

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

STATE OF TENNESSEE; STUDENTS FOR FAIR
ADMISSIONS, INC.,

Plaintiffs,

THE NATIONAL ASSOCIATION OF SCHOLARS
and FACULTY, ALUMNI, AND STUDENTS
OPPOSED TO RACIAL PREFERENCES,

Plaintiff-Intervenors,

v.

UNITED STATES DEPARTMENT OF EDUCATION
and LINDA McMAHON, in her official
capacity as Secretary of Education,

Defendants,

HISPANIC ASSOCIATION OF COLLEGES AND
UNIVERSITIES,

Defendant-Intervenor.

Case No. 3:25-cv-270

**BRIEF BY AMICI CURIAE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER
LAW, ASIAN AMERICANS ADVANCING JUSTICE, AND 16 OTHER CIVIL RIGHTS
ORGANIZATIONS IN SUPPORT OF DEFENDANT-INTERVENOR'S MOTION FOR
SUMMARY JUDGMENT**

ADDITIONAL AMICI CURIAE

African American Policy Forum

American Association of University Women

Asian American Legal Defense and Education Fund

Asians Rising Georgia Alliance

Asian Pacific Americans in Higher Education

API Middle Tennessee

EdTrust

Intercultural Development Research Association

Montgomery County Progressive Asian American Network

National Association for the Advancement of Colored People (NAACP)

National Council of Asian Pacific Americans

National Women's Law Center

OCA-Asian Pacific American Advocates

Public Justice

Southeast Asia Resource Action Center

UnidosUS

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INTRODUCTION

This case represents the latest attack on Congress’s ability to ensure that all students in the United States can access higher educational opportunities. Congress identified a need—it saw that Latino¹ students were going to college and universities at a far lower rate than white students, in part due to a history of school segregation and exclusion, and it saw that state and local governments were underfunding the set of schools that disproportionately served those students, effectively denying Latino students access to quality higher education. And so Congress exercised its constitutional authority under the Spending Clause to address that need and developed the Hispanic-Serving Institution (“HSI”) Program.

Plaintiffs and Plaintiff-Intervenors stretch *Students for Fair Admissions v. Harvard* (“*SFFA*”) to illogical limits in an attempt to curtail Congress’s power to identify and correct funding inequities between institutions. The Constitution does not require legislators to ignore demographic realities, and longstanding Supreme Court and Sixth Circuit precedent confirms that the government can consider racial demographics when engaging in law- and policymaking so long as it does not treat individual students differently based on race. Nothing in *SFFA* altered that precedent. Accordingly, the Court here should reject the Plaintiffs’ attempts to overextend equal protection doctrine.

¹ The term “Hispanic” is an ethnicity that refers to individuals who originate from Spanish-speaking countries. See 42 U.S.C. § 300u-6(g)(2). “Latino,” “Latina,” or the gender neutral “Latinx” refers to individuals whose origins are from Latin America. See Hugo Lopez et al., *Who Is Hispanic?*, PEW RSCH. CTR. (Sept. 23, 2021), <https://www.pewresearch.org/fact-tank/2021/09/23/who-ishispanic/>. Like Defendant-Intervenor, *amici* use the terms Hispanic, Latino, and Latinx interchangeably to cover the range of races and ethnicities within the Latino umbrella.

INTERESTS OF AMICI²

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") is a nonpartisan civil rights organization founded in 1963 by the nation's leading lawyers at the request of President John F. Kennedy to secure equal justice for all through the rule of law by targeting the inequities confronting Black communities and other communities of color. The Lawyers' Committee uses legal advocacy to achieve racial justice and to ensure that Black people and other people of color have the voice, opportunity, and power to make the promises of our democracy real. The Educational Opportunities Project at the Lawyers' Committee has been a national leader in protecting and defending inclusive education and diversity efforts in PK-12 schools, colleges and universities, including, as particularly relevant here, by representing intervenor and amici students and presenting oral argument before the Supreme Court in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).

Asian Americans Advancing Justice | AAJC ("Advancing Justice-AAJC") is a non-profit legal advocacy organization that seeks to create an equitable society for all. Advancing Justice-AAJC works to further civil and human rights and empower Asian American communities through organization, education, advocacy, and litigation. Advancing Justice-AAJC is a leading expert on issues of importance to the Asian American community, including voting, census, educational equity, immigrant rights, and anti-racial profiling. Specifically, Advancing Justice-AAJC is a leader in ensuring educational equity at the PK-12 schools as well as in higher education, representing intervenors, *inter alia*, *Boston Parent Coalition for Academic Excellence Corp. v. The School Committee of the City of Boston*, No. 26-1285 (1st Cir.), and amici, *inter alia*, in *Students*

² Counsel for amici curiae authored this brief. No party's counsel authored this brief in whole or in part, and no party beyond amici contributed any money toward the brief. The briefing parties consented to its filing.

for Fair Admissions, Inc. v. President & Fellows of Harvard Coll., 600 U.S. 181 (2023) and *Coalition for TJ v. Fairfax County School Board*, 68 F.4th 864 (4th Cir. 2023), *cert. denied*, 601 U.S. __ (2024).

The Asian American Legal Defense and Education Fund (“AALDEF”) was founded in 1974 to protect and promote the civil rights of Asian Americans. AALDEF serves diverse Asian communities around the country in solidarity with each other, communities of color, and marginalized groups. Community lawyering is at the heart of AALDEF’s work, which combines litigation, advocacy, education, and organizing to secure human rights for all people. AALDEF has long championed equitable education as a foundational civil right, working with immigrant students, low-income youth and English Language Learners, who are often overlooked in public education debates.

The American Association of University Women (“AAUW”) is a nonpartisan, nonprofit organization founded in 1881 that advances gender equity for women and girls through research, education, and advocacy. AAUW has supported increased funding for Hispanic-Serving Institutions and other minority-serving institutions and defended demographic data collection to identify barriers to equal opportunity. AAUW joins this brief to protect federal investments that address institutional funding inequities and expand access to higher education, particularly for women of color.

Intercultural Development Research Association (“IDRA”) is a national nonprofit organization founded in Texas in 1973 dedicated to equal educational opportunity. Through research, educator training, policy advocacy, and community engagement, IDRA works to strengthen public schools so they can prepare all students to access and succeed in college.

Montgomery County Progressive Asian American Network (“MoCoPAAN”) is a nonprofit organization whose mission is to defend and promote racial equity and social justice for and by Asian American communities through public policy advocacy, community education, and narrative change. MoCoPAAN has promoted educational equity, working with the school district on structural access to opportunities across curriculum, anti-racism initiatives and budget equity. MoCoPAAN joined amici on a brief to call for dismissal of Association for Education Fairness v. Montgomery County Board of Education, defense of MCPS’ race-neutral changes to the admissions policies to promote equal opportunity for all students.

Amicus curiae the National Association for the Advancement of Colored People (“NAACP”), founded in 1909, is the nation’s first and foremost civil rights organization established to ensure the political, educational, social, and economic equality of rights of all people. The Association endeavors to achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate racial discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color. The Association has a long legacy of protecting higher education institutions that educate people of color and the federal funding that undergirds them. That is best demonstrated in its past litigation of Supreme Court cases defending programs that guarantee funding for state-funded historically Black colleges and universities like *Missouri ex rel. Gaines v. Canada* (1938) and *Sweatt v. Painter* and *McLaurin v. Okla. State Regents* (1950).

The National Council of Asian Pacific Americans (“NCAPA”) is a coalition of 45 national nonprofit organizations working together to represent millions of Asian Americans, Native Hawaiians, and Pacific Islanders (AANHPIs) nationwide. Established in 1996, NCAPA’s collective work reflects its commitment and values to advancing racial equity and advocating for

civil rights, especially for AANHPI communities in vital areas such as education, healthcare, housing, and those impacting everyday life. NCAPA has partnered with community organizations, advocates, and leaders across the country to address systemic inequities and expand access to civil and human rights.

National Women's Law Center ("NWLC") is a non-profit legal advocacy organization that fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls, especially women of color, LGBTQI+ people, and low-income women and families. Since its founding in 1972, NWLC has worked to advance educational opportunities, workplace justice, health and reproductive rights, and income security. NWLC has participated in numerous cases to advocate for equal opportunities and greater inclusion in our society, including through civil rights legal protections for women, people of color, disabled individuals, and LGBTQI+ individuals.

Public Justice is a national public interest advocacy organization that fights against abusive corporate power and predatory practices, the assault on civil rights and liberties, and the destruction of the earth's sustainability. In its Students' Civil Rights Project, Public Justice litigates and otherwise advocates to promote equal opportunity in education. Toward this end, Public Justice has an interest in ensuring that the federal government can use its funds to address educational inequalities.

The Southeast Asia Resource Action Center ("SEARAC") is a national civil rights organization that builds power with diverse communities from Cambodia, Laos, and Vietnam to create a socially just and equitable society. Southeast Asian American (SEAA) communities have faced significant barriers to educational attainment because of their unique migration and resettlement experiences. For over thirty years, SEARAC has worked to increase educational

access for SEAA and other minoritized students, including support of Minority-Serving Institutions, such as Asian American and Native American Pacific Islander-Serving Institution and Hispanic-Serving Institutions.

Additional amici are organizations that are also committed to equality and justice for students in higher education and PK-12.

I. ARGUMENT

A. The HSI Program Does Not Violate the Equal Protection Clause.

The HSI Program is constitutional because it does not treat any individual students differently based on race or ethnicity. Congress recognized that, relative to other colleges and universities, “Hispanic-serving institutions are underfunded.” Higher Education Act of 1965, 20 U.S.C. § 1101(a)(4) (2024). In fact, compared to “other institutions of higher education,” HSIs “receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.” *Id.* In other words, higher education institutions with a smaller proportion of Latino students receive substantially more funding from state governments. *Id.* Congress also identified another glaring disparity between non-Hispanic white students and Hispanic students: beyond attending schools that received “significantly” more local funding, between 1973 to 1994 white secondary-school graduate enrollment “in 4-year institutions of higher education increased at a rate two times higher than that of Hispanic secondary school graduates.” *Id.* § 1101(a)(2).

Despite “significant resource problems,” however, HSIs were and are “succeeding in educating Hispanic students.” *Id.* § 1101(a)(5). To encourage this success, Congress established the HSI Program to provide grant-funding opportunities that offset pre-existing funding disparities. As part of the Program requirements, HSIs must have a certain percentage of Latino undergraduate student enrollment. 20 U.S.C. § 1101a(a)(5)(B). But since the Program provides grants to

institutions, not individuals, HSI funding flows to students of all races at a diverse set of institutions across the country, including those in Tennessee. Students benefit from the Program not based on their race but based on their attendance at an HSI. Indeed, institutions where most students are not Latino can and do qualify as HSIs under the Program.

Grant funds from the Program are not specifically earmarked for students of any specific race. Instead, HSIs can use grant funds for a defined set of “authorized activities,” including purchasing or leasing scientific or laboratory equipment; constructing, maintaining, renovating, or improving classrooms, libraries, laboratories, and other facilities; supporting faculty and curriculum development; purchasing library books and other educational materials; purchasing equipment to improve facilities for Internet technologies; expanding courses; supporting “low-income postbaccalaureate” students through outreach and mentorship; and establishing an endowment fund, among other activities. *See* 20 U.S.C. §§1101b(b); 1102b(4); 1067q(b)(2)(B). Such activities are race-neutral—building new libraries, improving classrooms, establishing an endowment, and developing new courses, for example, are pursuits that benefit all students, regardless of race or ethnicity. Through these race-neutral “authorized activities,” HSIs can improve their ability “to serve Hispanic students and *other low-income students*.” *Id.* § 1101b(a) (emphasis added).

Congress thus considered “racial demographic data in policymaking” when it developed the Program but did not go so far as to make individual classifications based on race when allocating funds. *Spurlock v. Fox*, 716 F.3d 383, 394 (6th Cir. 2013). Such consideration is permissible. Justice Kennedy’s controlling concurrence in *Parents Involved in Community Schools v. Seattle School District Number 1* spoke to the exact practices Congress used with the HSI Program: governments may “allocat[e] resources for special programs; recruit[] students and

faculty in a targeted fashion; and track[] enrollments, performance, and other statistics by race” without violating the Constitution. 551 U.S. 701, 789 (2007) (Kennedy, J., concurring). These programs, though cognizant of race, do not lead to differing treatment based on a student’s race. *Id.*

Impermissible racial classification, on the other hand, “requires more than the *consideration* of racial data.” *Spurlock*, 716 F.3d at 394. Conferring obligations and benefits on individuals based on a “crude system of individual racial classifications” denies equal protection, not the broad recognition of “demographic realities.” *Spurlock*, 716 F.3d at 395 (quoting *Parents Involved*, 551 U.S. at 789 (Kennedy, J., concurring)). “So long as the policy itself does not classify people by race,” considering racial data does not violate the Constitution. *Id.* at 394. And no such individual classifications occur here—Latino and non-Latino students who attend HSIs enjoy benefits of the Program, regardless of their race, and Latino and non-Latino students that do not attend HSIs do not enjoy these benefits, regardless of their race.

Plaintiffs concede that universities “across the country,” including all Tennessee state colleges and universities, serve Latino students that do not enjoy benefits from the HSI Program—because their schools are ineligible for grant funds. Compl. ¶¶ 39, 54, Dkt. No. 1. The reverse is also true. Consider Southern Adventist University, the only HSI in Tennessee, which serves a student population that is about 40% white and 25% Hispanic or Latino. *See* Nat’l Ctr. for Educ. Statistics, *Institution Data Profile for Southern Adventist University*, Integrated Postsecondary Educ. Data Sys., <https://nces.ed.gov/ipeds/institution-profile/221661> (last visited Oct. 5, 2026). As a result, funds from HSI grants at Southern Adventist University ultimately benefit more white students than Latino students.

The HSI Program does not use any individual racial or ethnic classifications to determine which institutions receive grant funds and does not violate the Constitution.

B. *Students For Fair Admissions v. Harvard* Does Not Alter This Conclusion.

The Supreme Court’s broad guidance in *Parents Involved* answers the query here, and so the Plaintiffs’ laser focus on *Students for Fair Admissions v. Harvard* (“*SFFA*”) is misplaced. *SFFA*’s holding is based on a specific set of facts: a university fails strict scrutiny when it considers the race of individual students when making post-secondary admissions determinations. *See* 600 U.S. 181, 217–18 (2023). But, as explained above, the HSI Program does no such thing. It requires neither the government to assess an individual’s race when granting funds nor universities and colleges to assess an individual’s race when distributing benefits. Instead, institutions which are among the most diverse in the country may receive HSI grant funds, and *all* students at those schools enjoy the benefits of those grants. The Program also does not violate what the *SFFA* court deemed the “twin commands of the Equal Protection Clause:” it does not use race as a “negative” factor and does not use race to stereotype individuals. *Id.* at 218.

The *SFFA* decision overtly and repeatedly framed the issue in individual terms, because the cases focused on a necessarily individual determination: whether to admit a specific student. “These cases involve whether a university may make admissions decisions that turn on *an applicant’s* race.” *SFFA*, 600 U.S. at 208 (emphasis added). Race should not, *SFFA* reasoned, be “the touchstone of an *individual’s* identity.” *Id.* at 231 (emphasis added). Instead, a “*student* must be treated based on his or her experiences as an *individual*—not on the basis of race.” *Id.* (emphasis added). But individuals don’t receive HSI Program funds—institutions do. This fact alone places the HSI Program outside the realm of *SFFA*’s narrow holding. And *SFFA* said nothing that

displaced *Parents Involved* and Justice Kennedy’s approval of race conscious legislating. In fact, *SFFA* approvingly cited *Parents Involved*. See, e.g., *SFFA*, 600 U.S. at 207, 214, 217.

SFFA’s inapplicability to this case comes into particular focus when attempting to apply *SFFA*’s rationale. One of the primary reasons the Court struck down the admissions program in *SFFA* was because race was a “negative factor” for individual applicants. *SFFA*, 600 U.S. at 218; see also *id.* (“[O]ur cases have stressed that an *individual*’s race may never be used against him in the admissions process.” (emphasis added)). Race is a negative factor when, “in its absence, members of some racial groups would be admitted in greater numbers than they otherwise would have been.” *Id.* at 219. But that is not the case here. The HSI Program contains no requirement for universities to distribute benefits specifically to Latino students. See *supra* Section I.A. In fact, since HSIs that receive grants must use those funds for a set of specific, race neutral “authorized activities,” distributing benefits specifically to Latino students would be impossible.

Plaintiffs and Plaintiff-Intervenors raise the specter of institutions “adopting discriminatory admissions strategies,” “financial-aid policies,” and “hiring and promotional policies for faculty and staff” to achieve HSI status—in other words, speculating that institutions will violate the Constitution for mere grant eligibility. Pls.’ & Pl.-Ints.’ Mot. Summ. J. 8, Dkt. No. 75. But Plaintiffs have not brought forth any evidence that HSI grants have led to a decrease in admissions of any group of students, the HSI Program itself includes no provision mandating that institutions admit a *greater* number of Hispanic students, and the “authorized activities” include no deliberate recruiting or admission quotas. Nor have Plaintiffs offered any evidence of the discriminatory strategies or policies they are purportedly concerned about. Instead, they simply reference schools having general goals to become an HSI or, at most, policies to increase Latino student enrollment

that do not involve considering race when making admissions decisions. *Id.* The HSI Program simply does not use race as a negative factor.

Race also does not “operate as a stereotype” in the HSI Program. *SFFA*, 600 U.S. at 218. The *SFFA* court warned of 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.’” *Id.* at 219–20 (quoting *Shaw v. Reno*, 509 U. S. 630, 647 (1993)). Confusingly, Plaintiffs and Plaintiff-Intervenors imply that the idea that a school could “serve” Latino students if it has a Latino student population is, itself, a stereotype. Pls.’ & Pl.-Ints.’ Mot. 27. It is not. There is no evidence that the HSI Program is based on any beliefs or assumptions about Latino students. Instead, it is based on well-documented findings by Congress that on a broader, institution level, HSIs—a set of specific *schools*—are “underfunded” and face “significant resource problems,” 20 U.S.C. § 1101(a)(4)–(5). Again, these findings are focused on institutions, not individual Latino students.

SFFA is inapplicable to this case, because the HSI Program does not make individual determinations based on race or ethnicity.

C. Plaintiffs Erroneously Ask the Court to Cut Congressionally Authorized and Lawful Funding for Hundreds of HSIs Across the Country.

1. MSI Programs are well-established systems of federal funding that Congress has repeatedly renewed for decades and that benefit all students across the country.

For decades, Congress has provided grants to higher education institutions based on a variety of factors, including the populations that the institutions serve. Congress passed Title III and Title V of the Higher Education Act to establish distinct programs for Hispanic-Serving Institutions (HSIs) as well as for Asian American and Native American Pacific Islander-Serving Institutions (AANAPISIs), Alaska Native and Native Hawaiian-Serving Institutions (ANNHs), Predominately Black Institutions (PBIs), and Native American-Serving Non-Tribal Institutions

(NASNTIs). *See* 20 U.S.C. §§ 1101 (HSIs); 20 U.S.C. § 1059g (AANAPISIs); 20 U.S.C. § 1059d (ANNHs); 20 U.S.C. § 1059e (PBIs); 20 U.S.C. § 1059f (NASNTIs).

Congress provided this funding because it recognized the importance of equal access to higher education for all students and communities. *See, e.g.*, 20 U.S.C. § 1101(a)(6) (finding a “national interest” in ensuring that Hispanic students have an “equal opportunity to pursue postsecondary opportunities”). But it also recognized that the institutions that benefit most from traditional systems of public and private funding often underserved or outright excluded students of and communities of color. As a result, Congress concluded that achieving equal access requires targeted investment in other institutions.

As discussed above, Congress found that HSIs are underfunded relative to their peer institutions and that addressing those disparities ensures equal access to higher education for the students they serve. 20 U.S.C. § 1101(a)(4), (6). HSIs also play an outsized role in providing Latino students with access to higher education; approximately two-thirds of all Latino undergraduates in the United States attend an HSI. EXCELENCIA IN EDUC., *Hispanic-Serving Institutions: 2026 Factbook* 4 (Apr. 2026), https://www.edexcelencia.org/_files/ugd/cef214_274df0b75a024ffa9efc9048fdceb3d3.pdf [hereinafter *HSI Factbook*]. It is no wonder, then, that when creating these programs for Minority-Serving Institutions (MSIs), Congress repeatedly cited the need to increase the enrollment of students who receive need-based assistance or Pell Grants, address low institutional resources, correct historical funding disparities, and advance equal educational opportunity. *See* 20 U.S.C. §§ 1058(b), 1101(a)(4)-(6).

Several colleges and universities in Tennessee benefit from Title III and Title V funding. *See* UCLA SCH. OF EDUC. & INFO. STUD., *MSI Data Project, Data*, <https://live-msi-data-project.pantheonsite.io/data/> (selecting “Full Dataset” and filtering for “Tennessee” and “Currently

Funded”) (last visited Sept. 24, 2026). The HSI program, therefore, is just one example of many other education grants Congress established to advance equal educational opportunity among a wide variety of underserved groups. Plaintiffs ask the Court to disrupt this well-established system of federal funding that Congress has repeatedly renewed for decades.

2. Undermining HSI funding harms a broad range of higher education institutions and students.

Threats to HSIs funding harm all kinds of colleges and universities across the country and students from all racial and ethnic groups. In the 2024–2025 academic year, there were 631 HSIs throughout the United States. *HSI Factbook* at 4. This includes public and private universities, and two and four-year institutions. *Id.* Cuts to HSI funding would harm institutions located in 29 states—including Arizona, California, Colorado, Connecticut, Florida, Georgia, New Jersey, New Mexico, New York, Texas, and Wisconsin, as well as institutions in the District of Columbia and Puerto Rico—and cut potential funding to over a fifth of all colleges and universities in the United States. *Id.* at 4, 10. For instance, in Tennessee, Southern Adventist University is an HSI. *Southern Designated as Only Hispanic-Serving Institution in Tennessee*, S. ADVENTIST UNIV., <https://www.southern.edu/news/2024-04-30-only-hsi-in-tn.html> (last visited Sept. 24, 2026).

To qualify as an HSI, an institution must, by definition, have low educational and general expenditures per undergraduate student compared to similar institutions. 20 U.S.C. § 1101a(a)(2)(A)(i)-(ii). Indeed, even after Congress established the HSI Program, HSIs remain underfunded as compared to other institutions. They only receive 68 cents for every federal dollar non-HSIs receive. Stephanie Aguilar-Smith, *Serving Many in Many Ways: Hispanic-Serving Institutions as Drivers of Opportunity and Socioeconomic Mobility* 8 (Third Way, May 22, 2024), <https://www.thirdway.org/report/serving-many-in-many-ways-hispanic-serving-institutions-as-drivers-of-opportunity-and-socioeconomic-mobility.pdf>. The continued underfunding of HSIs has

meant that, for instance, about thirty percent of HSIs do not have high-speed internet on campus; forty-three percent of HSIs' square footage needs "repairs or replacement, on average;" and seventy-seven percent of HSIs have at least one deferred maintenance project that addresses a "health or safety issue." U.S. GOV'T ACCOUNTABILITY OFF., *Higher Education: Hispanic-Serving Institutions Reported Extensive Facility and Digital Infrastructure Needs* 7, 12, 22, GAO-24-106162 (Mar. 2024), <https://www.gao.gov/assets/d24106162.pdf>. These needs far outpace institutions' resources. HSIs carry average deferred maintenance backlogs of about \$95 million yet spend only about \$4.6 million a year to address them. *Id.* at 9. At that rate, an average HSI would need roughly two decades to clear its existing backlog, even before accounting for new needs.

Federal underfunding is only part of the problem. Public HSIs rely heavily on state capital grants and appropriations to fund capital projects. *Id.* An estimated seventy-four percent of public HSIs consider insufficient state funding a significant challenge to address their capital project needs. *Id.*; *see also id.* at 53. That concern reflects a long-term pattern. From FY 2008 to FY 2022, HSIs were among the MSIs receiving the lowest state support per student. Jessica Colorado, *Federal and State Funding for Minority-Serving Institutions* 9–10 (State Higher Educ. Exec. Officers Ass'n, Dec. 2024), https://sheeo.org/wp-content/uploads/2024/12/MSI_fudning.pdf. HSIs are thus underfunded at both the federal and state levels, leaving them few places to turn to close these gaps. As a result, a generation of HSI students may complete their education in facilities and on networks their institutions cannot afford to bring up to standard, undermining the very educational opportunity these institutions exist to advance.

Even receiving an HSI designation does not guarantee federal funding. Institutions must still compete for grant funds available under Title III and Title V. 20 U.S.C. § 1057(b)(1). Only about one-third of eligible institutions actually receive funds under Title III, Part F and Title V,

Parts A and B, of the Higher Education Act. Excelencia in Educ., *Hispanic-Serving Institutions*, <https://www.edexcelencia.org/research-policy/hispanic-serving-institutions-hsis> (last visited Sept. 30, 2026).

Although financial cuts to HSIs disproportionately burden Latino students, their fallout impacts all students alike. As discussed above, approximately two-thirds of all Latino undergraduates in the United States attend an HSI. *HSI Factbook* at 4. But the harm from financial cuts to HSIs extends to *all* students on an HSI's campus. More than 600 HSIs across the country enroll over 5.6 million students, or approximately one-third of all college students nationwide. *See id.*; *see also* Hispanic-Serving Institutions Across the Nation Total 615, *Hisp. Ass'n Colls. & Univs. (HACU)* (Apr. 25, 2025), <https://hacu.net/hispanic-serving-institutions-across-the-nation-total-615>. Over half of students enrolled in HSIs are *not* Hispanic or Latino. *HSI Factbook* at 4. They are white (26%), Black (9%), Asian American (9%), American Indian/Alaska Native (0.4%), or other races or ethnicities (10%). *Id.* at 6. Put another way, HSIs educate nearly half (46%) of Asian undergraduates, more than one in four (27%) of Black undergraduates, and one in five (20%) of all White undergraduates nationwide. *Id.*

HSI students are also disproportionately students from low-income backgrounds. Stephanie Aguilar-Smith, Third Way, *Serving Many in Many Ways: Hispanic-Serving Institutions as Drivers of Opportunity and Socioeconomic Mobility* 9 (2024). HSIs constitute over one-third of the country's "top 20% of institutions regarding economic mobility," meaning that they provide a strong "return on investment" for low-income students. *Id.* One data set has shown that 77% of students at HSIs recoup the cost of their education, based on post-graduate salary, within five years. *Id.* And this economic mobility is key, because as of 2020, 44% of STEM students from all backgrounds at four-year HSIs fell within the lowest income quartile. *Id.*

Financial cuts to HSIs risk harming both white students and students of color at other kinds of MSIs. Many HSIs receive more than one MSI designation—22% of all HSIs qualify for at least one other designation. AM. COUNCIL ON EDUC., *Intersecting Classifications: The Landscape of Dual- and Multi-Designated Hispanic-Serving Institutions* 1 (2025), available at <https://files.eric.ed.gov/fulltext/ED675547.pdf>. HSIs and other MSIs deserve protection, not financial cuts.

Threatening HSI funding thus harms many higher education institutions and a diverse group of students. HSIs represent many kinds of colleges and universities across the country, and their students who benefit from the HSI Program represent many demographic groups. But what unites HSI schools is that they are underfunded and serve students from disproportionately low-income backgrounds. HSI funding is therefore crucial for colleges and universities to continue serving their students and to further Congress's goal of offering equal educational opportunities for all.

CONCLUSION

The Court should grant Defendant-Intervenor's motion for summary judgment.

Dated: October 6, 2026

Respectfully submitted,

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Court pending

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the formatting requirements of Local Rule 5.1 and the length requirements of Local Rule 7.1.

Dated: October 6, 2026

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