

## FAQ for Scholarship Administrators: Ensuring Non-Discrimination in Selection

### Purpose:

This FAQ helps those responsible for administering scholarship funds (“Scholarship Administrators”) apply selection criteria in a way that complies with the Michigan Constitution as amended by Proposition 2, which prohibits preferences or discrimination based on protected identity, and federal non-discrimination laws that prohibit discrimination based on race, color, national origin, or sex (including gender identity and sexual orientation).

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### Question # 1. **What if the donor-specified criteria and language within a gift agreement says the donor intends the scholarship to go to a person with a particular identity (race, sex, national origin, gender identity, etc.)?**

Scholarship Administrators may not use donor criteria that give preference to—or restrict eligibility based on—any protected characteristic. Michigan Proposition 2 and federal civil rights laws prohibit the use of identity-based criteria in selecting recipients.

If you receive materials that appear to incorporate donor identity preferences (e.g., “for a Latina woman,” “for Black male students,” “for students from X country”), do not apply those criteria.

*Instead:*

- If the donor-specified criteria in the gift agreement contains impermissible criteria, immediately notify Donor Services within University Advancement and/or your Development Officer to flag the potential need to work with the donor to revise or clarify scholarship agreements so they comply with state and federal law.
- Do not make any decisions about awarding the scholarship if it contains impermissible criteria.

### Question # 2. **What if I evaluate applicants using only lawful, non-discriminatory criteria, and the strongest candidate happens to match the donor's original preferred identity? Will that look discriminatory?**

No. If you apply only lawful, identity-neutral, consistently applied criteria, and the selected recipient happens to share an identity the donor once expressed, that does not make the decision discriminatory.

*Your job is to:*

- Ignore prohibited identity-specific donor preferences.
- Apply only neutral factors such as academic achievement, financial need, field of study, leadership, service, or other non-identity-restricted criteria.
- Document the process (see Question 7 below).

The outcome is not unlawful simply because a selected student has a certain identity. What matters is the process, not the coincidence of identity.

**Question # 3. What criteria *can* I use to decide who should receive a scholarship?**

Permissible criteria include, for example:

- Financial need
- Academic achievement
- Major, program, or field of study
- Career goals aligned with donor intent
- Leadership, service, research experience, or extracurricular involvement
- Geographic origin (if not used as a proxy for protected identity)
- First-in-family status (i.e., among the first generation in their family to pursue higher education)
- Interests or experiences relevant to the donor's purpose

Avoid criteria tied to protected identities (race, color, sex, gender identity, sexual orientation, national origin, ethnicity, pregnancy, age (non-traditional student), marital and/or family status, or religion), unless required by *federal law* for certain limited programs (rare and generally handled centrally).

**Question # 4. What should I do if selection criteria *appear* neutral but may be functioning as a proxy for race, national origin, or sex?**

If a criterion raises concerns (e.g., “students involved in X cultural organization,” “students from X country”), contact University Advancement for guidance. In most instances, participation in a University-recognized cultural organization (i.e., a registered student organization at MSU) will be permissible as those organizations are open to all individuals regardless of identity.

If you are unsure whether something could act as a proxy for a protected category, it's safer to ask.

**Question # 5. What if a donor's criteria were written many years ago and may now violate Proposition 2 or federal law?**

Do not attempt to interpret or “fix” the criteria yourself.

*Instead:*

- If the donor-specified criteria in the gift agreement contains impermissible criteria, immediately notify Donor Services within University Advancement and/or your Development Officer to flag the potential need to work with the donor to revise or clarify scholarship agreements so they comply with state and federal law.
- Do not make any decisions about awarding the scholarship if it contains impermissible criteria.

**Question # 6. Can I consider diversity, equity, or inclusion goals when awarding scholarships?**

Individual Scholarship Administrators may not use a recipient's protected identity to advance DEI outcomes.

However, you may consider experiences, perspectives, and goals that relate to diversity or inclusion - if you do not consider the applicant's protected identity itself.

*Examples of permissible considerations:*

- Contribution to campus or community engagement
- Leadership in organizations open to all students
- Work supporting equity or social justice (without considering the applicant's own protected identity)

**Question # 7. What kinds of documentation should I keep?**

You should document:

- The neutral, permissible criteria used in selection
- A brief explanation of why the selected recipient best met those criteria
- Any rubrics, scoring sheets, or committee notes reflecting nondiscriminatory decision-making
- Any concerns escalated to University Advancement

You should not document student identities unless needed for legitimate administrative purposes outside the selection decision.

Good documentation demonstrates that decisions were based on lawful, identity-neutral factors.

*Tips:*

- In all places where a scholarship opportunity is promoted, include non-discrimination language ("This scholarship is open to all without regard for race, color, national origin, sex, and other protected identities. This scholarship will be awarded in a non-discriminatory manner.")
- Look at University websites promoting scholarship opportunities for permissible language, including <https://scholarships.msu.edu/>, which includes the following language:

*MSU programs and activities, including scholarships, are not restricted based on race, sex, color, ethnicity, national origin or other protected personal identity. Eligibility is not restricted based on protected identity. No preference based on a protected identity will be given in the selection of recipients.*

- If you need support in fulfilling your responsibilities as a Scholarship Administrator, please contact Donor Services within University Advancement and/or your Development Officer.