



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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December 11, 2020

IN RESPONSE, PLEASE REFER TO DOCKET #03202249

Via e-mail only to: Mirta.Martin@FairmontState.edu

Dr. Mirta M. Martin
President
Fairmont State University
1201 Locust Avenue
Fairmont, WV 26554

Dear Dr. Martin:

This is to advise you that we have concluded our investigation in the above-referenced complaint filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against Fairmont State University (the University). XXXXXXXXXX (the Complainant) alleges that the University discriminated against her client, Dre Hodges, (the Student) on the basis of race and retaliated against the Student by failing to investigate the Student's XXXXXXXX
XXXXXXXXXXXXXXXXXXXX

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. Title VI also prohibits retaliation.

In the course of our investigation, OCR reviewed documents and information provided by the Complainant and the University and interviewed University staff. Prior to completion of OCR's investigation, the University requested to voluntarily resolve the allegations in the complaint.

Legal Standard

The Title VI regulation, at 34 C.F.R. § 100.3(a), provides that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the District's programs or activities on the basis of race, color, or national origin. While the regulation implementing Title VI does not contain an explicit requirement that recipients adopt and implement complaint procedures to address allegations of discrimination based on race, color, or national origin, grievance procedures that encompass race, color, and national origin discrimination can be part of a prompt and effective response to allegations of discrimination prohibited by Title VI. In addition, a recipient that has adopted discrimination complaint procedures must apply the procedures in a manner that does not constitute discrimination

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

determines that such a resolution is appropriate. The provisions of the Resolution Agreement must be aligned with the complaint allegations, the information obtained in the investigation to date, and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the University nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, on October 19, 2020, prior to the conclusion of OCR's investigation, the University requested to resolve the allegations of the complaint through a Resolution Agreement. On December 9, 2020, the University signed this Agreement. As is our standard practice, OCR will monitor the University's implementation of the Agreement, a copy of which is enclosed. When fully implemented, the Agreement will fully address the allegations. Accordingly, OCR is concluding its investigation of the complaint as of the date of this letter.

This concludes OCR's investigation of the complaint and 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation. 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.

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, we 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.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

Thank you for your cooperation during this investigation. If you have any questions or concerns regarding OCR's case determination, you may contact Marcia Jones, Investigator, at 215-656-8555 or by email at marcia.jones@ed.gov or Gina DePietro, Team Attorney, at (215) 656-8595 or by email at gina.depietro@ed.gov.

Sincerely,

/s/

Christina M. Haviland
Supervisory Attorney
Philadelphia Office

cc: Cailey Murray, Esq. (via email only)