



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 10, 2022

IN RESPONSE, PLEASE REFER TO: 03212076

Via E-mail Only (connellyp@duq.edu)

Pamela W. Connelly,
Senior Vice President for Legal Affairs and
General Counsel
Duquesne University
600 Forbes Avenue
Pittsburgh, PA 15282

Dear Mr. Connelly:

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

1. Discriminates against males on the basis of sex by offering the following programs and scholarships that are available to females only:
 - a) Women's Executive Leadership Program;
 - b) Emerging Women's Leadership Program ;
 - c) Women's STEM Committee at Duquesne University;
 - d) Clare Boothe Luce Scholarship Program;
 - e) H.L. Norbut Endowed Scholarship; and
 - f) Gretchen D. Donaldson Endowed Scholarship.
2. Discriminates against male students on the basis of sex by administering the following scholarships that are available to females only:
 - a) Jill and Stan Jankowski Endowed Scholarship; and
 - b) Duquesne University School of Law Anniversary Scholarship.
3. Discriminates against male students on the basis of sex by promoting the following scholarships that are available to females only:
 - a) Educational Foundation for Women in Accounting Scholarships;
 - b) Graduate Scholarships for Women; and
 - c) Graduate Scholarships for Women in STEM.

4. Discriminates against female students on the basis of sex by promoting the American Assembly for Men in Nursing Scholarship that is available to males only.
5. Discriminates against non-African American students on the basis of race and female students on the basis of sex by administering the Brian and Kimberly Parker Diversity Term Scholarship that is available to African American males only.
6. Discriminates against non-minority students on the basis of race and male students on the basis of sex by administering the Elizabeth Qualters Bayer Scholar Intern Fund where preference is given to minorities and females.
7. Discriminates against students on the basis of race and/or national origin by administering the following scholarships that require recipients to be of a specific race and/or national origin:
 - a) Roberto Clemente Memorial Scholarship (Hispanic);
 - b) Ronald R. Davenport Endowed Fund (African American);
 - c) Milton E. Raiford Endowed Scholarship (African American);
 - d) Pappert/Chrysler Minority Dealers Endowed Scholarship (African American, Hispanic American, and Native American);
 - e) Frank P. DeMarco Endowed Scholarship Fund (Italian descent);
 - f) KPMG/Joseph T. Senko Endowed Scholarship (Slovak descent); and
 - g) Gilbert Y. Yee Endowed Scholarship (Chinese descent).
8. Discriminates against students on the basis of race and/or national origin by administering the following scholarships where preference is given to students of a specific race, national origin, minority students, and/or those who add racial and/or ethnic diversity:
 - a) Judith A. Kasdan Memorial Scholarship (racial and/or ethnic diversity);
 - b) William Randolph Hearst Endowed Scholarship (minority student);
 - c) The Cumberland W. Posey, Jr. Endowment Fund (minority student);
 - d) Empowerment Scholarship Fund (ethnic and racial minority);
 - e) Drs. Robert and Patricia Gussin Endowed Minority Pharmacy Scholarship (minority student, preferably African American);
 - f) Gerald P. Gorman Memorial Irish Catholic Scholarship (Irish descent);
 - g) Carol McCann Scott Women in Journalism Endowed Scholarship (Irish descent);
 - h) Hungarian Heritage Endowed Scholarship (Hungarian descent);
 - i) Violent J. Ruparcich Endowed Tamburitzan Scholarship (Slovenian);
 - j) John and Helen Timo Endowed Scholarship (Eastern European descent); and
 - k) Anthony F. Triano Endowed Woodwind Scholarship (Italian descent).
9. Discriminates against students on the bases of race and national origin by promoting the following scholarships that are available to minority students, those who add racial and/or ethnic diversity only, and/or immigrants:

- a) FedEx Ground Diversity Scholarship (racial and/or ethnic diversity);
- b) American Institute of Certified Professional Accountants Scholarship for Minority Accounting Students (minority students);
- c) LAGRANT Foundation Scholarships (minority students);
- d) Indian Health Service Scholarship (American Indian or Alaskan Native); and
- e) Soros Fellowship for New Americans (Immigrants)

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.
- Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibits discrimination on the basis of sex in any program or activity receiving Federal financial assistance from the Department.

As a recipient of Federal financial assistance from the Department, the University is subject to Title VI, Title IX, 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

University Programs

The Complainant alleged that the University discriminates against males on the basis of sex by offering the following programs that are available to women only: Women's Executive Leadership Program; Emerging Women's Leadership Program; and Women's STEM Committee at Duquesne University. The University provided the information summarized in this letter based on its review to date of the programs and scholarships alleged in this complaint. In addition, the University explained that its inquiry into these programs and scholarships remains in progress and will be further developed during its implementation of the Resolution Agreement. The University reported that it has taken steps to clarify on its website and in promotional materials that participation in each of these programs is not limited by sex, and that it is continuing to review information for each of the programs to ensure it is clear that each program is open to participants of all genders.

Scholarships Administered by the University

Alleged Discrimination on the Basis of Sex

The Complainant alleged that the University discriminates against males on the basis of sex by offering the following scholarships that are available to females only: Graduate Scholarships for Women; Graduate Scholarships for Women in STEM; Clare Boothe Luce Scholarship Program; H.L. Norbut Endowed Scholarship; and Gretchen D. Donaldson Endowed Scholarship; Jill and Stan Jankowski Endowed Scholarship; and Duquesne University School of Law Anniversary Scholarship.

The University acknowledged that the following scholarships that are administered by the University contain sex-based restrictions: H.L. Norbut Endowed Scholarship; Gretchen D. Donaldson Endowed Scholarship; and Jill and Stan Jankowski Endowed Scholarship. OCR's investigation has not yet established what effect, if any, those limitations have on the University's awarding of these scholarships. In addition, OCR's investigation has not yet established whether the Graduate Scholarships for Women; Graduate Scholarships for Women in STEM; or Clare Boothe Luce Scholarship Program contain any sex-based restrictions.

Alleged Discrimination on the Bases of Sex and Race

The Complainant alleged that the University discriminates against non-African American students on the basis of race and female students on the basis of sex by administering the Brian and Kimberly Parker Diversity Term Scholarship that is available to African American males only. The University acknowledged that this scholarship includes race and sex based restrictions, but OCR's investigation to date has not determined the effect of these restrictions on the awarding of the scholarship or the demographic information of the recipients of this scholarship.

In addition, the Complainant alleged that the University discriminates against non-minority students on the basis of race and male students on the basis of sex by administering the Elizabeth Qualters Bayer Scholar Intern Fund where preference is given to minorities and females. The University has indicated that this scholarship does not contain any race and/or sex restrictions. OCR's investigation to date, however, does not include information to confirm this assertion or determine the effect of these restrictions on the awarding of the scholarship or the demographic information of the recipients of this scholarship.

Alleged Discrimination on the Basis of Race and/or National Origin

The Complainant alleges that the University discriminates against students on the basis of race and/or national origin by administering the following scholarships that require recipients to be of a specific race and/or national origin: Roberto Clemente Memorial Scholarship; Ronald R. Davenport Endowed Fund; Milton E. Raiford Endowed Scholarship; Pappert/Chrysler Minority Dealers Endowed Scholarship; Frank P. DeMarco Endowed Scholarship Fund; KPMG/Joseph T. Senko Endowed Scholarship; Gilbert Y. Yee Endowed Scholarship. In addition, the Complainant alleged that the University discriminates against students on the basis of race and/or national origin by administering the following scholarships where preference is given to students of a specific race, national origin, minority students, and/or those who add racial and/or ethnic diversity: Judith A. Kasdan Memorial Scholarship; William Randolph Hearst Endowed Scholarship; Cumberland W. Posey, Jr. Endowment Fund; Drs. Robert and Patricia Gussin Endowed Minority Pharmacy Scholarship; Gerald P. Gorman Memorial Irish Catholic Scholarship; Carol McCann Scott Women in Journalism Endowed Scholarship; Hungarian Heritage Endowed Scholarship; Violet J. Ruparcich Endowed Tamburitzan Scholarship; John and Helen Timo Endowed Scholarship; Anthony F. Triano Endowed Woodwind Scholarship; and Empowerment Scholarship Fund.

The University acknowledged that the following scholarships contain restrictions based on race and/or national origin: Roberto Clemente Memorial Scholarship; Ronald R. Davenport Endowed Fund; Frank P. DeMarco Endowed Scholarship Fund; Milton E. Raiford Endowed Scholarship; KPMG/Joseph T. Senko Endowed Scholarship; Cumberland W. Posey, Jr. Endowment Fund. OCR's investigation to date, however, has not determined the effect of these restrictions on the awarding of these scholarships or the demographic information of the recipients of these scholarships. In addition, the University advised OCR that the following scholarships that are administered by the University do not contain any race and/or national origin restrictions: Drs. Robert and Patricia Gussin Endowed Minority Pharmacy Scholarship; William Randolph Hearst Endowed Scholarship; Gerald P. Gorman Memorial Irish Catholic Scholarship; Pappert/Chrysler Minority Dealers Endowed Scholarship; Violet J. Ruparcich Endowed Tamburitzan Scholarship; Carol McCann Scott Women in Journalism Endowed Scholarship; John and Helen Timo Endowed Scholarship; Anthony F. Triano Endowed Woodwind Scholarship; Hungarian Heritage Endowed Scholarship; Judith A. Kasdan Memorial Scholarship; and Gilbert Y. Yee Endowed Scholarship. OCR's investigation to date, however, does not include documentation or information that corroborates the University's assertions.

With respect to the Empowerment Scholarship Fund, the University advised OCR that the Empowerment Scholarship Fund is comprised of more than 20 individual scholarships. The University asserts that 9 of the 20 individual scholarships contain potential restrictions based on race, ethnicity, national origin, or gender: Lammie Term Empowerment Scholarship; Hugo Magliocco Scholar Award Pittsburgh Promise (Term); Rita M. McGinley Term Empowerment Scholarship – Catholic High Schools; Amanda and Kevin McQuillan Term Empowerment Scholarship; Mary V. McGuirk Endowed Empowerment Scholarship; Joseph E. and Diana L. Rockey Endowed Empowerment Scholarship; Schweighardt Scholar Pittsburgh Promise Term Scholarship; Harry and Patricia Witt Endowed Empowerment Scholarship; and Harry and Patricia Term Empowerment Scholarship #2. OCR's investigation to date does not include documentation or information showing the basis of the restriction(s) for each of the nine (9) scholarships. Likewise, it does not include documentation or information to corroborate the University's assertions that the 11 remaining Empowerment Scholarships do not contain restrictions based on race, national origin, or sex.

Third Party Scholarships

The Complainant alleged that the University discriminates against males on the basis of sex by promoting the following third-party scholarship that is available to females only: Educational Foundation for Women in Accounting Scholarships. In addition, The Complainant alleged that the University discriminated against female students on the basis of sex by promoting the following third-party scholarship that is available to males only: American Assembly for Men in Nursing Scholarship. The Complainant also alleged that the University discriminates against students on the bases of race and national origin by promoting the following scholarships that are available to minority students, those who add racial and/or ethnic diversity only, and/or immigrants: FedEx Ground Diversity Scholarship (racial and/or ethnic diversity); American Institute of Certified Professional Accountants Scholarship for Minority Accounting Students (minority students); LAGRANT Foundation Scholarships (minority students); Indian Health Service Scholarship (American Indian or Alaskan Native); and Soros Fellowship for New

Americans (Immigrants). The University advised OCR that it is in the process of reviewing each of those scholarships with the third-party sponsoring organizations in response to the alleged discrimination. In addition, it acknowledged that the FedEx Ground Diversity Scholarship contains a restriction based on race and/or national origin. OCR's investigation to date has not determined the effect of the restriction based on race and/or national origin on the awarding of the FedEx Ground Diversity Scholarship or the demographic information of the recipients of that scholarship. In addition, OCR's investigation to date does not include documentation or information regarding the University's review of the remaining third party scholarship.

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, national origin, 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 Robert Ford, the OCR investigator assigned to this complaint, at 215-656-8537 or robert.ford@ed.gov or Amy Niedzalkoski, the OCR attorney assigned to this complaint, at 215-656-8571 or amy.niedzalkoski@ed.gov.

Sincerely,

/s/

Craig D. Ginsburg
Supervisory Attorney
Philadelphia Office
Office for Civil Rights

cc: Catherine S. Ryan, Esq.
Sent via email only : cryan@reedsmith.com

Jeffrey M. Weimer, Esq.
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Enclosure