



March 28, 2022

President Carol L. Folt  
Office of the President  
University of Southern California  
Los Angeles, California 90089-0012

*Sent via U.S. Mail and Electronic Mail (president@usc.edu)*

Dear President Folt:

The Foundation for Individual Rights in Education, a nonpartisan nonprofit dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America's college campuses, is concerned that the University of Southern California (USC) is hosting an event limited to "students who identify as Black men" on April 1.

We understand that issues of race and social justice have occupied a prominent place in the discourse on many college campuses, and that colleges have a legitimate interest in fostering productive student discussion around these issues. But racially segregating the college's educational programming is not a lawful means of facilitating these conversations. Educational institutions like USC—regardless of purpose or intent—may not separate students or faculty on the basis of their race or ethnicity.

## **I. USC Plans Event Excluding Students on the Basis of Race**

The following is our understanding of the pertinent facts, which is based on public information. We appreciate that you may have additional information to offer and invite you to share it with us.

USC will host "The Black Men Will Summit" on April 1.<sup>1</sup> According to the event's description, the event "aims to create a space for all students who identify as Black men at USC to talk about wellness and foster community & solidarity."<sup>2</sup> The summit "emerged from the

---

<sup>1</sup> *The Black Men Will Summit*, UNIV. OF S. CAL., [https://calendar.usc.edu/event/the\\_black\\_man\\_will\\_summit#.Yj3sL5rMLPY](https://calendar.usc.edu/event/the_black_man_will_summit#.Yj3sL5rMLPY) (last visited Mar. 28, 2022) [<https://perma.cc/EA8L-6V6K>].

<sup>2</sup> *The Black Men Will Summit Tickets*, EVENTBRITE, [eventbrite.com/e/the-black-men-will-summit-tickets-262800452227](https://eventbrite.com/e/the-black-men-will-summit-tickets-262800452227) (last visited Mar. 25, 2022) [<https://perma.cc/HP49-HB8A>].

recognition of the lack of restorative and healing spaces for Black male identified students at USC and in the larger community.”<sup>3</sup>

## **II. Race-Based Segregation in Institutions of Higher Education Violates Federal Law, University Policy**

Meeting and fostering the needs of USC’s black-identifying community is an important and laudable goal, but USC cannot lawfully serve that goal by barring non-black-identifying students from educational experiences based on their race.

In *McLaurin v. Oklahoma State Regents for Higher Education*, the United States Supreme Court considered a case in which a public law school admitted a student of color, but separated him from other students based on his race.<sup>4</sup> The school required the student, for example, to sit apart from white students at a designated desk in both the classroom and the library.<sup>5</sup> The Court found this to be discrimination prohibited by the Fourteenth Amendment’s Equal Protection Clause, writing:

[T]he State, in administering the facilities it affords for professional and graduate study, sets McLaurin apart from the other students. The result is that appellant is handicapped in his pursuit of effective graduate instruction. Such restrictions impair and inhibit his ability to study, to engage in discussions, and exchange views with other students, and, in general, to learn his profession.<sup>6</sup>

Title VI of the Civil Rights Act of 1964, which effectuates the Equal Protection Clause, forbids all institutions receiving federal financial assistance—whether the institution is public or private—from discriminating “on the basis of race, color, or national origin.”<sup>7</sup> Colleges and universities like USC that accept payments from students who receive federal financial aid are bound by Title VI.<sup>8</sup>

Likewise, in *Regents of Univ. of Cal. v. Bakke*, the Supreme Court refused to adopt a more restrictive view of the Equal Protection clause to favor historically marginalized groups, even where arguably well-intentioned.<sup>9</sup>

---

<sup>3</sup> *Id.*

<sup>4</sup> 339 U.S. 637 (1950).

<sup>5</sup> *Id.* at 640.

<sup>6</sup> *Id.* at 640–41.

<sup>7</sup> 42 U.S.C. § 2000d; 28 C.F.R. § 42.102(f).

<sup>8</sup> *Grove City Coll. v. Bell*, 465 U.S. 555, 564 (1984) (college was recipient of federal financial assistance under Title IX because it enrolled students who financed their education with federal educational grants). *See also Applying for Financial Aid*, UNIV. OF S. CAL., <https://financialaid.usc.edu/undergraduates/prospective/applying.html> (last visited Mar. 25, 2022) (providing USC’s Free Application for Federal Student Aid (FAFSA) school code and information for how to apply for federal student aid) [<https://perma.cc/Q6LP-FD5N>].

<sup>9</sup> 438 U.S. 265, 294–95 (1978) (“Petitioner urges us to adopt for the first time a more restrictive view of the Equal Protection Clause, and hold that discrimination against members of the white ‘majority’ cannot be suspect if its purpose can be characterized as ‘benign.’ The clock of our liberties, however, cannot be turned

Even apart from these external legal obligations, USC’s own “Notice of Non-Discrimination” policy “prohibits discrimination on the basis of actual or perceived race, color, ethnicity” in “any of the University’s educational or otherwise federally funded programs and activities[.]”<sup>10</sup>

The Black Men Will Summit event plainly discriminates on the basis of race, excluding students from attendance and participation based on their racial self-identification. While the creators of this program might have nobler intentions than the school authorities in *McLaurin*, good intentions do not make race-based segregation lawful. Like the law school in *McLaurin*, USC sets certain students “apart from the other students” by imposing race-based restrictions on attendance, impairing their ability “to engage in discussions and exchange views with other students” of different races.<sup>11</sup>

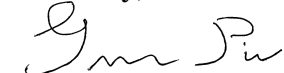
USC can meet the thrust of its goals, without violating federal law, by simply removing the race-based restriction on attendance in the event description and clarifying to the college community that the event is open to any person interested in the event’s programming. Programming intended to appeal to or discuss a particular group’s interests is a form of speech protected by the First Amendment—but an educational institution can’t deny students access to an educational opportunity by virtue of their skin color.

### **III. Conclusion**

Federal law and college policy forbid limiting students’ educational opportunities because of their race. History has witnessed many other misguided attempts to deny students equal educational opportunities on the basis of race, with many of those efforts no doubt believed to be well-intentioned by those implementing them. Now, as then, racial discrimination must have no place at America’s colleges and universities.

Given the urgency of this matter, we request receipt of a response to this letter no later than the close of business on Thursday, March 31, 2021, confirming that no student will be excluded from “The Black Men Will Summit” or any other college-sponsored event on the basis of race.

Sincerely,



Graham Piro

Program Officer, Individual Rights Defense Program

Cc: Center for Black Cultural & Student Affairs  
Black Men Will Summit

---

back to 1868. It is far too late to argue that the guarantee of equal protection to all persons permits the recognition of special wards entitled to a degree of protection greater than that accorded others.”) (cleaned up).

<sup>10</sup> *Notice of Non-Discrimination*, UNIV. OF S. CAL.,

<https://eeotix.usc.edu/notice-of-non-discrimination/> (last visited Mar. 25, 2022) [<https://perma.cc/3Z4K-SY99>].

<sup>11</sup> *McLaurin*, 339 U.S. at 641.