542> (last visited July 20, 2022).

³⁶ *About CRLMC*, Council of Religious Leaders of Metropolitan Chicago (“CRLMC”), <https://www.crlmc.org/aboutcrlmc.html> (last visited July 22, 2022)

space.”³⁷ The CRLMC asked: “Let us honor the dead by having the courage to live with our differences and to realize the vision of America’s founders, e pluribus unum, “out of many, one.”³⁸

The United Methodist Women also issued a statement:

At a time of rising vitriol, racism, hate and violence in the world born of deep economic crisis and global shifts, it is time for the church to speak out If we do not, God will be appalled. We feel compelled to raise a prophetic voice challenging the climate of distrust, distortion of truth and fear, shifting the conversation to our common future.³⁹

In response to the AME Church shooting in Charleston, Archbishop Joseph E. Kurtz, then-president of the U.S. Conference of Catholic Bishops, issued a statement, saying:

We join our voices with civic and religious leaders in pledging to work for healing and reconciliation. Our efforts

³⁷ *Response to the Synagogue Massacre in Pittsburgh, Pennsylvania*, CRLMC, Oct. 29, 2018, <https://www.crlmc.org/response-to-tree-of-life-massacre.html> (last visited July 22, 2022).

³⁸ *Id.*

³⁹ J. Patterson, *United Methodists speak out in wake of synagogue shooting*, UM NEWS, Oct. 29, 2018, <https://www.umnews.org/en/news/united-methodists-speak-out-in-wake-of-synagogue-shooting> (last visited July 22, 2022).

must address racism and the violence so visible today. As the U.S. Catholic Bishops said in our pastoral letter on racism, “Racism is not merely one sin among many; it is a radical evil that divides the human family and denies the new creation of a redeemed world. To struggle against it demands an equally radical transformation, in our own minds and hearts as well as in the structure of our society.”⁴⁰

The Bishops of the AME Church, whose congregants were murdered in Charleston, released a statement on the one year anniversary of the Charleston church shooting, which expressed:

It should not be that those nine faithful believers at Mother Emanuel Church and countless others, black, white, brown and others, across the country that have lost their lives, or are discriminated against, because of racism are in vain. They cry out for the nation to act, to confront and destroy racism. . . . It is imperative that the nation act against the demonic and evil forces which would divide the nation even more, and seek to turn back time. The commemoration of the tragedy at

⁴⁰ *Archbishop Kurtz Expresses ‘Grief and Deep Sadness’ Over Charleston Church Shooting*, USCCB, June 19, 2015, <https://www.usccb.org/news/2015/archbishop-kurtz-expresses-grief-and-deep-sadness-over-charleston-church-shooting> (last visited July 22, 2022).

Mother Emanuel AME Church provides an opportunity for both action and reconciliation for the nation.⁴¹

As faith leaders confronting the ills of racism and other forms of discrimination, we recognize the dangers that misinformation and miseducation presents when people are educated in isolation from other cultures and worldviews. A diverse and inclusive higher education experience is a critical tool in achieving the call to greater understanding and combating the hate that this misinformation and miseducation sows. Education “plays a powerful role in shaping worldviews, connecting members of a community who might have never met before, and imagining the world we want.”⁴² “Learning to live together” is an internationally recognized tenant of education.⁴³ Diversity within higher education is an essential part to building unity and understanding in our country.

⁴¹ Press Release, The Council of Bishops African Methodist Episcopal Church, *Statement from A.M.E. Bishops on Charleston anniversary*, June 17, 2016, available at <https://disciples.org/ecumenical/statement-m-e-bishops-charleston-anniversary/> (last visited July 22, 2022).

⁴² R. Winthrop, *Learning to Live Together: How Education Can Help Fight Systemic Racism*, BROOKINGS INSTITUTE, June 5, 2020, <https://www.brookings.edu/blog/education-plus-development/2020/06/05/learning-to-live-together-how-education-can-help-fight-systemic-racism/> (last visited July 20, 2022).

⁴³ See J. Delores et al, *Learning: The Treasure Within. Report to UNESCO of the International Commission on Education for the Twenty-first Century*, UNITED NATIONS EDUCATIONAL SCIENCE, AND CULTURAL ORGANIZATION (1996)

CONCLUSION

For these reasons, *amici* respectfully request that the Court affirm the decision of the First and Fourth Circuits and conclude that Harvard College and the University of North Carolina can appropriately consider race as one factor among many in their holistic review of applicants in an effort to admit and educate a diverse group of students.

Respectfully submitted.

RODNEY SLATER
CORRINE IRISH*
**Counsel of Record*
SQUIRE PATTON BOGGS (US) LLP
2550 M Street, NW
Washington, DC 20037
(202) 457-6346
corrine.irish@squirepb.com

KEITH BRADLEY
SQUIRE PATTON BOGGS (US) LLP
717 17th Street, Suite 1825
Denver, CO 80202

CHASE GOLDSTEIN
ANDREW YU-CHIH
SQUIRE PATTON BOGGS (US) LLP
555 South Flower Street,
31st Floor
Los Angeles, CA 90071

Counsel for Amici Curiae

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