



**THE EQUAL PROTECTION PROJECT**  
**A Project of the Legal Insurrection Foundation**  
**18 MAPLE AVE. #280**  
**BARRINGTON, RI 02806**  
[www.EqualProtect.org](http://www.EqualProtect.org)

August 12, 2024

**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 City School District**  
**Regarding Racially Discriminatory Programming**

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 (EPP)([EqualProtect.org](http://EqualProtect.org)) 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. This Civil Rights Complaint concerns at four-year systematic exclusion of white students from annual Student of Color United (SOCU) Summits at the Ithaca City School District (ICSD) in Ithaca, New York.

## **INTRODUCTION**

In 2023, after a complaint regarding exclusion of white students from another ICSD affinity event, ICSD made the following representations<sup>1</sup> to OCR:

“The District informed OCR that the affinity groups listed on the announcement and scheduled for February 8, 2023, did not take place. **The District further informed OCR that all of the District’s programming is open to all participants regardless of race and there are no affinity groups or other programs that are exclusionary based on race.** OCR confirmed that the announcement listing the affinity groups no longer exists on the District’s website.” [emphasis added]

On May 28, 2024, in response to an EPP letter<sup>2</sup> to ICSD regarding exclusion of white students from the upcoming 2024 SOCU Summit, ICSD Superintendent of Schools Dr. Luvelle Brown stated at a public Board of Education meeting:

“No program in this school district excludes young people based on ethnicity or any other reason.... I’ve said publicly, we do not exclude anybody .... we want everybody else to know that they can come too. So no, we do not exclude based on identity or race. It’s open to everyone.”<sup>3</sup>

In a May 30, 2024, mass email to the school community, ICSD wrote:

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<sup>1</sup> On March 14, 2023, the non-profit group Parents Defending Education filed a complaint with OCR regarding a different ICSD affinity event scheduled for February 8, 2023. [https://defendinged.org/wp-content/uploads/2023/03/Ithaca-City-School-District-OCR-Complaint\\_Redacted2.pdf](https://defendinged.org/wp-content/uploads/2023/03/Ithaca-City-School-District-OCR-Complaint_Redacted2.pdf) [archived [https://web.archive.org/web/20240808121949/https://defendinged.org/wp-content/uploads/2023/03/Ithaca-City-School-District-OCR-Complaint\\_Redacted2.pdf](https://web.archive.org/web/20240808121949/https://defendinged.org/wp-content/uploads/2023/03/Ithaca-City-School-District-OCR-Complaint_Redacted2.pdf)] The quoted text is from a September 7, 2023, letter from OCR dismissing the case as moot in reliance on ICSD’s representations. [https://defendinged.org/wp-content/uploads/2023/09/02-23-1241-Ithaca-City-SD\\_Redacted.pdf](https://defendinged.org/wp-content/uploads/2023/09/02-23-1241-Ithaca-City-SD_Redacted.pdf). [archived [https://web.archive.org/web/20240413024759/https://defendinged.org/wp-content/uploads/2023/09/02-23-1241-Ithaca-City-SD\\_Redacted.pdf](https://web.archive.org/web/20240413024759/https://defendinged.org/wp-content/uploads/2023/09/02-23-1241-Ithaca-City-SD_Redacted.pdf)] EPP has served a FOIL request on ICSD for the communications, but as of this writing ICSD has stated it is not in possession of such communications, which EPP has administratively appealed. Accordingly, we rely on OCR’s description of ICSD’s representations.

<sup>2</sup> <https://legalinsurrection.com/wp-content/uploads/2024/05/Letter-to-ICSD-re-SOCU-Summit-2024-5-28-2024.pdf>

<sup>3</sup> [https://youtu.be/R5p\\_SgUUpvg?si=wO59OnCHysMluG8W&t=3950](https://youtu.be/R5p_SgUUpvg?si=wO59OnCHysMluG8W&t=3950)

“Please know that SOCU is open to all of our secondary students. We apologize for any previous communication that included exclusionary language about the event. Anyone who wishes to attend on Friday is welcome!”

In fact, as set forth below, for at least four years, from 2021-2024, ICSD systematically excluded white students from SOCU Summits with the knowledge and the participation of dozens of teachers and administrators, knowledge of the Board of Education, and despite multiple complaints about the racially discriminatory practices from members of the community. The Frequently Asked Questions section of the official SOCU Summit website even included an explanation as to “Why aren’t white students invited?” and required that registering students “acknowledge that this is a Student of Color ONLY event.” The discrimination was not a mere “communication” problem, it reflected systemic discrimination against white students as to SOCU Summits. It is hard to imagine more open, prolonged, and intentional racial discrimination, despite ICSD’s denials.

EPP asks OCR to open an investigation and to take remedial measures regarding (1) the systemic racial discrimination at ICSD against white students regarding SOCU Summits during 2021-2024, and (2) whether ICSD made material misrepresentations to OCR in 2023 when, according to OCR, ICSD represented “that all of the District’s programming is open to all participants regardless of race and there are no affinity groups or other programs that are exclusionary based on race,” while at the very same time ICSD was excluding white students from SOCU Summits.

## **ICSD SOCU SUMMITS EXCLUDED WHITE STUDENTS**

The evidence that ICSD SOCU Summits excluded white students is overwhelming and shocking. We submit some of that evidence here.<sup>4</sup>

Throughout these years, the official ICSD SOCU Summit website,<sup>5</sup> which was active until taken down after EPP’s May 28, 2024, letter, contained a section explaining the exclusion of white students.

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<sup>4</sup> We are filing with OCR separately the documentation excerpted here uncropped. We also reserve the right to file supplemental evidentiary material at a later date, as we are still trying to get ICSD to produce all records and to remove excessive redactions to records produced pursuant to our New York Freedom of Information Law request. See, <https://legalinsurrection.com/wp-content/uploads/2024/08/EPP-Appeal-ICSD-Response-To-May-28-2024-FOIL-Request.pdf>

<sup>5</sup> <https://sites.google.com/icsd.k12.ny.us/socu-summit-site/frequently-asked-questions> [site now removed, archive <https://web.archive.org/web/20240526215739/https://sites.google.com/icsd.k12.ny.us/socu-summit-site/frequently-asked-questions> ]

## Why aren't white students invited?

This event is only for students of color because historically, and still today students of color are constantly surrounded by White people and constantly in predominantly white institutions (PWI's). The summit allows for students of color to be in a space with others that look like them and that have shared experiences. The reason that this event is not open to white students is to protect this safe space for students of color and to be sure that this space truly allows for students of color to express themselves without the perceived pressure to assimilate due to white students being present. The goal of this event, as it was last year, is to help students of color have, at the least, one day filled with joy and excitement while being around other minority groups. We are going to have many events in the future where it is possible for white people to attend and have the opportunity to learn about POC culture. This is not so much as to exclude white people but be inclusionary of those who have been forced out by white people and oppressive systems.

# Frequently Asked Questions



What is the importance of an affinity event? (Such As This)



## Why aren't white students invited?

This event is only for students of color because historically, and still today students of color are constantly surrounded by White people and constantly in predominantly white institutions (PWI's). The summit allows for students of color to be in a space with others that look like them and that have shared experiences. The reason that this event is not open to white students is to protect this safe space for students of color and to be sure that this space truly allows for students of color to express themselves without the perceived pressure to assimilate due to white students being present. The goal of this event, as it was last year, is to help students of color have, at the least, one day filled with joy and excitement while being around other minority groups. We are going to have many events in the future where it is possible for white people to attend and have the opportunity to learn about POC culture. This is not so much as to exclude white people but be inclusionary of those who have been forced out by white people and oppressive systems.

The ICSD SOCU Summit student registration form required students to affirm that they understood the event was open only to students of color.

2. By checking this box, you acknowledge that this is a Student of Color ONLY event. \*

*Check all that apply.*

Yes, I understand.

From the start in 2021, ICSD SOCU Summits were promoted as only open to non-white students. For example, in this May 19, 2021, email to all Ithaca High School staff, the racially exclusionary guidelines as to students and staff were made clear:

To: HS Staff <hs-staff@icsd.k12.ny.us>

Hello All,

This Friday we will have a student of color summit SOCU (Students of Color United) at the high school. Students have worked very hard and have been supported and encouraged by ICSD staff. If any staff of color would like to attend please do so and show your support from 11-2pm. This event is only for persons who identify as persons of color (AAPI, Black, Latinx, indigenous heritage). If you have any questions or concerns please email me and I will be pleased to discuss. Please support our students and staff of color in this event of unity by spreading the word.

Thank you much,

Students of color, and only students of color, were specially excused from classes to attend the SOCU Summit, as this 2021 Canvas message to students and staff reflected:

Dear IHS Students and Staff,

At 10:45 this morning, please begin to allow any students who identify as a student of color to leave class to attend the 'Students of Color United Summit' that begins at 11:00 a.m. The summit will take place from 11 a.m. to 2 p.m. Attendance at this event is considered an excused absence. Any staff of color that is available to attend the summit and support are welcome. We appreciate your support in advance.

The IHS Admin Team



[View Announcement on Dashboard](#) | [Update your notification settings](#)

On May 17, 2021, a member of the community complained to the Superintendent, numerous other administrators, and the Board of Education, about the racial exclusion:

“Separating people by skin color is disgusting and a violation of the law and the Constitution of the United States. I’m sure you understand this, so I urge you to change the district’s policy dividing students along racial lines.”

Dear Mr. Brown,  
Dear Members ICSD Board of Education,

I strongly support the Students of Color for hosting the Summit. They definitely have the right to do so. However, it is discouraging that the ICSD officially supports a social event that only students of a specific color can attend. Separating people by skin color is disgusting and a violation of the law and the Constitution of the United States. I'm sure you understand this, so I urge you to change the district's policy dividing students along racial lines.

Thank you.

Rather than changing ICSD segregationist practices, a member of the Board of Education responded on May 20, 2021, rejecting the complaint:

First, thank you for reaching out to share your concerns with members of the Board. We are glad that you support the Students of Color's initiative in hosting this event. I'm sure you watched the students' video about the event. In the "Why?" section they spoke to the rationale for the summit.

All of us on the Board and in the administration recognize the problems connected with an event that is not all-inclusive. But what research and our students are telling us is that in these politically tough times young people of color need a safe space to share their significant worries, their experiences and their fears. Student leaders in the high school are working hard to create a space for their fellow students of color to feel validated, affirmed, and connected to the greater community. In the often traumatizing societal landscape they are navigating, they would like to create a day of hope and joy to inspire students to be their best authentic selves in spite of the obstacles they face.

Sincerely,

Moira Lang, ICSD Board of Education

The SOCU 2021 Summit was discussed at an Ithaca Board of Education public meeting on May 25, 2021. There, non-white students explained to the Board how important it was to them to have had an event open only to other "students of color." During the exchange, one of the students recounted an interaction with a mixed-race schoolmate, who was unsure whether the event was open to her. In response, one of the Board members stated he "stopped by" the SOCU Summit and was aware of complaints about separating "young people out by the color of their skin":

"We've had some people ask us as a Board, I'm sure Dr. Brown has heard this, why would we support something that separates young people out by the color of their skin?"<sup>6</sup>

Based on the timing, the Board member likely was referring to the community complaint to the Superintendent and Board mentioned above

On June 13, 2022, another community (parent) complaint was received:

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<sup>6</sup> [https://youtu.be/4QzpbjNJ-5w?si=ELUafHDJtJpr3R\\_P&t=1593](https://youtu.be/4QzpbjNJ-5w?si=ELUafHDJtJpr3R_P&t=1593)



Received Date: June 13, 2022, 5:14pm

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Name: Hidden Customer

Customer Type: Parent/Guardian

Dialogue Type: Question

Email:

Phone:

Dialogue #: 04245

Topic: Ithaca High School

Priority: Critical

Status: Closed

## Message

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**Subject: White Students Not Welcome?**

### Original Message:

I am very concerned about information that my student shared with me today. He said that there was a (fun) event at the high school today for diverse students only and white kids were told that could not attend (segregation?). This alarmed me greatly. In fact my student is half Hispanic (appears white), but said he wouldn't take part because of the exclusionary nature of the event.

I think it is wonderful to celebrate the diversity of our student body - very important - but not allowing a specific population of students based on the color of their skin is exactly what I understand discrimination to be. This sends an extremely negative message to the students.

I've never sent a complaint to the school but couldn't keep my voice quiet. I hope someone can respond with information. I assume the INTENT was a good one, to support students, but the IMPACT to some of the students (and their parents) was distasteful.

Once again, ICSD rejected the complaint about discrimination.





**Timeline:**

Tuesday, June, 21 2022

8:52 AM

ICSD Communications replied to Customer and sent a feedback form

*Good morning,*

*Thank you for reaching out and sharing your questions. The importance of race-based affinity groups is something that may be new to some who don't identify as Black, Indigenous, or People of Color (BIPOC). The Student of Color United Summit is intended to provide a safe and affirming space for students who identify as BIPOC. Our district acknowledges that systemic racism and other forms of oppression have been in existence for centuries in our country, and providing student-led opportunities to heal and celebrate is key to helping us cultivate a more anti-racist school district.*

*We are also committed to creating learning experiences for all students of all races to learn and grow together through our [anti-marginalization curriculum units](#). Some resources that may be helpful are [here](#) and [here](#).*

*If you have any further questions, please feel free to reach out to Lily Talcott, our Deputy Superintendent, at [lily.talcott@icsd.k12.ny.us](mailto:lily.talcott@icsd.k12.ny.us) or 607-274-2134.*





ICSD Communications  
Ithaca City School District

These exclusionary guidelines continued year after year. On May 24, 2022, a message from student organizers using ICSD student email lists again reiterated that the event was only open to students of color:

Hey Dewitt, Boynton, and IHS **students of color!**

We are a few weeks away from our **SECOND-ANNUAL Student of Color Summit**. The summit will be held on **June 13th, 2022, at Stewart Park from 9:30 am to 12:30 pm**. We appreciate those of you who have already filled out the [registration/RSVP form](#) and can't wait to see you! **If you haven't filled out the form yet, please do so ASAP** so that we can get numbers for the event. **IF YOU AREN'T SURE** whether or not you filled out the **RSVP form, reply to this email and I can check for you.**

Along with this email, we have attached a PDF of the Student of Color Summit introduction email (sent out in late March), a PDF explaining the importance of affinity events such as this, and [a link to our website](#) which has all this information and more including pictures of last year's event, and a link to the RSVP form. **If you have any questions** about the event that is not answered in this email or the pdf's attached, please feel free to email , the **IRise President (copied on this email)** at: 

**BASIC SUMMIT INFORMATION:**

- **Who:** 6th-12th Grade Students of Color (all students must follow the ICSD Code of Conduct)
- **What:** Students of Color Summit (affinity event)
- **When:** **June 13th, from 9:30 am to 12:30 pm** (excused from school)
- **Where:** Stewart Park (bussed from school)
- **Why:** The Summit is a space for students of color to be themselves and be surrounded by others like them, where they are free of judgment. The Summit is targeted at students as this is a time to come together as one in our youth and celebrate being young people of color.

Instructions to staff from a student organizer on June 5, 2023, reflect the segregated nature of the 2023 SOCU Summit:

Hello Faculty and Staff at DeWitt, Boynton, LACS and IHS,

As you may know, the 2023 Students of Color United Summit is occurring on **June 7th from 9:30 a.m. till 12:30 p.m. at Deebes Field on IHS Campus**. This affinity event is for **students of color** in grades 6-12 in the ICSD.

Boynton (with their chaperones) and IHS attendees will walk to the event, and DeWitt and LACS will be bused. DeWitt students will be picked up at 9:15 a.m. along with their chaperones. More details will be sent concerning LACS transportation.

I have attached a **live document, for each school, that has a list of all attendees and will be updated during summit check-in** so teachers can check to see if their students are there.

As of 06/05 at 8:30 a.m., we have 135 IHS RSVP's, 2 LACS RSVP's, 71 DeWitt RSVP's, and 57 Boynton RSVP's. The RSVP is closed, but IHS students may email me [REDACTED]@icsd.k12.ny.us) if they still want to attend.

Thank you very much for supporting our students of color, I look forward to working with you all!

In partnership,  
[REDACTED]

[REDACTED]  
IHS, Senior  
I-Rise President  
She/Her Pronouns

Promotional materials for SOCU summits, and post-event postings on social media make clear that the events were racially exclusionary, and open only to students of color. The following examples illustrate this:

- In May 2021, ICSD posted on social media: “On Friday, May 21, BIPOC students from Boynton Middle School, DeWitt Middle School, Lehman Alternative Community School, and Ithaca High School gathered for a day of affirmation, scholarship, joy, and artful expression....”
- In June 2022, ICSD posted that: “The Students of Color United (SOCU) Summit is a day of affirmation, scholarship, joy, and artful expression for BIPOC students at Boynton, DeWitt, LACS, and IHS.”
- In June 2023, ICSD posted on social media: “The third-annual Students of Color United (SOCU) Summit took place on June 7th! The affinity event welcomed students of color from all ICSD secondary schools....”

See also, [document listing](#) extensive social media postings by ICSD on multiple platforms from 2021-2023 reflecting eligibility restricted to students of color.

The 2024 SOCU Summit scheduled for May 31, 2024, also was planned and promoted to exclude white students. On May 1, 2024, an email was circulated by a DeWitt Middle School senior level administrator informing staff (and possibly others) of SOCU 2024, how staff could assist students in registering, and stating that the event was “for students of color to interact with each other...” The message goes on to emphasize the exclusionary nature of the summit, and explicitly delineates that “[a]llies are not invited to this event.” We understand in this context that the word “allies” refers to white students and staff. In fact, the message goes on to invite only non-white staff, stating: “If you are a staff member of color and would like to attend the summit with our students, please email ....”

Dear DeWitt Staff,

Ithaca High School will be hosting the Students of Color Summit on Friday, May 31. This is an all day event (or at least close to all day) for students of color to interact with each other through joyous celebration. There will be music and spoken word and other performances and t-shirts and food and more. Please encourage students to register this week. (Note: Allies are not invited to this event.) Flyers will be around school, information will be in the homebase slides, and many adults are available to help students use the QR code for registration. We are trying to keep an in-house list as well as the IHS registration form, so if you help students register, keep track of that information and send your list to me.

If you are a staff member of color and would like to attend the summit with our students, please email me so we can keep track of who is going and make sure that we have enough coverage left in the building. More information to follow about how to code this absence when you go to submit it.

On May 17, 2024, an Ithaca High School teacher who served as advisor to student organizers clarified that “students of color” were not limited to black students:

I welcome [REDACTED] (the student leader of our group) to chime in, but I as a co-adviser can assure you that this event is geared towards any student who identifies as a Person of Color. While many of the students attending do identify as African-American or Black, certainly not all of them, and we have no place for colorism here. If your kids identify as people of color, and what to attend, they should feel super empowered and supported to attend.

I am sorry this caused confusion and difficult circumstances for you and your kids. I am not sure what else could be done to better market that it is for all POC, not just Black students. Some of the student and staff organizers are persons of color, but not Black or African-American. In all the marketing and advertising, it is clearly called a “Student of Color Summit” and questionnaires and what not are clear in their language that it is for students of color–based on self-identification. If you have any suggestions we would love to hear them!

Posters for the SOCU Summits also referenced the racially discriminatory eligibility, including this 2024 poster:



When ICSD opened the 2024 SOCU Summit to white students at the last minute after EPP’s May 28, 2024, letter, one of the student organizers complained that students of color were being “forced to include white students,” even more evidence that white students were systematically excluded in prior years.

Hi [REDACTED]

Thank you so much for reaching out. We are being forced to include white students due to a complaint which claims that we are engaging in segregation, and the district has chosen to take this complaint into account rather than fight against it. I am similarly very disappointed in the district with how they have handled this issue and their lack of defense of the students of color here at IHS. If you guys are willing, I would love if y’all wanted to join our conversation with the district and express your concerns to Dr. Brown.

We have been told that we aren’t allowed to tell white students not to attend so to do otherwise, despite wanting to, could make us targets for the district. We are concerned about the reaction from the district and community members if we say that. We tried to go to administrators and the board of education and they were beyond not supporting—they completely shut us down.

At this time, we are working on a way to make this event as close to our origin vision as possible without making ourselves targets of the district. I am very sorry that the district has placed both you and us in this position.

Best,  
[REDACTED]

SOCU 2024, like the previous SOCU Summits in 2021-2023, thus was promoted and planned to exclude white students, and that only changed when EPP went public with its May 28, 2024, demand that ICSD open the event to all students.

## ICSD'S EXCLUSION OF WHITE STUDENTS WAS ILLEGAL

Because ICSD is a public school district, these programs that discriminate based on race and skin color violate the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. 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.

Further, because ICSD also receives federal funding,<sup>7</sup> these programs also violate Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations.<sup>8</sup>

In discrimination cases, it does not matter if a recipient of federal funding discriminates to advance a benign “intention” or “motivation.” See, *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). And, irrespective of whether a program’s 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). Regardless of ICSD’s reasons for sponsoring and promoting the SOCU summits, it is violating Title VI by doing so.

Even if white students and staff were not physically barred, such exclusionary promotions were unlawful. “When the government erects a barrier that makes it more difficult for members of one group to obtain a benefit than it is for members of another group,” the constitutional harm is “the imposition of the barrier, not the ultimate inability to obtain the benefit.” *Ne. Fla. Chapter of Associated Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 666 (1993). Thus, the existence of racially exclusive eligibility criteria was the harm, not whether white students were physically turned away at the door.

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

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<sup>7</sup> <https://data.nysed.gov/expenditures.php?year=2020&instid=800000036448>

<sup>8</sup> Analogous provisions of New York State and City of Ithaca human rights laws and policies also are implicated, including as to public accommodations.

suffers – discrimination against whites is just as unlawful as discrimination against blacks or other non-whites.

### **OCR Has Jurisdiction**

OCR has jurisdiction over this complaint. ICSD is a recipient of federal education funding,<sup>9</sup> and other federal funds, and it is liable for violating Title VI.

Because the discrimination was prolonged, systemic, intentional, and violated ICSD’s own apparent representations to OCR, ICSD’s conduct not only is capable of repetition without OCR remedial action, such repetition is likely given that ICSD has a systemic problem with anti-white discrimination for affinity programming. ICSD previously had promised not to engage in racial discrimination based on race and color but has violated that promise. ICSD’s possibly misleading statements to OCR in 2023 also support prosecution of this case.

### **The Complaint Is Timely**

This complaint is timely brought because it includes allegations of discrimination based on race and color that occurred within the last 180 days.

### **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 students is just as unlawful as discrimination against black or other non-white students.

The Office for Civil Rights has the power and obligation to investigate ICSD’s role in creating, offering and promoting the SOCU Summits – and to discern whether ICSD is engaging in such discrimination in its other activities, particularly affinity programming. This is particularly important because this is not the first time that ICSD has engaged in blatant race- and color-based discrimination, and ICSD escaped OCR action before only because it apparently falsely represented “that all of the District’s programming is open to all participants regardless of race and there are no affinity groups or other programs that are exclusionary based on race.”

It is therefore of paramount importance that this time around OCR impose remedial relief that will not only hold ICSD accountable for its unlawful conduct but that also will send a powerful deterrent message to it and other institutions that invidious discrimination, and misrepresentations to OCR about that discrimination, will not be tolerated. This includes, if necessary, imposing fines, initiating administrative proceedings to suspend or terminate federal

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<sup>9</sup> <https://data.nysed.gov/expenditures.php?year=2023&instid=800000036448>

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 regarding ICSD’s systemic four-year exclusion of white students from Students of Color United Summits, and to ensure that all ongoing and future programming through ICSD comport with federal civil rights laws. It is imperative that racial discrimination stop in all of ICSD’s programming. Unfortunately, based on this evidence of the involvement and knowledge of discriminatory programming at senior administrative levels of ICSD and the Ithaca Board of Education, ICSD’s promise alone is not sufficient and cannot be relied upon. OCR needs to impose remedial relief.

We also request that OCR open an investigation into whether ICSD made material misrepresentations to OCR in 2023, when, according to OCR, ICSD represented that “all of the District’s programming is open to all participants regardless of race and there are no affinity groups or other programs that are exclusionary based on race” despite the ongoing exclusion of white students from ICSD SOCU Summits. It is critical to the integrity of OCR’s investigative function that OCR be able to rely on representations from public school districts, and if ICSD made material misrepresentations in 2023 regarding race-based programming, OCR should consider all available remedies.

Respectfully submitted,

*/William A. Jacobson/*

William A. Jacobson, Esq.  
*President*  
Legal Insurrection Foundation  
The Equal Protection Project  
[contact@legalinsurrection.com](mailto:contact@legalinsurrection.com)