



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
18 MAPLE AVE. #280
BARRINGTON, RI 02806
www.EqualProtect.org

August 14, 2024

BY EMAIL (OCR.Chicago@ed.gov; Miguel.Figueras@ed.gov; Melissa.Katt@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: Letter in response to dismissal of complaint against Illinois Mathematics and Science Academy – OCR Case No. 05-24-1516

Dear Ms. Katt:

We write in response to your letter of August 5, 2024 stating that the U.S. Department of Education’s Office of Civil Rights (“OCR”) is dismissing our complaint against the Illinois Mathematics and Science Academy (“IMSA”) on the grounds that IMSA “does not receive federal financial assistance from the Department of Education,” and therefore that “OCR lacks personal jurisdiction to investigate [our] complaint of race discrimination” there.

Respectfully, your analysis is inconsistent with applicable regulations, under which OCR has jurisdiction to investigate this complaint.

Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. Thus, Title VI applies to (1) programs or activities that (2) receive federal funding. *Id.*

The term “program or activity” means “all of the operations of ... [an] agency ... of a State ... government” to which the federal assistance is extended. 42 U.S.C. § 2000d-4a(1)(A). Thus, Title VI applies to *all* operations of *any* recipient of federal financial assistance.

As we indicated in our complaint, IMSA is an executive-branch agency of the State of Illinois and a political subdivision of the Illinois State Board of Higher Education¹ that operates a residential public high school in Aurora, Illinois for “academically talented students in the 10th through 12th grades.”² IMSA provides various “youth outreach,” “student enrichment” and “summer camp” programs,³ including the PROMISE program (an acronym that stands for “Providing Opportunities for Math and Science Enrichment”).⁴ The PROMISE program includes a 10-day summer residential program for students who successfully completed 8th grade called the “Summer Enrichment in Academics in Mathematics and Science” program (“PROMISE-SEAMS program”).⁵

Since the PROMISE-SEAMS program is an operation of IMSA, the “program or activity” criteria of Title VI is satisfied.

The “federal funding” requirement of Title VI has also been met. According to IMSA’s PROMISE program brochure –a portion of which is reproduced in the screenshot below –IMSA secures funding in part from federal government grants.⁶ See 34 C.F.R. § 100.13(i) (“The term recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary.”)

IMSA is funded largely by the State of Illinois, providing support for on-campus and statewide programs and services. IMSA also secures additional program support from local, state, and federal government grants, as well as private donations and grants through the IMSA Fund for Advancement of Education (IMSA Fund).

¹ See <https://www.ibhe.org/HigherEdOrgChart.html> [https://archive.is/WeC2V] (accessed on Aug. 11, 2024).

² See <https://www.imsa.edu/discover-imsa/> [https://archive.is/cKXXi] (accessed on Aug. 11, 2024).

³ *Id.*

⁴ See <https://www.imsa.edu/youth-outreach/promise-program/frequently-asked-questions-promise-program/> [https://archive.is/3Ro7n] (accessed on Aug. 11, 2024).

⁵ *Id.*

⁶ See https://www.imsa.edu/wp-content/uploads/2018/07/IMSA_PROMISEprogram_Brochure-final.pdf [https://archive.is/zi9a3] (accessed on Aug. 11, 2024).

Additionally, the Illinois State Board of Higher Education, of which IMSA is a part, is a recipient of federal financial assistance.⁷

While your letter states that IMSA does not receive federal financial assistance “from the Department of Education,” Title VI’s applicability does not turn on which federal agency provides the funding, but simply whether the entity receives federal financial assistance at all. *See* 42 U.S.C. § 2000d (“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity *receiving Federal financial assistance*”) (emphasis added). Further, the U.S. Department of Justice’s Title VI Legal Manual provides that “[a]n entity may receive grant money directly from an agency *or indirectly through another entity*. In either case, the direct recipient as well as the secondary or subrecipient *are considered to have received federal funds*” (emphasis added).⁸

To the extent the OCR Manual requires funding from the Department of Education for personal jurisdiction, it is inconsistent with applicable federal regulations, which are controlling. Indeed, 34 C.F.R. 100.2 provides that OCR is empowered to enforce violations of Title VI as long as “federal financial assistance is authorized to be extended to a recipient under a law administered by the Department [of Education]” – it does *not* require that the Department of Education have provided the funds.

Accordingly, we respectfully request that the Department of Education’s Office for Civil Rights reconsider and reverse its decision to dismiss our complaint against IMSA, investigate IMSA’s role in the Summer 2024 PROMISE-SEAMS program, and impose remedial relief as the law permits for the benefit of those who were illegally excluded from that program based on racially discriminatory criteria.

Respectfully submitted,

William A. Jacobson, Esq.
President
Legal Insurrection Foundation
The Equal Protection Project
Contact@legalinsurrection.com

⁷ *See* <https://www.usaspending.gov/search/?hash=4cc6a6476230c8d69555d51507a40cae> [<https://archive.is/Aa7uG>] (accessed on Aug. 11, 2024).

⁸ *See* <https://www.justice.gov/crt/fcs/T6manual5> [<https://archive.is/nTi68>] (accessed on Aug. 11, 2024).