The Equal Protection Project
18 Maple Ave 280
Barrington, RI 02806

October 13, 2025

Hon. Linda E. McMahon
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

In re: ED-2025-SCC-0382

Dear Secretary McMahon:

This letter is in response to the Education Department's request for public input on the proposed addition of a new "Admissions and Consumer Transparency Supplement" (ACTS) survey component to the Department's Integrated Postsecondary Education Data System.

The Equal Protection Project (EPP), a project of the non-profit Legal Insurrection Foundation, is dedicated to the fair treatment of all persons without regard to race, ethnicity, or sex. EPP's guiding principle is that there is no "good" form of unlawful discrimination, and that the remedy for unlawful discrimination is never more unlawful discrimination. Since its creation, EPP has filed civil rights complaints against more than one hundred twenty governmental or federally funded educational entities that have engaged in alleged discriminatory conduct in more than five hundred fifty programs.

Based on its experience, EPP suggests that there are additional objective characteristics the Department can use to identify institutions that have a high risk of noncompliance with Title VI. In addition, the Department should include open-enrollment institutions, which are also at risk of noncompliance with respect to scholarship awarding practices.

1. There are additional characteristics the Department should incorporate into ACTS

In our work investigating and filing civil rights complaints with your Department, EPP has identified several ways, based on a manipulation of language, that educational institutions attempt to evade scrutiny for race-based programs.

For example, in a 2024 report titled "How Higher Ed is Rebranding DEI Departments,"[1] one of EPP's partner projects, CriticalRace.org, documented campus efforts to hide their DEI efforts through rebranding and other tactics:

- Out of the twenty-six universities the report evaluated in states where anti-DEI laws have been passed, ten claim to have eliminated their DEI offices (and related activities), but have replaced them with new offices that have similar programming and/or personnel.

- New offices such as the "Office of Access and Engagement" and the "Division of Access, Opportunity, and Diversity" have simply replaced former DEI offices, but continued DEI initiatives and programming.

- The ten universities that have enacted this change include: University of Alabama, Florida State University, University of Iowa, University of Northern Iowa, Oklahoma State University, South Dakota State University, University of South Dakota, University of Tennessee (System-wide), University of Utah, and Utah Valley University.

A common sentiment throughout Universities is the statement of a University of Texas Tyler employee who said, "No, you can still do it. You just have to be creative," regarding DEI practices at the school.[2] This kind of "creativity" to get around prohibitions on DEI includes replacing DEI terminology with more opaque phrasing like "Inclusion and Belonging," "Inclusive Culture," "Belonging, Respect, and Fairness," and "Opportunity Strategy." Institutions are also trying with acronym flips like "Inclusion, Equity, and Diversity" (IED).

In addition to the information proposed be added to the ACTS survey component, your Department should consider also including survey questions designed to root out DEI rebranding efforts that attempt to circumvent scrutiny for continuing Title VI noncompliance.

2. Open enrollment institutions are high-risk of unlawful scholarship awards

As your Department notes in the Notice regarding the proposed changes to the ACTS survey component, open-access institutions, such as community colleges, have minimal or no risk for civil rights noncompliance in admissions because they admit all (or the vast majority of) students who apply. However, these institutions still present a risk of noncompliance in awarding scholarships and other benefits.

For example, on September 18, 2025, EPP filed a civil rights complaint with your Department's Office for Civil Rights against Craven Community College "for discrimination in five (5) scholarships and programs based on race, color, or national origin, in violation of Title VI,

[1] https://cdn.criticalrace.org/app/uploads/2024/09/How-Higher-Ed-is-Rebranding-DEI-Departments.pdf
[2] *Id.*

and based on sex, in violation of Title IX."[3] The complaint uses Craven's own websites to demonstrate the discriminatory nature of the programs.

These discriminatory programs include:

- Herbert Lee and Rosa Bell Perry Memorial Scholarship (blacks only).
- R. Scott and Lisa Ralls Leadership Endowment (females or black males only).
- Coastal Women's Forum Scholarship (females only).
- New Bern Woman's Club Educational Scholarship (females only).
- P.E.O. Program for Continuing Education Scholarship (females only).

The scholarships identified above violate either Title VI, by discriminating on the basis of race, skin color, or national origin, or Title IX, by discriminating on the basis of sex, or both. Furthermore, because Craven is a public institution, such discrimination also violates the Equal Protection Clause of the Fourteenth Amendment.

Several dozen other OCR complaints filed by us regarding discriminatory scholarships can be viewed on our website.[4]

In addition to the information proposed be added to the ACTS survey component, your Department should consider also including survey questions designed to identify open enrollment institution scholarships that discriminate on the basis of race or sex.

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Accordingly, EPP respectfully asks that the Department of Education include additional objective characteristics in the ACTS survey component to identify institutions that have a high-risk of noncompliance with Title VI through DEI rebranding efforts, and expand the scope of institutions required to complete the ACTS component to include open-enrollment institutions, which are at-risk of noncompliance with respect to scholarship awarding practices.

Respectfully submitted,

Timothy R. Snowball, Esq.
Senior Attorney
tim@legalinsurrection.com

William A. Jacobson, Esq.
President
contact@legalinsurrection.com

[3] https://equalprotect.org/wp-content/uploads/2025/09/OCR-Complaint-Craven-Community-College.pdf
[4] https://equalprotect.org/case/