



THE EQUAL PROTECTION PROJECT
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BY EMAIL (OCR.NewYork@ed.gov)

U. S. Department of Education
Office for Civil Rights – New York Office
26 Federal Plaza, Suite 31-100
New York, NY 10278-9991

Re: Civil Rights Complaint Against Ithaca College for Race- and Color-Based Scholarships

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 Ithaca College for creating, supporting and promoting two racially discriminatory scholarships for undergraduate students. As detailed and documented below, only undergraduate "students of color" are allowed to participate in these scholarship programs. Applicants who do not meet the race- and color-based criterion are ineligible for them.

Because the scholarships discriminate based on race and skin color, they violate Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations.¹

The Scholarships

Ithaca College maintains a “BIPOC Unity Center”² whose goals include “empowering IC students to resist and interrupt systems of oppression” and “foster[ing] BIPOC student belonging and brave spaces to be seen, be valued, and be heard.”³

Through the BIPOC Unity Center, Ithaca College awards two scholarships per academic year – the Rashad G. Richardson “I Can Achieve” Memorial Scholarship (“Richardson Scholarship”) and the African-Latino Society Memorial Scholarship (“ALS Scholarship”).⁴

According to an informational page on the Ithaca College website that describes both scholarships, the Richardson Scholarship “is intended to recognize a high-achieving, student of color at Ithaca College,” and that “[t]he ideal candidate will have made significant contributions toward improving the quality of life for PoC [Person of Color] youth in the Tompkins County community.”⁵

Similarly, the ALS Scholarship “is awarded to a student of color at Ithaca College who has made significant contributions to the Ithaca College campus,” and “aims to honor a student who has worked to influence and promote the academic, political, social, economic, and cultural welfare of students of color at IC and the greater Ithaca community.”⁶

The webpage states that both of these scholarships will be awarded for the 2024-2025 academic year.⁷ A screenshot of the informational webpage is reproduced below:

¹ 42 U.S.C. § 2000d et seq.; 28 C.F.R. Part 100.

² “BIPOC” is an acronym that stands for “Black, Indigenous [and] People of Color.” See <https://ithaca.campuslabs.com/engage/organization/bipocunitycenter> [https://archive.is/xNyce] (accessed on Jun. 23, 2024).

³ *Id.*

⁴ See <https://www.ithaca.edu/bipoc-unity-center/empowerment-bipoc-unity-center> [https://archive.is/gcSeT] (accessed on Jun. 23, 2024).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

Annual Scholarships

The BIPOC Unity Center awards two scholarships per academic year:

The Rashad G. Richardson “I Can Achieve” Memorial Scholarship (\$3,000.00) is intended to recognize a high-achieving, student of color at Ithaca College. The ideal candidate will have made significant contributions toward improving the quality of life for PoC youth in the Tompkins County community.

The African-Latino Society (ALS) Memorial Scholarship (\$1,200.00) is awarded to a student of color at Ithaca College who has made significant contributions to the Ithaca College campus. This scholarship aims to honor a student who has worked to influence and promote the academic, political, social, economic, and cultural welfare of students of color at IC and the greater Ithaca community.

The application can be found here: (<http://tinyurl.com/BIPOC-SCHOLARSHIP>)

*These scholarships will be awarded for the 2024-2025 academic year. **

An August 2023 guidance issued by OCR provides that “[i]n determining whether an opportunity to participate is open to all students, OCR may consider, for example, whether advertisements or other communications would lead a reasonable student, or a parent or guardian, to understand that all students are welcome to participate.”⁸ Here, any reasonable person would understand that all students are *not* welcome to participate in the Richardson and ALS Scholarships.

Ithaca College’s Richardson and ALS Scholarships Violate 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 department, agency, special purpose district, or other instrumentality of a State or of a local government” and each state government agency “to which the assistance is extended.” 42 U.S.C. § 2000d-4a(1)(A), (B). As Ithaca College receives federal funds,⁹ it is subject to Title VI.¹⁰

⁸ *See* <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf> [<https://archive.is/5wWb1>] (accessed on Jun. 23, 2024) at 11.

⁹ *See* <https://tinyurl.com/mr2hzfuj> [<https://tinyurl.com/yeynrj6x>] (accessed on Jun. 23, 2024).

¹⁰ 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 Ithaca College. *See* 42 U.S.C. § 2000a(a). Similarly, the Richardson and ALS Scholarships’ race- and color-based eligibility criteria violate the civil rights protections of the New York State Human Rights Law, *see* N.Y. Exec. L. § 296, the Human Rights chapter of the Ithaca City Code, *see* Ithaca City Code §

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*, 600 U.S. 181, at 290 (2023) (Gorsuch, J., concurring) (internal quotation marks and brackets omitted).

Thus, regardless of Ithaca College’s reasons for creating, offering and promoting the Richardson and ALS Scholarships, it is violating federal civil rights statutes by doing so.

OCR Has Jurisdiction

OCR has jurisdiction over this complaint. Since Ithaca College is a recipient of federal funds, it is 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 sex that occurred within the last 180 days and is ongoing. As noted above, the Ithaca College website indicates that the Richardson and ALS Scholarships are being offered for the 2024-2025 academic year.¹¹

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 Ithaca College’s role in creating, offering and promoting the Richardson and ALS Scholarships – and to discern whether Ithaca College is engaging in such discrimination in its other activities.

215-4, as well as Ithaca College’s own non-discrimination policy. See <https://tinyurl.com/ypzxfvtd> [https://archive.is/CSpbT] (accessed on Jun. 23, 2024).

¹¹ See <https://www.ithaca.edu/bipoc-unity-center/empowerment-bipoc-unity-center> [https://archive.is/gcSeT] (accessed on Jun. 23, 2024).

This is particularly important here because this is not the first time that Ithaca College has engaged in blatant race- and color-based discrimination. In 2022, a separate OCR complaint was brought against Ithaca College for its sponsorship of a racially discriminatory program called the Martin Luther King (“MLK”) Scholars Program. *See* OCR Case No. 02-21-2073. That complaint alleged that the MLK Scholars Program restricted eligibility to “PoC students” (students of color) and illegally excluded students who did not fall within that category. By letter dated November 7, 2022, OCR dismissed the complaint on the grounds that, during OCR’s investigation, Ithaca College modified the eligibility criteria for the MLK Scholars Program to remove the racially discriminatory requirement thereby rendering the OCR complaint “moot.”

Less than two years later, Ithaca College – under the apparent belief that U.S. Department of Education’s OCR will not take any meaningful action against it for doing so – not only continues to engage in flagrantly illegal race- and color-based discrimination, but has expanded its racially exclusionary programming by creating and promoting the undergraduate scholarships at issue here.

It is therefore of paramount importance that this time around OCR impose remedial relief that will not only hold Ithaca College accountable for its unlawful conduct but that also will send a powerful deterrent message to it and other institutions that invidious discrimination will not be tolerated. 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 the Richardson and ALS Scholarships based on race- and color-based eligibility criteria, and to ensure that all ongoing and future programming through Ithaca College comport with federal civil rights laws.

Sincerely,

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President
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The Equal Protection Project
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