



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

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

U. S. Department of Education  
Office for Civil Rights – Denver Office  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582

**Re: Civil Rights Complaint Against The University of New Mexico**  
**Regarding Discriminatory Scholarship Programs**

To Whom It May Concern:

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 the University of New Mexico (“UNM”) for race-based and sex-based discrimination in violation of Title VI and Title IX, respectively. Specifically, UNM offers, administers, and promotes ten (10) scholarships that discriminate based on race, sex, or both.

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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, promoted, and administered through the UNM Scholarship Office.<sup>2</sup>



The scholarships listed below are currently offered to UNM students and applicants for admission, according to the UNM website, and violate Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations<sup>3</sup> by illegally excluding students based on their race and skin color, Title IX of the Education Amendments of 1972 (“Title IX”) and its implementing regulations<sup>4</sup> by excluding students based on their sex, or both. Because UNM 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 for the 2025-2026 school year. There is no separate application for the below scholarships. So long as students complete the general application, are admitted to UNM, and meet the requirements, they are eligible for consideration.<sup>5</sup>

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<sup>2</sup> <https://scholarship.unm.edu/> [<https://archive.is/wip/C34i7>] (accessed on Feb. 25, 2025).

<sup>3</sup> 42 U.S.C. § 2000d et seq.; 28 C.F.R. Part 100.

<sup>4</sup> 20 U.S.C. § 1681 et seq.; 34 C.F.R. Part 106.

<sup>5</sup> <https://scholarship.unm.edu/> [<https://archive.is/wip/C34i7>] (accessed on Feb. 25, 2025).

**I. Scholarships That Violate Title VI (6)**<sup>6</sup>

**National African American Scholars**

Discriminatory Requirement: “National African American Scholars”

<b>National African American Scholars</b>	Admitted to UNM by <b>February 1</b>	Approximately \$15,000 per year  Renewable for 4 years	National African American Scholars	Complete 15 new credit hours with a 3.3 GPA each semester (fall and spring semesters).
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**National Hispanic Scholars**

Discriminatory Requirement: “National Hispanic Scholars”

<b>National Hispanic Scholars</b>	Admitted to UNM by <b>February 1</b>	Approximately \$15,000 per year  Renewable for 4 years	National Hispanic Scholars	Complete 15 new credit hours with a 3.3 GPA each semester (fall and spring semesters).
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**Predicanda DeGeer Scholarship**

Discriminatory Requirement: “First preference to native New Mexican students of Hispanic descent”

<p><u>Predicanda DeGeer Scholarship — Amount Varies</u></p> <ul style="list-style-type: none"> <li>• Financial need</li> <li>• Full-time student</li> <li>• First preference to native New Mexican students of Hispanic descent</li> </ul>
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<sup>6</sup> All scholarships and screenshots listed below are from <https://scholarship.unm.edu/> [<https://archive.ph/C34i7>].

**Louise E. Johnson**

Discriminatory Requirement: “American Indian or African American”

Louise E. Johnson — Amount Varies

- American Indian or African American
- Contact the Scholarship Office

**Manuel Pino**

Discriminatory Requirement: “Hispanic”

Manuel Pino — Amount Varies

- Hispanic
- Contact the Scholarship Office

**Carrie Schaeffer**

Discriminatory Requirement: “African American”

Carrie Schaeffer — Amount Varies

- African American
- Academic merit

## II. **Scholarships That Violate Both Title VI and Title IX (1)**

### **Arab Women’s Scholarship**<sup>7</sup>

Discriminatory Requirement: “female Arab students”<sup>8</sup>

<p><u>Arab Women’s Scholarship — Amount Varies</u></p> <ul style="list-style-type: none"><li>• Financial need</li><li>• Academic merit</li></ul>
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## III. **Scholarships That Violate Title IX (3)**<sup>2</sup>

### **Louise Bell Scholarship**

Discriminatory Requirement: “Female Student”

<p><u>Louise Bell — Amount Varies</u></p> <ul style="list-style-type: none"><li>• Female student</li><li>• Academic merit</li><li>• General scholarship criteria</li></ul>
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### **Philo Bennet Scholarship**

Discriminatory Requirement: “Freshman Women”

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<sup>7</sup> <https://scholarship.unm.edu/> [<https://archive.is/wip/C34i7>] (accessed on Feb. 25, 2025).

<sup>8</sup> <https://www.fastweb.com/college-scholarships/scholarships/39767-arab-women-s-scholarship> [<https://archive.is/dWx5k>] (accessed February 25, 2025).

<sup>9</sup> All scholarships and screenshots listed below are available at <https://scholarship.unm.edu/> [<https://archive.ph/C34i7>] (accessed Feb. 25, 2025).

Philo Bennet — Amount Varies

- Freshman woman
- Spring only
- Academic merit
- Financial need
- New Mexico resident

**Edward Grisso Scholarship**

Discriminatory Requirement: “Male”

Edward Grisso — Amount Varies

- Junior
- Male
- Improvement in grades during sophomore year

**The Scholarships Listed Above Violate The Law**

The scholarships identified above violate either Title VI, by discriminating on the basis of race, skin color, or national origin; Title IX, by discriminating on the basis of sex; or both.<sup>10</sup> Furthermore, because UNM is a public university, such discrimination also violates the Equal Protection Clause of the Fourteenth Amendment.

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,” and therefore applies to universities receiving federal financial assistance. Because UNM

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<sup>10</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 UNM. 42 U.S.C. § 2000(a)(a). These scholarships also violate the New Mexico’s Human Rights Act. N.M. Stat. Ann § 28-1-1 (2023). Finally, these scholarships violate UNM’s own nondiscrimination policy. *See* <https://policy.unm.edu/regents-policies/section-2/2-3.html#:~:text=The%20University%20forbids%20unlawful%20discrimination,spousal%20affiliation%2C%20or%20veteran%20status>.

[<https://archive.is/wip/XpBGz>] (accessed on Feb. 25, 2025).

receives and administers federal funds through numerous programs and is a public institution, it is subject to Title VI.<sup>11</sup>

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

As UNM 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 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. 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 208 (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>12</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,

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<sup>11</sup> See <https://www.usaspending.gov/recipient/a5b5888e-f4b5-655c-bd88-d970f969d7c9-C/latest/archive.is/wip/4Dxyo> (accessed on Feb. 25, 2025).

<sup>12</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.”)

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, UNM 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, UNM cannot demonstrate that restricting scholarships based on race, color, or national origin serves any legitimate governmental purpose, let alone an extraordinary one. Classifications based on immutable characteristics “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).

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 UNM’s scholarships were “imprecise,” “plainly overbroad,” “arbitrary,” “undefined” and “opaque,” 600 U.S. at 216–17,<sup>13</sup> and declared that “it is far from evident ... how

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<sup>13</sup> In his concurrence, Justice Thomas criticizes these categories as being “artificial.” *Students for Fair Admissions*, 600 U.S. at 276 (Thomas, J., concurring).



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.

For a policy to satisfy narrow tailoring, the government must demonstrate “serious, good faith consideration of workable race-neutral alternatives,” *Grutter v. Bollinger*, 539 U.S. 306, 339 (2003), and show that “no workable race-neutral alternative” could achieve the purported compelling interest. *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 312 (2013). There is no evidence that such alternatives were ever considered here.

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 scholarships 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.

UNM’s explicit race- and sex-based scholarships are presumptively invalid, and since there is no compelling government justification for such invidious discrimination, UNM’s offering, promotion, and administration of these programs violates state and federal civil rights statutes and constitutional equal protection guarantees.

### **OCR Has Jurisdiction**

UNM is a public entity and a recipient of federal funds,<sup>14</sup> including from the U.S. Department of Education.<sup>15</sup> It is therefore liable for violating Title VI, Title IX 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, national origin and sex that occurred within 180 days and that appear to be ongoing. The scholarships are running during the 2025-2026 academic year, and applications are tied to students' admissions applications.<sup>16</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 UNM cannot show any compelling government justification for it, the fact that it conditions eligibility for multiple scholarships on race, color, national origin and sex violates federal civil rights statutes and constitutional equal protection guarantees.

The Office for Civil Rights has the power and obligation to investigate UNM’s role in creating, funding, promoting and administering these scholarships – and, given how many there are, to discern whether UNM 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.

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<sup>14</sup> See <https://www.usaspending.gov/recipient/a5b5888e-f4b5-655c-bd88-d970f969d7c9-C/latest> [archive.is/wip/4Dxyo] (accessed on Feb. 25, 2025).

<sup>15</sup> See [https://www.usaspending.gov/award/ASST\\_NON\\_R305R220006\\_9100](https://www.usaspending.gov/award/ASST_NON_R305R220006_9100) [archive.ph/wip/AkPh5] (accessed on Feb. 25, 2025).

<sup>16</sup> <https://scholarship.unm.edu/> [https://archive.ph/C34i7] (accessed Feb. 25, 2025).

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Accordingly, we respectfully ask that the Department of Education's Office for Civil Rights prioritize and expedite this complaint given the ongoing application considerations and number of discriminatory scholarships at UNM reflecting a systematic disregard for Titles VI and IX, promptly open a formal investigation, impose such remedial relief as the law permits for the benefit of those who have been illegally excluded from UNM's various scholarships based on discriminatory criteria, and ensure that all ongoing and future scholarships and programming at UNM comports with the Constitution and federal civil rights laws.

Respectfully submitted,

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