



ATTORNEY GENERAL OF MISSOURI
ANDREW BAILEY

February 21, 2024

Dr. John Simpson, Superintendent
Webster Groves School District
400 E. Lockwood Avenue
Webster Groves, MO 63119
Sent via email to: simpson.john@wgmail.org

Dear Dr. John Simpson:

It has come to my attention that Webster Groves School District has instituted race-based criteria for its employees and applicants. According to the reports my office has received, the district adopted the goal to “attract, support and retain . . . staff who at a minimum reflect the diversity of our student population.”¹ If these reports are true, Webster Groves School District is discriminating on the basis of race in direct violation of both state and federal law.

Racial discrimination is illegal in the United States. Under Title VII of the Civil Rights Act of 1964 an employer may not refuse to hire, or otherwise discriminate, against employees or candidates for employment because of their race.² The Missouri Human Rights Act likewise prohibits employers from making hiring decisions based on race and states, in part, “it shall be unlawful . . . for an employer . . . to fail or refuse to hire . . . discharge any individual . . . limit, segregate, or classify his employees or his employment applicants in any way which would deprive or tend to deprive any individual of employment opportunities . . . because of such individual’s race . . .”³ Classifying employees and applicants based on race and using this information to make hiring decisions would violate the law.

¹ Diversity, Equity, Inclusion Report, Webster Groves School District (Dec. 14, 2023), [https://go.boarddocs.com/mo/webster/Board.nsf/files/CYHKXC53FA16/\\$file/District%20DEI%20Report%202023.pdf](https://go.boarddocs.com/mo/webster/Board.nsf/files/CYHKXC53FA16/$file/District%20DEI%20Report%202023.pdf)

² 42 U.S.C. § 2000e.

³ RSMo. § 213.055.

In a recent, related Supreme Court case the U.S. Supreme Court reiterated that all racial discrimination—no matter the motivation—is unconstitutional.⁴ As Chief Justice John Roberts put it: “Eliminating racial discrimination means eliminating *all* of it.”⁵ In *Students for Fair Admissions*, the Court noted that racial preferences unlawfully impose harm on individuals outside the preferred racial groups, solely on the basis of their skin color. “[I]t is not even theoretically possible to ‘help’ a certain racial group without causing harm to members of other racial groups. It should be obvious that every racial classification helps, in a narrow sense, some races and hurts others.”⁶

Regarding Harvard’s unlawful admissions program, the Supreme Court pointed out that it was a quota system in all but name—as all race-conscious practices inevitably are. “For all the talk of holistic and contextual judgments, the racial preferences at issue here in fact operate like clockwork.”⁷ Playing this “numbers game” is blatantly illegal: “[O]utright racial balancing” is “patently unconstitutional.”⁸ Racial discrimination has no place in our country.

After all, well-intentioned racial discrimination is just as illegal as invidious discrimination, and for good reason. As Justice Thomas noted in his concurrence in *Students for Fair Admissions*:

Respondents and the dissents argue that the universities’ race-conscious admissions programs ought to be permitted because they accomplish positive social goals. I would have thought that history had by now taught a greater humility when attempting to distinguish good from harmful uses of racial criteria. [. . .] Arguments for the benefits of race-based solutions have proved pernicious.... Though I do not doubt the sincerity of my dissenting colleagues’ beliefs, experts and elites have been wrong before—and they may prove to be wrong again. In part for this reason, the Fourteenth Amendment outlaws government-sanctioned racial discrimination of all types. The stakes are simply too high to gamble.⁹

Under both state and federal law, school districts may not treat employees and applicants differently because of their race and may not set racial quotas. *Thus, Webster Groves School District must immediately cease and desist using all unlawful race-based preferences and quotas it has adopted for hiring and retention.*

⁴ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).

⁵ *Id.* at 206 (emphasis added).

⁶ *Id.* at 271.

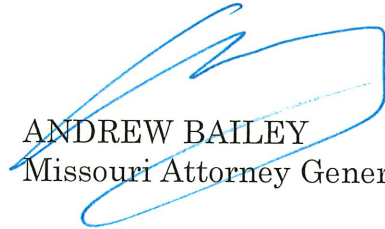
⁷ *Id.* at 222.

⁸ *Id.* at 223.

⁹ *Id.* at 266–68 (Thomas, J. concurring) (internal quotation marks omitted).

As the chief legal officer for the State of Missouri, I will protect the constitutional rights of all Missourians including the right to work free from the evil of racial discrimination. I am prepared to exercise my office's full authority under the law, including the Missouri Human Rights Act, to ensure that no Missouri employer discriminates against an applicant or employee because of the color of his or her skin. Racism has no place in Missouri.

Sincerely,



ANDREW BAILEY
Missouri Attorney General