



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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February 12, 2025

BY EMAIL (OCR.NewYork@ed.gov)

New York Office
Office for Civil Rights
U.S. Department of Education
26 Federal Plaza, Suite 31-100
New York, NY 10278-9991

Re: Civil Rights Complaint Against Alfred University
“Summer Arts BIPOC Residency” Program

To Whom It May Concern:

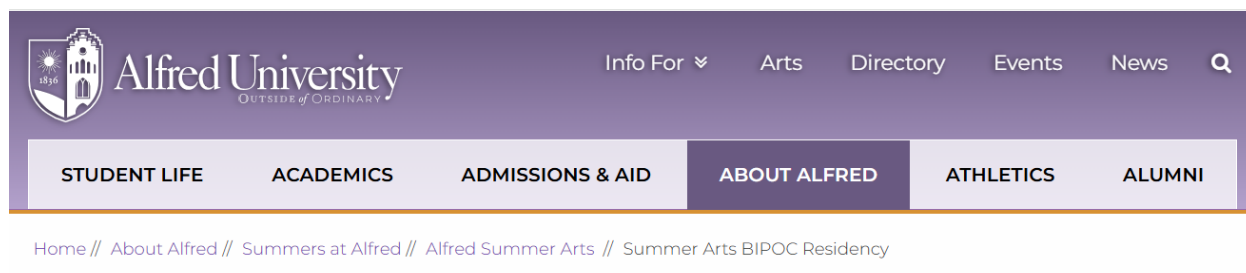
This is a federal civil rights complaint submitted pursuant to the U.S. Department of Education’s Office for Civil Rights (“OCR”) discrimination complaint resolution procedures.¹ We write on behalf of the Equal Protection Project of the Legal Insurrection Foundation, a non-profit entity that, among other 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 Alfred University (“Alfred”), a private university, arising from its discrimination on the basis of race, color, and national origin in violation of Title VI. Specifically, Alfred operates, administers, and promotes a Summer Arts BIPOC Residency program (the “Summer Arts BIPOC Residency”) open only to persons who identify as Black, Indigenous, or People of Color. Whites are not eligible.

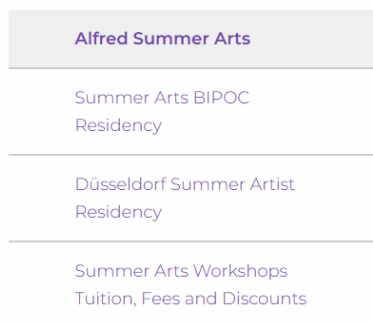
¹ See 42 U.S.C. § 2000d-1; 34 C.F.R. §§ 100.7, 100.8, and 100.9.

The Summer Arts BIPOC Residency²

The Summer Arts BIPOC Residency at Alfred’s School of Art & Design + Performing Arts Division is a four-week program running from June 23 to July 18, 2025. Held annually since 2022³, the residency is designed for BIPOC (Black, Indigenous, People of Color) artists, providing them with time and space to focus on artistic research, practice, and creative exploration. Artists can participate for a minimum of two weeks or up to the full four weeks.



The screenshot shows the Alfred University website navigation bar. The top bar is purple with the Alfred University logo and name on the left, and navigation links for 'Info For', 'Arts', 'Directory', 'Events', and 'News' on the right. Below this is a secondary navigation bar with links for 'STUDENT LIFE', 'ACADEMICS', 'ADMISSIONS & AID', 'ABOUT ALFRED', 'ATHLETICS', and 'ALUMNI'. The 'ABOUT ALFRED' link is highlighted. Below the navigation bar is a breadcrumb trail: 'Home // About Alfred // Summers at Alfred // Alfred Summer Arts // Summer Arts BIPOC Residency'.



The screenshot shows a sidebar menu with four items: 'Alfred Summer Arts', 'Summer Arts BIPOC Residency', 'Düsseldorf Summer Artist Residency', and 'Summer Arts Workshops Tuition, Fees and Discounts'. The 'Alfred Summer Arts' item is highlighted.

Summer Arts BIPOC Residency

June 23 - July 18, 2025

The School of Art & Design + Performing Arts Division at Alfred University's BIPOC (Black, Indigenous, People of Color) Artist-in-Residence program provides early-career BIPOC artists with time and space to dive deeply into their artistic research and practice, and creative endeavors.

Alfred oversaw the current year application process, which closed on February 1, 2025. The program provides sliding-scale grants of up to \$2,500 for travel, meals, or supplies, along with complimentary furnished one-bedroom campus housing with access to a full kitchen and laundry facilities. As late as December 20, 2024, Alfred was promoting the program as designed for BIPOC artists (see Instagram posting below).⁴

² <https://www.alfred.edu/about/summers-at-alfred/alfred-summer-arts/summer-arts-bipoc-residency.cfm> [<https://archive.is/wip/pw5EU>] (accessed Feb. 10, 2025).

³ <https://www.alfred.edu/cohengallery/exhibits/2022-2023/open-space/> [<https://archive.is/wip/U5NHw>] (accessed Feb. 10, 2025).

⁴ https://www.instagram.com/alfredu_arts/p/DD0EwBWh-Yo/ [<https://archive.is/wSDpR>] (accessed Feb. 10, 2025).



The Alfred website provides details of the program, as follows:

Description: “The School of Art & Design + Performing Arts Division at Alfred University’s BIPOC (Black, Indigenous, People of Color) Artist-in-Residence program provides early-career BIPOC artists with time and space to dive deeply into their artistic research and practice, and creative endeavors.”

Summer Arts BIPOC Residency

June 23 - July 18, 2025

The School of Art & Design + Performing Arts Division at Alfred University’s BIPOC (Black, Indigenous, People of Color) Artist-in-Residence program provides early-career BIPOC artists with time and space to dive deeply into their artistic research and practice, and creative endeavors.

Eligibility: “Early to mid-career artists who identify as Black, Indigenous and/or People of Color.”

Eligibility

Early to mid-career artists who identify as Black, Indigenous and/or People of Color.

Due to construction, we regret that artists who work primarily with clay will not be able to apply for summer 2025.

Dates

June 23 - July 18, 2025

Each residency lasts a minimum of 2 weeks and up to 4 weeks.

[APPLY NOW](#)

Alfred’s Summer Arts BIPOC Residency Violates Title VI

Alfred’s Summer Arts BIPOC Residency program violates Title VI by discriminating on the basis of race, color, and/or national origin.⁵ 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” 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

⁵ 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 Alfred. 42 U.S.C. § 2000(a)(a). This program also violates the New York State Human Rights Law, which prohibits discrimination based on race and ethnicity in multiple areas, including education and public accommodation. *See* N.Y. Exec. L. § 296.

Alfred receives federal funds (including from the Department of Education),⁶ it is subject to Title VI.⁷

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 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 Alfred’s reasons for offering, promoting, and administering such a discriminatory program, Alfred 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 Alfred’s racial and/or ethnicity-based requirements for this residency program are presumptively invalid, its use of such criteria violates federal civil rights statutes.

OCR Has Jurisdiction

OCR enforces Title VI of the Civil Rights Act of 1964⁸ and its implementing regulation,⁹ 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, including from the Department of Education¹⁰, Alfred is subject to Title VI and OCR has jurisdiction.

⁶ See <https://www.usaspending.gov/recipient/9e5b0b1c-6e1c-a965-6b96-00ca8e6fc7c7-C/latest> [<https://archive.ph/9BLrW>] (accessed on Feb. 10, 2025).

⁷ This program also violates Alfred’s own nondiscrimination policy. See <https://my.alfred.edu/human-resources/policies/anti-discrimination-statement.cfm> [<https://archive.is/wip/22QoQ>] (accessed on Feb. 10, 2025).

⁸ 42 U.S.C. §§ 2000d-2000d-7.

⁹ 34 C.F.R. Part 100.

¹⁰ https://www.usaspending.gov/award/ASST_NON_P425F203923_9100 [<https://archive.ph/wip/LG0Os>] (accessed Feb. 10, 2025).

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 program application closed on February 1, 2025, and the residency program will occur from June 23 – July 18, 2025.¹¹

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 this residency program on race, color, and/or national origin violates Title VI.

The Office for Civil Rights has the power and obligation to investigate Alfred’s role in creating, funding, promoting and administering this program as well as imposing 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 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 Alfred’s Summer Arts BIPOC Residency program based on discriminatory criteria, and ensure that all ongoing and future programs at Alfred comport with the federal civil rights laws.

¹¹ <https://www.alfred.edu/about/summers-at-alfred/alfred-summer-arts/summer-arts-bipoc-residency.cfm> [<https://archive.is/pw5EU>] (accessed Feb. 10, 2025).

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Respectfully submitted,

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