



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

July 6, 2022

IN RESPONSE, PLEASE REFER TO OCR DOCKET #03212061

Dr. Freeman J. Hrabowski III, President
University of Maryland Baltimore County
520 West Lombard Street
Baltimore, MD 21250

Sent by email only to: hrabowski@umbc.edu

Dear Dr. Hrabowski:

This letter is to inform you of the resolution of the complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) against the University of Maryland, Baltimore County, which this letter will refer to as the University. The Complainant alleged that the University discriminates against students on the bases of sex and race. Specifically, the Complainant alleged that the University:

1. Discriminates against male students on the basis of sex by operating the following programs and scholarships that are available to females only:
 - a) Charlotte W. Newcombe Scholarship;
 - b) Jodi Mister/Newcombe Scholarship;
 - c) Bryson-Neville Scholarship;
 - d) Rosalie Tydings Scholarship;
 - e) Returning Women Students; and
 - f) Center for Women in Technology.
2. Discriminates against male students on the basis of sex and against White female students on the basis of race by operating the Women of Color Collective that is available to non-White females only.

OCR enforces:

- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any educational program or activity operated by a recipient of federal financial assistance from the Department.

- Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.

As a recipient of Federal financial assistance from the Department, the University is subject to Title IX and Title VI and their implementing regulations.

Prior to the completion of OCR's investigation, the University requested to resolve this complaint under Section 302 of OCR's *Case Processing Manual* (CPM). OCR had identified various issues and determined that it was appropriate to resolve them pursuant to a Resolution Agreement.

Set forth below are a summary of the applicable legal standards, the facts determined to date, and the Resolution Agreement for this investigation.

Legal Standards

Title IX

Title IX and its implementing regulations, at 34 C.F.R. § 106.31(a)-(b), prohibit a recipient from excluding, denying benefits to, or otherwise treating any person differently on the basis of sex in its education programs or activities, unless expressly authorized to do so under Title IX or the regulations. The regulations, at 34 C.F.R. §106.34, further prohibit any recipient, including an elementary, secondary, or postsecondary institution, from carrying out its education programs or activities separately on the basis of sex, unless an exception applies. In addition, the regulations, at 34 C.F.R. §106.31(b)(6), prohibit recipients from providing significant assistance to any outside organization that discriminates on the basis of sex in providing any aid, benefit, or service to students or employees. The Title IX regulation, at 34 C.F.R. § 106.37, addresses financial assistance. Section 106.37(a) sets forth the general rule that a recipient shall not, on the basis of sex: (1) provide different amounts or types of financial assistance; (2) assist any organization or person in providing assistance in a manner which discriminates; or (3) apply any rule or assist in the application of any rule that treats people differently with regard to marital or parental status.

Title VI

The Title VI regulation at 34 C.F.R. § 100.3(b)(1)(i), (ii), and (v) prohibits recipients from, on the basis of race, color or national origin, denying students any service or benefit provided under the program; providing services or benefits that are different from or provided in a different manner from services or benefits provided to other students; and restricting students in the enjoyment of any privilege or advantage enjoyed by others.

Different Treatment

When investigating an allegation of different treatment, OCR first determines whether there is sufficient evidence to establish an initial, or *prima facie*, case of discrimination. Specifically, OCR determines whether the university treated students of a particular race or gender less favorably than similarly situated individuals of a different race or gender. If so, OCR then determines whether the university had a legitimate, nondiscriminatory reason for the different

treatment. Finally, OCR determines whether the reason given by the university is a pretext, or excuse, for unlawful discrimination.

Factual Findings to Date

Scholarships

The University asserts that the scholarships at issue in allegation 1(a)-(d) were established pursuant to a domestic or foreign will, trust, bequest, or similar legal instrument and provided OCR documentation of each. The University also reported that upon receipt of the notice of the investigation, it undertook an initial review of the scholarships at issue as published on the University's website and the language utilized within each scholarship instrument. The University reported that its initial review found that some of the language used to describe certain scholarships and/or the criteria used to determine eligibility contain restrictions and/or preferences for female students. As such, the University will be engaging with donors associated with the respective scholarships in connection with any restriction based on sex. In addition, the University reported that it intends to conduct a detailed review of all scholarships offered or administered by the University to determine if there are any additional scholarships that contain restrictions based on sex as advertised on the webpages and/or within eligibility criteria.

Returning Women Students

This program is described by the University as supporting undergraduate women over the age of 25 returning to college later in life. All returning women students/adult learners are invited to attend monthly meetings and workshops designed specifically to meet the needs of adult students.

Center for Women in Technology (CWIT)

The University provided OCR with documentation regarding CWIT, in which it is described in part as open to a community of learners interested in pursuing careers among the technology, engineering and information technology fields. The program materials state that CWIT helps the University achieve its mission by identifying those areas in science, technology and engineering where women are significantly underrepresented, attracting well-qualified female students to the University through special initiatives such as the CWIT Scholars Program.

Women of Color Collective

The University describes the Collective as a discussion-based group program that is hosted by the Women's Center. The University noted that the Women's Center website specifically notes that "all are welcome as long as they respect women."

SUMMARY OF CONCERNS

OCR's investigation to date revealed concerns that the University administers and promotes programs and scholarships that contain restrictions or preferences on the basis of race and/or sex. OCR acknowledges that the University has taken preliminary steps to begin the process of identifying which programs and scholarships contain such restrictions, and where restrictions exist, and intends to take steps to ensure they do not have a discriminatory effect. Nonetheless,

OCR's investigation to date does not have information or documentation to verify the University's process or otherwise corroborate its assertions.

RESOLUTION AGREEMENT

As noted above, prior to OCR's completion of the investigation, the University expressed an interest in resolving this complaint under Section 302 of the CPM, and OCR determined that it would be appropriate to resolve the concerns OCR had identified. The University signed the enclosed Resolution Agreement that, when fully implemented, will resolve the complaint. The Resolution Agreement requires the University to review each program and scholarship named in the complaint to determine if it contains a restriction or preference based on race, national origin, and/or sex. For programs and scholarships that contain such a restriction or preference and are operated by the University, the Agreement requires the University, subject to OCR review and approval, to either remove the restriction, retain the restriction but develop safeguards to ensure that a candidate who does not meet the condition set by the restriction or preference is not excluded from receiving access to a like program or scholarship, or cease operation of the program or scholarship. For third party scholarships that contain such a restriction or preference and are promoted by the University, the Agreement requires the University, subject to OCR review and approval, to no longer promote the scholarship unless the third party removes the restriction or preference.

CONCLUSION

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.

If you have any questions, please contact DeShawn Jones, investigator, at (215) 656-3242 or by email at deshawn.jones@ed.gov, or Amy Niedzalkoski, attorney, at (215) 656-8571 or by email at amy.niedzalkoski@ed.gov.

Sincerely,

/s/

Craig D. Ginsburg

Page 5 of 5 - Dr. Freeman J. Hrabowski III, President

Supervisory Attorney
Philadelphia Office
Office for Civil Rights

Enclosures