
November 8, 2022

Dr. Britney Holmes, Principal
Pathfinder K-8 School
1901 SW Genesee Street
Seattle, WA 98106

*Sent via email*

Dear Dr. Holmes:

I write in follow-up to my April 22 letter, which urged Pathfinder to reconsider establishing "affinity" and "community building" groups that separated students based on their ancestry.

Since sending that letter, FAIR has learned that Pathfinder is continuing to separate students and other community members by skin color and other immutable traits. As stated in its October 16 newsletter, the school is offering "BIPOC, Mixed Race, White, LGBTQIA2+, Disabled, and Jewish" affinity groups. Additionally, it is re-starting "listening sessions" for "BIPOC and Mixed Race Families." According to the newsletter, the purpose of those sessions is to "check in with [the] Admin team," "build community," and "share praises, questions, and concerns."

As explained in our April 22 letter, we believe establishing those groups violates the Constitution's Equal Protection guarantee and Title VI of the Civil Rights Act, which prohibit state and federally-funded agencies from discriminating based on racial classification. *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist.*, 551 U.S. 701, 720 (2007); 42 U.S.C. § 2000d. Exceptions to that prohibition are rare. The Supreme Court has recognized only one circumstance in which an educational institution may discriminate based on skin color: to achieve a diverse student body in higher education. *Grutter v. Bollinger*, 539 U.S. 306, 328-33 (2003). Even then, skin color can be used only as a "plus factor" and not as an absolute bar. *Id.* This is not one of those cases.

While Pathfinder may claim noble intentions, racial separation and exclusion undertaken even for an assertedly benign purpose are unconstitutional and unlawful. *Johnson v. California*, 543 U.S. 499, 506 (2005). As the Supreme Court clarified in that decision, *Brown v. Board of Education* prohibits such separation no matter the purpose:

> The CDC's argument ignores our repeated command that "racial classifications receive close scrutiny even when they may be said to burden or benefit the races equally." Indeed, we rejected the notion that separate can ever be equal—or "neutral"—50 years ago in *Brown v. Board of Education*, and we refuse to resurrect it today.

*Id.* at 506 (internal citations omitted).

In any event, Pathfinder's groups do not offer equal treatment. The purpose of the "White" group is to admit to and atone for their ongoing acts of oppression, while the "BIPOC" group is a space for self-care. It is irrelevant that participation may be voluntary. Discrimination based on skin color is prohibited even in non-mandatory activities and endeavors. *See, e.g.*, Rev. Code Wash. § 49.60.15 (visiting amusement parks); *id.* (staying at hotels); *id.* § 49.60.222 (purchasing a home); *id.* § 49.60.176 (applying for credit). The "BIPOC and Mixed Race" listening sessions wholly *exclude* individuals of other ancestries. Given that those sessions are a conduit to the school's administration and can influence policy and operations, that exclusion is consequential. There can be no legitimate or lawful basis for barring families from input-eliciting meetings based solely on the color of their skin. In fact, excluding its own community members will only thwart Pathfinder's stated goal of "build[ing] community."

FAIR again encourages Pathfinder to discontinue sponsoring exclusionary groups and instead, host meetings and groups that are open to all stakeholders.

We would like to give Pathfinder an opportunity to respond. Please let us know within the next week if you intend to do so.

Very truly yours,

Letitia Kim
Chief Legal Officer
Foundation Against Intolerance & Racism

cc: Chris Cordell, Assistant Principal