

No. 20-1199

In The
Supreme Court of the United States

—◆—
STUDENTS FOR FAIR ADMISSIONS, INC.,

Petitioner,

v.

PRESIDENT & FELLOWS OF HARVARD COLLEGE,

Respondent.

—◆—
**On Writ Of Certiorari To The
United States Court Of Appeals
For The First Circuit**

—◆—
**BRIEF OF AMICUS CURIAE
SOUTHEASTERN LEGAL FOUNDATION
IN SUPPORT OF PETITIONER**

—◆—
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QUESTIONS PRESENTED

1. Should this Court overrule *Grutter v. Bollinger*, 539 U.S. 306 (2003), and hold that institutions of higher education cannot use race as a factor in admissions?

2. Title VI of the Civil Rights Act bans race-based admissions that, if done by a public university, would violate the Equal Protection Clause. *Gratz v. Bollinger*, 539 U.S. 244, 276 n.23 (2003). Is Harvard violating Title VI by penalizing Asian-American applicants, engaging in racial balancing, overemphasizing race, and rejecting workable race-neutral alternatives?

3. The Constitution and Title VI ban race-based admissions unless they are “‘necessary’” to achieve the educational benefits of diversity. *Fisher v. Univ. of Tex. at Austin (Fisher I)*, 570 U.S. 297, 312 (2013). Can the University of North Carolina reject a race-neutral alternative because the composition of its student body would change, without proving that the alternative would cause a dramatic sacrifice in academic quality or the educational benefits of overall student-body diversity?

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INTEREST OF AMICUS CURIAE¹

Southeastern Legal Foundation, founded in 1976, is a national nonprofit, legal organization that advocates to protect individual rights and the framework set forth to protect such rights in the Constitution. For 40 years, SLF has advocated, both in and out of the courtroom, for the protection of First and Fourteenth Amendment rights. This aspect of its advocacy is reflected in regular representation before the Supreme Court. *See, e.g., Fisher v. University of Texas at Austin*, 133 S. Ct. 2411 (2013); *Shelby County v. Holder*, 133 S. Ct. 2612 (2013); *Northwest Austin Municipal Utility District No. One v. Holder*, 557 U.S. 193 (2009); *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003); *Adarand Constructors, Inc. v. Slater*, 528 U.S. 216 (2000); *Northeast Florida Chapter of Associated General Contractors of America v. City of Jacksonville*, 508 U.S. 656 (1993); and *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989).

This case concerns SLF because SLF advocates for a color-blind interpretation of the Constitution and preservation of the rights granted to all citizens in the Equal Protection Clause, and it defends the rights to educational opportunities regardless of race. SLF also has an abiding interest in the preservation of the college campus as the traditional “marketplace of ideas.”

¹ Rule 37 statement: The parties were notified that Amicus intended to file this brief more than 10 days before its filing and consented to its filing. *See* Sup. Ct. R. 37.2(a). No party’s counsel authored any of this brief; Amicus alone funded its preparation and submission. *See* Sup. Ct. R. 37.6.

Through its 1A Project, SLF educates college students and administrators about the First Amendment, and it defends the right to engage in open inquiry on our nation's college campuses.

◆

SUMMARY OF ARGUMENT

One thing is clear: “Harvard is obsessed with race.” Pet. at 41. From the very beginning of the admissions process, Harvard recruits high schoolers based on the color of their skin. *Id.* at 8. The racial makeup of each admitted class remains astonishingly stable from year to year, largely due to “one-pagers” the Dean of Admissions provides to the admissions committee. *Id.* at 9. These one-pagers inform the committee about the racial composition of past classes and how the current class’s racial composition is shaping up. *Id.* The committee relies on the one-pagers while making its final decisions, but along the way, any admissions officer can take race into account when considering an application. Pet’r’s App. 126. This lies in stark contrast to other elite universities like the California Institute of Technology (Caltech), where the university does not consider race during the admissions process and where the number of admitted Asian Americans has steadily increased over time. CA1.Joint.App’x (CA1.JA) 160–162.

In *Grutter v. Bollinger*, the Court posited that diverse races would contribute diverse viewpoints in the classroom. 539 U.S. 306, 329 (2003). But Colleges have taken *Grutter* too far. Our nation’s postsecondary

institutions are abandoning their role as the marketplace of ideas at an alarming rate. Rather than promote diversity of views, colleges and universities obsess over the color of their students' skin. They zero in on race as early as the high school recruitment stage, and throughout the formative college years, they reinforce the idea that race informs every decision, action, and relationship. Racial hyperawareness has sowed visible seeds of discord on today's college campuses. Faculty and staff are encouraged to address interpersonal and student-related issues through the lens of race, graduation ceremonies and dorms are segregated, and students cannot even bear to sit in the same room as peers of a different color.

Amicus urges this Court to reconsider its holding in *Grutter* by examining how that decision has played out in tangible ways since 2003. Whereas the Court in *Grutter* held that race-consciousness may serve an important diversity interest in the educational setting, the opposite has proven true: colleges are hardly the bastion of free speech and open inquiry they once were, and interactions on campus have become increasingly divisive and polarizing along racial lines. Our nation's colleges must be restored as forums for true diversity.



ARGUMENT

I. *Grutter* is grievously wrong because it allows colleges to unconstitutionally consider applicants' race in the admissions process.

It is “patently unconstitutional” for a college or university “to assure within its student body some specified percentage of a particular group merely because of its race or ethnic origin.” *Grutter*, 539 U.S. at 329 (quoting *Regents of Univ. of Calif. v. Bakke*, 438 U.S. 265, 307 (1978) (opinion of Powell, J.)) (internal quotation marks omitted). If the racial composition of an admitted class remains relatively unchanging from year to year, there is strong evidence of racial balancing. *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 710 (2007); see also *Cavalier ex rel. Cavalier v. Caddo Par. Sch. Bd.*, 403 F.3d 246, 248 (5th Cir. 2005); *Perrea v. Cincinnati Public Schools*, 709 F. Supp. 2d 628, 635, 645–46 (S.D. Ohio 2010). Rather than use racial balancing to achieve a target number of representation among each racial group, a university may only examine race on an individual basis and in a way that directly provides educational benefits to the student body. *Parents Involved*, 551 U.S. at 726.

Yet in the decade following *Grutter*, the racial makeup of Harvard’s admitted classes hardly wavered. This is because Harvard weighs race throughout its admissions process in a manner that can only be deemed unconstitutional. For example, each year Harvard establishes a “target number” of applicants to admit because the College only has room for about 1,600

students per class. Pet'r's App. 132. The admissions office bases the number upon a yield rate, which predicts the number of applicants who will accept an offer of admission. *Id.* at 24–25. The admissions office relies on racial data to determine the yield rate “because different racial groups historically accept offers to attend Harvard at differing rates.” *Id.* at 137. And throughout the application review process, Harvard monitors the “racial distribution” of the incoming class to ensure it maintains diversity without overenrolling students. *Id.* at 137.

The portion of each racial group per admitted class has remained shockingly stable at Harvard since the *Grutter* decision. Harvard keeps its numbers stable by looking at the racial composition of the incoming class—and even past classes—as it makes admissions decisions. Pet. at 9. And Harvard is not alone; most, if not all, Ivy League schools have similar data that reflects racial balancing in the admissions process. CA1.JA156. The data at these schools contrasts significantly with the data at other elite colleges, such as Caltech, where the admissions office does *not* consider race at any point and where the racial composition of each admitted class has fluctuated noticeably over time. CA1.JA160–162.

A. Data shows that Harvard engages in racial balancing through its admissions process.

Asian-American admissions at Harvard peaked in the early 1990s and have remained stagnant since then. Pet'r's App. 140; CA1.JA156–157 (citing Ron Unz, *The Myth of American Meritocracy*, American Spectator (Dec. 2012)). One study shows that despite “high fluctuations in the number of applications,” Asian-American enrollment at Harvard barely varied from 1995 to 2011. CA1.JA157. In fact, it remained “within a single point of the 16.5 percent average[.]” *Id.* When examining the racial makeup of Harvard’s admitted classes in more recent years, the data is still stagnant. *See, e.g.*, CA1.JA4434–4435. Each year, a class consists of almost the same percentages of African-American, Hispanic-American, Asian-American, and white students as the year before. *Id.*

The following charts depict the racial composition of minorities within each admitted class at Harvard for the Classes of 2010 to 2017. The charts reflect stability among each racial group over the years, as each portion of the admitted class remained within a small range of percentage points.

Percentage of Admitted Class by Race (Old Methodology)								
	Class of 2010	Class of 2011	Class of 2012	Class of 2013	Class of 2014	Class of 2015	Class of 2016	Class of 2017
Asian Am.	17.6	19.5	19.1	17.5	19.8	19.3	20.3	19.5
African Am.	10.4	10.5	10.0	10.4	11.1	11.6	10.0	11.4
Hispanic Am.	9.7	9.9	8.9	10.6	8.8	11.1	9.3	10.4

CA1.JA4434–4435. The portion of Asian-American students making up each admitted class ranged from 17.5% to 20.3%, thus staying within a range of 2.8%. Hispanic-American students stayed within 2.3%, and African-American students stayed within an even smaller range of 1.6%.

Percentage of Admitted Class by Race (New Methodology)				
	Class of 2014	Class of 2015	Class of 2016	Class of 2017
Asian Am.	17.9	17.6	20.5	19.9
African Am.	11.0	11.6	10.0	11.4
Hispanic Am.	10.0	12.1	11.1	11.5

CA1.JA4446–4447. Even with a new methodology,² the numbers were essentially the same. Asian-American

² Harvard adopted a new methodology for admissions that took better account of students who identified across more than

students made up about 17.6% to 19.9% of the admitted classes from 2014 to 2017—a range of 2.9%. Hispanic-American students stayed within the range of 2.3%, and the range of African-American students did not change at all at 1.6%. As the United States pointed out on behalf of Petitioner before the First Circuit Court of Appeals, “[T]he minimal variation . . . is much narrower than the 6.6-percentage-point range in underrepresented minorities the Supreme Court sustained in *Grutter*.” CA1.U.S.Br. 14 (citing *Grutter*, 539 U.S. at 336).

In contrast, Harvard has offered inflated numbers that suggest a major variation within each racial group over the years. *See, e.g.*, Pet’r’s App. 206–208; CA1.JA6114–6115; CA1.JA5735–5742. But Harvard only produces its data on a group-by-group basis, without examining the variation of each racial group *within the context of the overall admitted class*. For example, under the old methodology, the percentage of Asian Americans admitted to the Class of 2014 was 19.8%, an increase of 2.3% from the prior year. CA1.JA4435. Yet Harvard claims that the percentage of admitted Asian-American students skyrocketed by 21 percentage points (-8% to 13%). CA1.JA6114. This, Harvard argues, shows that no racial balancing occurred.

one racial group. Pet’r’s App. 136 n.22. “This avoids double counting but results in the underreporting of the representation of minority racial and ethnic groups because many students identify with two or more racial groups.” *Id.*

To illustrate Harvard's misleading data, imagine that Harvard only admitted one Asian-American student in 2013, and two Asian-American students in 2014. Its graphs would show a 100% increase between 2013 and 2014. If Harvard then admitted just one student in 2015, the numbers would show a 50% decrease that year. If the College admitted one more student in 2016, the numbers would show a 100% increase, and so on. These percentages, the College would say, do not lend themselves to racial balancing because the variations between them are so large. But in reality, Harvard would have stayed within a very small range, fluctuating between only one and two admitted Asian-American students over the years. This minor variation points to racial balancing. *See Parents Involved*, 551 U.S. at 710 (striking down as unconstitutional a school district's efforts to maintain a "predetermined range" of racial groups among students at each school).

Throughout this lawsuit, Harvard has zoomed in too closely on the data. It distracts by pointing to the year-to-year fluctuations within a racial group while omitting the racial group's makeup within the larger admitted classes. Its data thus disregards the overall stability of each racial group within each admitted class in the decade following *Grutter*. Such stability, this Court has held, is evidence of racial balancing. *See, e.g., id.*; *accord Cavalier*, 403 F.3d at 248 (relying on Supreme Court precedent to find a school cannot set a target number of enrollment percentages based on race); *Perrea*, 709 F. Supp. 2d at 645–46 (finding unconstitutional a school's attempts to maintain the same rough percentages of racial groups among teachers).

B. Other elite colleges and universities appear to engage in racial balancing.

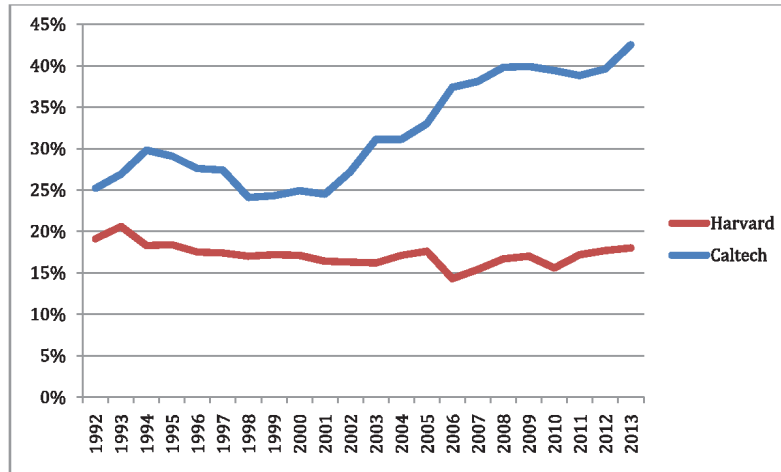
Data also reveals that Harvard is not alone. All Ivy League colleges have shockingly similar percentages to Harvard's, suggesting that most colleges engage in some sort of racial balancing.

Percentage of Asian-American Enrollment by Ivy League							
	2007	2008	2009	2010	2011	2012	2013
Brown	15	16	15	15	14	12	14
Columbia	17	17	16	16	16	16	18
Cornell	16	17	17	16	16	16	16
Dartmouth	14	14	15	15	14	14	14
Harvard	15	17	17	16	17	18	18
Penn	17	17	18	18	18	18	18
Princeton	14	15	16	17	18	19	17
Yale	14	14	15	15	15	16	16

CA1.JA156. This chart demonstrates that the rough percentage of Asian Americans enrolled in Ivy League colleges stayed around 15% from 2007 to 2013. More tellingly, the percentage range over the years within each school was relatively unchanging. Brown had the highest range at 4%, while Cornell, Dartmouth, and Penn each stayed within a range of 1% or less.

As Petitioner pointed out in its Complaint before the district court, other elite universities, like Caltech, do not consider race during the admissions process. CA1.JA160. For example, the following table and graph generally show how the percentages of Asian-American enrollment diverged between Harvard and Caltech.

Percentage of Asian-American Enrollment		
	Harvard	Caltech
1992	19.1	25.2
1993	20.6	26.9
1994	18.3	29.8
1995	18.4	29.1
1996	17.5	27.6
1997	17.4	27.4
1998	17.0	24.1
1999	17.2	24.3
2000	17.1	24.9
2001	16.4	24.5
2002	16.3	27.2
2003	16.2	31.1
2004	17.1	31.1
2005	17.6	33.0
2006	14.3	37.4
2007	15.4	38.1
2008	16.7	39.8
2009	17.0	39.9
2010	15.6	39.4
2011	17.2	38.8
2012	17.7	39.6
2013	18.0	42.5



CA1.JA161–162. In 1993, the portion of enrolled Asian-American students at Harvard was its highest at 20.6%. Since then, the number has stayed between about 15% and 18%. In contrast, Caltech’s enrollment in 1993 was 26.9% Asian-American. In the late 1990s and early 2000s, that number went down to roughly 24%. But from 2001 to 2013, it steadily increased to 42.5%.

At Caltech, the numbers of enrolled Asian-American students have significantly increased since the 1990s. But while the enrollment numbers at this elite school have steadily grown over time, Harvard’s remain the same. This is not for a lack of applications; despite making up only 6% of our nation’s population, Asian Americans have comprised approximately 22% of Harvard’s applicant pool in recent years. Pet’r’s App. 112–113. Again, this reveals that Harvard has engaged in unconstitutional racial balancing.

C. Even without the data, practices by the admissions department show that Harvard is “obsessed with race.”

Harvard kicks off its admissions process each year by recruiting high school students based on the color of their skin. Pet. at 8. The College invites students of African-American and Hispanic-American descent to apply to the College if they have a PSAT score of 1100 or higher. *Id.* Harvard does *not* extend the invitation to students of Asian-American descent unless they score at least 250 points higher than the other minorities. *Id.* When asked why it failed to apply the same recruitment standards to all minority students, Harvard could not give “a precise answer.” CA1.JA583:6–23.

Harvard admissions officers take race into account when considering whether to advance an application at each round in the admissions process. Pet’r’s App. 126. First, as applications roll in, the Harvard admissions office condenses key data about each applicant into a two- to three-page summary sheet. *Id.* at 127. One of the data points is the applicant’s race. *Id.* at 128. Each time an admissions officer considers an application, he or she chooses whether to pass the application and summary sheet along to the next round. *Id.* at 127–33. Finally, once the application survives the winnowing process and appears before the full admissions committee, each applicant’s summary sheet—including the race of the applicant—is displayed on a screen. *Id.* at 129.

To ensure the admissions office is meeting its target number of racial groups each year, the Dean of Admissions tracks the ethnic makeup of the applicant pool through “one-pagers” that “provide a snapshot of the projected class and compare it to the prior year.” *Id.* at 135. The Dean frequently shares this data with the application review committee. “For example, at the start of the full Admissions Committee meetings, he usually states how many students are being recommended for admission by the subcommittees and how the breakdown of the class compares to the prior year in terms of racial identities and other demographics.” *Id.* at 136. And if a demographic group is not sufficiently represented in the applicant pool on a given year, Harvard can “give additional attention to applications from students within that group.” *Id.* at 136–37.

Finally, once the admissions committee has narrowed down its list of applicants to fall within the target range, it engages in a “lop process” to eliminate the final few candidates. *Id.* at 133. To assist with “loping,” the committee considers five factors: athleticism, socioeconomic class, legacy status, gender, and race. *Id.* Once again, the Dean of Admissions informs the committee about the racial composition of the class before the committee determines which applications to reject. *Id.* Only after completion of this extensive, race-conscious process are acceptance letters finally mailed.

II. The *Grutter* decision wrongly conflates diversity of color with diversity of thought as campuses become increasingly tribalistic and closed to different viewpoints.

This Court has long held that a college campus is the “marketplace of ideas” where students are exposed “to that robust exchange of ideas which discovers truth.” *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967). Indeed, freedom of speech and academic inquiry are “vital” on college campuses, because only through thoughtful debate and discourse can real education occur. *Healy v. James*, 408 U.S. 169, 180 (1972). Open dialogue is particularly vital on college campuses where students are formed into tomorrow’s leaders; as such, they must be well-versed on matters of public import and our nation’s founding principles of freedom and equality. See *Garrison v. Louisiana*, 379 U.S. 64, 74–75 (1964).

Diversity contributes significantly to a well-rounded college experience. Indeed, this Court held in *Grutter* that “attaining a diverse student body is at the heart of [a university’s] proper institutional mission” for exchanging ideas. *Grutter*, 539 U.S. at 329. But diversity of color alone does not necessarily produce diversity of thought in the classroom. In fact, to assume that members of one race will bring a particular point of view to campus is a form of stereotypical thinking. Pet. at 23–24 (“The Fourteenth Amendment normally forbids ‘the assumption that race or ethnicity determines how [individuals] act or think.’”) (quoting *Metro Broad., Inc. v. FCC*, 497 U.S. 547, 602 (1990) (O’Connor,

J., dissenting)). And as Petitioner points out, white students are the ultimate beneficiaries of this rationale. Pet. at 24. Minority students “receive preference not because of their own interests, but as instruments for improving educational opportunity and attainment for all matriculated students (most of whom are white).” James Blumstein, *Grutter and Fisher: A Reassessment and a Preview*, 65 Vand. L. Rev. En Banc 57, 65–66 (2012).

Moreover, there is a *decrease* in diversity of thought on campus. For example, in a recent survey of nearly 20,000 college students, a shocking 60% of students revealed that they have withheld viewpoints on campus for fear of how others would respond. Press Release, Foundation for Individual Rights in Education, *Largest Ever Free Speech Survey of College Students Ranks Top Campuses for Expression* (Sept. 29, 2020).³ Students at Ivy League schools were most in favor of using violence to shut down speech events. *Id.* And minority groups, including women, LGBTQ students, and African-American students, were statistically less tolerant of others’ views. *Id.*

In another recent survey, students at 159 colleges and universities also reported censorship. Over 80% of those students censored themselves at least once; 21% censored themselves often; and more than 50% of those students found race a difficult topic to discuss. All told,

³ www.thefire.org/largest-ever-free-speech-survey-of-college-students-ranks-top-campuses-for-expression/.

these students likely would not agree that their schools are promoting “cross-racial understanding.”

Students may find it difficult to talk about race because many college campuses are segregated. Columbia University recently made headlines for its 2021 graduation plans. See Dustin Barnes, *Columbia University Offering Graduation Ceremonies Based on Race, Ethnicity, Income Status*, USA Today (Mar. 16, 2021).⁴ Along with its typical schoolwide commencement, the university planned at least six “Multicultural Graduation Celebrations” for students who “self-identify in a variety of ways.” Ben Zeisloft, *‘The Endpoint of Critical Race Theory’: Columbia University Faces Backlash for Segregated Graduations*, Campus Reform (Mar. 16, 2021).⁵ As the Columbia website showed, the celebrations were divided by race, socioeconomic status, and even sexual orientation.⁶

⁴ www.usatoday.com/story/news/education/2021/03/16/columbia-university-offers-graduation-ceremonies-based-race-income/4716586001/.

⁵ <https://campusreform.org/?id=17040>.

⁶ <http://web.archive.org/web/20210308102343/www.cc-seas.columbia.edu/multicultural/graduationguests>.

EVENT REGISTRATION

For each graduation celebration you register for below, you will receive the link for the virtual event, details on submitting congratulatory messages to graduates and information about event recordings.

I would like to register for the following: *

- Asian Graduation Celebration
- Black Graduation Celebration
- FLI Graduation Celebration (First-generation and/or low income community)
- Latinx Graduation Celebration
- Lavender Graduation Celebration (LGBTQIA+ community)
- Native Graduation Celebration

Select all that apply.

Submit

Although Columbia has since clarified that the celebrations were voluntary and open to any student, its website showed that it still planned to tailor each celebration specifically to racial minorities, low-income students, and students who identify as LGBTQ. *Id.*

The public should not have been surprised by Columbia's segregated ceremonies, though. Other colleges have hosted similar graduation ceremonies for years. Dion J. Pierre, *Demands for Segregated Housing at Williams College Are Not News*, NAS (June 11, 2019).⁷ This makes sense, because colleges also maintain segregated student unions and multicultural centers. *Id.* They even offer segregated housing to students based on race. *Id.*

Beyond offering physically segregated spaces on campus, it has become common practice among college staff and administrators to focus on students' race. At

⁷ <https://www.nas.org/blogs/article/demands-for-segregated-housing-at-williams-college-are-not-news>.

Smith College, an elite private institution not far from Harvard, a former employee in the Department of Residential Life reported that the College taught her to view everything “through the lens of race, projecting rigid assumptions and stereotypes on students, thereby reducing them to the color of their skin.” Bari Weiss, *Whistleblower at Smith College Resigns over Racism* (Feb. 19, 2021).⁸ This was done through training sessions, curriculum, and conversations. And when the employee indicated that she did not feel comfortable responding to personal questions about her racial identity, she was informed that such discomfort was “an act of aggression” and a sign of “white fragility.” *Id.*

Unfortunately, the reinforcement of racial differences and “otherness” has trickled down to college students. For instance, at the University of Virginia in 2020, an African-American student demanded that white students leave the college’s new Multicultural Student Center. Edmund DeMarche, *University of Virginia Student Says ‘Too Many White People’ at School’s New Multicultural Center: Report*, Fox News (Feb. 13, 2020).⁹ The student announced, “[T]here are just too many white people in here, and this is a space for people of color, so just be really cognizant of the space that you’re taking up, because it does make some of us

⁸ <https://bariweiss.substack.com/p/whistleblower-at-smith-college-resigns>.

⁹ www.foxnews.com/us/university-of-virginia-student-says-too-many-white-people-at-schools-new-multicultural-center-report.

[people of color] uncomfortable when we see too many white people in here.” *Id.*

Likewise, at Arizona State University, minority students made similar comments to two white students who were studying in a multicultural center. Emma Colton, *College Students Confront White Peers with ‘Police Lives Matter’ Sticker: ‘You Are Racist,’* Fox 10 Phoenix (Sept. 28, 2021). One white student had a “Police Lives Matter” sticker on his computer. The other wore a shirt that said, “Did Not Vote For Biden.” The minority students accused the white students of racism and demanded that they leave, saying, “You’re white, do you understand what a multicultural space is? It means you’re not being centered.” *Id.*

Is this what diversity looks like? Under *Grutter*, the answer appears to be yes. Nearly twenty years ago, Justice Scalia warned that the Court’s holding in *Grutter* would lead universities to “talk the talk of multiculturalism and racial diversity in the courts but walk the walk of tribalism and racial segregation on their campuses.” 539 U.S. at 345 (Scalia, J., concurring in part and dissenting in part). By openly encouraging staff to form assumptions about students based on race, segregating college graduations and campus facilities, and teaching students that they cannot sit in the same room as classmates of another race, the college experience is exactly as he predicted.

The *Grutter* decision does not uphold true diversity—of thought, religion, politics, or culture—because it still allows colleges like Harvard to significantly

weigh race in the admissions process for the sake of so-called educational diversity. The *Grutter* reasoning exacerbates racial stereotypes by conflating diversity of viewpoint with diversity of color. And as the examples above show, if college admissions officers can form first impressions of students based on their race, there is nothing to prevent college students from doing the same.

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CONCLUSION

For the reasons stated in the Petition for Certiorari and this amicus curiae brief, this Court should grant the petition for writ of certiorari.

Respectfully submitted,

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