

**United States Department of Education**

**Office for Civil Rights  
Administrative Complaint**

May 27, 2026

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

**VIA EMAIL**

To Whom It May Concern:

Defending Education and Do No Harm bring this federal civil rights complaint against Oregon's Department of Education ("Department") and Oregon's Higher Education Coordinating Commission ("Commission") pursuant to the U.S. Department of Education's Office for Civil Rights' discrimination complaint resolution procedures. Oregon's Department and Commission are discriminating on the basis of race in programs or activities that receive federal financial assistance, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*, and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

Defending Education is a nationwide, nonpartisan membership organization composed of parents, students, and other concerned citizens. It brings this complaint as an interested third-party organization that opposes racial discrimination and political indoctrination in America's schools.

Do No Harm is a nationwide, grassroots, 501(c)(3) organization. Its members include healthcare professionals, students, patients, and policymakers. DNH's mission is to ensure that medicine is driven by scientific evidence rather than ideology, and it brings this complaint in an effort to realize that goal.

The Department has a duty to investigate complaints of “possible” discrimination “on the ground of race, color, or national origin” in violation of Title VI and the Equal Protection Clause.<sup>1</sup> Prohibited discrimination includes “separate treatment in any matter,” restricting “in any way ... the enjoyment of any advantage or privilege enjoyed by others,” and using “criteria or methods of administration which have the effect of subjecting individuals to discrimination.”<sup>2</sup> In short, any action or policy that is not “color-blind” violates the law,<sup>3</sup> and a discriminatory policy is a continuing violation that remains while the policy is in effect.<sup>4</sup>

## **I. Oregon’s Department of Education and Higher Education Coordinating Commission are both subject to Title VI.**

Oregon’s Department of Education and Higher Education Coordinating Commission are both subject to Title VI of the Civil Rights Act of 1964. Title VI prohibits racial discrimination in “any program or activity receiving Federal financial assistance.”<sup>5</sup> The statute defines “program or activity” and “program” to mean “all of the operations of ... a department, agency, special purpose district, or other instrumentality of a State or of a local government ... any part of which is extended Federal financial assistance.”<sup>6</sup>

The Department, which oversees more than 1,200 K-12 public schools and over 560,000 K-12 students,<sup>7</sup> is subject to Title VI because it receives federal financial assistance. For example, the Department receives more than \$150 million annually from federal grant programs such as the Elementary and Secondary Education Act (ESEA).<sup>8</sup> Because the Department accepts this federal financial assistance, it qualifies as a Title VI “program or activity” and is therefore subject to Title VI.

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<sup>1</sup> 34 C.F.R. §§100.3, 100.7; *see* 42 U.S.C. §2000d; U.S. Const. Amend. XIV.

<sup>2</sup> 34 C.F.R. §100.3(b).

<sup>3</sup> *See Students for Fair Admissions, Inc., v. President and Fellows of Harvard University College*, 600 U.S. 181, 198 n.2, 230 (2023).

<sup>4</sup> *See, e.g., Sewell v. Monroe City Sch. Bd.*, 974 F.3d 577, 583-84 (5th Cir. 2020); *Doe v. Mercy Cath. Med. Ctr.*, 850 F.3d 545, 566 (3d Cir. 2017); *Sharpe v. Cureton*, 319 F.3d 259, 268 (6th Cir. 2003).

<sup>5</sup> 42 USCA §2000d *et seq.*

<sup>6</sup> 42 U.S.C. §2000d-4a(1)(A)

<sup>7</sup> *The Oregon Department of Education – About Us*, Oregon Dep’t of Educ. (accessed Apr. 22, 2026), <https://tinyurl.com/y8pm7k6h>.

<sup>8</sup> FY2024 *State Grants Under Title I-A of the Elementary and Secondary Education Act (ESEA)*, Congressional Research Service (Apr. 3, 2026), <https://tinyurl.com/jpfz459n>.

Similarly, the Commission is a state agency that distributes funding to Oregon’s seven public universities and seventeen community colleges.<sup>9</sup> The Commission primarily administers state funding for Oregon’s higher education programs,<sup>10</sup> but it also accepts federal funds via grant programs and student financial aid programs.<sup>11</sup> Because the Commission receives federal financial assistance, it qualifies as a Title VI “program or activity” and is thus subject to Title VI.

## **II. The Oregon Department of Education’s Charter School Equity Grant Program violates Title VI and the Equal Protection Clause.**

First, Oregon’s Department of Education is violating Title VI and the Equal Protection Clause by requiring charter schools to implement racial enrollment quotas to be eligible for Oregon’s Charter School Equity Grant program.

### **a. Factual Background**

Pursuant to Oregon Revised Statutes §327.362, Oregon distributes Charter School Equity Grants. The purpose of these grants is to “increase academic achievement, including reducing academic disparities” among “students from racial or ethnic groups that have historically experienced academic disparities.”<sup>12</sup>

To be eligible for a “Charter School Equity Grant,” an Oregon public charter school must satisfy two requirements: 1) The charter school must not be a virtual (i.e., online) school, and 2) at least 65% of the student body must be composed of “racial or ethnic groups that have historically experienced academic disparities” or disabled students.<sup>13</sup> This requirement is stated explicitly both in Oregon’s Administrative Code and in the Department’s Equity Grant Program Manual (Exhibit A).<sup>14</sup> According to the

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<sup>9</sup> See Or. Rev. Stat. §§350.050, 350.075(3)(b).

<sup>10</sup> *State Funding and Formula Summary 2025-2027 Biennium*, Oregon Higher Education Coordinating Commission (OHECC), at 7 (2025-27), <https://tinyurl.com/bdf9u7fc>.

<sup>11</sup> See *Press Release: Oregon Awarded \$5.8 Million in Federal Grants to Support Registered Apprenticeships*, OHECC (July 23, 2025), <https://tinyurl.com/2378atbc>; see also *About OSAC*, OHECC Office of Student Success and Completion (accessed Apr. 19, 2026), <https://oregonstudentaid.gov/about-osac/>; *Grants*, OHECC (accessed Apr. 19, 2026), <https://oregonstudentaid.gov/grants/>.

<sup>12</sup> Or. Rev. Stat. §327.362(4)(a).

<sup>13</sup> Or. Admin. Code §§581-017-0768, 581-017-0777; *Statewide Education Initiatives Account 2025-27 Charter School Equity Grants*, Oregon Dep’t of Educ. (Oct. 29, 2025), <https://tinyurl.com/yt7y6c63>.

<sup>14</sup> Or. Admin. Code §§581-017-0768, 581-017-0777; *Public Charter School Equity Grants Program Manual*, Oregon Dep’t of Educ., at 5, (2025-27), <https://tinyurl.com/3r5srzzt>.

Administrative Code, “racial or ethnic groups that have historically experienced academic disparities” means “American Indian and Alaska Native students, Black and African American students, Hispanic and Latino students, Native Hawaiian and Pacific Islander students, and multiracial students.”<sup>15</sup>

If Oregon accepts a school’s application, then the school “enter[s] into a grant agreement” with Oregon’s Department of Education.<sup>16</sup> Accepted schools must subsequently submit reports to Oregon’s Department of Education that show how the school used its grant money to “increase academic achievement” for “students from racial or ethnic backgrounds that have historically experienced disparities.”

### **b. Oregon’s Charter School Equity Grant uses an unlawful race-based quota**

Because Oregon restricts Charter School Equity Grants to schools with 65% minority or disabled student bodies, the grant program operates “based on what amounts to a racial enrollment quota.”<sup>17</sup> Such quotas in schools are inherently unconstitutional, as the Supreme Court has repeatedly held for decades.<sup>18</sup>

The program’s stated purpose is to “reduc[e] academic disparities” among “students from racial or ethnic groups that have historically experienced academic disparities.”<sup>19</sup> But the Supreme Court rejected that particular discriminatory purpose almost fifty years ago. In *Regents of University of California v. Bakke*, the medical school at the University of California at Davis used an admissions quota to “reduc[e] the historic deficit of traditionally disfavored minorities in medical schools.”<sup>20</sup> But governments, the Court explained, may not use “amorphous concept[s]” like past “societal discrimination” to justify giving a boost to members of one racial group “at the expense of other innocent individuals.”<sup>21</sup>

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<sup>15</sup> Or. Admin. Code §581-017-0765(6).

<sup>16</sup> *Public Charter School Equity Grants 2025-2027 Biennium*, Oregon Dep’t of Educ., at 7 (2025-27), <https://tinyurl.com/3r5srzzt>.

<sup>17</sup> *Constitutionality of Race-Based Department of Education Programs*, Memorandum Opinion for the United States Department of Education Acting General Counsel, 2025 WL 4055305, at \*14 (Dec. 2, 2025).

<sup>18</sup> *See SFFA*, 600 U.S. at 211; *see also Grutter v. Bollinger*, 539 U.S. 306, 334 (2003).

<sup>19</sup> Or. Rev. Stat. §327.362(4)(a).

<sup>20</sup> *Regents of University of California v. Bakke*, 438 U.S. 265, 306 (1978).

<sup>21</sup> *Id.* at 307-08.

Last December, the Department of Justice’s Office of Legal Counsel analyzed similar race-based federal education grants in light of *Students for Fair Admissions v. Harvard* and determined that most of those programs unconstitutionally discriminated based on race.<sup>22</sup> Those programs were like Oregon’s Equity Grant program in both form and function. In fact, many of the programs that the Acting Attorney General deemed unconstitutional had quotas that required only a fraction of Oregon’s 65% enrollment threshold.<sup>23</sup> The law thus leaves no doubt: Oregon’s program—which employs a substantial racial quota based on little more than amorphous claims of societal discrimination—violates the Fourteenth Amendment and Title VI.<sup>24</sup>

### **III. Oregon’s Higher Education Coordinating Commission is violating Title VI and the Equal Protection Clause by distributing school funds according to graduates’ races.**

Next, the Higher Education Coordinating Commission’s public university funding formula violates Title VI and the 14th Amendment’s Equal Protection Clause because it distributes “bonus” taxpayer funds to schools based on the number of minority students who graduate from each school.

#### **a. Factual Background**

Oregon subsidizes its seven public universities with state taxpayer dollars. The State does this primarily through the Public University Support Fund (PUSF), which “represents the largest share of state support for [Oregon’s] public universities.”<sup>25</sup> The fund is managed by Oregon’s Higher Education Coordinating Commission.<sup>26</sup> The Commission is responsible for calculating and distributing each university’s PUSF

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<sup>22</sup> See *Constitutionality of Race-Based Department of Education Programs*, 2025 WL 4055305 at \*14. The memorandum opinion analyzed the programs according to “the Fifth Amendment’s equal-protection component.” *Id.* at \*1. The memorandum is also available at <https://tinyurl.com/23z4mabf>.

<sup>23</sup> See, e.g., *id.* at \*11 (analyzing a 20% “Hispanic” student requirement), \*16 (analyzing 20% and 10% quotas for Alaskan Natives and Native Hawaiians, respectively).

<sup>24</sup> *SFFA*, 600 U.S. at 198 n.2 (“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.”).

<sup>25</sup> *2025-2027 Budget Review: Higher Education Coordinating Commission*, Oregon Legislative Fiscal Office, at 12 (2025-27), <https://tinyurl.com/nhhpkb6r>.

<sup>26</sup> See Or. Rev. Stat. §§350.050, 350.075(3)(b).

funding every two years.<sup>27</sup> For the 2025-2027 Governor’s Budget, the PUSF totals \$1.07 Billion.<sup>28</sup> In 2015, the Commission moved from a “Resource Allocation Model,” which was “primarily based on enrollment,” to its current model, the Student Success and Completion Model.<sup>29</sup>

Using the Student Success and Completion Model, the Commission divides the PUSF into three categories: 1) Mission Differentiation Funding, which supports the universities’ “unique regional, research, and public service missions,”<sup>30</sup> 2) Activity-Based Funding, which the Commission allocates based on the number of student credit hours completed at a given school,<sup>31</sup> and 3) Outcomes-Based Funding, which is funding based on degree completions, with an “area of study bonus as well as a bonus for prioritized populations.”<sup>32</sup> Mission Differentiation Funding represents roughly 17% of each PUSF budget, Activity-Based Funding is about 33%, and Outcomes-Based Funding is roughly 50%.<sup>33</sup>

Oregon’s Outcomes-Based Funding is the relevant category for purposes of this federal civil rights complaint. The Commission calculates each university’s Outcomes-Based Funding by 1) counting the number of completed degrees at each university in the last three years and 2) “cost-weighting” each degree by assigning points based on degree level (e.g., Doctoral, Masters, or Bachelors).

The Commission then tweaks each degree’s value by applying “discounts” and “bonuses.” The Commission, for example, discounts any degrees completed by a transfer student.<sup>34</sup> In other words, because transfer students spend only part of their education at their degree-conferring university, the university receives less PUSF

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<sup>27</sup> See Or. Rev. Stat. §350.075.

<sup>28</sup> *2025-2027 Budget Review*, *supra* n.25, at 15.

<sup>29</sup> *Id.* at 12-13.

<sup>30</sup> *State Funding and Formula Summary 2025-2027 Biennium*, OHECC, at 7 (2025-27), <https://tinyurl.com/bdf9u7fc>.

<sup>31</sup> *Id.* at 8.

<sup>32</sup> *Id.* at 9.

<sup>33</sup> *Id.* at 13. The PUSF fluctuates slightly every two years, so the Commission calculates the Mission Differentiation Funding first (17% of the total PUSF) and then it splits the remaining PUSF funds 40/60 between Activity-Based and Outcome-Based respectively.

<sup>34</sup> *State Funding and Formula Summary Biennium 2025-2027*, *supra* n.30, at 9.

funding for degrees conferred to transfer students. And the Commission awards bonuses for degrees in high-demand fields like engineering, physics, and agriculture.<sup>35</sup>

The Commission also awards bonuses for degrees completed by “underrepresented” students—also called “priority populations” or “Targeted Student Populations.”<sup>36</sup> According to the Commission, these “populations” include rural students, low-income students, veterans, and students from “Underrepresented Racial/Ethnic Groups.”<sup>37</sup> Students come from “underrepresented” racial groups if they are “American Indian/Alaskan Native, Hispanic, Pacific Islander, Black, African American, or two or more races if one of those two or more races is listed in this definition.”<sup>38</sup>

In other words, the Commission will give an Oregon public university “bonus” taxpayer dollars for every non-White and non-Asian student who graduates from the university. When Oregon says “Underrepresented Racial/Ethnic Groups,” it really means “all students except for White or Asian students.” The Commission does not merely overlook White and Asian students; it intentionally allocates its funding to disfavor them. Proving the point, although Oregon regulations count most multi-racial students as “underrepresented,” they specifically exclude students from the definition if the student has one White parent and one Asian parent.<sup>39</sup>

### **b. Oregon’s Outcomes-Based Funding distributions violate the 14th Amendment and Title VI**

Oregon’s Outcomes-Based Funding policy is patently unconstitutional.<sup>40</sup> Racial classifications must satisfy strict scrutiny, meaning they must be narrowly tailored to serve a compelling government interest.<sup>41</sup> Oregon’s policy fails both tests.

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*; see also Or. Admin. Rules §715-013-0040(c)(7); Or. Admin. Rules §§715-013-0025(2)(s)-(u).

<sup>37</sup> Or. Admin. Rules §715-013-0025(2)(s).

<sup>38</sup> Or. Admin. Rules §715-013-0025(2)(u).

<sup>39</sup> *Id.*

<sup>40</sup> Oregon may not implement racial preferences, nor rest its actions upon any racially discriminatory purpose or intention—whether in whole or in part. See, e.g., *SFFA*, 600 U.S. at 206 (The “core purpose” of the Equal Protection Clause is to do away with “all governmentally imposed discrimination based on race.”); *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-68 (1977).

<sup>41</sup> *SFFA*, 600 U.S. at 207.

To start with, Oregon has offered no compelling interest to justify the use of race in allocating public university funds. The Supreme Court has said that “remediating *specific* identified instances of past discrimination that violated the Constitution or a statute” can serve as a compelling interest,<sup>42</sup> but the State identifies no instances of discrimination in the past that might justify its discrimination today. To be sure, the Commission claims that its race-based funding helps to counter “institutional and systemic barriers and discriminatory practices that have limited access and success” for certain groups in the past.<sup>43</sup> But—as with the Department’s Charter School Equity Grant program—the Commission does not offer any specific examples of the “racist policies and practices” that it claims to remedy through its Outcomes-Based Funding policy.<sup>44</sup> Oregon elsewhere suggests that its discriminatory funding practices are necessary to eliminate “persistent educational disparities [that] have cost Oregon billions of dollars in lost economic output,”<sup>45</sup> but general economic concerns disconnected from any past instances of discrimination are likewise insufficient to justify state-sponsored race discrimination.<sup>46</sup>

Even if the Commission’s interests were compelling, its policy is not narrowly tailored, for at least three reasons.<sup>47</sup> One, the Commission’s definition of underrepresented racial groups is overinclusive. It includes practically every race—even every *combination* of races—except for White students, Asian students, and White-Asian students. Put differently, the Commission’s program could only be narrowly tailored if Oregon’s education system had “systemically” discriminated against every single racial group known to mankind *except* for Whites and Asians.<sup>48</sup> Two, even if the Commission could

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<sup>42</sup> *Id.* at 207 (emphasis added).

<sup>43</sup> *Equity Lens*, OHECC, at 2 (updated Jan. 2024), <https://tinyurl.com/4r8xmzn8> (explaining that the Commission administers public university funds through an “Equity Lens” that it “intentionally place[s] at the forefront” of its funding decisions); Or. Admin. Rules §581-017-0010(1) (“The Department of Education will apply the Oregon Equity Lens when administering the strategic investments including when determining resource allocation and making strategic investments.”).

<sup>44</sup> *Equity Lens*, *supra* n.42, at 2.

<sup>45</sup> *Equity Lens*, Oregon State Education Investment Bd., at 1 (accessed May 7, 2026), <https://tinyurl.com/yxca2875>.

<sup>46</sup> *SFFA*, 600 U.S. at 214-15 (vague goals like “training future leaders in the public and private sectors” are “not sufficiently coherent” or judicially measurable); *Monterey Mechanical Co. v. Wilson*, 125 F.3d 702, 713 (9th Cir. 1997) (Efforts to improve the supposed “economically disadvantaged position” of certain groups, without any connection to “past active or passive discrimination by the State,” do not justify “ethnic and sex discrimination.”).

<sup>47</sup> *Fisher v. University of Texas at Austin*, 570 U.S. 297, 311 (2013) (Narrow tailoring requires that the chosen means be both necessary to achieve the asserted interest and “narrowly framed to accomplish that purpose.”).

<sup>48</sup> *SFFA*, 600 U.S. at 207, 216; *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 485, 506 (1989).

prove prior discrimination against all of these racial groups, its definition would still fail narrow tailoring because its racial classifications themselves are overbroad. For example, the Commission uses the racial categories “Asian,” and “Hispanic,” both of which the Supreme Court has declared “plainly overbroad” and too “arbitrary or undefined” to support a racially discriminatory policy.<sup>49</sup> Three, it violates the “twin commands” of the Equal Protection Clause by resting on “pernicious stereotype[s]” that certain minorities “can usually bring something that a [White or Asian] person cannot offer,” and it uses the race of White and Asian students as a “negative” in allocating funding.<sup>50</sup>

#### **IV. Conclusion**

Based on Oregon’s statements and administrative reports discussed above, it appears that both Oregon’s Department of Education and its Higher Education Coordinating Commission have adopted, implemented, and enforced racially discriminatory policies for years and have maintained those policies through the present day. That is incompatible with the “color-blind” mandate of Title VI and the Equal Protection Clause.<sup>51</sup>

For these reasons, Defending Education and Do No Harm respectfully ask OCR to open a civil rights investigation into Oregon’s Department of Education and Oregon’s Higher Education Coordinating Commission and to resolve any violations of Title VI of the Civil Rights Act of 1964 and of the Fourteenth Amendment’s Equal Protection Clause.

Sincerely,

Sarah Parshall Perry  
Vice President and Senior Legal Fellow  
Defending Education

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<sup>49</sup> *SFFA*, 600 U.S. at 216.

<sup>50</sup> *Id.* at 218-20.

<sup>51</sup> *Id.* at 198 n.2, 230.

Kristina Rasmussen  
Executive Director  
Do No Harm

Cara Tolliver  
Vice President of Legal Programs  
Do No Harm