



THE EQUAL PROTECTION PROJECT
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August 26, 2026

BY EMAIL

Robert Doles, Enforcement Director
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban
Development
451 7th Street, SW
Washington, DC 20410

BY EMAIL

Hon. Craig Trainor
Assistant Secretary for Fair Housing and
Equal Opportunity
United States Department of Housing and
Urban Development
451 7th St SW
Washington, DC 20410

**Re: Civil Rights Complaint against Northern Arizona University for Race- and
Ethnicity-Based Campus Housing Programs**

Dear Assistant Secretary Trainor and Enforcement Director Doles:

This is a federal civil rights complaint and request for investigation against Northern Arizona University (“NAU”) submitted pursuant to the U.S. Department of Housing and Urban Development’s Office of Fair Housing and Equal Opportunity (“FHEO”) 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 all forms.

¹ See 42 U.S.C. 3601, *et seq.*; 24 C.F.R. § 100.1, *et seq.*

We bring this complaint and request for investigation against NAU for operating two discriminatory university housing programs that use race- and ethnicity-based descriptions and promotional materials to steer students based on race, color, and national origin, in violation of the Fair Housing Act ("FHA"). Moreover, the programs are each named utilizing the racial identities of their suggested racial participants:

- Black Culture Focused Housing; and
- Indigenous Peoples Living-Learning Community.²

These discriminatory housing programs violate the FHA, Title VI of the Civil Rights Act of 1964, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

A. Introduction – Race- and Ethnicity-Based Steering Is Unlawful

Enacted as Title VIII of the Civil Rights Act of 1968, the FHA was intended “to provide, within constitutional limitations, for fair housing throughout the United States.”³ The FHA prohibits discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin in the sale or rental of housing. The FHA applies to a broad assortment of housing, both public and private, including single-family homes, apartments, condominiums, and mobile homes.⁴ Courts have also concluded that the FHA applies to college dormitories.⁵

Under the FHA, it is unlawful to “make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.”⁶ Under applicable Department of Housing and Urban Development (HUD) regulations enforcing the FHA, this kind of “steering” toward or away from housing based on race is strictly prohibited.⁷ Steering liability attaches even if the housing program does not physically bar members of other racial or ethnic groups from participating.

Specifically, where ads or other publicly available information to potential applicants would cause a reasonable non-member of a given group to conclude that a given program is not intended for them, likely causing them to forgo applying, such steering violates the FHA. Even subtle messaging can convey these kinds of discriminatory preferences and steer potential applicants away. *Ragin v. New York Times Co.*, 923 F.2d 995, 999–1000 (2d Cir. 1991); *Jancik*

² <https://in.nau.edu/campus-living/focused-housing> [<https://archive.is/wip/tVMJB>] (accessed August 16, 2026)

³ 42 U.S.C. § 3601.

⁴ See 42 U.S.C. § 3602(b); 24 C.F.R. § 100.201 (2023).

⁵ See, e.g., *United States v. Univ. of Neb. at Kearney*, 940 F. Supp. 2d 974, 983 (D. Neb. 2013).

⁶ 42 U.S.C. § 3604(c).

⁷ 24 C.F.R. § 100.70(c).

v. Dep't of Hous. & Urb. Dev., 44 F.3d 553, 556 (7th Cir. 1995); *Housing Opportunities Made Equal, Inc. v. Cincinnati Enquirer, Inc.*, 943 F.2d 644, 646 (6th Cir.1991); *Spann v. Colonial Village, Inc.*, 899 F.2d 24 (D.C.Cir.1990); *United States v. Hunter*, 459 F.2d 205, 215 (4th Cir. 1981).

B. NAU's Discriminatory Identity-Based Focused Housing

NAU's identity-based "Focused Housing" programs are university-sponsored residential communities that allow students to live together while participating in shared programming centered on a common identity. According to NAU, "[t]hrough community-building activities, educational opportunities, networking, academic support, and social and cultural events, community members can deepen their learning and understanding, reduce social isolation, and build lasting connections within a supportive environment."⁸

The following housing programs are race- and ethnicity-based.

1. "Black Culture Focused Housing"

Link: <https://in.nau.edu/campus-living/focused-housing>

Archived Link: <https://archive.is/wip/tVMJB>

Discriminatory Description: "Black Culture Focused Housing aims to foster a strong sense of belonging and connection through living and learning together while exploring traditional and contemporary aspects of Black intellectual, social, and cultural life."

⁸ <https://in.nau.edu/campus-living/focused-housing/> [<https://archive.is/wip/1QIVd>] (accessed August 17, 2026).

Black Culture Focused Housing

Explore traditional and contemporary aspects of Black intellectual, social, and cultural life

Black Culture Focused Housing will opened Fall 2025 in one wing of the Mountain View Campus Living Community (CLC).

What is Black Culture Focused Housing?

Open to all, Black Culture Focused Housing aims to foster a strong sense of belonging and connection through living and learning together while exploring traditional and contemporary aspects of Black intellectual, social, and cultural life.

Black Culture Focused Housing includes the following:

- Social connections with others who identify as and/or are interested in learning more about Black culture, heritage, and lived experiences
- Network of Black-identifying participants, staff, alumni, and peer support providing learning opportunities, personal and professional development, and mentorship
- Dynamic programming in the living environment such as:
 - Cultural dinners
 - Guest speakers on history, culture, politics, and current lived experiences of Black populations

(Yellow highlighting added)



NAU's Black Culture Focused Housing uses race-based signaling to steer students toward the residential community. In promoting the program, NAU states: "This new living community, which will be a wing in Mountain View Hall, is designed to celebrate and explore the richness of Black intellectual, social, and cultural life, offering a space for Black-identifying students and allies to connect, grow, and thrive together."⁹ Although NAU currently states that its focused housing is "open to all," this promotional language expressly identifies "Black-identifying students" as the principal racial group for whom the community offers a residential

⁹ <https://in.nau.edu/campus-living/focused-housing/black-culture-focused-housing/>
[<https://archive.is/wip/SwiLa>] (accessed August 17, 2026).

space, while separately identifying non-Black participants as “allies.” The program is also expressly branded as “Black Culture Focused Housing,” reinforcing the message that the residential community is centered on Black students and Black intellectual, social, and cultural life.¹⁰



(Yellow highlighting added)

These messages are reinforced by the NAU Black Student Union’s promotion of the housing after it opened. In advertising a Black Culture Focused Housing event, the Black Student Union invited students to “meet other Black students in the new Black Culture Focused Housing.”¹¹ That language describes the housing not merely as a residence for students interested in Black culture, but as a community populated by Black students. Viewed together, NAU’s description of the program as a space for “Black-identifying students and allies” and the Black Student Union’s invitation to “meet other Black students” in the housing communicate that Black students are the intended participants, notwithstanding NAU’s “open to all” disclaimer. An ordinary prospective student would reasonably understand these materials as

¹⁰ <https://www.instagram.com/p/DFnyILMtTOH/> [<https://archive.is/wip/ft3Sp>] (accessed August 17, 2026).

¹¹ <https://www.instagram.com/p/DN8sh2zAVPv/> [<https://archive.is/wip/uvj17>] (accessed August 17, 2026).

signaling that Black students are the primary audience for the housing and that students of other races are not its intended participants.



(Yellow highlighting added)

2. **"Indigenous Peoples Living-Learning Community"**

Link: <https://in.nau.edu/campus-living/ipllc/>

Archived Link: <https://archive.ph/wip/OZ7Ov>

Discriminatory Description: "The IPLLC aims to foster a strong sense of belonging and connection through living and learning together while exploring traditional and contemporary aspects of Indigenous intellectual, social, and cultural life."¹²

¹² Unless a distinction favoring Indigenous individuals is based on tribal membership, citizenship, or a similar affiliation in a federally recognized tribe, and the preference involves "uniquely Indian interests," such as Native American lands or treaties, *Doe v. Kamehameha Schs./Bernice Pauahi Bishop Est.*, 470 F.3d 827, 880 (9th Cir. 2006) (en banc), allocating preferences to Indigenous Peoples "as a discrete racial group" is subject to the same legal scrutiny as any other racial classification, *Morton v. Mancari*, 417 U.S. 535, 554 (1974). These exceptions do not apply to this program.

Indigenous Peoples Living-Learning Community

Explore traditional and contemporary aspects of Indigenous intellectual, social, and cultural life

The Indigenous Peoples* Living-Learning Community (IPLLC) was established in fall 2022 and is currently located in Gabaldon CLC and Ernest Calderón CLC.

Indigenous Peoples Living-Learning Community

Indigenous and other interested students can live together while exploring and expressing traditional and contemporary aspects of Indigenous intellectual, social, and cultural life. The Indigenous Peoples Living-Learning Community is open to all academic levels and includes the following:



- social connections with others who identify as and/or are interested in learning more about Indigenous Peoples
- network of Indigenous faculty, Tribal College Faculty Exchange participants, staff, alumni, and peer support providing personal and professional development and mentorship

(Yellow highlighting added)

NAU's Indigenous Peoples Living-Learning Community ("IPLLC") uses race- and ethnicity-based signaling to attract students with particular racial and ethnic identities. NAU expressly identifies the IPLLC as part of its efforts aimed at "Propelling Indigenous Student Success" and states that the housing program cultivates belonging, builds cultural connections, and supports the academic success of "Indigenous students at NAU."¹³ NAU has likewise

¹³ <https://in.nau.edu/campus-living/ipllc/> [<https://archive.ph/OZ7Ov>] (accessed August 17, 2026).

described the IPLLC through its Indigenous student-services channels as a “living space for Indigenous students” where Indigenous students are able to live together.¹⁴

Office of Indigenous Student Success's Post



Office of Indigenous Student Success

September 12, 2022 · 🌐



We are excited for this **new living space for Indigenous students** to better support them here at NAU. Thank you to everyone who made this happen!

Great article written by one of our Indige-Peer Mentors, Octavia Freeland.



NAU Center for Native American and Indigenous Futures

September 12, 2022 · 🌐

We are so excited to be a part of this new student-led initiative at NAU! Congratulations to all of our students, staff, and allies that have supported this amazing initiative and thank you to Octavia Freeland, OISS IPM for the wonderful story!

It's great to see the NACC Elders at the celebration too, don't forget we have 4 Elders at the NACC: <https://in.nau.edu/native-american.../clubs-organizations/>



(Yellow highlighting added)

NAU's promotional materials further reinforce that message. In promoting the IPLLC, NAU states: “We’re proud to support our Indigenous students through the Indigenous Peoples Living-Learning Community (IPLLC),” explaining that “the IPLLC has provided a dedicated

¹⁴ <https://www.facebook.com/nau.indigenous/posts/we-are-excited-for-this-new-living-space-for-indigenous-students-to-better-suppo/465659765577906/> [<https://archive.is/wip/XQj9a>] (accessed August 17, 2026).

space for Indigenous students to connect, find community, and share in cultural experiences.”¹⁵ These statements expressly identify Indigenous students as the group the IPLLC is intended to support and describe the residential community as a “dedicated space” for them. Viewed together, this language signals to an ordinary prospective student that Indigenous students are the IPLLC’s primary intended audience.



(Yellow highlighting added)

C. NAU’s Race- and Ethnicity-Based Focused Housing Programs Constitute Unlawful Steering in Violation of Federal Law

1. These Programs Violate the Fair Housing Act

NAU’s discriminatory Focused Housing Programs encourage, and/or deter, students from dormitory housing based on race, color, national origin, and therefore violate multiple provisions of federal law. Most obviously, these programs violate the Fair Housing Act because they classify and promote university housing based on race and national origin. Even if HUD were to conclude that the programs are not formally exclusionary, they independently violate the Act’s prohibition on discriminatory housing statements and racial steering.

¹⁵ <https://www.instagram.com/p/DCIn783CKMK/> [<https://archive.is/wip/kMSoq>] (accessed August 17, 2026).

Steering is “not an outright refusal to rent to a person within a class of people protected by the statute; rather it consists of efforts to deprive a protected home seeker of housing opportunities in certain locations.” *Fair Housing Congress v. Weber*, 993 F. Supp. 1286, 1293 (C.D.Cal.1997). Instead, as applicable here, illegal steering consists of “communicating to any prospective [resident] that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development.”¹⁶ Under this standard, no discriminatory intent is required by the seller or renter. *Jancik v. HUD*, 44 F.3d 553, 556 (7th Cir. 1995). Instead, whether a given statement constitutes illegal steering is whether the statement suggests a preference to “the ordinary reader or listener.” *United States v. Hunter*, 459 F.2d 205, 215 (4th Cir.); *Ragin*, 923 F.2d at 1002 (An “ordinary reader is neither the most suspicious nor the most insensitive of our citizenry.”); *Hous. Rts. Ctr. v. Donald Sterling Corp.*, 274 F. Supp. 2d 1129, 1138 (C.D. Cal.), *aff’d sub nom.*, *Hous. Rts. Ctr. v. Sterling*, 84 F. App’x 801 (9th Cir. 2003) (quoting *Ragin*, 923 F.2d at 999).

The disclaimer that the Focused Housing are “open to all” is not legally exculpatory given the pervasive race- and ethnicity-based promotion and signaling. Race- and ethnicity-based signaling is unlawful even if other groups are not absolutely excluded, much like the Asian students in the SFFA case, *infra*, suffered unlawful discrimination even though not completely excluded. If anything, this perfunctory disclaimer reflects a consciousness of guilt that NAU recognizes its housing practices are unlawful.

Despite the University’s claim that these housing programs are “open to all” students, information that NAU provides on its housing website describing its discriminatory Focused Housing Programs clearly suggests a preference for a particular race, color and/or national origin. This information steers individuals (“ordinary readers”) towards and away from dormitory housing based on these preferences in violation of the FHA. This is true even if NAU in fact has no discriminatory intent.

2. These Programs Violate Title VI

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 in federally funded programs, and therefore applies to universities receiving federal financial assistance, such as NAU.¹⁷

In *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023), the Supreme Court declared that “[e]liminating racial discrimination means

¹⁶ 24 C.F.R. § 100.70(c).

¹⁷ <https://www.usaspending.gov/recipient/7b52fa5f-5875-14d7-6b49-dba3db4692f2-C/latest> [<https://archive.ph/wip/3x1sX>] (accessed August 17, 2026).

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.

Regardless of NAU’s reasons for offering racially separated housing, it 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).

3. These Programs Violate the Equal Protection Clause

As NAU is a public university, its offering, promoting, and administering these discriminatory housing programs also violates the Equal Protection Clause of the Fourteenth Amendment. Under the strict constitutional scrutiny applicable to racial classifications under the Equal Protection Clause of the Fourteenth Amendment, such discriminatory programs “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). 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).

Classifications like those used in NAU’s discriminatory Focused Housing Programs, based on immutable characteristics like race, “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). Even if classifications based on immutable characteristics are intended to further a compelling interest, discriminatory programs must involve “individualized consideration” and must apply criteria in a “nonmechanical way.” *Grutter v. Bollinger*, 539 U.S. 306, 334 (2003). Here, NAU’s discriminatory Focused Housing Programs fail these requirements.

While *Students for Fair Admissions* addressed admissions decisions,¹⁸ the holding applies more broadly. The twin commands of the Equal Protection Clause, in addition to the requirements of strict scrutiny, are that “race may never be used as a negative and that it may not

¹⁸ 600 U.S. 181, 230 (2023).

operate as a stereotype.”¹⁹ Therefore, at its core the test is straightforward: 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. *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614, 619 (1991) (“Racial discrimination [is] invidious in all contexts.”). Simply put, this prohibition includes housing, and NAU’s discriminatory Focused Housing Programs violate federal law and are unconstitutional.

D. FHEO Has Jurisdiction

FHEO has jurisdiction to investigate race-based discrimination in both private housing, pursuant to the FHA,²⁰ and in housing that receives federal financial assistance.²¹ Courts have also concluded that the Fair Housing Act applies to college dormitories.²² Therefore, FHEO has jurisdiction over this complaint.

E. The Complaint Is Timely

This complaint is timely because it includes allegations of discrimination based on race that occurred within one year of this complaint’s submission.²³ NAU’s discriminatory housing programs are active and ongoing.²⁴

F. The Equal Protection Project Has Standing To Bring This Complaint

EPP is an “aggrieved person” for the purpose of this Complaint. EPP’s mission statement on the EPP website is: “We are devoted to the fair treatment of all persons without regard to race or ethnicity. Our guiding principle is that there is no ‘good’ form of racism. The remedy for racism never is more racism.” Achieving EPP’s mission is frustrated by the programs at issue here, and EPP has been forced to devote resources, particularly research and attorney time, to addressing these programs to fulfill EPP’s mission, thereby diverting such resources from other endeavors. Similar to a “tester,” EPP’s research tests compliance with the FHA. Such diversion of resources has impaired EPP’s ability to carry out its mission, constituting a concrete and particularized injury.

In the event the Department determines that EPP does not have standing, we request that the Department issue an Assistant Secretary’s Complaint based on this filing.

¹⁹ *Id.* at 218.

²⁰ Fair Housing Act, 42 U.S.C. 3601, *et seq.*

²¹ 42 U.S.C. 2000d, *et seq.*

²² *Kearney*, 940 F. Supp. at 983.

²³ 24 CFR § 146.33.

²⁴ <https://in.nau.edu/campus-living/focused-housing/> [<https://archive.is/wip/1QIVd>] (accessed August 17, 2026).

G. Request For Investigation And Enforcement

FHEO has the power and obligation to investigate NAU's role in creating, promoting, and administering the two identified discriminatory housing programs, to discern whether NAU is engaging in discrimination in 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.

Accordingly, we respectfully request that the U.S. Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity promptly open a formal investigation, impose all appropriate remedial measures authorized by law to address the two identified discriminatory housing programs at NAU, and ensure that all current and future initiatives and programs fully comply with the FHA, Title VI, the Fourteenth Amendment, and other applicable federal civil rights guarantees.

Respectfully submitted,

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