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## Harvard Admissions Lawsuit Set to Go to Trial

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A trial is set to start Oct. 15 in a race-discrimination lawsuit brought against Harvard University by the anti-affirmative action advocacy group Students for Fair Admissions (SFFA).

SFFA claims Harvard discriminates against Asian-Americans in its admissions practices, according to a suit brought nearly four years ago. The nearly 400-year-old Ivy League school has repeatedly denied the claim, saying it only considers race to foster diversity.

Notably, on Aug. 30, the Department of Justice (DOJ) filed a Statement of Interest in support of SFFA, joining in its accusation of racial discrimination.

In filing the Statement of Interest, Attorney General Jeff Sessions provided the following statement:

“No American should be denied admission to school because of their race. As a recipient of taxpayer dollars, Harvard has a responsibility to conduct its admissions policy without racial discrimination by using meaningful admissions criteria that meet lawful requirements. The Department of Justice has the responsibility to protect the civil rights of the American people. This case is significant because the admissions policies at our colleges and universities are important and must be conducted lawfully.”

SFFA seeks relief from Harvard’s alleged discrimination under Title VI of the Civil Rights Act of 1964. That law from the civil-rights era prohibits discrimination on the basis of race, color, or national origin, particularly in programs that receive federal financial assistance.

In 2017, based on a complaint filed by more than 60 Asian-American organizations, the DOJ opened a Title VI investigation into Harvard’s admissions process. The Statement of Interest in the current case with SFFA underscores DOJ’s previous involvement.

In its complaint, SFFA cites statistical evidence showing that Harvard holds Asian-Americans to “a far higher standard than other students and essentially forces them to compete against each other for admissions.”

SFFA posits that every year, Harvard enrolls the same percentage of minorities and whites, even though “the application rates and qualifications for each racial group have undergone significant changes over time.” SFFA points to this as evidence that there is deliberate and habitual race-based discrimination designed to “achieve a predetermined racial balance of its student body.”

In June, SFFA released a number of internal university documents that it says reveals Harvard’s discrimination and that they will undoubtedly bring up during trial. Harvard is known for keeping its admissions process under wraps—school officials weren’t happy these documents were released, and the school’s attorneys fought back against the claim that they revealed wrongful bias.

According to an article by Insider Education, these “documents suggested that it is much more difficult for Asian-American applicants than for comparably qualified others to get into Harvard (where it’s difficult for anyone to get in).” Some of the documents released suggested that Asian applicants of low income, are treated differently than other applicants of a different race, but the same low income.

Some of these documents revealed Harvard’s long-kept secrets about how they decide, from among a bevy of students with high grade-point averages and test scores, which should receive admission to the coveted school.

Officials consider applicants’ soft skills like likability, helpfulness, integrity, and courage—in addition to academic scores. Even though Asian-Americans often boasted higher scores in academic areas and strong resumes, they ranked lower on these personality traits—according to SFFA’s statistical analysis of student records. SFFA argues Harvard’s discreet emphasis on subjective personality traits adversely affected Asian-Americans who might otherwise have been accepted.

Over a century ago, Harvard attempted to limit the number of Jewish students admitted to the university—a chapter in its history that the university has since condemned.

In its case, SFFA points to that time period as evidence that Harvard has always engaged in race-based discrimination and has no problem doing so now—with Asians.

In a brief filed Sept. 17, Harvard argued the past should be left alone. “SFFA’s invocation of ancient history should be seen for what it is: a publicity-seeking attempt to distract from its lack of any evidence that Harvard discriminates against Asian-American applicants.”

In this last-ditch effort to avoid trial, lawyers for Harvard argued their case was strong enough they would win, so no trial was necessary. “Harvard’s admissions practices are entirely consistent with the law and necessary to build the diverse community critical to the success of its students,” the filing reads.

A 2017 *Harvard Law Review* article cites studies showing that Asian-Americans have “the lowest acceptance rates of all racial groups,” even as the piece also says that, based on academic results, Asian-Americans “tend to be better qualified than the average applicant.”

A recent national poll has found that 72 percent of Americans disapprove of racial preferences in college admissions.

In 2003, the Supreme Court upheld the affirmative action admissions policy of the University of Michigan Law School *Grutter v. Bollinger*. However, several states have banned race-based college admissions. Harvard has held that its race-conscious admissions policy is necessary to achieve diversity in the student body, and that the Supreme Court has upheld the legality of similar policies.

What might be the effect of a verdict against Harvard on the law supporting race-based admissions to colleges and universities? In a telephone interview with Ilya Shapiro, Senior Fellow in Constitutional Studies at the Cato Institute in Washington, he told *The Epoch Times* if the court finds in SFFA's favor, Harvard would appeal to the U.S. Court of Appeals for the First Circuit and "might appeal to the Supreme Court—the Supreme Court has said colleges can consider race as a contributing factor," he said.

As far as how a verdict against Harvard might affect other schools, Shapiro says, "It would depend on what the opinion says" but likely, "It won't directly bind other schools but be a precedent that would be used against other schools."

SFFA picked Harvard, Shapiro believes, because "It's the biggest name" and a verdict against them would garner "a practical impact and be a symbolic case for Asian-Americans and race-based admissions."