



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

September 6, 2017

Dr. David Wilson
Office of the President
Morgan State University
1700 E. Cold Spring Lane
Truth Hall, Rm. 400
Baltimore, Maryland 21251

Re: OCR Complaint No. 03-16-2217

Dear Dr. Wilson:

The Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) has completed its investigation of the complaint we received against Morgan State University (the University) alleging race and sex discrimination. Specifically, XXXXXX (the Complainant) alleges that the University discriminated against him on the bases of race and sex when:

1. XXXXXX.
2. XXXXXX.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance from the Department. OCR enforces Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department, OCR has jurisdiction pursuant to Title VI and Title IX.

In reaching a determination, OCR reviewed documents provided by the Complainant and the University and interviewed the Complainant and University faculty/staff. After carefully considering all of the information obtained during the investigation, OCR identified compliance concerns regarding allegation #2, which the University agreed to resolve through the enclosed resolution agreement. However, OCR did not find sufficient evidence to support allegation #1. OCR's findings and conclusions are discussed below.

Applicable Legal Standards

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

The standards for determining compliance with Title VI are set forth in the regulation at 34 C.F.R. § 100.3(a) and (b). The regulation, at 34 C.F.R. § 100.3(a), states that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance. Section 100.3(b)(1)(i)-(vi), further states that a recipient may not, on the grounds of race, color, or national origin, deny an individual any service or benefit of its programs; provide any service or benefit to an individual which is different or provided in a different manner; subject an individual to segregation or separate treatment in any matter related to receipt of any service or other benefit under the programs; restrict an individual in the enjoyment of any benefits of its programs; treat an individual differently in determining continued enrollment in its programs; or, deny an individual an opportunity to participate in a program through the provision of services which is different from that afforded others under the program.

The Title IX regulation, at 34 C.F.R. § 106.31(a), also requires that a recipient may not treat individuals differently on the basis of sex with regard to any aspect of services, benefits, or opportunities it provides. Subsection (b) of the same states that a recipient may not, on the basis of sex, subject any person to separate or different rules of behavior, sanctions, or other treatment in providing an aid, benefit, or service.

When investigating a different treatment claim, OCR examines: whether the complainant was treated differently than similarly situated individuals of a different race and sex. If such different treatment is found, OCR then examines any legitimate nondiscriminatory justification offered by the recipient. Finally, OCR will review any justification offered by the recipient to determine whether it is pretext for discrimination. OCR examined the allegations on the bases of race and sex in this complaint using this standard.

The Title IX regulation, at 34 C.F.R. § 106.8(b), also requires that the University adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints of Title IX violations. OCR examines a number of factors in evaluating whether a University's grievance procedures are prompt and equitable, including whether the procedures provide for the following: notice of the procedures to students, parents (where appropriate) and employees, including where to file complaints; application of the procedures to complaints alleging discrimination by employees, other students, or third parties; adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; designated and reasonably prompt timeframes for major stages of the complaint process; written notice to the parties of the outcome of the complaint; and an assurance that steps will be taken to prevent recurrence of any discrimination and to correct its effects.

Factual Background

XX – paragraphs redacted – XX

Legal Analysis

XX – paragraphs redacted – XX

Allegation #2 – XXXXXX

The University’s Title IX Grievance Procedures state that the University will investigate complaint allegations, implement interim measures to prevent further discrimination or harassment, and take appropriate steps to resolve the matter to eliminate the discrimination and/or harassment and prevent its recurrence and remedy its effects. The University’s Nondiscrimination Policy notes that it will prevent acts of retaliation against individuals who file a complaint.

XX – paragraphs redacted – XX

Legal Analysis

XX – paragraph redacted – XX

As part of our investigation, OCR also reviewed the University’s grievance procedures and we note that they do not comply with the requirements set forth by Title IX at Section 106.8(b). Specifically, the procedures do not indicate: that they apply to third parties; a thorough and impartial investigation will be conducted, including an equal opportunity to present witnesses and evidence; designated timeframes for the major stages of the complaint process, including the investigation; and written notice of the outcome to the parties. Therefore, OCR finds that there is sufficient evidence to determine that the University failed to timely and appropriately address the Complainant’s May 2013 complaint in violation of Title VI and Title IX.

To resolve the compliance concerns identified above, the University entered into the attached Resolution Agreement, signed on August 29, 2017. Once the Resolution Agreement is fully implemented, the University will be in compliance with Title VI and Title IX with respect to the issues addressed in this letter. OCR will monitor the University’s implementation of the Resolution Agreement until the University is in compliance with the statutes and regulations at issue in the case.

This concludes OCR’s investigation of the complaint. This letter should not be interpreted to address the University’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly

authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 appreciate the University's cooperation in the resolution of this complaint. If you have any questions regarding this letter, please contact Linda Thomas, the OCR investigator assigned to this complaint, at 215-656-8553 or by email at linda.thomas@ed.gov.

Sincerely,

/s/

Melissa M. Corbin
Team Leader
Philadelphia Regional Office

Enclosure

cc: Tanyka Barber