



June 15, 2022

Richard Cordray
Chief Operating Officer, Federal Student Aid
U.S. Department of Education
400 Maryland Avenue, S.W., 4th Floor
Washington, D.C. 20202

Re: Violation of Program Participation Agreements by Princeton University, Harvard University, and the University of Michigan

Dear Mr. Cordray:

America First Legal Foundation (AFL) is a national, nonprofit organization working to protect the rule of law and ensure due process and equal protection for all Americans. We write to request that Federal Student Aid open an investigation of Princeton University, Harvard University, and the University of Michigan, for violating the general terms and conditions of their Federal Student Aid Program Participation Agreement by facilitating and promoting the Morgan Stanley Freshman Enhancement Program.

I. Background.

Since at least 2016, Morgan Stanley has offered a discriminatory “Diversity Internship” called the “Freshman Enhancement Program.”¹ The program is expressly limited to students of only certain racial backgrounds or students who identify as “LGBTQ+,” and is described as follows:

Program Overview

Our Freshman Enhancement Program is designed to help diverse rising sophomores in college gain a better understanding of the various businesses and career paths Morgan Stanley provides. Selected candidates will participate in a hybrid program consisting of virtual learning and an in-person component. Candidates will be expected to join weekly sessions for 1-3 hours over the course of 4 weeks. The program will include valuable training, as well as opportunities to network with each other

¹ Morgan Stanley, 2016 Morgan Stanley Freshman Enhancement Program (last accessed June 14, 2022), <https://bit.ly/3xweSNG>.

and learn from Morgan Stanley professionals across our divisions. Participants will have the opportunity to interview for the 2023 Sophomore Summer Analyst Programs for the specific track they are in.

Skills and Qualifications

- You are a Black, Hispanic, Native American, and/or LGBTQ+ freshman undergraduate student (class of 2025).²

It appears that the chosen students are paid for their participation in this program.³

II. The Violations are Longstanding and Continuing in Nature.

Each of these institutions has signed a program participation agreement with the Office of Federal Student Aid. Accordingly, each institution has agreed—in writing—that it is subject to and will comply with the program statutes and implementing regulations for institutional eligibility set forth in 34 C.F.R. Part 600; the general provisions of Part F and Part G of Title IV of the Higher Education Act of 1965; and the Student Assistance General Provisions regulations at 34 C.F.R. Part 668. Also, each institution has agreed to comply with Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations at 34 C.F.R. Parts 100 and 101 (barring discrimination on the basis of race, color, or national origin); and with Title IX of the Education Amendments of 1972, and its implementing regulations, 34 C.F.R. Part 106 (barring discrimination on the basis of sex).

As the Project on Fair Representation stated in a letter earlier this year, the Freshman Enhancement Program is “blatantly illegal and immoral.”⁴ Therefore, federally funded institutions that promote or facilitate it necessarily subject White, Asian, and heterosexual students to discrimination, segregation, and denial of services or benefits based on race, color, national origin, or sex, and, accordingly, violate both Title VI and Title IX.⁵ Furthermore, the evidence is that these violations are long-standing and likely to reoccur.

² Morgan Stanley, 2022 Freshman Enhancement Program (New York) (last accessed June 14, 2022), <https://bit.ly/3x6LImD>.

³ Harvard University, Office of Career Services, “Application Deadline: Morgan Stanley 2020 Freshman Enhancement Program” (last accessed June 14, 2022), <https://bit.ly/3mxQFQS> (“Selected candidates will participate in a 1-week paid program at our offices in New York City.”).

⁴ Letter from C. Boyden Gray to Eric Grossman, Chief Legal Officer, Morgan Stanley, and Ramona E. Romero, General Counsel, Princeton University (Feb 15, 2022), <https://bit.ly/3xg0pnC>; *Bob Jones Univ. v. United States*, 461 U.S. 574, 593 (1983) (“racial discrimination in education violates a most fundamental national public policy, as well as rights of individuals”); *see also* 42 U.S.C. §§ 2000e-2(a), (d).

⁵ *See, e.g.*, 34 CFR §§ 100.3; 106.51(a)(1); *Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731 (2020) (holding that discrimination based on sexual orientation or behavior constitutes unlawful sex discrimination).

For example, the University of Michigan’s “University Career Center” advertised Morgan Stanley “internship opportunities [solely] for Black, Hispanic, Native American, and LGBT students,” with an application date of January 22, 2017.⁶ Harvard University advertised the Freshman Enhancement Program, listing admission requirements including “You are a Black, Hispanic, Native American, and/or LGBTQ+ freshman undergraduate student (class of 2024)” with an application date of March 12, 2021.⁷ More recently, the University of Michigan posted that it was hosting an “informational session” on the Morgan Stanley Freshman Enhancement Program in January, 2022.⁸ And, on or about February 1, 2022, Princeton freshmen reportedly received an email through the university inviting Freshman Enhancement Program applicants.⁹

III. The Office of Federal Student Aid Should Investigate the Named Institutions.

The Freshman Enhancement Program, and others of its ilk, are patently illegal.¹⁰ They are also deeply harmful. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.”¹¹ More broadly, the discrimination highlighted in this case necessarily foments contention and resentment. Indeed, it is “odious and destructive.”¹² To make this concrete, imagine two sisters, both adopted by the same parents. One is African American, and one is Asian. Despite being raised by the same family, and attending the same schools, only one is permitted to apply for special consideration and treatment, while the other is denied equal opportunity due to something completely beyond her control—the race she was born into without choice. It truly “is a sordid business, this divvying us up” by race or sex.¹³

To protect the rule of law, and to ensure that the program participation agreements mean what they say, Foreign Student Aid should investigate the named institutions.

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⁶ Univ. of Michigan, University Career Center, “Morgan Stanley’s Freshman Enhancement Program” (last accessed June 14, 2022), <https://bit.ly/3MbVhGw>.

⁷ Application Deadline: Morgan Stanley Freshman Enhancement Program, Harvard University Career Services (last accessed June 14, 2022), <https://bit.ly/3ztm9iC>.

⁸ Freshman Enhancement Program Information Session, University of Michigan (last Accessed June 14, 2022), <https://bit.ly/3xzbGRm>.

⁹ Paul Mirengoff, *A Princeton-Morgan Stanley Joint Venture in Discrimination*, POWERLINE (Feb. 13, 2022), <https://bit.ly/3MAyCnm>.

¹⁰ *Bob Jones Univ. v. United States*, 461 U.S. 574, 593 (1983) (“racial discrimination in education violates a most fundamental national public policy, as well as rights of individuals”); *see also* 42 U.S.C. §§ 2000e-2(a), (d).

¹¹ *Brown v. Bd. of Education*, 347 U.S. 483, 494 (1954).

¹² *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

¹³ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

Sincerely,

s/ Gene P. Hamilton
Vice-President and General Counsel
America First Legal Foundation

Cc: Lisa Brown, Esq., General Counsel, U.S. Department of Education
Senator Patty Murray, Chair, Senate Committee on Health, Education, Labor
& Pensions
Senator Richard Burr, Ranking Member, Senate Committee on Health, Edu-
cation, Labor & Pensions
Congressman Robert C. “Bobby” Scott, Chairman, House Education and Labor
Committee
Congresswoman Virginia Foxx, Ranking Member, House Education and Labor
Committee