

THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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November 20, 2025

BY EMAIL (OCR@ed.gov)

Kimberly Richey, Assistant Secretary
for Civil Rights
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 Lehigh University

Dear Ms. Richey and OCR Staff:

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 that, among other things, seeks to ensure equal protection under the law and opposes unlawful discrimination in any form.

We bring this civil rights complaint against Lehigh University's Advancing Future Faculty Development Postdoctoral Program ("Advancing Future Program") that discriminates on the basis of race, color, national origin, and/or sex in violation of Title VI and Title IX, respectively. The Advancing Future Program is similar to "The Ph.D Program" as to which OCR

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

previously opened an investigation at 45 other higher education institutions, and we request that this case be opened for investigation consistent with OCR’s prior position.²

Advancing Future Faculty Development Postdoctoral Program

The Advancing Future Faculty Development Postdoctoral Program is a tenure-track training initiative at Lehigh University “designed to create an outstanding professional opportunity for scholars with diverse backgrounds, experiences, and perspectives, including those historically underrepresented in the academy.”³ The program “enhances the diversity and skills of future faculty” by offering postdoctoral scholars enriching research and professional development experiences that prepare them for tenure-track roles. After two (up to three) years of successful participation, “scholars will have the opportunity to be considered for assistant professor positions” at Lehigh.

The screenshot shows the top portion of a web page. At the top left, it says "Lehigh University ADVANCE". Below this is a navigation menu with links: "Advance Home", "About +", "News", "Events +", "LU Women in Science & Engineering +", and "Resources & Programs +". Below the navigation menu is a dark blue button labeled "Postdoc to Faculty Program +" and a link "Funding +". Below this is a breadcrumb trail: "Home / Advancing Future Faculty Development Postdoctoral Program". The main heading is "Advancing Future Faculty Development Postdoctoral Program". Below the heading is a paragraph of text starting with "To build the Lehigh of the future...". To the right of the text is a sidebar with a menu: "Advance Home", "About +", "News", "Events +", "LU Women in Science & Engineering +", and "Resources & Programs +". At the bottom of the sidebar is a button that says "ACCEPT AND CONTINUE".

“This initiative at Lehigh University is a direct outcome of the 2020 call for Creative Ideas to Transform Lehigh into an Anti-Racist Institution.”⁴

² See <https://www.ed.gov/about/news/press-release/office-civil-rights-initiates-title-vi-investigations-institutions-of-higher-education>.

³ <https://advance.lehigh.edu/advancing-future-faculty-diversity-postdoctoral-program> [<https://archive.is/wip/YKz8>] (accessed November 20, 2025).

⁴ https://news.lehigh.edu/proposal-creative-ideas-for-impact-initiatives?_gl=1*1ccsl65*_ga*MjAyNDgzNjk3Mi4xNzYyODc0ODYy*_ga_KMKKCBSSFD*czE3NjI5NzI4NjUkbzUkZzEkdDE3NjI5NzU1NTYkajU4JGwwJGgw*_gcl_au*OTQ3MDQyNDE4LjE3NjI4NzQ4NjE.*_ga_2MCQTKR9B6*czE3NjI5NzI4NjUkbzUkZzEkdDE3NjI5NzU1NTYkajU5JGwwJGgw [<https://archive.is/wip/Fv12z>] (accessed November 20, 2025).

Appreciations

It is important to recognize the range of nationwide programs and national and local expertise and support which informed this approach at Lehigh University.

This initiative at Lehigh University is a direct outcome of the 2020 call for [Creative Ideas to Transform Lehigh into an Anti-Racist Institution](#). We especially wish to acknowledge the proposal submitted by the team of Drs. Sirry Alang, Kristen Jellison, Shalinee Kishore, Joan Ramage and Jennifer Swann and the proposal submitted by Dr. Peter Zeitler which greatly informed the vision and details of this Program.

We also wish to thank Dr. Autumn Reed and Dr. Dawn Culpepper for their time discussing their research and insights during the May 2022 Equity in STEM Community Convening.

Photo credit on this page: Christa Neu

Benefits

Participants receive “a competitive salary (minimum \$66,000), full employee benefits (including contributions to retirement), and \$10,000 per year professional funds for use towards conferences, travel, professional development, research supplies, etc.”⁵

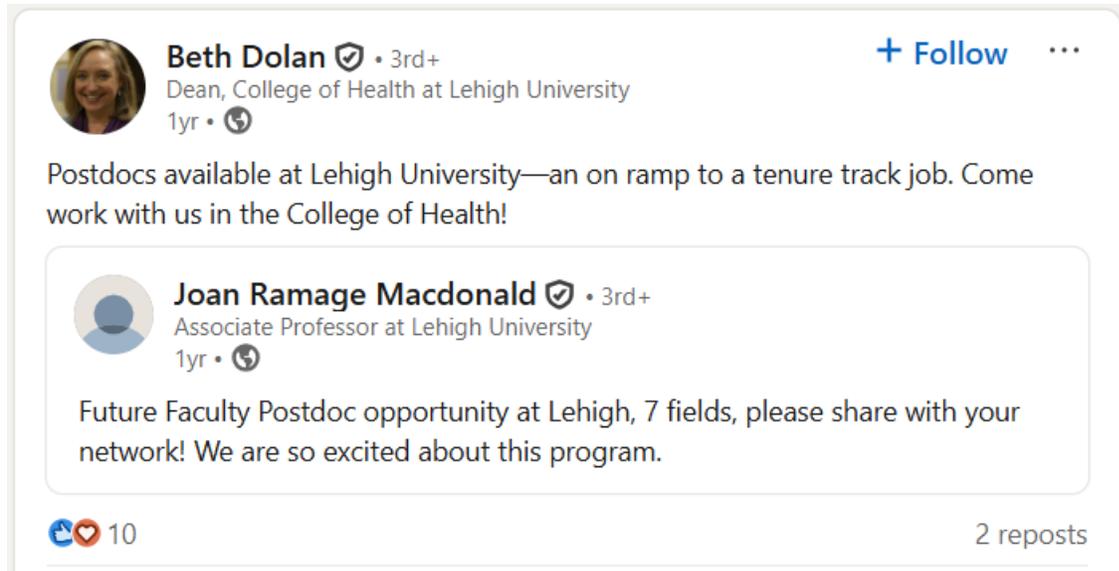
What are the benefits of this postdoctoral program?

- Talented scholars interested in pursuing the professoriate, especially at Lehigh, should apply to this program to make fast gains in establishing their independent research careers. This program will strongly benefit scholars with a commitment to mentorship, professional development specific to research/creative works, and teaching areas of interest.
- Scholars will have a competitive salary (minimum \$66,000), full employee benefits (including contributions to retirement), and \$10,000 per year professional funds for use towards conferences, travel, professional development, research supplies, etc. Up to \$2,000 of the professional development funds can be used for relocation, [following federal tax and university policy](#).
- Scholars applying in 2024-2025 would start in Fall 2025 and be part of the 3rd Cohort.
- Scholars, with endorsement of their mentors, departments, and dean, will have the opportunity to to be considered for assistant professor positions.

The program “provides enriching research experiences and pre-faculty professional development in a top-notch and collaborative environment” and serves as a pipeline to a tenure-track position at Lehigh, as “following two (up to three) years of a successful postdoctoral experience, scholars will have the opportunity to be considered for assistant professor

⁵ <https://advance.lehigh.edu/advancing-future-faculty-diversity-postdoctoral-program> [<https://archive.is/wip/YKez8>] (accessed November 20, 2025).

positions.” This program has been specifically advertised as an “on ramp” to a tenure track position at Lehigh by the Lehigh Dean of the College of Health.⁶



Beth Dolan • 3rd+
Dean, College of Health at Lehigh University
1yr • 🔒

+ Follow ...

Postdocs available at Lehigh University—an on ramp to a tenure track job. Come work with us in the College of Health!

Joan Ramage Macdonald • 3rd+
Associate Professor at Lehigh University
1yr • 🔒

Future Faculty Postdoc opportunity at Lehigh, 7 fields, please share with your network! We are so excited about this program.

10 2 reposts

Requirements

The Advancing Future Faculty Development Postdoctoral Program is specifically designed to support scholars from historically underrepresented groups in the academy, including “women, racial and ethnic minorities, persons with disabilities, first-generation students, and members of the LGBTQ+ community.”⁷ Thus, women and racial and ethnic minorities are automatically eligible without regard to other identity factors, while white males are not eligible unless they have additional identity factors. This sets up a racially and sex-based discriminatory standard.

⁶ [https://www.linkedin.com/feed/update/urn:li:activity:7156248396717023232/\[https://archive.ph/wip/FDPQc\]](https://www.linkedin.com/feed/update/urn:li:activity:7156248396717023232/[https://archive.ph/wip/FDPQc]) (accessed November 20, 2025).

⁷ [https://advance.lehigh.edu/advancing-future-faculty-diversity-postdoctoral-program/\[https://archive.is/wip/YKez8\]](https://advance.lehigh.edu/advancing-future-faculty-diversity-postdoctoral-program/[https://archive.is/wip/YKez8]) (accessed November 20, 2025).

Who is eligible for this program? 

- Applicants must hold a doctoral degree in any of the disciplines at Lehigh University by the time of the appointment.
- The doctoral degree should have been earned within the last three years prior to potential appointment; however, if it was earned before that, explain why this program makes sense given the scholar's situation. Some disciplines may consider scholars pursuing a second postdoctoral fellowship if the program would make them faculty-ready within three years.
- If the candidate's PhD was earned at Lehigh, they may be eligible. Scholars may have postdoctoral appointment elsewhere, or they may apply to a department outside the one in which their PhD was earned. Please reach out to advance@lehigh.edu if you have other questions.
- Scholars with social group identities, including those historically underrepresented in the academy (women, racial and ethnic minorities, persons with disabilities, first-generation students, and members of the LGBTQ+ community), are strongly encouraged to apply.
- Candidates must be authorized to work in the USA at the time of appointment. The application will ask: (1) do you have US work authorization? and (2) do you/will you need visa sponsorship?
- Current Lehigh University postdoctoral associates are eligible if they will have one year or less postdoctoral experience before the potential appointment.
- Current Lehigh University Visiting Assistant Professors are eligible.
- Individuals currently working at Lehigh University as Teaching Assistant Professors are not eligible.

Groups historically underrepresented in the academy are: women, racial and ethnic minorities, persons with disabilities, first-generation students, and members of the LGBTQ+ community.

Lehigh makes clear that this program is for “historically underrepresented” individuals. On its official College of Health Instagram page, Lehigh stated that the program’s goal is to “hire prospective future faculty (focus on historically underrepresented groups) committed to inclusive excellence.”⁸

⁸ <https://www.instagram.com/p/DDVhzlnN5SO/> [<https://archive.ph/wip/e6kdM>] (accessed November 20, 2025).

LEHIGH UNIVERSITY

ADVANCING FUTURE FACULTY DIVERSITY POSTDOCTORAL PROGRAM

Goals and Benefits:

- Hire prospective future faculty (focus on historically underrepresented groups) committed to inclusive excellence
- Join qualified host units offering climate, culture, resources, and relationships for future faculty success at Lehigh*
 - Community and Population Health
 - History
 - Materials Science and Engineering
- National Postdoctoral Association member
- Personalized mentoring & development
- Competitive salary & full benefits
- \$10,000 annual discretionary funds

Scan for Info & Apply Today

Applications for Cohort 3 due January 1, 2025.
Questions? Write advance@lehigh.edu

*Successful postdocs have opportunity to be considered for assistant professor positions

lehighcoh • Follow

lehighcoh 48w
Postdoc Alert! 📢 Lehigh University's College of Health is hiring a postdoctoral scholar in:
- Biostatistics
- Latino Health
- Infectious Disease
- Disability Independence
- Health Economics & Policy
- Urban Health

This opportunity is part of the Advancing Future Faculty Diversity program, designed to mentor and develop future academic leaders. 💡

Apply by: January 1, 2025
Scan the QR code to apply!
Questions? Email: incoh@lehigh.edu

#PostdocOpportunity #AcademicLife

12 likes
December 8, 2024

Add a comment...

The Advancing Future Program Violates The Law

The Advancing Future Program violates both Title VI, by discriminating on the basis of race, skin color, or national origin and Title IX, by discriminating on the basis of sex.⁹ White males are disadvantaged relative to women and racial and ethnic minorities.

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” encompasses “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). As noted in *Rowles v. Curators of the University of Missouri*, 983 F.3d 345, 355 (8th Cir. 2020), “Title VI prohibits discrimination on the basis of race in federally funded programs,”

⁹ 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 Lehigh. 42 U.S.C. § 2000(a)(a). This program also violates Pennsylvania state law. 43 P.S. §§ 951–963. Finally, these scholarships violate Lehigh’s own nondiscrimination policy. *See* <https://eocc.lehigh.edu/lehigh-university-non-discrimination-statement-and-title-ix-notice-non-discrimination>

[<https://archive.is/wip/FKya>] (accessed November 20, 2025).

and therefore applies to universities receiving federal financial assistance. Because Lehigh receives and administers federal funds through numerous programs, it is subject to Title VI.¹⁰

Regardless of Lehigh’s reasons for offering, promoting, and administering such a discriminatory program, they are 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).

Title IX prohibits discrimination on the basis of sex in education. The statute provides: “[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). Accordingly, a school receiving federal funding may not administer scholarships, fellowships, or other forms of financial assistance that impose preferences or restrictions based on sex, except in limited exceptions that are not applicable here. *See* 34 C.F.R. § 106.37(a).

Restrictions that limit eligibility for programs based on sex are underinclusive, as they arbitrarily exclude students who would otherwise qualify. While sex-based classifications are subject to “heightened” scrutiny, *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017); *United States v. Virginia*, 518 U.S. 515, 532–34 (1996), this standard—though less exacting than the strict scrutiny applied to race-based classifications—still requires an “exceedingly persuasive justification.” *Virginia*, 518 U.S. at 531. To meet this burden, the government must demonstrate “at least that the [challenged] classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives.” *Id.* at 533. Even if the classifications based on sex or other immutable characteristics were intended to further a compelling interest, discriminatory programs must involve “individualized consideration” and must apply criteria in a “nonmechanical way.” *Grutter*, 539 U.S. at 334.

Race- and sex-based criteria and preferences serve as “signals” of racial and sex-based preferences. As the Second Circuit recognized in *Ragin v. New York Times Co.*, 923 F.2d 995, 999–1000 (2d Cir. 1991), even subtle messaging can convey discriminatory preferences: “Ordinary readers may reasonably infer a racial message from advertisements that are more

¹⁰ *See* https://www.usaspending.gov/award/ASST_NON_R305D190023_091_archive.is/wip/jjB7J (accessed November 20, 2025).

subtle than the hypothetical swastika or burning cross, and we read the word ‘preference’ to describe any ad that would discourage an ordinary reader of a particular race from answering it.”

Lehigh’s explicit race- and sex-based eligibility criteria for this program are presumptively invalid, and because no federal law provides any justification for such invidious discrimination, Lehigh’s offering, promotion, and administration of this program violate federal civil-rights statutes, including Title VI and Title IX.

OCR’s recent enforcement actions confirm that the conduct described here is unlawful.¹¹ On March 14, 2025, OCR publicly announced Title VI investigations into dozens of universities that allegedly partnered with “The Ph.D. Project,” a race-exclusive program in graduate education similar to the Advancing Future Program.¹² OCR simultaneously opened investigations into institutions awarding race-based scholarships or operating racially segregated programs. These investigations parallel the discriminatory characteristics present in Lehigh’s Advancing Future Program and further underscore that race- and sex-restricted academic initiatives directed at faculty advancement violate federal civil-rights law.

OCR Has Jurisdiction

Lehigh is a private institution that receives federal funds, including from the U.S. Department of Education.¹³ It is therefore subject to both Title VI and Title IX, and OCR accordingly has jurisdiction over this complaint.

Further, federal civil-rights law expressly covers the type of postdoctoral fellowship and faculty-pipeline hiring program at issue here. Under Title VI, the definition of a “program or activity” includes “all of the operations of . . . a college, university, or other postsecondary institution.” 42 U.S.C. § 2000d-4a(2)(A). Because Lehigh administers this fellowship as part of its research, training, mentoring, and faculty-recruitment functions, it falls squarely within Title VI’s reach. Title IX provides the same scope: the Department of Education’s OCR regulations prohibit discrimination in “recruitment, consideration, or selection” for employment, as well as in “training,” “apprenticeships,” “internships,” and other “benefits or services” provided to employees or prospective employees. 34 C.F.R. §§ 106.51(a)(2), 106.52. Postdoctoral appointments and faculty-development fellowships—particularly those structured as pipelines to tenure-track positions—are precisely the type of recruitment, training, and pre-employment programs governed by these provisions. Thus, both Title VI and Title IX plainly apply to Lehigh’s discriminatory postdoctoral program, and OCR has jurisdiction to investigate this program for violations of both statutes

¹¹ See <https://www.ed.gov/about/news/press-release/office-civil-rights-initiates-title-vi-investigations-institutions-of-higher-education> [<https://archive.is/wip/TwMC9>] (accessed November 17, 2025).

¹² See <https://www.ed.gov/about/news/press-release/office-civil-rights-initiates-title-vi-investigations-institutions-of-higher-education>

¹³ See https://www.usaspending.gov/award/ASST_NON_R305D190023_091 [archive.is/wip/jjB7J] (accessed November 20, 2025).

The Complaint Is Timely

This complaint is timely brought because it includes allegations of discrimination based on race, color, national origin and sex that occurred within 180 days and that appear to be ongoing. The program is currently active.¹⁴

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. 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 no federal law provides any justification for such discrimination, the fact that it conditions eligibility for this program on race, color, national origin and sex violates federal civil rights statutes.

The Office for Civil Rights has the power and obligation to investigate Lehigh’s role in creating, funding, promoting and administering this program. 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.

¹⁴ <https://advance.lehigh.edu/advancing-future-faculty-diversity-postdoctoral-program> [<https://archive.is/wip/YKez8>] (accessed November 20, 2025).

Accordingly, we respectfully request that the Department of Education's Office for Civil Rights prioritize and promptly open a formal investigation, impose all appropriate remedial measures permitted by law to protect individuals who have been unlawfully excluded from Lehigh's programs on the basis of discriminatory criteria, and ensure that all current and future scholarships and programs at Lehigh fully comply with all applicable federal civil-rights laws.

Respectfully submitted,

/William A. Jacobson/

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