



**THE EQUAL PROTECTION PROJECT  
A Project of the Legal Insurrection Foundation  
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BARRINGTON, RI 02806  
[www.EqualProtect.org](http://www.EqualProtect.org)**

January 30, 2026

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

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

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

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

**Re: Civil Rights Complaint Against Metropolitan State University of Denver –  
DACA/ “Undocumented” Scholarships**

Dear Ms. Richey and OCR Staff:

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 opposes unlawful discrimination in any form.

We bring this civil rights complaint against Metropolitan State University of Denver (“Metro State”), for offering, administering, and promoting nine (9) scholarships that

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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.

discriminate on the basis of national origin. These scholarships discriminate against American-born students by giving preference or being exclusively for DACA/“undocumented” students.<sup>2</sup>

This complaint constitutes Part Two of a two-part filing concerning Metro State’s discriminatory scholarship practices. This Part Two challenges only scholarships restricted to or giving preference to DACA and “undocumented” students, which constitutes national-origin discrimination against American-born students in violation of Title VI of the Civil Rights Act of 1964. We file this separately because OCR already has investigations opened as to numerous other DACA/“Undocumented” scholarships.<sup>3</sup> A separate complaint filed concurrently (Part One) challenges Metro State’s scholarships that discriminate on the basis of race, color, and national origin, unrelated to DACA/“Undocumented” students.

## **Background**

Metro State aims to “...increase enrollment, retention, and graduation of undocumented, DACA, immigrant, and refugee students.”<sup>4</sup> Metro State’s “Immigrant Services Program” does this through offering scholarship application assistance, access to campus resources, counseling, and other services. The program also acts as “...as a representative for undocumented, DACA, refugee, immigrant, and ESL students on campus...”

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<sup>2</sup> Many Metro State scholarships listed here also reference “ASSET” students, a state program that offers in-state tuition to “undocumented” students. See, <https://www.msudenver.edu/immigrant-services/dreamer-zone/asset-daca-and-in-state-tuition/> [<https://archive.is/rdzgm>] (accessed January 29, 2026)

<sup>3</sup> See <https://www.ed.gov/about/news/press-release/us-department-of-education-opens-investigations-five-universities-alleged-exclusionary-scholarships-benefitting-illegal-alien-students> [<https://archive.is/i4hUD>] (accessed January 29, 2026).

<sup>4</sup> <https://www.msudenver.edu/immigrant-services/> [<https://archive.is/wip/JZxUB>] (accessed January 29, 2026).



**The Immigrant Services Program** at the Metropolitan State University of Denver is an academic and social support program that aims to increase enrollment, retention, and graduation of undocumented, DACA, immigrant, and refugee students. Through academic counseling, language and writing support, scholarship application assistance, and access to campus and community resources, the program's mission is to address the most common challenges and barriers to education that this underserved, underrepresented student population faces.

Simultaneously, the program aims to serve as a representative for undocumented, DACA, refugee, immigrant, and ESL students on campus, helping staff and faculty alike to support, empathize with, and effectively serve these student populations.

Some of the services we offer include:

- Academic support & advocacy



## **DACA/ “UNDOCUMENTED” STUDENT SCHOLARSHIPS (9)**<sup>5</sup>

### **1. Access Annual Scholarship**

Link: <https://msudenver.academicworks.com/opportunities/8931>

Archived Link: <http://archive.today/YUOGP>

Discriminatory Requirements: “This fund is established to help DACA/ ASSET<sup>6</sup> students at Metropolitan State University of Denver achieve their goal of a university education.”

<sup>5</sup> Discriminatory criteria highlighted below.

<sup>6</sup> ASSET (“Advancing Students for a Stronger Tomorrow”) is a Colorado statute that grants in-state tuition and related benefits to students who are not United States citizens or lawful permanent residents, provided they meet specified residency and graduation requirements. See <https://cdhe.colorado.gov/sites/highered/files/Revised%20ASSET%20Legislation%20Fact%20Sheet.pdf> [<https://archive.is/wip/c9Pt4>] (accessed January 28, 2026).

▼ Opportunities

### Access Annual Scholarship

Purpose:

This fund is established to help DACA/ ASSET students at Metropolitan State University of Denver achieve their goal of a university education.

Criteria:

- Be meeting MSU Denver's Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid
- Have completed the necessary steps with the Metropolitan State University of Denver Office of Financial Aid and Scholarships to be classified as an eligible ASSET student
- Be full or part-time
- Have a cumulative GPA of at least 2.0
- Recipients may be asked to provide additional biographical information to the donors after selection
- In so far as funds are available, recipients will receive a maximum scholarship of \$4,000 split between fall and spring semesters
- The Donors request that the awardee report back to them about the impact of the scholarship award

**Award**

Varies

**Scopes**

ASSET, DACA

**Deadline**

03/01/2026

You will be automatically considered based on your completed General Application. To complete the General Application, please [sign in](#).

## 2. **Barbara Grogan Annual Scholarship**

Link: <https://msudenver.academicworks.com/opportunities/8697>

Archived Link: <http://archive.today/eYbf7>

Discriminatory Requirement: “The donor’s preference is to **support ASSET/DACA and other underrepresented**, underserved or minority students”

▼ Opportunities

### Barbara Grogan Annual Scholarship

**Purpose**

The purpose of the scholarship is to support students who show motivation and a keen interest in learning, with promise in their chosen field. As part of their financial aid package, students will have a textbook allowance.

**Criteria:**

- Be meeting MSU Denver's Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid.
- Have a 75% or higher completion rate if a current MSU Denver student.
- Have a minimum cumulative GPA of 2.5.
- Students are encouraged to be enrolled full-time, but the scholarship may be applied to part-time enrollment.

The donor's preference is to support ASSET/DACA and other underrepresented, underserved or minority students

The donor wishes that some flexibility be allowed in the GPA and credit hour requirements, because sometimes “life gets in the way.”

The scholarship is renewable (Contingent on available funds).

**Award**

Varies

**Scopes**

ASSET, DACA, Undocumented Students

**Deadline**

03/01/2026

You will be automatically considered based on your completed General Application. To complete the General Application, please [sign in](#).

### 3. Open Door Endowed Scholarship

Link: <https://msudenver.academicworks.com/opportunities/8892>

Archived Link: <http://archive.today/A2lve>

Discriminatory Requirement: “The fund is established to **support ASSET/DACA students** who do not have access to Federal aid.”

▼ Opportunities

### Open Door Endowed Scholarship

**Purpose:**

The fund is established to support ASSET/DACA students who do not have access to Federal aid.

**Criteria:**

- Be meeting MSU Denver's Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid
- Be classified by Admissions as an ASSET/DACA/Dreamer student at Metropolitan State University of Denver
- Students must have completed the CASFA form for DACA/Dreamer students
- Have a cumulative GPA of at least 2.5
- Be taking at least 12 credit hours during the semester(s) the scholarship is received

**Award**

Varies

**Scopes**

ASSET, DACA, Undocumented Students

**Deadline**

03/01/2026

**Supplemental Questions**

1. Are you classified as an ASSET and/or DACA student?

#### **4. Corky and Geraldine Gonzales Spirit of Tlatelolco Endowed Scholarship**

Link: <https://msudenver.academicworks.com/opportunities/9121>

Archived Link: <http://archive.today/7LUXW>

Discriminatory Requirement: “Preference for students who **identify as Latinx students (those that identify as Latino/a, Chicano/a, Mexicano/a, etc.), and/or DACA/ASSET students.**”

### Corky and Geraldine Gonzales Spirit of Tlatelolco Endowed Scholarship

#### Purpose

The Fund is established to honor the legacy of Escuela Tlatelolco, a dual-language K-12 alternative school founded by legendary Chicano activist Rodolfo “Corky” Gonzales in 1971. Escuela Tlatelolco’s mission is to liberate the mind, heart, and spirit of students through the knowledge of their cultural expression, moral courage, and honorable behavior. Escuela Tlatelolco’s 46-year history lives on through this endowed scholarship Fund at Metropolitan State University of Denver.

#### Criteria

The scholarship recipient shall:

- Be meeting the University’s Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid
- Maintain a minimum cumulative GPA of 2.5 pertaining only to coursework completed at the University
- Be a Freshman, Sophomore, or Junior
- Be a Colorado resident
- Be taking 12 or more credit hours (full-time status) during the semester(s) the scholarship is received
- Submit an essay of no more than 500 words that addresses the following questions: What is your personal connection to social justice issues in your community? Describe an observed or lived social justice issue in your community. What are you doing, or what do you plan to do, to impact the issue in a positive way? How will earning a degree at the University help you accomplish this?

Preference is given to:

1. Students who attended Escuela Tlatelolco
2. Latinx students (those that identify as Latino/a, Chicano/a, Mexicano/a, etc.)
3. DACA/ASSET students
4. Students with two parents who have not completed a Bachelor’s degree (i.e. first generation)
5. Students with financial need as determined by FAFSA/CASFA and the Metropolitan State University of Denver Office Financial Aid and Scholarships.

Scholarship recipients may be renewed up to five years (Contingent on available funds).

#### Award

varies

#### Scopes

ASSET, DACA, First Generation Students

#### Deadline

03/01/2026

#### Supplemental Questions

1. Submit an essay of no more than 500 words that addresses the following questions: What is your personal connection to social justice issues in your community? Describe an observed or lived social justice issue in your community. What are you doing, or what do you plan to do, to impact the issue in a positive way? How will earning a degree at the University help you accomplish this?
2. Are you an alumni of Escuela Tlatelolco?
3. Do you identify as Latinx (Latino/a, Chicano/a, Mexicano/a, etc.)?

## 5. Greg Lopez Memorial Endowed Scholarship

Link: <https://msudenver.academicworks.com/opportunities/8752>

Archived Link: <http://archive.today/s0tzK>

Discriminatory Requirement: “Preference for this scholarship is given to:  
ASSET/DACA Students”

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### Greg Lopez Memorial Endowed Scholarship

#### Purpose:

The Rocky Mountain News and the Lopez and Bohland families established this scholarship to provide an opportunity for a talented Metropolitan State University of Denver student to finish his or her education and to pursue a career in journalism. We hope those who benefit from this scholarship will use their talents to educate, entertain and inspire others as Greg Lopez did with his work and life. The journalism of Greg Lopez wasn't about great villains or great heroes. Instead, he mined the rich human vein of the great in-between. He painted extraordinary portraits of ordinary people. Greg's was not the journalism of the great, but it was surely great journalism. A Denver native, Greg graduated from Cherry Creek High School in 1979. He attended journalism school at the University of Missouri, graduating in 1983. His first newspaper job was at The Daily Iberian in New Iberia, Louisiana, where he was one of the youngest columnists in the nation. He left New Iberia for The Detroit News in 1987. He joined the Rocky Mountains News in 1990 and wrote a popular column about people. Greg was killed in a car crash on March 17, 1996 at age 35.

#### Criteria:

- Be meeting the University's Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state, or institutional aid.
- Have a financial need as determined by FAFSA/CASFA and the Metropolitan State University of Denver Office Financial Aid and Scholarships
- Have completed a minimum of 30 credit hours
- Be taking a minimum of 12 credit hours during the semester(s) the scholarship is received
- Have a declared major
- Have a cumulative GPA of at least 2.5
- Submit an autobiography of no more than 500 words that addresses the following: Tell us about yourself, your goals, the adversity you have faced, and what you hope to achieve with an MSU Denver scholarship. The Donor wishes to emphasize the importance of the essay in the selection and as a key part of the scholarship application that will be judged on its creativity, writing quality, and focused responses to the Donor's questions.

#### Preference for this scholarship is given to:

- Students with a declared major or minor in Journalism
- Pell-eligible students
- ASSET/DACA students

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#### Award

Varies

#### Scopes

ASSET, College of Letters Arts and Sciences, DACA, Journalism and Media Production Dept., Undocumented Students

#### Deadline

03/01/2026

#### Supplemental Questions

1. Submit an autobiography (no more than 500 words). Tell us about yourself, your goals and what you hope to achieve with a MSU Denver scholarship. The essay is a key part of the scholarship application and will be judged on its creativity and writing quality.
2. Are you classified as an ASSET and/or DACA student?

## 6. Roy & Shirley Durst Scholarship

Link: <https://msudenver.academicworks.com/opportunities/8750>

Archived Link: <http://archive.today/dxwvB>

**Discriminatory Requirement:** “Preference will be given to ASSET students and other undocumented immigrant students.”

▼ Opportunities

### Roy & Shirley Durst Scholarship

Purpose:

The Fund is established to provide scholarships to highly motivated and intelligent students with great financial need. It also aims to aid and support diversity and equal opportunity in education. The Donor believes strongly in the importance of giving back to the community both through volunteer service and financial contribution. The Donor's goal is to encourage this behavior and it is the impetus for this scholarship.

Criteria:

The scholarship recipient shall:

- Be meeting MSU Denver's Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid
- Have a financial need as determined by FAFSA/CASFA and the Metropolitan State University of Denver Office Financial Aid and Scholarships
- Have a cumulative GPA of 3.0 or higher
- Have a declared major
- Be taking at least 9 credit hours
- Be classified as Sophomore, Junior, or Senior (but the donor is open to incoming freshmen being added if needed)
- Agree to perform 20 hours of community service EACH SEMESTER the scholarship is received. Students will be asked to submit a short narrative to the Office of Development detailing the service they performed.

Preference will be given to ASSET students and other undocumented immigrant students.

DACA and other minority students are eligible.

The scholarship is renewable for up to eight semesters.

The scholarship is available to undergraduates only.

**Award**

Varies

**Scopes**

ASSET, Asylee, DACA, Undocumented Students

**Deadline**

03/01/2026

**Supplemental Questions**

1. Are you willing to perform the required 20 hours per semester of community service at an organization of your choice?

### **7. Helen Grace Fenhaus Endowed Scholarship:**

Link: <https://msudenver.academicworks.com/opportunities/8735>

Archived Link: <http://archive.today/3WPPO>

Discriminatory Requirement: “Preference is given to Dreamers/DACA, ASSET, and undocumented students”

▼ Opportunities

### Helen Grace Fenhaus Endowed Scholarship

Purpose:

The Fund is established to celebrate the too-short life of Helen Grace Fenhaus. The Fund also recognizes and honors the legacy of several members of the Fenhaus family – Marie, Raymond, Donald, and Roger. This scholarship will provide assistance to students with financial need at MSU Denver who are primarily Dreamers/DACA, ASSET or otherwise undocumented students, and are working to change the course of their lives and that of their families through education.

Criteria:

- Be meeting MSU Denver’s Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid
- Have financial need, per FAFSA or the CASFA application, as determined by the University’s Office of Financial Aid and Scholarships. Financial need is the primary factor in the selection
- Be a first-generation student
- Have a cumulative GPA of 2.5 or greater
- Be enrolled in a minimum of 6 credit hours per semester
- Applicants will complete an essay addressing why they are seeking support, how it will impact their educational journey, and how their degree from MSU Denver will change their life trajectory.

Preference is given to Dreamers/DACA, ASSET, and undocumented students

There is a preference for the annual award amount, per student, to be at least \$2,000.

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**Award**

varies

**Scopes**

ASSET, DACA, First Generation Students, Undocumented Students

**Deadline**

03/01/2026

**Supplemental Questions**

1. Please submit an essay of 500 words or less addressing why you are seeking support, how it will impact your educational journey, and how a degree from MSU Denver will change your life trajectory.
2. Are you classified as an ASSET and/or DACA student?

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## 8. Irv Brown Endowed Scholarship

Link: <https://msudenver.academicworks.com/opportunities/8710>

Archived Link: <http://archive.today/hlbIi>

Discriminatory Requirement: “The scholarship award is available to **undocumented** and international students.”

▼ Opportunities

### Irv Brown Endowed Scholarship

Purpose:

Irv Brown Endowed Scholarship is established to provide scholarships to University students pursuing a degree in 'Sport Management' or 'Journalism & Media Production'. The Fund is established to commemorate the life and legacy of Irv Brown. Irv was MSU Denver's first baseball coach from 1968 to 1969. He was inducted into the Colorado Sports Hall of Fame in 1997 and into the Roadrunners Athletics Hall of Fame in 2012. Irv also spent nine years coaching baseball at the University of Colorado and 15 years as an NCAA basketball referee. Irv was a legendary radio broadcaster in Denver for 20 years. His career is the epitome of the "business side" of sports and will serve to inspire students to follow in his footsteps as a coach, administrator, broadcaster and official.

The scholarship recipient shall:

- Be meeting the University's Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid
- Have financial need as determined by FAFSA / CASFA and the University's Office of Financial Aid and Scholarships
- Have a cumulative GPA of 2.5 or higher
- Be an undergraduate student with a major in Sport Management or Journalism & Media Production
- Be enrolled full-time (12 credit hours or more)

The scholarship award is available to undocumented and international students.

The scholarship award is not automatically renewable, but students are eligible to reapply.

**Award**

\$3,000 or more

**Scopes**

College of Health and Human Sciences, College of Letters Arts and Sciences, DACA, Exercise and Sport Sciences (Formerly Human Performance & Sport), Journalism and Media Production Dept., Sport Management, Undocumented Students

**Deadline**

03/01/2026

You will be automatically considered based on your completed General Application. To complete the General Application, please [sign in](#).

## **9. Flying Dog Diversity in Brewing Endowed Scholarship**

Link: <https://msudenver.academicworks.com/opportunities/8749>

Archived Link: <http://archive.today/CKGGx>

Discriminatory Requirement: “Preference is to support students from historically underserved, underrepresented, or other marginalized groups (including but not limited to underrepresented BIPOC (Black, Indigenous, People of Color), **DACA/ASSET students**, women, LGBTQI, and individuals with disabilities, etc.)”

▼ Opportunities

### Flying Dog Diversity in Brewing Endowed Scholarship

Purpose:

For over 30 years, Flying Dog Brewery has been dedicated to challenging the status quo in the craft beer industry. In an effort to help promote and support greater diversity in the craft beer industry, Flying Dog, together with Metropolitan State University of Denver, has created the Flying Dog Diversity in Brewing Endowed Scholarship to provide scholarships to students who are working towards a B.S. Degree in Brewery Operations and who are part of demographic groups that are under-represented in the brewing industry. Both students and the craft beer industry will benefit from the cultivation of a diverse group of leaders who will work together to build an even stronger craft beer industry for the future. Educational opportunities are a vital part of making that happen. With the Flying Dog Diversity in Brewing Endowed Scholarship, Flying Dog Brewery and the University are working to expand diversity in the industry by increasing access to specialized industry-related higher education programs. Flying Dog Diversity in Brewing Endowed Scholarship recipients who graduate from the University’s Brewing Operations program will also be guaranteed an employment opportunity at Flying Dog Brewery upon graduation.

At Flying Dog, we believe beer is an art form, and every day we use creativity, humor, and innovation to challenge the status quo. Our story started 30 years ago when George Stranahan, co-founder of the Aspen Center for Physics, opened the Flying Dog Brewpub in Aspen, CO. Since that time, we’ve moved to Maryland, grown our team to over 100 dedicated craft beer crusaders, and become one of the fastest-growing regional craft breweries in the mid-Atlantic. Our brand was built on the gospel of Gonzo, drawing inspiration from Hunter S. Thompson’s relentless truth-seeking and Ralph Steadman’s provocative drawings. In the true Gonzo spirit, whenever the Thought Police have tried to close in on us, we have fought back to defend our right to free speech and expression. In life, we believe in Good Beer, No Censorship. For more information, visit [www.flyingdog.com](http://www.flyingdog.com).

Criteria:

The scholarship recipient shall:

- Be meeting the University’s Satisfactory Academic Progress (SAP) requirements and cannot be in default or owe any refund/repayment of federal, state or institutional aid.
- Have a declared major in Brewery Operations
- Have a GPA of 2.5 or above.
- Be enrolled at least half-time (6+ credit hours)
- Write a 500-word essay that demonstrates your understanding of the challenges faced by underserved, underrepresented, or other marginalized groups (including but not limited to underrepresented BIPOC (Black, Indigenous, People of Color), DACA/ASSET students, women, LGBTQI, and individuals with disabilities, etc.)

The scholarship is renewable (contingent on available funds).

Preference is to support students from historically underserved, underrepresented, or other marginalized groups (including but not limited to underrepresented BIPOC (Black, Indigenous, People of Color), DACA/ASSET students, women, LGBTQI, and individuals with disabilities, etc.)

**Award**

Varies

**Scopes**

ASSET, DACA, School of Hospitality

**Deadline**

03/01/2026

### The Scholarships Listed Above Violate The Law

Metro State offers, administers, and promotes scholarships that give preference to—or are exclusively available to—DACA recipients and “undocumented” students, thereby discriminating against American-born students. The scholarships identified above violate Title VI of the Civil Rights Act of 1964 by discriminating on the basis of national origin, as the Department of Education already has determined with regard to numerous similar scholarships at other schools.

Neither the Trump Administration’s America first policies nor the Civil Right Act of 1964’s prohibition on national origin discrimination permit universities to deny our fellow citizens the opportunity to compete for scholarships because they were born in the United States,” **said Acting Assistant Secretary for Civil Rights Craig Trainor.** “As

we mark President Trump’s historic six months back in the White House, we are expanding our enforcement efforts to protect American students and lawful residents from invidious national origin discrimination of the kind alleged here.”<sup>7</sup>

Title VI prohibits recipients of federal financial assistance from excluding individuals from participation in, denying them the benefits of, or subjecting them to discrimination on the basis of national origin. 42 U.S.C. § 2000d. The statute applies to “all of the operations” of a college or university receiving federal funds. 42 U.S.C. § 2000d-4a(2)(A). Metro State receives federal financial assistance and is therefore subject to Title VI’s nondiscrimination mandate in administering scholarships and other educational benefits.

National origin discrimination includes distinctions based on an individual’s place of birth or ancestry. *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88 (1973). While the Supreme Court has recognized that certain classifications—such as citizenship—are not automatically unlawful, it has made clear that federal civil-rights law looks to the substance and operation of an eligibility criterion, not the label attached to it. *Id.* at 92. A policy violates federal civil-rights law where it functions as a substitute or proxy for discrimination based on place of birth or ancestry.

That principle applies here. DACA status and undocumented status categorically exclude individuals born in the United States. DACA applies only to individuals who were born outside the United States and meet additional criteria.<sup>8</sup> Likewise, “undocumented” status necessarily applies only to individuals born outside the United States. Conditioning access to scholarships on these classifications therefore excludes American-born students by definition and operates as facial national-origin discrimination, regardless of the terminology used.

The Supreme Court has long held that state-administered benefits may not be allocated using alienage-based classifications or closely related proxies. In *Graham v. Richardson*, the Court held that state laws conditioning access to public benefits on alienage violate the Equal Protection Clause and are subject to the most exacting scrutiny. 403 U.S. 365, 372 (1971). The Court emphasized that such classifications are inherently suspect and closely tied to national origin, and that states may not favor or disfavor individuals in access to public benefits absent a compelling governmental interest.

Here, Metro State administers scholarship programs as part of its publicly funded educational operations and conditions eligibility on DACA and undocumented status—classifications inseparable from place of birth. In doing so, Metro State employs the same type of alienage-based benefit structure condemned in *Graham*, discriminating against American-born students in educational benefits. Title VI does not permit recipients of federal financial assistance to allocate educational benefits using criteria that function as proxies for national origin.

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<sup>7</sup> See <https://www.ed.gov/about/news/press-release/us-department-of-education-opens-investigations-five-universities-alleged-exclusionary-scholarships-benefiting-illegal-alien-students> [<https://archive.is/i4hUD>] (accessed January 29, 2026).

<sup>8</sup> See <https://www.uscis.gov/DACA> [<https://archive.is/PfwjL>] (accessed January 29, 2026).

Because Metro State receives federal financial assistance and administers scholarships that discriminate against American-born students based on national origin, it is violating Title VI and is subject to investigation and enforcement by the Office for Civil Rights.

### **OCR Has Jurisdiction**

Metro State is a public entity and a recipient of federal funds, including from the U.S. Department of Education.<sup>9</sup> It is therefore liable for violating Title VI and the Equal Protection Clause, and OCR therefore has jurisdiction over this complaint. The U.S. Department of Justice likewise has authority to enforce Title VI, and matters involving alleged national-origin discrimination by recipients of federal funds may be referred to the Department of Justice for enforcement where appropriate. See 42 U.S.C. §§ 2000d, 2000d-1.

### **The Complaint Is Timely**

This complaint is timely brought because it includes allegations of discrimination based on national origin that occurred within 180 days and that appear to be ongoing. The scholarships are currently active.<sup>10</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 Metro State cannot show any compelling government justification for it, the fact that it conditions eligibility for multiple scholarships on national origin violates federal civil rights statutes and constitutional equal protection guarantees.

The Office for Civil Rights has both the authority and the obligation to investigate Metro State’s role in creating, funding, promoting, and administering these scholarships—and, given their number and breadth, to determine whether Metro State is engaging in similar discrimination

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<sup>9</sup> See [https://www.usaspending.gov/award/ASST\\_NON\\_P047A221611\\_091](https://www.usaspending.gov/award/ASST_NON_P047A221611_091) [<https://archive.ph/K5CZV>](accessed January 29, 2026).

<sup>10</sup> <https://msudenver.academicworks.com/opportunities> [<https://archive.is/wip/teimY>](accessed January 29, 2026).

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in other programs or activities. Federal law further authorizes the U.S. Department of Justice to investigate and enforce violations of Title VI and related civil-rights statutes where appropriate. See 42 U.S.C. §§ 2000d, 2000d-1.

OCR’s enforcement authority includes imposing remedial relief necessary to hold Metro State accountable for unlawful conduct, including initiating administrative proceedings to suspend or terminate federal financial assistance and referring the matter to the Department of Justice for judicial enforcement of the rights of the United States. As the Supreme Court has emphasized, “[t]he way to stop discrimination … is to stop discriminating.” *Parents Involved in Cnty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007).

Accordingly, we respectfully request that the Department of Education’s Office for Civil Rights promptly open a formal investigation, and that the Department of Justice likewise investigate Metro State’s conduct, impose such remedial relief as the law permits, and ensure that all ongoing and future scholarships and programming at Metro State comply with the Constitution and federal civil-rights laws.

Respectfully submitted,

*/William A. Jacobson/*

William A. Jacobson, Esq.  
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