



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
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REGION III
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November 9, 2016

IN RESPONSE, PLEASE REFER TO: 03162180

David Wilson, Ed.D
President
Morgan State University
1700 E. Cold Spring Lane
Baltimore, MD 21251

Dear Dr. Wilson:

On May 31, 2016, the U.S. Department of Education (the Department), Office for Civil Rights (OCR), received a complaint against Morgan State University (the University). The Complainant XXXXXX alleged that the University retaliated against him for filing prior complaints when XXXXXX during the Spring 2016.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin by recipients of Federal financial assistance. Title VI further prohibits retaliation.

As a recipient of Federal financial assistance from the Department, the University is subject to these laws.

LEGAL STANDARD:

When investigating a complaint of retaliation, OCR determines whether: (1) the complainant engaged in a protected activity; (2) the recipient had notice of the protected activity; (3) the recipient took a materially adverse action against the complainant; and (4) there was a causal connection between the protected activity and the adverse action. If one of the above elements cannot be established, then OCR finds insufficient evidence of a violation. If these four elements are present, then a *prima facie* case of retaliation is established, and OCR next considers whether the recipient has identified a legitimate, nondiscriminatory reason for taking the adverse action. If so, OCR then considers whether the reason asserted is a pretext for discrimination.

In order for an activity to be considered "protected," the complainant must have either opposed conduct prohibited by one of the laws that OCR enforces or participated in an investigation conducted under the laws that OCR enforces. Notice of the protected activity to the recipient, and not necessarily to the alleged individual retaliator(s), is sufficient to establish the notice requirement. In determining whether an action taken by a recipient is adverse, OCR considers whether the alleged adverse action caused lasting and tangible harm, or had a deterrent effect. Merely unpleasant or transient incidents usually are not considered adverse. OCR follows the general principle that as the time period between the protected activity and the materially adverse action increases, the likelihood that there is a causal link between these two activities decreases. Other evidence of a causal connection may include the recipient's treatment of the

complainant compared to other similarly situated individuals, the recipient's deviation from established policies or practices, and changes to the treatment of the complainant after the protected activity occurred.

FACTUAL SUMMARY:

XXX-- paragraphs redacted-- XXX

RESOLUTION

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a voluntary resolution agreement. The provisions of the agreement must be aligned with the complaint allegations, the issues investigated, and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the University requested to resolve the complaint allegations through a voluntary resolution agreement (the Agreement) which was executed on October 20, 2016. Accordingly, OCR is concluding its investigation of this complaint. A copy of the signed agreement is enclosed. As is our standard practice, OCR will monitor the University's implementation of the Agreement.

This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Title VI and its implementing regulation that may exist and are not discussed herein.

Under the Freedom of Information Act it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact attorney Randle Haley of our staff, at 215-656-8532 or by email randle.haley@ed.gov.

Sincerely,

/s/

Beth Gellman-Beer
Team Leader

Enclosure