



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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BY EMAIL (OCRComplaint@hhs.gov)

Centralized Case Management Operations
U.S. Department of Health and Human
Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

BY EMAIL

Paula Stannard, Esq.
Director, Office for Civil Rights
U.S. Department of Health and Human
Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Civil Rights Complaint and Request For Investigation Against the University of Maryland Regarding HHS-Funded Intersectionality-Focused Lavender Lab

Dear Director Stannard and HHS OCR Staff:

This is a federal civil rights complaint and request for investigation pursuant to the U.S. Department of Health and Human Services' Office for Civil Rights ("OCR") discrimination complaint resolution procedures.¹ We write on behalf of the Equal Protection Project of the Legal Insurrection Foundation, a non-profit that, among other things, seeks to ensure equal protection under the law and opposes unlawful discrimination in any form.

We bring this civil rights complaint and request for investigation against the University of Maryland, College Park ("UMD") regarding practices in its HHS-funded Lavender Lab. As described below, investigation by HHS is needed because the Lab appears to use race, color,

¹ See 42 U.S.C. § 2000d-1; 45 C.F.R. §§ 80.7, 80.8, and 80.10.

and/or national origin in certain programs and opportunities connected to its federally funded research. These practices should be investigated for possible violation of:

- **Title VI of the Civil Rights Act of 1964 (“Title VI”)**, because UMD and the Lavender Lab receive federal financial assistance;
- **Section 1557 of the Affordable Care Act (“ACA”)**, because the Lavender Lab engages in federally funded health-related research;
- **The Equal Protection Clause of the Fourteenth Amendment**, because UMD is a public university; and
- **Executive Orders 14173 and 14332**, because continued HHS funding of the Lavender Lab’s programming may violate federal grantmaking requirements barring federal awards from supporting or facilitating unlawful racial discrimination.

THE LAVENDER LAB’S INTERSECTIONALITY FOCUS AND RACE/ETHNICITY-BASED PRACTICES

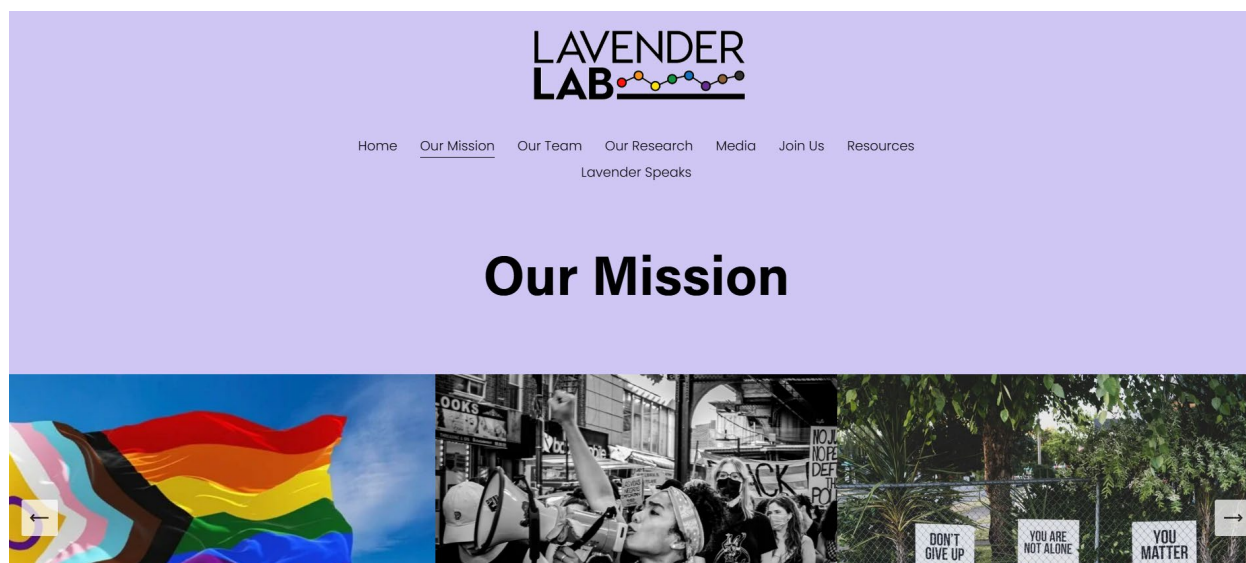
UMD’s Lavender Lab expressly describes its work as “informed by intersectionality theory” and grounded in “social justice and health equity.”² Federal funding of programs based on intersectionality raises civil rights concerns as the ideology is focused on group racial and ethnic identities and outcomes contrary to the civil rights laws and Constitution that demand equal protection for individuals regardless of group identity. The Lavender Lab’s practices demonstrate how intersectionality might cross over into unlawful discrimination.³

Consistent with an intersectionality framework, the Lavender Lab’s research examines the combined effects of sexual-minority status, race, ethnicity, and what it describes as “structural oppression.” This complaint does not challenge the Lab’s decision to study those subjects or to conduct research focused on particular populations, as that is a policy not a legal matter. The legal concern arises from how the Lab operates and whether it has extended its intersectionality and DEI commitments beyond research subject matter and into programs, participation opportunities, and recruitment practices that use race and ethnicity in a discriminatory manner.⁴

² <https://www.the-lavender-lab.com/our-mission> [<https://archive.is/j1gKO>] (accessed September 14, 2026).

³ See, *FEDERAL SPENDING ON INTERSECTIONALITY - The Case for Executive Action to End Identity-Based Preferences in Federal Grantmaking*, <https://equalprotect.org/wp-content/uploads/2026/08/Federal-Spending-on-Intersectionality-Full-Report.pdf>

⁴ <https://www.the-lavender-lab.com/our-mission> [<https://archive.is/j1gKO>] (accessed September 14, 2026).



Our work is informed by intersectionality theory and has a grounded commitment to social justice and health equity.

The Lavender Lab, led by Dr. Ethan Mereish, conducts NIH-funded research on the psychological, social, and cultural determinants of suicide, substance use, and other health outcomes for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals and Black, Indigenous, and People of Color (BIPOC). We also focus on identifying factors and interventions that promote resilience, resistance, and healing among LGBTQ+ and BIPOC adolescents and young adults. We leverage multiple methodologies, including experimental laboratory and experience sampling methods as well as qualitative methods.

Members of marginalized or stigmatized groups frequently experience unique stressors associated with their identity and related sources of oppression, including discrimination, harassment, violence, microaggressions, internalized stigma, identity concealment, and structural oppression (e.g., structural racism, heterosexism, sexism, cissexism). These types of stressors are often referred to as oppression-based stressors or "minority stressors" and have negative impacts on health and health behaviors. The Lavender Lab is particularly interested in individuals' experiences with oppression-based stressors and their effects on mental health and substance use as well as factors and interventions that can promote resilience and resistance of oppression.

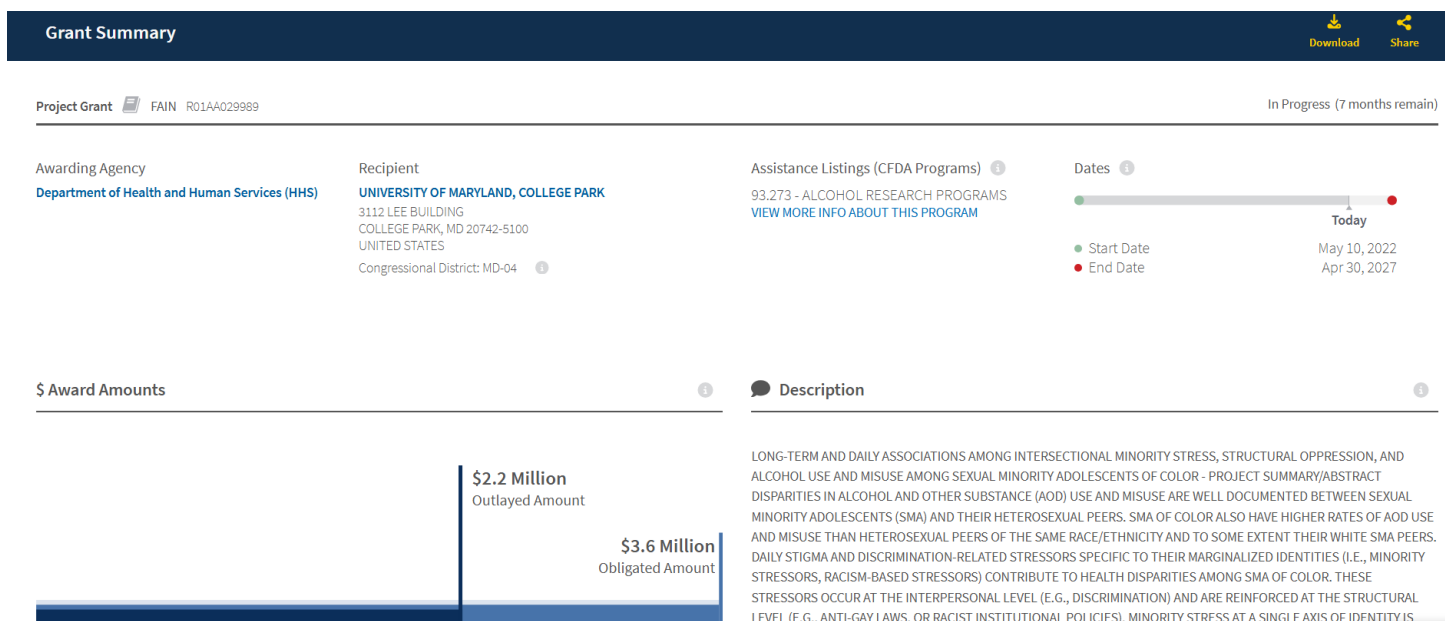
Our work is informed by intersectionality theory and has a grounded commitment to social justice and health equity.

HHS GRANT

The Lavender Lab is an NIH-funded research lab at UMD. The Lab states that it “conducts NIH-funded research on the psychological, social, and cultural determinants of suicide, substance use, and other health outcomes for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals and Black, Indigenous, and People of Color (BIPOC).”⁵

⁵ <https://www.the-lavender-lab.com/our-mission> [<https://archive.is/j1gKO>] (accessed September 14, 2026).

One of the Lab’s principal federally funded projects is NIH Grant No. R01AA029989, titled *Long-Term and Daily Associations Among Intersectional Minority Stress, Structural Oppression, and Alcohol Use and Misuse Among Sexual Minority Adolescents of Color*.⁶ The grant is administered by the National Institute on Alcohol Abuse and Alcoholism (“NIAAA”), an institute of NIH within HHS. The project began on May 10, 2022, and its current period of performance extends through April 30, 2027. Federal award data reflect approximately \$3.6 million in total federal obligations over the full term of the grant, with approximately \$2.2 million in outlays to date, including a \$695,192 continuation award for fiscal year 2026.



The federally funded project expressly focuses on “sexual minority adolescents of color.” According to the grant description, the project seeks to develop a more precise understanding of “minority stress, structural oppression, and AOD use and misuse in this population” and to inform “culturally sensitive interventions for SMA of color.”⁷ The project identifies three principal aims: (1) examining the prospective associations between intersectional stress, structural oppression, and alcohol and other drug (“AOD”) use and misuse among a national sample of 950 sexual-minority adolescents of color over a 2.5-year period; (2) examining daily associations between fluctuations in intersectional stress and AOD craving, use, misuse, and related problems; and (3) identifying protective and risk factors that may attenuate or exacerbate those associations over adolescence and in daily life.

⁶ https://www.usaspending.gov/award/ASST_NON_R01AA029989_075
[<https://archive.is/wip/v8v3B>] (accessed September 14, 2026).

⁷ <https://reporter.nih.gov/search/ukvZ9Z5E3UuEV2DSvLtXFw/project-details/11418343>
[<https://archive.is/wip/mtBl6>] (accessed September 14, 2026).

[< Back to Search Results](#)

Long-term and Daily Associations among Intersectional Minority Stress, Structural Oppression, and Alcohol Use and Misuse among Sexual Minority Adolescents of Color

Project Number	Former Number	Contact PI/Project Leader	Awardee Organization
5R01AA029989-06	1R01AA029989-01	MEREISH, ETHAN H	

Description

Details

Sub-Projects

Publications

Patents

Outcomes

Clinical Studies

News and More

History

Similar Projects

Description

Abstract Text

PROJECT SUMMARY/ABSTRACT Disparities in alcohol and other substance (AOD) use and misuse are well documented between sexual minority adolescents (SMA) and their heterosexual peers. SMA of color also have higher rates of AOD use and misuse than heterosexual peers of the same race/ethnicity and to some extent their White SMA peers. Daily stigma and discrimination-related stressors specific to their marginalized identities (i.e., minority stressors, racism-based stressors) contribute to health disparities among SMA of color. These stressors occur at the interpersonal level (e.g., discrimination) and are reinforced at the structural level (e.g., anti-gay laws, or racist institutional policies). Minority stress at a single axis of identity is directly correlated with AOD use and misuse among sexual and racial/ethnic minority populations. Similarly, structural oppression (i.e., structural heterosexism or racism) during adolescence has long-lasting health effects, including AOD use and misuse. However, this work rarely takes an intersectional lens that considers both sexual orientation and race/ethnicity. Although mounting cross-sectional and recent but limited longitudinal evidence implicates minority stress as a key contributor to disparities in AOD use and misuse, the prospective, daily, and chronic impact of these stressors on SMA of color's AOD use and misuse across adolescence is largely unknown. There is also a lack of research examining the impact of structural oppression on SMA of color's AOD use, how it may play a key etiological role in accelerating the progression of AOD use and misuse over adolescence, and how it may impact the long-term and daily

Thus, HHS, through NIH and NIAAA, is providing millions of dollars in federal financial assistance for the Lavender Lab's intersectionality- and race-focused research. Without addressing whether the research design or defined study population independently violates federal law, this complaint focuses on how the Lab operates programs and opportunities that use race and ethnicity in ways that warrant investigation under Title VI, Section 1557 of the ACA, and the Equal Protection Clause.

The grant's stated research aims do not direct UMD to discriminate in selecting research assistants, advisory-board members, or other participants. Nevertheless, UMD's use of race and ethnicity in administering programs and opportunities connected to the federally funded Lavender Lab raises concerns under applicable federal anti-discrimination laws, Executive Orders 14173 and 14332, and any implementing terms governing the award's continuation, amendment, payment request, or drawdown.⁸

LAVENDER LAB TEEN ADVISORY BOARD AND RELATED PUBLICATION USE RACE AND ETHNICITY FOR ELIGIBILITY

The Lavender Lab operates the LGBTQ+ Teens of Color Advisory Board ("Teen Advisory Board"), a program that – according to the Lavender Lab website - expressly selects participants on the basis of race and ethnicity (national origin).⁹

⁸ See <https://www.whitehouse.gov/presidential-actions/2025/01/ending-illegal-discrimination-and-restoring-merit-based-opportunity/>; see also <https://www.whitehouse.gov/presidential-actions/2025/08/improving-oversight-of-federal-grantmaking/>

⁹ <https://www.the-lavender-lab.com/teen-advisory-board> [<https://archive.is/wip/77xky>] (accessed September 14, 2026).

Link: <https://www.the-lavender-lab.com/teen-advisory-board>

Archived Link: <https://archive.is/wip/77xky>

Discriminatory Requirement: “Calling All LGBTQ+ **Teens of Color**” [emphasis added]



The Teen Advisory Board, according to Lavender Lab’s public statements, expressly selects participants on the basis of race and ethnicity. The Lab states that it is “specifically looking for teens in the US who identify as both LGBTQ+ and Black, Indigenous, and People of Color (BIPOC) to join our board.” It further describes the Board as a youth committee composed of “Queer, Trans, Black, Indigenous, and/or other People of Color (QTBIPOC)” teens.¹⁰

¹⁰ https://www.instagram.com/p/DcwUVvjidxp/?img_index=1 [<https://archive.is/wip/6pysO>] (accessed September 18, 2026).



Membership on the Teen Advisory Board provides participants with substantive educational, professional-development, and research-related opportunities.¹¹ The Lavender Lab describes the Board as a youth committee “designed to empower teens to share their experiences, ideas, and perspectives to inform and strengthen the research work” being conducted in the Lab. According to the Lab, Board members participate in “reviewing and reflecting on Lavender Lab’s study materials, procedures, and activities”; “providing direct feedback, recommendations, and suggestions” regarding the Lab’s research studies; participating in “professional development activities and workshops, including creative projects”; and “building community with other diverse teens on the board.” The Lab further states that members “will have a real opportunity to positively impact research” concerning minority teens’ mental health and substance use and that their work will help ensure the Lab’s research accurately reflects “the needs of diverse adolescent populations.”

¹¹ https://umdsurvey.umd.edu/jfe/form/SV_9nos8w4IVOTgLZQ?Adsource=web
[<https://archive.is/wip/JX4NS>] (accessed September 14, 2026).



What is the QTBIPOC Teen Advisory Board?

The Teen Advisory Board is a youth committee that is designed to empower teens to share their experiences, ideas, and perspectives to inform and strengthen the research work being done in Dr. Ethan Mereish's Lavender Lab. The teen members of the advisory board will be involved in: 1) Reviewing and reflecting on Lavender Lab's study materials, procedures, and activities; 2) Providing direct feedback, recommendations, and suggestions regarding the Lavender Lab's research studies; 3) Participating in professional development activities and workshops, including creative projects; 4) Building community with other diverse teens on the board.

Members of the board will have a real opportunity to positively impact research related to understanding and reducing minority teens' mental health and substance use. Additionally, their work on the board will make sure that the research done in the Lavender Lab is accurately reflecting the needs of diverse adolescent populations.

Board members also receive additional opportunities associated with continued participation. Membership lasts for approximately one year, with the possibility of renewal, and members who serve for multiple years may receive leadership opportunities, including co-chairing the Board and designing meeting agendas and activities. The Lavender Lab further states that participants are compensated for their service on the Board.

The Teen Advisory Board also created "Lavender Speaks," a community blog operated through the Lavender Lab.¹² The Lab describes Lavender Speaks as "a safe space for QTBIPOC [Queer, Trans, Black, Indigenous, and People of Color] community members to express their stories, share community events and community advice, and share resources with each other." The Lab further states that the blog is "community-led and community-informed" and invites readers to "share [their] own reflections, resources, and community" through the platform.

Lavender Speaks therefore provides an additional public-facing program created through the Teen Advisory Board and is expressly directed toward the QTBIPOC community. It further demonstrates that the Board's activities extend beyond internal research and include programming organized around race and ethnicity.

The Teen Advisory Board is directly integrated into the Lavender Lab's research activities. The Lab describes the Board as a mechanism through which teen participants help

¹² <https://www.the-lavender-lab.com/lavenderspeaks/intropost> [<https://archive.is/wip/H1ez7>] (accessed September 14, 2026).

“inform and strengthen” the research conducted in the Lavender Lab. Thus, participation provides selected teens not merely with a social or affinity-group experience, but with access to compensated research involvement, professional development, public-facing programming, and potential leadership opportunities within a federally funded university research lab.

RESEARCH ASSISTANTS ARE SELECTED USING RACE AND ETHNICITY

The Lavender Lab also offers undergraduate and master’s-level Research Assistant (“RA”) positions through UMD.¹³ Although these positions are generally unpaid, undergraduate RAs may receive academic course credit through UMD, and some applicants may be able to participate through federal work-study. RAs must generally commit to at least two semesters and work a minimum of eight hours per week.

Link: <https://www.the-lavender-lab.com/research-assistants>

Archived Link: <https://archive.ph/wip/rBB0h>

Discriminatory Requirement: “We especially encourage and invite candidates from **traditionally marginalized backgrounds** to apply to join our lab.” [emphasis added]

What are you looking for in research assistant candidates?

We are committed to creating a research team and environment that is safe from discrimination and oppression of all forms, including but not limited to: racism, anti-Blackness, heterosexism, cissexism, sexism, xenophobia, colorism, ableism, fatphobia, and classism. At every opportunity, we seek to acknowledge our varying intersectional identities and foster critical conversations regarding the social identities and social privileges we may hold. We ask that future members of our team are similarly committed to creating a diverse, inclusive research environment. **We especially encourage and invite candidates from traditionally marginalized backgrounds to apply to join our lab.**

RA applicants who have experience working in or conducting research with LGBTQ and BIPOC communities from culturally humility, intersectionality, and social justice approaches will be given strongest consideration. Ideal applicants are motivated, eager to learn, able to work independently but seek consultation when needed, able to manage time and multiple tasks, and detail-oriented.

UMD’s Department of Psychology considers “traditionally marginalized groups” to include “women, ethnic minority individuals, and LGBT individuals.” See <https://psyc.umd.edu/facultyprofile/wessel/jennifer> [<https://archive.is/wip/vizWh>] (accessed September 15, 2026). Images posted on the Lavender Lab website reinforce and signal this racial and ethnic preferencing.

¹³ <https://www.the-lavender-lab.com/research-assistants> [<https://archive.ph/wip/rBB0h>] (accessed September 14, 2026).

Research Assistants and Research Coordinators



In describing the candidates it seeks for these positions, the Lavender Lab expressly states that it “especially encourage[s] and invite[s] candidates from traditionally marginalized backgrounds to apply to join our lab.” The Lab places this preference within a discussion of “intersectional identities,” “social identities,” and “social privileges,” and states that it seeks an environment free from forms of oppression including “racism,” “anti-Blackness,” “xenophobia,” and “colorism,” among other classifications.¹⁴

The Lab further states that RA applicants with experience working with or conducting research involving “LGBTQ and BIPOC communities” through “cultural humility, intersectionality, and social justice approaches” will receive the “strongest consideration.”¹⁵ Thus, the Lab does not merely describe the subject matter of its research or encourage a broad range of applicants. Its stated selection criteria expressly provide enhanced consideration to applicants possessing particular experience with BIPOC communities while separately and affirmatively encouraging applicants from “traditionally marginalized backgrounds.” This language clearly signals a preference for non-white applicants.

¹⁴ <https://www.the-lavender-lab.com/research-assistants> [<https://archive.ph/wip/rBB0h>] (accessed September 14, 2026).

¹⁵ <https://www.the-lavender-lab.com/research-assistants> [<https://archive.ph/wip/rBB0h>] (accessed September 14, 2026).



Undergraduate and Master's Research Assistant Application

The Lavender Lab, led by Dr. Ethan Mereish, is dedicated to understanding the effects of social, psychological, and cultural determinants of health for **lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals** and **Black, Indigenous, and People of Color communities (BIPOC)**, as well as factors that promote their resilience. Our work is informed by **intersectionality theory** and has a grounded commitment to **social justice and health equity**.

To this end, we are committed to creating a research team and environment that is safe from **discrimination and oppression of all forms**, including but not limited to: racism, anti-Blackness, heterosexism, cissexism, sexism, xenophobia, colorism, ableism, fatphobia, and classism. At every opportunity, we seek to acknowledge our varying **intersectional identities** and foster **critical conversations** regarding the social identities and social privileges we may hold. We ask that future members of our team are **similarly committed** to creating a diverse, inclusive research environment. We especially **encourage and invite** candidates from traditionally marginalized backgrounds to apply to join our lab.

In context, the Lab's express invitation to applicants from "traditionally marginalized backgrounds" strongly indicates that an applicant's race, color, or national origin is considered in selecting Research Assistants. That concern is heightened by the Lab's express references to racism, anti-Blackness, xenophobia, and colorism, as well as its statement that applicants with experience involving "LGBTQ and BIPOC communities" will receive the "strongest consideration." Such racial and ethnic signalling likely would dissuade students who do not fit these racial and ethnic categories from applying.

INVESTIGATION IS NEEDED TO DETERMINE WHETHER THE LAVENDER LAB'S DISCRIMINATORY PRACTICES VIOLATE FEDERAL LAW

HHS should investigate whether the Lavender Lab LGBTQ+ Teens of Color Advisory Board and its Research Assistant Program identified above violate Title VI by discriminating on the basis of race, skin color, or national origin, and/or violates Section 1557 of the ACA because it may exclude individuals on the basis of race, color, and/or national origin from research-related opportunities within a federally funded health program or activity.

The Lavender Lab’s Race-Based Practices May Violate Title VI

Title VI prohibits intentional discrimination on the basis of race, color, or national origin in any “program or activity” that receives federal financial assistance. *See* 42 U.S.C. § 2000d. The term “program or activity” encompasses “all of the operations ... of a college, university, or other postsecondary institution, or a public system of higher education.” *See* 42 U.S.C. § 2000d-4a(2)(A). As noted in *Rowles v. Curators of the University of Missouri*, 983 F.3d 345, 355 (8th Cir. 2020), “Title VI prohibits discrimination on the basis of race in federally funded programs,” and therefore applies to universities receiving federal financial assistance. Because Lavender Lab is an HHS funded program it is subject to Title VI.¹⁶

Regardless of UMD’s reasons for offering, promoting, and administering these race- and ethnicity-based programs, such conduct may violate Title VI by doing so. It does not matter if the recipient of federal funding discriminates in order to advance a benign “intention” or “motivation.” *Bostock v. Clayton Cnty.*, 590 U.S. 644, 661 (2020) (“Intentionally burning down a neighbor’s house is arson, even if the perpetrator’s ultimate intention (or motivation) is only to improve the view.”); *accord Automobile Workers v. Johnson Controls, Inc.*, 499 U.S. 187, 199 (1991) (“the absence of a malevolent motive does not convert a facially discriminatory policy into a neutral policy with a discriminatory effect” or “alter [its] intentionally discriminatory character”). “Nor does it matter if the recipient discriminates against an individual member of a protected class with the idea that doing so might favor the interests of that class as a whole or otherwise promote equality at the group level.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 289 (2023) (Gorsuch, J., concurring).

Based on the evidence on the Lavender Lab’s own website, there certainly is a need for HHS to investigate any possible violation of Title VI.

The Lavender Lab’s Discriminatory Research-Related Practices May Violate Section 1557

Section 1557 of the Affordable Care Act (“ACA”) prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in certain health programs and activities. Section 1557 provides that, except as otherwise provided in Title I of the ACA, an individual shall not, on grounds prohibited by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or Section 504 of the Rehabilitation Act of 1973, be excluded from participation in, denied the benefits of, or subjected to discrimination under any health program or activity receiving federal financial assistance. 42 U.S.C. § 18116(a).¹⁷

¹⁶*See* https://www.usaspending.gov/award/ASST_NON_R01AA029989_075 [<https://archive.is/wip/v8v3B>] (accessed September 14, 2026).

¹⁷

<https://uscode.house.gov/view.xhtml?edition=prelim&f=treesort&jumpTo=true&num=0&req=%>

The regulation applies to health programs and activities administered by recipients of HHS funding, HHS-administered health programs and activities, and Title I entities that administer health programs or activities. HHS regulations define a “health program or activity” to include “[a]ny project, enterprise, venture, or undertaking” that, among other things, “[e]ngage[s] in health or clinical research.” 45 C.F.R. § 92.4.

The Lavender Lab falls within the scope of Section 1557. The Lab is an NIH-funded research lab that conducts research concerning the psychological, social, and cultural determinants of suicide, substance use, and other health outcomes. One of its principal federally funded projects is NIH Grant No. R01AA029989, administered through NIAAA, which examines alcohol and other drug use and misuse among sexual-minority adolescents of color. The federally funded project therefore constitutes a health program or activity under Section 1557 because it is a project or undertaking that engages in “health or clinical research.” See 45 C.F.R. § 92.4.

The challenged Teen Advisory Board is directly integrated into the Lavender Lab’s research activities. The Lab describes the Board as a mechanism through which teen participants review study materials and procedures, provide feedback and recommendations concerning the Lab’s research studies, participate in professional-development activities, and help “inform and strengthen” the research conducted by the Lab. Participation also provides selected teens with compensated research involvement, professional-development opportunities, public-facing programming, and potential leadership opportunities within the federally funded research lab.

Eligibility for those opportunities is expressly restricted on the basis of race and ethnicity. The Lab states that it is “specifically looking for teens in the US who identify as both LGBTQ+ and Black, Indigenous, and People of Color (BIPOC) to join our board.”

The Lavender Lab’s Research Assistant practices present a related Section 1557 issue. As described above, the Lab offers Research Assistant positions through UMD and expressly encourages applicants from “traditionally marginalized backgrounds,” while stating that applicants with experience involving “LGBTQ and BIPOC communities” will receive the “strongest consideration.” To the extent Research Assistants participate in the Lab’s federally funded health-research activities, the use of race, color, or national origin in selecting participants for those opportunities may likewise violate Section 1557’s prohibition on discrimination in covered health programs and activities.

Because Section 1557 incorporates Title VI’s prohibition on race, color, and national-origin discrimination, the Teen Advisory Board’s race-based eligibility criteria violate Section 1557 for the same reasons they may violate Title VI. Likewise, to the extent the Lab uses race, color, or national origin in selecting Research Assistants who participate in covered health-research activities, those practices also may violate Section 1557. By excluding individuals from

participation in, or denying them the benefits of, covered research-related opportunities on the basis of race, color, and/or national origin, UMD and the Lavender Lab may violate Section 1557.

Based on the evidence on the Lavender Lab's own website, there certainly is a need for HHS to investigate whether the Lavender Lab's race- and ethnicity-based practices violate Section 1557 of the ACA.

**The Lavender Lab's Race-Based Practices
May Violate the Equal Protection Clause**

As UMD is a public university, its offering, promoting, and administering of discriminatory programs also may violate the Equal Protection Clause of the Fourteenth Amendment. In *Students for Fair Admissions*, the Supreme Court declared that "[e]liminating racial discrimination means eliminating all of it 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." Id. at 206 (cleaned up). "Distinctions between citizens solely because of their ancestry [including race] are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." Id. at 208. Consequently, "[a]ny exception to the Constitution's demand for equal protection must survive a daunting two-step examination known ... as strict scrutiny." Id. (internal quotation marks and citation omitted). The program at issue here cannot withstand that exacting standard.

Under strict scrutiny, suspect classifications "are constitutional only if they are narrowly tailored measures that further compelling governmental interests." *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995). It is the government that bears the burden to prove "that the reasons for any [racial] classification [are] clearly identified and unquestionably legitimate." *Richmond v. J. A. Croson Co.*, 488 U.S. 469, 505 (1989). Here, UMD cannot carry its burden.

A "racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification." *Shaw v. Reno*, 509 U.S. 630, 643–44 (1993) (citation omitted). Here, UMD cannot demonstrate that having such discriminatory programming serves any legitimate governmental purpose, let alone an extraordinary one. Classifications based on immutable characteristics "are so seldom relevant to the achievement of any legitimate state interest" that government policies "grounded in such considerations are deemed to reflect prejudice and antipathy—a view that those in the burdened class are not as worthy or deserving as others." *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

The Supreme Court has recognized only two interests compelling enough to justify racial classifications. The first is remedying the effects of past de jure segregation or discrimination in the specific industry and locality at issue, where the government played a role.

The second is “avoiding imminent and serious risks to human safety in prisons, such as a race riot.” *Students for Fair Admissions*, 600 U.S. at 207 (citation omitted). Neither applies here.

For a policy to satisfy narrow tailoring, the government must demonstrate “serious, good faith consideration of workable race-neutral alternatives,” *Grutter v. Bollinger*, 539 U.S. 306, 339 (2003), and show that “no workable race-neutral alternative” could achieve the purported compelling interest. *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 312 (2013). There is no evidence that such alternatives were ever considered here.

UMD’s explicit race, ethnicity, and/or national origin programming is presumptively invalid, and since there is no compelling government justification for such invidious discrimination, UMD’s offering, promotion, and administration of Lavender Lab may violate federal constitutional equal protection guarantees.¹⁸

Continued HHS Funding of the Lavender Lab Also Appears To Violate Executive Orders Governing Federal Grantmaking

Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, directs the head of each federal agency to include in every grant award: (1) a term requiring the recipient to agree that compliance with all applicable federal anti-discrimination laws is material to the government’s payment decisions for purposes of the False Claims Act; and (2) a term requiring the recipient to certify that it does not operate any programs promoting DEI that violate applicable federal anti-discrimination laws. Exec. Order No. 14,173, § 3(b)(iv), 90 Fed. Reg. 8633, 8634 (Jan. 31, 2025). In February 2026, the Fourth Circuit vacated the preliminary injunction that had prohibited enforcement of this certification provision and remanded the case for further proceedings. *Nat’l Ass’n of Diversity Officers in Higher Educ. v. Trump*, No. 25-1189, slip op. at 24 (4th Cir. Feb. 6, 2026).

The Lavender Lab’s programming raises serious questions concerning UMD’s compliance with these requirements and HHS investigation is warranted. The Teen Advisory Board was advertised as “Calling All LGBTQ+ Teens of Color” and described as a committee composed of “Queer, Trans, Black, Indigenous, and/or other People of Color” teens. Participants received compensation, professional-development opportunities, research experience, and potential leadership opportunities. The Lab’s Research Assistant materials also encouraged applicants from “traditionally marginalized backgrounds” and stated that applicants with experience involving BIPOC communities would receive the “strongest consideration,”

¹⁸ Although HHS OCR does not enforce Title II of the Civil Rights Act of 1964, that statute makes it unlawful to discriminate on the basis of race or color in a place of “public accommodation,” such as UMD. 42 U.S.C. § 2000a(a). Further, these programs violate Maryland law. *See* Md. Const. Decl. of Rts. art. 24. These programs also violate UMD’s own nondiscrimination policy. <https://ocrsm.umd.edu/non-discrimination> [<https://archive.is/wip/0gmAG>] (Accessed September 15, 2026.)

warranting investigation into whether applicants' race, color, or national origin affected selection.

If HHS determines that this programming violates Title VI, UMD could not truthfully certify that it does not operate a DEI program that violates applicable federal anti-discrimination laws. HHS should therefore determine whether the certification required by Executive Order 14173 was incorporated into the fiscal year 2026 continuation award or any subsequent amendment; whether UMD made any such certification or representation in connection with an award, payment request, or drawdown; and whether the evidence warrants referral for further review under the False Claims Act.¹⁹

Executive Order 14332, *Improving Oversight of Federal Grantmaking*, separately provides that discretionary awards "shall not be used to fund, promote, encourage, subsidize, or facilitate" racial preferences or other racial discrimination by a grant recipient, including activities using race or intentional proxies for race as a selection criterion for employment or program participation. Exec. Order No. 14,332, § 4(b)(ii)(A), 90 Fed. Reg. 38,929, 38,932 (Aug. 12, 2025).

NIH issued a fiscal year 2026 continuation award for the Lavender Lab's federally funded project after Executive Order 14332 took effect.²⁰ HHS should determine whether that award constitutes a discretionary award subject to the Order and whether any portion of the award funds, supports, or facilitates the Lab's allegedly discriminatory programming. If so, continued federal funding may conflict with Executive Order 14332. HHS should review the award, its terms, any certifications made by UMD, and the Lab's use of federal funds, and should take appropriate remedial action, including suspension or termination of funding and recovery of already expended funds to the extent authorized by law.

HHS OCR HAS JURISDICTION

The Lavender Lab is directly funded by HHS and engages in health research. It is therefore subject to Title VI and ACA Section 1557, and HHS OCR therefore has jurisdiction over this complaint.²¹

¹⁹ See Memorandum from the Deputy Attorney General, Civil Rights Fraud Initiative 1–2 (May 19, 2025) (explaining that the False Claims Act may apply when federal-funding recipients knowingly violate federal civil-rights laws while falsely certifying compliance, including through DEI programs that assign benefits or burdens based on race, ethnicity, or national origin), U.S. Dep't of Just., [https://www.justice.gov/dag/media/1400826/dl?](https://www.justice.gov/dag/media/1400826/dl?https://archive.is/wip/lmwet)

[\[https://archive.is/wip/lmwet\]](https://archive.is/wip/lmwet) (accessed September 19, 2026).

²⁰ See [https://reporter.nih.gov/search/ukvZ9Z5E3UuEV2DSvLtXFw/project-details/11418343](https://reporter.nih.gov/search/ukvZ9Z5E3UuEV2DSvLtXFw/project-details/11418343https://archive.is/wip/mtBl6) [\[https://archive.is/wip/mtBl6\]](https://archive.is/wip/mtBl6) (accessed September 14, 2026).

²¹ [https://reporter.nih.gov/search/ukvZ9Z5E3UuEV2DSvLtXFw/project-details/11418343](https://reporter.nih.gov/search/ukvZ9Z5E3UuEV2DSvLtXFw/project-details/11418343https://archive.is/wip/mtBl6) [\[https://archive.is/wip/mtBl6\]](https://archive.is/wip/mtBl6) (accessed September 14, 2026).

REQUEST FOR INVESTIGATION AND ENFORCEMENT

In *Richmond v. J. A. Croson Co.*, Justice Scalia aptly noted that “discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong and destructive of a democratic society.” 488 U.S. 469, 505 (1989) (citation omitted). This is true regardless of which race suffers – discrimination against white applicants is just as unlawful as discrimination against black or other non-white applicants. As Justice Thomas correctly noted in *Students for Fair Admissions*, race-based admissions preferences “fly in the face of our colorblind Constitution and our Nation’s equality ideal” and “are plainly – and boldly – unconstitutional.” 600 U.S. at 287 (Thomas, J., concurring).

HHS has the authority and obligation to investigate UMD’s creation, funding, promotion, and administration of these programs and practices and to obtain appropriate remedial relief. HHS should also determine whether the challenged practices are being funded, supported, or facilitated by the NIH award; whether they conflict with Executive Orders 14173 and 14332 or applicable award terms; and whether UMD made any relevant certifications or representations concerning its compliance with federal antidiscrimination laws. This includes, where authorized, initiating proceedings to suspend or terminate federal financial assistance, referring any potentially false certification for further review, and referring the matter to the Department of Justice for judicial enforcement. After all, “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007).

Accordingly, we respectfully request that HHS promptly open a formal investigation; determine whether UMD has violated Title VI, Section 1557 of the ACA, the Equal Protection Clause, the applicable terms of its federal award, or federal grantmaking requirements; and impose all appropriate remedial relief necessary to ensure that federal funds do not support or facilitate discrimination based on race, color, or national origin.

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Respectfully submitted,

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