



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

February 19, 2025

BY EMAIL (OCR.SanFransisco@ed.gov)

Office for Civil Rights
San Francisco Office
U. S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102

Re: Civil Rights Complaint Against University of San Diego Regarding Discriminatory Scholarship Programs

To Whom It May Concern:

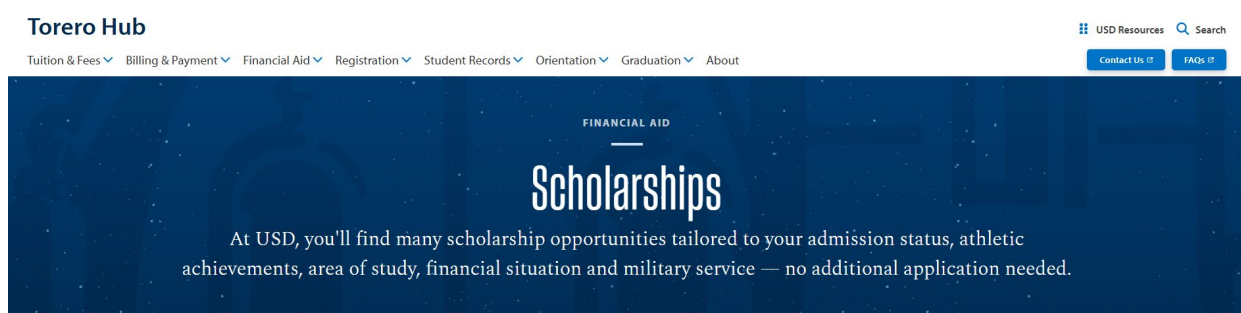
This is a federal civil rights complaint submitted pursuant to the U.S. Department of Education's Office for Civil Rights ("OCR") discrimination complaint resolution procedures.¹ We write on behalf of the Equal Protection Project of the Legal Insurrection Foundation, a non-profit entity that, among other things, seeks to ensure equal protection under the law and non-discrimination by the government and by recipients of government funds, and that opposes unlawful discrimination in any form.

We write in connection with the University of San Diego ("USD"), a private university, arising from its race- and ethnicity- based discrimination in violation of Title VI. As set forth below, USD operates, administers and promotes six (6) discriminatory scholarship programs.

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

These scholarship programs set up unequal standards of eligibility so that students similarly situated are treated differently based on race and ethnicity, in clear violation of Title VI. As OCR recently reiterated in its February 14, 2025, Civil Rights Guidance Letter: “under any banner, discrimination on the basis of race, color, or national origin is, has been, and will continue to be illegal.”²

USD has scholarships available “across the college and all the schools, in undergraduate and graduate programs, and based on a variety of admissions criteria, such as merit and financial need.”³ Many of these scholarships are departmental and require a separate application⁴, while other awards are automatically determined by the USD Office of Undergraduate Admissions.



The scholarships listed below are currently offered, according to USD’s website, to USD students and applicants for admission, and violate Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations⁵ by illegally excluding students based on their race, color, and/or national origin:

1. **FUSO Alumni Network Scholarship**

Application Link:

<https://toreronetwork.sandiego.edu/s/1374/hybrid/index.aspx?sid=1374&gid=2&pid=8535> (screenshot shown below).

Archived Application Link: <https://archive.is/AkObn>

Discriminatory Requirement: “Open to all undergraduate and graduate students who have worked to better the experience of USD's Filipino community.

Preference to a Filipino student.”

² See United States Department of Education Office for Civil Rights Guidance Letter (February 17, 2025), <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf> [<https://archive.is/R62P1>] (accessed Feb. 17 (2025)).

³ <https://www.sandiego.edu/torero-hub/financial-aid/scholarships/> [<https://archive.is/AfSKG>] (accessed Feb. 17, 2025).

⁴ <https://usdkb.sandiego.edu/s/article/Requirements-for-Scholarships> [<https://archive.ph/Mplf0>] (accessed Feb. 17, 2025).

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

FUSO ALUMNI NETWORK SCHOLARSHIP

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FUSO Alumni Network Scholarship

In an effort to support our USD students of color, the Alumni Association created the FUSO Alumni Network Scholarship Fund. The fund is supported by generous alumni, friends, faculty and staff of the University of San Diego. Funds are available to USD undergraduate and graduate students who have worked to better the experience of USD's Filipino community.

APPLICATION LINK:

[Click here](#) to apply between January 6, 2025 and April 30, 2025.

ELIGIBILITY REQUIREMENTS:

- Maintain a cumulative GPA of 2.5 or above.
- Must have a FAFSA on file and have financial need. This is a need-based fund.
- Open to all undergraduate and graduate students who have worked to better the experience of USD's Filipino community. Preference to a Filipino student.

2. Comité México Scholarship

Application Link:

<https://toreronetwork.sandiego.edu/s/1374/hybrid/index.aspx?sid=1374&gid=2&pgid=3382> (screenshot shown below).

Archived Application Link: <https://archive.is/GXzAQ>

Discriminatory Requirement: “Have **Mexican or Mexican-American heritage**”

COMITÉ MÉXICO SCHOLARSHIP

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The Comité México was founded in 2009 by a group of Mexican Alumni, Parents and Friends. When established, the Comité México had two main objectives:

1. To foster a bond and a relationship between the University of San Diego and its Mexican constituents, by conducting outreach efforts with the Mexican community throughout Mexico, the greater San Diego and Southern California region.
2. The Comité México committed to raising a minimum of \$50,000 to endow a scholarship in support of Mexican and Mexican-American students. The minimum goal of \$50,000 was achieved in 2015. As such, the Comité México has permanently established a Mexican legacy of philanthropy at the University of San Diego.

Students of Mexican descent have been a part of every generation at the University of San Diego. By supporting the Comité México Scholarship, donors will help us ensure that future generations of Mexican and Mexican-American students will continue to receive a fine education at the University of San Diego.

Please give to the Comité México Scholarship Fund.

APPLICATION LINK:

Application window will open on January 6, 2025. [Click here](#) to apply.

ELIGIBILITY REQUIREMENTS:

- Must be current and returning USD graduate or undergraduate student in good standing.
- Must be returning the following academic year (not eligible for graduating students.)
- Maintain a cumulative GPA of 3.0 or above.
- Demonstrated service to USD and/or the community or demonstrate employment in lieu of community service.
- Have Mexican or Mexican-American heritage
- Must have a FAFSA, CA Dream Act, or USD Dream Act application on file and have financial need.

3. Black Alumni Network Scholarship

Application Link:

<https://toreronetwork.sandiego.edu/s/1374/hybrid/index.aspx?sid=1374&gid=2&pgid=7795#:~:text=The%20fund%20is%20supported%20by,of%20USD%27s%20African%20American%20community.&text=ELIGIBILITY%20REQUIREMENTS%3A&text=Maintain%20a%20cumulative%20GPA%20of%202.5%20or%20above.>

Archived Application Link: <https://archive.is/fusP7>

Discriminatory Requirement: “Open to all undergraduate and graduate students who have worked to better the experience of USD's African American community. **Preference to an African - American student.**”

BLACK ALUMNI NETWORK SCHOLARSHIP

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Black Alumni Network Scholarship

In an effort to support our USD students of color, the Alumni Association created the Black Alumni Network Scholarship Fund. The fund is supported by generous alumni, friends, faculty and staff of the University of San Diego. Funds are available to USD undergraduate and graduate students who have worked to better the experience of USD's African American community.

APPLICATION LINK:

Click here to apply between January 6, 2025 and April 30, 2025

ELIGIBILITY REQUIREMENTS:

- Maintain a cumulative GPA of 2.5 or above.
- Must have a FAFSA, CA Dream Act, or USD Dream Act application on file and have financial need. This is a need-based fund.
- Open to all undergraduate and graduate students who have worked to better the experience of USD's African American community. Preference to an African - American student.

ESSAY PROMPT:

In 500 words, please share how you have contributed to the causes and concerns of the African American community at the University of San Diego and how you envision continuing that work as an active alumnus/a. Include involvement in student organizations which support USD's African American community.

4. Latino Alumni Network Scholarship

Application Link:

<https://toreronetwork.sandiego.edu/s/1374/hybrid/index.aspx?sid=1374&gid=2&pgid=7796#:~:text=ELIGIBILITY%20REQUIREMENTS%3A&text=Maintain%20a%20cumulative%20GPA%20of%202.5%20or%20above.&text=Must%20have%20a%20FAFSA%2C%20CA,is%20a%20need%2Dbased%20fund.&text=Open%20to%20undergraduate%20and%20graduate,of%20USD%27s%20Latino%2Fa%20community.>

Archived Application Link: <https://archive.ph/ElcXq>

Discriminatory Requirement: “Open to undergraduate and graduate students who have worked to better the experience of USD's Latino/a community. **Preference to a Latino/a student.**”

LATINO ALUMNI NETWORK SCHOLARSHIP

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Latino Alumni Network Scholarship Fund

In an effort to support our USD students of color, the Alumni Association created the Latino Alumni Network Scholarship Fund. This fund was established as a growth account with a goal to raise \$50,000. The fund is supported by generous alumni, friends, faculty and staff of the University of San Diego. Funds are available to USD undergraduate and graduate students who have worked to better the experience of USD's Latinx community.

APPLICATION LINK:

[Click here](#) to apply between January 6, 2025 and April 30, 2025.

ELIGIBILITY REQUIREMENTS:

- Maintain a cumulative GPA of 2.5 or above.
- Must have a FAFSA, CA Dream Act, or USD Dream Act application on file and have financial need. This is a need-based fund.
- Open to undergraduate and graduate students who have worked to better the experience of USD's Latino/a community. Preference to a Latino/a student.

ESSAY PROMPT:

In 500 words, please share how you have contributed to the causes and concerns of the Latino/a community at the University of San Diego and how you envision continuing that work as an active alumnus/a. Include involvement in student organizations which support USD's Latino/a community.

5. Augusto Boal Endowed Scholarship

Scholarship Link: <https://www.sandiego.edu/cas/student-resources/scholarships/#augusto-boal-endowed-scholarship4--scroll-to>

Archived Scholarship Link: <https://archive.is/hA9gf>

Donation Link:

<https://securegiving.sandiego.edu/s/1374/lg20/form.aspx?sid=1374&gid=1&pgid=650&cid=1332&dids=990>

Archived Donation Link: <https://archive.is/a0LjK>

Discriminatory Requirement: “Preference for (but not limited to) students of color as set forth in the Horizon Project”

Augusto Boal Endowed Scholarship



AVAILABLE TO

College of Arts and Sciences - Theatre



CANDIDATE DESCRIPTION

- Undergraduate student
- Good academic standing
- Preference for (but not limited to) students of color as set forth in the Horizon Project
- Demonstrates financial need
- Theatre major for a period of four years



PURPOSE

Distributions shall be used to support one undergraduate student in good academic standing, with a preference for (but not limited to) students of color as set forth in the [Horizon Project](#), who demonstrates financial need and is majoring in theatre, for a period of four years.

6. Gwendolyn Brooks Endowed Scholarship for the Study of the Humanities

Scholarship Link: <https://www.sandiego.edu/cas/student-resources/scholarships/?page=6>

Archived Scholarship Link: <https://archive.is/wip/XaMmv>

Donation Link:

<https://securegiving.sandiego.edu/s/1374/lg20/form.aspx?sid=1374&gid=1&pgid=8162&cid=13365>

Archived Donation Link: <https://archive.ph/wip/4I1Mu>

Discriminatory Requirement: “Student of color”

The Gwendolyn Brooks Endowed Scholarship for the Study of the Humanities



AVAILABLE TO

College of Arts and Sciences - English
College of Arts and Sciences - Theology and Religious Studies
College of Arts and Sciences - History
College of Arts and Sciences - Philosophy
College of Arts and Sciences - Philosophy, Politics and Economics



CANDIDATE DESCRIPTION

- Undergraduate student
- Student of color
- Minimum GPA of 3.0
- Major in one or more of the College of Arts Sciences humanities disciplines



PURPOSE

To provide support to undergraduate students of color at the University of San Diego who have declared a major in one or more of the humanities disciplines. This Scholarship will be awarded primarily on the basis of merit and financial need, and it may be used for tuition, books, and fees. Students must have a minimum 3.0 GPA in their major. The amount of each scholarship and the number of recipients will vary each year.

The Scholarships Listed Above Violate The Law

The scholarships identified above violate Title VI by discriminating on the basis of race, color, and/or national origin.⁶ Title VI of the Civil Rights Act 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 college, university, or other postsecondary institution, or a public system of higher education.” *See* 42 U.S.C. § 2000d-4a(2)(A); *Rowles v. Curators of the Univ. of Mo.*, 983 F.3d 345, 355 (8th Cir. 2020) (“Title VI prohibits discrimination on the basis of race in federally funded programs,” and thus applies to universities receiving federal financial assistance). As USD receives federal funds,⁷ it is subject to Title VI.

⁶ 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 USD. 42 U.S.C. § 2000(a)(a). These scholarships also violate the California law. *See* Cal. Code. Regs. Tit. 5, § 4900 (2024). Finally, these scholarships violate USD’s own nondiscrimination policy. *See* <https://www.sandiego.edu/titleix/documents/2024-discrimination-and-harassment.pdf> [<https://archive.is/Vw770>] (accessed on Feb. 17, 2025).

⁷ *See* <https://www.usaspending.gov/recipient/c92bc259-6b2d-95d6-e7cf-3850514d2f1c-C/latest> [<https://archive.is/H39Aa>] (accessed on Feb. 17, 2025).

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 206 (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 208.

As OCR stated in its February 14, 2025, Civil Rights Guidance Letter⁸:

“Although SFFA addressed admissions decisions, the Supreme Court’s holding applies more broadly. At its core, the test is simple: If an educational institution treats a person of one race differently than it treats another person because of that person’s race, the educational institution violates the law. Federal law thus prohibits covered entities from using race in decisions pertaining to admissions, hiring, promotion, compensation, financial aid, scholarships, prizes, administrative support, discipline, housing, graduation ceremonies, and all other aspects of student, academic, and campus life. Put simply, educational institutions may neither separate or segregate students based on race, nor distribute benefits or burdens based on race.”

Regardless of USD’s reasons for offering, promoting, and administering such discriminatory scholarships, USD is violating Title VI by doing so. It does not matter if the recipient of federal funding discriminates in order to advance a benign “intention” or “motivation.” *Bostock v. Clayton Cnty.*, 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.”); *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*, 600 U.S. at 289 (Gorsuch, J., concurring).

Because USD’s racial and/or ethnicity-based requirements for these scholarships are presumptively invalid, the use of such criteria violates state and federal civil rights statutes.

⁸ See United States Department of Education Office for Civil Rights Letter (2025), <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf> [<https://archive.is/R62P1>] (“At its core, the test is simple: If an educational institution treats a person of one race differently than it treats another person because of that person’s race, the educational institution violates the law.”)

OCR Has Jurisdiction

OCR enforces Title VI of the Civil Rights Act of 1964⁹ and its implementing regulation,¹⁰ which prohibit discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. As a recipient of federal financial assistance from the Department of Education, USD is subject to Title VI.

The Complaint Is Timely

This complaint is timely brought because it includes allegations of discrimination based on race, color, and national origin that occurred within 180 days and that appear to be ongoing. According to the USD website, the applications for most of the programs above are available until April 30, 2025,¹¹ and USD is actively soliciting donations.

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. 469, 505 (1989) (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. As Justice Thomas correctly noted in *Students for Fair Admissions*, race-based admissions preferences “fly in the face of our colorblind Constitution and our Nation’s equality ideal” and “are plainly – and boldly – unconstitutional.” 600 U.S. at 287 (Thomas, J., concurring).

Because the discrimination outlined above is presumptively illegal, the fact that it conditions eligibility for multiple scholarships on race, color, and/or national origin violates Title VI.

The Office for Civil Rights has the power and obligation to investigate USD’s role in creating, funding, promoting and administering these scholarships as well as the duty to impose whatever remedial relief is necessary to hold it accountable for this unlawful conduct. 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

⁹ 42 U.S.C. §§ 2000d-2000d-7.

¹⁰ 34 C.F.R. Part 100.

¹¹

<https://toreronetwork.sandiego.edu/s/1374/hybrid/index.aspx?sid=1374&gid=2&pgid=7796#:~:text=ELIGIBILITY%20REQUIREMENTS%3A&text=Maintain%20a%20cumulative%20GPA%20of%202.5%20or%20above.&text=Must%20have%20a%20FAFSA%2C%20CA,is%20a%20need%2Dbased%20fund.&text=Open%20to%20undergraduate%20and%20graduate,of%20USD%27s%20Latino%2Fa%20community> [<https://archive.ph/ElcXq>] (accessed on Feb. 17, 2025).

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judicial proceedings to enforce the rights of the United States under federal law. After all, “[t]he way to stop discrimination ... is to stop discriminating[.]” *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007).

Accordingly, we respectfully ask that the Department of Education’s Office for Civil Rights promptly open a formal investigation, impose such remedial relief as the law permits for the benefit of those who have been illegally excluded from USD’s various scholarships based on discriminatory criteria, and ensure that all ongoing and future scholarships and programming at USD comports with the federal civil rights laws.

Respectfully submitted,

/William A. Jacobson/

William A. Jacobson, Esq.
President
Legal Insurrection Foundation
Contact@legalinsurrection.com

/Robert J. Fox/

Robert J. Fox
Attorney
Legal Insurrection Foundation
Robert.Fox@legalinsurrection.com