

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JOHN F. KNIGHT, JR., ET AL.,

Plaintiffs and
Plaintiff Intervenors,

UNITED STATES OF AMERICA

Plaintiff,

CIVIL ACTION NUMBER:
CV-83-M-1676-S

v.

THE STATE OF ALABAMA, ET AL.,

Defendants.

ORDER

This case is before the Court on the motion of Alabama State University ("ASU") for clarification and other relief. Docket No. 3284. In particular, ASU requests that the Court expand the Diversity Scholarship Program to

provide for greater participation by minority graduate students. As initially established by the 1995 Remedial Decree, the program was limited to the award of diversity scholarships to undergraduate students only. Knight v. Alabama, 900 F. Supp. 272, 356 (N.D. Ala. 1995).

On July 5, 1995, ASU filed a motion to approve the criteria the University intended to use to award undergraduate diversity scholarships. The criteria were consistent with the requirements of the 1995 Remedial Decree, but the University also proposed allowing the program to be expanded to include graduate students.

In considering ASU's motion to expand the program to graduate students, the Court noted that "ASU and the State Defendants apparently agree that the Diversity Scholarship Program should be primarily targeted toward

undergraduates and therefore the funds available for graduate diversity scholarships should not exceed 35% of the scholarship funds annually available.” Docket No. 3284 at 6 (quoting Order dated September 6, 1996).

According to ASU, when the Court expanded the program to include graduate students, that meant of the one million dollars available each year under the program, \$350,000, or 35%, would be set aside for graduate scholarships. The State Defendants contend, however, that claims for reimbursement of graduate diversity scholarships are limited to 35% of the diversity scholarships dollars actually awarded during an academic year, and not 35% of the potential \$1M in scholarship assistance that is available under the Court’s program each year. Docket No. 3286 at 2.

In their response to ASU's motion for clarification, (Docket No. 3286), the State Defendants have produced un rebutted evidence showing ASU earlier agreed with their position. In an August 31, 1996 brief regarding the proposed change, ASU agreed that graduate diversity scholarships should be limited to an amount equal to 35% of the actual undergraduate scholarships awarded in a given academic term. Id. at Exhibit B at 2 ("ASU has no objection to the 'suggested' cap on graduate minority scholarships of 35% of all minority scholarships awarded in a given academic term").

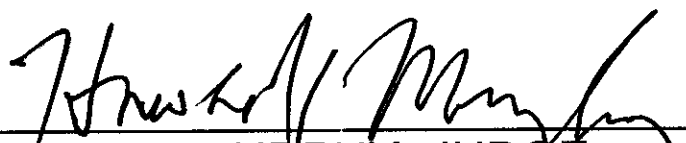
The Court's September 6, 1996 Order embraced the agreed-to limitation on the amount of graduate minority scholarships that could be awarded in a given year when it noted that "the primary focus of the ASU's Diversity Scholarship Program must remain on undergraduates" and

“therefore the funds available [for such scholarships] should not exceed 35% of the scholarship funds annually available.” Docket № 3284 at 6.

While the University argues that it could award more in diversity graduate scholarships if those scholarships were not tied as a percentage to the diversity undergraduate scholarships, that approach is inconsistent with the objective that the program focus primarily on assisting ASU to recruit and retain a diverse undergraduate student body. At this late date the University has failed to show why the Court should change a program that has been in place since 1996, and is effectively over, except to the extent necessary to complete the terms of the students who are currently enrolled at the University and now receiving Court-ordered diversity scholarship assistance.

ACCORDINGLY, ASU's Motion for Clarification of Order and Other Affirmative Relief is **GRANTED IN PART** and **DENIED IN PART**. To the extent the motion seeks clarification of the Court's September 6, 1996, order, it is **GRANTED** and the Court clarifies its Order to state that reimbursement for graduate scholarships under the Court's Diversity Scholarship Program shall be no more than 35% of the total reimbursement for undergraduate diversity scholarships awarded in any academic term. The motion is **DENIED** to the extent ASU seeks "other affirmative relief."

IT IS SO ORDERED this 12th day December 2006.



HAROLD L. MURPHY, JUDGE
UNITED STATES DISTRICT COURT