



INTRODUCTION

Good afternoon, Your Honor, Counsel. My name is Cara McClellan, and I represent 25 Harvard student and alumni organizations as amici curiae in support of Harvard's ability to consider race as one of many factors in its holistic admissions process. In the words of Dean Fitzsimmons, "race is one part of a person's life that [may] lead that person to be a great educator of others, about how to be a good citizen and citizen leader, not just at Harvard but later." During this divisive time for our country, the need for citizen-leaders educated in diverse settings, remains as urgent as ever.

My clients include thousands of Harvard students and alumni who are Black, white, Latinx, Native American, and Asian American. Some grew up in public housing and were the first in their families to attend college. Others come from families that have achieved financial success and impressive educational credentials, yet still experience the effects of persistent racial discrimination in our country.

You have heard from:

Prof. Margaret Chin – a Chinese American alumna, a founding board member of the Coalition for a Diverse Harvard, and a member of the Harvard Asian American Alliance.

Catherine Ho – a Vietnamese American sophomore and the Co-President of the Harvard-Radcliffe Asian American Women's Association.

Madison Trice – a Black sophomore, Political Action Chair of the Association of Black Harvard Women, and a member of the Harvard-Radcliffe Black Students Association.

Cecilia Nuñez – a Black and Mexican American junior, Vice-President of Fuerza Latina of Harvard, and board member of the Phillips Brook House Association.

You have also heard from four additional Harvard students and alumni: Itzel Libertad Vasquez-Rodriguez, Sarah Cole, Thang Diep, and Sally Chen. In contrast, no students have come forward to testify in support of ending race conscious admissions.

SFFA has not met its burden of proving that Harvard can fulfill its educational mission, which requires that it put together an exceptional, racially diverse class, without considering race. Instead, the stories that you heard this past Monday from Harvard students and alumni demonstrate first that race is an indelible part of their lives, their educational experiences, and their long-term professional goals. Second, each witness described how Black, Latinx, and Asian American students and alumni, and the organizations they form, are indispensable to Harvard's ability to



reap the educational benefits of diversity. Third, their testimony also made clear that the dramatic reduction in Black and Latinx students on campus from the loss of race-conscious admissions—estimated at 50%—would be devastating for all Harvard students.

As one of my clients, Catherine Ho put it, diversity allows for more opportunities to organically “learn from other people, listening to their stories, [and] listening to their perspectives. [But] if their perspectives and stories aren’t present on campus, who are we supposed to be learning from?”

I. Race can be an essential aspect of how students develop as individual applicants.

First, the evidence unequivocally shows that race-conscious admissions must be preserved to completely and holistically evaluate each individual student applicant. For many students of color, early experiences related to race are a formative aspect of their identity that they include in their application. For some, memories of discrimination or observed inequality are at the root of what motivates them to work hard and advocate for change. This is evident in the amici witnesses’ testimony about their educational experiences and college application essays.

Catherine Ho testified that her ethno-racial identity is a core part of who she is and became the focus of all three personal essays she submitted to Harvard. In one essay, the Vietnamese language, a language that has no past-tense, provided a metaphor for how she understands her parents’ don’t-look-back attitude. As refugees from Vietnam, her parents overcame many barriers. Their strength is what drives her to push forward despite obstacles.

When Catherine viewed her application file and learned that her Vietnamese heritage was an aspect of her application Harvard valued, she rushed to tell her father. Although her father’s refugee story is not always appreciated, she carries important lessons because of this history, a contribution the Harvard admissions committee recognized she would bring before she even arrived.

In addition to impacting the development of applicants’ individual identity, race systematically impacts the opportunities and resources that applicants can access before they apply to college. Too often, the resources available in a school correlate with the racial makeup of the school. Sarah Cole described how her predominantly white college prep school included standardized test prep in its curriculum, while her friends at the majority black local public high school were offered no such opportunities. As Tia Mari Ray, Director of the Undergraduate Minority Recruitment Program explained, Harvard recognizes that resources impact students’ performance on SATs.

Even in wealthy, high-performing schools, students of color face bias that can limit academic opportunities. Madison Trice testified about facing the bigotry of low expectations. Her

elementary school teacher discouraged her from entering her school's gifted program, despite her excellent grades, until her parents intervened to challenge an arbitrary entrance requirement that only seemed to apply to her. Once enrolled in more advanced courses, Madison spent most of her academic life as one of the only Black students in her class, facing social isolation and bullying because she was different.

As Dean Fitzsimmons' testimony made clear, Madison's experience is not uncommon; many students of color who apply to Harvard come from academic environments where they feel isolated as minorities and write about this experience to help the Admissions Office contextualize the "persistence, courage, [and] self-confidence" that went into their remarkable achievements. Indeed, Madison wrote in her personal essay that the different treatment she endured led to her aspirations to pursue a career in foreign service and work on behalf of marginalized communities experiencing oppression abroad. Preventing her from speaking about her race would inhibit her ability to fully describe what motivates her intellectual and professional ambitions.

SFFA would prohibit universities from considering race as part of a holistic review, while allowing colleges to consider other aspects of an applicant's identity, such as their socioeconomic status, gender, sexual orientation, or their disability. However, pretending to be race-blind when reviewing applications will only disadvantage applicants of color, including Asian American students, whose full stories would be ignored.

II. Affinity groups and the individual students who form them facilitate the educational benefits of diversity.

Second, amici witnesses' testimony provides real life validation for why the Supreme Court has repeatedly affirmed that the pursuit of the educational benefits of diversity is a compelling interest that colleges and universities may seek. As the Supreme Court recognized in *Fisher*, a diverse student body promotes cross-racial understanding and the lessening of racial isolation and stereotypes. At Harvard, student affinity groups help facilitate these benefits by advocating for inclusivity and creating opportunities for students of all backgrounds to engage in cross-cultural exchange.

Affinity groups provide critical support that allows students of color to feel comfortable being their authentic selves. This happens when a student who was once bullied for being different, opens the Association of Black Harvard Women survival guide and reads that Black hair is beautiful and versatile.

Cultural organizations also challenge the broader Harvard community to become more culturally literate and respectful of difference, like when Fuerza Latina successfully advocated for more culturally competent mental health providers on campus, or when the Asian American Women Association hosted a workshop to address anti-Black racism.

Diversity within the vibrant affinity groups on campus matters. It relieves students of color from feeling like representatives of their race and allows flexibility to explore different aspects of their identity and culture. It combats stereotypes as students see multiple representations of what it means to be a particular race. Importantly, diversity within groups requires a holistic approach that considers the multi-faceted identities of applicants beyond just checking a box.

By serving Harvard, for decades, in this way, affinity groups – and the individual students who form them–improve the community’s critical thinking skills, communications skills, and civic engagement, among other things.

Unfortunately, without race conscious admissions, a substantial reduction in Black and Latinx students would threaten the continued existence of cultural organizations and the benefits they provide. Some organizations would have to reduce the size of their leadership boards or the programming they offer. Other organizations and their sub-groups would suffer such a stark reduction in their membership that they would cease to exist or no longer have the capacity to be effective. Because collaboration across organizations is essential, even organizations whose membership ranks are not significantly reduced would no longer be able to provide the same experiences for their members and the larger Harvard community.

As Cecilia Nuñez testified, “the idea that there could be a much smaller pool of Latinx students on campus is concerning” as it calls into question whether Fuerza Latina “as an organization [can] continue to exist.” In addition, it would impact the “well-being of our constituents . . . That could mean even more students feeling that much more alone on campus.”

The witnesses we heard from explained that racial diversity was a crucial factor in why they applied to and ultimately decided to attend Harvard. For Professor Margaret Chin, Harvard was not even on her radar until she attended a college fair in Chinatown and heard from Asian American Harvard students that she should apply.

Roger Banks, who served as Director of the Undergraduate Minority Recruitment Program for 20 years, explained that “typically the leaders of various minority groups and communities on campus became [recruitment] coordinators” and host students during Visitas, a prospective student weekend that allows students “to really see what it’s like as a student of color at Harvard.” Cecilia Nuñez considered it very “important to be in a school that had a very diverse student body.” Visiting Harvard during Visitas weekend affirmed that Harvard would be a good fit.

While the Undergraduate Minority Recruitment Program is a key tool, what ultimately attracts many students of color to Harvard is the diversity itself: without this diversity, admissions officers and student ambassadors could not be as persuasive and successful in their recruitment efforts. As Cecilia explained, if Harvard “hadn’t felt like it was a space that would be welcoming to people of color and it hadn’t felt like a very diverse space, it probably would have affected my



ultimate decision to go.” The diversity attained through race-conscious admissions must be preserved in order to attract future classes of diverse students.”

III. Considering race is necessary to ensure diversity.

Finally, our witnesses’ testimony makes clear that Dr. Kahlenberg is wrong: race-neutral alternatives cannot provide meaningful diversity and the educational benefits currently conveyed would be lost under an admissions process that does not actually consider race.

In all of Kahlenberg’s simulations of race-neutral alternatives, the racial group that bore the greatest burden was Black students. The percentage of Black students declined dramatically in each simulation—and in some the result was a 40% reduction of the number of Black students on campus.

Dr. Kahlenberg did not talk to a single Harvard student or faculty member about how a reduction of Black students would affect the quality of a Harvard education. But Your Honor has had the benefit of hearing from eight amici witnesses, each of whom testified that a loss of Black students of this magnitude would fundamentally alter the educational experience for all students.

In addition, each amici witness testified that while socioeconomic status is important, it is not a substitute for understanding and addressing race. Race remains a visible marker that cannot be ignored. Cecilia Nuñez described how she faced bias growing up that was based on race and entirely unrelated to her socioeconomic class. She grew up in an upper middle-class household—her parents are both doctors—yet people often assumed “that her family wasn’t educated or that [they] were in some way less than other families in [their] city.” In elementary and middle school, classmates were not allowed to come over to play at her house because their parents made false assumptions that her family would be a bad influence. Assumptions like these are wrong regardless of a family’s socioeconomic status, but Cecilia’s experiences show how those assumptions persist for families of color even when they’ve achieved financial comfort.

Importantly, Dr. Kahlenberg parts ways with SFFA, and acknowledges that the racial discrimination faced by student applicants of color should be considered as part of the admissions process, and he further concedes that employing race is, by definition, the most efficient method of promoting racial diversity. On this point, we agree. Students and alumni who advocate for diversity and inclusion at Harvard, like Professor Margaret Chin, push for race-conscious solutions that directly address bias and discrimination.

CONCLUSION

Behind the dueling statistical models in this case, are real people directly impacted by Harvard’s race-conscious admissions policy: students and alumni for whom diversity and the



inclusion that it fosters remain a pressing concern that cannot be taken for granted. We heard painful stories that show the harsh ways race continues to impact the experiences of Harvard students: a Chinese American student assumed to be a “tourist” and asked to leave the common room; a Black student labeled threatening and treated violently by Cambridge police; a group of Latinx students called “wetbacks” while walking around campus with friends. The stereotypes and prejudice experienced by these students varied, but the hostile and alienating message was always clear.

Your Honor also heard stories of the transformation that happens when some of our country’s brightest young people have the opportunity to engage with classmates who are different from them—sometimes for the first time in their lives. The benefits of diversity can be found in the late-night conversations between two roommates, one Black whose family is from Ghana, one Asian American whose family is from Vietnam, assigned to live together in a dorm room where they fall asleep talking to each other every night. For Catherine Ho, the experience of living with her roommate opened her eyes to how police brutality impacts Black students—making her personally connected to a social problem from which she previously had the privilege of being relatively removed.

Harvard has embraced its educational mission of preparing the future citizen-leaders of our country to address the enduring schisms and problems that plague our society. How, Dr. Ruth Simmons asked, can we expect our future leaders to remediate these schisms if we don’t prepare them to do so? Similarly, as a leader in the Phillips Brook House Association, Cecilia Nuñez explained that “it’s very important that we have people who . . . understand our constituents’ diverse experiences.” Her comments referred to her volunteer activities, but the same principles apply to the future work of citizen-leaders after college.

Harvard’s diversity puts students in an environment where people of different backgrounds stop being faceless others, and become classmates, teammates, lab partners, and friends. In this process, stereotypes are undermined, cross-cultural relationships grow, and deeper understandings of complex social problems are formed. The testimony you have heard makes clear: diversity is one of the most meaningful aspects of the preparation that Harvard students receive. Harvard must be permitted to pursue the benefits of diversity if it is to fulfill its educational mission.