DEI Task Force Update: Special Edition

SFFA v. U.S. Naval Academy Decision

December 9, 2024

On December 6, 2024, Judge Richard Bennett of the U.S. District Court for the District of Maryland issued a decision following a bench trial in *Students for Fair Admissions v. U.S. Naval Academy*, No. 1:23-cv-02699 (D. Md. 2023). Students for Fair Admissions ("SFFA") filed suit against the Naval Academy on October 5, 2023, claiming that the Academy's consideration of race in its admissions process violates equal protection guarantees. After a year of discovery, the dispute proceeded to a nine-day trial in September 2024, during which SFFA argued that the Academy's consideration of race in its admissions process violated the Constitution because it was not narrowly tailored to achieve a compelling government interest. The Academy countered that its consideration of race is necessary to achieve a diverse officer corps, which furthers a compelling government interest in national security.

In a 175-page decision issued on Friday, Judge Bennett found that the Academy's admissions process withstands the strict scrutiny mandated by *Students for Fair Admissions v. President & Fellows of Harvard College*, 600 U.S. 181 (2023) ("*Harvard*"), and entered judgment in favor of the Academy.[1]

The court concluded that the Academy "established a compelling national security interest in a diverse officer corps."[2] Specifically, the court agreed with the Academy that its race-conscious admissions policies "serve a compelling interest in national security by improving the Navy and Marine Corps' unit cohesion and lethality, recruitment and retention, and domestic and international legitimacy."[3] Recognizing long-standing precedent of judicial deference to congressional choice and to the Executive's decisions relating to the military, the court deferred to the Academy's "military judgments of a compelling national security interest."[4]

Judge Bennett determined that the Academy's admissions program is narrowly tailored to meet the compelling national security interest. The court held that the Academy had "proved

measurable increases in the racial diversity of the Navy and Marine officer corps over the last twenty years," and that the "numbers prove that the Naval Academy's consideration of race in admissions has furthered the Government's national security interests in a diverse Navy and Marine corps."[5]

The court also held that, consistent with the Supreme Court's decisions in both *Harvard* and *Grutter v. Bollinger*, 539 U.S. 306, 334 (2003), the Academy evaluates candidates using a "holistic approach," and "does not employ quotas, admit candidates based solely on their race or ethnicity, or place minority candidates on separate admissions tracks."[6] When race is considered, "it is one of many nondeterminative factors the Naval Academy evaluates."[7] Similarly, the court determined that the Academy does not use race as a negative or stereotype, in part because Naval Academy admissions are not "zero sum" like civilian college admissions, but rather are "much more complex" and "subject to several statutory restraints" such that "each candidate's admission to the Naval Academy is inherently intertwined with others'."[8]

In *Harvard*, the Supreme Court noted that Harvard's race-based admissions process lacked a logical end point, which is a requirement imposed by *Grutter* for race-conscious admissions practices at civilian universities. Here, the court noted that "[i]n its national security jurisprudence, the Supreme Court has suggested that measures restricting constitutional rights or utilizing racial classifications must be temporary, but it has stopped short of requiring an identified 'logical end point' for such measures."[9] As such, Judge Bennett held that the Academy was not required to identify a specific end point to its use of race in its admissions process, and that the Academy had demonstrated that its race-conscious admissions process was properly time-bound because it had shown that "race-conscious admissions will terminate when the incoming classes of midshipmen enable [the Academy] to develop a Navy and Marine officer corps that better represents racial and ethnic diversity among enlisted servicemembers and the American population."[10]

Finally, the court held that the Academy had shown that the use of race is necessary to achieve the compelling national security interests because the decrease in Black and Hispanic candidates absent race-conscious admissions would have resulted in a more than 50% decrease in the number of Black officers and a 17% decrease in the number of Hispanic officers entering the officer corps via the Naval Academy in 2023.[11] Further, the court determined that the Academy had properly considered race-neutral alternatives (including giving additional points and consideration to candidates with adversity or hardship experiences, disadvantaged socioeconomic backgrounds, and first-generation college status, among others), but that these alternatives did not further the Academy's compelling national security interest "about as well" as race-conscious admissions policies.[12]

Holding that the Academy's admissions program withstands the strict scrutiny mandated by *Harvard*, the court entered judgment in favor of the Academy. In a statement issued following the decision, Edward Blum, the leader of SFFA, said that the "organization is disappointed by the Court's opinion. But just as we did in our successful lawsuits against Harvard and the University of North Carolina, SFFA will appeal this to the appellate court. If we are unsuccessful there, then we will appeal to the U.S. Supreme Court." SFFA has already filed a notice of appeal to the Fourth Circuit Court of Appeals.

SFFA filed a similar suit against the U.S. Military Academy at West Point in September 2023. *Students for Fair Admissions v. U.S. Military Academy at West Point*, No. 7:23-cv-08262

(S.D.N.Y. 2023). After the court denied SFFA's request for a preliminary injunction, SFFA filed an interlocutory appeal to the Second Circuit, and also sought an injunction pending appeal from the U.S. Supreme Court. The Supreme Court refused to consider the application, and the parties stipulated to withdraw the appeal in the Second Circuit. SFFA filed an amended complaint in the district court, and the parties are engaged in discovery.

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[1] Findings of Fact and Conclusions of Law, *Students for Fair Admissions v. U.S. Naval Academy*, No. 1:23-cv-02699 (D. Md. Dec. 6, 2024) at 175.

[2] *Id.* at 133.

[3] *Id.*

[4] *Id.*

[5] *Id.* at 151-52.

[6] *Id.* at 156.

[7] *Id.* at 158.

[8] *Id.* at 160-61.

[9] *Id.* at 165.

[10] *Id.* at 166.

[11] *Id.* at 168-69.

[12] *Id.* at 171-72.

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