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LDF Files Amicus Brief in Supreme Court in *SFFA v. UNC* Admissions Case

Today, the Legal Defense Fund (LDF) filed an amicus brief in the Supreme Court of the United States in *Students for Fair Admissions (SFFA) v. University of North Carolina (UNC)* on behalf of LDF and the NAACP in support of UNC's race-conscious admissions process. UNC is one of the country's oldest taxpayer-funded, public universities and, until the mid-20th century, had a policy of denying admission to Black applicants and other people of color because of their race. UNC's race-conscious admissions policy is especially necessary because, in the state's primary and secondary schools, qualified Black students are systemically denied fair opportunity to amass the traditional credentials that universities prioritize, such as high grade point averages and standardized test scores, that would give them a competitive advantage in UNC's admissions process.

In October 2021, the United States District Court for the Middle District of North Carolina upheld UNC's holistic, race-conscious admissions policy, relying on over 40 years of Supreme Court precedent reinforcing the constitutionality of race-conscious admissions. LDF and the NAACP ask the Supreme Court to affirm that decision.

In its campaign to undo longstanding precedent allowing the limited consideration of race in admissions to higher education, SFFA attempts to re-write one of the most important Supreme Court cases in our nation's history, *Brown v. Board of Education*. Abandonment of the Court's 2003 ruling in *Grutter v. Bollinger*, which was affirmed by the Supreme Court as recently as 2016 in *Fisher v. University of Texas*, as requested by SFFA, would force colleges and universities to ignore race and the unfair advantages and disadvantages stemming from ongoing educational inequalities when attempting to assemble a student body that will foster the educational benefits of diversity.

In their amicus brief, LDF and the NAACP defend the true history of the *Brown* litigation — and what the landmark decision stands for and ordered. They make clear that the equality principle articulated in *Brown* was founded on both an explicit acknowledgement that racial segregation relegates Black people to second-class citizenship and of the harms associated with that badge of inferiority. They further argue that the Court in *Brown* sought to restore the Equal Protection Clause's original history and purpose — to provide Black people meaningful, equal participation in education and society — and that history and purpose would be severely undermined should SFFA prevail.

“Race-conscious admissions policies at the University of North Carolina and other selective colleges and universities are not only constitutional, but necessary and integral to fully realizing the Supreme Court's promise of equality in its 1954 *Brown v. Board of Education* decision,” said **LDF President and Director-Counsel Janai S. Nelson**. “As demonstrated by persistent inequalities in employment, housing, voting, the criminal legal system, as well as education, the

promise of *Brown* remains unfulfilled. In the face of this stark reality, it is imperative for institutions of higher learning to ensure equal opportunities for all students, regardless of the advantages and disadvantages to which they were born. And it is equally imperative for the Supreme Court to protect its own legitimacy by upholding decades of precedent and withholding its imprimatur on what will inevitably become a racially-segregated educational system in direct contravention of *Brown*, should SFFA prevail.”

“To paraphrase the late Thurgood Marshall, remember that during most of the last 200 years the Constitution, as interpreted by the Supreme Court, did not prohibit the most ingenious and pervasive forms of discrimination against Black people,” said **Janette Wallace, NAACP General Counsel**. “Now, when the State of North Carolina considers race in acknowledgment of that legacy of discrimination to pursue the benefit of diversity this same Constitution cannot stand as a barrier.”

“Some level of race-consciousness remains critical to further equal access to higher education and to realize the promise of *Brown*,” said **Michael Skocpol, LDF Assistant Counsel**. “Without it, even the limited progress made towards racial integration at UNC would be at risk — as would the educational benefits of diversity that are so foundational to our nation’s success.”

“The Supreme Court has repeatedly held that, in its own words, ‘effective participation by members of all racial and ethnic groups in the civic life of our nation is essential if the dream of one nation, indivisible, is to be realized,’” said **Amber Koonce, LDF’s Fried Frank Civil Rights Litigation Fellow**. “Given the educational disparities in access and opportunity for students of color across the nation, admissions processes must consider the whole person, including their racial and ethnic identity. In North Carolina, we know that Black students and other underrepresented students of color have fewer opportunities to take honors courses, have less access to experienced educators, and are under-selected for academically gifted programs as compared to their white peers. Indeed, holistic admissions enables UNC to identify qualified and talented students of all racial and ethnic groups in light of these unfair discrepancies.”

“All students deserve a fair shot at admission, regardless of their income, where they grew up, or their racial and ethnic background,” said **LDF Litigation Fellow Alexis Johnson**. “Admissions policies that are holistic in evaluating students help to break down some of the barriers that prevent Black, Brown, Native, and AAPI students from gaining admission in the most selective colleges and universities. Without these policies, an entire generation of promising, hardworking students would be shut out of life-changing, educational opportunities through no fault of their own. And in the case of UNC, a race-conscious admissions policy is especially critical given the persistent, negative impact of UNC’s historical discrimination that continues to unfairly disadvantage Black people and other people of color.”

When LDF successfully litigated *Brown* 68 years ago, the plaintiffs and their lawyers, including LDF founder and eventual Supreme Court Justice Thurgood Marshall, were not fighting for, nor did the Supreme Court envision, SFFA’s version of a “colorblind” Fourteenth Amendment that ignores the persistent reality of racial inequalities. LDF and the original *Brown* plaintiffs sought to uproot the subordination of Black people and secure equal citizenship for Black Americans by ending this country’s racial caste system. That is the vision that the Supreme Court affirmed in *Brown* and that LDF and the NAACP assert it is dutybound to honor.

Read the full amicus brief [here](#).

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Founded in 1940, the [Legal Defense Fund](#) (LDF) is the nation's first civil rights law organization. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.