

EXHIBIT 4

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

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STUDENTS FOR FAIR ADMISSIONS, INC.,

Plaintiff,

vs.

Civil Action No.
1:14-cv-14176

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE (HARVARD CORPORATION); and
THE HONORABLE AND REVEREND THE
BOARD OF OVERSEERS,

Defendants.

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- HIGHLY CONFIDENTIAL -

DEPOSITION OF MARLYN ELIZABETH

McGRATH, a witness called by the Plaintiff,
taken pursuant to the applicable provisions of
the Federal Rules of Civil Procedure, before
James A. Scally, RMR, CRR, a Notary Public in
and for the Commonwealth of Massachusetts, at
the offices of WilmerHale, 60 State Street,
Boston, Massachusetts, on Thursday, June 18,
2015, commencing at 9:00 a.m.

1 turn up in the athletic column. For many of the rest of
2 us, it would turn up in the extracurricular column. Again,
3 it's a question of the judgment of the reader.

4 But generally speaking, that's -- athletic is
5 construed by the person reading it, and we have some
6 guidelines, again, about what would be a 3, what would be a
7 3 plus, perhaps, what would be a 2. And we know what a 1
8 is and we know what a 4 is.

9 Q. And then the last category was personal.

10 A. Uh-huh.

11 Q. Can you give me an example of what goes in the
12 personal column?

13 A. Yes. That can have various elements. If the
14 student in writing about himself or herself presents a very
15 appealing personal picture, and that can mean -- appealing
16 can be a wide variety of appeal, you know, a sensitive
17 writer, a person with humor, a person who seems very
18 outward directed, and that's appealing, and if that or some
19 other attractive personal elements are echoed or
20 supplemented, reinforced by the other materials in the
21 folder, typically the SSR, the secondary school report, the
22 counselor letter, who may give us -- which may give us a
23 good deal of information or may not about the candidate's
24 personal style, personal affect, relationships to other

1 people, that could help, and so can the teacher letters.

2 And when we have an interview, that can help us too.

3 Q. Would a person's race or ethnic identity be
4 included in one of the appealing factors that would weigh
5 into the personal category?

6 A. That should not be part of it.

7 Q. Does race or ethnic background play into any of
8 these categorical areas?

9 A. Does it play into any of them?

10 Q. Yes. I mean is it considered in assessing the
11 score in any of these areas?

12 A. I don't -- it's not supposed to. It is supposed
13 to be what each of those aspects would be compared to other
14 applicants in general whom you've read.

15 Q. You say it's not supposed to. Are you aware of
16 occasions when it has been included in one of these
17 categories?

18 A. No.

19 Q. We discussed -- strike that.

20 On the personal category, is the essay a large
21 driver of where that score is going to come from?

22 A. Well, it could be. It may be, but only if it
23 echoes or reinforces things that we have from other
24 credible sources.

1 COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

2
3 I, JAMES A. SCALLY, RMR, CRR, a Certified
4 Shorthand Reporter and Notary Public duly commissioned and
5 qualified in and for the Commonwealth of Massachusetts, do
6 hereby certify that there came before me on the 18th day of
7 June, 2015, at 9:00 a.m., the person hereinbefore named,
8 MARLYN ELIZABETH McGRATH, who provided satisfactory
9 evidence of identification as prescribed by Executive Order
10 455 (03-13) issued by the Governor of the Commonwealth of
11 Massachusetts, was by me duly sworn to testify to the truth
12 and nothing but the truth of her knowledge concerning the
13 matters in controversy in this cause; that she was
14 thereupon examined upon her oath, and her examination
15 reduced to typewriting under my direction; and that this is
16 a true record of the testimony given by the witness to the
17 best of my ability.

18 I further certify that I am neither
19 attorney or counsel for, nor related to or employed by, any
20 of the parties to the action in which this deposition is
21 taken, and further, that I am not a relative or employee of
22 any attorney or counsel employed by the parties hereto or
23 financially interested in the action.
24

My Commission Expires: April 8, 2022

James A. Scally, RMR, CRR
CSR/Notary Public