BOARD OF REGENTS
UNIVERSITY OF MINNESOTA

Mission Fulfillment

September 2023

September 7, 2023

9:30 a.m.

Boardroom, McNamara Alumni Center

MIS - SEP 2023

BOARD OF REGENTS
DOCKET ITEM SUMMARY

Mission Fulfillment **September 7, 2023**

AGENDA ITEM: 2023-24 Committee Work Plan

☐ **Review** ☐ **Review + Action** ☐ **Action** ☒ **Discussion**

☐ *This is a report required by Board policy.*

PRESENTERS: Regent Ruth Johnson
Rachel Croson, Executive Vice President and Provost

PURPOSE & KEY POINTS

The purpose of this item is to review and discuss the committee's 2023–24 work plan.

BACKGROUND INFORMATION

Board of Regents Policy: *Board Operations and Agenda Guidelines* describes the role of the Mission Fulfillment Committee as follows:

> The Mission Fulfillment Committee oversees and makes recommendations to the Board related to the University's mission, as articulated in Board of Regents Policy: *Mission Statement* and carried out on five campuses and across the state, the nation, and the world. The committee oversees and advises the administration on academic priorities, activities, programs, and initiatives central to the threefold mission of research and discovery, teaching and learning, and outreach and public service.
>
> Specifically, this committee recommends to the Board:
> - Academic matters reserved to the Board as defined by Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section V.
>
> This committee provides oversight of:
> - Academic programs
> - Reviews and strategic plans of academic units;
> - Admissions practices, demographic trends, and enrollment planning;
> - Curricular and co-curricular educational, research, and engagement opportunities;
> - Diversity and campus climate;
> - Faculty development, recruitment, and retention;
> - Faculty promotion and tenure;
> - International partnerships and global research and educational programs;
> - Health education and academic medicine;

- Issues related to the University's academic profile such as accreditation, reputation, and academic ranking;
- Online learning;
- Public engagement and community partnerships that fulfill the University’s land-grant mission;
- Scholarship, artistic activity, and commercialization of technology and intellectual property;
- Sponsored projects and research support infrastructures;
- Student affairs, student wellness, and the student experience;
- Student experience and academic performance of student-athletes;
- Undergraduate, graduate, and professional education.

Mission Fulfillment Committee
2023–24 Work Plan

Date	Topics
2023	
September 7-8	• **2023–24 Committee Work Plan** • **Annual Report on Academic Program Changes** This item will provide an update on academic program changes approved by the Board in 2021-22, including an overview of the approval process. • **Impacts of the Recent U.S. Supreme Court Decision on Undergraduate Admissions** The committee will learn about how undergraduate admissions processes at all five campuses have been adjusted to comply with the new United State Supreme Court ruling. The item will outline ways the University will continue to advance the MPact 2025 Systemwide Strategic Plan (MPact 2025) goals around community and belonging. • **Consent Report** • **Information Items** ○ Completed Comprehensive Review of Board Policy
October 12–13	• **Sustainable Development Goals Briefing** MPact 2025 specifically sets a goal for the University to be ranked in the Times Higher Education's Impact Rankings which measures progress toward the United Nations' Sustainable Development Goals (SDGs). The committee will engage in conversation about the University's participation, including our current rankings and new initiatives. • **Potential Realignment of Board of Regents Policy: *Tuition and Fees* and Board of Regents Policy: *Student Services Fees*** The committee will discuss and provide feedback on the proposed framework to combine these two policies as part of the Board's comprehensive policy review process. Potential amendments guided by this discussion will be drafted and returned to the committee after consultation with the University community. • **[Board of Regents Policy: *Equity, Diversity, Equal Opportunity, and Affirmative Action* - Review]** The committee will review proposed amendments to this policy as part of the Board's comprehensive policy review process. • **Consent Report** • **Information Items**
December 7-8	• **Introduction to Post-Doctoral Scholars** The committee will engage in a discussion about the important role that post-doctoral scholars play in the intellectual life of the University. The item will highlight activities that the University is undertaking to continue to support post-doctoral scholars. • **Annual Report on the State of the University Research Enterprise** As required by Board policy, the committee will receive the annual report on the status of the University's research and technology commercialization enterprise.

December 7-8	• **[Board of Regents Policy: *Equity, Diversity, Equal Opportunity, and Affirmative Action* - Action]** • **Consent Report** ○ Weisman Art Museum Collection Development Policy • **Information Items**
2024	
February 8-9	• **Enrollment Strategy Plans and Financial Impacts: Crookston and Duluth - Review** This item will provide a summary of fall semester enrollment data from the Crookston and Duluth campuses. The committee will then review the proposed enrollment strategy plans and financial impacts for these campuses. • **Higher Learning Commission Accreditation 2025 Update** This item will provide a briefing on the Higher Learning Commission Accreditation process for the Rochester and Twin Cities campus in 2025. The committee will discuss the required steps within the accreditation process and hear about current progress toward the accreditation renewal. • **Consent Report** • **Information Items**
May 9-10	• **Enrollment Strategy Plans and Financial Impacts: Morris and Rochester - Review** This item will provide a summary of fall semester enrollment data from the Morris and Rochester campuses. The committee will then review the proposed enrollment strategy plans and financial impacts for these campuses. • **Promotion and Tenure, and Annual Continuous Appointments** The committee will review the process and act on recommendations for promotion and tenure and annual continuous appointments. • **Term Faculty and Instructional Staff** This item will provide an overview on the varied contributions of term (contract) faculty and instructional staff to the University's mission. • **Consent Report** • **Information Items**
June 13-14	• **Systemwide Undergraduate Enrollment Management Update** This agenda item will provide an update on systemwide coordinated efforts in enrollment management. • **Distributed Learning Strategy Update** The committee will discuss the University's efforts to achieve the MPact 2025 goal to develop innovative, coordinated, and scaled systemwide distributed learning models that increase access and meet workforce needs. • **Enrollment Strategy Plans and Financial Impacts: Twin Cities - Review** This item will provide a summary of fall semester enrollment data from the Twin Cities campus. The committee will then review the proposed enrollment strategy plan and financial impacts for this campus. The Twin Cities enrollment strategy plan and financial impacts will be considered for action by the Board of Regents at the July meeting.

June 13-14	• **Enrollment Strategy Plans and Financial Impacts - Action** The committee will act on the enrollment strategy plans and impacts for the Crookston, Duluth, Morris, and Rochester campuses. • **Consent Report** • **Information Items**

BOARD OF REGENTS
DOCKET ITEM SUMMARY

Mission Fulfillment **September 7, 2023**

AGENDA ITEM: Annual Report on Academic Program Changes

☐ **Review**	☐ **Review + Action**	☐ **Action**	☒ **Discussion**

☒ *This is a report required by Board policy.*

PRESENTERS: Rachel Croson, Executive Vice President and Provost

PURPOSE & KEY POINTS

The purpose of this item is to discuss 2022–23 academic program changes, the components of degree programs, and the ways in which courses are utilized. The item will include:

- A report of 2022–23 approvals.
- Discussion of the approval process.

The committee will engage in a conversation about whether the process for new, changed, and discontinued academic programs ensures that academic proposals come before the committee having undergone a rigorous, thorough review at appropriate levels.

BACKGROUND INFORMATION

Academic program proposal review and approval is governed by University of Minnesota Administrative Policy: *Adding, Changing, or Discontinuing Academic Plans.* Approval by the Board of Regents is required for the establishment of new academic programs; addition of formal tracks and of new sites for existing academic programs; discontinuance/merger of existing programs; and changes in program titles/degree designation.

This report is submitted annually in conformance with Board of Regents Policy: *Board Operations and Agenda Guidelines*.

University of Minnesota Board of Regents
Mission Fulfillment Committee
September 7, 2023

Annual Report on Academic Program Approval

Introduction

As part of its ongoing agenda, the Mission Fulfillment Committee reviews the new academic program approval and academic program changes recommended by the Executive Vice President and Provost. These recommendations are presented to the Committee on the consent agenda at each meeting. This report provides: (1) a summary of the process for approving new or changed academic programs, (2) an account of the changes approved by the Board in 2022–2023, and (3) a listing of five-year academic degree program trends by major, degree type, level, and campus.

Part I. The Academic Program Approval Process

The University of Minnesota's set of academic programs is among the most comprehensive of any institution in the world. The University offers over 300 undergraduate majors on its five campuses; more than 200 master's degree programs; and over 100 doctoral degree programs. The University is one of only four campuses in the U.S. with agricultural programs, a law school, and academic health science programs including dentistry, pharmacy, nursing, veterinary medicine, and a major medical school. This section describes the program proposal approval process, the principles that guide approval, the criteria used to assess proposals for new and changed programs, and the process's intersection with delegation of authority policies.

Program Approval Process

The process for establishing new academic programs or making changes to current programs offered by any college or campus of the University of Minnesota, involves a series of steps designed to provide careful review and oversight. The process originates at the program and departmental level, progresses through the colleges to the Office of the Provost and, if necessary, the Board of Regents.

The stages of development and approval are additive, with various points of emphasis at each stage in the process. Early consultation within the college, among other colleges, with institutional units, and across campus is a key component of the process, as each unit focuses on different aspects of the proposal. For example, the Office of Undergraduate Education and the Graduate School focus their review on admission and degree requirements, University policy compliance, and other factors specifically related to the academic success of students. Review by the Office of the Provost focuses on things like need and demand, efficiency and effectiveness,

support and resources, mission, collaboration, and program duplication. New undergraduate major degree program proposals on the Twin Cities campus are also reviewed by the Campus Curriculum Committee.

The public review period, which occurs in the weeks leading up to the Board of Regents meeting, encourages open communication across colleges and campuses concerning the creation, discontinuation, and change of academic programs; fosters collaboration and productive exchanges across and between departments and disciplines; and prevents inadvertent encroachment upon and duplication of academic programs.

Principles
The principles that guide academic plan approval include the following:

- **Mission, Priorities, and Interrelatedness**
  Academic programs should be aligned with the missions, strategic plans, and compacts of their home units and with the University's broad institutional goals and strategic directions.

- **Common Criteria**
  Proposals for academic programs should reflect consideration of common criteria: quality, productivity, and impact; centrality; uniqueness and comparative advantage; need and demand (including accreditation or competitive requirements as well as Minnesota workforce needs); efficiency and effectiveness; and development and leveraging of resources. (See "Criteria for New Program Proposals" section below.)

- **Communication and Consultation**
  Decisions to offer, change, or drop academic programs, when they have the potential to affect or involve other units within the University, require consultation early in the program development stage.

- **Timely Review**
  The process ensures thorough and timely review and consideration of proposals for approval at the appropriate level: Board of Regents, Executive Vice President and Provost, Vice Chancellor for Academic Affairs, or collegiate dean.

Approval of academic program proposals should be carried out by the Board of Regents as guided by University Policy or by an appropriate-level administrator with the delegated authority from the Board. Formal approval by the Board of Regents or its designee is required before new and changed programs may be publicized or initiated.

Approval-Level Requirements
The type of requested action determines the required approval level. Changes requiring Board of Regents and Executive Vice President and Provost review and approval include the following:

- Adding a new degree, minor, or program track (subplan)
- Adding a new integrated degree program (e.g., 4+1 Bachelor to Master's program)

- Significant changes to a degree or minor, including: adding a subplan, changing a plan or subplan name, changing a degree designation (e.g., B.S. to B.A., M.S. to M.A.), changing the academic home of a plan, merging two or more degrees or minors
- Discontinuing a degree, plan, or subplan
- Offering distance delivery of all or substantially all coursework for an existing plan, adding or changing the delivery of a degree program.

Criteria for New Program Proposals

The University uses a standard set of criteria to review proposals for new or changed academic programs. These criteria parallel ones used in the University's periodic review of collegiate and departmental academic and administrative units.

Mission, Priorities, and Interrelatedness

- In what ways is the proposed program consistent with the University's and the unit's mission?
- How does the program support the unit's strategic direction and compact?
- How will the program contribute to the priorities of the University (SWSP), the campus, and the unit?
- How does the program relate to other University academic programs?
- What are the implications for other units, colleges, or campuses, including the impact on other units of prerequisites and related courses?

Demand, Development, and Leveraging of Resources

- What is the need and demand for the program? Proposals for programs that reach very small numbers of students are discouraged. The following type of evidence is provided, as appropriate:
  - Evidence that the program meets societal needs and expectations
  - Evidence of consultation with employers or professional organizations, if appropriate
  - Employment data, if appropriate (e.g., current and projected availability of jobs for graduates)
  - Enrollment data for similar programs
  - Data indicating student interest or demand, both short- and long-term
  - Projected number of applicants for the program
  - Projected number of degrees to be conferred per year at full operation
- What is the intended geographic service area and what is the prospective student market?
- How will students benefit from the program?

Uniqueness and Comparative Advantage

- What are the characteristics of the program that make it particularly appropriate for the University of Minnesota?
- Are there comparable academic programs in Minnesota or elsewhere?
- What planning and development expertise shaped the proposal?

Efficiency and Effectiveness

- Have resources been reallocated within the unit to support the proposed program? If so, how?
- If additional resources are needed, how will the program leverage existing resources to attract new resources?
- What steps will be taken to ensure the program is operated economically and effectively?

Quality, Productivity, and Impact

- What are the learning outcomes for the program? How will the outcomes be measured? How often?
- How, when, and by whom will program quality be measured?
- How will the college, the department, and program instructors continue to improve the teaching and learning in this program?
- Is the program subject to review by a specialized accreditation agency? If yes, what agency and what is the review cycle?
- How, if at all, will the program address the University's diversity goals, e.g., student and faculty recruitment, curriculum, etc.?

Part II. Summary of 2022–23 New and Changed Programs

NEW, CHANGED and DISCONTINUED PROGRAMS 2022–2023

TWIN CITIES CAMPUS

Carlson School of Management

Create a Managing People in Organizations undergraduate minor	Oct 2022
Create an undergraduate minor in Entrepreneurship	May 2023

College of Biological Sciences

Create an undergraduate minor in Biotechnology	May 2023

College of Continuing and Professional Studies

Discontinue the Integrated Food Systems Leadership subplan in the Applied Sciences Leadership Master of Professional Studies	Dec 2022
Add a Self-Design subplan in the Applied Sciences Leadership Master of Professional Studies	Dec 2022

College of Design

Add a Product Design subplan in the Design Ph.D.	Dec 2022
Add Fashion Design, Technical Design, and Fashion and Technical Design subplans in the Apparel Design Bachelor of Science	Dec 2022

College of Education and Human Development

Create a completely online delivery option in the PK-12 Administration Post-Baccalaureate Certificate	Sept 2022
Create a Master of Learning and Talent Development degree	Oct 2022
Create a Master of Education in Early Care and Education	Dec 2022
Create an undergraduate minor in Special Education	May 2023
Change the name of the Second Language Education subplan in the Master of Education in Curriculum and Instruction to Multilingual Education	May 2023
Change the name of the Special Education Licensure Subplan in the Bachelor of Science in Special Education to Special Education Licensure-ABS	May 2023
Add a new Special Education-ECSE subplan to the Bachelor of Science in Special Education	May 2023

College of Food, Agriculture and Natural Resource Sciences

Create a completely online delivery option in the undergraduate Horticulture minor	Sept 2022
Create a completely and partially online delivery option in the Insect Science minor	Sept 2022
Discontinue the Risk Analysis for Introduced Species and Genotypes graduate minor	Sept 2022

Discontinue all subplan options in the Fisheries, Wildlife, and Conservation Biology Bachelor of Science degree	Dec 2022
Create a Master of Professional Studies in Dietetics	May 2023
Change the name of the Master of Science in Agricultural Education to Agricultural Education and Communication	May 2023
Change the name of the Initial Licensure subplan to the Agriculture Education Initial Licensure subplan in the Master of Science in Agricultural Education and Communication	May 2023
Add an Advanced Studies and Research subplan to the Master of Science in Agricultural Education and Communication	May 2023
Discontinue the Nutritional Sciences Master of Professional Studies	May 2023

College of Liberal Arts

Discontinue the subplan options in the Global Health Studies Bachelor of Arts degree	Sept 2022
Change the name of undergraduate minor in Mass Communication to Media and Information Studies	Sept 2022
Change the name of of the Hmong Studies subplan in the Asian and Middle Eastern Studies B.A. degree and undergraduate minor to Southeast Asian Studies	Dec 2022
Change the name of the Classics B.A. and undergraduate minor to the Classical and Near Eastern Religions and Cultures B.A. and undergraduate minor	Dec 2022
Change the name of the Classics Civilizations subplan in the Classics B.A.	Dec 2022
Change the name of the History/Literature subplan in the Theater Arts B.A. degree to History/Dramaturgy	Dec 2022
Discontinue the Greek and Latin subplan in the Classics B.A.	Dec 2022
Add the Modern Hebrew subplan in the Classics B.A.	Dec 2022
Discontinue the Bachelor of Arts degree in Biblical Studies	Dec 2022
Discontinue the Technical Communications undergraduate certificate	Dec 2022
Create an undergraduate Minor in Ensemble Music	Feb 2023
Change the name of the Classical and Near Eastern Studies Master of Arts and Doctor of Philosophy degrees to Classical and Near Eastern Religions and Cultures	May 2023

College of Science and Engineering

Discontinue the business and management, product design, and interdisciplinary design subplans in the Bachelor of Computer Engineering and Bachelor of Electrical Engineering	Sept 2022
Create a Post-Baccalaureate Certificate in Electrification Engineering	Oct 2022
Create an undergraduate minor in Management of Technology	Dec 2022
Create a Post-Baccalaureate Certificate in Technology Leadership	Feb 2023
Create a graduate Minor in Financial Mathematics	Feb 2023
Create an integrated BSHS/MS subplan with Rochester campus (also listed under Rochester)	May 2023

College of Pharmacy

Change the academic and administrative home of the Center for Allied Health Programs degree programs from Academic Health Sciences to the College of Pharmacy	Sept 2022

College of Veterinary Medicine

Discontinue the Integrated Food Systems Leadership Post-Baccalaureate Certificate	Sept 2022
Change the name of the Master of Science and Doctor of Philosophy from Veterinary Medicine to Veterinary Sciences	Feb 2023

Humphrey School of Public Affairs

Change the academic degree-granting college for the Master of Human Rights degree from the Graduate School to the Humphrey School of Public Affairs	Dec 2022

Medical School/Graduate Medical Education (GME)

Create a Fellowship Program in Cell Therapy and Regenerative Medicine	Sept 2022
Create a Fellowship Program in Transplant Infectious Diseases	Dec 2022
Create a Mastery in General Surgery Fellowship Program	Feb 2023
Create a family medicine rural training residency	May 2023
Create an Internal Medicine Critical Care Medicine Fellowship	June 2023
Change the name of the Pediatric Blood and Marrow Transplantation Fellowship program to Pediatric Blood and Marrow Transplantation and Cellular Therapy Fellowship	June 2023

School of Dentistry

Discontinue the Advanced Dental Therapy Post Baccalaureate Certificate	Dec 2022

School of Nursing

Create an Adult Gerontological Acute Care Nurse Practitioner Post Graduate Certificate	Dec 2022

School of Public Health

Create a Bachelor of Arts in Public Health	Dec 2022
Discontinue the Clinical Biological and Social Behavioral subplan options in the Epidemiology Ph.D. degree	Dec 2022
Create a Master of Science in Occupational Hygiene	May 2023
Create a Doctor of Philosophy in Occupational Hygiene	May 2023

DULUTH CAMPUS

College of Education and Human Professions

Create a Bachelor of Applied Science in Health and Physical Education	Feb 2023
Discontinue the Community Health Education/Promotion subplan in the Public Health Bachelor of Applied Sciences degree	Feb 2023
Discontinue the Early Childhood Studies Bachelor of Applied Sciences degree	Feb 2023
Discontinue the Unified Early Childhood Studies Bachelor of Applied Sciences degree	Feb 2023

College of Arts, Humanities, and Social Sciences

Create the Global History, History and Social Science, and Specialist History subplans in the undergraduate Bachelor of Arts in History	May 2023
Discontinue the undergraduate minor in Lesbian, Gay, Bisexual, Transgender, and Queer Studies	May 2023

Swenson College of Science and Engineering

Create an undergraduate Certificate in Project Management	Feb 2023
Create a Bachelor of Science degree in Earth and Environmental Science	May 2023
Create a Bachelor of Arts degree in Earth and Environmental Science	May 2023
Add a new Medical Laboratory Science subplan to both the Bachelor of Arts and the Bachelor of Science degrees in Biology (partnership with Medical Laboratory Sciences in College of Pharmacy, Twin Cities)	May 2023

Labovitz School of Business and Economics

Create a Bachelor of Business Administration (BBA) in Risk Management and Insurance	Feb 2023

Medical School

Create a Master of Science degree in Biomedical Sciences	Feb 2023

CROOKSTON CAMPUS

Create an NXT GEN AG Undergraduate Certificate	Sept 2022

MORRIS CAMPUS

Change the name of the Management B.A. and undergraduate minor to the Business and Management B.A. and undergraduate minor	Dec 2022
Discontinue subplans in Financial and Organizational Management, and Global Business in the Management B.A. degree (as part of curricular restructuring)	Dec 2022
Add new subplans in Philosophy, Standard; Philosophy, Computer and Data Studies; Philosophy, Legal Studies; and Philosophy, Politics and Economics to the Philosophy B.A. degree	Dec 2022 Feb 2023

ROCHESTER CAMPUS

Create an integrated BSHS/MS subplan with College of Science and Engineering (Twin Cities campus)	May 2023

Part III. Academic Degree Program Trends

Five-Year Comparison

Listed below are the number of degree programs by general degree type. The numbers in parentheses represent the number of degree programs in September of 2019 and the numbers to the left of the parentheses represent the current count as of September 2023.

	Undergraduate	*Master's*	*Doctoral/Professional*	*Post-Bacc Cert*
Twin Cities	**157 (154)**	**190 (184)**	**106 (107)**	**101 (78)**
Duluth	**99 (95)**	**23 (27)**	**2**	**6 (4)**
Morris	**34 (34)**			
Crookston	**37 (36)**			
Rochester	**2 (2)**	**1* (1)**	**1* (1)**	

* Graduate degrees granted by the Twin Cities campus, with the administrative home of the program on the Rochester campus.

Undergraduate, Graduate, and Professional Degrees Conferred

Listed below are the largest degree programs by degree type and campus.

Twin Cities Undergraduate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Computer Science B S Comp Sc	254	295	329	368	361	1,607
Psychology B A	270	283	263	297	269	1,382
Finance B S B	215	248	236	273	273	1,245
Journalism B A	238	289	246	249	101	1,123
Psychology B S	185	194	218	232	226	1,055
Mechanical Engr B M E	209	203	198	200	202	1,012
Business and Marketing Educ BS	178	198	202	212	190	980
Political Science B A	176	194	215	218	169	972
Communication Studies B A	197	192	192	177	164	922
Biology B S	204	176	188	173	158	899
ALL OTHER DEGREES	5,685	5,758	5,769	6,071	5,511	28,794
Grand Total	7,811	8,030	8,056	8,470	7,624	39,991

Twin Cites Graduate Master's						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Business Admin M B A	454	469	370	353	442	2,088
Teaching M Ed	263	254	231	236	206	1,190
Social Work M S W	137	126	124	114	111	612
Business Analytics M S	99	101	137	13	45	395
Public Policy M P P	78	88	81	69	33	349
Computer Science M S	50	77	67	84	70	348
Hlth Care Administration M H A	87	60	68	51	61	327
Master of Nursing	63	63	62	62	67	317
Electrical Engineering M S E E	133	106	37	6	6	288
Mechanical Engr M S M E	46	54	56	60	45	261
ALL OTHER DEGREES	1,941	1,990	1,903	1,898	1,872	9,604
Grand Total	3,351	3,388	3,136	2,946	2,958	15,779

Twin Cities - Doctoral / Professional						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Medicine M D	216	229	199	242	239	1,125
Law J D	194	159	198	227	234	1,012
Pharmacy Pharm D	173	160	164	164	148	809
Dentistry D D S	114	122	127	121	120	604
Doctor of Nursing Practice	109	102	105	136	138	590
Veterinary Medicine D V M	102	99	93	102	102	498
Physical Therapy D P T	43	55	53	49	54	254
Chemistry Ph D	34	37	31	35	26	163
Electrical Engineering Ph D	34	36	26	31	27	154
Org Lead Pol and Dev Ph D	25	34	30	31	25	145
ALL OTHER DEGREES	622	715	593	635	653	3,218
Grand Total	1,666	1,748	1,619	1,773	1,766	8,572

Twin Cities - Postbaccalaureate Certificate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
PK-12 Administration	29	20	45	30	22	146
Dual Lang. and Immersion Ed.	21	25	38	1	25	110
Clinical Training	21	20	21	12	14	88
Disability Policy and Services	19	16	13	16	20	84
Human Services Leadership	4	18	15	17	11	65

Int Thpys & Hlg Practices Cert	13	12	10	9	9	53
Public Health Core Concepts	12	8	10	8	11	49
Technical Communication	7	10	9	13	7	46
Nonprofit Management	19	7	5	5	6	42
Hlth Care Dsgn & Innov Cert	6	10	6	11	3	36
ALL OTHER CERTIFICATES	115	90	106	90	122	523
Grand Total	266	236	278	212	250	1,242

Duluth - Undergraduate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Psychology B A Sc	134	142	126	159	160	721
Mechanical Engineering B S M E	123	122	125	113	106	589
Marketing B B A	109	118	123	113	106	569
Biology B S	72	91	106	117	73	459
Finance B B A	79	99	86	83	85	432
Communication B A	95	82	77	80	68	402
Accounting B Acc	94	74	78	50	57	353
Management B B A	75	63	52	50	42	282
Chemical Engineering B S Ch E	54	54	64	51	57	280
Civil Engineering B S C E	58	54	48	65	55	280
ALL OTHER DEGREES	1,203	1,127	1,167	1,210	1,242	5,949
Grand Total	2,096	2,026	2,052	2,091	2,051	10,316

Duluth - Graduate Master's						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Social Work M S W	24	43	43	36	47	193
Communication Sci/Disord M A	18	17	19	22	24	100
Business Admin M B A	10	4	17	36	29	96
Education M Ed	19	25	20	13	5	82
Envmntl Hlth/Safety MEnvHltSaf	27	18	11	10	10	76
Psychological Science M A	9	15	14	8	13	59
Trib Admin & Govern M T A G	15	9	7	12	12	55
Computer Science M S	9	16	7	13	3	48
Chemistry M S	7	6	14	10	9	46
Civil Engineering M S	6	8	11	4	9	38
ALL OTHER DEGREES	66	69	76	66	54	331
Grand Total	210	230	239	230	215	1,124

Duluth Doctoral						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Teaching and Learning Ed D	9	0	1	0	1	11
Grand Total	9	0	1	0	1	11

Duluth - Postbaccalaureate Certificate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Community College Teaching	1	3	2	1	1	8
GIS	1		3	1	1	6
Environmental Education			1		1	2
Autism Spectrum Disorders	1					1
Grand Total	3	3	6	2	3	17

Morris - Undergraduate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Biology B A	51	47	53	42	43	236
Psychology B A	36	33	24	24	28	145
Management B A	22	27	22	26	19	116
Computer Science B A	20	23	21	17	20	101
Elementary Education B A	16	21	17	16	17	87
Chemistry B A	21	17	8	13	23	82
Human Services B A	16	13	9	11	21	70
English B A	16	6	20	11	16	69
Sport Management B A	11	12	8	4	10	45
Political Science B A	12	10	10	7	5	44
ALL OTHER DEGREES	117	116	130	76	78	517
Grand Total	338	325	322	247	280	1,512

Crookston - Undergraduate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Accounting B S	46	45	54	45	55	245
Management B S	43	42	35	22	24	166
Health Management B S	28	31	33	34	25	151
Applied Studies B S	19	29	34	28	19	129
Finance B S	14	16	25	29	32	116
Communication B S	26	23	22	22	19	111
Natural Resources B S	31	18	26	17	20	112
Manufacturing Management B M M	20	20	17	18	22	97

Information Technology Mgmt BS	12	13	17	26	19	87
Animal Science B S	17	15	18	18	12	80
ALL OTHER DEGREES	150	155	162	159	147	773
Grand Total	406	407	443	418	394	2,068

Rochester - Undergraduate						
Major	**2018**	**2019**	**2020**	**2021**	**2022**	**Total**
Health Sciences B S	58	56	87	93	102	396
Health Professions B S	27	28	30	36	41	162
Grand Total	85	84	117	129	143	558

Annual Report on Academic Program Changes

Board of Regents | Mission Fulfillment Committee | September 2023

Rachel Croson
Executive Vice President and Provost

Administrative Policy

Adding, Changing, or Discontinuing Academic Plans

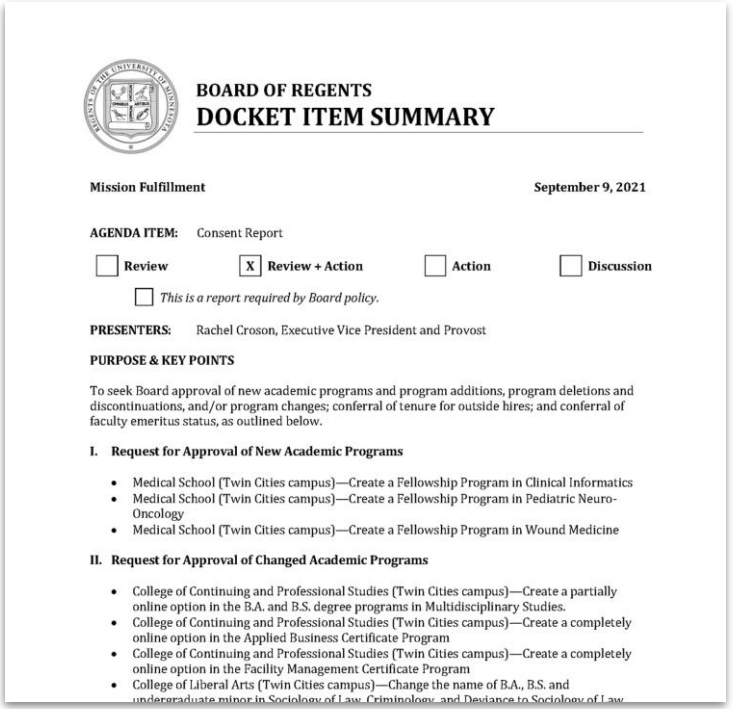
Departments, colleges, and campuses have the authority to establish, change, and discontinue academic programs that may appear on official University transcripts, subject to appropriate consultation with other units and **subject to the final authority of the Board of Regents.**

This applies to: undergraduate, graduate, and professional credit-bearing degrees, majors, minors, and certificates

Board of Regents Approval

In general, degree plan changes that need Board of Regents approval are:

- Changes that would be reflected on the transcript
- Changes related to accreditation requirements/notifications



BOARD OF REGENTS
DOCKET ITEM SUMMARY

Mission Fulfillment **September 9, 2021**

AGENDA ITEM: Consent Report

☐ **Review** ☒ **Review + Action** ☐ **Action** ☐ **Discussion**

☐ *This is a report required by Board policy.*

PRESENTERS: Rachel Croson, Executive Vice President and Provost

PURPOSE & KEY POINTS

To seek Board approval of new academic programs and program additions, program deletions and discontinuations, and/or program changes; conferral of tenure for outside hires; and conferral of faculty emeritus status, as outlined below.

I. Request for Approval of New Academic Programs

- Medical School (Twin Cities campus)—Create a Fellowship Program in Clinical Informatics
- Medical School (Twin Cities campus)—Create a Fellowship Program in Pediatric Neuro-Oncology
- Medical School (Twin Cities campus)—Create a Fellowship Program in Wound Medicine

II. Request for Approval of Changed Academic Programs

- College of Continuing and Professional Studies (Twin Cities campus)—Create a partially online option in the B.A. and B.S. degree programs in Multidisciplinary Studies.
- College of Continuing and Professional Studies (Twin Cities campus)—Create a completely online option in the Applied Business Certificate Program
- College of Continuing and Professional Studies (Twin Cities campus)—Create a completely online option in the Facility Management Certificate Program
- College of Liberal Arts (Twin Cities campus)—Change the name of B.A., B.S. and undergraduate minor in Sociology of Law, Criminology, and Deviance to Sociology of Law

Scope

- **Adding** a new degree, minor, or sub-plan

- **Changing** (substantively) a new degree, minor, or sub-plan which includes:
  - changing a degree program plan or sub-plan name
  - changing a degree designation (e.g. B.S. to B.A., M.S. to M.A.)
  - changing the academic home (degree-granting college/unit) of a plan
  - changing program delivery modality

- **Discontinuing** a degree, plan, or sub-plan

Principles

- **Mission, Priorities, and Interrelatedness**—How does the program support the unit's strategic direction and compact?
- **Demand, Development, and Leveraging of Resources**—What evidence shows student or industry demand?
- **Uniqueness and Comparative Advantage**—What are the characteristics of the program that make it particularly appropriate for the University?
- **Efficiency and Effectiveness**—Is the program within the capacity of the unit's resources?
- **Quality, Productivity, and Impact**—How will program quality be measured? How will student learning outcomes be assessed?

Examples from 2022-2023

- **New programs:**
  - Graduate Certificate in Technology Leadership in Technology Leadership Institute (CSE-TC)
  - Bachelor of Arts in Public Health (SPH-TC)
  - NXT GEN AG Undergraduate Certificate (Crookston)
- **Changed programs:**
  - Change name of undergrad minor in Mass Communication to Media and Information Studies (CLA-TC)
  - Change academic and administrative home of the Center for Allied Health Programs degree programs from Academic Health Sciences to College of Pharmacy (TC)
  - Create an integrated Bachelor of Science in Health Sciences/Master of Science in Bioinformatics and Computational Biology subplan (Rochester and CSE-TC)
- **Discontinued programs:**
  - Advanced Dental Therapy Graduate Certificate (Dentistry-TC)
  - Unified Early Childhood Studies Bachelor of Applied Sciences (CEHP-Duluth)

Approval Levels and Process Overview

- Additive, with special points of emphasis at each stage

- Consultation
  - within the unit
  - among colleges
  - posting for public review

Faculty, Depts & Programs → Colleges and Campuses → EVPP → Board of Regents

Consultation of New Degree Program Proposals

- Consultation is an integral part of the process
- The Provost's Office facilitates consultation using mechanisms including
  - Campus Curriculum Committee
  - Professional Education Council
  - Graduate Associate Deans
  - Public Review Period (Provost Website)

New, Revised, and Discontinued Programs

2022–2023

	New	Revised	Discontinued
Twin Cities	28	23	6
Duluth	6	3	3
Morris		2	1
Crookston	1		
Rochester	1		

Summary and Discussion

- Process ensures that academic proposals before the committee have undergone a rigorous, robust, and thorough review at appropriate levels

- Welcome any suggestions or ideas to gauge student demand or industry need

BOARD OF REGENTS
DOCKET ITEM SUMMARY

Mission Fulfillment **September 7, 2023**

AGENDA ITEM: Impacts of the Recent U.S. Supreme Court Decision on Undergraduate Admissions

☐ **Review** ☐ **Review + Action** ☐ **Action** ☒ **Discussion**

☐ *This is a report required by Board policy.*

PRESENTERS: Rachel Croson, Executive Vice President and Provost
Robert McMaster, Vice Provost and Dean of Undergraduate Education

PURPOSE & KEY POINTS

The purpose of this item is for the committee to learn about adjustments to the undergraduate admissions process to comply with the recent United States Supreme Court ruling regarding use of race in admissions, and how the University of Minnesota continues to advance the MPact 2025 Systemwide Strategic Plan goals around community and belonging.

BACKGROUND INFORMATION

On June 29, 2023, the United States Supreme Court held that the admissions programs at Harvard College and the University of North Carolina violate the equal protection clause of the 14th Amendment. The cases, which were consolidated for decision, are *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina*, --- U.S. ---, 143 S. Ct. 2141 (2023).

Included in the docket are several additional pieces of background information, including:

- The pertinent section of the Supreme Court decision
- The United States Department of Education and Department of Justice Dear Colleague letter and Frequently Asked Question document
- *Inside Higher Ed* and *The Chronicle of Higher Education* articles that review and clarify the Department of Education and Department of Justice guidance
- Information specific to the University of Minnesota system, including high school demographics

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

STUDENTS FOR FAIR ADMISSIONS, INC. *v.* PRESIDENT AND FELLOWS OF HARVARD COLLEGE

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 20–1199. Argued October 31, 2022—Decided June 29, 2023*

Harvard College and the University of North Carolina (UNC) are two of the oldest institutions of higher learning in the United States. Every year, tens of thousands of students apply to each school; many fewer are admitted. Both Harvard and UNC employ a highly selective admissions process to make their decisions. Admission to each school can depend on a student's grades, recommendation letters, or extracurricular involvement. It can also depend on their race. The question presented is whether the admissions systems used by Harvard College and UNC are lawful under the Equal Protection Clause of the Fourteenth Amendment.

At Harvard, each application for admission is initially screened by a "first reader," who assigns a numerical score in each of six categories: academic, extracurricular, athletic, school support, personal, and overall. For the "overall" category—a composite of the five other ratings—a first reader can and does consider the applicant's race. Harvard's admissions subcommittees then review all applications from a particular geographic area. These regional subcommittees make recommendations to the full admissions committee, and they take an applicant's race into account. When the 40-member full admissions committee begins its deliberations, it discusses the relative breakdown of applicants by race. The goal of the process, according to Harvard's director of admissions, is ensuring there is no "dramatic drop-off" in minority admissions from the prior class. An applicant receiving a majority of

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* Together with No. 21–707, *Students for Fair Admissions, Inc.* v. *University of North Carolina et al.*, on certiorari before judgment to the United States Court of Appeals for the Fourth Circuit.

Syllabus

the full committee's votes is tentatively accepted for admission. At the end of this process, the racial composition of the tentative applicant pool is disclosed to the committee. The last stage of Harvard's admissions process, called the "lop," winnows the list of tentatively admitted students to arrive at the final class. Applicants that Harvard considers cutting at this stage are placed on the "lop list," which contains only four pieces of information: legacy status, recruited athlete status, financial aid eligibility, and race. In the Harvard admissions process, "race is a determinative tip for" a significant percentage "of all admitted African American and Hispanic applicants."

UNC has a similar admissions process. Every application is reviewed first by an admissions office reader, who assigns a numerical rating to each of several categories. Readers are required to consider the applicant's race as a factor in their review. Readers then make a written recommendation on each assigned application, and they may provide an applicant a substantial "plus" depending on the applicant's race. At this stage, most recommendations are provisionally final. A committee of experienced staff members then conducts a "school group review" of every initial decision made by a reader and either approves or rejects the recommendation. In making those decisions, the committee may consider the applicant's race.

Petitioner, Students for Fair Admissions (SFFA), is a nonprofit organization whose stated purpose is "to defend human and civil rights secured by law, including the right of individuals to equal protection under the law." SFFA filed separate lawsuits against Harvard and UNC, arguing that their race-based admissions programs violate, respectively, Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment. After separate bench trials, both admissions programs were found permissible under the Equal Protection Clause and this Court's precedents. In the Harvard case, the First Circuit affirmed, and this Court granted certiorari. In the UNC case, this Court granted certiorari before judgment.

Held: Harvard's and UNC's admissions programs violate the Equal Protection Clause of the Fourteenth Amendment. Pp. 6–40.

(a) Because SFFA complies with the standing requirements for organizational plaintiffs articulated by this Court in *Hunt* v. *Washington State Apple Advertising Comm'n*, 432 U. S. 333, SFFA's obligations under Article III are satisfied, and this Court has jurisdiction to consider the merits of SFFA's claims.

The Court rejects UNC's argument that SFFA lacks standing because it is not a "genuine" membership organization. An organizational plaintiff can satisfy Article III jurisdiction in two ways, one of which is to assert "standing solely as the representative of its mem-

bers," *Warth* v. *Seldin,* 422 U. S. 490, 511, an approach known as representational or organizational standing. To invoke it, an organization must satisfy the three-part test in *Hunt*. Respondents do not suggest that SFFA fails *Hunt*'s test for organizational standing. They argue instead that SFFA cannot invoke organizational standing at all because SFFA was not a genuine membership organization at the time it filed suit. Respondents maintain that, under *Hunt*, a group qualifies as a genuine membership organization only if it is controlled and funded by its members. In *Hunt*, this Court determined that a state agency with no traditional members could still qualify as a genuine membership organization in substance because the agency represented the interests of individuals and otherwise satisfied *Hunt*'s three-part test for organizational standing. See 432 U. S., at 342. *Hunt*'s "indicia of membership" analysis, however, has no applicability here. As the courts below found, SFFA is indisputably a voluntary membership organization with identifiable members who support its mission and whom SFFA represents in good faith. SFFA is thus entitled to rely on the organizational standing doctrine as articulated in *Hunt*. Pp. 6–9.

(b) Proposed by Congress and ratified by the States in the wake of the Civil War, the Fourteenth Amendment provides that no State shall "deny to any person . . . the equal protection of the laws." Proponents of the Equal Protection Clause described its "foundation[al] principle" as "not permit[ing] any distinctions of law based on race or color." Any "law which operates upon one man," they maintained, should "operate equally upon all." Accordingly, as this Court's early decisions interpreting the Equal Protection Clause explained, the Fourteenth Amendment guaranteed "that the law in the States shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the States."

Despite the early recognition of the broad sweep of the Equal Protection Clause, the Court—alongside the country—quickly failed to live up to the Clause's core commitments. For almost a century after the Civil War, state-mandated segregation was in many parts of the Nation a regrettable norm. This Court played its own role in that ignoble history, allowing in *Plessy* v. *Ferguson* the separate but equal regime that would come to deface much of America. 163 U. S. 537.

After *Plessy*, "American courts . . . labored with the doctrine [of separate but equal] for over half a century." *Brown* v. *Board of Education*, 347 U. S. 483, 491. Some cases in this period attempted to curtail the perniciousness of the doctrine by emphasizing that it required States to provide black students educational opportunities equal to—even if formally separate from—those enjoyed by white students. See, *e.g.*, *Missouri ex rel. Gaines* v. *Canada*, 305 U. S. 337, 349–350. But the

inherent folly of that approach—of trying to derive equality from inequality—soon became apparent. As the Court subsequently recognized, even racial distinctions that were argued to have no palpable effect worked to subordinate the afflicted students. See, *e.g.*, *McLaurin* v. *Oklahoma State Regents for Higher Ed.*, 339 U. S. 637, 640–642. By 1950, the inevitable truth of the Fourteenth Amendment had thus begun to reemerge: Separate cannot be equal.

The culmination of this approach came finally in *Brown* v. *Board of Education,* 347 U. S. 483. There, the Court overturned the separate but equal regime established in *Plessy* and began on the path of invalidating all *de jure* racial discrimination by the States and Federal Government. The conclusion reached by the *Brown* Court was unmistakably clear: the right to a public education "must be made available to all on equal terms." 347 U. S., at 493. The Court reiterated that rule just one year later, holding that "full compliance" with *Brown* required schools to admit students "on a racially nondiscriminatory basis." *Brown* v. *Board of Education,* 349 U. S. 294, 300–301.

In the years that followed, *Brown*'s "fundamental principle that racial discrimination in public education is unconstitutional," *id.,* at 298, reached other areas of life—for example, state and local laws requiring segregation in busing, *Gayle* v. *Browder*, 352 U. S. 903 (*per curiam*); racial segregation in the enjoyment of public beaches and bathhouses *Mayor and City Council of Baltimore* v. *Dawson*, 350 U. S. 877 (*per curiam*); and antimiscegenation laws, *Loving* v. *Virginia,* 388 U. S. 1. These decisions, and others like them, reflect the "core purpose" of the Equal Protection Clause: "do[ing] away with all governmentally imposed discrimination based on race." *Palmore* v. *Sidoti*, 466 U. S. 429, 432.

Eliminating racial discrimination means eliminating all of it. Accordingly, the Court has held that the Equal Protection Clause applies "without regard to any differences of race, of color, or of nationality"—it is "universal in [its] application." *Yick Wo* v. *Hopkins*, 118 U. S. 356, 369. For "[t]he guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color." *Regents of Univ. of Cal.* v. *Bakke*, 438 U. S. 265, 289–290.

Any exceptions to the Equal Protection Clause's guarantee must survive a daunting two-step examination known as "strict scrutiny," *Adarand Constructors, Inc.* v. *Peña*, 515 U. S. 200, 227, which asks first whether the racial classification is used to "further compelling governmental interests," *Grutter* v. *Bollinger,* 539 U. S. 306, 326, and second whether the government's use of race is "narrowly tailored," *i.e.,* "necessary," to achieve that interest, *Fisher* v. *University of Tex. at Austin,* 570 U. S. 297, 311–312. Acceptance of race-based state action

is rare for a reason: "[d]istinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." *Rice* v. *Cayetano*, 528 U. S. 495, 517. Pp. 9–16.

(c) This Court first considered whether a university may make race-based admissions decisions in *Bakke,* 438 U. S. 265. In a deeply splintered decision that produced six different opinions, Justice Powell's opinion for himself alone would eventually come to "serv[e] as the touchstone for constitutional analysis of race-conscious admissions policies." *Grutter*, 539 U. S., at 323. After rejecting three of the University's four justifications as not sufficiently compelling, Justice Powell turned to its last interest asserted to be compelling—obtaining the educational benefits that flow from a racially diverse student body. Justice Powell found that interest to be "a constitutionally permissible goal for an institution of higher education," which was entitled as a matter of academic freedom "to make its own judgments as to . . . the selection of its student body." 438 U. S., at 311–312. But a university's freedom was not unlimited—"[r]acial and ethnic distinctions of any sort are inherently suspect," Justice Powell explained, and antipathy toward them was deeply "rooted in our Nation's constitutional and demographic history." *Id.*, at 291. Accordingly, a university could not employ a two-track quota system with a specific number of seats reserved for individuals from a preferred ethnic group. *Id.,* at 315. Neither still could a university use race to foreclose an individual from all consideration. *Id.,* at 318. Race could only operate as "a 'plus' in a particular applicant's file," and even then it had to be weighed in a manner "flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant." *Id.,* at 317. Pp. 16–19.

(d) For years following *Bakke*, lower courts struggled to determine whether Justice Powell's decision was "binding precedent." *Grutter*, 539 U. S., at 325. Then, in *Grutter* v. *Bollinger*, the Court for the first time "endorse[d] Justice Powell's view that student body diversity is a compelling state interest that can justify the use of race in university admissions." *Ibid.* The *Grutter* majority's analysis tracked Justice Powell's in many respects, including its insistence on limits on how universities may consider race in their admissions programs. Those limits, *Grutter* explained, were intended to guard against two dangers that all race-based government action portends. The first is the risk that the use of race will devolve into "illegitimate . . . stereotyp[ing]." *Richmond* v. *J. A. Croson Co.*, 488 U. S. 469, 493 (plurality opinion). Admissions programs could thus not operate on the "belief that minority students always (or even consistently) express some characteristic minority viewpoint on any issue." *Grutter*, 539 U. S., at 333 (internal

quotation marks omitted). The second risk is that race would be used not as a plus, but as a negative—to discriminate *against* those racial groups that were not the beneficiaries of the race-based preference. A university's use of race, accordingly, could not occur in a manner that "unduly harm[ed] nonminority applicants." *Id.*, at 341.

To manage these concerns, *Grutter* imposed one final limit on race-based admissions programs: At some point, the Court held, they must end. *Id.,* at 342. Recognizing that "[e]nshrining a permanent justification for racial preferences would offend" the Constitution's unambiguous guarantee of equal protection, the Court expressed its expectation that, in 25 years, "the use of racial preferences will no longer be necessary to further the interest approved today." *Id.,* at 343. Pp. 19–21.

(e) Twenty years have passed since *Grutter*, with no end to race-based college admissions in sight. But the Court has permitted race-based college admissions only within the confines of narrow restrictions: such admissions programs must comply with strict scrutiny, may never use race as a stereotype or negative, and must—at some point—end. Respondents' admissions systems fail each of these criteria and must therefore be invalidated under the Equal Protection Clause of the Fourteenth Amendment. Pp. 21–34.

(1) Respondents fail to operate their race-based admissions programs in a manner that is "sufficiently measurable to permit judicial [review]" under the rubric of strict scrutiny. *Fisher* v. *University of Tex. at Austin*, 579 U. S. 365, 381. First, the interests that respondents view as compelling cannot be subjected to meaningful judicial review. Those interests include training future leaders, acquiring new knowledge based on diverse outlooks, promoting a robust marketplace of ideas, and preparing engaged and productive citizens. While these are commendable goals, they are not sufficiently coherent for purposes of strict scrutiny. It is unclear how courts are supposed to measure any of these goals, or if they could, to know when they have been reached so that racial preferences can end. The elusiveness of respondents' asserted goals is further illustrated by comparing them to recognized compelling interests. For example, courts can discern whether the temporary racial segregation of inmates will prevent harm to those in the prison, see *Johnson* v. *California,* 543 U. S. 499, 512–513, but the question whether a particular mix of minority students produces "engaged and productive citizens" or effectively "train[s] future leaders" is standardless.

Second, respondents' admissions programs fail to articulate a meaningful connection between the means they employ and the goals they pursue. To achieve the educational benefits of diversity, respondents measure the racial composition of their classes using racial categories

that are plainly overbroad (expressing, for example, no concern whether *South* Asian or *East* Asian students are adequately represented as "Asian"); arbitrary or undefined (the use of the category "Hispanic"); or underinclusive (no category at all for Middle Eastern students). The unclear connection between the goals that respondents seek and the means they employ preclude courts from meaningfully scrutinizing respondents' admissions programs.

The universities' main response to these criticisms is "trust us." They assert that universities are owed deference when using race to benefit some applicants but not others. While this Court has recognized a "tradition of giving a degree of deference to a university's academic decisions," it has made clear that deference must exist "within constitutionally prescribed limits." *Grutter*, 539 U. S., at 328. Respondents have failed to present an exceedingly persuasive justification for separating students on the basis of race that is measurable and concrete enough to permit judicial review, as the Equal Protection Clause requires. Pp. 22–26.

(2) Respondents' race-based admissions systems also fail to comply with the Equal Protection Clause's twin commands that race may never be used as a "negative" and that it may not operate as a stereotype. The First Circuit found that Harvard's consideration of race has resulted in fewer admissions of Asian-American students. Respondents' assertion that race is never a negative factor in their admissions programs cannot withstand scrutiny. College admissions are zero-sum, and a benefit provided to some applicants but not to others necessarily advantages the former at the expense of the latter.

Respondents admissions programs are infirm for a second reason as well: They require stereotyping—the very thing *Grutter* foreswore. When a university admits students "on the basis of race, it engages in the offensive and demeaning assumption that [students] of a particular race, because of their race, think alike." *Miller* v. *Johnson*, 515 U. S. 900, 911–912. Such stereotyping is contrary to the "core purpose" of the Equal Protection Clause. *Palmore*, 466 U. S., at 432. Pp. 26–29.

(3) Respondents' admissions programs also lack a "logical end point" as *Grutter* required. 539 U. S., at 342. Respondents suggest that the end of race-based admissions programs will occur once meaningful representation and diversity are achieved on college campuses. Such measures of success amount to little more than comparing the racial breakdown of the incoming class and comparing it to some other metric, such as the racial makeup of the previous incoming class or the population in general, to see whether some proportional goal has been reached. The problem with this approach is well established: "[O]utright racial balancing" is "patently unconstitutional." *Fisher,*

570 U. S., at 311. Respondents' second proffered end point—when students receive the educational benefits of diversity—fares no better. As explained, it is unclear how a court is supposed to determine if or when such goals would be adequately met. Third, respondents suggest the 25-year expectation in *Grutter* means that race-based preferences must be allowed to continue until at least 2028. The Court's statement in *Grutter*, however, reflected only that Court's expectation that race-based preferences would, by 2028, be unnecessary in the context of racial diversity on college campuses. Finally, respondents argue that the frequent reviews they conduct to determine whether racial preferences are still necessary obviates the need for an end point. But *Grutter* never suggested that periodic review can make unconstitutional conduct constitutional. Pp. 29–34.

(f) Because Harvard's and UNC's admissions programs lack sufficiently focused and measurable objectives warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points, those admissions programs cannot be reconciled with the guarantees of the Equal Protection Clause. At the same time, nothing prohibits universities from considering an applicant's discussion of how race affected the applicant's life, so long as that discussion is concretely tied to a quality of character or unique ability that the particular applicant can contribute to the university. Many universities have for too long wrongly concluded that the touchstone of an individual's identity is not challenges bested, skills built, or lessons learned, but the color of their skin. This Nation's constitutional history does not tolerate that choice. Pp. 39–40.

No. 20–1199, 980 F. 3d 157; No. 21–707, 567 F. Supp. 3d 580, reversed.

ROBERTS, C. J., delivered the opinion of the Court, in which THOMAS, ALITO, GORSUCH, KAVANAUGH, and BARRETT, JJ., joined. THOMAS, J., filed a concurring opinion. GORSUCH, J., filed a concurring opinion, in which THOMAS, J., joined. KAVANAUGH, J., filed a concurring opinion. SOTOMAYOR, J., filed a dissenting opinion, in which KAGAN, J., joined, and in which JACKSON, J., joined as it applies to No. 21–707. JACKSON, J., filed a dissenting opinion in No. 21–707, in which SOTOMAYOR and KAGAN, JJ., joined. JACKSON, J., took no part in the consideration or decision of the case in No. 20–1199.

SUPREME COURT OF THE UNITED STATES

Nos. 20–1199 and 21–707

STUDENTS FOR FAIR ADMISSIONS, INC.,
PETITIONER
20–1199 *v.*
PRESIDENT AND FELLOWS OF
HARVARD COLLEGE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

STUDENTS FOR FAIR ADMISSIONS, INC.,
PETITIONER
21–707 *v.*
UNIVERSITY OF NORTH CAROLINA, ET AL.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 29, 2023]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

In these cases we consider whether the admissions systems used by Harvard College and the University of North Carolina, two of the oldest institutions of higher learning in the United States, are lawful under the Equal Protection Clause of the Fourteenth Amendment.

I

A

Founded in 1636, Harvard College has one of the most

selective application processes in the country. Over 60,000 people applied to the school last year; fewer than 2,000 were admitted. Gaining admission to Harvard is thus no easy feat. It can depend on having excellent grades, glowing recommendation letters, or overcoming significant adversity. See 980 F. 3d 157, 166–169 (CA1 2020). It can also depend on your race.

The admissions process at Harvard works as follows. Every application is initially screened by a "first reader," who assigns scores in six categories: academic, extracurricular, athletic, school support, personal, and overall. *Ibid.* A rating of "1" is the best; a rating of "6" the worst. *Ibid.* In the academic category, for example, a "1" signifies "near-perfect standardized test scores and grades"; in the extracurricular category, it indicates "truly unusual achievement"; and in the personal category, it denotes "outstanding" attributes like maturity, integrity, leadership, kindness, and courage. *Id.*, at 167–168. A score of "1" on the overall rating—a composite of the five other ratings—"signifies an exceptional candidate with >90% chance of admission." *Id.*, at 169 (internal quotation marks omitted). In assigning the overall rating, the first readers "can and do take an applicant's race into account." *Ibid.*

Once the first read process is complete, Harvard convenes admissions subcommittees. *Ibid.* Each subcommittee meets for three to five days and evaluates all applicants from a particular geographic area. *Ibid.* The subcommit- tees are responsible for making recommendations to the full admissions committee. *Id.*, at 169–170. The subcommittees can and do take an applicant's race into account when making their recommendations. *Id.*, at 170.

The next step of the Harvard process is the full committee meeting. The committee has 40 members, and its discussion centers around the applicants who have been recommended by the regional subcommittees. *Ibid.* At the beginning of the meeting, the committee discusses the relative

breakdown of applicants by race. The "goal," according to Harvard's director of admissions, "is to make sure that [Harvard does] not hav[e] a dramatic drop-off" in minority admissions from the prior class. 2 App. in No. 20–1199, pp. 744, 747–748. Each applicant considered by the full committee is discussed one by one, and every member of the committee must vote on admission. 980 F. 3d, at 170. Only when an applicant secures a majority of the full committee's votes is he or she tentatively accepted for admission. *Ibid.* At the end of the full committee meeting, the racial composition of the pool of tentatively admitted students is disclosed to the committee. *Ibid.*; 2 App. in No. 20–1199, at 861.

The final stage of Harvard's process is called the "lop," during which the list of tentatively admitted students is winnowed further to arrive at the final class. Any applicants that Harvard considers cutting at this stage are placed on a "lop list," which contains only four pieces of information: legacy status, recruited athlete status, financial aid eligibility, and race. 980 F. 3d, at 170. The full committee decides as a group which students to lop. 397 F. Supp. 3d 126, 144 (Mass. 2019). In doing so, the com- mittee can and does take race into account. *Ibid.* Once the lop process is complete, Harvard's admitted class is set. *Ibid.* In the Harvard admissions process, "race is a determinative tip for" a significant percentage "of all admitted African American and Hispanic applicants." *Id.*, at 178.

B

Founded shortly after the Constitution was ratified, the University of North Carolina (UNC) prides itself on be- ing the "nation's first public university." 567 F. Supp. 3d 580, 588 (MDNC 2021). Like Harvard, UNC's "admis- sions process is highly selective": In a typical year, the school "receives approximately 43,500 applications for

its freshman class of 4,200." *Id.*, at 595.

Every application the University receives is initially reviewed by one of approximately 40 admissions office readers, each of whom reviews roughly five applications per hour. *Id.*, at 596, 598. Readers are required to consider "[r]ace and ethnicity . . . as one factor" in their review. *Id.*, at 597 (internal quotation marks omitted). Other factors include academic performance and rigor, standardized testing results, extracurricular involvement, essay quality, personal factors, and student background. *Id.*, at 600. Readers are responsible for providing numerical ratings for the academic, extracurricular, personal, and essay categories. *Ibid.* During the years at issue in this litigation, underrepresented minority students were "more likely to score [highly] on their personal ratings than their white and Asian American peers," but were more likely to be "rated lower by UNC readers on their academic program, aca- demic performance, . . . extracurricular activities," and es- says. *Id.*, at 616–617.

After assessing an applicant's materials along these lines, the reader "formulates an opinion about whether the student should be offered admission" and then "writes a comment defending his or her recommended decision." *Id.*, at 598 (internal quotation marks omitted). In making that decision, readers may offer students a "plus" based on their race, which "may be significant in an individual case." *Id.*, at 601 (internal quotation marks omitted). The admissions decisions made by the first readers are, in most cases, "provisionally final." *Students for Fair Admissions, Inc.* v. *University of N. C. at Chapel Hill*, No. 1:14–cv–954 (MDNC, Nov. 9, 2020), ECF Doc. 225, p. 7, ¶52.

Following the first read process, "applications then go to a process called 'school group review' . . . where a committee composed of experienced staff members reviews every [initial] decision." 567 F. Supp. 3d, at 599. The review committee receives a report on each student which contains,

among other things, their "class rank, GPA, and test scores; the ratings assigned to them by their initial readers; and their status as residents, legacies, or special recruits." *Ibid.* (footnote omitted). The review committee either approves or rejects each admission recommendation made by the first reader, after which the admissions decisions are finalized. *Ibid.* In making those decisions, the review committee may also consider the applicant's race. *Id.*, at 607; 2 App. in No. 21–707, p. 407.[1]

C

Petitioner, Students for Fair Admissions (SFFA), is a

[1] JUSTICE JACKSON attempts to minimize the role that race plays in UNC's admissions process by noting that, from 2016–2021, the school accepted a lower "percentage of the most academically excellent in-state Black candidates"—that is, 65 out of 67 such applicants (97.01%)—than it did similarly situated Asian applicants—that is, 1118 out of 1139 such applicants (98.16%). *Post*, at 20 (dissenting opinion); see also 3 App. in No. 21–707, pp. 1078–1080. It is not clear how the rejection of just two black applicants over five years could be "indicative of a genuinely holistic [admissions] process," as JUSTICE JACKSON contends. *Post*, at 20–21. And indeed it cannot be, as the *overall* acceptance rates of academically excellent applicants to UNC illustrates full well. According to SFFA's expert, over 80% of all black applicants in the top academic decile were admitted to UNC, while under 70% of white and Asian applicants in that decile were admitted. 3 App. in No. 21–707, at 1078–1083. In the second highest academic decile, the disparity is even starker: 83% of black applicants were admitted, while 58% of white applicants and 47% of Asian applicants were admitted. *Ibid.* And in the third highest decile, 77% of black applicants were admitted, compared to 48% of white applicants and 34% of Asian applicants. *Ibid.* The dissent does not dispute the accuracy of these figures. See *post*, at 20, n. 94 (opinion of JACKSON, J.). And its contention that white and Asian students "receive a diversity plus" in UNC's race-based admissions system blinks reality. *Post*, at 18. The same is true at Harvard. See Brief for Petitioner 24 ("[A]n African American [student] in [the fourth lowest academic] decile has a higher chance of admission (12.8%) than an Asian American in the *top* decile (12.7%)." (emphasis added)); see also 4 App. in No. 20–1199, p. 1793 (black applicants in the top four academic deciles are between four and ten times more likely to be admitted to Harvard than Asian applicants in those deciles).

nonprofit organization founded in 2014 whose purpose is "to defend human and civil rights secured by law, including the right of individuals to equal protection under the law." 980 F. 3d, at 164 (internal quotation marks omitted). In November 2014, SFFA filed separate lawsuits against Harvard College and the University of North Carolina, arguing that their race-based admissions programs violated, respectively, Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U. S. C. §2000d *et seq.*, and the Equal Protection Clause of the Fourteenth Amendment.[2] See 397 F. Supp. 3d, at 131–132; 567 F. Supp. 3d, at 585–586. The District Courts in both cases held bench trials to evaluate SFFA's claims. See 980 F. 3d, at 179; 567 F. Supp. 3d, at 588. Trial in the Harvard case lasted 15 days and included testimony from 30 witnesses, after which the Court concluded that Harvard's admissions program comported with our precedents on the use of race in college admissions. See 397 F. Supp. 3d, at 132, 183. The First Circuit affirmed that determination. See 980 F. 3d, at 204. Similarly, in the UNC case, the District Court concluded after an eight-day trial that UNC's admissions program was permissible un- der the Equal Protection Clause. 567 F. Supp. 3d, at 588, 666.

We granted certiorari in the Harvard case and certiorari before judgment in the UNC case. 595 U. S. ___ (2022).

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[2] Title VI provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U. S. C. §2000d. "We have explained that discrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI." *Gratz* v. *Bollinger*, 539 U. S. 244, 276, n. 23 (2003). Although JUSTICE GORSUCH questions that proposition, no party asks us to reconsider it. We accordingly evaluate Harvard's admissions program under the standards of the Equal Protection Clause itself.

II

Before turning to the merits, we must assure ourselves of our jurisdiction. See *Summers* v. *Earth Island Institute*, 555 U. S. 488, 499 (2009). UNC argues that SFFA lacks standing to bring its claims because it is not a "genuine" membership organization. Brief for University Respondents in No. 21–707, pp. 23–26. Every court to have considered this argument has rejected it, and so do we. See *Students for Fair Admissions, Inc.* v. *University of Tex. at Austin*, 37 F. 4th 1078, 1084–1086, and n. 8 (CA5 2022) (collecting cases).

Article III of the Constitution limits "[t]he judicial power of the United States" to "cases" or "controversies," ensuring that federal courts act only "as a necessity in the determination of real, earnest and vital" disputes. *Muskrat* v. *United States*, 219 U. S. 346, 351, 359 (1911) (internal quotation marks omitted). "To state a case or controversy under Article III, a plaintiff must establish standing." *Arizona Christian School Tuition Organization* v. *Winn*, 563 U. S. 125, 133 (2011). That, in turn, requires a plaintiff to demonstrate that it has "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc.* v. *Robins*, 578 U. S. 330, 338 (2016).

In cases like these, where the plaintiff is an organization, the standing requirements of Article III can be satisfied in two ways. Either the organization can claim that it suffered an injury in its own right or, alternatively, it can assert "standing solely as the representative of its members." *Warth* v. *Seldin*, 422 U. S. 490, 511 (1975). The latter approach is known as representational or organizational standing. *Ibid.*; *Summers*, 555 U. S., at 497–498. To invoke it, an organization must demonstrate that "(a) its members would otherwise have standing to sue in their own right;

(b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt* v. *Washington State Apple Advertising Comm'n*, 432 U. S. 333, 343 (1977).

Respondents do not contest that SFFA satisfies the three-part test for organizational standing articulated in *Hunt*, and like the courts below, we find no basis in the record to conclude otherwise. See 980 F. 3d, at 182–184; 397 F. Supp. 3d, at 183–184; No. 1:14–cv–954 (MDNC, Sept. 29, 2018), App. D to Pet. for Cert. in No. 21–707, pp. 237–245 (2018 DC Opinion). Respondents instead argue that SFFA was not a "genuine 'membership organization' " when it filed suit, and thus that it could not invoke the doctrine of organizational standing in the first place. Brief for University Respondents in No. 21–707, at 24. According to respondents, our decision in *Hunt* established that groups qualify as genuine membership organizations only if they are controlled and funded by their members. And because SFFA's members did neither at the time this litigation commenced, respondents' argument goes, SFFA could not represent its members for purposes of Article III standing. Brief for University Respondents in No. 21–707, at 24 (citing *Hunt*, 432 U. S., at 343).

Hunt involved the Washington State Apple Advertising Commission, a state agency whose purpose was to protect the local apple industry. The Commission brought suit challenging a North Carolina statute that imposed a labeling requirement on containers of apples sold in that State. The Commission argued that it had standing to challenge the requirement on behalf of Washington's apple industry. See *id.*, at 336–341. We recognized, however, that as a state agency, "the Commission [wa]s not a traditional voluntary membership organization . . . , for it ha[d] no members at all." *Id.*, at 342. As a result, we could not easily apply the three-part test for organizational standing, which asks

whether an organization's *members* have standing. We nevertheless concluded that the Commission had standing because the apple growers and dealers it represented were *effectively* members of the Commission. *Id.*, at 344. The growers and dealers "alone elect[ed] the members of the Commission," "alone . . . serve[d] on the Commission," and "alone finance[d] its activities"—they possessed, in other words, "all of the indicia of membership." *Ibid.* The Commission was therefore a genuine membership organization in substance, if not in form. And it was "clearly" entitled to rely on the doctrine of organizational standing under the three-part test recounted above. *Id.*, at 343.

The indicia of membership analysis employed in *Hunt* has no applicability in these cases. Here, SFFA *is* indisputably a voluntary membership organization with identifiable members—it is not, as in *Hunt*, a state agency that concededly has no members. See 2018 DC Opinion 241–242. As the First Circuit in the Harvard litigation observed, at the time SFFA filed suit, it was "a validly incorporated 501(c)(3) nonprofit with forty-seven members who joined voluntarily to support its mission." 980 F. 3d, at 184. Meanwhile in the UNC litigation, SFFA represented four members in particular—high school graduates who were denied admission to UNC. See 2018 DC Opinion 234. Those members filed declarations with the District Court stating "that they have voluntarily joined SFFA; they support its mission; they receive updates about the status of the case from SFFA's President; and they have had the opportunity to have input and direction on SFFA's case." *Id.*, at 234–235 (internal quotation marks omitted). Where, as here, an organization has identified members and represents them in good faith, our cases do not require further scrutiny into how the organization operates. Because SFFA complies with the standing requirements demanded of organizational plaintiffs in *Hunt*, its obligations under Article III are satisfied.

III

A

In the wake of the Civil War, Congress proposed and the States ratified the Fourteenth Amendment, providing that no State shall "deny to any person . . . the equal protection of the laws." Amdt. 14, §1. To its proponents, the Equal Protection Clause represented a "foundation[al] principle"—"the absolute equality of all citizens of the United States politically and civilly before their own laws." Cong. Globe, 39th Cong., 1st Sess., 431 (1866) (statement of Rep. Bingham) (Cong. Globe). The Constitution, they were determined, "should not permit any distinctions of law based on race or color," Supp. Brief for United States on Reargument in *Brown* v. *Board of Education*, O. T. 1953, No. 1 etc., p. 41 (detailing the history of the adoption of the Equal Protection Clause), because any "law which operates upon one man [should] operate *equally* upon all," Cong. Globe 2459 (statement of Rep. Stevens). As soon-to-be President James Garfield observed, the Fourteenth Amendment would hold "over every American citizen, without regard to color, the protecting shield of law." *Id.*, at 2462. And in doing so, said Senator Jacob Howard of Michigan, the Amendment would give "to the humblest, the poorest, the most despised of the race the same rights and the same protection before the law as it gives to the most powerful, the most wealthy, or the most haughty." *Id.*, at 2766. For "[w]ithout this principle of equal justice," Howard continued, "there is no republican government and none that is really worth maintaining." *Ibid.*

At first, this Court embraced the transcendent aims of the Equal Protection Clause. "What is this," we said of the Clause in 1880, "but declaring that the law in the States shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before the laws of the States?" *Strauder* v. *West Virginia*, 100 U. S. 303, 307–309. "[T]he broad and benign provisions of the

Fourteenth Amendment" apply "to all persons," we unanimously declared six years later; it is "hostility to . . . race and nationality" "which in the eye of the law is not justified." *Yick Wo* v. *Hopkins*, 118 U. S. 356, 368–369, 373–374 (1886); see also *id.*, at 368 (applying the Clause to "aliens and subjects of the Emperor of China"); *Truax* v. *Raich*, 239 U. S. 33, 36 (1915) ("a native of Austria"); semble *Strauder*, 100 U. S., at 308–309 ("Celtic Irishmen") (dictum).

Despite our early recognition of the broad sweep of the Equal Protection Clause, this Court—alongside the country—quickly failed to live up to the Clause's core commitments. For almost a century after the Civil War, state-mandated segregation was in many parts of the Nation a regrettable norm. This Court played its own role in that ignoble history, allowing in *Plessy* v. *Ferguson* the separate but equal regime that would come to deface much of America. 163 U. S. 537 (1896). The aspirations of the framers of the Equal Protection Clause, "[v]irtually strangled in [their] infancy," would remain for too long only that—aspi- rations. J. Tussman & J. tenBroek, The Equal Protection of the Laws, 37 Cal. L. Rev. 341, 381 (1949).

After *Plessy*, "American courts . . . labored with the doctrine [of separate but equal] for over half a century." *Brown* v. *Board of Education*, 347 U. S. 483, 491 (1954). Some cases in this period attempted to curtail the perniciousness of the doctrine by emphasizing that it required States to provide black students educational opportunities equal to—even if formally separate from—those enjoyed by white students. See, *e.g.*, *Missouri ex rel. Gaines* v. *Canada*, 305 U. S. 337, 349–350 (1938) ("The admissibility of laws separating the races in the enjoyment of privileges afforded by the State rests wholly upon the equality of the privileges which the laws give to the separated groups . . . ."). But the inherent folly of that approach—of trying to derive equality from inequality—soon became apparent. As the Court subse-

quently recognized, even racial distinctions that were argued to have no palpable effect worked to subordinate the afflicted students. See, *e.g.*, *McLaurin* v. *Oklahoma State Regents for Higher Ed.*, 339 U. S. 637, 640–642 (1950) ("It is said that the separations imposed by the State in this case are in form merely nominal But they signify that the State . . . sets [petitioner] apart from the other students."). By 1950, the inevitable truth of the Fourteenth Amendment had thus begun to reemerge: Separate cannot be equal.

The culmination of this approach came finally in *Brown* v. *Board of Education*. In that seminal decision, we overturned *Plessy* for good and set firmly on the path of invalidating all *de jure* racial discrimination by the States and Federal Government. 347 U. S., at 494–495. *Brown* concerned the permissibility of racial segregation in public schools. The school district maintained that such segregation was lawful because the schools provided to black students and white students were of roughly the same quality. But we held such segregation impermissible "*even though* the physical facilities and other 'tangible' factors may be equal." *Id.*, at 493 (emphasis added). The mere act of separating "children because of their race," we explained, itself "generate[d] a feeling of inferiority." *Id.*, at 494.

The conclusion reached by the *Brown* Court was thus unmistakably clear: the right to a public education "must be made available to all on equal terms." *Id.*, at 493. As the plaintiffs had argued, "no State has any authority under the equal-protection clause of the Fourteenth Amendment to use race as a factor in affording educational opportunities among its citizens." Tr. of Oral Arg. in *Brown I*, O. T. 1952, No. 8, p. 7 (Robert L. Carter, Dec. 9, 1952); see also Supp. Brief for Appellants on Reargument in Nos. 1, 2, and 4, and for Respondents in No. 10, in *Brown* v. *Board of Education*, O. T. 1953, p. 65 ("That the Constitution is color blind is our

dedicated belief."); *post*, at 39, n. 7 (THOMAS, J., concurring). The Court reiterated that rule just one year later, holding that "full compliance" with *Brown* required schools to admit students "on a racially nondiscriminatory basis." *Brown* v. *Board of Education*, 349 U. S. 294, 300–301 (1955). The time for making distinctions based on race had passed. *Brown*, the Court observed, "declar[ed] the fundamental principle that racial discrimination in public education is unconstitutional." *Id.*, at 298.

So too in other areas of life. Immediately after *Brown*, we began routinely affirming lower court decisions that invalidated all manner of race-based state action. In *Gayle* v. *Browder*, for example, we summarily affirmed a decision invalidating state and local laws that required segregation in busing. 352 U. S. 903 (1956) (*per curiam*). As the lower court explained, "[t]he equal protection clause requires equality of treatment before the law for all persons without regard to race or color." *Browder* v. *Gayle*, 142 F. Supp. 707, 715 (MD Ala. 1956). And in *Mayor and City Council of Baltimore* v. *Dawson*, we summarily affirmed a decision striking down racial segregation at public beaches and bathhouses maintained by the State of Maryland and the city of Baltimore. 350 U. S. 877 (1955) (*per curiam*). "It is obvious that racial segregation in recreational activities can no longer be sustained," the lower court observed. *Dawson* v. *Mayor and City Council of Baltimore*, 220 F. 2d 386, 387 (CA4 1955) (*per curiam*). "[T]he ideal of equality before the law which characterizes our institutions" demanded as much. *Ibid.*

In the decades that followed, this Court continued to vindicate the Constitution's pledge of racial equality. Laws dividing parks and golf courses; neighborhoods and businesses; buses and trains; schools and juries were undone, all by a transformative promise "stemming from our American ideal of fairness": "'the Constitution . . . forbids . . . discrimination by the General Government, or by the States,

against any citizen because of his race.'" *Bolling* v. *Sharpe*, 347 U. S. 497, 499 (1954) (quoting *Gibson* v. *Mississippi*, 162 U. S. 565, 591 (1896) (Harlan, J., for the Court)). As we recounted in striking down the State of Virginia's ban on interracial marriage 13 years after *Brown*, the Fourteenth Amendment "proscri[bes] . . . all invidious racial discriminations." *Loving* v. *Virginia*, 388 U. S. 1, 8 (1967). Our cases had thus "consistently denied the constitutionality of measures which restrict the rights of citizens on account of race." *Id.*, at 11–12; *s*ee also *Yick Wo*, 118 U. S., at 373–375 (commercial property); *Shelley* v. *Kraemer*, 334 U. S. 1 (1948) (housing covenants); *Hernandez* v. *Texas*, 347 U. S. 475 (1954) (composition of juries); *Dawson*, 350 U. S., at 877 (beaches and bathhouses); *Holmes* v. *Atlanta*, 350 U. S. 879 (1955) (*per curiam*) (golf courses); *Browder*, 352 U. S., at 903 (busing); *New Orleans City Park Improvement Assn.* v. *Detiege*, 358 U. S. 54 (1958) (*per curiam*) (public parks); *Bailey* v. *Patterson*, 369 U. S. 31 (1962) (*per curiam*) (transportation facilities); *Swann* v. *Charlotte-Mecklenburg Bd. of Ed.*, 402 U. S. 1 (1971) (education); *Batson* v. *Kentucky*, 476 U. S. 79 (1986) (peremptory jury strikes).

These decisions reflect the "core purpose" of the Equal Protection Clause: "do[ing] away with all governmentally imposed discrimination based on race." *Palmore* v. *Sidoti*, 466 U. S. 429, 432 (1984) (footnote omitted). We have recognized that repeatedly. "The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." *Loving*, 388 U. S., at 10; see also *Washington* v. *Davis*, 426 U. S. 229, 239 (1976) ("The central purpose of the Equal Protection Clause of the Fourteenth Amendment is the prevention of official conduct discriminating on the basis of race."); *McLaughlin* v. *Florida*, 379 U. S. 184, 192 (1964) ("[T]he historical fact [is] that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination.").

Eliminating racial discrimination means eliminating all of it. And the Equal Protection Clause, we have accordingly held, applies "without regard to any differences of race, of color, or of nationality"—it is "universal in [its] application." *Yick Wo*, 118 U. S., at 369. For "[t]he guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color." *Regents of Univ. of Cal.* v. *Bakke*, 438 U. S. 265, 289–290 (1978) (opinion of Powell, J.). "If both are not accorded the same protection, then it is not equal." *Id.*, at 290.

Any exception to the Constitution's demand for equal protection must survive a daunting two-step examination known in our cases as "strict scrutiny." *Adarand Constructors, Inc.* v. *Peña*, 515 U. S. 200, 227 (1995). Under that standard we ask, first, whether the racial classification is used to "further compelling governmental interests." *Grutter* v. *Bollinger*, 539 U. S. 306, 326 (2003). Second, if so, we ask whether the government's use of race is "narrowly tailored"—meaning "necessary"—to achieve that interest. *Fisher* v. *University of Tex. at Austin*, 570 U. S. 297, 311–312 (2013) (*Fisher I*) (internal quotation marks omitted).

Outside the circumstances of these cases, our precedents have identified only two compelling interests that permit resort to race-based government action. One is remediating specific, identified instances of past discrimination that violated the Constitution or a statute. See, *e.g.*, *Parents Involved in Community Schools* v. *Seattle School Dist. No. 1*, 551 U. S. 701, 720 (2007); *Shaw* v. *Hunt*, 517 U. S. 899, 909–910 (1996); *post*, at 19–20, 30–31 (opinion of THOMAS, J.). The second is avoiding imminent and serious risks to human safety in prisons, such as a race riot. See *Johnson* v. *California*, 543 U. S. 499, 512–513 (2005).[3]

[3]The first time we determined that a governmental racial classification satisfied "the most rigid scrutiny" was 10 years before *Brown* v.

Our acceptance of race-based state action has been rare for a reason. "Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." *Rice* v. *Cayetano*, 528 U. S. 495, 517 (2000) (quoting *Hirabayashi* v. *United States*, 320 U. S. 81, 100 (1943)). That principle cannot be overridden except in the most extraordinary case.

B

These cases involve whether a university may make admissions decisions that turn on an applicant's race. Our Court first considered that issue in *Regents of University of California* v. *Bakke*, which involved a set-aside admissions program used by the University of California, Davis, medical school. 438 U. S., at 272–276. Each year, the school held 16 of its 100 seats open for members of certain minor- ity groups, who were reviewed on a special admissions track separate from those in the main admissions pool. *Id.*, at

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Board of Education, 347 U. S. 483 (1954), in the infamous case *Korematsu* v. *United States*, 323 U. S. 214, 216 (1944). There, the Court upheld the internment of "all persons of Japanese ancestry in prescribed West Coast . . . areas" during World War II because "the military urgency of the situation demanded" it. *Id.*, at 217, 223. We have since overruled *Korematsu*, recognizing that it was "gravely wrong the day it was decided." *Trump* v. *Hawaii*, 585 U. S. ___, ___ (2018) (slip op., at 38). The Court's decision in *Korematsu* nevertheless "demonstrates vividly that even the most rigid scrutiny can sometimes fail to detect an illegitimate racial classification" and that "[a]ny retreat from the most searching judicial inquiry can only increase the risk of another such error occurring in the future." *Adarand Constructors, Inc.* v. *Peña*, 515 U. S. 200, 236 (1995) (internal quotation marks omitted).

The principal dissent, for its part, claims that the Court has also permitted "the use of race when that use burdens minority populations." *Post*, at 38–39 (opinion of SOTOMAYOR, J.). In support of that claim, the dissent cites two cases that have nothing to do with the Equal Protection Clause. See *ibid.* (citing *United States* v. *Brignoni-Ponce*, 422 U. S. 873 (1975) (Fourth Amendment case), and *United States* v. *Martinez-Fuerte*, 428 U. S. 543 (1976) (another Fourth Amendment case)).

272–275. The plaintiff, Allan Bakke, was denied admission two years in a row, despite the admission of minority applicants with lower grade point averages and MCAT scores. *Id.*, at 276–277. Bakke subsequently sued the school, arguing that its set-aside program violated the Equal Protection Clause.

In a deeply splintered decision that produced six different opinions—none of which commanded a majority of the Court—we ultimately ruled in part in favor of the school and in part in favor of Bakke. Justice Powell announced the Court's judgment, and his opinion—though written for himself alone—would eventually come to "serv[e] as the touchstone for constitutional analysis of race-conscious admissions policies." *Grutter*, 539 U. S., at 323.

Justice Powell began by finding three of the school's four justifications for its policy not sufficiently compelling. The school's first justification of "reducing the historic deficit of traditionally disfavored minorities in medical schools," he wrote, was akin to "[p]referring members of any one group for no reason other than race or ethnic origin." *Bakke*, 438 U. S., at 306–307 (internal quotation marks omitted). Yet that was "discrimination for its own sake," which "the Constitution forbids." *Id.*, at 307 (citing, *inter alia*, *Loving*, 388 U. S., at 11). Justice Powell next observed that the goal of "remedying . . . the effects of 'societal discrimination'" was also insufficient because it was "an amorphous concept of injury that may be ageless in its reach into the past." *Bakke*, 438 U. S., at 307. Finally, Justice Powell found there was "virtually no evidence in the record indicating that [the school's] special admissions program" would, as the school had argued, increase the number of doctors working in underserved areas. *Id.*, at 310.

Justice Powell then turned to the school's last interest asserted to be compelling—obtaining the educational benefits that flow from a racially diverse student body. That interest, in his view, was "a constitutionally permissible goal for

an institution of higher education." *Id.*, at 311–312. And that was so, he opined, because a university was entitled as a matter of academic freedom "to make its own judgments as to . . . the selection of its student body." *Id.*, at 312.

But a university's freedom was not unlimited. "Racial and ethnic distinctions of any sort are inherently suspect," Justice Powell explained, and antipathy toward them was deeply "rooted in our Nation's constitutional and demographic history." *Id.*, at 291. A university could not employ a quota system, for example, reserving "a specified number of seats in each class for individuals from the preferred ethnic groups." *Id.*, at 315. Nor could it impose a "multitrack program with a prescribed number of seats set aside for each identifiable category of applicants." *Ibid.* And neither still could it use race to foreclose an individual "from all consideration . . . simply because he was not the right color." *Id.*, at 318.

The role of race had to be cabined. It could operate only as "a 'plus' in a particular applicant's file." *Id.*, at 317. And even then, race was to be weighed in a manner "flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant." *Ibid.* Justice Powell derived this approach from what he called the "illuminating example" of the admissions system then used by Harvard College. *Id.*, at 316. Under that sys- tem, as described by Harvard in a brief it had filed with the Court, "the race of an applicant may tip the balance in his favor just as geographic origin or a life [experience] may tip the balance in other candidates' cases." *Ibid.* (internal quotation marks omitted). Harvard continued: "A farm boy from Idaho can bring something to Harvard College that a Bostonian cannot offer. Similarly, a black student can usually bring something that a white person cannot offer." *Ibid.* (internal quotation marks omitted). The result, Har- vard proclaimed, was that "race has been"—and should be—"a factor in some admission decisions." *Ibid.* (internal

quotation marks omitted).

No other Member of the Court joined Justice Powell's opinion. Four Justices instead would have held that the government may use race for the purpose of "remedying the effects of past societal discrimination." *Id.*, at 362 (joint opinion of Brennan, White, Marshall, and Blackmun, JJ., concurring in judgment in part and dissenting in part). Four other Justices, meanwhile, would have struck down the Davis program as violative of Title VI. In their view, it "seem[ed] clear that the proponents of Title VI assumed that the Constitution itself required a colorblind standard on the part of government." *Id.*, at 416 (Stevens, J., joined by Burger, C. J., and Stewart and Rehnquist, JJ., concurring in judgment in part and dissenting in part). The Davis program therefore flatly contravened a core "principle imbedded in the constitutional *and* moral understanding of the times": the prohibition against "racial discrimination." *Id.*, at 418, n. 21 (internal quotation marks omitted).

C

In the years that followed our "fractured decision in *Bakke*," lower courts "struggled to discern whether Justice Powell's" opinion constituted "binding precedent." *Grutter*, 539 U. S., at 325. We accordingly took up the matter again in 2003, in the case *Grutter* v. *Bollinger*, which concerned the admissions system used by the University of Michigan law school. *Id.*, at 311. There, in another sharply divided decision, the Court for the first time "endorse[d] Justice Powell's view that student body diversity is a compelling state interest that can justify the use of race in university admissions." *Id.*, at 325.

The Court's analysis tracked Justice Powell's in many respects. As for compelling interest, the Court held that "[t]he Law School's educational judgment that such diversity is essential to its educational mission is one to which we defer." *Id.*, at 328. In achieving that goal, however, the Court

made clear—just as Justice Powell had—that the law school was limited in the means that it could pursue. The school could not "establish quotas for members of certain racial groups or put members of those groups on separate admissions tracks." *Id.*, at 334. Neither could it "insulate applicants who belong to certain racial or ethnic groups from the competition for admission." *Ibid.* Nor still could it desire "some specified percentage of a particular group merely because of its race or ethnic origin." *Id.*, at 329–330 (quoting *Bakke*, 438 U. S., at 307 (opinion of Powell, J.)).

These limits, *Grutter* explained, were intended to guard against two dangers that all race-based government action portends. The first is the risk that the use of race will devolve into "illegitimate . . . stereotyp[ing]." *Richmond* v. *J. A. Croson Co.*, 488 U. S. 469, 493 (1989) (plurality opinion). Universities were thus not permitted to operate their admissions programs on the "belief that minority students always (or even consistently) express some characteristic minority viewpoint on any issue." *Grutter*, 539 U. S., at 333 (internal quotation marks omitted). The second risk is that race would be used not as a plus, but as a negative—to discriminate *against* those racial groups that were not the beneficiaries of the race-based preference. A university's use of race, accordingly, could not occur in a manner that "unduly harm[ed] nonminority applicants." *Id.*, at 341.

But even with these constraints in place, *Grutter* expressed marked discomfort with the use of race in college admissions. The Court stressed the fundamental principle that "there are serious problems of justice connected with the idea of [racial] preference itself." *Ibid.* (quoting *Bakke*, 438 U. S., at 298 (opinion of Powell, J.)). It observed that all "racial classifications, however compelling their goals," were "dangerous." *Grutter*, 539 U. S., at 342. And it cautioned that all "race-based governmental action" should "remai[n] subject to continuing oversight to assure that it will

work the least harm possible to other innocent persons competing for the benefit." *Id.*, at 341 (internal quotation marks omitted).

To manage these concerns, *Grutter* imposed one final limit on race-based admissions programs. At some point, the Court held, they must end. *Id.*, at 342. This requirement was critical, and *Grutter* emphasized it repeatedly. "[A]ll race-conscious admissions programs [must] have a termination point"; they "must have reasonable durational limits"; they "must be limited in time"; they must have "sunset provisions"; they "must have a logical end point"; their "deviation from the norm of equal treatment" must be "a temporary matter." *Ibid.* (internal quotation marks omitted). The importance of an end point was not just a matter of repetition. It was the reason the Court was willing to dispense temporarily with the Constitution's unambiguous guarantee of equal protection. The Court recognized as much: "[e]nshrining a permanent justification for racial preferences," the Court explained, "would offend this fundamental equal protection principle." *Ibid.*; see also *id.,* at 342–343 (quoting N. Nathanson & C. Bartnik, The Constitutionality of Preferential Treatment for Minority Applicants to Professional Schools, 58 Chi. Bar Rec. 282, 293 (May–June 1977), for the proposition that "[i]t would be a sad day indeed, were America to become a quota-ridden society, with each identifiable minority assigned proportional representation in every desirable walk of life").

Grutter thus concluded with the following caution: "It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. . . . We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today." 539 U. S., at 343.

IV

Twenty years later, no end is in sight. "Harvard's view about when [race-based admissions will end] doesn't have a date on it." Tr. of Oral Arg. in No. 20–1199, p. 85; Brief for Respondent in No. 20–1199, p. 52. Neither does UNC's. 567 F. Supp. 3d, at 612. Yet both insist that the use of race in their admissions programs must continue.

But we have permitted race-based admissions only within the confines of narrow restrictions. University programs must comply with strict scrutiny, they may never use race as a stereotype or negative, and—at some point—they must end. Respondents' admissions systems—however well intentioned and implemented in good faith—fail each of these criteria. They must therefore be invalidated under the Equal Protection Clause of the Fourteenth Amend- ment.[4]

A

Because "[r]acial discrimination [is] invidious in all contexts," *Edmonson* v. *Leesville Concrete Co.*, 500 U. S. 614, 619 (1991), we have required that universities operate their race-based admissions programs in a manner that is "sufficiently measurable to permit judicial [review]" under the rubric of strict scrutiny, *Fisher* v. *University of Tex. at Austin*, 579 U. S. 365, 381 (2016) (*Fisher II*). "Classifying and assigning" students based on their race "requires more than . . . an amorphous end to justify it." *Parents Involved*, 551 U. S., at 735.

Respondents have fallen short of satisfying that burden.

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[4] The United States as *amicus curiae* contends that race-based admissions programs further compelling interests at our Nation's military academies. No military academy is a party to these cases, however, and none of the courts below addressed the propriety of race-based admissions systems in that context. This opinion also does not address the issue, in light of the potentially distinct interests that military academies may present.

First, the interests they view as compelling cannot be subjected to meaningful judicial review. Harvard identifies the following educational benefits that it is pursuing: (1) "training future leaders in the public and private sectors"; (2) preparing graduates to "adapt to an increasingly pluralistic society"; (3) "better educating its students through diversity"; and (4) "producing new knowledge stemming from diverse outlooks." 980 F. 3d, at 173–174. UNC points to similar benefits, namely, "(1) promoting the robust exchange of ideas; (2) broadening and refining understanding; (3) fostering innovation and problem-solving; (4) preparing engaged and productive citizens and leaders; [and] (5) enhancing appreciation, respect, and empathy, cross-racial understanding, and breaking down stereotypes." 567 F. Supp. 3d, at 656.

Although these are commendable goals, they are not sufficiently coherent for purposes of strict scrutiny. At the outset, it is unclear how courts are supposed to measure any of these goals. How is a court to know whether leaders have been adequately "train[ed]"; whether the exchange of ideas is "robust"; or whether "new knowledge" is being developed? *Ibid.*; 980 F. 3d, at 173–174. Even if these goals could somehow be measured, moreover, how is a court to know when they have been reached, and when the perilous remedy of racial preferences may cease? There is no particular point at which there exists sufficient "innovation and problem-solving," or students who are appropriately "engaged and productive." 567 F. Supp. 3d, at 656. Finally, the question in this context is not one of *no* diversity or of *some*: it is a question of degree. How many fewer leaders Harvard would create without racial preferences, or how much poorer the education at Harvard would be, are inquiries no court could resolve.

Comparing respondents' asserted goals to interests we have recognized as compelling further illustrates their elusive nature. In the context of racial violence in a prison, for

example, courts can ask whether temporary racial segregation of inmates will prevent harm to those in the prison. See *Johnson*, 543 U. S., at 512–513. When it comes to work- place discrimination, courts can ask whether a race-based benefit makes members of the discriminated class "whole for [the] injuries [they] suffered." *Franks* v. *Bowman Transp. Co.*, 424 U. S. 747, 763 (1976) (internal quotation marks omitted). And in school segregation cases, courts can determine whether any race-based remedial action produces a distribution of students "compar[able] to what it would have been in the absence of such constitutional violations." *Dayton Bd. of Ed.* v. *Brinkman*, 433 U. S. 406, 420 (1977).

Nothing like that is possible when it comes to evaluating the interests respondents assert here. Unlike discerning whether a prisoner will be injured or whether an employee should receive backpay, the question whether a particular mix of minority students produces "engaged and productive citizens," sufficiently "enhance[s] appreciation, respect, and empathy," or effectively "train[s] future leaders" is standardless. 567 F. Supp. 3d, at 656; 980 F. 3d, at 173–174. The interests that respondents seek, though plainly worthy, are inescapably imponderable.

Second, respondents' admissions programs fail to articulate a meaningful connection between the means they employ and the goals they pursue. To achieve the educational benefits of diversity, UNC works to avoid the underrepresentation of minority groups, 567 F. Supp. 3d, at 591–592, and n. 7, while Harvard likewise "guard[s] against inadvertent drop-offs in representation" of certain minority groups from year to year, Brief for Respondent in No. 20–1199, at 16. To accomplish both of those goals, in turn, the universities measure the racial composition of their classes using the following categories: (1) Asian; (2) Native Hawaiian or Pacific Islander; (3) Hispanic; (4) White; (5) African-American; and (6) Native American. See, *e.g.*, 397

F. Supp. 3d, at 137, 178; 3 App. in No. 20–1199, at 1278, 1280–1283; 3 App. in No. 21–707, at 1234–1241. It is far from evident, though, how assigning students to these racial categories and making admissions decisions based on them furthers the educational benefits that the universities claim to pursue.

For starters, the categories are themselves imprecise in many ways. Some of them are plainly overbroad: by grouping together all Asian students, for instance, respondents are apparently uninterested in whether *South* Asian or *East* Asian students are adequately represented, so long as there is enough of one to compensate for a lack of the other. Meanwhile other racial categories, such as "Hispanic," are arbitrary or undefined. See, *e.g.*, M. Lopez, J. Krogstad, & J. Passel, Pew Research Center, Who is Hispanic? (Sept. 15, 2022) (referencing the "long history of changing labels [and] shifting categories . . . reflect[ing] evolving cultural norms about what it means to be Hispanic or Latino in the U. S. today"). And still other categories are underinclusive. When asked at oral argument "how are applicants from Middle Eastern countries classified, [such as] Jordan, Iraq, Iran, [and] Egypt," UNC's counsel responded, "[I] do not know the answer to that question." Tr. of Oral Arg. in No. 21–707, p. 107; cf. *post*, at 6–7 (GORSUCH, J., concurring) (detailing the "incoherent" and "irrational stereotypes" that these racial categories further).

Indeed, the use of these opaque racial categories undermines, instead of promotes, respondents' goals. By focusing on underrepresentation, respondents would apparently prefer a class with 15% of students from Mexico over a class with 10% of students from several Latin American countries, simply because the former contains more Hispanic students than the latter. Yet "[i]t is hard to understand how a plan that could allow these results can be viewed as being concerned with achieving enrollment that is 'broadly

diverse.'" *Parents Involved*, 551 U. S., at 724 (quoting *Grutter*, 539 U. S., at 329). And given the mismatch between the means respondents employ and the goals they seek, it is especially hard to understand how courts are supposed to scrutinize the admissions programs that respondents use.

The universities' main response to these criticisms is, essentially, "trust us." None of the questions recited above need answering, they say, because universities are "owed deference" when using race to benefit some applicants but not others. Brief for University Respondents in No. 21–707, at 39 (internal quotation marks omitted). It is true that our cases have recognized a "tradition of giving a degree of deference to a university's academic decisions." *Grutter*, 539 U. S., at 328. But we have been unmistakably clear that any deference must exist "within constitutionally prescribed limits," *ibid.*, and that "deference does not imply abandonment or abdication of judicial review," *Miller–El* v. *Cockrell*, 537 U. S. 322, 340 (2003). Universities may define their missions as they see fit. The Constitution defines ours. Courts may not license separating students on the basis of race without an exceedingly persuasive justification that is measurable and concrete enough to permit judicial review. As this Court has repeatedly reaffirmed, "[r]acial classifications are simply too pernicious to permit any but the most exact connection between justification and classification." *Gratz* v. *Bollinger*, 539 U. S. 244, 270 (2003) (internal quotation marks omitted). The programs at issue here do not satisfy that standard.[5]

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[5] For that reason, one dissent candidly advocates abandoning the demands of strict scrutiny. See *post*, at 24, 26–28 (opinion of JACKSON, J.) (arguing the Court must "get out of the way," "leav[e] well enough alone," and defer to universities and "experts" in determining who should be discriminated against). An opinion professing fidelity to history (to say nothing of the law) should surely see the folly in that approach.

B

The race-based admissions systems that respondents employ also fail to comply with the twin commands of the Equal Protection Clause that race may never be used as a "negative" and that it may not operate as a stereotype.

First, our cases have stressed that an individual's race may never be used against him in the admissions process. Here, however, the First Circuit found that Harvard's consideration of race has led to an 11.1% decrease in the number of Asian-Americans admitted to Harvard. 980 F. 3d, at 170, n. 29. And the District Court observed that Harvard's "policy of considering applicants' race . . . overall results in fewer Asian American and white students being admitted." 397 F. Supp. 3d, at 178.

Respondents nonetheless contend that an individual's race is never a negative factor in their admissions programs, but that assertion cannot withstand scrutiny. Harvard, for example, draws an analogy between race and other factors it considers in admission. "[W]hile admissions officers may give a preference to applicants likely to excel in the Harvard-Radcliffe Orchestra," Harvard explains, "that does not mean it is a 'negative' not to excel at a musical instrument." Brief for Respondent in No. 20–1199, at 51. But on Harvard's logic, while it gives preferences to applicants with high grades and test scores, "that does not mean it is a 'negative' " to be a student with lower grades and lower test scores. *Ibid.* This understanding of the admissions process is hard to take seriously. College admissions are zero-sum. A benefit provided to some applicants but not to others necessarily advantages the former group at the expense of the latter.

Respondents also suggest that race is not a negative factor because it does not impact many admissions decisions. See *id.*, at 49; Brief for University Respondents in No. 21–707, at 2. Yet, at the same time, respondents also maintain that the demographics of their admitted classes would

meaningfully change if race-based admissions were abandoned. And they acknowledge that race is determinative for at least some—if not many—of the students they admit. See, *e.g.*, Tr. of Oral Arg. in No. 20–1199, at 67; 567 F. Supp. 3d, at 633. How else but "negative" can race be described if, in its absence, members of some racial groups would be admitted in greater numbers than they otherwise would have been? The "[e]qual protection of the laws is not achieved through indiscriminate imposition of inequalities." *Shelley*, 334 U. S., at 22.[6]

Respondents' admissions programs are infirm for a second reason as well. We have long held that universities may not operate their admissions programs on the "belief that minority students always (or even consistently) ex- press some characteristic minority viewpoint on any issue." *Grutter*, 539 U. S., at 333 (internal quotation marks omitted). That requirement is found throughout our Equal Protection Clause jurisprudence more generally. See, *e.g.*, *Schuette* v. *BAMN*, 572 U. S. 291, 308 (2014) (plurality opinion) ("In cautioning against 'impermissible racial stereotypes,' this Court has rejected the assumption that 'members of the same racial group—regardless of their age, education, economic status, or the community in which they live—think alike . . . .'" (quoting *Shaw* v. *Reno*, 509 U. S.

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[6] JUSTICE JACKSON contends that race does not play a "determinative role for applicants" to UNC. *Post*, at 24. But even the principal dissent acknowledges that race—and race alone—explains the admissions decisions for hundreds if not thousands of applicants to UNC each year. *Post*, at 33, n. 28 (opinion of SOTOMAYOR, J.); see also *Students for Fair Admissions, Inc.* v. *University of N. C. at Chapel Hill*, No. 1:14–cv–954 (MDNC, Dec. 21, 2020), ECF Doc. 233, at 23–27 (UNC expert testifying that race explains 1.2% of in state and 5.1% of out of state admissions decisions); 3 App. in No. 21–707, at 1069 (observing that UNC evaluated 57,225 in state applicants and 105,632 out of state applicants from 2016–2021). The suggestion by the principal dissent that our analysis relies on extra-record materials, see *post*, at 29–30, n. 25 (opinion of SOTOMAYOR, J.), is simply mistaken.

630, 647 (1993))).

Yet by accepting race-based admissions programs in which some students may obtain preferences on the basis of race alone, respondents' programs tolerate the very thing that *Grutter* foreswore: stereotyping. The point of respondents' admissions programs is that there is an inherent benefit in race *qua* race—in race for race's sake. Respondents admit as much. Harvard's admissions process rests on the pernicious stereotype that "a black student can usually bring something that a white person cannot offer." *Bakke*, 438 U. S., at 316 (opinion of Powell, J.) (internal quotation marks omitted); see also Tr. of Oral Arg. in No. 20–1199, at 92. UNC is much the same. It argues that race in itself "says [something] about who you are." Tr. of Oral Arg. in No. 21–707, at 97; see also *id.*, at 96 (analogizing being of a certain race to being from a rural area).

We have time and again forcefully rejected the notion that government actors may intentionally allocate preference to those "who may have little in common with one another but the color of their skin." *Shaw*, 509 U. S., at 647. The entire point of the Equal Protection Clause is that treating someone differently because of their skin color is *not* like treating them differently because they are from a city or from a suburb, or because they play the violin poorly or well.

"One of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities." *Rice*, 528 U. S., at 517. But when a university admits students "on the basis of race, it engages in the offensive and demeaning assumption that [students] of a particular race, because of their race, think alike," *Miller* v. *Johnson*, 515 U. S. 900, 911–912 (1995) (internal quotation marks omitted)—at the very least alike in the sense of being different from nonminority students. In

doing so, the university furthers "stereotypes that treat individuals as the product of their race, evaluating their thoughts and efforts—their very worth as citizens—according to a criterion barred to the Government by history and the Constitution." *Id.*, at 912 (internal quotation marks omitted). Such stereotyping can only "cause[] continued hurt and injury," *Edmonson*, 500 U. S., at 631, contrary as it is to the "core purpose" of the Equal Protection Clause, *Palmore*, 466 U. S., at 432.

C

If all this were not enough, respondents' admissions programs also lack a "logical end point." *Grutter*, 539 U. S., at 342.

Respondents and the Government first suggest that respondents' race-based admissions programs will end when, in their absence, there is "meaningful representation and meaningful diversity" on college campuses. Tr. of Oral Arg. in No. 21–707, at 167. The metric of meaningful representation, respondents assert, does not involve any "strict numerical benchmark," *id.*, at 86; or "precise number or percentage," *id.*, at 167; or "specified percentage," Brief for Respondent in No. 20–1199, at 38 (internal quotation marks omitted). So what does it involve?

Numbers all the same. At Harvard, each full committee meeting begins with a discussion of "how the breakdown of the class compares to the prior year in terms of racial identities." 397 F. Supp. 3d, at 146. And "if at some point in the admissions process it appears that a group is notably underrepresented or has suffered a dramatic drop off relative to the prior year, the Admissions Committee may decide to give additional attention to applications from students within that group." *Ibid.*; see also *id.*, at 147 (District Court finding that Harvard uses race to "trac[k] how each class is shaping up relative to previous years with an eye towards achieving a level of racial diversity"); 2 App. in No. 20–1199,

at 821–822.

The results of the Harvard admissions process reflect this numerical commitment. For the admitted classes of 2009 to 2018, black students represented a tight band of 10.0%–11.7% of the admitted pool. The same theme held true for other minority groups:

Share of Students Admitted to Harvard by Race			
	African-American Share of Class	Hispanic Share of Class	Asian-American Share of Class
Class of 2009	11%	8%	18%
Class of 2010	10%	10%	18%
Class of 2011	10%	10%	19%
Class of 2012	10%	9%	19%
Class of 2013	10%	11%	17%
Class of 2014	11%	9%	20%
Class of 2015	12%	11%	19%
Class of 2016	10%	9%	20%
Class of 2017	11%	10%	20%
Class of 2018	12%	12%	19%

Brief for Petitioner in No. 20–1199 etc., p. 23. Harvard's focus on numbers is obvious.[7]

[7] The principal dissent claims that "[t]he fact that Harvard's racial shares of admitted applicants varies relatively little . . . is unsurprising and reflects the fact that the racial makeup of Harvard's applicant pool also varies very little over this period." *Post*, at 35 (opinion of SOTOMAYOR, J.) (internal quotation marks omitted). But that is exactly the point: Harvard must use precise racial preferences year in and year out to maintain the unyielding demographic composition of its class. The dissent is thus left to attack the numbers themselves, arguing they were "handpicked" "from a truncated period." *Ibid.*, n. 29 (opinion of SOTOMAYOR, J.). As supposed proof, the dissent notes that the share of

UNC's admissions program operates similarly. The University frames the challenge it faces as "the admission and enrollment of underrepresented minorities," Brief for University Respondents in No. 21–707, at 7, a metric that turns solely on whether a group's "percentage enrollment within the undergraduate student body is lower than their percentage within the general population in North Carolina," 567 F. Supp. 3d, at 591, n. 7; see also Tr. of Oral Arg. in No. 21–707, at 79. The University "has not yet fully achieved its diversity-related educational goals," it ex- plains, in part due to its failure to obtain closer to propor- tional representation. Brief for University Respondents in No. 21–707, at 7; see also 567 F. Supp. 3d, at 594.

The problem with these approaches is well established. "[O]utright racial balancing" is "patently unconstitutional." *Fisher I*, 570 U. S., at 311 (internal quotation marks omitted). That is so, we have repeatedly explained, because "[a]t the heart of the Constitution's guarantee of equal protection lies the simple command that the Government must treat citizens as individuals, not as simply components of a racial, religious, sexual or national class." *Miller,* 515 U. S., at 911 (internal quotation marks omitted). By promising to terminate their use of race only when some rough percentage of various racial groups is admitted, respondents turn that principle on its head. Their admissions programs "effectively assure[] that race will always be relevant . . . and that the ultimate goal of eliminating" race as a criterion "will never be achieved." *Croson*, 488 U. S., at 495 (internal

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Asian students at Harvard varied significantly from 1980 to 1994—a 14-year period that ended nearly three decades ago. 4 App. in No. 20–1199, at 1770. But the relevance of that observation—handpicked and truncated as it is—is lost on us. And the dissent does not and cannot dispute that the share of black and Hispanic students at Harvard—"the primary beneficiaries" of its race-based admissions policy—has remained consistent for decades. 397 F. Supp. 3d, at 178; 4 App. in No. 20–1199, at 1770. For all the talk of holistic and contextual judgments, the racial preferences at issue here in fact operate like clockwork.

quotation marks omitted).

Respondents' second proffered end point fares no better. Respondents assert that universities will no longer need to engage in race-based admissions when, in their absence, students nevertheless receive the educational benefits of diversity. But as we have already explained, it is not clear how a court is supposed to determine when stereotypes have broken down or "productive citizens and leaders" have been created. 567 F. Supp. 3d, at 656. Nor is there any way to know whether those goals would adequately be met in the absence of a race-based admissions program. As UNC itself acknowledges, these "qualitative standard[s]" are "difficult to measure." Tr. of Oral Arg. in No. 21–707, at 78; but see *Fisher II*, 579 U. S., at 381 (requiring race-based admissions programs to operate in a manner that is "sufficiently measurable").

Third, respondents suggest that race-based preferences must be allowed to continue for at least five more years, based on the Court's statement in *Grutter* that it "expect[ed] that 25 years from now, the use of racial preferences will no longer be necessary." 539 U. S., at 343. The 25-year mark articulated in *Grutter*, however, reflected only that Court's view that race-based preferences would, by 2028, be unnecessary to ensure a requisite level of racial diversity on college campuses. *Ibid.* That expectation was oversold. Neither Harvard nor UNC believes that race-based admissions will in fact be unnecessary in five years, and both universities thus expect to continue using race as a criterion well beyond the time limit that *Grutter* suggested. See Tr. of Oral Arg. in No. 20–1199, at 84–85; Tr. of Oral Arg. in No. 21–707, at 85–86. Indeed, the high school applicants that Harvard and UNC will evaluate this fall using their race-based admissions systems are expected to graduate in 2028—25 years after *Grutter* was decided.

Finally, respondents argue that their programs need not have an end point at all because they frequently review

them to determine whether they remain necessary. See Brief for Respondent in No. 20–1199, at 52; Brief for University Respondents in No. 21–707, at 58–59. Respondents point to language in *Grutter* that, they contend, permits "the durational requirement [to] be met" with "periodic reviews to determine whether racial preferences are still necessary to achieve student body diversity." 539 U. S., at 342. But *Grutter* never suggested that periodic review could make unconstitutional conduct constitutional. To the contrary, the Court made clear that race-based admissions programs eventually had to end—despite whatever periodic review universities conducted. *Ibid.*; see also *supra*, at 18.

Here, however, Harvard concedes that its race-based admissions program has no end point. Brief for Respondent in No. 20–1199, at 52 (Harvard "has not set a sunset date" for its program (internal quotation marks omitted)). And it acknowledges that the way it thinks about the use of race in its admissions process "is the same now as it was" nearly 50 years ago. Tr. of Oral Arg. in No. 20–1199, at 91. UNC's race-based admissions program is likewise not set to expire any time soon—nor, indeed, any time at all. The University admits that it "has not set forth a proposed time period in which it believes it can end all race-conscious admissions practices." 567 F. Supp. 3d, at 612. And UNC suggests that it might soon use race to a *greater* extent than it currently does. See Brief for University Respondents in No. 21–707, at 57. In short, there is no reason to believe that respondents will—even acting in good faith—comply with the Equal Protection Clause any time soon.

V

The dissenting opinions resist these conclusions. They would instead uphold respondents' admissions programs based on their view that the Fourteenth Amendment permits state actors to remedy the effects of societal discrimination through explicitly race-based measures. Although

both opinions are thorough and thoughtful in many respects, this Court has long rejected their core thesis.

The dissents' interpretation of the Equal Protection Clause is not new. In *Bakke*, four Justices would have permitted race-based admissions programs to remedy the effects of societal discrimination. 438 U. S., at 362 (joint opinion of Brennan, White, Marshall, and Blackmun, JJ., concurring in judgment in part and dissenting in part). But that minority view was just that—a minority view. Justice Powell, who provided the fifth vote and controlling opinion in *Bakke*, firmly rejected the notion that societal discrimination constituted a compelling interest. Such an interest presents "an amorphous concept of injury that may be ageless in its reach into the past," he explained. *Id.*, at 307. It cannot "justify a [racial] classification that imposes disadvantages upon persons . . . who bear no responsibility for whatever harm the beneficiaries of the [race-based] admissions program are thought to have suffered." *Id.*, at 310.

The Court soon adopted Justice Powell's analysis as its own. In the years after *Bakke*, the Court repeatedly held that ameliorating societal discrimination does not constitute a compelling interest that justifies race-based state action. "[A]n effort to alleviate the effects of societal discrimination is not a compelling interest," we said plainly in *Hunt*, a 1996 case about the Voting Rights Act. 517 U. S., at 909–910. We reached the same conclusion in *Croson*, a case that concerned a preferential government contracting program. Permitting "past societal discrimination" to "serve as the basis for rigid racial preferences would be to open the door to competing claims for 'remedial relief' for every disadvantaged group." 488 U. S., at 505. Opening that door would shutter another—"[t]he dream of a Nation of equal citizens . . . would be lost," we observed, "in a mosaic of shifting preferences based on inherently unmeasurable claims of past wrongs." *Id.*, at 505–506. "[S]uch a result would be contrary to both the letter and spirit of a

constitutional provision whose central command is equality." *Id.*, at 506.

The dissents here do not acknowledge any of this. They fail to cite *Hunt*. They fail to cite *Croson*. They fail to mention that the entirety of their analysis of the Equal Protection Clause—the statistics, the cases, the history—has been considered and rejected before. There is a reason the principal dissent must invoke Justice Marshall's partial dissent in *Bakke* nearly a dozen times while mentioning Justice Powell's controlling opinion barely once (JUSTICE JACKSON's opinion ignores Justice Powell altogether). For what one dissent denigrates as "rhetorical flourishes about colorblindness," *post*, at 14 (opinion of SOTOMAYOR, J.), are in fact the proud pronouncements of cases like *Loving* and *Yick Wo*, like *Shelley* and *Bolling*—they are defining statements of law. We understand the dissents want that law to be different. They are entitled to that desire. But they surely cannot claim the mantle of *stare decisis* while pursuing it.[8]

The dissents are no more faithful to our precedent on race-based admissions. To hear the principal dissent tell it, *Grutter* blessed such programs indefinitely, until "racial inequality will end." *Post*, at 54 (opinion of SOTOMAYOR, J.). But *Grutter* did no such thing. It emphasized—not once or twice, but at least six separate times—that race-based ad-

[8] Perhaps recognizing as much, the principal dissent at one point attempts to press a different remedial rationale altogether, stating that both respondents "have sordid legacies of racial exclusion." *Post*, at 21 (opinion of SOTOMAYOR, J.). Such institutions should perhaps be the very *last* ones to be allowed to make race-based decisions, let alone be accorded deference in doing so. In any event, neither university defends its admissions system as a remedy for past discrimination—their own or anyone else's. See Tr. of Oral Arg. in No. 21–707, at 90 ("[W]e're not pursuing any sort of remedial justification for our policy."). Nor has any decision of ours permitted a remedial justification for race-based college admissions. Cf. *Bakke*, 438 U. S., at 307 (opinion of Powell, J.).

missions programs "must have reasonable durational limits" and that their "deviation from the norm of equal treatment" must be "a temporary matter." 539 U. S., at 342. The Court also disclaimed "[e]nshrining a permanent justification for racial preferences." *Ibid.* Yet the justification for race-based admissions that the dissent latches on to is just that—unceasing.

The principal dissent's reliance on *Fisher II* is similarly mistaken. There, by a 4-to-3 vote, the Court upheld a "*sui generis*" race-based admissions program used by the University of Texas, 579 U. S., at 377, whose "goal" it was to enroll a "critical mass" of certain minority students, *Fisher I*, 570 U. S., at 297. But neither Harvard nor UNC claims to be using the critical mass concept—indeed, the universities admit they do not even know what it means. See 1 App. in No. 21–707, at 402 ("[N]o one has directed anybody to achieve a critical mass, and I'm not even sure we would know what it is." (testimony of UNC administrator)); 3 App. in No. 20–1199, at 1137–1138 (similar testimony from Harvard administrator).

Fisher II also recognized the "enduring challenge" that race-based admissions systems place on "the constitutional promise of equal treatment." 579 U. S., at 388. The Court thus reaffirmed the "continuing obligation" of universities "to satisfy the burden of strict scrutiny." *Id.*, at 379. To drive the point home, *Fisher II* limited itself just as *Grutter* had—in duration. The Court stressed that its decision did "*not* necessarily mean the University may rely on the same policy" going forward. 579 U. S., at 388 (emphasis added); see also *Fisher I*, 570 U. S., at 313 (recognizing that "*Grutter* . . . approved the plan at issue upon concluding that it . . . was limited in time"). And the Court openly acknowl-

edged that its decision offered limited "prospective guidance." *Fisher II*, 579 U. S., at 379.[9]

The principal dissent wrenches our case law from its context, going to lengths to ignore the parts of that law it does not like. The serious reservations that *Bakke*, *Grutter*, and *Fisher* had about racial preferences go unrecognized. The unambiguous requirements of the Equal Protection Clause—"the most rigid," "searching" scrutiny it entails—go without note. *Fisher I*, 570 U. S., at 310. And the repeated demands that race-based admissions programs must end go overlooked—contorted, worse still, into a demand that such programs never stop.

Most troubling of all is what the dissent must make these omissions to defend: a judiciary that picks winners and losers based on the color of their skin. While the dissent would certainly not permit university programs that discriminated *against* black and Latino applicants, it is perfectly willing to let the programs here continue. In its view, this Court is supposed to tell state actors when they have picked the right races to benefit. Separate but equal is "*inherently* unequal," said *Brown*. 347 U. S., at 495 (emphasis added). It depends, says the dissent.

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[9] The principal dissent rebukes the Court for not considering adequately the reliance interests respondents and other universities had in *Grutter*. But as we have explained, *Grutter* itself limited the reliance that could be placed upon it by insisting, over and over again, that race-based admissions programs be limited in time. See *supra*, at 20. *Grutter* indeed went so far as to suggest a specific period of reliance—25 years—precluding the indefinite reliance interests that the dissent articulates. Cf. *post*, at 2–4 (KAVANAUGH, J., concurring). Those interests are, moreover, vastly overstated on their own terms. Three out of every five American universities do *not* consider race in their admissions decisions. See Brief for Respondent in No. 20–1199, p. 40. And several States—including some of the most populous (California, Florida, and Michigan)—have prohibited race-based admissions outright. See Brief for Oklahoma et al. as *Amici Curiae* 9, n. 6.

That is a remarkable view of the judicial role—remarkably wrong. Lost in the false pretense of judicial humility that the dissent espouses is a claim to power so radical, so destructive, that it required a Second Founding to undo. "Justice Harlan knew better," one of the dissents decrees. *Post*, at 5 (opinion of JACKSON, J.). Indeed he did:

> "[I]n view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens." *Plessy*, 163 U. S., at 559 (Harlan, J., dissenting).

VI

For the reasons provided above, the Harvard and UNC admissions programs cannot be reconciled with the guarantees of the Equal Protection Clause. Both programs lack sufficiently focused and measurable objectives warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points. We have never permitted admissions programs to work in that way, and we will not do so today.

At the same time, as all parties agree, 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. See, *e.g.*, 4 App. in No. 21–707, at 1725–1726, 1741; Tr. of Oral Arg. in No. 20–1199, at 10. But, despite the dissent's assertion to the contrary, universities may not simply establish through application essays or other means the regime we hold unlawful today. (A dissenting opinion is generally not the best source of legal advice on how to comply with the majority opinion.) "[W]hat cannot be done directly cannot be done indirectly. The Constitution deals with substance, not shadows," and the prohibition against racial discrimination is "levelled at the thing,

not the name." *Cummings* v. *Missouri*, 4 Wall. 277, 325 (1867). A benefit to a student who overcame racial discrim- ination, for example, must be tied to *that student's* courage and determination. Or a benefit to a student whose herit- age 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 ex- periences as an individual—not on the basis of race.

Many universities have for too long done just the oppo- site. And in doing so, they have concluded, wrongly, that the touchstone of an individual's identity is not challenges bested, skills built, or lessons learned but the color of their skin. Our constitutional history does not tolerate that choice.

The judgments of the Court of Appeals for the First Cir- cuit and of the District Court for the Middle District of North Carolina are reversed.

It is so ordered.

JUSTICE JACKSON took no part in the consideration or de- cision of the case in No. 20–1199.

U.S. Department of Justice
Civil Rights Division
Office of the Assistant Attorney General

U.S. Department of Education
Office for Civil Rights

August 14, 2023

Dear Colleague:

On June 29, 2023, the U.S. Supreme Court announced its ruling in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina et al.*, holding that the use of race in admissions policies applied by the University of North Carolina and Harvard College violates the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964. This decision, which directly addressed only the universities' admissions programs, restricts approaches that institutions of higher education have been using for decades to provide students the educational benefits that derive from diverse and vibrant campus communities.

Following the Supreme Court's recent decision, the President and Vice President called on colleges, universities, and other stakeholders to seize the opportunity to expand access to educational opportunity for all students and to build diverse student bodies, including by recognizing and valuing students who have overcome adversity.[1]

Today, the Departments of Justice and Education ("Departments") provide the attached Questions and Answers to help colleges and universities understand the Supreme Court's decision as they continue to pursue campuses that are racially diverse and that include students with a range of viewpoints, talents, backgrounds, and experiences.

The Departments also reaffirm our commitment to ensuring that educational institutions remain open to all, regardless of race. Learning is enriched when student bodies reflect the rich diversity of our communities. Research has shown that such diversity leads to, among other things, livelier and more informative classroom discussions, breakdown of prejudices and increased cross-racial understanding, and heightened cognitive development and problem-solving skills. The benefits of diversity in educational institutions extend beyond the classroom as individuals who attend diverse schools are better prepared for our increasingly racially and ethnically diverse society and the global economy. We stand ready to support institutions that recognize that such diversity is core to their commitment to excellence, and that pursue lawful steps to promote diversity and full inclusion.

[1] See White House, Fact Sheet, "President Biden Announces Actions to Promote Educational Opportunity and Diversity in Colleges and Universities" (June 29, 2023), available at https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/29/fact-sheet-president-biden-announces-actions-to-promote-educational-opportunity-and-diversity-in-colleges-and-universities/.

We also acknowledge that fulfilling this commitment will require sustained action to lift the barriers that keep underserved students, including students of color, from equally accessing the benefits of higher education. For decades, our Departments have sought to achieve the original promise of *Brown v. Board of Education*, that no student's educational opportunity should be limited by their race. Through that work, we have seen that there are no simple answers for unwinding the entrenched roots and sprawling branches of segregation and discrimination.

For institutions of higher education, this may mean redoubling efforts to recruit and retain talented students from underserved communities, including those with large numbers of students of color. It may likewise mean a greater focus on fostering a sense of belonging for students currently enrolled. Through such efforts, colleges and universities can effectively support and retain students from diverse backgrounds. Colleges and universities can also ensure that prospective students of color know that the schools they are considering are places where all students will be welcome and will succeed. Colleges and universities may also choose to focus on providing students with need-based financial support that allows them not just to enroll, but to thrive. Students should not be waylaid on the path to a degree because they must shoulder crushing debt, further strain their families' finances, or work long hours to pay their bills.

Colleges and universities can also play a role in growing the talent pool of college- and career-ready students. Students from disadvantaged backgrounds, who are disproportionately students of color, are more likely to attend PreK-12 schools that lack the particular courses, types of instruction, and enrichment opportunities that prepare students for college, and that colleges and universities seek in their admissions process. By partnering with school districts in underserved communities, supporting improved access to high quality advanced courses, and investing time and resources into programs that identify and nurture students' potential, colleges and universities can ensure that more students will be prepared to apply to colleges and universities, gain admission, succeed, and graduate. Colleges and universities can also participate in programs that commit them to enroll, support, and graduate students from disadvantaged backgrounds, regardless of race, who are attending or have graduated from community college.

With respect to admissions practices themselves, especially for the upcoming cycle, the Departments encourage colleges and universities to review their policies to ensure they identify and reward those attributes that they most value, such as hard work, achievement, intellectual curiosity, potential, and determination. As described in the attached Q&A document, schools can consider the ways that a student's background, including experiences linked to their race, have shaped their lives and the unique contributions they can make to campus. Students should feel comfortable presenting their whole selves when applying to college, without fear of stereotyping, bias, or discrimination. And information about an individual student's perseverance, especially when faced with adversity or disadvantage, can be a powerful measure of that student's potential.

Conversely, colleges and universities can examine admission preferences, such as those based on legacy status or donor affiliation, that are unrelated to a prospective applicant's individual merit or potential, that further benefit privileged students, and that reduce opportunities for others who have been foreclosed from such advantages. Colleges and universities can also work proactively to identify potential barriers posed by existing metrics that may reflect and amplify inequality, disadvantage, or bias.

We close by noting our continued commitment to vigorous enforcement of Titles IV and VI of the Civil Rights Act of 1964[2] from early childhood through postsecondary education. The Departments will continue to investigate allegations of discrimination, whether in admissions practices or in the PreK-12 programs that serve as the gateway to higher education. We will continue to use all enforcement tools at our disposal to protect students' right to equal access to the opportunities that create pathways to higher education, and those afforded by higher education itself. Members of the public may report possible civil rights violations to the Department of Justice at www.civilrights.justice.gov/, or to the Department of Education's Office for Civil Rights at https://www2.ed.gov/about/offices/list/ocr/complaintintro.html.

Our Departments' past and current enforcement work highlights the threat that persistent discrimination poses to the rights that make America a true democracy—including equal access to education at all levels. Educators, students, and communities know that we are far from attaining *Brown*'s promise of making education "available to all on equal terms." Making that promise real won't just happen. It will take hard work and resolve, not just from colleges and universities, but from all who care about preparing future generations of students to succeed and to lead our multicultural democracy. We thank you for your continued commitment.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Catherine E. Lhamon
Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education

[2] The Departments enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving Federal financial assistance, and its implementing regulations. The Department of Justice also enforces Title IV of the Civil Rights Act of 1964, which authorizes the Attorney General to address certain complaints of discrimination against students based on race, color, national origin, sex, or religion in public institutions of higher learning.

QUESTIONS AND ANSWERS REGARDING THE SUPREME COURT'S DECISION IN *STUDENTS FOR FAIR ADMISSIONS, INC. V. HARVARD COLLEGE AND UNIVERSITY OF NORTH CAROLINA*

OVERVIEW

On June 29, 2023, the U.S. Supreme Court held that Harvard College and the University of North Carolina ("UNC") violated the Fourteenth Amendment of the U.S. Constitution and Title VI of the Civil Rights Act of 1964 ("Title VI") by impermissibly using race in their undergraduate admissions processes. See *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, No. 20-1199; *Students for Fair Admissions, Inc. v. University of North Carolina et al.*, No. 21-707 ("*SFFA*"). [Link to decision.] Specifically, the Court held that UNC's consideration of individual students' race violated the Fourteenth Amendment's Equal Protection Clause, which applies to public colleges and universities. The Court reaffirmed that Title VI requires all colleges and universities that receive federal financial assistance—public and private—to comply with the same requirements imposed by the Equal Protection Clause. And the Court held that Harvard College's consideration of individual students' race violated those requirements as well.

This document provides institutions of higher education with information about the Court's decision. The Departments of Justice and Education will continue to address all complaints of race discrimination by applying the relevant legal standards under civil rights statutes and will vigorously enforce civil rights protections, including prohibitions against racial discrimination. We hope you find the Questions and Answers below to be helpful in implementing lawful admissions programs on your campus, consistent with the recent decision.[1]

QUESTIONS AND ANSWERS

Q1: What did the Supreme Court decide?

In *SFFA*, the Supreme Court held that Harvard College and UNC's admissions programs unlawfully considered individual students' race in determining whether to offer those students admission. The Court held that the schools' asserted interests in the educational benefits of

[1] The contents of this Q&A document do not have the force and effect of law and do not bind the public or impose new legal requirements, nor do they bind the Departments of Education and Justice in the exercise of their discretionary enforcement authorities. This document is designed to provide information to the public regarding existing requirements under the Constitution and under Title VI and its implementing regulations. It does not address areas other than the application of these requirements to higher education admissions.

diversity—including, among other things, training future leaders, preparing graduates to thrive in an increasingly pluralistic society, promoting the robust exchange of ideas, fostering innovation and problem-solving, and encouraging respect, empathy, and cross-racial understanding—were not sufficiently measurable and could not "be subjected to meaningful judicial review." 600 U.S. __ (2023) (slip op. at 23). The Court held that the admissions programs also failed to articulate a meaningful connection between the means they employed and the goals they pursued. And the Court further held that the programs disadvantaged some racial groups and employed racial stereotypes by treating the fact of an applicant's race alone as saying something meaningful about the applicant's lived experiences or what qualities the applicant could bring to a campus environment. Finally, the Court held that the programs lacked a "logical end point" that would guide courts in determining when the schools' diversity goals had been achieved and the use of race in admissions was no longer necessary. *Id.* at 30 (quoting *Grutter v. Bollinger*, 539 U.S. 306, 342 (2003)).

The Court noted that its opinion did not address the permissibility of considering race in admissions to the Nation's military academies, "in light of the potentially distinct interests that military academies may present." *Id.* at 22, n.4. The Court's opinion also did not address many other admissions practices that do not involve the use of race.

Q2: In what ways can institutions of higher education consider an individual student's race in admissions?

The Court in *SFFA* limited the ability of institutions of higher education to consider an applicant's race in and of itself as a factor in deciding whether to admit the applicant.

The Court made clear that "nothing in [its] 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 39. This means that universities may continue to embrace appropriate considerations through holistic application-review processes and (for example) provide opportunities to assess how applicants' individual backgrounds and attributes—including those related to their race, experiences of racial discrimination, or the racial composition of their neighborhoods and schools—position them to contribute to campus in unique ways. For example, a university could consider an applicant's explanation about what it means to him to be the first Black violinist in his city's youth orchestra or an applicant's account of overcoming prejudice when she transferred to a rural high school where she was the only student of South Asian descent. An institution could likewise consider a guidance counselor or other recommender's description of how an applicant conquered her feelings of isolation as a Latina student at an overwhelmingly white high school to join the debate team. Similarly, an institution could consider an applicant's discussion of how learning to cook traditional Hmong dishes from her grandmother sparked her passion for food and nurtured her sense of self by connecting her to past generations of her family.

In short, institutions of higher education remain free to consider any quality or characteristic of a student that bears on the institution's admission decision, such as courage, motivation, or determination, even if the student's application ties that characteristic to their lived experience with race—provided that any benefit is tied to "*that student's*" characteristics, and that the student is "treated based on his or her experiences as an individual[,]" and "not on the basis of race." *Id.* at 40.

Those institutions of higher education that do not consider the race of individual applicants when making offers of admission might not need to make any changes to their current admissions practices in light of the Court's decision. But institutions that do consider race in the manner that the Court addressed will need to re-evaluate their current practices to ensure compliance with the law as articulated in the *SFFA* decision.

Q3: Can institutions of higher education continue to take other steps to achieve a student body that is diverse across a range of factors, including race and ethnicity? If so, how?

Yes, institutions of higher education may continue to articulate missions and goals tied to student body diversity and may use all legally permissible methods to achieve that diversity. As noted above, schools can continue to use strategies that remove barriers and expand opportunity for all. This includes considering the full range of circumstances a student has faced in achieving their accomplishments, including financial means and broader socioeconomic status; information about the applicant's neighborhood and high school; and experiences of adversity, including racial discrimination. In particular, nothing in the *SFFA* decision prohibits institutions from continuing to seek the admission and graduation of diverse student bodies, including along the lines of race and ethnicity, through means that do not afford individual applicants a preference on the basis of race in admissions decisions. Indeed, seeking to enroll diverse student bodies can further the values of equality of opportunity embedded in the Fourteenth Amendment and other federal civil rights laws. While the decision does not specifically address the steps institutions may continue to take to achieve diverse student bodies, existing practices that can lawfully be used include but are not limited to the following:

Targeted Outreach, Recruitment, and Pathway Programs

To promote and maintain a diverse student applicant pool, institutions may continue to pursue targeted outreach, recruitment, and pipeline or pathway programs (referred to here as "pathway programs"). These programs allow institutions to take active steps to ensure that they connect with a broad range of prospective students—including those who might otherwise not learn about these institutions and their educational programs or envision themselves as potential candidates for admission. By ensuring that the group of applicants they ultimately consider for admission includes a robust pool of talented students from underrepresented groups, institutions

better position themselves to attain the student body diversity and related educational benefits they seek.

The Court's decision in *SFFA* does not require institutions to ignore race when identifying prospective students for outreach and recruitment, provided that their outreach and recruitment programs do not provide targeted groups of prospective students preference in the admissions process, and provided that all students—whether part of a specifically targeted group or not—enjoy the same opportunity to apply and compete for admission. Such outreach and recruitment efforts can remove barriers and promote opportunity for all, and institutions remain able to permissibly consider students' race when engaged in those efforts.

In identifying prospective students through outreach and recruitment, institutions may, as many currently do, consider race and other factors that include, but are not limited to, geographic residency, financial means and socioeconomic status, family background, and parental education level. For example, in seeking a diverse student applicant pool, institutions may direct outreach and recruitment efforts toward schools and school districts that serve predominantly students of color and students of limited financial means. Institutions may also target school districts or high schools that are underrepresented in the institution's applicant pool by focusing on geographic location (e.g., schools in the Midwest, or urban or rural communities) or other characteristics (e.g., low-performing schools or schools with high dropout rates, large percentages of students receiving free or reduced-price lunch, or historically low numbers of graduates being admitted to the institution).

In addition to outreach and recruitment programs, institutions may offer pathway programs that focus on increasing the pool of particular groups of college-ready applicants in high school and career and technical education programs. The structure and scope of pathway programs vary significantly across institutions. An institution may partner with a particular school or student-centered organization and offer mentoring or other programming throughout the school year to enhance students' academic exposure. It may also host summer enrichment camps for students attending nearby public schools.

An institution may consider race and other demographic factors when conducting outreach and recruitment efforts designed to provide information about a pathway program to potential participants. If an institution awards slots or otherwise selects students for participation in its pathway program based on non-racial criteria (e.g., all 11th graders at a particular high school are able to participate, or all 10th graders in a geographic area with a certain GPA may apply), the institution may give pathway program participants preference in its college admissions process. As with college and university admissions, institutions may not award slots in pathway programs based on an individual student's race without triggering the strict scrutiny that *SFFA* applied (though institutions may permissibly consider how race has shaped the applicant's lived experience in selecting participants).

Collection of Demographic Data

Data containing demographic information about an institution's student applicant pool, student admissions outcomes, and student enrollment and retention provide institutions with critical information related to their programs and objectives. Such data convey a range of information about students, including their race/ethnicity, age, sex, gender identity, citizenship, Tribal affiliation, disability, geographic background, language proficiency, socioeconomic status, family background and parental education level, and military background. Institutions may continue to collect this information and use it for a variety of purposes, so long as that use is consistent with applicable privacy laws and ensures that demographic data related to the race of student applicants do not influence admissions decisions. For example, an institution's review of the demographic breakdown of student applicants can be used to help the institution develop, review, and refine outreach, recruitment, and pathway programs targeted to the institution's needs. Likewise, reviewing demographic data related to student admissions outcomes can aid institutions in ensuring that their admissions practices do not discriminate based on any protected characteristics or create other artificial barriers to admission. Finally, an institution's understanding of the demographic breakdown of the students who ultimately enroll and graduate (and those who do not) may provide useful context for its development, review, and assessment of student programming needs (whether academic, co-curricular, social, or financial).

In collecting and using data, institutions should ensure that the racial demographics of the applicant pool do not influence admissions decisions. As stated above in Question 2, admissions officers need not be prevented from learning an individual applicant's race if, for example, the applicant discussed in an application essay how race affected their life. However, the Court criticized the practice of institutions adjusting their admissions priorities dynamically in response to demographic data on the race of students in the admitted class. The Court's decision does not prohibit institutions from reviewing such data for other purposes, but institutions should consider steps that would prevent admissions officers who review student applications from using the data to make admissions decisions based on individual applicants' self-identified race or ethnicity.

Evaluation of Admissions Policies

Nothing in the Court's decision prohibits institutions from carefully evaluating their policies to best determine which factors in a holistic admissions process most faithfully reflect institutional values and commitments. For example, an institution committed to increasing access for underserved populations may seek to bring in more first-generation college students or Pell-grant eligible students, among others. In addition, nothing in the decision prevents an institution from determining whether preferences for legacy students or children of donors, for example, run counter to efforts to promote equal opportunities for all students in the context of college admissions.

Similarly, institutions may investigate whether the mechanics of their admissions processes are inadvertently screening out students who would thrive and contribute greatly on campus. An institution may choose to study whether application fees, standardized testing requirements, pre-requisite courses such as calculus, or early decision timelines advance institutional interests.

The Court's decision likewise does not prohibit admissions models and strategies that do not consider an individual's race, such as those that offer admission to students based on attendance at certain secondary or post-secondary institutions or based on other race-neutral criteria. For instance, institutions may admit all students who complete degree programs at certain types of post-secondary institutions (e.g., community colleges and other institutions that are more likely to enroll students from economically or educationally disadvantaged backgrounds) and meet certain criteria (e.g., minimum GPA). Where feasible, institutions may also admit all students who graduate in the top portion of their high school class. These sorts of admission programs that do not consider an applicant's race in and of itself can help ensure that opportunities are distributed broadly and that classes are made up of students from a wide range of backgrounds and experiences.

As part of their holistic review, institutions may also continue to consider a wide range of factors that shape an applicant's lived experiences. These factors include but are not limited to: financial means and broader socioeconomic status; whether the applicant lives in a city, suburb, or rural area; information about the applicant's neighborhood and high school; whether the applicant is a citizen or member of a Tribal Nation; family background; parental education level; experiences of adversity, including discrimination; participation in service or community organizations; and whether the applicant speaks more than one language.

Student Yield and Retention Strategies and Programs

Ensuring that institutions of higher education are open to all includes not only attracting, admitting, and matriculating a diverse student body, but also retaining students from all backgrounds. To that end, it is important that students—particularly those who are underrepresented—feel a sense of belonging and support once on campus. An institution may, consistent with the federal laws the Departments of Justice and Education enforce, foster this sense of belonging and support through its office of diversity, campus cultural centers, and other campus resources if these support services are available to all students. An institution may also offer or support clubs, activities, and affinity groups—including those that have a race-related theme—to ensure that students have a space to celebrate their shared identities, interests, and experiences, so long as the clubs, activities, and affinity groups are open to all students regardless of race. Similarly, an institution may host meetings, focus groups, assemblies, or listening sessions on race-related topics if all interested students may participate, regardless of their race.

If you have further questions, please contact the Department of Education's Office for Civil Rights (800-421-3481 or ocr@ed.gov) or the Department of Justice's Educational Opportunities Section (877-292-3804 or education@usdoj.gov).

Previous Application Questions (UMTC)

(all three were optional; now 1 and 3 are optional and number 2 is required)

1. Please share a few words about your interest in the major(s)/college(s) you have selected above. Our review process is intended to place students in a college that best matches their interests and academic preparation. Please limit your short answer to 1,000 characters or approximately 150 words.

2. **(Required now for Fall 2024 application)**: The University values diversity, broadly defined to include diversity of experiences, perspectives, backgrounds, and talents. Enrolling a diverse community of scholars interested in learning with and from each other fosters discussion and discovery inside and outside of the classroom. Please share briefly how you might contribute to, or benefit from, our community of scholars. Please limit your short answer to 1,000 characters or approximately 150 words.

3. If you have additional information or special circumstances not already provided in your application that you would like the admissions committee to consider in its holistic review of your application, please share that information below. Please limit your short answer to 4,000 characters or approximately 600 words.

UMTC Recruitment Strategies

Focused on Diversity Broadly Defined

Refocus on

- Strategic direct marketing approach to elevate awareness about the U of M in critical markets
- Expanded community group and high school partnerships that support underserved students
- Continued application workshops and application fee waivers, college fairs, high school visits, Admissions counselor visit at location in community

On-campus Programming

- Ensuring campus events and visit options are offered outside of M-F to be accessible for more students and families
- More college exploration programming for younger students in college access programs (9th and 10th graders)
- Evolved campus experiences and events to ensure underserved students learn about campus climate, programs and opportunities (i.e., Experience Minnesota, Special Receptions, American Indian Visit Day, Transfer Visit Days)
- Newly formalized group visit program to provide greater opportunity for students to visit with their school or community group.

Partnerships

- Established a Community Access Partnership Advisory Board to ensure programs and efforts meet student needs
- Enhanced partnerships with community colleges to expand transfer student outreach
- Partnership with Ramp-up to Readiness

To recruit **both**

- Students already knowledgeable about college
- Students with great potential, but who need more support to explore and pursue post-secondary education

UMN System Holistic Review

Crookston

Primary factors

- Grade point average
- Specific high school courses, grade trends, and rigor of academic curriculum

Secondary factors

- College-level coursework completed
- Demonstrated leadership through extra-curricular activities, employment, or community service
- Participation in 4-H or FFA
- Evidence of having overcome barriers to educational achievement

Duluth

Primary factors

- Grade point average
- Completion of high school preparation guidelines

Secondary factors

- ACT/SAT scores
- College-level coursework completed through PSEO and CITS
- Evidence of having overcome barriers to educational achievement
- Exceptional talent
- First generation college student
- Military service
- Personal statement and letters of recommendation
- Significant responsibility in a family, community, job, or activity
- Specific high school courses, grade trends, and rigor of academic curriculum

Morris

Primary factors

- Grade point average (including a calculation of “core” courses – English, math, science, social studies, foreign language)
- Specific high school and college (if applicable) courses, grade trends, and rigor of academic curriculum
- ACT/SAT scores (if student submits and requests as part of evaluation process)

Secondary factors

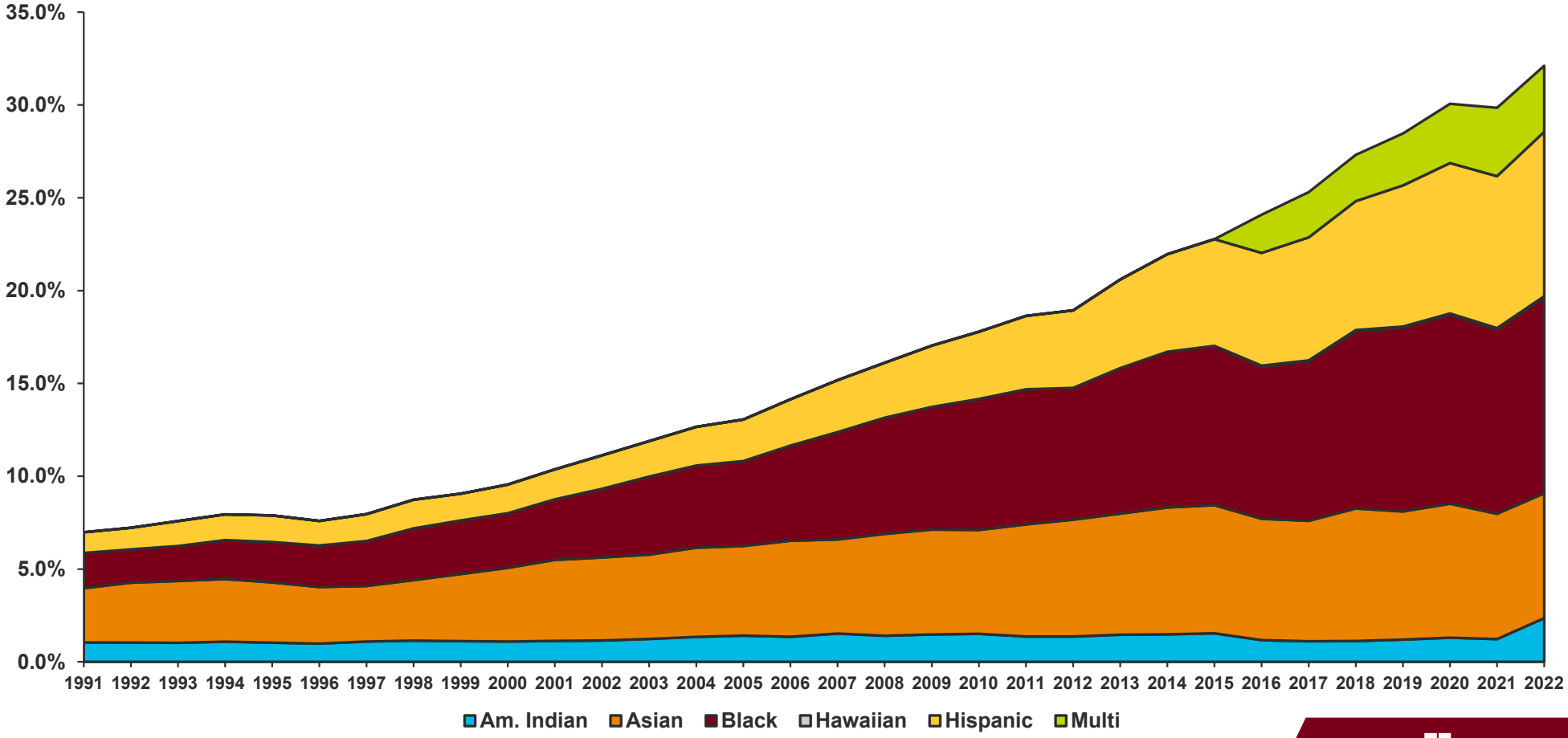
- Demonstrated leadership through extra-curricular activities, employment, or community service

Rochester

Primary factors

- Academic achievement, especially in STEM courses
- Demonstrated passion for Health Care
- Experience in a Health Care setting
- Commitment to community service
- Evidence of having overcome social, economic, or physical barriers in educational achievement
- Demonstrated responsibility to family, community, job, or social endeavor
- Potential to contribute to the campus outside of the classroom

Percentage of Minnesota Public High School Graduates of Color by Race/Ethnicity



Impacts of the Recent U.S. Supreme Court Decision on Undergraduate Admissions

Board of Regents | Mission Fulfillment | September 7th, 2023

Robert B. McMaster
Vice Provost and Dean of Undergraduate Education
University of Minnesota, Twin Cities

Rachel Croson
Executive Vice President and Provost

MPact 2025

Commitment 4: Community & Belonging

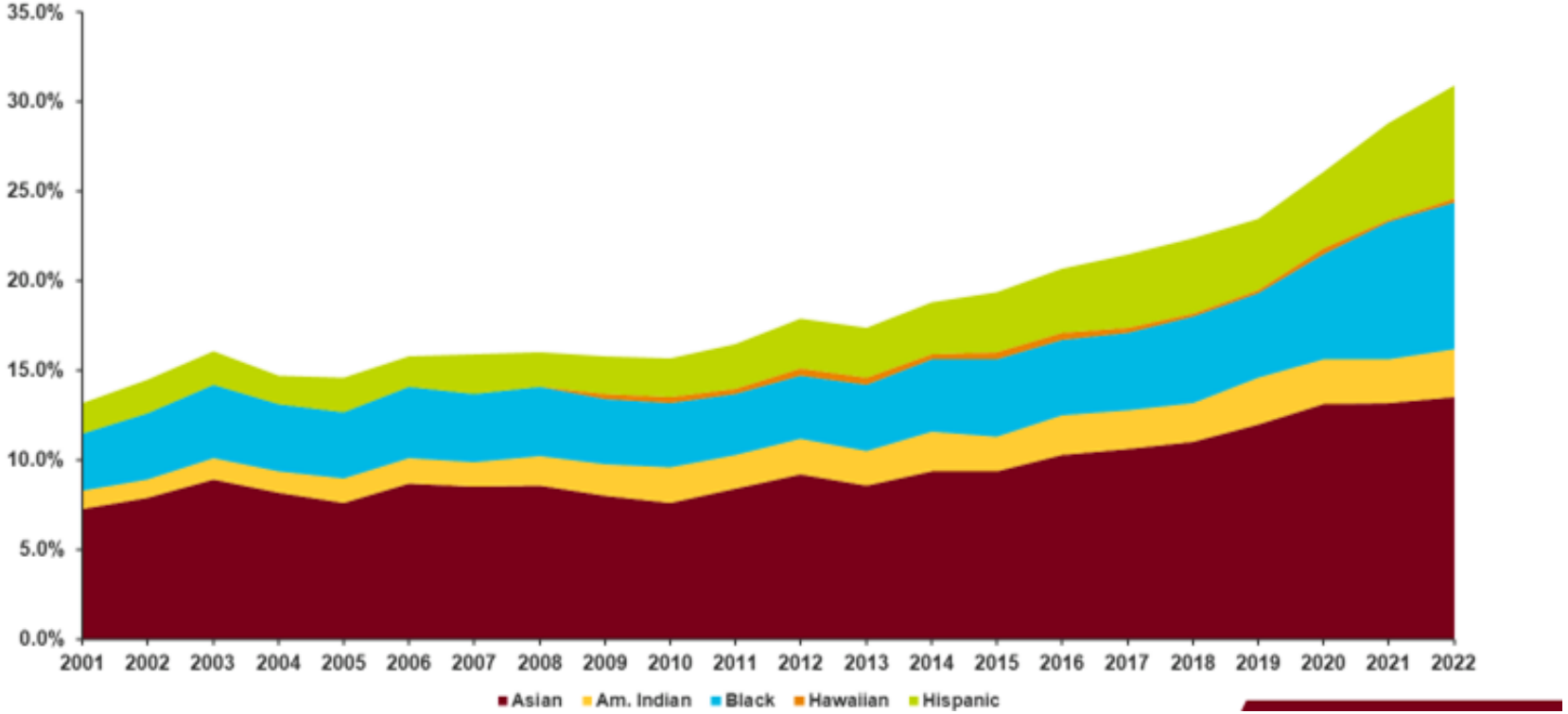
Goal 4.1

Recruit and retain diverse talent

Action

Increase percentage of BIPOC/Underrepresented undergraduate students in the freshman class year over year

Systemwide Fall Semester BIPOC Percentage of New Freshmen (NHS)



June 29, 2023: U.S. Supreme Court Decision

- U.S. DOE/DOJ Dear Colleague Letter and FAQ (“DOE/DOJ”)
    - “Harvard College and the University of North Carolina violated the Fourteenth Amendment of the U.S. Constitution and Title VI of the Civil Rights Act of 1964 (‘Title VI’) by impermissibly using race in their undergraduate admissions processes.”
    - “Institutions may continue to collect this information [geodemographic data] and use it for a variety of purposes, so long as that use is consistent with applicable privacy laws and ensures that data related to the race of student applicants do not influence admissions decisions.”

Resources

- Docket
  - The decision itself
  - U.S. DOE/DOJ Dear Colleague Letter and FAQ
  - Summaries from Inside Higher Education and Chronicle of Higher Education

- Other
  - Conversations with Big 10 Colleagues
  - Discussions with U of M Office of the General Counsel
  - UMN Systemwide SCOTUS advisory group

Undergraduate Admissions

- All campuses will continue to collect race/ethnicity data for IPEDS reporting and other purposes, but will suppress in application review
- All campuses also continue to collect information about previous family attendance/employment, but will suppress in application review

Application Short Answers (DOE/DOJ)

- “[N]othing in [its] 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.”

- “In short, institutions of higher education remain free to consider any quality or characteristic of a student that bears on the institution’s admission decision, such as courage, motivation, or determination, even if the student’s application ties that characteristic to their lived experience with race—provided that any benefit is tied to ‘that student’s’ characteristics, and that the student is ‘treated based on his or her experiences as an individual[,]’ and ‘not on the basis of race.’”

Holistic Review: Academic Factors (UMTC)

Because the greatest predictor of college success is academic preparation, the strongest consideration in the decision is given to a student's high school record

- Coursework taken and rigor of curriculum
  - adjusting for what is available in the school
- Grades in academic coursework
- Class rank/Grade point average (if available)
- ACT or SAT scores (if provided)

Holistic Review: Context Factors (UMTC)

Holistic review also takes into consideration the individual circumstances that make each individual student unique. While we will not consider an applicant's race and ethnicity (or previous family attendance or employment), we will still consider relevant context factors in our review (for example):

- Evidence of exceptional achievement, aptitude, or personal accomplishment not reflected in the academic record
- Participation in extracurricular activities related to your intended major
- Strong commitment to community service, leadership, and educational involvement
- **Evidence of having overcome social, economic, or physical barriers to educational achievement**
- First-generation college student
- Significant responsibility in a family, community, job, or activity
- Military service

Revised Application Short Answer (UMTC)

Previously, the application included 3 optional questions, now two are optional and this one is required:

The University values diversity, broadly defined to include diversity of experiences, perspectives, backgrounds, and talents. Enrolling a diverse community of scholars interested in learning with and from each other fosters discussion and discovery inside and outside of the classroom. Please share briefly how you might contribute to, or benefit from, our community of scholars.

Training for Reviewers (UMTC)

- 50-60 staff members, including seasonal readers and full-time professional staff
- Every application is reviewed individually by multiple readers
- Training (including bias training), reader meetings and quality assurance measures
- Every reviewer now required to read and acknowledge their understanding of a guidance statement

Acknowledgment of Guidance Statement (UMTC)

Excerpt from “Acknowledgement”:

Please note that students ***may share*** information on their application that discloses their race or ethnicity. For example, students are welcome to share information with us regarding their lived experiences, which may include information about their racial or ethnic identity.

This information about a student’s race or ethnicity **cannot be considered** as a contribution to the diversity of the student body. It can, however, be considered as part of the holistic review of an application as it relates to challenges that applicants have faced, skills they have built, or lessons they have learned that will provide them a unique ability to contribute to the University of Minnesota’s scholarly community, in which case the challenges, skills, or lessons can be considered in connection with the context factors considered in admission review.

Examples of Permissible Ways to Consider Race in Admissions (DOE/DOJ)

- A college could consider an applicant's description of what it meant to become the first Black violinist in his city's youth orchestra
- [A]n applicant of South Asian descent's account of overcoming prejudice after transferring to a rural high school
- [A]n applicant's rendering of how learning to cook traditional Hmong dishes from her grandmother had "nurtured her sense of self"
- [A]nd a school counselor's explanation of how a Latina student at a predominantly white high school had overcome her feelings of isolation

Pathway Programs (DOE/DOJ)

- “Institutions may continue to pursue targeted outreach, recruitment, and pipeline or pathway programs (referred to here as ‘pathway programs’).”

- “The Court’s decision likewise does not prohibit admissions models and strategies that do not consider an individual’s race, such as those that offer admission to students based on attendance at certain secondary or post-secondary institutions or based on other race-neutral criteria.”

Recruitment Strategies (UMTC)

Focused on Diversity Broadly Defined

- Continued and enhanced recruitment strategies
  - First-generation students
  - Low-income students (free and reduced lunch)
  - Specific geographies (enhanced recruitment at urban high schools [e.g. CORE], Greater MN)
  - Expanded community group and high school partnerships that support underserved students
- On-campus programming
  - Ensuring campus events and visit options are offered
  - More college exploration programming for younger students in college access programs (9th and 10th graders)
  - Evolved campus experiences and events to ensure that underserved students learn about campus
- Partnerships
  - Established a Community Access Partnership Advisory Board to ensure programs and efforts meet student needs
  - Enhanced partnerships with community colleges to expand transfer student outreach

Sense of Belonging (DOE/DOJ)

“An institution may, consistent with the federal laws the Departments of Justice and Education enforce, foster this sense of belonging and support through its office of diversity, campus cultural centers, and other campus resources if these support services are available to all students regardless of race or ethnicity.”

MPact 2025

Commitment 4: Community & Belonging

Goal 4.1

Recruit and retain diverse talent

Action

Reduce disparities among underrepresented groups

Goal 4.2

Cultivate a welcoming and inclusive campus climate

Action

Increase percentage of students with a favorable sense of belonging

Continuing and Enhanced Student Support (UMTC)

- Martin Luther King Advising Program
- Multicultural Center for Academic Excellence (MCAE)
- Living-learning communities
- Commuter support programs
- First-year housing scholarships
- Multicultural student success efforts
- Student affinity groups
- Greater Minnesota efforts

Undergraduate Admissions: What has changed?

- The factors we consider in our holistic review of undergraduate applications (systemwide)
  - Race and ethnicity data suppressed in application review
  - Family attendance and employment (legacy) at the U suppressed in application review
- One of three formerly optional short answer questions is now mandatory (UMTC)
  - Admissions officers trained and confirm how they will use any racial information revealed there

Undergraduate Admissions: What has NOT changed?

- Our commitment to diversity, inclusion and access, to remove barriers to higher education and to ensure that all members of our community have equitable access to the University and its resources

- Our commitment to an admissions process that carefully looks at everything a student brings to our campus community and that continues to support student success

- Multicultural student recruitment, outreach and student success initiatives

Discussion and Questions

- What additional strategies for maintaining/increasing diversity should the U of M consider?
- What types of new student success programs might be beneficial for supporting diversity?
- How will the U of M measure our success as we implement new policies/procedures?

BOARD OF REGENTS
DOCKET ITEM SUMMARY

Mission Fulfillment **September 7, 2023**

AGENDA ITEM: Consent Report

☐ **Review** ☒ **Review + Action** ☐ **Action** ☐ **Discussion**

☐ *This is a report required by Board policy.*

PRESENTERS: Rachel Croson, Executive Vice President and Provost

PURPOSE & KEY POINTS

The purpose of this item is to seek approval of conferral of tenure for new hires and conferral of continuous appointment for new hires, as outlined below.

I. Request for Conferral of Tenure for New Hires

- Dongming Cai, professor with tenure, Department of Neurology, Medical School, Twin Cities campus
- Rachel McCord Ellestad, associate professor with tenure, Department of Civil Engineering, Swenson College of Science and Engineering, Duluth campus
- Neil Hoffman, associate professor with tenure, Department of Mathematics and Statistics, Swenson College of Science and Engineering, Duluth campus
- Tran Huynh, associate professor with tenure, Division of Environmental Health Sciences, School of Public Health, Twin Cities campus
- Jonathon Leider, associate professor with tenure, Division of Health Policy and Management, School of Public Health, Twin Cities campus
- Harrison Quick, associate professor with tenure, Division of Biostatistics, School of Public Health, Twin Cities campus
- Matthew Reznicek, associate professor with tenure, Department of Surgery (History of Medicine Program), Medical School, Twin Cities campus
- Nadia Sam-Agudu, professor with tenure, Department of Pediatrics, Medical School, Twin Cities campus
- Brent Williams, professor with tenure, Department of Soil, Water, and Climate, College of Food, Agricultural and Natural Resource Sciences, Twin Cities campus

BACKGROUND INFORMATION

Approval is sought in compliance with Board of Regents Policy: R*eservation and Delegation of Authority* as follows:

- Tenure and/or promotion recommendations: Article I, Section V, Subd. 1.

INTERIM PRESIDENT'S RECOMMENDATION

The Interim President recommends approval of the Consent Report.

University of Minnesota Board of Regents
Mission Fulfillment Committee
September 7, 2023

Consent Report: Request to Grant Tenure to New Hires

The Executive Vice President and Provost recommends eight external hires and one internal hire for tenure and faculty rank as outlined below. The decision of the Board of Regents to confer tenure and rank for any individual faculty hire with tenure becomes effective on the first day of that faculty member's academic appointment at the University.

Dongming Cai, professor with tenure, Department of Neurology, Medical School
Professor Cai is an internationally renowned physician scientist whose research on aging and neurodegenerative diseases focuses on investigating the molecular and cellular mechanisms underlying Alzheimer's disease and developing therapeutic strategies for the disease. She earned her Ph.D. in 2001 from The City University of New York. Dr. Cai joins the University of Minnesota from the Icahn School of Medicine at Mount Sinai.

Rachel McCord Ellestad, associate professor with tenure, Department of Civil Engineering, Swenson College of Science and Engineering
Professor Ellestad's research interests fall into three categories: 1) developing methodologies to study metacognitive engagement in natural contexts, 2) understanding the developmental trajectory of metacognition into engineering practice, and 3) supporting faculty to develop interventions for metacognitive engagement in different learning environments. She earned her Ph.D. in 2014 from Virginia Tech. Dr. Ellestad will join the University of Minnesota from the University of Tennessee.

Neil Hoffman, associate professor with tenure, Department of Mathematics and Statistics, Swenson College of Science and Engineering
Professor Hoffman's primary research interests are in low-dimensional topology, specifically in considering problems involving triangulations of 3-manifolds, hyperbolic geometry, and knot theory. He earned his Ph.D. in 2011 from the University of Texas. Currently, Dr. Hoffman is an associate professor at Oklahoma State University.

Tran Huynh, associate professor with tenure, Division of Environmental Health Sciences, School of Public Health
Professor Huynh is an industrial hygienist with research interests that center on exposure modeling, particularly through mixed methods and community based participatory research with low-income and new-immigrant workers. She earned her Ph.D. from the University of Minnesota in 2014. Dr. Huynh joins the University of Minnesota from Drexel University where she was an associate professor.

Jonathon Leider, associate professor with tenure, Division of Health Policy and

Management, School of Public Health
Professor Leider is an accomplished scholar whose research falls into two primary streams: 1) public health systems and services research, and 2) public health preparedness and inequity. He earned his Ph.D. from Johns Hopkins University in 2013. Dr. Leider has been employed in the Division of Health Policy and Management since 2016.

Harrison Quick, associate professor with tenure, Division of Biostatistics, School of Public Health
Professor Quick's research interests include spatial data analysis, spatiotemporal modeling, privacy preserving methods, and statistical methods for occupational exposure assessment. He earned his Ph.D. from the University of Minnesota in 2013. Dr. Quick joins the University of Minnesota from Drexel University where he was an associate professor.

Matthew Reznicek, associate professor with tenure, Department of Surgery (History of Medicine Program), Medical School
Professor Reznicek is an associate professor of medical humanities who uses eighteenth- and nineteenth-century literature to help reveal the profound impact of the social determinants of health. He earned his Ph.D. in 2014 from Queen's University Belfast. Previously, Dr. Reznicek was an associate professor at Creighton University.

Nadia Sam-Agudu, professor with tenure, Department of Pediatrics, Medical School
Professor Sam-Agudu is an internationally recognized expert in pediatric and adolescent HIV in Nigeria, West Africa, and globally. She earned her M.D. from the Mayo Clinic School of Medicine in 2002. Dr. Sam-Agudu joins the University of Minnesota from the University of Maryland where she was an associate professor.

Brent Williams, professor with tenure, Department of Soil, Water, and Climate, College of Food, Agricultural and Natural Resource Sciences
Professor Williams' research examines the chemical composition, transformation, and transport of both biogenic emissions and anthropogenic pollutants in the outdoor atmosphere, and indoor environments. He earned his Ph.D. from the University of California at Berkeley in 2008. Prior to joining the University of Minnesota, Dr. Williams was an associate professor at Washington University in St. Louis.

BOARD OF REGENTS
DOCKET ITEM SUMMARY

Mission Fulfillment **September 7, 2023**

AGENDA ITEM: Information Items

☐ **Review** ☐ **Review + Action** ☐ **Action** ☒ **Discussion**

☐ *This is a report required by Board policy.*

PRESENTERS: Rachel Croson, Executive Vice President and Provost

PURPOSE & KEY POINTS

University, Student, Faculty, and Staff Activities and Awards

A report of select activities among faculty, staff, and students at the local, regional, national, and global level in the areas of teaching, research, outreach, and other academic achievements at the University is included in the docket materials.

Completed Comprehensive Review of Board Policy

The purpose of this item is to inform the committee that the comprehensive review of the following Board policy is complete and the policy implementer recommends that no changes be made at this time:

- Board of Regents Policy: *Copyright*

The policy can be accessed using the above hyperlink.

If there are items that the committee would like addressed, those will be recorded and referred back to the policy implementer. If the committee raises no additional items, the comprehensive review process will be complete, and the date of last comprehensive review will be noted within the policy. The president and policy implementers have the ability to recommend changes outside of the comprehensive review process as needed (e.g., changes resulting from the implementation of the MPact 2025).

University of Minnesota Board of Regents
Mission Fulfillment Committee
September 7, 2023

Information Report: Report of University Faculty, Staff, and Student Activities and Awards

University Highlights

The University of Minnesota system ranked eighth in the U.S. for the overall ranking and in the 101-200 range worldwide (up from the 201-300 range in 2022) in the Times Higher Ed Impact Rankings. The Impact Rankings compare educational institutes worldwide for their commitment and efforts to conduct research, outreach, stewardship and teaching in areas of building a more sustainable, equitable and healthy future.

The University of Minnesota Rochester has been named a College of Distinction for the 2023-24 academic year, marking its commitment to providing a high-quality undergraduate education that focuses on hands-on learning, strong student-faculty relationships, a vibrant campus life and successful outcomes. This is the second consecutive year Rochester has earned this distinction.

The University of Minnesota has been recognized as a Forbes Best Employer for Women 2023.

The Consortium for Workforce Research in Public Health, led by the School of Public Health, has been awarded $4.2 million to evaluate the nation's public health workforce and public health data systems over the next five years. The funding was awarded to SPH by the Public Health Accreditation Board, the sole national accrediting body for public health.

The University of Minnesota and fellow Data Curation Network members, Duke University and Washington University in St. Louis (the Association of Research Libraries), have been awarded a $741,921 National Leadership Grant to continue research on institutional expenses for public access to research data by the U.S. Institute of Museum and Library Services.

The Morris Model team was recently notified that they were among 67 winners in the first phase of the $6.7 million Energizing Rural Communities Prize. The Morris Model will receive a $100,000 prize funded by the U.S. Department of Energy.

University of Minnesota Rochester has been named a new member of the First Scholars Network by the Center for First-generation Student Success, an initiative of NASPA and the Suder Foundation.

University of Minnesota Morris launched a new bike program with partners, including the Systemwide Sustainability Office and Twin Cities Parking and Transportation Services.

Two University of Minnesota-affiliated proposed projects were chosen as finalists for the National Science Foundation's Regional Innovation Engines competition. The Midwest Sustainable Plastics Innovation Regional Engine (M-SPIRE), a U of M-led effort to drive the global transition to sustainable plastics, and Great Lakes ReNEW, a Chicago-based effort with significant U of M partnership to create a decarbonized circular blue economy in the Great Lakes region, were among 16 finalists announced by NSF.

The University of Minnesota Crookston announced the opening of their new space downtown "The Nest on Broadway." Serving as an extension of the campus, the shared space located at 101 North Broadway in the historic Fournet Building will allow students, faculty, staff, campus committees and clubs, and alumni boards to gather and host a number of engagements.

Faculty and Staff Awards and Activities

Svitlana Mayboroda, professor in the College of Science and Engineering, is the first University of Minnesota faculty member to be named the 2023 Blavatnik National Awards Laureate in Physical Sciences & Engineering. She will receive a $250,000 prize, the largest unrestricted scientific award for America's most innovative, young faculty-ranked scientists and engineers.

Zan Gao, professor in the School of Kinesiology, was recently selected as a fellow in the National Academy of Kinesiology. Becoming a fellow in NAK is the highest recognition achieved by a scholar in the field of kinesiology.

Barbara Kleist, director of entrepreneurial and development programs at the Institute on Community Integration, received the Policy Award from the American Association on Intellectual and Developmental Disabilities. This award recognizes significant contributions to public policy that have advanced the field and resulted in positive outcomes for people with intellectual and developmental disabilities.

Helen Vuong, an assistant professor at the University of Minnesota Medical School, has been named a 2023 Pew Scholar in the Biomedical Sciences by the Pew Charitable Trusts in recognition of the significance and potential future impact of her research.

Bharat Jalan, professor in the College of Science and Engineering, has received the Schieber Prize from the International Organization of Crystal Growth. The award is given to one researcher worldwide every three years to recognize their outstanding contributions to the field of crystal growth. He received the award in recognition of his "innovative work and scientific leadership in the field of crystalline oxide film and heterostructure synthesis and properties, particularly the development of a powerful method known as hybrid molecular beam epitaxy, an important and impactful epitaxial growth technique with extraordinary capabilities and diverse applications."

Student Awards & Activities

George Goldfarb, University of Minnesota Duluth alumnus ‘81, has been inducted into the Twin Cities Business 2023 Hall of Fame.

Riki Banerjee, alumna Ph.D. ’05, has created the Stentrode implant. This technology allows paralyzed patients to control a computer with their mind. Investors include Bill Gates and Jeff Bezos.

U of M Rochester and Mayo Clinic have collaborated to connect employer needs and student learning in NXT GEN MED, an accelerated program designed to increase student success and lower college costs while preparing students for administrative careers the health care system desperately needs. Students will participate in paid internships providing them with work-based learning that complements their coursework.