



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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September 16, 2026

BY EMAIL (OCR@ed.gov)

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

BY EMAIL (OCR.DC@ed.gov)

Washington DC (Metro)
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1475

**Re: Civil Rights Complaint Against Bentley University for Racially
Discriminatory Programs**

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 against Bentley University ("Bentley"), a private institution, regarding one scholarship and two programs (collectively, the "Programs") that discriminate based on race in violation of Title VI.

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

PROGRAMS THAT VIOLATE TITLE VI

1. Discover Bentley Program

Link: <https://www.bentley.edu/graduate/why-bentley/discover-bentley-program>

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

Discriminatory Requirement: “Eligibility: If you identify as Black, Latinx, Asian, Indigenous or Native American.”

Discover Bentley Program is a graduate school exploration program sponsored by Bentley University's Office of Diversity & Inclusion and Graduate Admission.² The program is open only to juniors, seniors, and recent graduates from U.S. institutions who identify as Black, Latinx, Asian American, or Native American.

Selected participants receive a fully funded three-day visit to Bentley's Waltham, Massachusetts campus, including transportation, housing, and meals.³ Participants attend graduate classes, meet with faculty and current graduate students, network with corporate partners, learn about the admissions and financial aid process, tour campus facilities, meet with the Pulsifer Career Development Center, and receive a waiver of the graduate school application fee if they apply to Bentley's McCallum Graduate School of Business.



² <https://www.bentley.edu/graduate/why-bentley/discover-bentley-program>
[<https://archive.is/wip/6fzh9>] (accessed September 15, 2026).

³ Id.

2. Dr. Earl L. Avery Endowed Scholarship

Link: <https://www.bentley.edu/news/bentley-announces-dr-earl-l-avery-scholarship-talented-students-color>;

https://community.bentley.edu/register/give?sys%3Agift%3Aappeal_key=givehm&utm_source=giving-nav&utm_medium=web&utm_campaign=adv&utm_content=homepage

Archived Link: <https://archive.is/wip/GzuMe>; <https://archive.is/wip/B57E6>

Discriminatory Requirement: “The scholarship will be awarded annually to academically talented **students of color** who demonstrate financial need, and recipients will be known as Dr. Earl L. Avery Scholars.”

Bentley Announces Dr. Earl L. Avery Scholarship For Talented Students of Color

Bentley University President Alison Davis-Blake has announced a new scholarship in honor of Earl Avery, a champion of diversity and inclusion who is retiring after more than 30 years at the university. The scholarship will be awarded annually to academically talented students of color who demonstrate financial need, and recipients will be known as Dr. Earl L. Avery Scholars.

Avery began at Bentley in 1986 as the university's ethics officer and later served as ombuds, special assistant to the president, and as a mentor and counselor to students, faculty and staff. His accomplishments at Bentley include the annual Martin Luther King, Jr. Celebration; creation of the university's gospel choir and chapter of the [National Association of Black Accountants](#); and the [Summer Transition Education Program](#), which supports students from urban schools who may not meet Bentley's traditional admission requirements.

“Dr. Avery has been an integral member of the Bentley community for more than three decades,” said President Davis-Blake. “His lifetime commitment to access and inclusion for all has guided his work, and because of that commitment, Bentley is far better and stronger today. The Dr. Earl L. Avery Scholarship will ensure that his incredible impact on the lives of so many students, especially students of color, will continue even as he retires from Bentley.”

Initial funding for the Dr. Earl L. Avery Endowed Scholarship came from two generous alumni, Trustee Robert E. Alan '91 and Lebone Moses '02, both of whom credited Avery with their educational and professional success. Recipients will be known as Dr. Earl L. Avery Scholars, and their active participation in the Bentley community will honor in perpetuity the impact Avery has had at the university.

[Contribute To The Dr. Earl L. Avery Scholarship](#)

Donors can currently contribute to this scholarship fund.⁴

⁴ See

https://community.bentley.edu/register/give?sys%3Agift%3Aappeal_key=givehm&utm_source=giving-nav&utm_medium=web&utm_campaign=adv&utm_content=homepage
[<https://archive.is/wip/3N6vD>] (accessed September 15, 2026).



The screenshot shows a web form titled 'MAKE A GIFT' against a background of a blue sky with clouds. Below the title, a note states: 'Company Gifts: please use the Company Gift Form.' The form includes a 'Gift' section with a text input field containing a dollar sign '\$'. Below this is a '*Designation:' section with four radio button options: 'Bentley Fund' (which is highlighted in yellow), 'Scholarship Aid', 'Academics and Centers', and 'Falcon Athletics'.

3. MOSAIC Experience

Link: <https://www.bentley.edu/university-life/campus-life/undergraduate-orientation>

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

Discriminatory Requirement: “The MOSAIC Experience is a pre-orientation program that happens in the fall for new **students of color and their allies.**”



MOSAIC Experience

The MOSAIC Experience is a pre-orientation program that happens in the fall for new students of color and their allies. First-year and transfer students are welcome to participate. Details for Fall 2026 will be shared in May.

For more information, email the [Multicultural Center staff](#) or review their [website](#).



The Programs Listed Above Violate the Law

The programs identified above violate Title VI by discriminating on the basis of race, skin color, or national origin.⁵

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

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 the Eighth Circuit explained, “Title VI prohibits discrimination on the basis of race in federally funded programs.” *Rowles v. Curators of the Univ. of Mo.*, 983 F.3d 345, 355 (8th Cir. 2020). Bentley receives federal financial assistance and therefore is subject to Title VI.⁶

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

It is no defense that Bentley imposes racial, ethnic, and national origin preferences alongside otherwise lawful preferences, such as being an ally. Students who identify as members of Bentley's preferred racial, ethnic, and national origin groups are automatically eligible for these Programs, while students outside those groups must satisfy an additional condition by participating only as allies.

as Bentley. 42 U.S.C. § 2000a(a). Further, these programs violate Massachusetts law. Mass. Gen. Laws ch. 151C, § 2 (2025). These programs also violate Bentley’s own nondiscrimination policy. *See* <https://www.bentley.edu/offices/human-resources/eo-and-non-discrimination> [<https://archive.is/wip/Z2q4t>] (Accessed September 15, 2026.)

⁶ *See* https://www.usaspending.gov/award/ASST_NON_P063P251576_091 [<https://archive.is/wip/8ffmo>] (accessed September 15, 2026).

Racial criteria and preferences serve as “signals” of racial-based preferences. As the Second Circuit recognized in *Ragin v. New York Times Co.*, 923 F.2d 995, 999–1000 (2d Cir. 1991), even subtle messaging can convey discriminatory preferences: “Ordinary readers may reasonably infer a racial message from advertisements that are more subtle than the hypothetical swastika or burning cross, and we read the word ‘preference’ to describe any ad that would discourage an ordinary reader of a particular race from answering it.” Here, Bentley sends a signal that would dissuade students whose racial, ethnic, or national origin groups would not expand diversity from applying. Word games and too-smart-by-half formulations cannot evade the civil rights laws.

OCR Has Jurisdiction

Bentley is a recipient of federal funds, including from the U.S. Department of Education.⁷ It is therefore liable for violating Title VI 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, and national origin that occurred within 180 days and that appear to be ongoing. The programs are currently active.

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).

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

⁷ See https://www.usaspending.gov/award/ASST_NON_P063P251576_091 [<https://archive.is/wip/8ffmo>] (accessed September, 2026).

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way to stop discrimination ... is to stop discriminating[.]” *Parents Involved in Cmty. Sch.*, 551 U.S. at 748.

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 discriminated against in the award of Bentley’s various programs based on discriminatory criteria, and ensure that all ongoing and future programming at Bentley comports with the federal civil rights laws.

Respectfully submitted,

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