



**THE EQUAL PROTECTION PROJECT**  
**A Project of the Legal Insurrection Foundation**  
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March 26, 2025

**BY EMAIL** (OCR@ed.gov)

Craig Trainor, Acting Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education  
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**BY EMAIL** (OCR.Chicago@ed.gov)

U.S. Department of Education  
Office for Civil Rights – Chicago Office  
John C. Kluczynski Federal Building  
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Chicago, IL 60604

**Re: Civil Rights Complaint Against Indiana University South Bend**  
**Regarding Discriminatory Scholarship Programs**

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.<sup>1</sup> 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 Indiana University South Bend (“IUSB”), a public institution, for offering, administering, and promoting five (5) scholarships that discriminate based on race, color, and/or national origin.

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

These scholarships are listed and promoted through the IUSB Diversity, Equity, and Inclusion scholarship page.<sup>2</sup> According to IUSB’s website, “...Indiana University is committed to diversity, special consideration will be given to underrepresented populations, including but not limited to financially challenged students, and/or students with diverse cultural experiences.”



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DIVERSITY, EQUITY, AND INCLUSION SCHOLARSHIPS

### You Belong At IU.

At Indiana University South Bend we are dedicated in serving you and connecting you with resources. As part of its mission, Indiana University is committed to diversity, special consideration will be given to underrepresented populations, including but not limited to financially challenged students, and/or students with diverse cultural experiences. Scholarships provide money for your educational costs that you do not need to pay back. Take a look at our scholarship opportunities below that advance our mission of Diversity, Equity, and Inclusion.

You may apply for the scholarship opportunities in the below table by completing the application via the Online Scholarship Application. More information on how to complete the Online Scholarship Application may be found [here](#).

These scholarships are available to IUSB students who submitted their Online Scholarship Application (“OSA”) through their One.IU.edu account by March 15, 2025.<sup>3</sup> So long as the students meet the requirements and submit the OSA, they will be considered for these scholarships.

<sup>2</sup> <https://southbend.iu.edu/students/scholarships/diversity-equity-and-inclusion-scholarships.html#:~:text=This%20scholarship%20supports%20undergraduate%20senior,on%20a%204.0%20scale%2C%20are> [<https://archive.ph/wip/6bIXC>] (accessed on March 22, 2025).

<sup>3</sup> <https://southbend.iu.edu/students/scholarships/OSA.html> [<https://archive.is/wip/93DV2>] (accessed on March 22, 2025).

## IU South Bend and IU Foundation Scholarship Online Scholarship Application

Apply to more than 200 IU South Bend Scholarships (Institutional, Alumni, Departmental, and Foundation Scholarships) by **submitting** your Online Scholarship Application (OSA) before **March 15<sup>th</sup> 11:59 pm EST each year**. OSA opens on October 1<sup>st</sup> each year.

The scholarships listed below are currently offered to IUSB students and applicants for admission, according to the IUSB website, and violate Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations<sup>4</sup> by discriminating against students based on their race, color, and/or national origin. Because IUSB is a public university, these discriminatory scholarships also violate the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.

Each of the scholarships listed below are available for the 2025-2026 school year with the application open from October 1 to March 15 each year.<sup>5</sup>

### 1. **Clark Equipment Minority Scholarship**<sup>6</sup>

**Description:** “This scholarship supports students at Indiana University South Bend. **Qualified minority students**, who without this aid might not be able to obtain a higher education, receive priority consideration.”

Clark Equipment Minority Scholarship

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This scholarship supports students at Indiana University South Bend. Qualified minority students, who without this aid might not be able to obtain a higher education, receive priority consideration.

### 2. **Helen F. Pope Memorial Scholarship**

**Description:** “This scholarship supports students who are active participants in the Indiana University South Bend Civil Rights Heritage Center (“CRHC”). **African American/Black, Hispanic**, or women students receive priority consideration.

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

<sup>5</sup> <https://southbend.iu.edu/students/scholarships/diversity-equity-and-inclusion-scholarships.html#:~:text=This%20scholarship%20supports%20undergraduate%20senior,on%20a%204.0%20scale%2C%20are> [<https://archive.ph/wip/6bIXC>] (accessed on March 22, 2025).

<sup>6</sup> Discriminatory criteria highlighted in bold for all scholarships.

Recipient(s) must have a minimum 2.5 GPA, demonstrated financial need, and a leadership role in a CRHC program each semester.”

Helen F. Pope Memorial Scholarship —

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This scholarship supports students who are active participants in the Indiana University South Bend Civil Rights Heritage Center ("CRHC"). African American/Black, Hispanic, or women students receive priority consideration. Recipient(s) must have a minimum 2.5 GPA, demonstrated financial need, and a leadership role in a CRHC program each semester.

**3. IU South Bend Black Council Scholarship**

Description: “This scholarship supports meritorious students enrolled at Indiana University South Bend. **African American/Black students receive priority consideration.**”

IU South Bend Black Council Scholarship —

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This scholarship supports meritorious students enrolled at Indiana University South Bend. African American/Black students receive priority consideration.

**4. Kem Krest “Crossing the Finish Line” Bicentennial Scholarship**

Description: “This scholarship supports undergraduate senior students at Indiana University South Bend who will be able to earn their degree in four years or less, are enrolled in a minimum of 15 credits per semester, have a maximum of 30 credits remaining for a baccalaureate degree, have a minimum GPA of 2.75 on a 4.0 scale, are Pell Grant eligible, and are Indiana residents. Indiana University, as part of its mission, is committed to diversity, therefore underrepresented populations, including but not limited to financially challenged students and/or students with diverse cultural experiences, receive priority consideration. **African American and/or Hispanic students receive priority consideration from the donor.**”

**Kem Krest "Crossing the Finish Line" Bicentennial Scholarship**

This scholarship supports undergraduate senior students at Indiana University South Bend who will be able to earn their degree in four years or less, are enrolled in a minimum of 15 credits per semester, have a maximum of 30 credits remaining for a baccalaureate degree, have a minimum GPA of 2.75 on a 4.0 scale, are Pell Grant eligible, and are Indiana residents. Indiana University, as part of its mission, is committed to diversity, therefore underrepresented populations, including but not limited to financially challenged students and/or students with diverse cultural experiences, receive priority consideration. African American and/or Hispanic students receive priority consideration from the donor.

5. **NAACP**

**Description:** “This scholarship is **intended for African-American students** at IU South Bend. The award is renewable for up to four years of full-time, undergraduate study as long as the student stays in good standing and maintains a minimum cumulative high school GPA of 3.0. Recipients must be from South Bend, IN and demonstrate financial need.”

**NAACP**

This scholarship is intended for African-American students at IU South Bend. The award is renewable for up to four years of full-time, undergraduate study as long as the student stays in good standing and maintains a minimum cumulative high school GPA of 3.0. Recipients must be from South Bend, IN and demonstrate financial need.

### **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.<sup>7</sup> Furthermore, because IUSB is a public university, such discrimination also violates the Equal Protection Clause of the Fourteenth Amendment.<sup>8</sup>

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 IUSB receives federal funds,<sup>9</sup> it is subject to Title VI.

Regardless of IUSB’s reasons for offering, promoting, and administering such discriminatory scholarships, IUSB 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

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<sup>7</sup> 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 IUSB. 42 U.S.C. § 2000(a)(a). These scholarships also Indiana civil rights law. IC 22-9-1-2. (2024). Finally, these scholarships violate IUSB’s own nondiscrimination policy. *See* <https://southbend.iu.edu/affirmative-action/index.html> [<https://archive.is/wip/JUvk7>] (accessed on March 22, 2025).

<sup>8</sup> IUSB considers a minority student to include “African American, Latino/Hispanic, Asian American, Native American, Pacific Islander, Two or More Races.” This second quoted portion not found in cited document <https://diversity.iu.edu/doc/2023%20OVPDEI%20Annual%20Report%20APDF.pdf> [<https://web.archive.org/web/20250305223416/https://diversity.iu.edu/doc/2023%20OVPDEI%20Annual%20Report%20APDF.pdf>] (accessed on March 26, 2025). Moreover, courts often understand the term “minority” to mean non-white racial and ethnic groups. *See Boston Chapter, NAACP, Inc. v. Beecher*, 295 F. Supp. 3d 26, 28 (D. Mass. 2018); *see also Kirkland v. N.Y. State Dep’t of Corr. Servs.*, 552 F. Supp. 667, 674, 677 (S.D.N.Y. 1982); *Arbor Hill Concerned Citizens Neighborhood Ass’n v. Cnty. of Albany*, 281 F. Supp. 2d 436, 455 (N.D.N.Y. 2003); *Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality by Any Means Necessary v. Regents of Univ. of Mich.*, 701 F.3d 466, 493 (6th Cir. 2012).

<sup>9</sup> *See* <https://www.usaspending.gov/recipient/74ccc06e-57e8-7489-fbc7-f6229ad4aaf6-C/latest> [[archive.is/wip/XEp8f](https://archive.is/wip/XEp8f)] (accessed on March 22, 2025).

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 IUSB is a public university, its offering, promoting, and administering these discriminatory scholarships 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 scholarships at issue here cannot withstand that exacting standard.

As OCR stated in its February 14, 2025, Civil Rights Guidance Letter<sup>10</sup>:

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.

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, IUSB 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, IUSB cannot demonstrate that restricting participation in scholarships to students based on racial or national origin identities serves any legitimate

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<sup>10</sup> 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.”)

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 scholarships are 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 scholarships’ 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 scholarships, respectively. 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 IUSB’s scholarships were “imprecise,” “plainly overbroad,” “arbitrary,” “undefined” and “opaque,” 600 U.S. at 216-17,<sup>11</sup> 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

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<sup>11</sup> In his concurrence, Justice Thomas criticizes these categories as being “artificial.” *Students for Fair Admissions*, 600 U.S. at 276 (Thomas, J., concurring).



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 IUSB's racial and/or ethnicity-based requirements for these scholarships are 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**

IUSB is a public entity and a recipient of federal funds,<sup>12</sup> including from the U.S. Department of Education.<sup>13</sup> 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. According to the IUSB website, the applications for the 2025-2026 academic year closed on March 15, 2025, and will reopen on October 1, 2025.<sup>14</sup>

### **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 IUSB cannot show any compelling government justification for it, the fact that it conditions eligibility for multiple scholarships 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 IUSB's role in creating, funding, promoting and administering these scholarships – and, given how many there

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<sup>12</sup> See <https://www.usaspending.gov/recipient/74ccc06e-57e8-7489-fbc7-f6229ad4aaf6-C/latest> [archive.is/wip/XEp8f] (accessed on March 22, 2025).

<sup>13</sup> See [https://www.usaspending.gov/award/ASST\\_NON\\_S004D220003\\_9100](https://www.usaspending.gov/award/ASST_NON_S004D220003_9100) [archive.ph/wip/NNuGV] (accessed on March 22, 2025).

<sup>14</sup> <https://southbend.iu.edu/students/scholarships/OSA.html> [https://archive.is/93DV2] (accessed on March 16, 2025).

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are, to discern whether IUSB 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 IUSB’s various scholarships based on discriminatory criteria, and ensure that all ongoing and future scholarships and programming at IUSB comports with the Constitution and federal civil rights laws.

Respectfully submitted,

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