

From: [OCR](#)
To: [OCR Philadelphia](#)
Cc: martha.astor@dfipolicy.org
Subject: FW: Federal Civil Rights Complaint Concerning Antisemitic Harassment at Drexel University
Date: Tuesday, December 5, 2023 3:25:32 PM
Attachments: [OCR Drexel Complaint Final.pdf](#)

December 5, 2023

Dear OCR Philadelphia Office,

The attachment above and email below are being forwarded to your office for review and appropriate handling.

Thank you,

OPEN Center Customer Service Team
Office for Civil Rights
U.S. Department of Education

From: Martha Astor <martha.astor@dfipolicy.org>
Sent: Tuesday, December 5, 2023 2:58 PM
To: OCR <OCR@ed.gov>
Subject: Federal Civil Rights Complaint Concerning Antisemitic Harassment at Drexel University

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

You don't often get email from martha.astor@dfipolicy.org. [Learn why this is important](#)

Ladies and Gentlemen:

Pursuant to the discrimination complaint resolution procedures of the U.S. Department of Education's Office for Civil Rights ("OCR"), DFI brings the attached federal civil rights complaint against Drexel University for discrimination on the basis of (i) shared ancestry or ethnic characteristics; and (ii) citizenship or residency in a country with a dominant religion or distinct religious identity in programs or activities that receive federal financial assistance. DFI files this complaint as an interested third-party organization that strongly advocates for a republic where freedom, opportunity, creativity, and innovation flourish in our schools. Accordingly, DFI files the foregoing to request that OCR investigate the events described below and put Drexel University on clear notice that its failure to fulfill its duty under federal civil rights law to protect Jewish students from such antisemitic attacks will result in the withdrawal of federal funding.

Should you have any questions about this complaint, please contact Donald Daugherty at 414-559-6902 or Don.Daugherty@dfipolicy.org. Mr. Daugherty's business address is 1455 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20004.

Thank you,

Donald A. Daugherty, Jr.

December 5, 2023

VIA ELECTRONIC MAIL TO OCR@ed.gov

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100

Re: Federal Civil Rights Complaint Concerning Antisemitic Harassment at Drexel University

To Whom It May Concern:

The Defense of Freedom Institute for Policy Studies (“DFI”) is a national, nonprofit organization dedicated to defending and advancing freedom and opportunity for every American family, student, entrepreneur, and worker and to protecting the civil and constitutional rights of Americans at school and in the workplace.

Pursuant to the discrimination complaint resolution procedures of the U.S. Department of Education’s Office for Civil Rights (“OCR”), DFI brings this federal civil rights complaint against Drexel University for discrimination on the basis of (i) shared ancestry or ethnic characteristics; and (ii) citizenship or residency in a country with a dominant religion or distinct religious identity¹ in programs or activities that receive federal financial assistance. DFI files this complaint as an interested third-party organization that strongly advocates for a republic where freedom, opportunity, creativity, and innovation flourish in our schools. Accordingly, DFI files the foregoing to request that OCR investigate the events described below and put Drexel University on clear notice that its failure to fulfill its duty under federal civil rights law to protect Jewish students from such antisemitic attacks will result in the withdrawal of federal funding.

On October 10, 2023, an act of arson caused the immediate evacuation of hundreds of students residing at Race Hall, a predominantly freshman residence hall at Drexel University.² Upon inspection, the Philadelphia Fire Department discovered that the door of a suite adorned with

¹ See *T.E. v. Pine Bush Cent. Sch. Dist.*, 58 F. Supp. 3d 332, 353-55 (S.D.N.Y. 2014) (holding that discrimination based on shared ancestry and ethnic characteristics is prohibited by Title VI); see also 42 U.S.C. § 2000d; 34 C.F.R. § 100.3(b)(1)(iv) and (vi).

² Dan Stamm, *Drexel Investigating Arson At Jewish Student's Door Amid Israel-Hamas War*, NBC10 (Oct. 12, 2023, 2:38 PM), available at <https://www.nbcphiladelphia.com/news/local/drexel-dorm-anti-semitism-vandalism/3666052/>; see also StopAntisemitism (@StopAntisemitism), X/TWITTER (Oct. 11, 2023, 7:13 PM) <https://twitter.com/StopAntisemites/status/1712245105283727623>.



Jewish decorations and occupied by an observant Jewish student was singled out and intentionally set on fire. The victim is outspoken in her support of Israel, and it is believed that she was targeted because of her familial tie to the Israeli Defense Forces.³ Drexel University president, John Fry, later addressed the incident in a letter to the Drexel community and stated that it was being investigated “to determine if bias, discrimination, or hate” motivated the arson.⁴ However, there were no subsequent arrests made in connection with the attack and the university has not announced any disciplinary actions it plans to take as a result of the attack.

OCR’s Legal Authority and Duties Under Title VI

Title VI of the Civil Rights Act of 1964 (“Title VI”) provides that “[n]o 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.”⁵ The law directs federal agencies, including the U.S. Department of Education, to carry out this mandate by issuing rules conditioning the continued receipt of federal funding on compliance with the anti-discriminatory objectives of the statute.⁶ The Department interprets Title VI to prohibit harassment on the basis of race, color, or national origin “that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity.”⁷

Pursuant to its regulations implementing Title VI, OCR “will make a prompt investigation” upon receipt of a complaint that “indicates a possible failure” to abide by Title VI.⁸ Such an investigation may result in “the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law,” including referral to the U.S. Department of Justice for enforcement proceedings.⁹ For years, the Department has interpreted Title VI to prohibit discrimination, including harassment, on the basis of an individual or group’s actual or perceived “shared ancestry or ethnic characteristics” or “citizenship or residency in a country with

³Shreeya Gounder and Krishna Thaker, *Arson and Antisemitic Graffiti Heighten Fears of Hate Crime On Drexel Campus*, THE TRIANGLE (Oct. 20, 2023), available at <https://www.thetriangle.org/news/arson-and-antisemitic-graffiti-heighten-fears-of-hate-crime-on-drexel-campus/>.

⁴John Fry, Drexel University Office of the President, PRESIDENT’S MESSAGES, *A Message of Support for Our Drexel Community*, (Oct. 11, 2023), available at <https://drexel.edu/president/messages/message/2023/October/A-Message-of-Support-for-Our-Drexel-Community/>.

⁵ 42 U.S.C. § 2000d.

⁶ 42 U.S.C. § 2000d-1.

⁷ Catherine E. Lhamon, Assistant Secretary for Civil Rights, U.S. Department of Education, Dear Colleague Letter, Nov. 7, 2023, at 2, available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf> (citing *Zeno v. Pine Plains Cent. Sch. Dist.*, 702 F.3d 655, 670 n.14 (2d Cir. 2012); OCR’s Racial Incidents and Harassment Against Students at Educational Institutions Investigative Guidance, 59 Fed. Reg. 11448, 11450 (Mar. 10, 1994)).

⁸ 34 C.F.R. § 100.7(c).

⁹ 34 C.F.R. § 100.8(a); see also CRS, Civil Rights at School: Agency Enforcement of Title VI of the Civil Rights Act of 1964, at 4 (2019), available at <https://crsreports.congress.gov/product/pdf/R/R45665> (citing *Nat’l Black Police Ass’n, Inc. v. Velde*, 712 F.2d 569, 575 (D.C. Cir. 1983) for the principle that the statutory language of Title VI contemplates as one mechanism of enforcement agencies’ referral of cases to the Attorney General for the purpose of filing a civil suit against the recipient).



a dominant religion or distinct religious identity.”¹⁰ In 2019, President Trump issued an executive order declaring that “[i]t shall be the policy of the executive branch to enforce Title VI against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.”¹¹ President Biden has not withdrawn E.O. 13899. Notably, despite the prior administration having finalized a proposed rule clarifying OCR’s Title VI enforcement responsibilities with respect to antisemitic discrimination and harassment, the current administration has inexplicably failed to publish those proposed regulations.

The incident at Drexel University reflects a worrisome trend: Antisemitic discrimination at colleges and universities has risen over the past decade.¹² Furthermore, the Hamas attacks, which resulted in the wholesale slaughter of approximately 1,200 innocent men, women, and children in Israel and the taking of hundreds of hostages, have galvanized a growing antisemitic movement to wage a war of intimidation that deprives the Race Hall arson victim at Drexel University, and other Jewish students of their right to an education free of discrimination and harassment. DFI urges OCR to investigate the allegations in this complaint and ensure that Drexel University complies with Title VI of the Civil Rights Act of 1964, as well as provide other appropriate relief.

Please feel free to contact me with any questions related to this request.

Sincerely,

/s/ Donald A. Daugherty, Jr.
Donald A. Daugherty, Jr.
Senior Litigation Counsel

¹⁰ *Id.* at 1-2 (citing *T.E.*, 58 F. Supp. 3d at 353-55); OCR Dear Colleague Letter: Harassment or Bullying, 4-6 (Oct. 26, 2010), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

¹¹ Executive Order 13899 of December 11, 2019, Combating Anti-Semitism, 84 Fed. Reg. 68779, 68779, available at <https://www.govinfo.gov/content/pkg/FR-2019-12-16/pdf/2019-27217.pdf>.

¹² See Testimony of Kenneth L. Marcus, Founder and Chairman, The Louis D. Brandeis Center for Human Rights Under Law, “Free Speech on College Campuses” Testimony Before the United States House Committee on the Judiciary, Nov. 8, 2023, at 3-4, available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/marcus-testimony.pdf>. Mr. Marcus served as Assistant Secretary, Office of Civil Rights, during the prior administration.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

December 18, 2023

VIA EMAIL ONLY

John Anderson Fry
President
Drexel University
3141 Chestnut Street
Philadelphia, PA 19104
president@drexel.edu

Re: OCR Complaint No. 03-24-2062

Dear President Fry:

This letter is to notify you that the U.S. Department of Education, Office for Civil Rights (OCR), is opening for investigation the above-referenced complaint filed against Drexel University (University). The Complainant alleges that the University discriminated against students on the basis of national origin (shared Jewish ancestry) by failing to respond to an incident of harassment in October 2023.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin, including shared ancestry, in any program or activity receiving federal financial assistance from the U.S. Department of Education. Because the University receives federal financial assistance from the U.S. Department of Education, OCR has jurisdiction over it pursuant to Title VI.

OCR is opening the following issue for investigation:

Whether the University failed to respond to alleged harassment of students on the basis of national origin (shared Jewish ancestry) in a manner consistent with the requirements of Title VI.

Please note that opening the complaint for investigation in no way implies that OCR has made a determination on the merits of the complaint. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the Complainant, the University, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and fully responds to the allegation in accordance with the provisions of the *Case Processing Manual*.

Our goal is the prompt, appropriate resolution of the complaint. While we are proceeding with an investigation, there are other approaches that can achieve this goal. In particular, please note the section on resolution of a complaint prior to the conclusion of an investigation. If the University expresses an interest in resolving the complaint and OCR determines that resolution of the complaint prior to the completion of the investigation is appropriate, OCR may attempt to

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

negotiate an agreement with the University pursuant to Section 302 of the *Case Processing Manual*.

Attached is a request for data necessary to investigate this complaint. The Department's regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6(c) gives OCR the authority to request this information. Please note that OCR has the right of access to records that are necessary for OCR's investigation, even if those records contain names or other personally identifiable information. *See* 20 U.S.C. §§ 1232g(b)(1) and 1232g(b)(3) regarding the applicable provisions of the Family Educational Rights and Privacy Act; *see also* 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii).

OCR requests that the University submit this information within 21 calendar days of the date of this letter (i.e., by **January 8, 2024**). We prefer that you submit information electronically, if feasible. If any item in our request is unclear, or if you experience any difficulty complying with this request, please contact us at the telephone number(s) provided below prior to the expiration of the 21-day period. Please be aware that OCR may need to make additional requests for information in the future. If OCR needs to conduct an on-site investigation, we will notify you in advance.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

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

We look forward to your cooperation during the resolution of this complaint. If you have any questions, please contact Attorney Bradley Moore at Bradley.Moore@ed.gov or (215) 656-8502.

Sincerely,

(b)(6); (b)(7)(A); (b)(7)(C)

Philadelphia Office
Office for Civil Rights

Enclosure

Drexel University
OCR Complaint No. 03-24-2062
Data Request

Please submit the following information to Bradley Moore at Bradley.Moore@ocr.gov within 21 calendar days of the date of this letter (i.e., by **January 8, 2024**). We prefer that you submit information electronically, if feasible. If you are sending a large electronic file, please contact OCR for directions on how to upload the file to OCR's secure file-sharing platform. Additionally, if any of the information is available online, you may provide the URL in lieu of hard copy documents. Please note that OCR is not requesting, and the University should not provide, any social security numbers in response to this data request. If any item in our request is unclear, or if you experience any difficulty complying with this request, please contact us prior to the expiration of the 21-day period. Please be aware that OCR may need to make additional requests for information in the future. If OCR needs to conduct an on-site investigation, we will notify you in advance.

Preservation of requested and relevant data and documents: OCR may request supplemental data and documents that are relevant to the allegation(s) under investigation. To ensure that OCR can assess the recipient's compliance with the statutory and regulatory obligations at issue in this investigation, please ensure that recipient employees preserve the data and documents requested below for any timeframe specified in these requests and going forward until OCR closes this case. Please also ensure that University employees preserve other data and documents that are relevant to the allegation(s) under investigation until OCR closes this case.

The regulation implementing Title VI, at 34 C.F.R. §§ 100.6(b) and (c), requires that a recipient of federal financial assistance make available to OCR information that may be pertinent to reach a compliance determination.

Please provide the following data by **January 8, 2024**:

1. The name, title, and contact information of the University's:
 - a. Contact person for this complaint;
 - b. Person authorized to resolve this complaint;
 - c. Person responsible for responding to Title VI complaints; and
 - d. Person responsible for handling complaints of harassment and/or discrimination on the basis of national origin, including shared Jewish ancestry, at each level of the process.
2. A copy of the University's policies and procedures and a description of the University's practices governing the investigation of complaints of harassment and/or discrimination on the basis of national origin, including shared Jewish ancestry. Include a detailed description of the complaint process, including each level of the process, the length of the process, and the types of records maintained.
3. All formal and informal reports/complaints, including records of oral reports/complaints, regarding an alleged arson of a door of a suite at Race Hall on October 10, 2023.

4. All formal and informal reports/complaints, including records of oral reports/complaints, concerning alleged harassment and/or discrimination based on shared Jewish ancestry. The University's response should include information for the 2022-2023 and 2023-2024 academic years. For each report/complaint in response to Item 3 and 4, provide the following:
 - a. the name(s) and title(s) of the individual(s) to whom the complaint/report was made, the date of the complaint/report, and the date of the incident;
 - b. a detailed description of the complaint processing procedures employed to resolve the report/complaint;
 - c. the length of the investigative process;
 - d. the name(s) and title(s) of the individual(s) involved in the handling of the report/complaint;
 - e. all actions the University took in response to the report/complaint;
 - f. the University's final determination regarding the report/complaint;
 - g. any corrective action taken, including discipline and/or supportive measures; and
 - h. any notice of the findings provided to the complainant.
5. All documentation related to any and/or all complaints/reports identified in response to Item 3 and 4, including but not limited to correspondence, internal and external memoranda, investigative reports, witness statements, logs, forms, meeting minutes, personnel file documents, disciplinary documents, supportive measures provided, and notes generated for each complaint.
6. A statement regarding whether the University conducts trainings and/or holds informational sessions with the student community and/or University staff regarding students' rights under Title VI, how to report possible violations of Title VI, and/or the University's obligation to respond to Title VI complaints. If so, provide the dates of such events, a description of the attendees, and any materials presented and/or distributed.
7. The names and titles of all persons who assisted in the preparation of these data responses.
8. A narrative response to the issue opened for investigation.
9. Any other information that the University believes will be helpful to OCR or relevant in this investigation.