



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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BY EMAIL (OCR.NewYork@ed.gov)

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

Re: Civil Rights Complaint Against Rochester Institute of Technology
Regarding Scholarship Discriminating Based On Sex and Gender Identity

Dear Sirs or Madams:

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.¹ 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 unlawful discrimination in any form.

We make this civil rights complaint against the Rochester Institute of Technology ("RIT") for sex-based discrimination in violation of Title IX. Specifically, RIT offers, administers, funds,

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

and promotes the single-sex, female-only “Women in STEM Award”² that is one of six scholarships that form RIT’s High School Awards Program offering “an undergraduate scholarship valued at \$76,000 (\$19,000 per year).” The Women in STEM Award is offered exclusively to an “outstanding **female, female-identifying, or non-binary student** who has demonstrated high achievement, ability, and interest in science, computing, robotics, and/or math” (see screenshot below).

Women in STEM Award -

In addition to general criteria, student nominees must be an outstanding female, female-identifying, or non-binary student who has demonstrated high achievement, ability, and interest in science, computing, robotics, and/or math.

This may include:

- Superior grades in science, computing, and math-related classes
- Interest in pursuing college-level course work in areas such as science, math, computing, engineering, technology, and health sciences

In other words, students who are **not** female, “female-identifying” or “non-binary” are excluded from this scholarship and discriminated against based on their sex. This policy is in violation of RIT’s Nondiscrimination policy³ and as set forth below, a violation of law.

RIT’s Women in STEM Award Violates the Law

In violation of Title IX, RIT’s Women in STEM Award—as the program name indicates and the eligibility restrictions confirm—is offered exclusively to female, “female-identifying” or

² Rochester Institute of Technology Website, “High School Awards Program,” Women in STEM Award. Found at <https://www.rit.edu/admissions/hsawards#award-criteria>; archived link: <http://web.archive.org/web/20240228060232/https://www.rit.edu/admissions/hsawards#award-criteria>.

³ “**Nondiscrimination Statement:** RIT does not discriminate. RIT promotes and values diversity within its workforce and provides equal opportunity to all qualified individuals regardless of race, color, creed, age, marital status, sex, gender, religion, sexual orientation, gender identity, gender expression, national origin, veteran status, or disability.” Rochester Institute of Technology website. Found at <https://www.rit.edu/nondiscrimination>; archived at <https://web.archive.org/web/20240709203945/https://www.rit.edu/nondiscrimination>.

“non-binary” students. As such, it illegally excludes and discriminates against non-female students based on both their sex (male) and gender identity (a student who is a biological male and male-identifying is not eligible).

By this letter, we request that OCR investigate RIT for sex-based discrimination in violation of Title IX’s prohibition of such discrimination.⁴

Title IX makes it unlawful to discriminate based on sex in education. That statute provides that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. §1681(a). For this reason, a school may not administer scholarships, fellowships or other forms of financial assistance that impose a preference or restriction based on sex, with limited exceptions not applicable here. 34 C.F.R. § 106.37(a).

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).

Irrespective of whether the scholarships’ classifications based on immutable characteristics further a compelling interest, a discriminatory program must be based on “individualized consideration,” and the criterion must be used in a “nonmechanical way.” *Grutter v. Bollinger*, 539 U.S. 306, 334 (2003). Concerning Title IX in particular, OCR has stated that a school may not justify discrimination for purposes of addressing an “imbalance” in participation by relying on national statistics of limited participation in a discriminatory program. Rather, it “must instead clearly articulate why the particular sex-based scholarship or program was necessary to overcome the conditions in its own education program or activity which resulted in limited participation **therein.**”⁵

⁴ OCR guidance includes gender-identity discrimination as actionable under Title IX. “Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*,” 86 Fed. Reg. 32637 (June 22, 2021) (found at <https://www2.ed.gov/about/offices/list/ocr/docs/202106-titleix-noi.pdf>) (“Addressing discrimination based on sexual orientation and gender identity . . . fits squarely within OCR’s responsibility to enforce Title IX’s prohibition on sex discrimination”).

⁵ OCR “Questions and Answers Regarding OCR’s Interpretation of Title IX and Single Sex Scholarships, Clubs, and other Programs,” January 14, 2021, at 4 (found at <https://www2.ed.gov/about/offices/list/ocr/docs/qa-single-sex-20210114.pdf>) (emphasis in original).

Here, the sex-based eligibility criterion is, by its terms, applied mechanically. If applicants do not meet the blunt gender requirement that they are “female, female-identifying, or non-binary,” they are not eligible for this scholarship. No statistical information concerning RIT’s justification for this program, based on STEM “interest” among such persons **at RIT**, is set forth or suggested.

Because RIT’s gender requirement for this scholarship is presumptively invalid, and because there is no legal justification for such invidious discrimination, RIT’s use of such criteria violates federal civil rights statutes.

OCR Has Jurisdiction

OCR has jurisdiction over this complaint. Discrimination based on sex in “education program[s] or activit[ies]” that receive federal financial assistance transgresses Title IX. See 20 U.S.C. §1681(a). “Title IX reaches institutions and programs that receive federal funds,” 20 U.S.C. § 1681(a), including nonpublic institutions. *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 257 (2009). RIT receives millions in federal funding; the school’s website states that Congress allocated \$92.5 million to RIT for fiscal year 2024,⁶ not considering funds from federal Pell grants, CARES Act funding, and other federal grants and contracts.¹⁶ Accordingly, RIT is subject to Title IX.⁷

The Complaint is Timely

This complaint is timely brought because it includes allegations of discrimination based on sex that appears to be ongoing.

Request for Investigation and Enforcement

As stated above, because the discriminatory scholarship eligibility criterion outlined above is presumptively invalid, RIT’s limitation of this scholarship based on sex violates federal civil rights statutes.

The Office for Civil Rights has the power and obligation to investigate RIT’s role in creating, supporting and promoting this scholarship and impose whatever remedial relief is necessary to hold it accountable for that unlawful conduct. This includes, if necessary, imposing

⁶ Rochester Institute of Technology website, “RIT/NTID receives federal funding appropriation from 2024 Omnibus budget,” March 29, 2024. Found at <https://www.rit.edu/news/rit-ntid-receives-federal-funding-appropriation-2024-omnibus-budget>; archived at <https://web.archive.org/web/20240623170108/https%3A%2F%2Fvpur.iu.edu%2Fnews-archive%2Fbills%2Ffed06-14-24.html>.

⁷ OCR does not enforce constitutional violations under 42 U.S.C. § 1983, but for context, such claims, based on the Equal Protection Clause, are also available to plaintiffs alleging unconstitutional gender discrimination in schools. *Fitzgerald, supra*, 555 U.S. at 258.

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finances, 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.

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 the RIT Women in STEM Award scholarship based on discriminatory criteria, and ensure that all ongoing and future programming through RIT comports with federal civil rights laws.

Very truly yours,

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