

March 31, 2014

Mr. Matthew Myer Boulton
President
Christian Theological Seminary
1000 West 42nd Street
Indianapolis, Indiana 46208

Re: OCR Docket # 05-13-2458

Dear Mr. Boulton:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint against the Christian Theological Seminary (the Seminary) alleging discrimination based on age, race, and sex.

Specifically, the complaint alleged that:

- 1) in spring 2012, the Seminary subjected a XXXXX-year old student (Student A) to discrimination based on age when it did not admit her to the Seminary's Discipleship Project; and
- 2) during the 2012-2013 academic year, the Seminary subjected Student A, an African American female, to discrimination based on race and sex when a professor (Professor A) subjected her to sex and race harassment and the Seminary failed to take appropriate action to address the harassment.

OCR is responsible for enforcing the Age Discrimination Act of 1975 (Age Act), 42 U.S.C. §§ 6102 – 6103, and its implementing regulation, 34 C.F.R. Part 110; 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; and Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106. The Age Act prohibits discrimination based on age by recipients of Federal financial assistance, Title VI prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance, and Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the Seminary is subject to these laws.

During its investigation, OCR reviewed data provided by Student A and the Seminary, and interviewed Student A and Seminary personnel. Prior to the completion of OCR's investigation, the Seminary agreed to take actions to resolve allegation #2 in the complaint. OCR has determined that the evidence is insufficient to establish that the Seminary subjected Student A to discrimination based on age with regard to allegation #1. The reasons for this determination are discussed below.

Allegation #1

The complaint alleges that, in spring 2012, the Seminary subjected Student A to discrimination based on age when it did not admit her to the Seminary's Discipleship Project.

Legal Standard

The regulation implementing the Age Act, at 34 C.F.R. § 110.10(a), prohibits a recipient from excluding an individual, on the basis of age, from participation in its program or activity, or from denying the benefits of its program or activity to an individual on the basis of age.

In analyzing an allegation of different treatment based on age, OCR ascertains whether there were any apparent differences in the treatment of similarly-situated individuals on the basis of age or whether an individual was excluded from a program or activity because of her age. If this is found to be the case, then OCR assesses the explanation for any differences in the treatment of similarly-situated individuals to determine if the reasons are legitimate or are merely a pretext for unlawful discrimination. Additionally, OCR examines whether the recipient treated the individual in a manner that was consistent with its established policies and procedures and whether there was any other evidence of age discrimination.

Facts

The Seminary is located in Indianapolis, Indiana, and offers eight graduate-level degree programs. In Summer 2010, Student A applied and was accepted to the Seminary's XXXXX degree programs. On April 20, 2012, when she was XXXXX years old, Student A applied for the Discipleship Project (Project), a new scholarship program for students in the Master of Divinity program.

The Project began to accept applications in spring 2012 for enrollment in fall 2012. The Project's Admissions Committee consisted of three faculty members (Professor A, Professor B, and Professor C) and the Dean of Students. According to the four members of the Admissions Committee, the goal of the Project was to bring together approximately 12 full-time students who would learn, develop, and collaborate together on special projects as a cohort, and, ultimately, serve as leaders in the community. According to the Admissions Committee, admission to the Project required:

- 1) at least two years of full-time coursework remaining in the Master of Divinity program;
- 2) willingness to engage in full-time, residential study at the Seminary;
- 3) a record of consistent, high academic performance;
- 4) a demonstrable history of active engagement with and leadership at the Seminary; and
- 5) a commitment to the Seminary values of inclusiveness, tolerance, and diversity.

Further, applicants were required to submit a personal statement and a letter of recommendation and participate in an interview with Professor A prior to review by the full Admissions Committee. The Seminary published these requirements in the application packet.

According to the Seminary, it received XXXXX completed applications, including one from Student A. The Admissions Committee members stated to OCR that all admissions decisions were made by consensus, based on a review of applications, the interview by Professor A, and the members' personal knowledge of the students.

Student A was denied admission to the Project. She believes she was subjected to discrimination based on her age because another student told her the Seminary wanted to enroll younger students in the Project. Student A provided no other information to support her assertion that the decision to deny her application for admission was based on her age.

All Admissions Committee members stated to OCR that the decision to deny admission to Student A was unanimous and not based on her age. Professor A, Professor C, and the Dean of Students told OCR that they knew Student A prior to her application, and stated that they had concerns that Student A would not work well in the cohort. Professor A stated that, based on his personal experience with Student A in class, she was XXXXX. Professor C stated that, based on his experience, Student A XXXXX and, therefore, not the best fit for the cohort. The Dean of Students stated that Student A had been XXXXX during her enrollment at the Seminary.

According to the Seminary, the Admissions Committee admitted XXXXX applicants, including XXXXX students who were older than Student A at the time of her application. Of the XXXXX students not admitted, XXXXX were older than Student A.

Analysis and Conclusions

The evidence from the Admissions Committee indicated that Student A was not admitted to the Discipleship Project because the Committee members believed that Student A would not work well in a cohort. Although Student A asserted that she was told the Seminary wanted younger students for the Discipleship Project, OCR found no information to suggest that she was treated differently from other similarly-situated younger students on the basis of age when she was denied admission. The information established that the Admissions Committee admitted XXXXX of the XXXXX applicants who were older than Student A and students younger and older than she were accepted (and denied admission) to the Project. Moreover, she provided and OCR found no other indication that she was excluded from the Project because of her age.

Based on the above, OCR has determined that there is insufficient evidence to establish that the Seminary subjected Student A to discrimination based on age, as alleged.

The complainant has the right, pursuant to the regulation at 34 C.F.R. § 110.39 implementing the Age Act, to file a civil action for injunctive relief in federal court following the exhaustion of administrative remedies. Administrative remedies are exhausted if: (1) 180 days have elapsed since the complainant filed the complaint with OCR, and OCR has made no finding, or (2) OCR issues any finding in favor of the recipient. A civil action can be brought only in a United States district court for the district in which the recipient is found or transacts business. A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but these costs must be demanded in the complaint filed with the court. Before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary of the Department of Education, the Secretary of the Department of Health and Human Resources, the Attorney General of the United States, and the recipient. The notice shall state the violation of the Age Act, the relief requested, the court in which the action will be brought, and whether or not attorney's fees are demanded in the event the complainant prevails. The complainant may not bring an action if the same alleged violation of the Age Act by the same recipient is the subject of a pending action in any court of the United States.

Allegation #2

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. Prior to the conclusion of OCR's investigation, the Seminary expressed interest in resolving the complaint.

On March 27, 2014, the Seminary signed the enclosed Resolution Agreement (Agreement) which, when fully implemented, will resolve the issues raised in the complaint. The provisions of the Agreement are aligned with the issues raised by the allegations and the information obtained during OCR's investigation and are consistent

with the applicable regulations. OCR will monitor the Seminary's implementation of the Agreement.

This concludes OCR's investigation of the complaint and should not be interpreted to address the Seminary'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 file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the Seminary 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.

Under the Freedom of Information 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 privacy.

We wish to thank the Seminary for the courtesy and cooperation extended by its staff during this investigation. In particular, we wish to thank Ms. Mitzi Martin and Ms. Ryann Ricchio, the Seminary's counsel. If you have any questions, please contact Sunita Kini-Tandon, Civil Rights Attorney, at 312-730-1452 or by e-mail at Sunita.Kini-Tandon@ed.gov.

Sincerely,

Jeffrey Turnbull
Team Leader

Enclosure

cc: Ms. Mitzi Martin
Ms. Ryann Ricchio