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Dr. Kandi Deitemeyer
President
Central Piedmont Community College
1141 Elizabeth Avenue
Charlotte, NC 28204

Jennifer Kaplan Schott
Senior Vice President, General Counsel and Secretary
ITW
155 Harlem Avenue
Glenview, IL 60025

Dear Dr. Deitemeyer and Ms. Schott:

I write on behalf of the Project on Fair Representation, a not-for-profit legal defense foundation that believes that racial and ethnic classifications are unconstitutional, unfair, and harmful.¹ The Project has been involved in several cases before the Supreme Court of the United States involving these important issues.² The purpose of this letter is to warn that you are likely violating the Fourteenth Amendment to the U.S. Constitution, Title VI and Title VII of the Civil Rights Act, and other federal civil rights laws.

As you know, ITW and Central Piedmont Community College have created a fellowship program (the ITW Technical Fellowship Program) for students “pursuing a career path in Air Conditioning, Heating, and Refrigeration Technology; Welding Technology; Automotive Systems Technology; or Electrical Systems Technology.”³ The fellowship laudably offers “fully funded tuition,” a “paid internship,” and an “opportunity for full-time employment.”⁴ These types of programs are important for students seeking to gain experience and launch a new career in these technical fields.

Yet this fellowship program inexplicably refuses to consider students of certain races. The program requires that the student “[m]ust be Black/African American” to be eligible for the

¹ See Project on Fair Representation, <https://projectonfairrepresentation.org/>.

² See, e.g., *Fisher v. Univ. of Tex. at Austin (Fisher II)*, 136 S. Ct. 2198 (2016); *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016); *Shelby Cty. v. Holder*, 570 U.S. 529 (2013); *Fisher v. Univ. of Tex. at Austin (Fisher I)*, 570 U.S. 297 (2013); *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193 (2009).

³ *ITW Technical Fellowship Program Application*, Cent. Piedmont Cmty. Coll. Found., <https://bit.ly/3OVmHTs>.

⁴ *Id.*

program.⁵ In other words, Hispanics, Asians, whites, and students of other racial groups need not apply. Moreover, it appears that ITW has established this same program at other colleges throughout the nation.⁶

This fellowship program is almost certainly illegal. The Equal Protection Clause prohibits the government from “deny[ing] to any person within its jurisdiction the equal protection of the laws.”⁷ The “central mandate” of equal protection is “racial neutrality” by the government.⁸ “Whenever the government treats any person unequally because of his or her race, that person has suffered an injury that falls squarely within the language and spirit of the Constitution’s guarantee of equal protection.”⁹ Distinctions between citizens “solely because of their ancestry are by their very nature odious to a free people, and therefore are contrary to our traditions and hence constitutionally suspect.”¹⁰

“[A]ll racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny.”¹¹ Strict scrutiny is a “searching examination, and it is the government that bears the burden to prove that the reasons for any racial classification are clearly identified and unquestionably legitimate.”¹² Under strict scrutiny, “the government has the burden of proving that racial classifications are ‘narrowly tailored measures that further compelling governmental interests.’”¹³

This fellowship program is highly unlikely to withstand strict scrutiny. Central Piedmont cannot show a “compelling interest” for restricting access to this program on the basis of race. A “generalized assertion that there has been past discrimination” doesn’t create a compelling interest justifying racial classifications.¹⁴ Nor can Central Piedmont satisfy the narrow tailoring requirement. It is doubtful that the college ever “considered methods other than explicit racial

⁵ *Id.*

⁶ See *Fellowship Program Aims to “Do More” for African American Technicians*, ITW, <https://bit.ly/3atKJWB> (noting that ITW “has developed a national fellowship program aimed at providing long-term employment opportunities for students enrolled in technical colleges in underserved and disadvantaged communities”).

⁷ U.S. Const. amend. XIV § 1.

⁸ *Miller v. Johnson*, 515 U.S. 900, 904 (1995).

⁹ *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 229-30 (2000).

¹⁰ *Fisher I*, 570 U.S. at 309 (cleaned up).

¹¹ *Adarand*, 515 U.S. at 227.

¹² *Fisher I*, 570 U.S. at 310 (cleaned up).

¹³ *Johnson v. California*, 543 U.S. 499, 505 (2005).

¹⁴ *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 498 (1989).

classifications” before creating this fellowship program.¹⁵ And because the program violates the Fourteenth Amendment, it also violates Title VI.¹⁶

ITW is also likely violating federal civil rights laws. Under Title VII of the Civil Rights Act, it is unlawful for a private employer to “fail or refuse to hire . . . any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race.”¹⁷ Yet ITW explicitly admits that it is doing that here. Courts have not hesitated to find similar programs illegal under Title VII.¹⁸

* * *

You should change course immediately. This fellowship program should be open to *all* students at Central Piedmont, regardless of their race or ethnicity. I look forward to receiving your response.

Sincerely yours,

/s/ J. Michael Connolly

Counsel for the Project on Fair Representation

¹⁵ *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 735 (2007).

¹⁶ *Gratz v. Bollinger*, 539 U.S. 244, 276 n.23 (2003) (“[D]iscrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI and the Civil Rights Act of 1866.”).

¹⁷ 42 U.S.C. §2000e-2(a)(1).

¹⁸ See, e.g., *Schurr v. Resorts Int’l Hotel, Inc.*, 196 F.3d 486, 496-98 (3d Cir. 1999).