



July 6, 2023

VIA e-mail at: jayhess@iu.edu

Indiana University School of Medicine
Attn.: Jay L. Hess, MD, PhD, MHSA
340 W 10th St.
FS 5100
Indianapolis, IN 46202-3082

RE: *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 2023
U.S. LEXIS 2791 (2023)

Dear Dean Hess:

Last week the United States Supreme Court issued an opinion in the above referenced case declaring racial preferences illegal in higher education admissions under the Equal Protection Clause of the Fourteenth Amendment to the Constitution. The Court reasoned that Harvard's and UNC's admissions programs: (1) lack sufficiently focused and measurable objectives warranting the use of race; (2) unavoidably employ race in a negative manner; (3) involve racial stereotyping; and (4) lack meaningful end points. This letter is to inform you of that decision and the consequences should your medical school fail to comply with the Court's ruling.

Very simply, the Court's decision continues its storied tradition of issuing seminal opinions such as *Brown v. Board of Education* and *Regents of Univ. of Cal. v. Bakke*, "to vindicate the Constitution's pledge of racial equality." *Students for Fair Admissions, Inc.*, 2023 U.S. LEXIS **32-33. The Court noted in its opinion last week that when it issued its decision in *Brown*, it overturned *Plessy v. Ferguson* "for good and set firmly on the path of invalidating all *de jure* racial discrimination by the States and Federal Government." *Id.* at *30.

But unfortunately, after issuing its opinion in *Brown* in 1954, many officials disregarded the Court's ruling supporting the principle of a colorblind society and still engaged in pernicious racial discrimination. This required a second trip to the Supreme Court a year later in *Brown II*, where the Court ordered that its decision in *Brown I* be implemented immediately toward full compliance "with all deliberate speed." 349 U.S. 294, 301 (1955).

Against this backdrop of officials at academic institutions in the past declining to implement Supreme Court decisions involving the elimination of racial discrimination, Liberty Justice Center is taking steps to notify medical schools across the country of the Court's recent decision.

Liberty Justice Center is a 501(c)(3) nonprofit organization engaged in strategic litigation to protect students, families, entrepreneurs, and others whose fundamental constitutional rights have been violated.

For example, Liberty Justice Center restored the First Amendment rights of more than 5 million public employees in the landmark Supreme Court victory in *Janus v. AFSCME*, 138 S. Ct. 2448 (2018). Moreover, Liberty Justice Center obtained the first nationwide injunction to stop the illegal OSHA vaccine mandate on private employers and employees that affected approximately 80 million stakeholders. *BST Holdings, L.L.C. v. OSHA*, 17 F.4th 604 (5th Cir. 2021). That decision was eventually upheld by the Supreme Court.

Additionally, Liberty Justice Center has been involved in strategic litigation involving the medical community, which includes representing two physicians in the first federal lawsuit to stop a new California law that shuts down doctors' free speech rights by restricting the medical advice they can give patients regarding COVID-19. That litigation is ongoing.

In accordance with the Supreme Court decision in *Students for Fair Admissions, Inc.*, your medical school must immediately cease any and all policies, practices, programs, or procedures that include a racial component. This includes any Diversity, Equity, and Inclusion ("DEI") policies. Consequently, to the extent your medical school fails to immediately comply with the Supreme Court's recent decision, Liberty Justice Center will actively engage in strategic litigation to vindicate the fundamental constitutional rights of those individuals whose rights have been violated.

We look forward to your prompt attention to this matter, and confirmation of the removal of any such policies.

Sincerely,



M.E. Buck Dougherty III
Senior Counsel, Liberty Justice Center
bdougherty@libertyjusticecenter.org

cc: Sara Albrecht, Chairman, Liberty Justice Center (via e-mail)
Jacob Huebert, President, Liberty Justice Center (via e-mail)
Morgan Bowles, COO, Liberty Justice Center (via e-mail)

