

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL JAKICHE,

Plaintiff

v.

No. 25-cv-01070-JR-LF

BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO,
GARNETT S. STOKES, *in her
official capacity as President of the
University of New Mexico*, and
PATRICIA W. FINN, *in her official
capacity as Dean of the University of
New Mexico School of Medicine*,

Defendants.

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

Defendants, Board of Regents of the University of New Mexico, Garnett S. Stokes, and Patricia Finn, (collectively, “**Defendants**”), file this Memorandum of Law in Support of its Motion to Dismiss. Plaintiff, Michael Jakiche (“**Plaintiff**”), alleges federal claims under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.* (“**Title VI**”), and under the Civil Action for Deprivation of Rights, under the Civil Rights Act of 1871, 42 U.S.C. § 1983 (“**Section 1983**”). Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and for the reasons discussed below, Defendants move the Court to dismiss Plaintiff’s claims.

I. Factual Background¹

This case arises in the context of highly competitive medical school admissions and out of the denial of Plaintiff’s application for admission into the University of New Mexico School

¹ For the purposes of this motion only, Defendants accept as true the factual allegations contained in Plaintiff’s Complaint.

Medicine (“**School of Medicine**”). Plaintiff, along with 1,735² other applicants, applied for admission to the School of Medicine during the 2023-2024 admissions cycle.³ Plaintiff was not one of the 103⁴ students accepted. Plaintiff applied to the School of Medicine again during the 2024-2025 admission cycle⁵, along with 1,718⁶ other applicants, and was one of 1,616⁷ applicants who were declined admission. After being denied admission for a second time, Plaintiff filed the instant suit alleging violations of Title VI and Section 1983.

Plaintiff has an outstanding academic record. He graduated from Arizona State University in 2024 with a bachelor’s degree in Biophysics and a 3.99 undergraduate grade point average (“**GPA**”). [Doc. 1, Complaint at ¶ 6]. Plaintiff scored 519 on his Medical College Admission Test (“**MCAT**”). [Doc. 1, Complaint at ¶ 7].

Nonetheless, Plaintiff was denied admission into the School of Medicine for the entering class of 2024 and was placed 23rd on the waitlist. [Doc. 1-4; Doc. 1-5; Doc. 1, Complaint at ¶ 10-11]. The 2024 Advisement⁸ indicated that the average accepted MCAT score was 506, and that the average accepted GPA was 3.75. [Doc. 1-4]. Plaintiff’s biographic information in his 2024 American Medical College Application Service (“**AMCAS**”) report reflects that he selected “White” as his “Racial Self-identification.” [Doc. 1-3 at p. 2].

² Data retrieved from the Association of American Medical Colleges [2024 FACTS | AAMC](#)

³ The admission cycle was for the 2024-2025 academic year.

⁴ Data retrieved from the Association of American Medical Colleges [2024 FACTS | AAMC](#)

⁵ The admission cycle was for the 2025-2026 academic year.

⁶ Data retrieved from the Association of American Medical Colleges [2025 FACTS: Applicants and Matriculants Data | AAMC](#)

⁷ *Id.*

⁸ The Post Application Advisement Summary is a feedback form given to applicants following the conclusion of the School of Medicine’s admissions process. This form is specific to the applicant and includes the applicant’s admissions score and/or rankings on the waitlist or non-admit list as well as feedback on overall categories of evaluation.

Plaintiff applied again to the School of Medicine for the entering class of 2025. [Doc. 1, Complaint at ¶ 21]. Plaintiff was again denied admission and this time was not placed on the waitlist. [Doc. 1, Complaint at ¶ 23; Doc. 1-6]. The 2025 Advisement indicated that the average accepted MCAT score was 509, and the average accepted GPA was 3.79. [Doc. 1-6]. The 2025 Advisement reflected that Plaintiff did not effectively communicate “why you want to be a physician”, was not able to discuss health care issues, included generic letters in his application, displayed a limited knowledge of New Mexico’s health care landscape and issues, and had limited shadowing and community service prior to 2023. [Doc. 1-6]. In this application cycle, Plaintiff selected “Middle Eastern or North African; Syrian” for his “Racial Self-identification.” [Doc. 1-2 at p. 2].

II. Standard of Review

Under Federal Rule of Civil Procedure 12(b)(6), the Court is limited to considering “the complaint, its proper attachments, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” *Stewart v. Texas Tech Univ. Health Sci. Ctr.*, 741 F. Supp. 3d 528, 541 (NDTX 2024). A court may take judicial notice of “a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *Vote Solar v. City of Farmington*, No. CV 19-753 JAP/CG, 2019 WL 8406960, at *1 (D.N.M. Oct. 31, 2019) (*quoting Fed. R. Evid. 201(b)*).

Rule 12(b)(6) governs dismissal of a complaint that “fail[s] to state a claim upon which relief can be granted.” Under such review, a “complaint’s sufficiency is a question of law” *Mayer v. Bernalillo Cnty.*, No. CV 18-0666 JB\SCY, 2019 WL 130580, at *15 (D.N.M. Jan. 8, 2019). “[A] court must accept as true all well-pled factual allegations in the complaint, view those

allegations in the light most favorable to the non-moving party, and draw all reasonable inferences in the plaintiff's favor." *Mayer*, 2019 WL 130580, at *15. However, "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). Therefore, "[a] complaint need not set forth detailed factual allegations, yet a pleading that offers labels and conclusions or a formulaic recitation of the elements of a cause of action is insufficient." *Id.*

Additionally, a complaint must allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547 (2007). "Factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Twombly*, 550 U.S. at 555 (citation omitted). The Tenth circuit has explained:

"[P]lausibility" in this context must refer to the scope of the allegations in a complaint: if they are so general that they encompass a wide swath of conduct, much of it innocent, then the plaintiffs "have not nudged their claims across the line from conceivable to plausible." The allegations must be enough that, if assumed to be true, the plaintiff plausibly (not just speculatively) has a claim for relief. This requirement of plausibility serves not only to weed out claims that do not (in the absence of additional allegations) have a reasonable prospect of success, but also to inform the defendants of the actual grounds of the claim against them. Without some factual allegation in the complaint, it is hard to see how a claimant could satisfy the requirement of providing not only "fair notice" of the nature of the claim, but also "grounds" on which the claim rests.

Robbins v. Oklahoma, 519 F.3d 1242, 1247 (10th Cir. 2008) (citing, *Twombly*, 550 U.S. at 555).

Thus, to survive a motion to dismiss, "the mere metaphysical possibility that some plaintiff could prove some set of facts in support of the pleaded claims is insufficient; the complainant must give the court reason to believe that this plaintiff has a reasonable likelihood of mustering factual support for these claims. *Mayer v.*, 2019 WL 130580, at *15 (citing, *Ridge at Red Hawk, LLC v. Schneider*, 493 F.3d 1174, 1177 (10th Cir. 2007) (emphasis omitted)). Similarly, "[a] court will

not construe a plaintiff's pleadings 'so liberally that it becomes his advocate.'" *Id.* (citing, *Bragg v. Chavez*, No. CIV 07-0343 JB/WDS, 2007 WL 5232464, at *25 (D.N.M. Aug. 2, 2007)).

III. Legal Argument

Plaintiff's Complaint purports to rely on *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023) (herein after "*SFFA*"), but such reliance is misplaced. Both academic institutions involved in *SFFA*, Harvard University and the University of North Carolina ("UNC"), admitted to using race-based admission criteria. *SFFA*, 600 U.S. at 195-196 ("In the Harvard admissions process, race is a determinative tip for" a significant percentage "of all admitted African-Americans and Hispanic applicants"; at UNC, students may obtain a "plus" based on their race). The School of Medicine does not use race-based admission criteria and did not do so in considering Plaintiff's applications for admission.

Importantly, Plaintiff's Complaint fails to identify any race-based admission criteria used by the School of Medicine in the evaluation of his applications. He does not point to any policy, practice, statistic, or overt language that in any way identifies race as a factor in admissions into the School of Medicine. At no time was Plaintiff denied the opportunity to apply in either admissions cycle. [Doc. 1-4, Doc. 1-6]. Nor does he allege that he was evaluated using any rubric or metric different from any other applicant. Plaintiff has failed to allege the existence of any policy that would support his claim that the School of Medicine makes admissions decisions on the basis of race.

The entire premise of Plaintiff's Complaint appears to be the School of Medicine's use of the term "diversity" in application and admission materials. [See Doc. 1-4, Doc. 1-5, Doc. 1-6]. While the School of Medicine's use of the term "diversity" is not specifically defined, is not listed within any rubric of performance and it is not referenced in relation to any protected class or

category. [*Id.*] Rather, the context in which “diversity” is used is reflected in the 2024 communication from the School of Medicine to Plaintiff where it is listed as a basis for selection alongside “motivation for the study of medicine, problem-solving ability, self-appraisal, ability to relate to people, maturity, breadth of interests and achievement, [] professional goals, and the likelihood of serving the health care needs of New Mexico after postgraduate training.” [Doc. 1-5]. Plaintiff’s allegations that the School of Medicine makes admissions decisions based on race are speculative and conclusory and as discussed in detail below, are insufficient to overcome a Rule 12(b)(6) motion.

Even if race could be read into references to “diversity”, the Supreme Court in *SFFA* made clear that individual considerations of race in the admissions process does not violate Title VI. *SFFA*, 600 U.S. 181, 230–31. The *SFFA* Court specifically held that “nothing in this opinion should be construed as prohibiting universities from considering an applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise. *Id.* at 230.

A benefit to a student who overcame racial discrimination, for example, must be tied to *that student’s* courage and determination. Or a benefit to a student whose heritage or culture motivated him or her to assume a leadership role or attain a particular goal must be tied to *that student’s* unique ability to contribute to the university. In other words, the student must be treated based on his or her experiences as an individual—not on the basis of race.

Id. at 231 (emphasis in original).

Plaintiff’s Title VI claims fail because the Complaint does not explain how an admission process that considers “diversity” impacted Plaintiff or otherwise had a negative impact on his applications based on his race. In order to sufficiently plead a Title VI intentional discrimination claim, the Complaint must allege facts that show the plaintiff was treated differently because of race. *See Wright v. Arlington Indep. Sch. Dist.*, 834 F. App’x 897, 902 (5th Cir. 2020) (finding that plaintiff failed to sufficiently plead Title VI discrimination claim where she failed to allege facts

“showing that she was treated differently because of her heritage or ethnicity”).” *Campbell v. Coppell Indep. Sch. Dist.*, No. 24-10318, 2025 WL 384410, at *2 (5th Cir. Feb. 4, 2025) (citing *Rollerson v. Brazos River Harbor Navigation Dist. of Brazoria Cnty. Tex.*, 6 F.4th 633, 639 (5th Cir. 2021)) (“Plaintiffs’ claim for discrimination under Title VI fails because they fail to allege that the District treated [the student] differently ‘because of’ his race.”)

A. The School of Medicine Should Be Afforded Deference for Admissions Decisions

Generally, courts have accorded “great deference to a school’s determination of the qualifications of a hopeful student.” *Davis v. Univ. of N. Carolina*, 263 F.3d 95, 102 (4th Cir. 2001); *see also, Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 225 (1985) (“When judges are asked to review the substance of a genuinely academic decision ... they should show great respect for the faculty’s professional judgment.”); *Class v. Towson Univ.*, 806 F.3d 236, 246 (4th Cir. 2015) (“In determining whether an educational institution’s eligibility requirement is essential and whether it has been met, we accord a measure of deference to the school’s professional judgment.”)

Thus, “the determination to admit a student into a given academic program [ordinarily] requires the expert evaluation of numerous factors that are not conducive to judicial decisionmaking.” *Betts v. Rector & Visitors of the Univ. of Va.*, 1999 WL 739415, at *5 (4th Cir. Sept. 22, 1999) (citing *Board of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 92 (1978)) (“Courts are particularly ill-equipped to evaluate academic performance”). Courts have found that such deference “is the case especially regarding degree requirements in the health care field when the conferral of a degree places the school’s imprimatur upon the student as qualified to pursue his chosen profession.” *Doherty v. S. Coll. of Optometry*, 862 F.2d 570, 576 (6th Cir. 1988). The deference afforded to academic institutions, and in particular to those institutions in the health care

and medical field, informs the context in which Plaintiff's Complaint should be evaluated and underscores the importance of Plaintiff's Complaint meeting the pleading requirements articulated by the Tenth Circuit. *See Manickavasagar v. Virginia Commonwealth Univ. Sch. of Med.*, 667 F. Supp. 2d 635, 642–43 (E.D. Va. 2009).

Plaintiff's Complaint seeks to disregard the School of Medicine's professional judgment to conclude that his own "qualifications exceed those of the average admittee." [Doc. 1, Complaint at ¶ 37]. In so doing, Plaintiff does not account for the comments and feedback provided on the Advisements, nor does Plaintiff consider the breadth of qualities and experiences not captured by the numerical scores of an applicant's MCAT and/or GPA. Ultimately, Plaintiff's allegations of racial discrimination are based on his own dissatisfaction with the outcomes of his applications for admission rather than any identified race-based admissions policy or practice. Plaintiff's dissatisfaction with the admission decisions is expressed in the Complaint as legal conclusions couched as factual allegations. Even assuming the Complaint meets the pleading standard established in *Twobly*, Plaintiff cannot overcome the deference afforded to academic institutional decision making absent overt evidence of discrimination in admissions.

B. Plaintiff's Title VI Claims Fails as a Matter of Law (Counts I & II)

Title VI prohibits discrimination based on "race, color, or national origin ...under any program or activity receiving federal financial assistance." 42 U.S.C. § 2000d; *Guardians Ass'n v. Civil Serv. Comm'n*, 463 U.S. 582, 607–08 (1983). Title VI "prohibits only intentional discrimination." *Alexander v. Sandoval*, 532 U.S. 275, 280 (2001) ("Title VI itself directly reaches only instances of intentional discrimination"); *Canutillo Indep. Sch. Dist. v. Leija*, 101 F.3d 393, 397 (5th Cir.1996) ("a Title VI plaintiff must prove discriminatory intent").

To establish a claim of intentional discrimination under Title VI, Plaintiff must allege “(1) that there is racial or national origin discrimination and (2) the entity engaging in discrimination is receiving federal financial assistance.” *Baker v. Bd. of Regents of Kan.*, 991 F.2d 628, 631 (10th Cir. 1993); *Quarrie v. New Mexico Inst. of Mining & Tech.*, No. 13-CV-0349 MV/SMV, 2014 WL 11456597, at *2 (D.N.M. Feb. 25, 2014), *report and recommendation adopted*, No. 13-CV-0349 MV/SMV, 2014 WL 11456599 (D.N.M. Apr. 3, 2014).

As discussed below, Plaintiff’s Title VI claims are due to be dismissed as to President Stokes and Dean Finn because there is no individual liability under Title VI. Likewise, Count I fails because it does not set forth the elements of a *prima facie* case of intentional discrimination under Title VI. Count II is subject to dismissal because Title VI does not provide private litigants a cause of action under a disparate impact theory.

1. Claims Against Defendants Stokes and Finn Should be Dismissed Because Title VI Does Not Permit Individual Liability

Plaintiff has included Garnett S. Stokes, President of the University of New Mexico, and Patricia W. Finn, M.D., Dean of the School of Medicine, as defendants. Title VI does not provide for individual liability. *See Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1170 (11th Cir. 2003) (“text of Title VI also precludes liability against those who do not receive federal funding, including individuals”); *Whitfield v. Notre Dame Middle Sch.*, 412 F. App’x 517, 521 (3d Cir. 2011) (“Individual liability may not be asserted under Title VI.”); *Muthukumar v. Kiel*, 478 F. App’x 156, 159 (5th Cir. 2012) (“Title VI permits suits only against public or private entities receiving funds and not against individuals”); *Price ex rel. Price v. Louisiana Dept. of Educ.*, 329 Fed. Appx. 559, 561 (5th Cir. 2009), *cert. denied*, 130 S. Ct. 1023 (2009) (Title VI claim against the individual officials properly dismissed because “only public and private entities can be held liable under Title VI”); *Bisong v. University of Houston*, 2006 WL 2414410 (S.D. Tex. 2006)

(“Courts considering this matter have uniformly held that Title VI actions cannot be brought against individual employees of entities that receive federal funds”).

Because Title VI does not provide for individual liability, Plaintiff’s Title VI claims against President Stokes and Dean Finn should be dismissed with prejudice.

2. Plaintiff Does Not Allege Direct Evidence of Intentional Discrimination (Count I)

In the Title VI context, direct evidence is “evidence sufficient to allow the jury to find that the decision makers placed substantial negative reliance on [the plaintiff’s national origin] in reaching their decision.” *Astaraee v. Villanova Univ.*, 509 F. Supp. 3d 265, 270 (E.D. Pa. 2020). “This includes ‘overt or explicit evidence which directly reflects discriminatory bias by a decision maker.’” *Astaraee*, 509 F. Supp. 3d at 270 (*quoting Ke v. Drexel Univ.*, No. 11-6708, 2015 WL 5316492, at *12 (E.D. Pa. 2015)).

Plaintiff cannot establish a violation of Title VI through direct evidence because he does not allege any direct evidence that race was used as a factor in the consideration of his applications into the School of Medicine. Additionally, Plaintiff does not and cannot point to any policies that include express classifications of admissions preferences for racial classes. Nor does Plaintiff allege or point to any comment or conduct of admissions personnel or decision makers that indicate direct evidence of racial discrimination or consideration of race as a factor of admissions.

3. Plaintiff’s Complaint Fails to Set Forth a *Prima Facie* Case under Title VI Because He Has Failed to Identify His Race and Thus, Has Not, and Cannot, Point to Similarly Situated Applicants Who Were Treated More Favorably

In the absence of direct evidence, “a claim of discrimination under Title VI is analyzed using the burden-shifting analysis outlined in *McDonnell Douglas*.” *Quarrie v. Wells*, No. CV 17-350 MV/GBW, 2019 WL 6911624, at *4 (D.N.M. Dec. 19, 2019) (*citing Black Educ. Network, Inc. v. AT&T Broadband, LLC*, 154 F. App’x 33, 44 (10th Cir. 2005) (unpublished) (*citing*

Freeman v. Fahey, 374 F.3d 663, 665 (8th Cir. 2004)); *see also Vesom v. Atchison Hosp. Ass'n*, 279 F. App'x 624, 635 (10th Cir. 2008) (unpublished) (*citing Antonio v. Sygma Network, Inc.*, 458 F.3d 1177, 1181 (10th Cir. 2006)); *see also Bryant v. Indep. Sch. Dist. No. I-38*, 334 F.3d 928, 930 (10th Cir. 2003) (applying functionally identical burden-shifting framework to Title VI claims).

To establish a *prima facie* case of discrimination in an educational setting, a plaintiff must allege: (1) he is a member of a protected class; (2) he suffered an adverse action at the hands of the defendants in pursuit of his education; (3) he is qualified to continue the pursuit of their education; and (4) he was treated differently from similarly situated students who are not members of a protected class.” *Moore v. Solanco Sch. Dist.*, 471 F. Supp. 3d 640, 655 (E.D. Pa. 2020); *see also Amro v. Boeing Co.*, 232 F.3d 790, 798 (10th Cir. 2000). If the plaintiff establishes a *prima facie* case, the burden shifts to the defendants to demonstrate a legitimate, nondiscriminatory reason for the difference in treatment. *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973). Finally, the burden shifts to the plaintiff once again to show that the proffered nondiscriminatory reason is pretextual. *Garrett v. Hewlett-Packard Co.*, 305 F.3d 1210, 1217 (10th Cir. 2002).

Plaintiff’s Complaint does not identify his race and as a result it subject to dismissal under Rule 12(b)(6) because he has failed to plead a *prima facie* case of intentional discrimination under Title VI. *See Atkins v. Fort Worth Police Dep’t*, No. 4:20-CV-00054-P-BP, 2020 WL 5134777, at *5 (N.D. Tex. Aug. 6, 2020), *report and recommendation adopted*, No. 4:20-CV-00054-P-BP, 2020 WL 5106856 (N.D. Tex. Aug. 31, 2020) (dismissing Title VI discrimination claim that “does not allege facts, such as his race, color, or national origin to support a claim under Title VI” and were “conclusory allegations [that] do not satisfy the *Iqbal/Twombly* pleading standard[.]”; *see also, Hill v. Mercy Hosp.*, No. 4:24-CV-00971 JAR, 2024 WL 3457445, at *5 (E.D. Mo. July 18,

2024), appeal dismissed, No. 24-2553, 2024 WL 5358937 (8th Cir. Aug. 14, 2024) (“Plaintiff has failed to articulate her race or color, or that she was a member of the protected class, thus, she cannot state a Title VII claim on this basis.”).

Here, the Complaint states only that Plaintiff “is the son of Syrian immigrants.” [Doc. 1, Complaint at ¶ 4]. The Complaint therefore makes reference to Plaintiff’s national origin, yet each claim remains centered on discrimination “on the basis of race,” not national origin. The ambiguity of Plaintiff’s protected classification is further muddled by the change in Plaintiff’s self-identification of his racial identity in his AMCAS applications. Specifically, in Plaintiff’s first application cycle he selected “White” as his “Racial Self-identification” [Doc. 1-3 at p. 2]. The following year, however, Plaintiff selected “Middle Eastern or North African – Syrian” as his “Racial Self-identification. [Doc. 1-2 at p. 2]. Plaintiff’s changes to his racial identity on his AMCAS application undermine his claims that he was treated differently because of his race.

Because Plaintiff does not identify his race and does not claim discrimination on the basis of national origin, it is unclear what protected class Plaintiff alleges that he belongs to and/or is the basis of discrimination. Given such ambiguity, Plaintiff does not and cannot allege that he was treated differently from similarly situated students not of his protected class.

Relatedly, Plaintiff’s failure to plead his race leaves Defendants unable to address and/or defend against Plaintiff’s claims as there is no basis for assessing comparators or differential treatment between protected classes. Consequently, Plaintiff’s claims do not “inform the defendants of the actual grounds of the claim against them,” and should be dismissed. *Robbins v. Oklahoma*, 519 F.3d 1242, 1247 (10th Cir. 2008).

4. Title VI Does Not Permit Disparate Impact Claims (Count II)

Because Plaintiff has failed to identify any race-based admission criteria employed by the

School of Medicine, Count II of Plaintiff’s Complaint appears to be an attempt to articulate a disparate impact⁹ claim under Title VI. In *Alexander v. Sandoval*, the Supreme Court reiterated that Title VI only prohibits intentional discrimination and conclusively rejected the availability to private litigants of a disparate impact theory of discrimination under Title VI. 532 U.S. 275, 285 (2001); *see also United States v. Maricopa, Cnty. of*, 151 F. Supp. 3d 998, 1012 (D. Ariz. 2015), *aff’d sub nom. United States v. Cnty. of Maricopa, Arizona*, 889 F.3d 648 (9th Cir. 2018) (“The Supreme Court has held private plaintiffs may bring suit under Title VI for violations caused by intentional discrimination but not disparate impact discrimination.”).

C. Plaintiff’s Section 1983 Claims Fail as a Matter of Law (Count III)

Plaintiff’s Section 1983 claim is due to be dismissed because admission to medical school is not a constitutionally protected right. In order to state a claim under 42 U.S.C. § 1983, “a plaintiff must allege that he was deprived of a right or privilege secured by the United States Constitution or laws of the United States, and that the deprivation was caused by a person acting under color of state law.” *A.P. v. Fayette Cnty. Pub. Sch.*, No. CIV. A. 5:06-247-JMH, 2008 WL 215397, at *3 (E.D. Ky. Jan. 24, 2008). The law is clear, “[p]ublic education is not a ‘right’ granted to individuals by the Constitution.” *Plyer v. Doe*, 457 U.S. 202, 221 (1982) (citing *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1, 35, (1973)). As such, “deprivation of public education cannot form the basis of a claim under § 1983.” *Fayette Cnty. Pub. Sch.*, No. CIV. A. 5:06-247-JMH, 2008 WL 215397, at *3.

The denial of Plaintiff’s acceptance into the School of Medicine “cannot form the bases of a claim under § 1983,” as public education, including higher education such as medical school

⁹ The Supreme Court considered disparate impact discrimination under Title VII of the Civil Rights Act of 1964 (“Title VII”) in *Griggs v. Duke Power Co.* 401 U.S. 424 (1971), in which it found that Title VII “proscribe[d] not only overt discrimination but also practices that are fair in form, but discriminatory in operation.” 401 U.S. at 431.

training, is not a right granted by the Constitution or the laws of the United States. *Fayette Cnty. Pub. Sch.*, No. CIV. A. 5:06-247-JMH, 2008 WL 215397, at *3. Furthermore, Plaintiff does not allege how any deprivation of rights was caused by Defendants. Rather, Plaintiff's allegations remain vague, conclusory, and subject to dismissal. Additionally, "[i]n order to withstand a motion to dismiss, plaintiffs [alleging Section 1983 claims] must plausibly allege both actual and proximate causation." *Napper v. Hankison*, 617 F. Supp. 3d 703, 721 (W.D. Ky. 2022) (emphasis added). See also *Scott v. Hern*, 216 F.3d 897, 911 (10th Cir. 2000) ("A plaintiff must allege factual causation—i.e. 'but for' causation—in order to state a claim under § 1983.").

Here, Plaintiff's pleadings do not allege sufficient facts to establish a plausible claim under Section 1983 as Plaintiff does not identify what, if any, right or privilege he was deprived of by Defendants, nor how Defendants' actions were the actual and proximate cause of any deprivation of rights. For example, Plaintiff alleges that Defendants have "an established policy and practice of making admissions decisions on the basis of race, and applied those discriminatory policies and practices to Plaintiff." [Doc. 1, Complaint ¶ 53]. Yet, Plaintiff does not identify any race-based admissions policy or practice, and does not allege how any such policy or practice was applied specifically to Plaintiff so as to be the actual and proximate cause of his purported deprivation of rights. Similarly, Plaintiff's Complaint lacks other key factual allegations, including identification of his race, essential to sufficiently plead that "but for" Plaintiff's race, he would have been admitted into the School of Medicine. Plaintiff has failed to meet even this minimum pleading standard. As such, Plaintiff's claims under Section 1983 should be dismissed.

IV. Conclusion

For the reasons set forth above, Defendants' Motion to Dismiss is due to be granted and Plaintiff's Complaint dismissed.

Respectfully Submitted,

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of December, 2025, I filed the foregoing electronically through the Court's electronic filing system (CM/ECF), which caused all counsel of record to be served by electronic means. I further certify that the foregoing was emailed to the following:

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