

## UNITED STATES DEPARTMENT OF EDUCATION

## OFFICE FOR CIVIL RIGHTS ADMINISTRATIVE COMPLAINT

April 9, 2025

United States Department of Education Office for Civil Rights Lyndon Baines Johnson Department of Education Building 400 Maryland Avenue, SW Washington, DC 20202-1100 Via Email: OCR@ed.gov

To Whom It May Concern:

This is a federal civil rights complaint pursuant to the U.S. Department of Education's (Department) Office for Civil Rights' (OCR) discrimination complaint resolution procedures.

Defending Education (DE) brings this complaint against the University of California, Berkeley (UC Berkeley) for discrimination on the basis of race in programs or activities that receive federal financial assistance in violation of both Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

DE brings this complaint as an interested third-party organization with members who are parents of students throughout the country. DE and its members oppose, among other things, discrimination on the basis of race in America's K-12 schools and institutions of higher education. UC Berkeley has offered a \$10,000 recurring scholarship for "Environmentalists of Color" designed to "help bridge institutional gaps in support of Environmentalists of Color," "build radically inclusive social and environmental justice spaces on campus," and "financially support passionate students of color working in the environmental field at UC Berkeley."<sup>1</sup>

The scholarship application process is administered through UC Berkeley's "Student Environmental Resource Center" (SERC). SERC's stated mission:

SERC cultivates a collaborative space to strengthen the collective effectiveness of the sustainability community, and provides resources for students to actualize their visions of a more equitable, socially just, and resilient future.<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> Environmentalist of Color Scholarship, University of California, Berkeley, Student Environmental Resource Center (archived Apr. 2, 2025), https://perma.cc/3GVK-BLPW.

<sup>&</sup>lt;sup>2</sup> *History and Mission*, University of California, Berkeley, Student Environmental Resource Center (archived Apr. 2, 2025), https://perma.cc/QXW6-BE9L.



Among SERC's stated values are "Equity and Inclusion," which it further delineates:

In order to maintain authentic relationships and avoid tokenization, SERC provides environmental and social justice programming and resources to create a space that values the perspectives and narratives of marginalized and underrepresented students."<sup>3</sup>

UC Berkeley's SERC office lists eligibility criteria for the Environmentalists of Color scholarship as follows:

*Registered UC Berkeley student (both undergraduate and graduate)* 

Identify as a POC (Person of Color)

Passionate about Environmentalism (this does not have to be your field of study)<sup>4</sup>

SERC informs applicants for the UC Berkeley Environmentalists of Color scholarship that:

We recognize that BIPOC (Black, Indigenous, Persons-of-Color) are frequently asked to exclusively call upon their experiences with racial trauma and violence in applications. We aim to resist that tokenization by making space for applicants to consider their identities from the lens of radical healing, joy, and growth.<sup>5</sup>

In its Q & A for the scholarship, UC Berkeley defines students "of color" as follows:

Being a "person of color" goes beyond just skin color, and can include an intersectional expanse of racial, ethnic, and cultural experiences and identities. If you identify as a "person of color," we encourage you to apply.<sup>6</sup>

In other words, the UC Berkeley scholarship for "environmentalists of color" is a financial benefit granted expressly and unapologetically on the basis of race in violation of Title VI and the Constitution's 14th Amendment. Attached to this complaint is evidence of the racial discrimination in which UC Berkeley is engaging through administration and selection of awards for its "Environmentalists of Color" scholarship (Exhibit A-C).

As the Department of Education is no doubt aware, discrimination on the basis of race raises concerns that UC Berkeley has received federal funds in violation of Title VI of the Civil Rights Act of 1964, which declares that "no person in the United States shall, on the ground of race, color, or national

<sup>&</sup>lt;sup>3</sup> Id.

<sup>&</sup>lt;sup>4</sup> Environmentalist of Color Scholarship, supra n. 1.

<sup>&</sup>lt;sup>5</sup> *Id*.

<sup>&</sup>lt;sup>6</sup> Id.



origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

In addition, Section 1 of the 14th Amendment to the U.S. Constitution asserts: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." On these grounds, the Supreme Court held in 1954 that racial segregation of students is unconstitutional. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

As recently as 2024, in *Students for Fair Admission, Inc. v. President and Fellows of Harvard College*,<sup>7</sup> the Supreme Court struck down the racially discriminatory admission policies of Harvard College and the University of North Carolina as violative of the 14th Amendment's Equal Protection Clause. Writing for the majority, Chief Justice John Roberts noted that:

Eliminating racial discrimination means eliminating all of it. And the Equal Protection Clause, we have accordingly held, applies without regard to any differences of race, of color, or of nationality—it is universal in its application.... For 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.<sup>8</sup>

And violations of the Equal Protection Clause, the Court confirmed, are *also* violations of Title VI: "discrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI."<sup>9</sup>

A September 29, 2015 decision from the Department of Education Office for Civil Rights during the Obama Administration is directly on point. In 2015, following "the police actions involving African American victims in Ferguson and New York and subsequent events," Oak Park & River Forest High School District 200 held a "Black Lives Matter" assembly during Black History Month. The assembly was convened "for African American students only" because the district wanted "to provide a comfortable forum for black students to express their frustrations." Certain students "who self-identified as white were directed by District officials not to participate in the event as this assembly was designed for students who self-identify as black." In the letter sent on September 29, 2015 (OCR Docket #05-15-1180), OCR found that the district violated the Equal Protection Clause and Title VI because the district's actions could not withstand strict scrutiny. Specifically, the district failed to "assess fully whether there were workable race-neutral alternatives" and "did not conduct a flexible

<sup>&</sup>lt;sup>7</sup> Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. 181 (2023).

<sup>&</sup>lt;sup>8</sup> *Id.* at 15 (cleaned up).

<sup>&</sup>lt;sup>9</sup> *Id.* at 6 n. 2 (quoting *Gratz v. Bollinger*, 539 U. S. 244, 276, n. 23 (2003)). *See also Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 267 (1978) ("We have explained that discrimination that violates the Equal Protection Clause of the Fourteenth Amendment committed by an institution that accepts federal funds also constitutes a violation of Title VI").



and individualized review of potential participants." In a Resolution Agreement with OCR, the district agreed that its programs and activities would be "open to all students . . . regardless of their race" and to adopt policies and training to ensure the district's compliance. OCR imposed these requirements even though the district had promised "not to hold such events in the future."

The Department's own guidance on Title VI clarifies that covered educational programs and activities may include, but are not limited to: "admissions, recruitment, **financial aid**, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, and housing."<sup>10</sup>

Accordingly, we ask that the Department promptly investigate the allegations in this complaint, act swiftly to remedy unlawful policies and practices, and order appropriate relief.

Thank you for your prompt assistance with this request for investigation and resolution. Please contact me for further information.

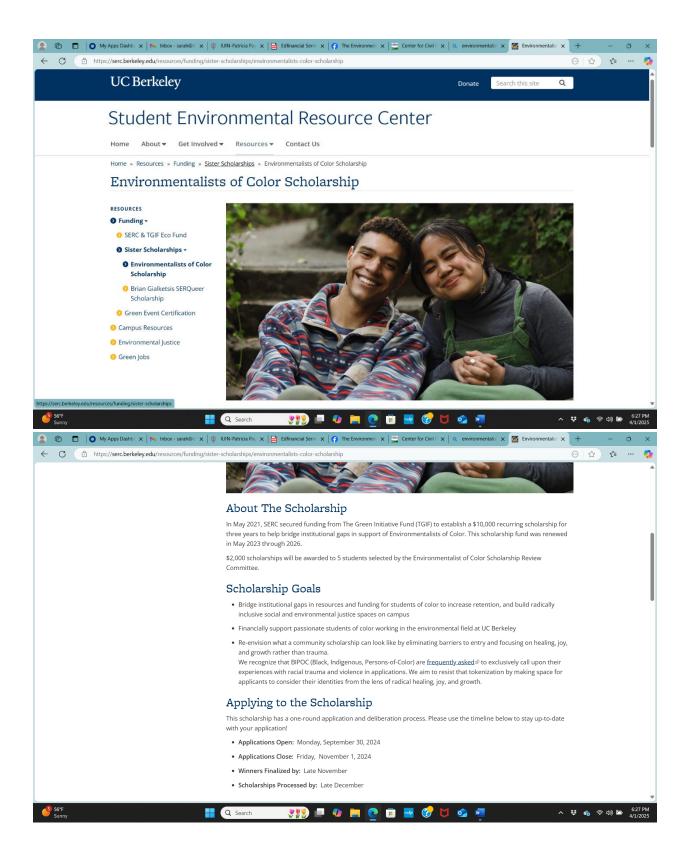
Sincerely,

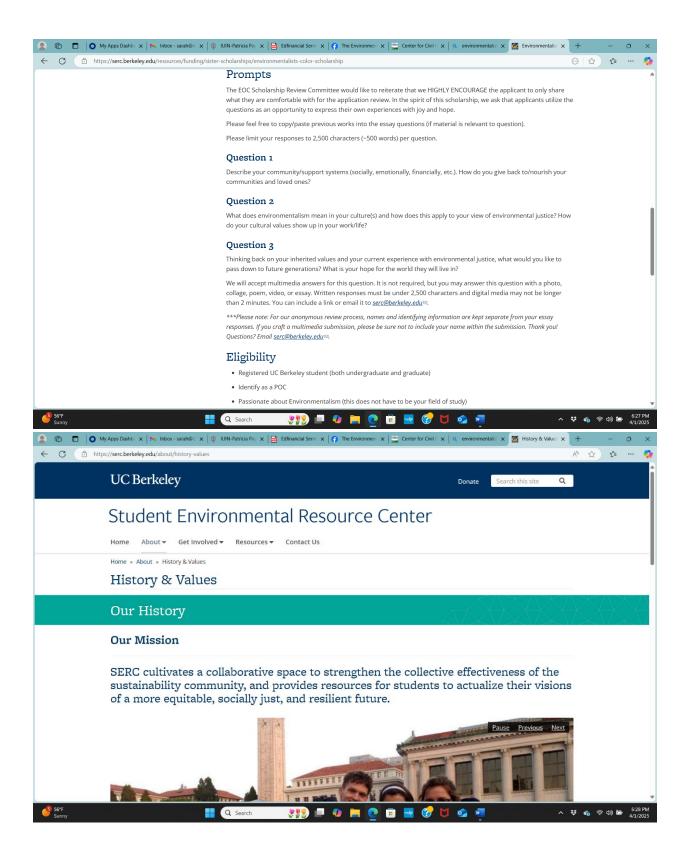
Sarah Parshall Perry Vice President and Legal Fellow Defending Education

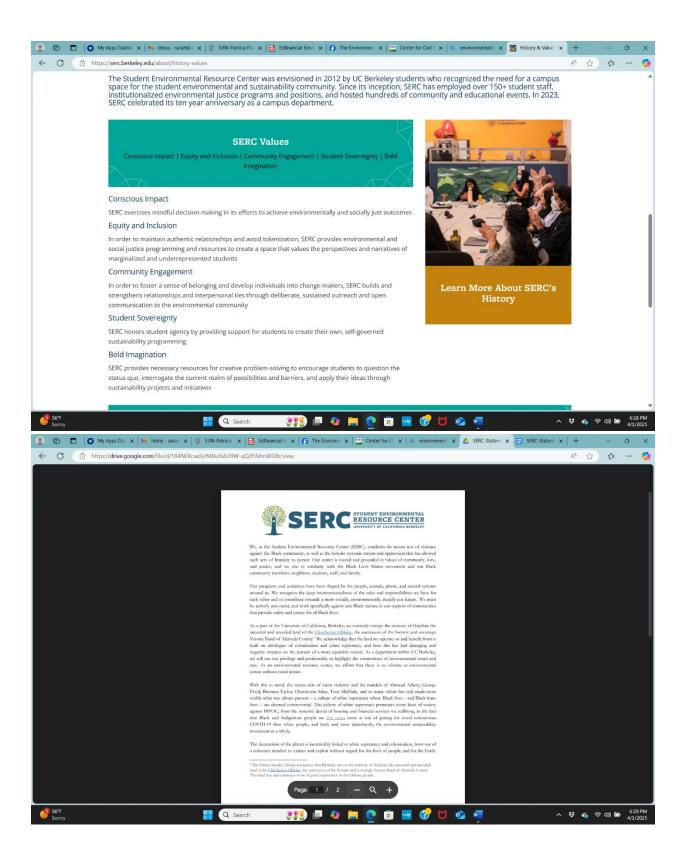
Encl. Exhibit A-C

<sup>&</sup>lt;sup>10</sup> Education and Title VI, U.S. Department of Education, Office for Civil Rights (accessed Apr. 1, 2025), <u>https://www.ed.gov/laws-and-policy/civil-rights-laws/race-color-and-national-origin-discrimination/education-and-title-vi</u> (emphasis added).

## Exhibit A







Many of the ideologies of early 'environmentalists' in this country - the Mairs, the Roosevelts, the Pinchots - were either completi or actively engaged with the systemic genocide and displacement of Indigenous populations across the country. Conservation as a field has centered keeping wildeness pristine and untoxical, which erases the lives of Indigenous populations and their relationship to the environment before the arrival of European settlers. Though the mainstream environmental movement has been historically dominated by white activitis and narratives, we want to recoprise the words the Black community has led within the movement. From the first environmental justice protests in Aton, North Carolina, when the people of Warten County protested toxic waste damping in their predominantly Black, poor, rural community, to the ongoing organizing efforts in Erin, Michigua in demanding telan draining water. However, our support is not and cannot be contingent on these accomplishments.

As environmentalists, we recognize that anti-racist work is environmental work. We are committed to the lifelong mission of dismantling oppressive systems and fighting for an equitable, just, and resilient future. As a student resource center, we will work to share anti-racist community resources, uplift activist voices, and create space for healing.

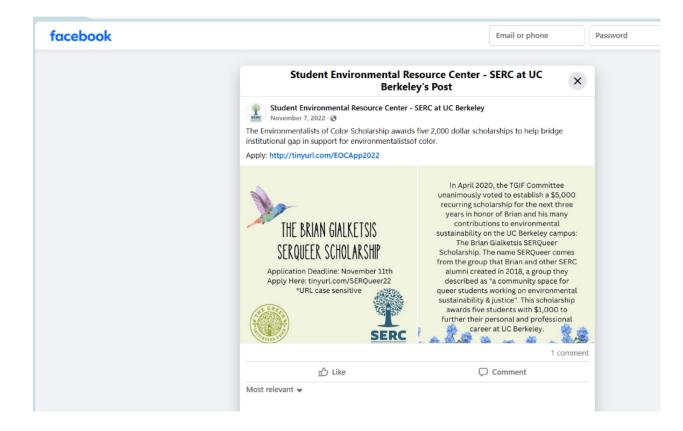
Our work at SERC is inspired by <u>The Story of the Humminghind</u>, shared by environmentalist and Nobel Peace Prize Laureate Professor Wangari Maathai. When a forest and home to many animals begins to burn from a free, a lone humminghind takes it upon itself to drop water to combat the flames. Despite other, much larger animals refusing to help and even belitting the humminghind, of the small but mighty animal presists; I an doing the best I can. 'Channeling the persevenance of the humminghind, we are dedicated to doing all that we can in dismantling racism and providing resources and support for others to do the same.

- nts are as follows: Our official ongoing commitme
- · Integrate anti-racist work into our strategic vision plan to ensure that we continually support Integrate anti-racist work into our strategic vision plan to ensure that we continually support anti-racis work on compus and in our community
   Upbolding all SERC Staff to base their work in environmental and read justice
   Collaborate with and support treatment and retration cognizations on campus
   Greate spaces for celebration, healing, and joy (such as <u>Earth Justice Month</u>)
   Upbatts SERC Infinite processes and programs to address implicit bias
   Expand the SERC <u>Earth Community Justice Fooder</u> Colder with activist resources and community support/residence for COVID-19
   Continus to plan an active role in the Chancellos's Advisory Committee on Sustainability

- Continuantly support resultence for COVID-19
  Continue to play an active role in the <u>Chancellor's Advisory Committee on Sustainability</u> Working Group for Diversity, Equity, and Inclusion in Sustainability



Exhibit B



## Exhibit C

