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May 21, 2024

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Via email to FCS.CRT@usdoj.gov

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**Re: Title VI Complaint Against the American Bar Association, South
Texas College, the University of the Pacific, Willamette
University, and Other Unknown Institutions of Higher Education**

Dear Ms. Stoneman & Investigators with the Department of Education:

On behalf of the Wisconsin Institute for Law & Liberty, Inc., please consider this letter a formal complaint under Title VI of the Civil Rights Act of 1964 against the American Bar Association (ABA), South Texas College, the University of the Pacific, Willamette University, and other unknown institutions of higher education.

The ABA runs at least nine racially discriminatory programs operating under the following names: (1) Judicial Clerkship Program, (2) Judicial Intern Opportunity Program, (3) Diversity Clerkship Program, (4) Legal Opportunity Scholarship, (5) Business Law Fellows Program, (6) Diversity Fellows Program, (7) Diversity and Inclusion Fellowship Program, (8) GPSolo Diversity Fellowship Program, and (9) Loretta Collins Argrett Fellowship Program. These programs, in their current form, violate multiple federal, state, and local civil-rights laws, and harm innumerable law students and attorneys around the nation. The ABA works with several universities each year to facilitate the Judicial Clerkship Program. The Wisconsin Institute for Law & Liberty was able to verify three universities that participated this year, and all institutions of higher education that participated should be investigated.

I. The Programs

1. The Judicial Clerkship Program

According to the ABA's website, the Judicial Clerkship Program "introduces law students from diverse backgrounds . . . to judges and law clerks."¹ It also "informs and educates the students as to life-long benefits of a judicial clerkship" and "encourages judges to consider students of color . . . for a judicial clerkship." These activities occur annually at a conference sponsored by LexisNexis, which took place in February this year in Louisville, Kentucky. The conference is essentially a job fair at which judges from across the nation meet potential clerk applicants. Law schools contract with the ABA to send students to the conference. The ABA boasts on its website that "53 minority law students" participated at a past conference.

Below is a screenshot of the ABA's website, which shows the three criteria a law school must agree to if it wishes to participate, at least one of which is illegal:

¹ https://web.archive.org/web/20240513205447/https://www.americanbar.org/groups/diversity/diversity_pipeline/projects_initiatives/judicial_clerkship_program/

The Process

Membership in the ABA Judicial Clerkship Program will require the selected law schools to:

- 1 Commit to pay the annual participation fee for the next three years
- 2 For each year of membership in the program, commit to send (and underwrite the costs for) four to six law students who are from underrepresented communities of color.
- 3 Select participating students using criteria developed by the school with an understanding of the ABA's Goal III objectives. Students who have already secured clerkship positions are not eligible to participate in the program. We suggest consideration of students who may not already be likely candidates for clerkships or may not even be considering clerkships. First and second year students are preferable. Each participating school should strive to select a diverse group of students to participate in the program.

Specifically, number two imposes a racial quota: Each law school must send—and pay for—“four to six law students who are from underrepresented communities of color.” The phrase “underrepresented” is undefined.

In response to a demand letter sent on April 24, the ABA claimed that it “imposes no restrictions on which students can attend the program” and that “the selection of student participants is left solely to the discretion of participating schools.” Ex. 1:1. These statements are belied by this explicit racial quota, which the ABA did not address in its response at all. At a minimum, the ABA has limited “the discretion of participating schools” significantly.

Even if the ABA's response were accurate, at best it is evidence that participating institutions of higher education are violating Title VI. The ABA does not appear to have published a list of law school that participated in the past few years; however, according to a 2020 list, 15 schools participated that year²:

² https://web.archive.org/web/20240513213507/https://www.americanbar.org/content/aba-cms-dotorg/en/groups/judicial/events_cle/jcp/

2020 Participating Law Schools

- 1 American Indian Law Center, Inc.
- 2 Arizona State University
- 3 Indiana University Robert H. McKinney School of Law
- 4 Loyola University Chicago School of Law
- 5 Michigan State University College of Law
- 6 Penn State Law
- 7 Saint Louis University
- 8 South Texas College of Law Houston
- 9 Southern University Law Center
- 10 Southwestern Law School
- 11 UC Irvine School of Law
- 12 University of Colorado Law School
- 13 University of Iowa
- 14 University of San Francisco
- 15 University of Tennessee College of Law

Additionally, based on social media posts, South Texas College, the University of the Pacific (McGeorge School of Law), and Willamette University each participated this year.³

³ https://x.com/STCL_Houston/status/1754969065611768246;
<https://x.com/PacificMcGeorge/status/1763313264962716037>;
<https://x.com/WillametteLaw/status/1758189869552074979>



The ABA also imposes a second racial quota, which is just as nefarious as the first, as shown in the screenshot below:

Judges from around the nation have agreed to participate in the Program. Article III judges and state supreme court justices will receive preference in selection of judges. Each judge will be asked to make a commitment to strive to hire at least two minority judicial law clerks over the next five years. The minority judicial law clerks they hire need not have participated in this Program.

This paragraph is troubling in that it suggests that judges must agree to hire a specific number of “minority judicial law clerks” to participate. Notably, the ABA likewise denied the existence of this quota in its response, stating, “judges are not asked to make any hiring commitments.” Ex. 1:2. Again, the ABA did not explain how its statement is consistent with its website, which clearly says that the ABA asks judges “to make a commitment to strive to hire at least two minority law clerks over the next five years.”

Notably, since the Wisconsin Institute for Law & Liberty sent a demand letter to the ABA, the ABA appears to have removed at least four webpages about the

Judicial Clerkship Program. The links to each of the four news articles in the screenshot below are no longer functional.⁴




2. The Judicial Intern Opportunity Program

According to the ABA’s website, the Judicial Intern Opportunity Program “provide[s] opportunities to students who are members of racial and ethnic groups that are traditionally underrepresented in the profession” to work with a judge over the summer.⁵ These interns are paid \$2,000 for their work.

As indicated by the screenshots below, at multiple points during the application process, law students are told that race is a factor. First, they must read an eligibility form:

⁴ https://www.americanbar.org/news/abanews/aba-news-archives/2015/02/judges_serve_as_a/https://www.americanbar.org/content/dam/aba/images/diversity_pipeline/15th%20Anniversary%20JCP%20Newsletter.pdfhttps://www.americanbar.org/content/dam/aba/administrative/diversity_pipeline/jcp_10th_anniversary.pdfhttps://www.americanbar.org/content/dam/aba/administrative/diversity/JCPhistoryarticle.pdf

⁵ <https://web.archive.org/web/20240513210707/https://www.americanbar.org/groups/litigation/about/awards-initiatives/jiop/program/>

 Eligibility Form

Eligibility Form

The mission of the Judicial Intern Opportunity Program is to provide opportunities to students who are members of racial and ethnic groups that are traditionally underrepresented in the profession. The program also provides opportunities to students with disabilities, students who are economically disadvantaged, women and students who identify themselves as LGBTQ+. Please review our program eligibility form [here](#).

☐ I have read and understand the program eligibility form.

SAVE & CONTINUE EDITING
MARK AS COMPLETE

That form defines various racial categories in detail:

JIOP ELIGIBILITY

The mission of the Judicial Intern Opportunity Program is to provide opportunities to students who are members of racial and ethnic groups that are traditionally underrepresented in the profession. The program also provides opportunities to students with disabilities, veterans, students who are economically disadvantaged, students who identify themselves as LGBTQ+, and women.

The ABA and Litigation Section are committed to advancing Goal III of the ABA: Eliminate Bias and Enhance Diversity. JIOP is advancing a commitment to historical exclusion of many groups based on race, ethnicity, gender, sexual orientation, and disability status. We will not be specifically sharing demographic data and will keep sensitive personally identifiable information anonymous. Please use the following definitions to help identify program qualifications.

African American/Black refers to people having origins in any of the Black racial groups of Africa or those with or of African descent. Some examples of self-identifications of those in this group may include (but are not limited to): people who identify their racial/ethnic background as Black, African American, Nigerian, or Haitian.

Asian (Central/East/South/Southeast) refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or South Asia. Some examples of specific self-identifications within this group may include (but are not limited to): people who identify their racial/ethnic background as Indian, Bangladeshi, Pakistani, Desi, Chinese, Filipino, Korean, Japanese, Vietnamese, Hmong, Thai.

Middle Eastern/North African refers to people having origins in any of the countries in the Middle East and North Africa, which includes approximately 19 countries in the areas between Morocco and Somalia in Northern Africa, and between Yemen and Iran in West Asia/the Middle East.

Native Hawaiian/Pacific Islander refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. Some examples of specific self-identifications within this group may include (but are not limited to): people who identify their racial/ethnic background as Native Hawaiian, Guamanian or Chamorro, Samoan, Tahitian, Mariana Islander, or Marshallese.

White refers to people having origins in any of the original peoples of Europe. Some examples of specific self-identifications within this group may include (but are not limited to): people who identify their racial/ethnic background as White, Irish, German, Italian, or Romanian.

Hispanic/Latino/a/x refers to people having origins in Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish-speaking or Portuguese speaking culture or origin, regardless of race.

Native American/Indigenous refers to people having origins in any of the original peoples of North and South America (including Central America), including American Indians and Alaska Natives (including Inuit and Aleuts), and who maintain tribal affiliation or community attachment. Some examples of specific self-identifications within this group may include (but are not limited to): people who identify their racial/ethnic background or tribal affiliation as Rosebud Sioux, Chippewa, Menominee, or Navajo.

Two or More Races refers to people whose racial/ethnic background falls into one or more of the categories listed above.

Next, students must check a box indicating how they qualify:

Please identify how you qualify for the program:

☐ Hispanic or Latino

☐ Asian (Not Hispanic or Latino)

☐ Native American or Alaska Native (Not Hispanic or Latino)

☐ Black or African or American (Not Hispanic or Latino)

☐ Native Hawaiian or Pacific Islander (Not Hispanic or Latino)

☐ Two or More Races

☐ Economically Disadvantaged

☐ Gender Identity

☐ Veteran

☐ Disabled

☐ Caucasian

☐ LGBTQ+

☐ I prefer not to include that information

They also must state whether they “identify as an underrepresented group”:

Do you identify as an underrepresented group?

☐ Yes

☐ No

Students are told that an answer to these questions will “assist the screening committee to better identify those applicants most deserving”:

here.'"/>

Program Eligibility

Form for "Program Eligibility"

This is my form.

Program Eligibility

To assist the screening committee to better identify those applicants most deserving of these positions we invite you to voluntarily self-identify answers to the following optional questions. The information obtained will be kept confidential and when reported, data will not identify any specific individual. Please review our program eligibility form [here](#).

In the ABA’s response, it did not address its website or application materials other than to note that “language on the programs’ websites references the programs’ historical mission to support students belonging to traditionally underrepresented racial and ethnic minority groups, but these programs have long since been expanded to encompass all students facing hardships of any kind.” Ex. 1:2. This statement is inaccurate. The application materials require a law student to check a box explaining how he or she qualifies. Some of these boxes include non-racial and non-ethnic ways to qualify; however, the existence of these other ways is irrelevant. Students in some racial minorities automatically qualify as “underrepresented” because of their race, while students in other racial groups must demonstrate additional criteria to be considered “underrepresented” (such as LGBTQ, disabled, or veteran.) This differing treatment on account of race is illegal.

Also, the ABA said that “any law student who considers themselves to face obstacles in entering and succeeding in the legal profession is eligible;” however, this statement is at odds with the detailed “program eligibility” form, which law students are required to read when applying. Ex. 1:2. This form defines specific racial categories in detail. The ABA is not asking students to write an essay about how they faced hardships, such as racial prejudice, but rather to check boxes based on specific definitions. Again, racial status automatically qualifies some students but not others.

Lastly, the ABA said that “demographic information that an applicant chooses to provide is not shared with anyone who makes selection and placement decisions, including interviewers and participating judges.” Ex. 1:2. The ABA’s statement is wrong. As the above screenshot shows, law students are told that an answer to various demographic questions is needed to “assist the screening committee.” An overview of the selection process, taken from the ABA’s website, is provided below.

First Round Interviews

- Students will be interviewed by a program volunteer to evaluate whether or not they should advance in the process. Reviewers evaluate the student's abilities including writing, judgement, work ethic, meeting the goals of the program, professionalism, grades, etc.
- The screening interviewer submits an evaluation form describing the screening interview to the JIOP committee. Based upon the evaluation, qualified students progress to judicial review.

Judicial Interviews

- Based on individual judge's criteria for students, applications and related materials of the pre-qualified students are sent to judges. Judges determine which students they will interview and will set up those interviews through their chambers' staff. Only the students with the strongest qualifications are sent on for judicial interviews.
- Judicial interviews are conducted in person in the judges' chambers. If personal interviews are not possible, the judge may elect to conduct an interview over the telephone or via Zoom. There is no reimbursement to students for any travel expenses.
- Judicial interviews continue until all positions are filled. Student materials will be shared until all positions are filled presenting as many opportunities for placement as possible.

Final Selection

- Judges are expected to conclude the selection process by April.
- At that time, we will notify the applicants whether they have been accepted into the program.
- Students selected for the program will be asked to participate in an orientation and will be welcome to attend any planned supplemental programming or receptions.
- If a student accepts a program placement, that is considered final. Students should stop seeking other summer opportunities as they are committed to the JIOP program placement upon acceptance.

Award checks will be mailed to participating students by the *end of the summer* and are intended to cover some of the students' expenses associated with the placement.

The ABA appears to be arguing that at certain steps, demographic information is not considered; however, the application materials make clear that such information is considered by the “screening committee,” which is presumably the “JIOP committee” in the above screenshot. As the screenshot makes clear: “The screening interviewer submits an evaluation form describing the screening interview to the JIOP committee. Based upon the evaluation, *qualified* students progress to judicial review.” “Qualified” is the key word. Additionally, as a part of the application process, law students must sign a “Code of Conduct” acknowledgment, which explicitly states, “I authorize the Section to also share my information with volunteer reviewers to determine program eligibility and judges and chambers staff for intern consideration.” A screenshot of that code is provided below.

JIOP Code of Conduct and Acceptance Policy

In connection with my application to the Judicial Internship Opportunity Program ("JIOP"), I have provided the American Bar Association ("ABA") on behalf of its Section of Litigation ("Section") certain information including, without limitation, my name, address, email address and law school. I authorize the Section to share such information with other ABA entities and permit them to contact me.¹

I authorize the Section to also share my information with volunteer reviewers to determine program eligibility and with judges and chamber staff for intern consideration. I also acknowledge that the ABA may identify me and my law school by name and email address in communication with program sponsors and in any materials promoting or publicizing JIOP, the ABA or the Section.

I acknowledge that I may be interviewed by the Section or ABA regarding my participation in JIOP or I may otherwise make statements about my participation in JIOP. I grant the ABA and the Section the non-exclusive, irrevocable, worldwide right to use such statements, in whole or in part, as may be edited by the ABA or the Section, in materials about the ABA or the Section. I authorize the ABA or Section to accompany such statements with my name, title, law school, and if the ABA or Section chooses, a photograph of me.

I acknowledge that the ABA or the Section may provide statistical information about JIOP participants to third parties to promote, publicize and raise funds for JIOP, the ABA or the Section and I consent to such use.

I understand that some judges may offer positions during the interview. If I am offered an intern position, I agree to either **accept or decline within 24 hours**. I also agree to let judges know of any individual constraints on my summer schedule **prior** to scheduling an interview. If accepted to the program I agree to participate for a minimum of six weeks, full time (32 hours per week) to be considered a program participant. I also understand that the judges determine the length of the internship and many judges expect students to stay longer than the six week minimum.

I will immediately notify program staff of any offered or accepted position through JIOP. I acknowledge that if I decline a position, I will be removed from consideration for other positions and that I may not accept more than one program position. I also agree to immediately notify the program administrators if I decline a program position or accept a position outside of the program.

3. The Diversity Clerkship Program

According to the ABA's website, the Diversity Clerkship Program "provides business law clerkship placements for four qualified diverse first or second year law students. . . . The . . . focus is on judicial clerkships, where diversity among judicial clerks remain disproportionately low."⁶ Clerks are paid \$5,000.

As shown in the screenshot below, a law student "must be considered diverse" in one of five specific ways to be eligible, and the first way is to be a "student of color."

⁶ https://web.archive.org/web/20240515174311/https://www.americanbar.org/groups/business_law/about/awards-initiatives/diversity/

Application Process

Applicant Criteria

- Applicants must be current first or second year law students attending an [ABA-approved law school](#).
- Applicants must be considered diverse in one of the following ways:
 - ☐ Law student of color
 - ☐ Women
 - ☐ Law students with disabilities
 - ☐ LGBTQ+ law students
 - ☐ Students who have overcome social or economic disadvantages such as a physical disability, financial constraints, or cultural impediments to becoming a law student
- Applicants must demonstrate financial need.
- Applicants must be ABA Law Student Division and Business Law Section members.

Likewise, the application form states that “applicants must meet the follow criteria,” one of which is to “be a minority group member.” A screenshot is provided below.

ABA

AMERICANBARASSOCIATION

Business Law Section

Business Law Section Diversity Clerkship Application | Due December 31, 2023

To apply for the ABA Business Law Section Diversity Clerkship Program, applicants must meet the following criteria:

(1) be currently enrolled as a first or second-year student in good standing at an ABA accredited law school J.D. program;

(2) be a minority group member (students of color, women, students with disabilities, gay, lesbian, bisexual or transgendered students) or have overcome a social or economic disadvantage such as a physical disability, financial constraints, or cultural impediments to becoming a law student;

(3) demonstrate financial need; and

(4) be a member of the ABA Law Student Division and the Business Law Section.

Law students selected to participate in the program will receive a clerkship with a business court judge in one of several locations, including but not limited to Pennsylvania, Delaware, Michigan, North Carolina, and Illinois, and a stipend of \$5,000. Selected clerks will be notified in February 2024.

The application deadline is Sunday December 31, 2023. This means that all materials, including letters of recommendation, must be received by then.

4. The Legal Opportunity Scholarship

According to the ABA’s website, the “mission” of the Legal Opportunity Scholarship “is to encourage racial and ethnic minority students to apply to law school and to provide financial assistance for them to attend and complete their legal education.”⁷ Each year, the ABA doles out \$15,000 to ten to twenty “diverse law students.”

A screenshot below shows the six eligibility requirements an applicant must meet:

⁷ https://web.archive.org/web/20240513210912/https://www.americanbar.org/groups/diversity/diversity_pipeline/projects_initiatives/legal_opportunity_scholarship/

Requirements for Eligibility

To be eligible to receive an ABA Legal Opportunity Scholarship, an applicant must meet all of the following requirements:

- 1 The applicant must be an entering, first-year law student in academic year 2024.
- 2 The applicant must be a member of an underrepresented racial and/or ethnic minority (e.g. Black/African-American, Native American, Hispanic American, Asian/Pacific Islander). Please note: International students are not eligible.
- 3 Only first-year students beginning law school in this academic year will be eligible for a scholarship. Law students who have completed one or more semesters or years of law school are not eligible.
- 4 Applicants who are part-time law students also must be starting law school in this academic year to be eligible.
- 5 At the time of submission of the application, the applicant must have achieved a minimum cumulative grade point average of 2.5 (on a 4.0 grading scale) at their undergraduate institution. If the applicant has not completed their undergraduate degree at the time the application is submitted, the applicant must have a cumulative grade point average of at least 2.5 (on a 4.0 grading scale) as of the most recent completed semester.
- 6 Before receiving scholarship funds, recipients will be required to demonstrate admission to and plans to enroll at an ABA-accredited law school. Because of the deadline for submitting applications the applicant will have applied to law schools, but may not yet have been admitted to law school. If the applicant is selected to receive an ABA Legal Opportunity Scholarship, the applicant will be required to demonstrate admission to and plans to enroll at an ABA-accredited law school before receiving scholarship funds. Students who do not enroll or who leave law school after being admitted will be required to return all or a proportional amount of scholarship funds.

The second requirement makes clear that only “racial and/or ethnic minorit[ies]” are eligible. It then lists specific races and ethnicities as examples: “Black/African-American, Native American, Hispanic American, Asian/Pacific Islander.”

The application materials include a form with a similar statement, as shown in the screenshot below.

In addition to whether the applicant is a member of a racial and/or ethnic minority that has been underrepresented in the legal profession, the applicant's financial need; personal, family, and educational background; personal statement; and participation in community service activities will be considered in selecting the recipients of the ABA Legal Opportunity Scholarships. It is important for every applicant to complete all portions of the application and ensure that all required materials, **including at least two letters of recommendation**, are submitted ahead of the deadline. Financial information for the applicant and his or her parents is required to evaluate the applicant's financial need. A committee of ABA members will select the recipients. The decisions of the committee are final.

This paragraph makes clear that “racial and/or ethnic” background “will be considered,” albeit, in addition to other considerations.

5. The Business Law Fellows Program

According to the ABA's website, the Business Law Fellow Program “encourage[s] the participation of young lawyers, lawyers of color, LGBT lawyers and lawyers with disabilities in Business Law Section activities.”⁸

The website states that an attorney “must fall into one” of four specific categories to qualify, the second of which is being a “lawyer of color.” A screenshot is provided below.

Application Process

[Applications are open!](#)

Applicants must have demonstrated leadership experience in the ABA, the Business Law Section, and/or leadership experience in a bar organization for young lawyers, lawyers of color, LGBTQ+ lawyers, or lawyers with disabilities. Additionally, applicants must fall into one of these categories:

- Young lawyer (under 40 years of age or in practice for less than 10 years)
- Lawyer of color
- LGBTQ+ lawyer
- Lawyer with a disability

6. The Diversity Fellows Program

According to the ABA's website, the Diversity Fellows Program “is for young barred lawyers (under 36 years old with five years or less of legal experience) who have an interest in international law and come from diverse backgrounds—including diverse races, ethnicities, sexual orientations, and abilities/disabilities.”⁹

⁸ https://web.archive.org/web/20240515180625/https://www.americanbar.org/groups/business_law/about/awards-initiatives/fellows/

⁹ https://web.archive.org/web/20240515175950/https://www.americanbar.org/groups/international_law/about/awards/diversity-fellowship/

The website further explains that “application reviewers will take information regarding applicants’ race[] [and] ethnicity . . . into account.” A screenshot is provided below.

Fellowship Eligibility

Successful applicants will demonstrate that they work in the international legal arena and/or that they have a deep interest in international law. They will further show that they are 36 years old or younger and at least one year out of law school. Applicants will also document that they have been admitted to a bar and that their admission took place less than 6 years prior to the date of their Program application. In furtherance of its goal to make the Fellowships available to a diverse group of young lawyers, application reviewers will take information regarding applicants’ race, ethnicity, disabilities (if any), and gender/sexual identities into account. *See* ABA Goal III.

If an applicant is not a member of the ABA or the Section at the time of application, such applicant will be required to become a dues-paying member of the ABA upon a grant of the Program application. The Section will, however, cover Section dues.

7. The Diversity and Inclusion Fellowship Program

According to the ABA’s website, the Diversity and Inclusion Fellowship Program “provides opportunities for lawyers in under-represented groups such as ethnically diverse lawyers . . . to actively participate within the Criminal Justice Section and prepare them to take on leadership roles within the Section.”¹⁰

8. The GPSolo Diversity Fellowship Program

According to the ABA’s website, the Solo, Small Firm, and General Practice Division (GPSolo) runs a Diversity Fellowship Program, which “aims to promote diversity . . . while providing leadership opportunities within the Division for historically unrepresented groups, including racial and ethnic minorities”¹¹ The website explains that only a “lawyer or judge” with a “diverse background” as defined by the ABA may apply. The ABA defines diversity as including “race and ethnicity” in addition to sex and sexual orientation.¹²

9. The Loretta Collins Argrett Fellowship Program

According to the ABA’s website, “[t]he goal of the Loretta Collins Argrett Fellowship . . . is to identify, engage, and infuse historically underrepresented

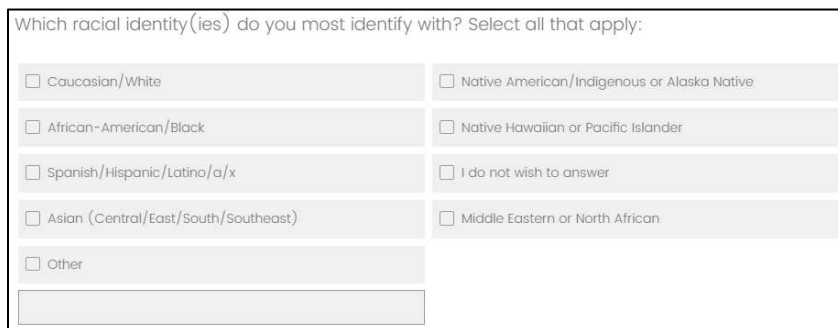
¹⁰ https://web.archive.org/web/20240515182047/https://www.americanbar.org/groups/criminal_justice/committees/diversity/

¹¹ <https://web.archive.org/web/20240515182544/https://www.americanbar.org/groups/gpsolo/about/awards-initiatives/diversity-fellowship/>

¹² <https://web.archive.org/web/20231019211757/https://www.americanbar.org/content/dam/aba/administrative/diversity-inclusion-center/2023-goal-3-report.pdf>

individuals into the [Taxation] Section”¹³ Like other programs, an attorney can demonstrate eligibility by pointing to a “diverse background.”

A screenshot below shows that the application form asks about race.



Which racial identity(ies) do you most identify with? Select all that apply:

<input type="checkbox"/> Caucasian/White	<input type="checkbox"/> Native American/Indigenous or Alaska Native
<input type="checkbox"/> African-American/Black	<input type="checkbox"/> Native Hawaiian or Pacific Islander
<input type="checkbox"/> Spanish/Hispanic/Latino/a/x	<input type="checkbox"/> I do not wish to answer
<input type="checkbox"/> Asian (Central/East/South/Southeast)	<input type="checkbox"/> Middle Eastern or North African
<input type="checkbox"/> Other	
<input type="text"/>	

II. The Title VI Violations

As a recipient of federal funds from multiple federal agencies, the ABA is subject to Title VI, which prohibits all discrimination “on the grounds of race, color, or national origin.” These federal agencies include, among others, the Department of Justice.

Notably, the ABA, while a private association, “serve[s] a public purpose;” accordingly, under Department of Justice guidance, the “entire” ABA is subject to Title VI—not just the parts that receive federal funds. U.S. Dep’t of Justice, *Title VI Manual*, Section V, at 23 (last accessed May 15, 2024).¹⁴ When a private association is “principally engaged” in “providing education” or “social services,” Title VI has “institution-wide application.” *Id.* at 29. Stated differently, “Title VI covers the entire entity when any part of it receives federal financial assistance.” *Id.* “Education” and “social services” are “construed broadly.” *Id.*; see also *Runnion v. Girl Scouts of Greater Chi.*, 786 F.3d 510, 528 (7th Cir. 2015) (holding, under a statute analogous to Title VI, a complaint “plausibly” alleged that “the Girl Scouts are a private organization principally engaged in the business of providing” education, noting the Girl Scouts often “characterized itself and its programs as education”); *Doe v. The Salvation Army in the U.S.*, 685 F.3d 564, 574 (6th Cir. 2012) (holding, under a statute analogous to Title VI, a trial was necessary to determine whether the Salvation Army was “principally engage[d] in the business of providing social services”). A private association that provides both education and social services can be considered principally engaged “in the aggregate,” i.e., “Title VI covers all operations of a private recipient if it is principally engaged in providing these services alone or in combination.” *Title VI Manual*, Section V, at 30; see also 42

¹³ <https://web.archive.org/web/20240515183225/https://www.americanbar.org/groups/taxation/dei/argrett-fellowship/>

¹⁴ <https://www.justice.gov/crt/book/file/1364106/dl?inline>

U.S.C. § 2000d–4a(3)(A)(ii) (explaining an “entire . . . private organization” is subject to Title VI, not just the parts of it that receive federal funding, if the organization is “principally engaged” in “education” or “social services”).

The ABA’s “Mission and Goals” statement confirms that it serves a public purpose. The statement provides that the ABA’s mission is, in large part, to “serve . . . the public.”¹⁵ Education is listed as an “objective.” Several of the programs mentioned above are presumably an effort to fulfill this objective. Additionally, the ABA is the best-known and primary law-school accreditor. The ABA also is a leading provider of continuing legal education (CLE)—its “CLE Marketplace” has “more than 1,500 online CLE programs and 350 live, in-person CLE events.”¹⁶ The ABA also provides many social services—in fact, it likely considers several of the programs mentioned above to be social services.

Additionally, South Texas College, the University of the Pacific, and Willamette University all receive federal funds, including from the Department of Education. An institution of “higher education” is automatically covered in its entirety if it receives any federal funds. 42 U.S.C. § 2000d–4a(2)(a).

The programs employ racial quotas and preferences, which have been recognized as illegal for decades. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 209 (2023) (applying strict scrutiny in declaring illegal affirmative action at Harvard University, a private university, under Title VI). More recently, the United States Supreme Court has recognized that under the “twin commands” of equal protection, “race may never be used as a ‘negative’ and . . . may not operate as a stereotype.” *Id.* at 218. The programs treat race as a negative—some law students and attorneys cannot compete fairly because of their race. The programs also use race as a stereotype—some law students and attorneys are presumed to be “deserving” (the ABA’s actual words with respect to the Judicial Intern Opportunity Program) because of their race. Racial presumptions like the ones employed by the ABA are routinely held illegal by federal courts. *See, e.g., Vitolo v. Guzman*, 999 F.3d 353, 363–64 (6th Cir. 2021); *Nuziard v. MBDA*, 2024 WL 965299, at *44 (N.D. Tex. Mar. 5, 2025).

Accordingly, the programs are illegal. We ask that you open a formal investigation based on this complaint and find that the ABA has violated Title VI. We also ask that you open an investigation into any university that receives federal funding and that participated in the Judicial Clerkship Program.

¹⁵ https://web.archive.org/web/20240515185919/https://www.americanbar.org/about_the_aba/aba-mission-goals/

¹⁶ <https://web.archive.org/web/20240521141502/https://www.americanbar.org/cle-marketplace/>

Sincerely,

A handwritten signature in black ink, appearing to read "D. P. Lennington".

Daniel P. Lennington
Deputy Counsel

A handwritten signature in black ink, appearing to read "Skylar Croy".

Skylar Croy
Associate Counsel