



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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September 30, 2026

BY EMAIL (OCR@ed.gov)

Kimberly Richey
Assistant Secretary Office for Civil Rights
Office for Civil Rights
U.S. Department of Education
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Washington, DC 20202

BY EMAIL (OCR.KansasCity@ed.gov)

Kansas City Office
Office for Civil Rights
U.S. Department of Education
One Petticoat Lane
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Re: Civil Rights Complaint Against Kansas Wesleyan Regarding Racially Discriminatory “NEXT Level” Program

Dear Assistant Secretary 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 entity 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 and request for investigation regarding Kansas Wesleyan University’s (“KWU”) NEXT Level Program (“NEXT Level” or “the program”) which appears to racially discriminate in violation of Title VI.

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

KWU lists NEXT Level among its belonging and inclusion groups.² Its Belonging and Inclusion webpage outlines a phased plan that includes goals for Historically Underserved Students (HUS).

Resources



Within three to four years, KWU seeks to achieve the following:

- “HUS students have access and top choice in a vibrant internship program”; and
- “Implement a robust mentor program/host family program for all HUS.”

Within five to seven years, KWU identifies these goals:

- “Equal or better graduation rates of HUS versus their counterparts at KWU”;
- “Equal or better student debt rates versus their counterparts at KWU”; and
- “KWU reduces or eliminates institutional barriers and systemic racism for the university.”³

² <https://www.kwu.edu/student-life/belonging/> [<https://archive.is/wip/E6wJk>] (accessed September 28, 2026).

³ <https://www.kwu.edu/student-life/belonging/> [<https://archive.is/wip/E6wJk>] (accessed September 28, 2026).

Goals, Strategies and Actions

Short-term Goals (1-2 Years)

Intermediate Goals (3-4 Years)

- Unique programs that allow HUS to grow, develop, and thrive
- HUS students have access and top choice in a vibrant internship program
- Implement a robust mentor program/host family program for all HUS

Long-term Goals (5-7 Years)

- Equal or better graduation rates of HUS versus their counterparts at KWU
- Equal or better student debt rates versus their counterparts at KWU
- KWU reduces or eliminates institutional barriers and systemic racism for the university

The Future

KWU defines HUS as including first-generation college students, students from low socioeconomic backgrounds, and students of color.⁴ Accordingly, students of color are automatically eligible, while other (white) students need to show an additional factor such as first-generation or low income. This additional burden place on white students may violate the civil rights laws, as detailed below.

NEXT Level, described below,⁵ is currently active according to KWU's website. This complaint requests an investigation to determine if NEXT Level eligibility requirements violate Title VI of the Civil Rights Act of 1964 ("Title VI") and its implementing regulations⁶ by discriminating against students based on race, color, or national origin.

INVESTIGATION IS NEEDED TO DETERMINE WHETHER NEXT LEVEL'S ELIGIBILITY REQUIREMENTS VIOLATE FEDERAL LAW

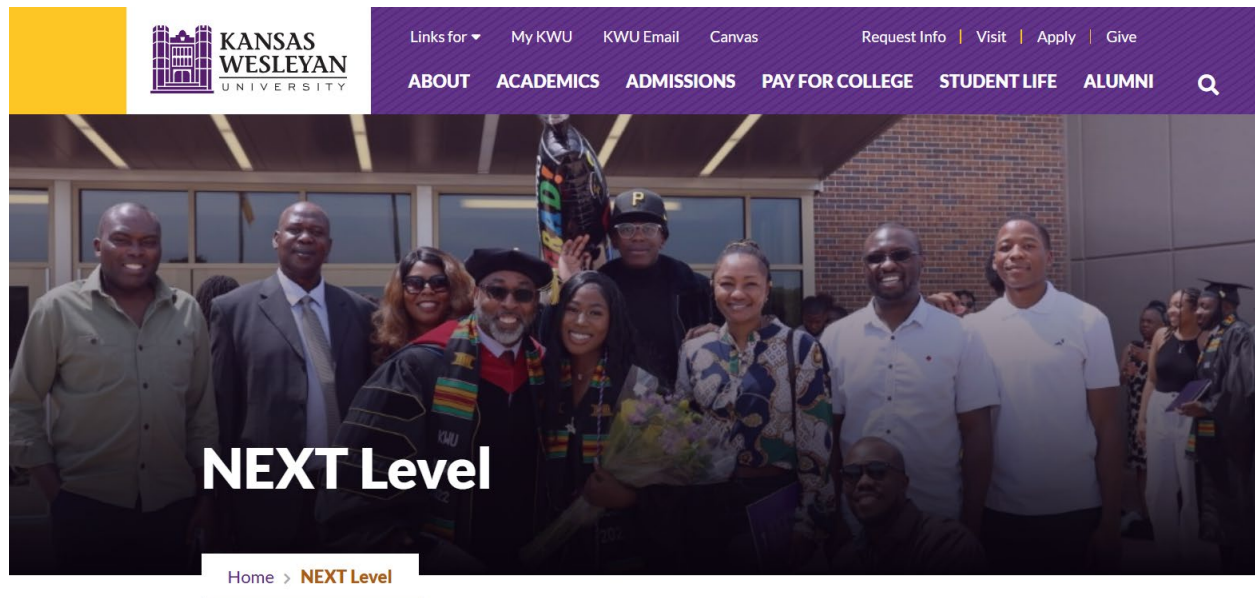
According to KWU's website, NEXT Level targets "historically underserved students," a category KWU defines to include first-generation college students, students from low

⁴ <https://www.kwu.edu/next-level/> [<https://archive.ph/wip/dVNu6>] (accessed September 28, 2026).

⁵ Discriminatory criteria are highlighted.

⁶ 34 C.F.R. Part 100.

socioeconomic backgrounds, and “students of color.”⁷ To join, students must reach out to a faculty member within KWU’s Office of Student Engagement.



We are excited to introduce the NEXT Level program at Kansas Wesleyan University. The NEXT

Link: <https://www.kwu.edu/next-level/>

(accessed August 25, 2026).

Archived Link: <https://archive.ph/wip/dVNu6>

Discriminatory Requirement: “This population includes, but is not limited to the following:

- Individuals who are the first generation in their family to attend college.
- Those of low socio-economic background.
- **Students of color.”**

⁷ <https://www.kwu.edu/next-level/> [<https://archive.ph/wip/dVNu6>] (accessed September 28, 2026).

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We are excited to introduce the NEXT Level program at Kansas Wesleyan University. The NEXT Level program is looking for historically underserved students who want to be part of a group that promotes knowledge, gains relationships, and empowers success. This population includes, but is not limited to the following:

- Individuals who are the first generation in their family to attend college.
- Those of low socio-economic background.
- Students of color.

NEXT Level provides students “with a peer mentor, a faculty/staff advisor, and opportunities designed to build bonds and connections between participants.” Participants also take part in activities tailored to support their growth during college.

As with all of our efforts at KWU, NEXT Level strives to celebrate diversity, support equity, and honor inclusion. We will do this by providing our NEXT Level students with a peer mentor, a faculty/staff advisor, and opportunities designed to build bonds and connections between participants.

NEXT Level is F.I.R.E.

F = Family (A family away from home)
I = Information (A place to go to ask questions)
R = Relationship (A lasting bond with faculty, staff, and other students)
E = Experience (Activities tailored to help students grow during the college years)

The NEXT Level Program Appears To Violate Title VI

NEXT Level appears to violate Title VI by discriminating on the basis of race, color, or national origin.⁸ The program states that it serves “historically underserved students,” which KWU defines to include first-generation college students, students from low socioeconomic

⁸Although 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 KWU. 42 U.S.C. § 2000a. Further, this program appears to violate Kansas state law [Kan. Stat. Ann. § 44-1009(c)(1)] and KWU’s own nondiscrimination policy. See <https://www.kwu.edu/policies/> [<https://archive.is/wip/TsgWQ>] (accessed on September 28, 2026).

backgrounds, and “students of color.” Under these criteria, students of color qualify based on race alone, while other students must satisfy a separate socioeconomic or first-generation eligibility requirement.

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 KWU receives federal funds,⁹ it is subject to Title VI.

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 KWU’s reasons for offering, promoting, and administering such a program, KWU may be 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). Moreover, it is no defense that KWU imposes racial preference alongside lawful preferences such as socioeconomic or first-generation status of eligible students.¹⁰

⁹ See https://www.usaspending.gov/award/ASST_NON_P063P240144_091 [<https://archive.is/wip/VF4LR>] (accessed on September 28, 2026)

¹⁰ Students of color are automatically eligible for this program while other students must demonstrate that they are either first generation or of low socio-economic status before being eligible, thereby discriminating against students who are not students of color or do not meet the other criteria.

Based on the evidence on KWU's own website, there certainly is a need for OCR to investigate any possible violation of Title VI.

OCR Has Jurisdiction

OCR enforces Title VI of the Civil Rights Act of 1964¹¹ and its implementing regulation,¹² 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 Education,¹³ KWU is subject to Title VI and OCR has jurisdiction over this case.

The Complaint Is Timely

This complaint is timely brought because it includes allegations of discrimination based on race, color, or national origin that occurred within 180 days and that appears to be ongoing. This program is scheduled to run for the 2026/2027 school year.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 democratic society.” 488 U.S. 469, 521 (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).

The Office for Civil Rights has the power and obligation to investigate KWU's role in creating, funding, promoting and administering this program and to discern whether KWU is engaging in such discrimination in the NEXT Level program or in its other activities – as well as the duty to impose 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

¹¹ 42 U.S.C. §§ 2000d-2000d-7.

¹² 34 C.F.R. Part 100.

¹³ See https://www.usaspending.gov/award/ASST_NON_P063P240144_091 [<https://archive.is/wip/VF4LR>] (accessed on September 28, 2026)

¹⁴ <https://www.kwu.edu/wp-content/uploads/2026-27-KWU-Academic-Catalog-NEW-STRUCTURE.pdf> [<https://archive.is/wip/Res7P>] (accessed September 28, 2026).

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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 to determine if the NEXT level Program violates Title VI. Should OCR determine that there is such a violation it should impose such remedial relief as the law permits for the benefit of those who have been illegally excluded from programming at KWU based on discriminatory criteria and ensure that all ongoing and future programs at KWU comport with the federal civil rights laws.

Respectfully submitted,

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