

The U.S. Department of Education Launches an Investigation into Legacy and Donor Admissions Practices under Title VI of the Civil Rights Act

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The U.S. Department of Education launched a civil rights investigation into Harvard University's ("Harvard") use of legacy and donor admissions preferences, following the United States Supreme Court's recent decision to strike down the indication of one's race as a factor in affirmative action policies related to college admissions. The key question in the investigation is whether favoring an undergraduate admissions candidate based on familial ties constitutes a violation of Title VI of the Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance from the U.S. Department of Education.

The investigation by the Department of Education was launched in response to a complaint filed by the Lawyers for Civil Rights ("LCR") Boston asserting that legacy and donor admissions unfairly benefit white students and systemically disadvantage applicants of color, contradicting Harvard's stated commitment to campus diversity. In the complaint, the LCR argued that "each year, Harvard University grants special preferences in its admissions process to hundreds of mostly white students – not because of anything they have accomplished, but rather solely because of who their relatives are. Applicants whose relatives are wealthy donors to Harvard, or whose parents are Harvard alumni, are flagged at the outset of Harvard's admissions process and are granted special solicitude and extra 'tips' throughout." The complaint cites evidence that the students who receive preferences are significantly more likely to be accepted and constitute up to 15% of Harvard's admitted students, while nearly 70% of donor-related and legacy-related applicants are white. To support the argument that admitting legacy or donor-related applicants causes fewer spots to be available for applicants who meet the admissions criteria purely based on merit, the LCR points to the Supreme Court's recent statement in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* that, "A benefit provided to some applicants but not to others necessarily advantages the former group at the expense of the latter". Ultimately, the LCR urged the Department of Education to declare that Harvard must cease its legacy and donor practices to receive federal funds because these practices are not necessary to achieve an important educational goal.

Admissions practices, specifically related to preferences given to separate pools of applicants, will be highly scrutinized in the wake of the Supreme Court's recent affirmative action decision. While the Department of Education has declined to comment on the specifics of the investigation, it has confirmed that the investigation is open under Title VI. Universities and colleges, especially those receiving government funding, should carefully monitor this issue. If the courts determine that legacy and donor-related admissions violate Title VI, the abandonment of this practice may address diversity goals, but may also likely impact philanthropy in higher education.

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