

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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March 16, 2021

The Honorable Jerrold L. Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Steve Cohen
Chairman
Subcommittee on the Constitution, Civil Rights, and Civil Liberties
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Nadler and Cohen:

On March 18, 2021, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties will hold a hearing to examine violence and discrimination against Asian Americans. Racially motivated violence and discrimination against Asian Americans is wrong, plain and simple. As the Subcommittee convenes this hearing, it must also consider the serious allegations that our nation's elite universities discriminate against Asian Americans in the universities' admissions processes.¹ We therefore request that you also ask the President of Yale University to testify so that the Subcommittee Members may examine to what extent Yale's admissions processes discriminate against Asian Americans.

To be eligible to receive taxpayer funds, Yale University and all other institutes of higher education must comply with Title VI of the 1964 Civil Rights Act, which prohibits discrimination on the basis of race, color, or national origin.² Although colleges receiving federal funding may "consider applicants' race in certain limited circumstances as one of a number of factors," the Department of Justice (DOJ) determined in August 2020 that "Yale's use of race is anything but limited."³ In particular, the DOJ found that in addition to racially balancing its classes, Yale considers an applicant's race at several times during the admissions process,

¹ See generally Jason L. Riley, *Harvard's Asian quotas repeat an ugly history*, WALL ST. J. (Oct. 8, 2019); Glenn Harlan Reynolds, *Asians get the Ivy League's Jewish treatment*, USA TODAY (Nov. 24, 2014).

² Press Release, U.S. Dep't of Justice, *Justice Department Finds Yale Illegally Discriminates Against Asians and Whites in Undergraduate Admissions in Violation of Federal Civil-Rights Laws* (Aug. 13, 2020).

³ *Id.*

thereby giving race a “multiplied effect” on whether an applicant is admitted.⁴ The DOJ noted that it would bring suit against Yale if the university did not bring its admissions procedures into compliance with federal law.⁵

On October 8, 2020, after Yale was still noncompliant with federal law, the DOJ sued Yale University for race and national origin discrimination.⁶ The complaint alleged that Yale’s admissions process discriminated against Asian and white applicants.⁷ The DOJ alleged that Yale favored certain applicants based upon their race, rather than looking for race neutral alternatives to achieve its “diversity goals.”⁸ Then-Assistant Attorney General for the Civil Rights Division Eric Dreiband explained, “All persons who apply for admission to colleges and universities should expect and know that they will be judged by their character, talents, and achievements and not the color of their skin. To do otherwise is to permit our institutions to foster stereotypes, bitterness, and division.”⁹

Just two weeks into President Biden’s term, however, the Biden Administration reversed course and dropped the DOJ’s lawsuit against Yale.¹⁰ The President of the Asian American Education Coalition criticized the Biden Administration’s abrupt reversal, saying that “[d]ays after the president vowed to tackle anti-Asian racism, his DOJ dropped a lawsuit aimed at doing just that.”¹¹ The Coalition’s president noted that if President Biden’s promise to fight discrimination against Asian Americans was sincere, “he should be making the severe and persistent discrimination against Asian Americans in college admissions a top priority.”¹²

The discrimination against Asian Americans in educational admissions processes is unfortunately not limited to elite universities. In New York City, Mayor Bill de Blasio effectively denied low-income Asian American children access to advanced educational opportunities at specialized high schools in the name of “racial balancing.”¹³ According to one commentator:

De Blasio changed the admissions standards so that a fifth of the seats at New York’s most renowned specialized high schools would be off-limits to students from middle schools such as Christa

⁴ *Id.*

⁵ *Id.*

⁶ Complaint at 1, U.S. v. Yale University, 3:20-cv-01534 (D. Conn. Oct. 8, 2020).

⁷ *Id.* at 2.

⁸ *Id.* at 3 & 28.

⁹ Press Release, U.S. Dep’t of Justice, Justice Department Sues Yale University for Illegal Discrimination Practices in Undergraduate Admissions (Oct. 8, 2020).

¹⁰ Pete Williams, *In Biden administration reversal, Justice Dept. drops discrimination suit against Yale*, NBC NEWS (Feb. 3, 2021).

¹¹ Yukong Zhao, *Biden’s empty promise to fight discrimination against Asian Americans*, NAT’L REV. (Feb. 10, 2021).

¹² *Id.*

¹³ Wen Fa, *De Blasio’s obsession with racial balance in schools has a clear victim: Asian students*, THE HILL (Oct. 21, 2020).

McAuliffe Intermediate School, which serves a large number of poor, Asian students.

Christa McAuliffe sent more students to specialized high schools than any other school in New York before the city revamped its admissions process in 2018. Out of the 274 eighth-graders who graduated that year, 205 went on to attend a specialized high school, despite the fact that about two-thirds of those students were poor.

Yet de Blasio changed a program intended to help underprivileged students at McAuliffe into one that hurts Asian students at the school. Going forward, students from McAuliffe cannot compete for 20 percent of the seats at specialized high schools, which creates a roadblock between the low-income Asian students at the school and the education opportunities that promise a better tomorrow.¹⁴

This Committee has jurisdiction over the 1964 Civil Rights Act. We ask that you extend an invitation to the President of Yale University, Peter Salovey, to testify alongside the other invited witnesses at the Subcommittee's March 18 hearing so that the Subcommittee Members may thoroughly examine Yale's admission processes and its discriminatory effects on Asian Americans.

Thank you for your attention to this important matter. We look forward to your prompt response.

Sincerely,



Mike Johnson
Ranking Member
Subcommittee on Constitution,
Civil Rights, and Civil Liberties
Committee on the Judiciary



Jim Jordan
Ranking Member
Committee on the Judiciary



Michelle Steel
Member of Congress



Young Kim
Member of Congress

¹⁴ *Id.*