



THE EQUAL PROTECTION PROJECT
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October 21, 2026

BY EMAIL (OCR@ed.gov)

Kimberly Richey
Assistant Secretary Office for Civil Rights
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U.S. Department of Education
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BY EMAIL (OCR.DC@ed.gov)

Washington DC Metro
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
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**Re: Civil Rights Complaint and Request for Investigation of Bates College
Regarding its Race-Balancing STEM Scholars 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 Bates College's ("Bates") STEM Scholars Program ("STEM Scholars" or "the program") which appears to racially discriminate in violation of Title VI warranting OCR investigation.

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

The Bates STEM Scholars Program at issue in this complaint is part of a larger racial balancing effort at Bates under the banner of Diversity, Equity, and Inclusion (DEI).² Yet as demonstrated below, such DEI efforts embodied in the STEM Scholars Program can cross the line into possible civil rights violations through race-focused promotion and signaling.

The STEM Scholars Program is focused on encouraging the retention and success in STEM fields among students from groups traditionally “underrepresented” in the sciences, including African American, Asian American, Hispanic/Latino, Native Alaskan, Native American, Native Pacific Islander, and first-generation to college students as well as students from under-resourced high schools in Maine.³ White students or students of European ancestry are not included in Bates’ list of students targeted for the STEM Scholars Program. As described by Bates itself, the STEM Scholars Program focuses in significant part on balancing the racial makeup of those in the Bates STEM disciplines.

The primary purpose of the STEM Scholars Program openly targets students based in part on race and ethnicity. Bates promotes the program as intended for certain races and ethnicities whereas other races and ethnicities need to show an additional factor, such as first generation status. Such a race-based two-tiered system reasonably would deter at least some students from non-preferenced races and ethnicities from applying. As discussed in the legal section below, the inclusion of some non-racial preferential groups (such as first generation) does not negate the legal implications of the program’s unlawful purpose to give preference to students of particular races or ethnicities for the purpose of achieving racial balance within Bates’ STEM courses.

² <https://www.bates.edu/admission/explore-bates/equity-inclusion/> [https://archive.is/hIrSP] (Last accessed October 19, 2026).

³ <https://www.bates.edu/stem-scholars/apply/> [https://archive.is/Hzccu] (last accessed October 17, 2026).

The Bates STEM Scholar Program

The STEM Scholars Program encourages retention and success in STEM fields among students from groups traditionally underrepresented in the sciences, including African American, Asian American, Hispanic/Latino, Native Alaskan, Native American, Native Pacific Islander, and first-generation to college students as well as students from under-resourced high schools in Maine. Students are selected for the program through recruitment and application, and are chosen based on their interest in and aptitude for STEM. The program is directed by April Horton.

The STEM Scholars Program takes place during the academic year, and is grounded in a first-year seminar and subsequent half-credit courses in the first and second year that enrich, review, and supplement course work in gateway STEM courses, building STEM identity and a sense of community. The program introduces students to science writing, reading scientific literature, quantitative skill building, and careers in STEM. For more information go to bates.edu/stem-scholars/.

Providing Research Opportunities for STEM Scholars

National research and data from Bates students tells us that providing early-career students from underrepresented groups with a research opportunity in which they work collaboratively with faculty mentors is one of the most powerful tools we have in retaining strong students in STEM fields.

[Yellow highlighting added above.]

Students are selected for the program through recruitment and application. According to the Bates website, students from groups traditionally underrepresented in the sciences as defined by Bates are particularly encouraged to apply to the STEM Scholars Program, further signaling the intended beneficiaries of the program.⁴ Further, Bates throughout its descriptions and promotions emphasizes the racial balancing purpose of the program and which racial and ethnic groups are preferenced for racial balancing purposes.

The STEM Scholars Program includes important academic and educational benefits not available to other students. According to the Bates website, the program takes place during the academic year, and is grounded in a first-year seminar and subsequent half-credit courses in the first and second year that enrich, review, and supplement course work in gateway STEM courses, building STEM identity and a sense of community. The program introduces students to science writing, reading scientific literature, quantitative skill building, and careers in STEM.

⁴ <https://www.bates.edu/stem-scholars/apply/> [https://archive.is/Hzccu] (last accessed October 17, 2026).

The STEM Scholars Program website links reflect the race- and ethnicity-based targeting and promotion of the program:

Link: <https://www.bates.edu/dof/stem-scholars-grants/>

(accessed October 17, 2026)

Archived Link: <https://archive.is/1s3OX>]

Discriminatory Goals: Program intended on promoting success of “students from groups traditionally underrepresented in the sciences, **including African American, Asian American, Hispanic/Latino, Native Alaskan, Native American, Native Pacific Islander**, and first-generation to college students as well as students from under-resourced high schools in Maine”. [emphasis added]

STEM Scholars Program participants are provided with an additional opportunity as summer research assistants to Bates faculty members. This program is known as **STEM Scholars Program Faculty-Student Summer Grants**. This grant and related internal awards provide faculty members with a choice of either professional development funds or a personal stipend (funds cannot be split among the two choices) of \$1,000 per Bates student up to a maximum of three such awards (i.e. max of \$3,000 per faculty member per summer, across all mechanisms of student support).⁵ Such faculty must hire only STEM Scholar participants as summer research assistants, providing STEM Scholars with financial and educational opportunities not provided to other students. STEM Scholars Summer grants program is currently active with applications being accepted until March 5, 2027.

Summer Bates STEM Scholars Faculty-Student Grants

The STEM Scholars Program has funding for research grants to faculty who bring one or two of the Science Scholars into their research group. The research may be in biochemistry, biology, chemistry, digital and computational studies, earth and climate science, environmental science, mathematics, neuroscience, or physics and astronomy.

This grant is intended to give STEM Scholars, especially current first-years and sophomores with little or no research experience, a solid introduction to STEM research. Faculty mentors should provide research ethics and lab/field training, and work one-on-one with the STEM Scholar on research goals, methodologies, and analysis. Upper class students in the lab should be engaged as mentors as well.

STEM Scholars are selected by a faculty committee. The STEM Scholars Program’s emphasis, description, and promotion to specific racial and ethnic groups reinforces a message

⁵ <https://www.bates.edu/dof/stem-scholars-grants/> [<https://archive.is/1s3OX>]
(last accessed October 17, 2026).

that participation is intended for those identified groups. As discussed in the legal section below, the listing of targeted demographic groups functions as race-based signaling.⁶ Such messaging is likely to deter at least some students who do not fall within the identified racial categories from applying to the STEM Scholars Program.

Moreover, what is obvious from the information provided by Bates through its website and social media is that the purpose of the STEM Scholars Program is to provide a racial balancing of the students who participate in STEM coursework and degrees. For instance, when soliciting donations to the college, Bates openly states that the program’s purpose is to assist certain racial and ethnic groups:

“Ensuring Equity and Excellence in the Sciences THE MISSION — The STEM Scholars program is a four-year, cohort-based mentoring initiative designed to ensure that every student interested in Science, Technology, Engineering, and Math has the support to succeed and graduate. **By focusing on students from groups traditionally underrepresented in the sciences** — including first-generation students and those from rural Maine — Bates is redefining who can excel in STEM”.⁷ [Emphasis added.]

Bates further boasts that the program “has successfully **transformed the Bates STEM landscape** from one viewed as competitive and uninviting to a culture of **inclusive** excellence, and that **race, ethnicity and socioeconomic status** are no longer predictors of graduation in the STEM disciplines at Bates.” [Empasis added]

⁶ As discussed in the legal section below, the race- and ethnicity-based preferences are unlawful even if other groups are not absolutely excluded, much like the Asian students in the SFFA case, *infra*, suffered unlawful discrimination even though not completely excluded.

⁷ <https://www.bates.edu/giving/leadership-giving/investing-in-stem-scholars-at-bates/> [<https://archive.is/bUyvq>] Last accessed October 17, 2026.)

A PROVEN SUCCESS STORY

Launched in 2019 to address national and institutional trends in **STEM** retention, the program has achieved historic results. As of 2026:

Closing the Gap: Race, ethnicity, and socioeconomic status are no longer predictors of graduation in STEM disciplines at Bates.

High Retention: Over 85% of STEM Scholars graduate with a STEM degree, far exceeding national averages.

Elite Outcomes: Scholars have secured prestigious research fellowships at institutions such as Harvard Medical School, the MIT Broad Institute, Stanford, and Johns Hopkins.

Cultural Shift: The program has successfully transformed the Bates STEM landscape from one viewed as competitive and uninviting to a culture of inclusive excellence.

It appears that this desire to achieve racial balance within the STEM disciplines at Bates has been successful. In a report by the college in 2022, titled “Inclusive Excellence in STEM at Bates, A progress report of STEM and STEM adjacent academic units,” Bates heralded the success of the racial rebalancing through the STEM Scholars Program:

“All of the students in STEM Scholars come from populations or identities that have been historically and/or contemporarily minoritized in STEM (i.e., students who identify as first-generation to college, Black, Hispanic/Latinx, Asian/Asian American/Pacific Islander/Native Hawaiian, Native American/Alaska Native, two or more races, Pell eligible or low financial capacity, students from rural Maine, or women in math, computing and physics)”⁸.

Demographic data specific to the STEM Scholars Program does not appear to be publicly available, but would be available in an OCR investigation, highlighting the need for OCR to open this case for investigation. Photos on the Bates website and related Instagram

⁸ https://www.bates.edu/dof/files/2023/08/HHMI-IE-SoTL-report_rev_2022.pdf [<https://archive.is/24wBH>] (Last accessed October 17, 2026).

photos, however, further reinforce the success of this discriminatory purpose to racially balance the STEM disciplines at Bates, reinforcing the racial signaling. The photos feature almost exclusively non-white students.



https://www.instagram.com/p/DXK4U53msAq/?img_index=2 [<https://archive.is/3Kz3Z>] (last accessed October 17, 2026).



https://www.instagram.com/p/DXK4U53msAq/?img_index=1 [<https://archive.is/wlEeH>] (last accessed October 17, 2026).



<https://www.bates.edu/stem-scholars/apply/> [<https://archive.is/Hzccu>] (last accessed October 17, 2026).

The STEM Scholars Program Appears To Violate Title VI

Bates' STEM Scholars Program appears to violate Title VI by discriminating on the basis of race, color, or national origin.⁹ The program states that it is intended to serve “historically underserved students,” which include African American, Asian American, Hispanic/Latino, Native Alaskan, Native American, Native Pacific Islander, those who are first generation college or from an under resourced Maine high school. These eligibility requirements automatically confer preference for students from the identified races, while those students who do not belong to the identified racial or ethnic groups have to show they are first-generation to college or graduated from an under resourced high school. Such differential treatment based on race and ethnicity is impermissible discrimination.

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 Bates receives federal funds,¹⁰ it is subject to Title VI.

As described above, racial and ethnic balancing defines the goals of the STEM Scholars Program. Bates' promotion of the STEM Scholar Program is not only explicit in its racial targeting, but it also signals discrimination. Courts evaluate potentially discriminatory messaging based on its effect on an “ordinary reader,” rather than the speaker's stated intent. The relevant inquiry is whether the message would convey that individuals of a particular race or national origin are preferred or discouraged from participating. Here, Bates' racial and ethnic signaling is not subtle, but even subtle messaging can convey discriminatory preferences. See *Ragin v. New York Times Co.*, 923 F.2d 995, 999–1000 (2d Cir. 1991); *Jancik v. Dep't of Hous. & Urb. Dev.*, 44 F.3d 553, 556 (7th Cir. 1995); *Hous. Rts. Ctr. v. Donald Sterling Corp.*, 274 F. Supp. 2d 1129, 1138 (C.D. Cal.), *aff'd*, 84 F. App'x 801 (9th Cir. 2003). In other words, the perception of a reasonable observer controls whether a communication operates as discriminatory signaling,

⁹Although 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 Bates. 42 U.S.C. § 2000a. Further, this program appears to violate Maine state law [Me. Stat. tit. 5, § 4551] and Bates' own nondiscrimination policy. See <https://www.bates.edu/here-to-help/policies/non-discrimination-policy-statement/> [<https://archive.is/A1n72>] (last accessed on October 17, 2026).

¹⁰ See https://www.usaspending.gov/award/ASST_NON_2347922_049 [<https://archive.is/JuOtm>] (last accessed on October 17, 2026).

regardless of the speaker’s subjective intent. *United States v. Hunter*, 459 F.2d 205, 215–16 (4th Cir. 1972).¹¹

Bates has publicly defined the goals of the STEM Scholars Program— to “Close the Gap” so that “race, ethnicity and socioeconomic status are no longer predictors of graduation in the STEM disciplines at Bates.”¹² Programs that seek to achieve racial balance are discriminatory. “[O]utright racial balancing is “patently unconstitutional.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181, 223 (2023). Such discriminatory programs violate the Equal Protection Clause and in turn violate Title VI. *Id.* at 143. “[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 Bates’ reasons for offering, promoting, and administering such a racial balancing program, Bates 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 Bates imposes racial preferences alongside lawful preferences such as first generation or graduation from an under resourced high school.

¹¹ For example, the U.S. Department of Justice recently entered into a settlement with the University of North Carolina – Chapel Hill which provides that educational operations shall “not include diversity or identification with or membership in any “underrepresented” populations to the extent it is used to refer to any Protected Characteristic.” <https://www.justice.gov/opa/pr/justice-department-announces-settlement-ending-antisemitism-and-race-discrimination-unc>. (Last accessed on October 20, 2026.)

¹² <https://www.bates.edu/giving/leadership-giving/investing-in-stem-scholars-at-bates/> [<https://archive.is/bUyvqj>] (Last accessed October 17, 2026.)

Importantly, Bates’ administration is aware of the limitations on use of race, as evidenced by its written statement on the U.S. Supreme Court’s decision in *Students for Fair Admissions, supra*. Then President and President-elect of Bates asserted in a defiant public statement that “[w]e are deeply disappointed by today’s decision by the Supreme Court, a ruling that turns back the clock on 45 years of established constitutional principle and significantly restricts the admissions practices used at many colleges and universities, including Bates.”¹³ The statement continued that “the Court fails to acknowledge the role of race in American history and contemporary social structures... We will not allow the Court’s decision to diminish our commitment to our current students or the students we will continue to seek out.” *Id.*

Bates’ defiant continuation of the racial rebalancing through its Bates Scholars Program even after the Supreme Court ruling demonstrates the need for OCR action and investigation. Based on the evidence on Bates’ own website, there certainly is a need for OCR to investigate whether the STEM Scholars Program violates Title VI.

OCR Investigation Is Needed To Obtain Non-Publicly Available Information As to the Program’s Demographic and Acceptance Practices

In addition to presenting evidence and law as to possible violations of Title VI based on what is publicly known, this complaint requests an investigation by OCR of the STEM Scholars Program’s race- and ethnicity-based targeting to determine if such promotion and implementation of the program violates Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations¹⁴ by discriminating against students based on race, color, or national origin. Certainly, the way in which Bates promotes the program and advertises its purpose to racially balance its STEM disciplines through the STEM Scholars Program warrants further OCR investigation. OCR is positioned to obtain demographic breakdowns of applicants and participants and the admissions practices, something not available to the public since Bates is a private college.

OCR Has Jurisdiction

OCR enforces Title VI of the Civil Rights Act of 1964¹⁵ and its implementing regulation,¹⁶ 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

¹³ https://www.bates.edu/president/2023/06/29/bates-responds-to-supreme-courts-ruling-on-race-conscious-college-admissions/?utm_source=Major+Campus+Announcements+150722&utm_campaign=b70dc7f7-EMAIL_CAMPAIGN_2023_06_21_05_55&utm_medium=email&utm_term=0_b70dc7f7-%5BLIST_EMAIL_ID%5D [https://archive.is/L9DWL] (Last Accessed October 19, 2026).

¹⁴ 34 C.F.R. Part 100.

¹⁵ 42 U.S.C. §§ 2000d-2000d-7.

¹⁶ 34 C.F.R. Part 100.

assistance, including from the Department of Education,¹⁷ Bates 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 again for the 2027/2028 school year.¹⁸

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 Bates’ role in creating, funding, promoting and administering this program and to discern whether Bates is engaging in discrimination in the STEM Scholars 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 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 STEM Scholars 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

¹⁷See https://www.usaspending.gov/award/ASST_NON_2347922_049 [<https://archive.is/JuOtm>] (last accessed on October 17, 2026).

¹⁸<https://www.bates.edu/stem-scholars/apply/> [<https://archive.is/Hzccu>] (last accessed October 17, 2026).

U.S. Dept. of Education, Office for Civil Rights
Civil Rights Complaint – Bates College
October 21, 2026
Page 13 of 13

programming at Bates based on discriminatory criteria and ensure that all ongoing and future programs at Bates comport with the federal civil rights laws.

Respectfully submitted,

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