



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

April 25, 2025

BY EMAIL (OCR@ed.gov)

Craig Trainor, Acting Assistant Secretary
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

BY EMAIL (OCR.Atlanta@ed.gov)

Atlanta Office
Office for Civil Rights
U.S. Department of Education
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927

Re: Civil Rights Complaint Against The University of Alabama
Regarding Discriminatory Scholarship Program

Dear Mr. Trainor and OCR Staff:

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.¹ 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 the University of Alabama ("UA"), a public institution, for offering, administering, and promoting a scholarship that discriminates based on race, color, and/or national origin.

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

UA has a general scholarship application that allows students to be automatically considered for scholarships for which they are eligible.² UA lists its scholarships on the Alabama Scholarship Award Manager (“ASAM”). This platform contains a comprehensive list of all UA scholarships.³

ENTERING FRESHMEN

UA's general scholarship application is incorporated into the admission application. Once students are accepted to UA, they will receive an email to their crimson email address with instructions on how to access an additional scholarship application. Scholarships that require additional information, an essay, etc. will be listed on this additional application. For the scholarships not included on this additional application, students will automatically be considered for any scholarships if they meet the criteria.

To be considered for scholarships, students must be accepted by January 10, 2025. If awarded, students will receive an email, typically during March and April.

THE UNIVERSITY OF ALABAMA®

Sign In

▼ Opportunities

All Opportunities

Show Filters

The Alabama Scholarship Award Manager (ASAM) is your path towards maximizing scholarship opportunities at The University of Alabama! A comprehensive list of all UA scholarship opportunities is listed below.

Important Definitions

Award: The estimated value of the scholarship opportunity. Actual scholarship values can vary based on available funds and other factors.

Name: Clicking the name of a scholarship will link you to additional summarized information regarding the selected scholarship opportunity.

Deadline: The actual deadline to receive consideration for the scholarship opportunities listed will vary by student type. The date listed below is the final date the General Application, Supplemental Applications, or individual scholarship requested information must be **submitted** to receive consideration. Click your scholarship type below to learn more about the scholarship opportunities available to you and your deadline to apply.

- [Freshman Scholarships](#)
- [Transfer Scholarships](#)
- [Current Student Scholarships](#)

The scholarship listed below is currently offered to UA students and applicants for admission, according to the UA website, and violates Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations⁴ by discriminating against students based on their race, color, and/or national origin. Because UA is a public university, this discriminatory

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<https://students.culverhouse.ua.edu/scholarships/#:~:text=Additional%20Information%20section%20Entering%20Freshmen,typically%20during%20March%20and%20April>.

[<https://archive.is/wip/mAVTN>] (accessed April 22, 2025).

³ <https://ua.academicworks.com/opportunities> [<https://archive.is/wip/Z3rLK>] (accessed April 22, 2025).

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

scholarship also violates the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.

Norton-Textra Endowed Scholarship for Minority Students in English⁵

Discriminatory Requirement: “Scholarships from this fund are awarded to full-time **African-American students** pursuing degrees in English in the College of Arts and Sciences.”

Application Deadline: May 25, 2025

Link: <https://ua.academicworks.com/opportunities/14291>

Archived Link: <https://archive.is/Ha6e6>

THE UNIVERSITY OF ALABAMA®

Sign In

▼ Opportunities

Norton-Textra Endowed Scholarship for Minority Students in English

Established by Dr. Myron Tuman, the W. W. Norton & Co., Inc., and proceeds from the 1991 Fiesta Bowl. Scholarships from this fund are awarded to full-time African-American students pursuing degrees in English in the College of Arts and Sciences.

Award

To Be Determined

Deadline

05/31/2025

You will be automatically considered based on your completed General Application. To complete the General Application, please [sign in](#).

The Scholarship Listed Above Violates The Law

The scholarship identified above violates Title VI by discriminating on the basis of race, color, and/or national origin.⁶ Furthermore, because UA is a public university, such discrimination also violates the Equal Protection Clause of the Fourteenth Amendment.

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.

⁵ Discriminatory criteria highlighted in bold for the scholarship.

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 UA. 42 U.S.C. § 2000(a)(a). This scholarship also violates Alabama civil rights law. Ala. Code § 16-1-28 (2023). Finally, this scholarship violates UA’s own nondiscrimination policy. See <https://law.ua.edu/nondiscrimination-policy/#:~:text=The%20University%20of%20Alabama%20School,or%20family%20medical%20history%20information%2C> [<https://archive.ph/wip/Ljmgj>] (accessed April 22, 2025).

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 UA receives federal funds,⁷ it is subject to Title VI.

Regardless of UA’s reasons for offering, promoting, and administering such a discriminatory scholarship, UA 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, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 289 (2023) (Gorsuch, J., concurring).

As UA is a public university, its offering, promoting, and administering of this discriminatory scholarship also violates the Equal Protection Clause of the Fourteenth Amendment. In *Students for Fair Admissions*, the Supreme Court emphasized 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). The Court further declared, “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. Consequently, “[a]ny exception to the Constitution’s demand for equal protection must survive a daunting two-step examination known ... as strict scrutiny.” *Id.* at 206 (internal quotation marks and citation omitted). The scholarship at issue here cannot withstand that exacting standard.

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

⁷ See <https://www.usaspending.gov/recipient/147e841a-32d5-d2fa-ae13-c808e4a7e703-C/latest> [<https://archive.is/wip/7TEvg>] (accessed April 22, 2025).

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.”)

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.

Under strict scrutiny, suspect classifications "are constitutional only if they are narrowly tailored measures that further compelling governmental interests." *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995). It is the government that bears the burden to prove "that the reasons for any [racial] classification [are] clearly identified and unquestionably legitimate." *Richmond v. J. A. Croson Co.*, 488 U.S. 469, 505 (1989). Here, UA cannot carry its burden.

A "racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification." *Shaw v. Reno*, 509 U.S. 630, 643-44 (1993) (citation omitted). Here, UA cannot demonstrate that restricting participation in scholarships to students based on racial or national origin identities serves any legitimate governmental purpose, let alone an extraordinary one. Classifications based on immutable characteristics like skin color "are so seldom relevant to the achievement of any legitimate state interest" that government policies "grounded in such considerations are deemed to reflect prejudice and antipathy – a view that those in the burdened class are not as worthy or deserving as others." *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

The Supreme Court has recognized only two interests compelling enough to justify racial classifications. The first is remedying the effects of past de jure segregation or discrimination in the specific industry and locality at issue, where the government played a role. The second is "avoiding imminent and serious risks to human safety in prisons, such as a race riot." *Students for Fair Admissions*, 600 U.S. at 207 (citation omitted). Neither applies here.

If the scholarship is intended to achieve racial balance, such an objective has been "repeatedly condemned as illegitimate" and "patently unconstitutional" by the Supreme Court. *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 726, 730 (2007) ("Accepting racial balancing as a compelling state interest would justify the imposition of racial proportionality throughout American society, contrary to our repeated recognition that at the heart of the Constitution's guarantee of equal protection lies the simple command that the Government must treat citizens as individuals, not as simply components of a racial, religious, sexual or national class") (cleaned up, citation omitted).

And, irrespective of whether the scholarship's classifications based on immutable characteristics further a compelling interest, those classifications are not narrowly tailored. *Grutter v. Bollinger*, 539 U.S. 306, 334 (2003) (to be narrowly tailored, a race-conscious program must be based on "individualized consideration," and race must be used in a "nonmechanical way"). Here, the race- and national origin-based eligibility criteria are mechanically applied. If applicants do not meet the racial and ethnic requirements, they are

automatically disqualified from eligibility for the scholarship. To the extent that any individualized consideration exists, it only applies to distinguish between applicants who have first satisfied the threshold racial/ethnic litmus test.

Further, a policy is not narrowly tailored if it is either overbroad or underinclusive in its use of racial classifications. *J.A. Croson Co.*, 488 U.S. at 506. Indeed, in *Students for Fair Admissions*, the Supreme Court found that similar categories as those used to determine eligibility for UA's scholarship were "imprecise," "plainly overbroad," "arbitrary," "undefined" and "opaque," 600 U.S. at 216-17,⁹ and declared that "it is far from evident ... how assigning students to these ... categories and making admissions decisions based on them furthers the educational benefits that the universities claim to pursue." *Id.* at 216.

Finally, for a policy to survive narrow-tailoring analysis, the government must show "serious, good faith consideration of workable race-neutral alternatives," *Grutter*, 539 U.S. at 339, and that "no workable race-neutral alternative" would achieve the purported compelling interest. *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 312 (2013). There is no evidence that any such alternatives were ever contemplated here.

Because UA's racial and/or ethnicity-based requirements for this scholarship is presumptively invalid, and since there is no compelling government justification for such invidious discrimination, its use of such criteria violates state and federal civil rights statutes and constitutional equal protection guarantees.

OCR Has Jurisdiction

UA is a public entity and a recipient of federal funds, including from the U.S. Department of Education.¹⁰ It is therefore liable for violating Title VI and the Equal Protection Clause, and OCR therefore has jurisdiction over this complaint.

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. The application for this scholarship closes on May 25, 2025.

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

⁹ In his concurrence, Justice Thomas criticizes these categories as being "artificial." *Students for Fair Admissions*, 600 U.S. at 276 (Thomas, J., concurring).

¹⁰ See https://www.usaspending.gov/award/ASST_NON_P116Z230062_9100 [<https://archive.is/wip/KAQfs>] (accessed April 22, 2025).

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, and since UA cannot show any compelling government justification for it, the fact that it conditions eligibility for a scholarship on race, color, and national origin violates federal civil rights statutes and constitutional equal protection guarantees.

The Office for Civil Rights has the power and obligation to investigate UA’s role in creating, funding, promoting and administering this scholarship, and to discern whether UA is engaging in such discrimination in its other activities – and to impose whatever remedial relief is necessary to hold it accountable for that 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 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.*, 551 U.S. at 748.

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 UA’s various scholarships based on discriminatory criteria, and ensure that all ongoing and future scholarships and programming at UA comports with the Constitution and 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