

THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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April 22, 2025

BY EMAIL (OCR@ed.gov)

Craig Trainor, Acting Assistant Secretary
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

BY EMAIL (OCR.Chicago@ed.gov)

Chicago Office
Office for Civil Rights
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604

**Re: Civil Rights Complaint Against Drake University
Regarding Discriminatory Program**

Dear Mr. Trainor and OCR Staff:

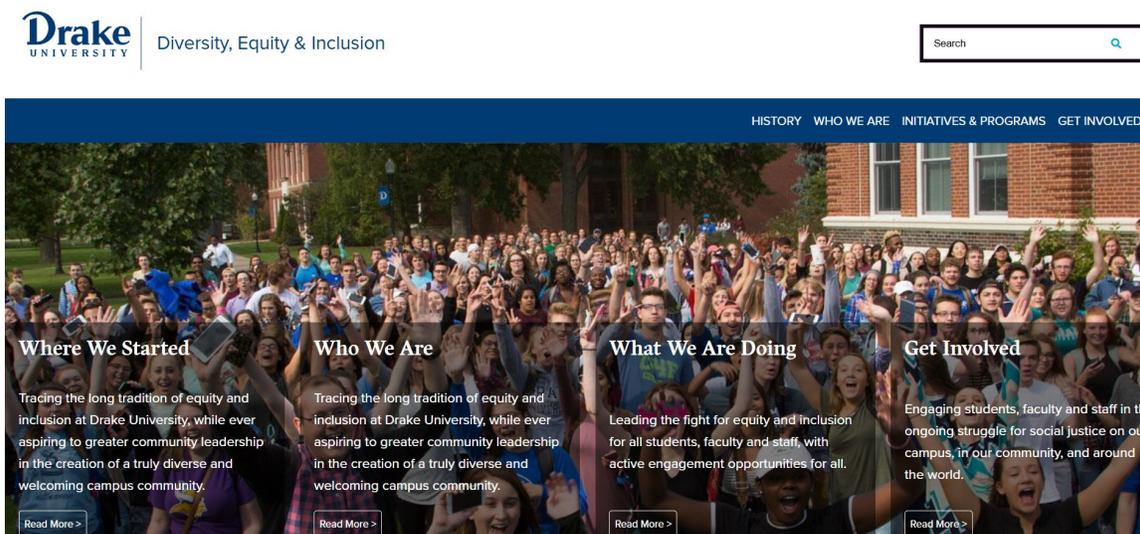
This is a federal civil rights complaint submitted pursuant to the U.S. Department of Education's Office for Civil Rights ("OCR") discrimination complaint resolution procedures.¹ We write on behalf of the Equal Protection Project of the Legal Insurrection Foundation, a non-profit entity that, among other things, seeks to ensure equal protection under the law and non-discrimination by the government and by recipients of government funds, and that opposes unlawful discrimination in any form.

We bring this civil rights complaint against Drake University ("Drake"), a private university, for discrimination in a school-administered program, the Crew Scholars Program ("Crew Program") open only to "students of color" in violation of Title VI.

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

Diversity, Equity & Inclusion At Drake

Drake has a longstanding commitment to diversity, equity & inclusion (“DEI”) on campus.² Today that “...commitment to diversity, equity, and inclusion acknowledges the role Drake University can play in redressing historic injustices that result in continued marginalization of members of specific groups...”³ The university’s DEI department has numerous programs and initiatives.⁴



Drake remains committed to DEI. The university’s Associate Provost, Campus Equity & Inclusion assured that, “Regardless of what Iowa legislation might pass, this work will continue in some shape or form, even if it has to take on a new name, even if it has to take on an altered appearance. This work is too important to just let it vanish.”⁵

Crew Scholars Program

One of these DEI programs offered at Drake is the Crew Program, described as “... an academic excellence and leadership development program for incoming students with a passion for diversity.”⁶ Members receive an annual \$500 tuition scholarship that is renewable. The Crew Program, however, is not open to white students according to the Drake website: “The Crew

² <https://www.drake.edu/diversity/history/> [<https://archive.is/wip/WzqxY>] (accessed April 21, 2025).

³ <https://www.drake.edu/diversity/> [<https://archive.ph/wip/wLQRT>] (accessed April 21, 2025).

⁴ <https://www.drake.edu/diversity/initiatives/> [<https://archive.ph/wip/GJuDK>] (accessed April 21, 2025).

⁵ <https://timesdelphic.com/82536/features/drake-takes-a-stand-against-proposed-anti-dei-legislation/> [<https://archive.ph/wip/u5Yfo>] (accessed April 21, 2025).

⁶ <https://www.drake.edu/academics/undergraduate/crew/> [<https://archive.ph/wip/FRf0H>] (accessed April 21, 2025).

Scholars Program at Drake University is open to incoming domestic **students of color** in any major.⁷

Crew Scholars Program



What is “Crew Scholars”?

Crew [ˈkrü] - *A group of Drake students with a passion for diversity who stand together to support each other's success, academic excellence, and leadership growth.*

The Crew Scholars program is an academic excellence and leadership development program for incoming students with a passion for diversity. The Crew Scholars Program offers a community in which you'll build lifelong friendships, attend exciting events, and get involved in every aspect of campus life, all while cultivating academic excellence and leadership skills and nurturing your passion for making a difference. Crew Scholars who are enrolled full-time will receive an annual \$500 tuition scholarship (\$250 per semester), which is renewable if students satisfactorily participate in the program.*

*Not available to recipients of Tuition Exchange or to students whose tuition is already 100% funded.



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The Crew Scholars Program

- Support
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- The Program
 - Joining the Crew
 - Pre-Semester Events
 - Crew Connect Sessions
- Testimonials
- Crew Connections



Joining the Crew

The Crew Scholars Program at Drake University is open to incoming domestic students of color in any major. You must be admitted to Drake before you can apply for Crew; applications for the program typically become available in October and closes in early January. Visit drake.edu/crew to apply.

⁷ <https://www.drake.edu/crewscholarsprogram/theprogram/joiningthecrew/> [<https://archive.is/KL1MI>] (accessed April 17, 2025).

Joining the Crew

The Crew Scholars Program at Drake University is open to **incoming domestic students of color** in any major. You must be admitted to Drake before you can apply for Crew; applications for the program typically become available in October and closes in early January. Visit drake.edu/crew to apply.

(Yellow highlighting added)

The Crew Scholars Program Violates The Law

The Crew Program violates Title VI because it conditions eligibility for participation based on a student’s race, according to the Drake website. 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).⁸ As Drake 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

⁸ 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 Drake. 42 U.S.C. § 2000(a)(a). This scholarship also violates the Iowa Civil Rights Act, Iowa Code Chapter 216, <https://www.legis.iowa.gov/docs/code/216.pdf>, as well as Drake’s own nondiscrimination policy. *See* <https://www.drake.edu/media/universitypolicies/administrationoperations/nondiscrimination-statement.pdf> [<https://archive.is/8UDWj>] (accessed April 22, 2025).

⁹ *See* <https://www.usaspending.gov/recipient/e19dd53e-80df-1b11-df4c-51815630395f-C/latest> [<https://archive.ph/wip/dR1gn>] (accessed on April 21, 2025).

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.

As OCR stated in its February 14, 2025, Civil Rights Guidance Letter¹⁰:

“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.”

Regardless of Drake’s reasons for offering, promoting, and administering such a discriminatory program, they are 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 Drake’s racial and/or ethnicity-based requirement for this program is presumptively invalid, the use of such criteria violates federal civil rights statutes.

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

¹⁰ 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.”)

¹¹ 42 U.S.C. §§ 2000d-2000d-7.

¹² 34 C.F.R. Part 100.

assistance, including from the Department of Education,¹³ Drake 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, and national origin that occurred within 180 days and that appear to be ongoing. This program is currently active and being administered.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 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 program on race, color, and/or national origin violates Title VI.

The Office for Civil Rights has the power and obligation to investigate Drake’s role in creating, funding, promoting and administering this program 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 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 Drake’s various programs based on discriminatory criteria, and ensure that all ongoing and future programming at Drake comports with the federal civil rights laws.

¹³ https://www.usaspending.gov/award/ASST_NON_H129B190032_9100 [<https://archive.ph/wip/GpyuT>] (accessed April 21, 2025).

¹⁴ https://www.instagram.com/p/DFgnh_zOXyL/?img_index=1 [<https://archive.ph/x9sxx>] (accessed April 21, 2025).

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Respectfully submitted,

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