



**THE EQUAL PROTECTION PROJECT**  
**A Project of the Legal Insurrection Foundation**  
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**BARRINGTON, RI 02806**  
[www.EqualProtect.org](http://www.EqualProtect.org)

July 15, 2024

**BY EMAIL** (OCR.Chicago@ed.gov)

Adele Rapport  
Regional Director  
U. S. Department of Education  
Office for Civil Rights – Region V  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604

**Re: Civil Rights Complaint Against Indiana University**  
**Regarding Discriminatory Scholarships**

Dear Ms. Rapport:

This is a federal civil rights complaint submitted pursuant to the U.S. Department of Education’s Office for Civil Rights (“OCR”) discrimination complaint resolution procedures.<sup>1</sup> We write on behalf of the Equal Protection Project of the Legal Insurrection Foundation, a non-profit entity 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 make this civil rights complaint against Indiana University, a public institution which offers, promotes, and administers at least 19 race-based scholarships at the Kelley School of

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<sup>1</sup> See 42 U.S.C. § 2000d-1; 34 C.F.R. §§ 100.7, 100.8, and 100.9.

Business, the IU Indianapolis campus and the McKinney School of Law. The number of discriminatory scholarships we are challenging and the number of IU institutions at which they are offered reflects a pervasive and systemic failure to comply with constitutional and statutory requirements at IU, warranting expedited investigation by OCR.

We set them out, grouped by school, below. For each scholarship, we have included screenshots of and links to the discriminatory eligibility criteria for that program as shown on the relevant page.

For some of the scholarships terms such as “minorities” or variations on that term are used. It is clear from the context of the scholarships and the usage of such terms by Indiana University that these terms reflect a racial and/or ethnic descriptor that excludes whites.<sup>2</sup>

### **A. Race-Based Scholarships at IU’s Kelley School of Business**

The website of IU’s Kelley School of Business (“KSB”) promotes the following race-based scholarship programs administered by KSB.

- **Rao and Anita Uppaluri Underrepresented Minority Scholarship<sup>3</sup>**

“Recipients are underrepresented minority students with financial need who possess a cumulative program GPA of 2.7 or better. . . .”

#### **Eligibility Criteria:**

- Undergraduate business major enrolled at the Kelley School of Business Bloomington
  - Full-time (12 or more credit hours per semester)
  - Underrepresented minority
  - Possess a cumulative program GPA of 2.7 or better on a 3.0 scale
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<sup>2</sup> See, e.g. <https://diversity.iu.edu/annual-report-2021-22/data/data-iub.html> archived at <https://archive.ph/KZhrv> (enrollment figures for “minority” students listing categories of African-American, Latino/Hispanic, Asian, Native American, Pacific Islander, and Two or More Races); see also, <https://diversity.iu.edu/news-events/news/increase-funding-minorities.html> archived at <https://archive.is/kLGT6> (“Of those students, 1,243 are underrepresented minorities, such as African Americans, Native Americans and Latinos.”)

<sup>3</sup> Kelley School of Business website, “Scholarships,” Rao and Anita Uppaluri Underrepresented Minority Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=715>; archived at <https://web.archive.org/web/20240712180402/https%3A%2F%2Fkelley.iu.edu%2Fprograms%2Fundergrad%2Fscholarships%2Fscholarship-details.html%3Fid%3D715>.

- **Uppaluri In State Underrepresented Minority Scholarship<sup>4</sup>**

“The Uppaluri In State Underrepresented Minority Scholarship was established to support qualified undergraduate business majors who are residents of Indiana, underrepresented minorities, and have financial need.”

**Eligibility Criteria:**

- Undergraduate business major at IU Bloomington
  - Resident of Indiana
  - Underrepresented minority
  - Financial need per the Free Application for Federal Student Aid (FAFSA)
  - Minimum cumulative program GPA of 3.0 on a 4.0 scale
  - Non-Renewable
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- **Steven Bretthausen Business Diversity Scholarship<sup>5</sup>**

“Special consideration is given to underrepresented populations, including but not limited to financially challenged students and/or students with diverse cultural experiences. The donor has a preference for students of color.”

- **Richard McVey Kelley Diversity Scholarship<sup>6</sup>**

“In selecting recipients, special consideration is given to underrepresented populations, including but not limited to financially challenged students, and/or students with diverse cultural experiences.”

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<sup>4</sup> Kelley School of Business website, “Scholarships,” Uppaluri In State Underrepresented Minority Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=654>; archived at <https://web.archive.org/web/20240712180552/https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=654>.

<sup>5</sup> Kelley School of Business website, “Scholarships,” Steven Bretthausen Business Diversity Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=653>; archived at <https://web.archive.org/web/20240712180736/https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=653>.

<sup>6</sup> Kelley School of Business website, “Scholarships,” Richard McVey Kelley Diversity Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=649>; archived at

### **Eligibility Criteria:**

- Undergraduate business major at the Kelley School of Business Bloomington
  - Full-time
  - Special consideration is given to underrepresented populations, including but not limited to financially challenged students, and/or students with diverse cultural experiences
  - Preference for underrepresented minority students
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- **Daniel and Maureen Aron Diversity Finance Scholarship<sup>7</sup>**

“Preference is given to African American students studying investment management or investment banking.”

### **Eligibility Criteria:**

- Full-time undergraduate business major at the Kelley School of Business Bloomington
  - Actively pursuing declared major in Finance
  - Possess a minimum cumulative program GPA of 3.0 or better
  - Preference to African American students studying investment banking or investment management
  - Potential to receive more than once
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- **Dworkin International Scholarship<sup>8</sup>**

Preference given to “minority applicants”.

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<https://web.archive.org/web/20240712180917/https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=649>.

<sup>7</sup> Kelley School of Business website, “Scholarships,” Daniel and Maureen Aron Diversity Finance Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=359>; archived at

<https://web.archive.org/web/20240712181034/https%3A%2F%2Fkelley.iu.edu%2Fprograms%2Fundergrad%2Fscholarships%2Fscholarship-details.html%3Fid%3D359>.

<sup>8</sup> Kelley School of Business website, “Scholarships,” Dworkin International Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=54>; archived at

<https://web.archive.org/web/20240712181210/https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=54>.

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### **Eligibility Criteria:**

- Kelley School of Business Bloomington student
  - Preference to minority applicants
  - Accepted to IU-Approved, Credit-Bearing Study Abroad program
- **Howard Jones Scholarship<sup>9</sup>**  
Preference given to “underrepresented minority students”

### **Eligibility Criteria:**

- Demonstrated Financial Need
- Resident of Chicago, IL area
- Preference given to underrepresented minority students

## **B. Race-Based Scholarships at IU Indianapolis**

The website of IU Indianapolis (“IUP”) promotes the following race-based scholarship programs administered by KSB.

- **Herron School of Art + Design | Alpha Blackburn Scholarship for the Arts<sup>10</sup>**  
“Preference will be given to African American students who demonstrate financial need.”

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<sup>9</sup> Kelley School of Business website, “Scholarships,” Howard Jones Scholarship; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=93>; archived at <https://web.archive.org/web/20240712181336/https%3A%2F%2Fkelley.iu.edu%2Fprograms%2Fundergrad%2Fscholarships%2Fscholarship-details.html%3Fid%3D93>.

<sup>10</sup> Indiana University Indianapolis website, “Scholarships,” Herron School of Art + Design, “Apply for Scholarships and Financial Aid,” Alpha Blackburn Scholarship for the Arts; found at <https://kelley.iu.edu/programs/undergrad/scholarships/scholarship-details.html?id=649>; archived at <https://web.archive.org/web/20240712180917/https%3A%2F%2Fkelley.iu.edu%2Fprograms%2Fundergrad%2Fscholarships%2Fscholarship-details.html%3Fid%3D649>.

**Alpha Blackburn Scholarship for the Arts**  
**Award amount: Up to \$500**

The Alpha Blackburn Scholarship for the Arts was established in 2013 to support undergraduate scholarships for full-time incoming freshmen enrolled in any area of study at Herron School of Art and Design. The recipient must have a minimum GPA of 3.0 and demonstrate outstanding talent, as determined by Herron faculty. Special consideration will be given to underrepresented populations including, but not limited to, financially challenged students and/or students with diverse cultural experiences. Preference will be given to African American students who demonstrate financial need.

- **Lilly Family School of Philanthropy | Alpha Blackburn Scholarship for the Arts**<sup>11</sup>

“The Hearst Minority Fellowship allows two minority students each year to come to Indianapolis to study philanthropy through the M.A. degree program.”

### **Hearst Minority Fellowship Application**

Eligibility:

- Applicants must be a member of a group that is traditionally under-represented
- Applicants must hold a Bachelor’s Degree
- Applicant must be a recent graduate, scholar or active volunteer or nonprofit practitioner
- Applicants must apply and be admitted to either the Lilly Family School of Philanthropy M.A. in Philanthropic Studies Program or the School of Public and Environmental Affairs MPA in Nonprofit Management Program

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<sup>11</sup> Indiana University Indianapolis website, “Admissions,” Lilly Family School of Philanthropy, “Scholarship opportunities: Graduate students” found at

<https://philanthropy.indianapolis.iu.edu/admissions/financial-aid-scholarships/ma/index.html>;  
archived at

<https://web.archive.org/web/20240712181648/https://philanthropy.indianapolis.iu.edu/admissions/financial-aid-scholarships/ma/index.html>.

Eligibility requirements found <https://philanthropy.indianapolis.iu.edu/admissions/financial-aid-scholarships/ma/hearst-apply.html> archived at

<https://web.archive.org/web/20240715012715/https://philanthropy.indianapolis.iu.edu/admissions/financial-aid-scholarships/ma/hearst-apply.html>.

- **School of Science | Biology Tah-Tah Self Achievement Award**<sup>12</sup>

“Tahnesia ‘Tah-Tah’ Towner was a strong, independent young woman who studied biology in pursuit of her dream to be a pediatrician. Upon her passing, friends and family chose to keep Tah-Tah's spirit alive by establishing this award, which is made to an African-American female who is pursuing a medical career.”

- **School of School of Science | McBride Family Equity Scholarship**<sup>13</sup>

“The McBride Family Equity Scholarship was established by Bill and Karen Christensen, friends of the School of Science, IUPUI, and Indiana University. This scholarship supports full-time undergraduate students in the School of Science who are pursuing a major in a STEM discipline. . . . Preference will be given to African American students who are also first-generation college students.”

- **School of Liberal Arts | Matthew Crenshaw Africana Studies Scholarship**<sup>14</sup>

“This scholarship supports a liberal arts undergraduate student who is pursuing a major, minor, or certificate in Africana Studies with a minimum GPA of 2.5 on a 4.0 scale with at least one semester or

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<sup>12</sup> Indiana University Indianapolis website, “Admissions,” Financial Aid and Scholarships, Scholarships, “Biology Tah-Tah Self Achievement Award” found at [https://science.indianapolis.iu.edu/admissions/fin-aid-scholarships/scholarships/\\_scholarships/biology-tah-tah-self-achievement-award.html](https://science.indianapolis.iu.edu/admissions/fin-aid-scholarships/scholarships/_scholarships/biology-tah-tah-self-achievement-award.html); archived at [https://web.archive.org/web/20240715013657/https%3A%2F%2Fscience.indianapolis.iu.edu%2Fadmissions%2Ffin-aid-scholarships%2Fscholarships%2F\\_scholarships%2Fbiology-tah-tah-self-achievement-award.html](https://web.archive.org/web/20240715013657/https%3A%2F%2Fscience.indianapolis.iu.edu%2Fadmissions%2Ffin-aid-scholarships%2Fscholarships%2F_scholarships%2Fbiology-tah-tah-self-achievement-award.html).

<sup>13</sup> Indiana University Indianapolis website, Admissions, Scholarships, “McBride Family Equity Scholarship,” found at [https://science.indianapolis.iu.edu/admissions/fin-aid-scholarships/scholarships/\\_scholarships/mcbride-family-equity-scholarship.html](https://science.indianapolis.iu.edu/admissions/fin-aid-scholarships/scholarships/_scholarships/mcbride-family-equity-scholarship.html); archived at [https://web.archive.org/web/20240715003141/https://science.indianapolis.iu.edu/admissions/fin-aid-scholarships/scholarships/\\_scholarships/mcbride-family-equity-scholarship.html](https://web.archive.org/web/20240715003141/https://science.indianapolis.iu.edu/admissions/fin-aid-scholarships/scholarships/_scholarships/mcbride-family-equity-scholarship.html).

<sup>14</sup> Indiana University Indianapolis website, Admissions, Scholarships, “Matthew Crenshaw Africana Studies Scholarship,” found at <https://liberalarts.indianapolis.iu.edu/admissions/scholarships/Matthew-Crenshaw-Africana-Studies-Scholarship.html>; archived at <https://web.archive.org/web/20240712182442/https%3A%2F%2Fliberalarts.indianapolis.iu.edu%2Fadmissions%2Fscholarships%2FMatthew-Crenshaw-Africana-Studies-Scholarship.html>.

coursework remaining after the scholarship awarded. Preference given to students of Africana American or minority population decent [*sic*].”

- **School of Liberal Arts | Turner-Wright Scholarship in Africana Studies**<sup>15</sup>

“This award supports scholarships for undergraduates in the Africana Studies Program. It was created by Marie Turner-Wright to honor the important people in her life and to share her appreciation of African American contributions to society. The Turner-Wright Scholarship in African American Studies encourages students to study the full spectrum of Africa and the African Diaspora.”

### **Criteria**

Recipients will be enrolled full time, and be a sophomore, junior or senior with at least one semester of coursework remaining after the scholarship is awarded. Recipients must be majoring or minoring in Africana Studies and this may be expanded to those enrolled in certificate programs in Africana Studies. Recipients must maintain a minimum cumulative GPA of a 3.0 on a 4.0 scale. The Scholarship may be received in consecutive years by the same recipient. Preference will be given to students of African American decent.

- **CVR’s Barrier-Busting Scholarship**<sup>16</sup>

“The CVR Diversity in Advertising Scholarship is made possible by the CVR Diversity in Advertising Fund, a donor-advised fund of the Central Indiana Community Foundation, established to help create equitable opportunity for students of color pursuing higher education in advertising, communications, and public relations. . . . In response to the COVID-19

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<sup>15</sup> Indiana University Indianapolis website, “Admissions,” Scholarships, “Turner-Wright Scholarship in Africana Studies,” found at <https://liberalarts.indianapolis.iu.edu/admissions/scholarships/Turner-Wright%20Scholarship%20in%20African%20American%20Studies.html>; archived at <https://web.archive.org/web/20240715015022/https://liberalarts.indianapolis.iu.edu/admissions/scholarships/Turner-Wright%20Scholarship%20in%20African%20American%20Studies.html> .

<sup>16</sup> Indiana University Indianapolis website, “Admissions,” Scholarships, “CVR’s Barrier-Busting Scholarship,” found at <https://liberalarts.indianapolis.iu.edu/admissions/scholarships/CVRs-Barrier-Busting-Scholarship.html>; archived at <https://web.archive.org/web/20240712183000/https://liberalarts.indianapolis.iu.edu/admissions/scholarships/CVRs-Barrier-Busting-Scholarship.html>.



pandemic and renewed calls for social and racial justice, CVR partnered with CICF – the community foundation serving Marion and Hamilton Counties – in 2020 to shape and advise their philanthropy with a focus on racial equity in the advertising field.”

### **Selection Criteria**

Eligible recipient must be in good academic standing, enrolled full-time as a sophomore, junior, or senior pursuing a major in communication studies, journalism, applied theater, television, and film studies, or public relations in the School of Liberal Arts or graphic design in other schools on the IUPUI campus. Special consideration given to underrepresented populations, including but not limited to financially challenged students as determined by University financial need criteria, and/or students with diverse cultural experiences. Preference for students who identify as Black, Indigenous and people of color ("BIPOC") or other historically marginalized populations. Multiple recipients may be selected.

### **C. Race-Based Scholarships at IU’s McKinney School of Law**

The website of IU’s McKinney School of Law (“MSL”) promotes the following race-based scholarship programs administered by KSB.

- **Murieta S. Covington Memorial Scholarship**<sup>17</sup>

“This scholarship was established in 2022 by Brian R. Prince II, '15, in memory of his mother, Murieta S. Covington, '04. It is awarded to J.D. students with special consideration given to students of underrepresented populations or students with diverse cultural experiences, with a preference for African American students who have at least one dependent.”

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<sup>17</sup> IU Robert H. McKinney School of Law website, Giving, “Scholarships Make All The Difference,” Scholarships & Awards List, “Murieta S. Covington Memorial Scholarship” radio button, found at <https://mckinneylaw.iu.edu/giving/scholarships/scholarships-list.html>; archived at <https://web.archive.org/web/20240712183132/https%3A%2F%2Fmckinneylaw.iu.edu%2Fgiving%2Fscholarships%2Fscholarships-list.html> .

- **McKinney School of Law Diversity Scholarship**<sup>18</sup>

“This scholarship was established in 2020 and awarded to J.D. students with a preference for students of color. It is made possible because of the generous donations of alumni and friends of the law school.”

- **Lefstein Legacy Scholarship**<sup>19</sup>

“A scholarship is awarded to a student who has demonstrated a commitment to public service, including especially a willingness to assist persons who are economically disadvantaged, and a scholarship is also awarded to a minority student in an effort to promote diversity within the student body.”

- **Ronald W. Polston Scholarship**<sup>20</sup>

“A scholarship is awarded to a student who has demonstrated a commitment to public service, including especially a willingness to assist persons who are economically disadvantaged, and a scholarship is also awarded to a minority student in an effort to promote diversity within the student body.”

- **Douglas L. Tillman Legal Scholarship**<sup>21</sup>

“This scholarship was established in 2021 by Douglas L. Tillman, '77. It is awarded to first-year J.D. students with a preference for African American students.”

### **The Scholarships Listed Above Violate the Law**

IU violates Title VI by conditioning eligibility for or providing preferential treatment for the foregoing scholarships at KSB, IUI and MSL based on a student’s race or national origin. And because IU is a public institution, its offering and administering of the scholarships listed here also violates the Equal Protection Clause of the Fourteenth Amendment.<sup>22</sup>

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<sup>18</sup> *Id.*, “McKinney School of Law Diversity Scholarship” radio button.

<sup>19</sup> *Id.*, “Lefstein Legacy Scholarship” radio button.

<sup>20</sup> *Id.*, “Ronald W. Polston Scholarship” radio button.

<sup>21</sup> *Id.*, “Douglas L. Tillman Legal Scholarship” radio button.

<sup>22</sup> Although your office does not enforce Title II of the Civil Rights Act of 1964, that statute makes it unlawful to discriminate based on race or color in a place of “public accommodation,” which IUC is. 42 U.S.C. § 2000(a)(a). The scholarships listed here also violate Indiana’s civil rights statute, which makes equal education and equal access to and use of public

Title VI prohibits intentional discrimination based on 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 funded programs,” and thus applies to universities receiving federal financial assistance). As IU receives federal funds,<sup>23</sup> it is subject to Title VI.

As you know, in *Students for Fair Admissions Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181 (2023), the Supreme Court declared that “[e]liminating racial discrimination means eliminating all of it . . . . The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal.” *Id.* at 34 (cleaned up). “Distinctions between citizens solely because of their ancestry [including race] are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Id.* at 35.

In discrimination cases, it does not matter if a recipient of federal funding discriminates to advance a benign “intention” or “motivation.” *Bostock v. Clayton Cty.*, 590 U.S. 644, 661 (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.”) “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*, 600 U.S. 289 (Gorsuch, J., concurring). Thus, regardless of IU’s reasons for sponsoring, promoting and administering these scholarships, it is violating Title VI by doing so.

As noted, because IU is a public institution, its creation, sponsorship and promotion of discriminatory scholarships also violates the Equal Protection Clause of the Fourteenth Amendment. Any exception to the Constitution’s demand for equal protection must survive the “daunting two-step examination known as strict scrutiny,” *id.* at 207, and the scholarships at issue here flunk that exacting test. Under strict scrutiny, suspect classifications “are constitutional only if they are narrowly tailored measures that further compelling governmental interests.” *Adarand Constructors v. Pena*, 515 U.S. 200, 227 (1995). The government bears the burden to prove that

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accommodations enforceable civil rights in the State of Indiana. IC 22-9-1-2. Finally, these scholarships defy IU’s own non-discrimination policy. *See*, <https://bit.ly/3VVdWOY>; archived at <https://web.archive.org/web/20240712183648/http://web.archive.org/screenshot/https://bit.ly/3VVdWOY>.

<sup>23</sup> *See*, e.g., <https://vpur.iu.edu/news-archive/bills/fed06-14-24.html>; archived at <https://web.archive.org/web/20240712183501/https://vpur.iu.edu/news-archive/bills/fed06-14-24.html>.

its reasons for utilizing racial classification are “clearly identified and unquestionably legitimate.” *Richmond v. J. A. Croson Co.*, 488 U.S. 469, 505 (1989). Here, the government cannot carry that burden.

A “racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification.” *Shaw v. Reno*, 509 U.S. 630, 643-44 (1993). IU cannot demonstrate that restricting eligibility for scholarships based on their race or national origin serves any legitimate governmental purpose, let alone an extraordinary one. Classifications based on such immutable characteristics “are so seldom relevant to the achievement of any legitimate state interest” that government policies “grounded in such considerations are deemed to reflect prejudice and antipathy—a view that those in the burdened class are not as worthy or deserving as others.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

Indeed, the Supreme Court has recognized only two interests compelling enough to justify racial classifications. The first is remedying the effects of past *de jure* segregation or discrimination in the **specific** industry and locality at issue **in which the government played a role**, and the second is “avoiding imminent and serious risks to human safety in prisons, such as a race riot.” *Students for Fair Admissions*, 600 U.S. at 207 (citation omitted).<sup>24</sup> Neither applies here.

To the extent the scholarships listed above are intended to achieve racial or ethnic balance, such an objective has been “repeatedly condemned as illegitimate” and “patently unconstitutional” by the Supreme Court. *Parents Involved in Cmty. Sch.*, 551 U.S. at 726, 730. And, irrespective of whether the scholarships’ classifications based on immutable characteristics further a compelling interest, a race-conscious program must be based on “individualized consideration,” and race must be used in a “nonmechanical way.” *Grutter v. Bollinger*, 539 U.S. 306, 334 (2003).

Here, the race-based eligibility criteria are, by their terms, mechanically applied. If applicants do not meet the blunt racial or national-origin requirements set out above, they are either not eligible for these scholarships at all or are not “preferred.” Such “preferences” are unlawful. *Students for Fair Admissions, Inc.* 600 U.S. at 220 (“We have time and again forcefully rejected the notion that government actors may intentionally allocate preference to those who may have little in common with one another but the color of their skin”; quotation and cite omitted).

Finally, for a policy to survive narrow-tailoring analysis, the government must show “serious, good faith consideration of workable race-neutral alternatives,” *Grutter*, 539 U.S. at 339, and that “no workable race-neutral alternative” would achieve the purported compelling interest.

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<sup>24</sup> Until recently the courts represented a third interest, “the attainment of a diverse student body,” see *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720-22 (2007), but that was substantively overruled by *Students for Fair Admissions. Students for Fair Admissions*, 600 U.S. at 233 (Thomas, J. concurring).

*Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 312 (2013). There is no reason to believe that any such alternatives have been contemplated in connection with any of the scholarships here.

Because IU’s racial or ethnic requirements for the scholarships listed above are presumptively invalid, and in the absence of any compelling government justification for such invidious discrimination, its use of such criteria violates federal and state civil rights statutes and constitutional equal protection guarantees.

### **OCR Has Jurisdiction**

OCR has jurisdiction over this complaint. IU is a public institution and a recipient of federal funds. It is therefore liable for violations of Title VI and the Equal Protection Clause.

### **The Complaint is Timely**

This complaint is timely brought because it includes allegations of discrimination based on race, color or national origin that appear to be ongoing.

### **Request for Expedited 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. This is true regardless of which race suffers discrimination. Race- and nationality-based admissions preferences “fly in the face of our colorblind Constitution and our Nation’s equality ideal” and “are plainly—and boldly—unconstitutional.” *Students for Fair Admissions*, 600 U.S. at 287 (Thomas, J., concurring).

Because the discriminatory scholarship eligibility criteria outlined above are presumptively invalid, and because IU cannot show any compelling government justification for those restrictions, IU’s limitation of scholarships based on race and national origin violates federal civil rights statutes and constitutional equal protection guarantees.

The Office for Civil Rights has the power and obligation to investigate IU’s role in creating, supporting and promoting these scholarships 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. “The way to stop discrimination,” the Supreme Court has taught, “is to stop discriminating.” *Parents Involved in Cmty. Sch.*, 551 U.S. at 748.

We request that OCR expedite the investigation of this complaint given the large number of discriminatory scholarships challenged and the systemic failure at IU to adhere to constitutional and statutory nondiscrimination requirements.

U.S. Dept. of Education, Office for Civil Rights  
Civil Rights Complaint – Indiana University  
July 15, 2024  
Page 14 of 14

Accordingly, we respectfully ask that the Department of Education’s Office for Civil Rights open a formal investigation, impose such remedial relief as the law permits for the benefit of those who have been illegally excluded from these IU scholarships based on discriminatory criteria, and ensure that all ongoing and future programming through IU comports with the Constitution and federal civil rights laws.

Very truly yours,

Ronald D. Coleman  
*Director of Litigation*  
The Equal Protection Project  
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