U.S. Department of Justice

Office of the Solicitor General

The Solicitor General *Washington, D.C. 20530*

April 6, 2026

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, DC 20515

Re: Racial Quotas in the United States Coast Guard's College Student Pre-Commissioning Initiative Program

Dear Mr. Speaker:

Consistent with 28 U.S.C. 530D, I write to advise you that the Department of Justice has concluded that certain aspects of the United States Coast Guard's College Student Pre-Commissioning Initiative Program (CSPI Program) violate the Constitution, that the Department will no longer defend those aspects of the CSPI Program in court, and that the Department will be taking that position in ongoing litigation. See *Students for Fair Admissions* v. *United States Coast Guard*, No. 25-cv-284 (N.D. Fla.).

Congress enacted the CSPI Program to allow "eligible undergraduate students to enlist and receive a guaranteed commission as an officer in the Coast Guard." 14 U.S.C. 2131(a). To be eligible for the CSPI Program, a student must meet various requirements set forth in 14 U.S.C. 2131(b). One of those requirements is that the student must be an undergraduate sophomore or junior at a particular type of institution. 14 U.S.C. 2131(b)(6)(A). Section 2131(b)(6)(A)(i) and (ii) specify the types of institutions that qualify. Many of the criteria in Section 2131(b)(6)(A)(i) and (ii) are based on the racial composition of the institution's student body. For example, an institution may qualify under Section 2131(b)(6)(A)(i) if it is a "Hispanic-serving institution," which "has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students," 20 U.S.C. 1101a(a)(5)(B); see 20 U.S.C. 1067q(a)(2); an "Alaska Native-serving institution," which "has an enrollment of undergraduate students that is at least 20 percent Alaska Native students," 20 U.S.C. 1059d(b)(2); see 20 U.S.C. 1067q(a)(4); a "Native Hawaiian-serving institution," which "has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students," 20 U.S.C. 1059d(b)(4); see 20 U.S.C. 1067q(a)(4); a "Predominantly Black Institution," which "has an enrollment of undergraduate students" that "is at least 40 percent Black American students," 20 U.S.C. 1067q(a)(5) and (c)(9); an "Asian American and Native American Pacific Islander-serving institution," which "has an enrollment of undergraduate students that is at least 10 percent Asian American and Native American Pacific Islander students," 20 U.S.C. 1067q(a)(6) and (c)(2); or a "Native American-serving nontribal institution," which "has an enrollment of undergraduate students that is not less than 10 percent Native American students," 20 U.S.C. 1067q(a)(7) and (c)(8). Likewise, an

institution may qualify under Section 2131(b)(6)(A)(ii) only if it "has had for 3 consecutive years an enrollment of undergraduate full-time equivalent students" that "is a total of at least 50 percent Black American," "Hispanic," "Asian American," "Native American Pacific Islander," "or Native American." 14 U.S.C. 2131(b)(6)(A)(ii).

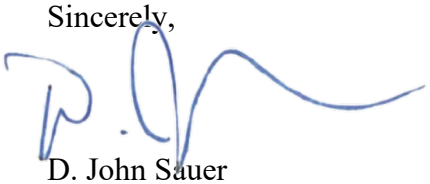
The Department of Justice has determined that Section 2131(b)(6)(A)(i) and (ii)'s racial quotas violate the equal protection component of the Fifth Amendment's Due Process Clause. The Supreme Court has explained that "[o]utright racial balancing" is "patently unconstitutional." *Students for Fair Admissions, Inc.* v. *President & Fellows of Harvard College*, 600 U.S. 181, 223 (2023) (citation omitted). And the Court's precedents make clear that the government lacks any legitimate interest in differentiating among universities based on whether "a specified number of seats in each class" are occupied by "individuals from the preferred ethnic groups." *Id.* at 209 (citation omitted). Under those principles, Section 2131(b)(6)(A)(i) and (ii)'s racial quotas violate the Constitution.

The Department of Justice has further determined that Section 2131(b)(6)(A)(i) and (ii)'s unconstitutional racial quotas are not severable from the rest of Section 2131(b)(6)(A)(i) and (ii). See *Barr* v. *American Ass'n of Political Consultants, Inc.*, 591 U.S. 610, 623-628 (2020) (plurality opinion) (explaining "general severability principles"). To be sure, some of Section 2131(b)(6)(A)(i) and (ii)'s other criteria are not based on the racial composition of the institution's student body. See 14 U.S.C. 2131(b)(6)(A)(i) (providing that an institution may qualify if it is a "historically Black college or university"); *ibid.* (providing that an institution may qualify if it is an institution of higher education described in 20 U.S.C. 1067q(a), paragraph (3) of which refers to a "Tribal College or University"). But if an institution could qualify under Section 2131(b)(6)(A)(i) and (ii) only by satisfying those other criteria, there would not be enough eligible students for the CSPI Program to "function in a manner consistent with the intent of Congress." *Alaska Airlines, Inc.* v. *Brock*, 480 U.S. 678, 685 (1987) (emphasis omitted). Accordingly, the Department will treat the entirety of Section 2131(b)(6)(A)(i) and (ii) as invalid.

In the Department of Justice's view, however, Section 2131(b)(6)(A)(i) and (ii) are severable from both Section 2131(b)(6)(A)'s requirement that the student be an undergraduate sophomore or junior and the rest of the statute authorizing the CSPI Program, 14 U.S.C. 2131. Severing Section 2131(b)(6)(A)(i) and (ii) from Section 2131's remaining provisions would allow the CSPI Program to function in a race-neutral manner consistent with Congress's intent to create a source of commissioned officers for the Coast Guard. Accordingly, the Department will treat only Section 2131(b)(6)(A)(i) and (ii) as invalid and will continue to defend the constitutionality of Section 2131's remaining provisions.

Please let me know if I can be of further assistance in this matter.

Sincerely,



D. John Sauer
Solicitor General