April 8, 2025

VIA ELECTRONIC MAIL

Kyle D. Logue
Interim Dean
University of Michigan Law School

RE: FASORP's March 31, 2025 Email to Michigan Law Students

Dear Dean Logue:

The NAACP Legal Defense and Educational Fund, Inc. and other undersigned civil rights organizations have long advocated for race and/or sex-based equality in higher education and are deeply troubled by the email sent to students at the University of Michigan Law School (Michigan Law) on March 31, 2025, purportedly from an organization called Faculty, Alumni, and Students Opposed to Racial Preferences (FASORP). The email makes baseless and derogatory presumptions that Black, Latinx, Indigenous and other law students of color, female law students, and LGBTQI+ law students are unqualified for admission to the *Michigan Law Review* (*MLR*), compared to other peers, and are only invited to join the journal because of their race, sex, sexual orientation, or gender identity. We appreciate your communication to law students acknowledging the hurtful nature of the email and expressing your confidence in the lawfulness of the law school's policies and programs. Nevertheless, we strongly urge you to address the larger issue of the race and sex-based stereotypes underlying FASORP's email that harm students of color, female students, and LGBTQI+ students and prevent them from enjoying equal benefits and accessing equal opportunities in their law school education. Irrespective of the email's specific allegations, it is imperative that the Law School explicitly recognize the longstanding inequities and disadvantages resulting from these entrenched stereotypes and affirm that all students deserve a fair chance to access opportunities like admission to *MLR*.

The message sent to law students must be understood for what it is: a deliberate attempt to instill fear in the law school community and prevent certain law students—who are targeted based on their race, sex, sexual orientation, and/or gender identity—from seeking admission to *MLR*, a highly coveted and prestigious honor that can lead to other benefits and opportunities in one's legal career. The email makes categorical claims that *MLR* discriminates on account of race, sex, gender, and/or sexual orientation in selecting its student membership and articles for publication, including choosing "applicants who indicate in their personal statements that they are female, non-white and non-Asian, or homosexual or transgender . . . over heterosexual white men with better grades and better scores on the components of the Law Review's writing competition." Alarmingly, the email further threatens to subpoena all personal statements submitted with *MLR* applications and to expose female, Black, Latinx, Indigenous, and other students of color and/or LGBTQI+ students on *MLR* as "DEI hire[s]" on social media, as well as

notify their future employers of their "tainted" credentials, if FASORP believes they received preferential treatment. The implication is that only white and Asian heterosexual men are sufficiently qualified to gain admission to *MLR* and have their articles published by the journal. Such statements perpetuate race and gender biases that Black, Latinx, Indigenous and other people of color, women, and LGBTQI+ people are inherently less qualified for such opportunities and, thus, should be treated with suspicion should they attain them.

The email's author further threatens legal action against the Law School and its students, asserting that *MLR*'s application process violates federal civil rights laws and Michigan's "Proposition 2"—likely a reference to "Proposal 2," the ballot initiative that banned racial preferences in public education and employment now codified in Section 26 of the Michigan Constitution. None of these laws prohibit *MLR* from considering personal statements in its student editor selection process. Indeed, doing so allows the journal to best assess the unique experiences, values, and perspectives of applicants, which is a necessary part of choosing the best candidates. Indeed, the Supreme Court made clear that their decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* did not prohibit "universities from considering an applicant's discussion of how race affected [the applicant's] life, be it through discrimination, inspiration, or otherwise." While these essays may not be used as a proxy to make decisions based on race, gender, gender identity or sexual orientation, they can be used to assess "that student's unique ability to contribute to the university" such as "that student's courage and determination" 600 U.S. 181, 230 (2023). Without any further evidence, any presumption that such essays are being used to facilitate unlawful discrimination demonstrates the persistence of harmful stereotypes that female, Black, Latinx, Indigenous, and other students of color and/or LGBTQI+ students are less qualified for admission to *MLR* and would have to benefit from unfair preferences for characteristics assumed from their essays in order to be admitted.

Notably, FASORP previously tried to bring legal claims of discrimination against other law school law reviews, which have been dismissed for FASORP's failure to demonstrate a concrete injury and/or to assert facts that plausibly state a federal claim for discrimination based on race or gender. *See, e.g.*, *Fac., Alumni, & Students Opposed to Racial Preferences v. New York Univ.*, 11 F. 4th 68, 76 (2d Cir. 2021) (affirming district court's grant of New York University Law Review's motion to dismiss FASORP's complaint due to lack of facts supporting injury-in-fact necessary for standing); *Fac., Alumni, & Students Opposed to Racial Preferences v. Harv. L. Rev. Ass'n*, No. 18-12105-LTS, 2019 WL 3754023, at *8–9 (D. Mass. Aug. 8, 2019) (granting Harvard Law Review Association's motion to dismiss in part because of FASORP's failure to state a claim under Title VI and Title IX).

The potential chilling effect on law students and scholars, who happen to be female, LGBTQI+, and/or Black, Latinx, Indigenous, or a member of other racial and ethnic groups, cannot be overstated. These students may choose not to apply to *MLR* or other law school opportunities out of fear of future harassment, and these scholars may similarly refrain from seeking publication in the law review. Such a result is antithetical to Michigan Law's expressed commitment to access, diversity, and excellence. It also raises concerns about the Law School's obligations under federal law to prevent the creation of a hostile environment for students and employees that constitutes discrimination based on their race and gender. *See* Title VI, 42 U.S.C.

§ 2000d et seq; Title IX, Education Amendments of 1972, 20 U.S.C. § 1681. It is, therefore, crucial for law students and those who seek to publish their work in *MLR* to receive explicit and unwavering assurances from the Law School's leadership.

Michigan Law should reaffirm that all of its students belong in the law school community and have the right to participate in all opportunities to ensure that, as you stated, everyone who studies and works there feels welcome. The Law School should likewise recognize the academic contributions of people of color, women, and LGBTQI+ people who have published in *MLR* and encourage others to seek future publication.

We thank you for your urgent consideration of this issue. Please reach out to Donya Khadem, Equal Protection Initiative Counsel, at dkhadem@naacpldf.org if you have any questions or would like additional information.

Thank you.

Sincerely,

NAACP Legal Defense and Educational Fund, Inc.
Asian Americans Advancing Justice | AAJC
LatinoJustice PRLDEF
National Women's Law Center