



WNC Citizens for Equality

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January 22, 2025

United States Department of the Treasury
Office of Civil Rights
1500 Pennsylvania Ave N.W.
Washington, DC 20220

Via email: crcomplaints@treasury.gov

To Whom It May Concern:

This is a federal civil rights complaint filed in accordance with the U.S. Department of the Treasury’s Office of Civil Rights’ (the “OCR”) Complaint Resolution Process.

WNC Citizens for Equality (WNCCE) is a nonpartisan organization dedicated to ensuring the civil rights of and liberties of citizens of western North Carolina regardless of race. WNCCE brings this complaint as an interested third party against:

1. Buncombe County Government, 200 College St., Asheville, NC 28801
2. Mountain Bizworks, 153 S. Lexington Ave, Asheville, NC 28801

Buncombe County Government is a local government entity that has received federal funding from the U.S. Department of the Treasury. Mountain Bizworks is a private nonprofit organization that received these federal funds to administer a grant program on behalf of the County. This complaint is for discrimination in violation of Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 U.S.C. 2000d et seq, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Hurricane Helene

On September 27, 2024, western North Carolina was struck by the powerful Hurricane Helene which caused extensive flooding and wind damage to our area. Infrastructure including water, power, roads, internet, and cell phone services were disrupted to the area for days to months depending on location. Many individuals and businesses suffered loss, from property damage to loss of life. The entire region was approved as a major disaster area on or about on October 21, 2024.¹

¹ <https://www.fema.gov/press-release/20241021/president-joseph-r-biden-jr-approves-major-disaster-declaration-north#:~:text=Approves%20Major%20Disaster%20Declaration%20for%20North%20Carolina,-English&text=WASHINGTON%20%E2%80%93%20FEMA%20announced%20that%20federal,16%2D20%2C%202024.>

Asheville-Buncombe Rebuilding Together Grant Fund

In order to assist small businesses which suffered economic loss and hardship, Buncombe County and the City of Asheville established the “Asheville-Buncombe Rebuilding Together Grant Fund” (also known as the “Helene Relief: Small Business Grant Program”), hereinafter referred to as “Helene Relief Program”. (See Exhibits A)

Buncombe County funded the program, at least in part, by reallocating funds received pursuant to the American Rescue Plan (ARPA), providing approximately \$656,794.26 in initial funding for the Helene Relief Program. (See Exhibit B). Buncombe County later increased this funding amount to \$1,597,053.34, funding the program mostly, if not entirely, by repurposing ARPA funds. (See Exhibit D). Buncombe County then partnered with Mountain BizWorks to administer the program and select individual business owners for funding. (Id.)

(The City of Asheville funded their contribution to the program, at least in part, by reallocated funds received from the U.S. Housing and Urban Development (HUD), reallocating approximately \$929,070 in funds to the Helene Relief Program (See Exhibit C).)

In implementing the Helene Relief Program, Buncombe County dictated that racial preferences be used in the selection of grant recipients. Specifically, Buncombe County mandated that “BIPOC-owned businesses” would receive preference for funding. (See Exhibit E). Buncombe County required Mountain Bizworks to report the race of grant recipients in order to ensure that the funds were awarded with racial preferences for non-white applicants. (See Exhibit D).

In administering the Helene Relief Program, Mountain Bizworks obliged Buncombe County’s directive regarding instituting racial preferences for grant recipients. Mountain Bizworks indicated on its application for the grant that “businesses owned by people of color” would receive higher evaluation and scoring in determining awards. (See Exhibit F). In applying for grants, applicants were required to supply information regarding their race and ethnic background in order to be considered for a grant. (See Exhibit G)

The reallocated ARPA funds were in fact distributed in a manner which discriminated against white business owners solely on the basis of race. In an interim report from Mountain Bizworks to Buncombe County, Mountain Bizworks reported that over 28% of grant recipients were nonwhite. (See Exhibit H). Buncombe County’s nonwhite population is less than 12% of the county’s total population.²

The Asheville-Buncombe Rebuilding Together Grant Violates Title VI of the 1964 Civil Rights Act and the Equal Protection Clause of the Fourteenth Amendment

Discrimination against recipients of federal funds is a direct violation of Title VI and the Fourteenth Amendment, from which Title VI is derived. As you know, Title VI provides:

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

This prohibition against racial discrimination applies to any entity receiving federal funds, regardless of whether it is public or private. (Id., See also *Students for Fair Admissions v.*

² <https://www.census.gov/quickfacts/fact/table/buncombecountynorthcarolina/PST045224>

Harvard 143 S.C. 2141 (2023). Further, all discrimination based on skin color is ‘strictly scrutinized’ and the prohibition against racial discrimination is the same regardless of the race of the individuals who are facing discrimination. (*Students for Fair Admissions; Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265; (1978); *Palmore v. Sidoti*, 466 U.S. 429 (1984)). Illegal discrimination under Title VI encompasses more than the outright exclusion of individuals from participation in a program or benefit based on race. It also includes providing certain races with advantages or disadvantages in applying for admissions, employment, or other benefits. *Students for Fair Admissions v. Harvard* 143 S.C. 2141 (2023) *Adarand Constructors v. Peña*, 515 U.S. 200 (1995).

In this situation, there is no doubt that Buncombe County intended to discriminate against white business owners in its Helene Relief Project. The County directed that the funds be used in manner that prioritizes one group of business owners over another based solely on skin color. Further, Mountain Bizworks used the repurposed federal ARPA funds and furthered the County’s objective: culling applicants and awarding grant money based, in part, on the skin color of applicants. These actions are clearly illegal.

Buncombe County citizens have been devastated by Hurricane Helene. Individuals have lost their homes, possessions, and in some cases, the lives of loved ones. Business owners have lost store fronts, inventory, and revenue; making survival difficult if not impossible. Yet, at a time when county government and nonprofits should be encouraging persons to come together in support of each other, the respondents injected the ugly head of racial discrimination into relief efforts. Their actions are a slap in the face to already severely injured storm victims.

For these reasons, WNC Citizens for Equality requests that the U.S. Department of the Treasury investigate and, upon confirmation of these allegations, take appropriate action to compel the respondents’ compliance with federal anti-discrimination laws.

Sincerely,

R. Carl Mumpower

Carl Mumpower, Ph.D.
President, WNC Citizens for Equality