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Attorney General Dave Yost
30 E. Broad St., 14th Floor
Columbus, OH 43215

Dear Attorney General Yost:

I write, on behalf of the American Civil Rights Project to inform you of illegal, race-based scholarships being offered by two of Ohio's public universities, Youngstown State and Wright State.

Legal Background

Universities may not give or withhold benefits based on students' skin color. This follows in part from the Fourteenth Amendment's Equal Protection Clause, which forbids public universities to engage in race discrimination.¹ Title VI of the Civil Rights Act of 1964 extends the same prohibition to any school, public or private, that receives federal funds. That statute "prohibits a recipient of federal funds from intentionally treating one person worse than another similarly situated person because of his race"²

These principles prohibit public schools, along with private schools that accept federal funding, from considering race during the admissions process.³ The same principles prohibit race-based scholarships, as your office has recognized: "Race-based scholarships discriminate on the basis of race in awarding benefits," and are therefore "unconstitutional."⁴

Despite your warning, Wright State and Youngstown State continue to award race-based

¹ See *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 231 (2023); *Podbersky v. Kirwan*, 38 F.3d 147, 161-62 (4th Cir. 1994) (instructing district court to both grant summary judgment against state for violating equal protection through race-based scholarship program and enjoin the consideration of race in reassessing plaintiff's application).

² *Harvard*, 600 U.S. at 289 (Gorsuch, J., concurring); see also *id.* at 198 n.2 (majority op.).

³ *Id.* at 231 (majority op.); Memorandum to University and College Colleagues from Ohio Attorney General Dave Yost (June 30, 2023), <https://tinyurl.com/YostMemo>.

⁴ Sarah Donaldson, *Race-based scholarships under review at Ohio public colleges after affirmative action reversal*, Statehouse News Bureau (Feb. 26, 2024), <https://perma.cc/P2VC-45HY> (quoting chief spokesman, Bethany McCorkle).

scholarships. Both do so either alone or through nominally private foundations.

Wright State University

Begin with Wright State and the “Wright State University Foundation.” The Foundation’s Articles of Incorporation, as amended, announce the Foundation’s purposes. These include:

To receive and hold gifts, grants, devises and bequests of money, property, and other things of value given for the benefit of Wright State Campus and its successor, Wright State University, and the faculty and students thereof; to give to Wright State Campus and its successor, Wright State University, and the faculty and students thereof, gifts, grants, and bequests of money and other things of value for educational and research purposes; to aid and assist the said institution and its faculty and students; and to establish, undertake, or participate in all manner of programs which accomplish any of the foregoing.⁵

Consistent with this, the University and the Foundation are closely intertwined. The University’s website even solicits donations *on behalf* of the Foundation.⁶

The University and Foundation also work together closely with respect to scholarships. The Foundation’s website features available scholarships.⁷ And Wright State’s website allow students to “search for more than 500 donor-based scholarships funded through the Wright State University Foundation and also scholarships funded by the university.”⁸ By clicking the button labeled “Search for Scholarships,” a prospective scholarship applicant opens a page hosted by Wright State. And on *that* page, the user can click “Category Search Filter” to identify race- and ethnicity-based scholarships. Here are screenshots:

⁵ See Amendment to Articles of Incorporation (Jan. 20, 1994) (filed with the Secretary of State on February 14, 1994 and available on the Secretary of State’s website).

⁶ See *Giving*, Wright State University (Jan. 30, 2025), <https://perma.cc/SU74-EG8B>.

⁷ See *Scholarships*, The Wright State Foundation (Jan. 23, 2025), <https://perma.cc/JX34-8RUD>.

⁸ *Scholarship Search*, Wright State University (Jan. 23, 2025), <https://perma.cc/XWV4-JF2D>.

Category Search Filter



Choose categories to refine the Scholarship List

Categories (5)

Race



- Race American Indian or Alaskan Native
- Race Asian
- Race Black or African-American
- Race Native Hawaiian or Pacific Islander
- Race White

Category Search Filter



Choose categories to refine the Scholarship List

Categories (2)

Ethnicity



- Ethnicity Hispanic or Latino
- Ethnicity Not Hispanic or Latino

Close

Selecting these filters reveals:

- 2 scholarships for “American Indian or Alaskan Native” students
- 3 scholarships for “Asian” students
- 7 for “Black or African-American” students
- 2 for “Native Hawaiian or Pacific Islander” students
- 6 for “Hispanic or Latino”

These filters thus reflect 20 scholarships that expressly consider race in selecting their beneficiaries. For clarity: 0 scholarships appear if one selects “White” or “Not Hispanic or Latino.” Thus, Wright State, either directly or in tandem with the Foundation, offers explicitly race-based scholarships.

Youngstown State University

Now consider Youngstown State and the “Youngstown State Foundation.” That foundation exists to, among other things, “accept by gift, devise, bequest or otherwise property of every kind and description, without limit as to amount, including acceptance of gifts to be used for specified purposes”⁹ Those specified purposes include “provid[ing] support for the general educational needs of Youngstown State University,” including “assistance to students” and “student scholarships and loans.”¹⁰ The University describes the Foundation as “the designated philanthropic entity of Youngstown State University,” and hosts a website on which students can find applications for scholarships available through the Foundation.¹¹ And the University’s donation page contains an option allowing donors to give directly to the Foundation:¹²

⁹ Amended and Restated Articles of Incorporation of Youngstown State University Foundation (May 10, 2021) (filed with the Secretary of State on June 9, 2021 and available on the Secretary of State’s website).

¹⁰ *Id.*

¹¹ *YSU/YSUF Scholarship Application (2025-2026)*, Youngstown State University (Jan. 24, 2025), <https://perma.cc/6T4K-HCMW>.

¹² Available at the following link: <https://interland3.donorperfect.net/weblink/web-link.aspx?name=E154574&id=33>, which opens when one selects the “GIVE” option on Youngstown State’s website.

Donation Form

Amount

\$25
 \$50

\$100
 \$250

\$1000
 Other

Select Gift Designation

YSU Foundation General Scholarship Fund ▼
 YSU Foundation Unrestricted Endowment
YSU Foundation General Scholarship Fund
 Area of Greatest Need
 Athletics
 Division of Student Experience
 Beeghly College of Education
 Bitonte College of Health & Human Services
 College of Liberal Arts & Social Sciences
 Cliffe College of Creative Arts & Communication
 College of Science, Technology, Engineering, and Math
 Honors College
 College of Graduate Studies
 Williamson College of Business
 Other (list in box below)

Until very recently, the “YSU Scholarship Search” page permitted the user to filter scholarships by student “Ethnicity/Religion.”¹³ The University has since removed that filter feature. Its website, however, still lists numerous scholarships that the American Civil Rights Project previously identified as race-based or otherwise discriminatory. These include:

- Anthony and Pauline Pellegrini Wedgewood Pizza Minority Scholarship
- Atty. Richard McLaughlin Memorial Scholarship
- Barbara J. Vankline-Shivers Memorial Scholarship
- Chuparkoff Family Scholarship
- Cirenya Schroeder Rose Memorial Scholarship
- Clifford O. Johnson Memorial Scholarship in Education
- Cochran Diversity Fund in Engineering
- Crumpler-Ray Scholarship for Law & Medicine
- Deacon George & Jeanette Logan Memorial Scholarship
- Department of Communication Faculty-Endowed Scholarship

¹³ <https://tinyurl.com/ArchivedYSU>.

- Diversity Leadership Scholarship
- Dr. Barbara Brothers Scholarship in Education
- Dr. Chatrchai and Eleanor Watanakunakorn Scholarship
- Dr. Earnest and Doris Perry Diversity Scholarship
- Dr. Joan L. and Willard L. Boyd Scholarship
- Dr. Keith and Kathy Brantley Pre-Med Scholarship
- Dr. Rashada Alexander and Dr. Kimberly Ford - Help A Sister Out Scholarship
- Dr. Richard and Ruth Crepage Scholarship
- Dr. Syretha F. Cooper Memorial Scholarship in Social Work
- Florence K. George Minority Scholarship
- Frankie “Mr. Lucky” Halfacre Memorial Scholarship
- Gloria Douglas Scholarship in Education for Minority Students
- Greg and Alice Greenwood Scholarship
- Harry L. Johnson, Jr. Memorial Scholarship
- Hill, Barth and King, LLC Minority Scholarship
- Huntington Bank Minority Scholarship
- Jamail Earl Johnson Memorial Scholarship
- James Centofanti Minority Scholarship
- James and Coralie Centofanti Minority Nursing Scholarship
- James and Ellen Tressel Scholarship
- Joseph Pavlov, Jr. Minority Scholarship
- Joseph Potochny Scholarship
- Judge Nathaniel R. Jones Scholarship
- Kevin D. Farris Scholarship
- Lynn Alexander Zigoris and Thomas Zigoris Education Minority Scholarship
- Mary Jo Monakee Scholarship
- McCullough Williams Jr. Scholarship
- Morgan Stanley Minority Scholarship
- Peter George Parthemos Scholarship
- Rand D. and Eleanor Becker Memorial Scholarship
- Seals Family Scholarship
- Shorty and Elba Navarro Scholarship
- Swedish Central Society Scholarship
- Theodore P. and Evelyn H. Chengelis Memorial Scholarship
- Vincent S. Bacon Scholarship
- Vincenzo and Anna Rubino Memorial Scholarship
- Vivian D. Martin Memorial Scholarship
- WYSU-FM Broadcasting Scholarship
- Walter and Victoria Jennings Memorial Scholarship
- YSU Foundation Minority Scholarship

Many (though not all) of the links describing the eligibility criteria for these scholarships no longer work, even though links for *other* scholarships do. It is unclear what a good-faith explanation for this alteration might be. Perhaps the scholarships are no longer available through Youngstown State or the Foundation, but their continued presence on the University website's list of scholarships leaves that doubtful. Perhaps, instead, the school and the Foundation are suppressing evidence of their ongoing, intentional, race-based discrimination.

Analysis

All told, publicly available records provide grounds for serious concern regarding whether Wright State and Youngstown State are abiding by your instructions to cease offering race-based scholarships.

It makes no difference whether the schools are offering these scholarships directly or through the nominally private foundations. Either way, the scholarships are illegal. When state officials and private actors willfully engage in “joint activity” that discriminates on the basis of race, they violate the Equal Protection Clause.¹⁴ And while the question whether private actions count as state action entails a “necessarily fact-bound inquiry,”¹⁵ the publicly available facts, by themselves, establish the requisite degree of joint activity. “The receipt and solicitation of gifts ... is an indispensable function of any institution of higher learning.”¹⁶ Those are the words of the Supreme Court of Ohio, which held that private foundations established to fundraise and accept gifts for public universities serve a “function of government” and are thus subject to public-records laws.¹⁷ Each such foundation, the Court said, is no “mere supplementary benefactor of the university,” but rather a “major gift-receiving and soliciting *entity of the university*.”¹⁸ When those gifts include funding for race-based scholarships, the foundations are accepting and offering race-based scholarships *for or in conjunction with* the universities. And in the particular circumstances our letter addresses, the universities bolster their joint action both by assisting the foundations' fundraising and by directing students to the race-based scholarships that the foundations offer.

Based on our experience, we suspect that far more evidence of joint action lurks beneath the publicly available facts. And we are open to litigating the matter. (For that reason, we ask that you advise the universities to preserve all records recording communications with their foundations or their foundations' members.) But we recognize that your office has led the charge in urging public universities to stop race-based discrimination at Ohio universities. To the extent you can persuade Wright State, Youngstown State, and their foundations to stop discriminating on the basis of race, litigation would be unnecessary.

¹⁴ *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 152 (1970) (quoting *United States v. Price*, 383 U.S. 787, 794 (1966)).

¹⁵ *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 939 (1982).

¹⁶ *State ex rel. Toledo Blade Co. v. Univ. of Toledo Found.*, 65 Ohio St. 3d 258, 262 (1992)

¹⁷ *Id.* at 263 (quoting R.C. 149.011(A)).

¹⁸ *Id.* at 262 (emphasis added).

Once you have a chance to investigate this matter, we would appreciate answers to the following questions:

1. What concrete steps, if any, have Wright State, Youngstown State, and their foundations taken to cease offering race-based scholarships?
2. Why were the links to race-based or otherwise discriminatory scholarships on Youngstown State's website made inaccessible?

If we can provide further information or assistance, please do not hesitate to reach out.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ben Flowers", with a stylized flourish at the end.

Ben Flowers