



THE EQUAL PROTECTION PROJECT
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March 25, 2024

BY EMAIL (OCR.Chicago@ed.gov)

U. S. Department of Education
Office for Civil Rights – Chicago Office
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604

Re: Civil Rights Complaint Against North Central University Regarding Race-Based Undergraduate Scholarship

To Whom It May Concern:

This is a federal civil rights complaint pursuant to the U.S. Department of Education's Office for Civil Rights ("OCR") discrimination complaint resolution procedures. *See* 42 U.S.C. § 2000d-1; 34 C.F.R. §§ 100.7, 100.8, and 100.9.

We write on behalf of the Equal Protection Project of the Legal Insurrection Foundation, a non-profit that, among other things, seeks to ensure equal protection under the law and non-discrimination by the government, and that opposes racial discrimination in any form.

We bring this civil rights complaint against North Central University ("NCU") for creating, supporting and promoting the George Floyd Memorial Scholarship – an undergraduate scholarship that engages in invidious discrimination on the basis of race, color and national origin.

The George Floyd Memorial Scholarship

According to NCU's website, the George Floyd Memorial Scholarship ("GFMS") was created on June 4, 2020 as "a way to invest in a new generation of young Black Americans," "to increase our number of Black students who will impact the learning environment in a positive manner," and to "[d]iversify[] our learning environment."¹

Learn more about the George Floyd Scholarship Fund

On June 4, 2020, North Central University President Scott Hagan announced the creation of the George Floyd Memorial Scholarship and challenged every university president in the United States of America to establish a George Floyd Memorial Scholarship Fund at their institutions.

In his remarks, Hagan said it is time "to invest like never before in a new generation of young black Americans, who are poised and ready to take leadership in our nation."

The scholarship provides a way to invest in a new generation of young Black Americans, poised and ready to be leaders in our community and our nation. We believe that the George Floyd Memorial Scholarship will enable North Central University to increase our number of Black students who will impact the learning environment in a positive manner. Diversifying our learning environment is key to being a University that looks and acts like Heaven.

The scholarship "is a four-year, full-tuition scholarship awarded to one student each year based on two community recommendations and a written essay."² To be eligible for the GFMS, an applicant must be an undergraduate student who is "Black or African American, that is, a person having origins in any of the black racial groups of Africa."³


¹ See <https://www.northcentral.edu/george-floyd-scholarship-fund> [https://archive.is/w8chj] (accessed on Mar. 23, 2023).

² See <https://www.northcentral.edu/george-floyd-scholarship-fund/george-floyd-memorial-scholarship-application/> [https://archive.is/RjINB] (accessed on Mar. 23, 2024).

³ *Id.*

– CRITERIA FOR APPLYING

To be considered for the GFMS, you must:

- » Be a student who is Black or African American, that is, a person having origins in any of the black racial groups of Africa. 
- » Be a United States citizen
- » Demonstrated leadership in multicultural student programming at North Central University (for returning-student applicants)
- » Demonstrated leadership roles in their high school career, service-based work within their community
- » Apply and submit the required documents:
 - » Application
 - » Essay
 - » Two recommendations from community members
- » Must be admissible to NCU based on our academic and community lifestyle criteria for an undergraduate degree program as a traditional on-campus student.
- » Must have a FAFSA submitted to determine financial need

The application for the GFMS – which, for the 2024-25 academic year closes on May 5, 2024 – requires applicants to state whether they “identify as being a student African descent,” which the application form defines as being “Black, African American, African, or Mixed.”⁴ A screen capture of the relevant portion of the online application form is reproduced below.

Do you identify as being a student African descent (Black, African American, African, or Mixed)?*
⬇

Students who do not meet the prerequisite racial categories – for example, students who identify as white, Hispanic or Asian – are automatically ineligible for the scholarship.

The GFMS Violates The Law

Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits intentional discrimination on the basis of race, color or national origin in any “program or activity” that receives federal financial assistance. *See* 42 U.S.C. § 2000d. The term “program or activity” means “all of the operations ... of a college, university, or other postsecondary institution, or a public system of higher education.” *See* 42 U.S.C. § 2000d-4a(2)(A); *Rowles v. Curators of the Univ. of Mo.*, 983 F.3d 345, 355 (8th Cir. 2020) (“Title VI prohibits discrimination on the basis of race in federally

⁴ *See* https://northcentral.formstack.com/forms/george_floyd_memorial_scholarship_application [https://archive.is/3Q7J6] (accessed on Mar. 24, 2024).

funded programs,” and thus applies to universities receiving federal financial assistance). As NCU receives federal funds,⁵ it is subject to Title VI.⁶

It does not matter if the recipient of federal funding discriminates in order to advance a benign “intention” or “motivation.” *Bostock v. Clayton Cty.*, 140 S. Ct. 1731, 1742 (2020) (“Intentionally burning down a neighbor’s house is arson, even if the perpetrator’s ultimate intention (or motivation) is only to improve the view.”); *accord Automobile Workers v. Johnson Controls, Inc.*, 499 U. S. 187, 199 (1991) (“the absence of a malevolent motive does not convert a facially discriminatory policy into a neutral policy with a discriminatory effect” or “alter [its] intentionally discriminatory character”). “Nor does it matter if the recipient discriminates against an individual member of a protected class with the idea that doing so might favor the interests of that class as a whole or otherwise promote equality at the group level.” *Students for Fair Admissions v. President & Fellows of Harvard College*, 2023 U.S. LEXIS 2791, at *154 (2023) (Gorsuch, J., concurring).

Simply put, “Title VI prohibits a recipient of federal funds from intentionally treating any individual worse even in part because of his race, color, or national origin and without regard to any other reason or motive the recipient might assert.” *Id.* at *170 (cleaned up). Thus, regardless of NCU’s reasons for sponsoring and promoting the GFMS, it is violating Title VI by doing so.

OCR Has Jurisdiction

OCR has jurisdiction over this complaint. NCU is a public institution and a recipient of federal funds. It is therefore liable for violating Title VI.

The Complaint Is Timely

This complaint is timely brought because it includes allegations of discrimination based on race, color and national origin that occurred within the last 180 days and is ongoing. Indeed, the application period for GFMS for the 2024-25 academic year is still open, and the scholarship recipient will be selected by June 7, 2024.⁷

⁵ See https://projects.propublica.org/nonprofits/display_audit/6146420221 [https://archive.is/Qp3mt] (accessed on Mar. 24, 2024).

⁶ Additionally, although OCR does not enforce Title II of the Civil Rights Act of 1964, that statute makes it unlawful to discriminate on the basis of race or color in a place of “public accommodation,” such as NCU. 42 U.S.C. § 2000a(a). Similarly, the GFMS defies the civil rights protections of Minnesota’s Human Rights Act, which makes it a criminal offense for an educational institution to limit access to any educational program on the basis of race. Minn. Stat. §§ 363A.13 (1)-(4), 363A.30(4), as well as NCU’s own non-discrimination policy. See <https://tinyurl.com/3h3vyfsx> [https://archive.is/38pxf] (accessed on Mar. 24, 2023).

⁷ See <https://www.northcentral.edu/george-floyd-scholarship-fund/george-floyd-memorial-scholarship-application/> [https://archive.is/RjINB] (accessed on Mar. 23, 2024).

Request For Investigation And Enforcement

In *Richmond v. J. A. Croson Co.*, Justice Scalia aptly noted that “discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong and destructive of a democratic society.” 488 U.S. at 505 (citation omitted). This is true regardless of which race suffers – discrimination against white applicants is just as unlawful as discrimination against black or other non-white applicants.

The Office for Civil Rights has the power and obligation to investigate NCU’s role in participating in, sponsoring, supporting and promoting the GFMS – and to discern whether NCU is engaging in such discrimination in its other activities – and to impose whatever remedial relief is necessary to hold it accountable for that unlawful conduct. This includes, if necessary, imposing fines, initiating administrative proceedings to suspend or terminate federal financial assistance and referring the case to the Department of Justice for judicial proceedings to enforce the rights of the United States under federal law. After all, “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Parents Involved in Cmty. Sch.*, 551 U.S. at 748.

Accordingly, we respectfully ask the Department of Education’s Office for Civil Rights to impose remedial relief as the law permits for the benefit of those who have been illegally excluded from NCU’s George Floyd Memorial Scholarship based on racially discriminatory criteria, and to ensure that all ongoing and future programming through that university comport with federal civil rights laws.

Sincerely,



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The Equal Protection Project

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-And-

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