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SUPREME COURT OF THE UNITED STATES

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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

* 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.

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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-

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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

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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

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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

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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

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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*,

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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.

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

Nos. 20–1199 and 21–707

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

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

21–707
STUDENTS FOR FAIR ADMISSIONS, INC.,
PETITIONER
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 subcommittees 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

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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 committee 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 being the “nation’s first public university.” 567 F. Supp. 3d 580, 588 (MDNC 2021). Like Harvard, UNC’s “admissions 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, academic performance, . . . extracurricular activities,” and essays. *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,

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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

¹JUSTICE 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 under 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).

²Title 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.

Opinion of the Court

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

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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

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Fourteenth Amendment” apply “to all persons,” we unani-
mously declared six years later; it is “hostility to . . . race
and nationality” “which in the eye of the law is not justi-
fied.” *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 coun-
try—quickly failed to live up to the Clause’s core commit-
ments. 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 Amer-
ica. 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 doc-
trine [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 stu-
dents. 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 inher-
ent 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

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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; see 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.”).

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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

³The 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 minority groups, who were reviewed on a special admissions track separate from those in the main admissions pool. *Id.*, at

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)).

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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 system, 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, Harvard proclaimed, was that “race has been”—and should be—“a factor in some admission decisions.” *Ibid.* (internal

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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

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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 Amendment.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.

⁴The 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.

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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 workplace 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

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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

⁵For 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.

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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) express 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.

⁶JUSTICE 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 extrarecord materials, see *post*, at 29–30, n. 25 (opinion of SOTOMAYOR, J.), is simply mistaken.

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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,

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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

⁷The 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 explains, in part due to its failure to obtain closer to proportional 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

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.

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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

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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-

⁸Perhaps 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.).

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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.

⁹The 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.

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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,

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not the name.” *Cummings v. Missouri*, 4 Wall. 277, 325 (1867). A benefit to a student who overcame racial discrimination, for example, must be tied to *that student’s* courage and determination. Or a benefit to a student whose heritage or culture motivated him or her to assume a leadership role or attain a particular goal must be tied to *that student’s* unique ability to contribute to the university. In other words, the student must be treated based on his or her experiences as an individual—not on the basis of race.

Many universities have for too long done just the opposite. 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 Circuit 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 decision of the case in No. 20–1199.