



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
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WASHINGTON, DC

November 6, 2019

Interim Chancellor Kevin M. Guskiewicz
Office of the Chancellor
University of North Carolina at Chapel Hill
101 South Building, Campus Box 9100
Chapel Hill, North Carolina 27599-9100

RE: OCR Complaint No. 11-19-2215
Resolution Letter

Dear Interim Chancellor Kevin M. Guskiewicz:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on April 17, 2019, against the University of North Carolina at Chapel Hill (the University). The Complainant alleged that the University discriminated against students of Jewish descent on the basis of national origin in connection with a conference held on March 22-24, 2019, titled "Conflict over Gaza: People, Politics, and Possibilities" (the Conference). Particularly, the complaint alleged that the Conference included an offensive and anti-Semitic performance by a hip-hop artist, and further supported its claim that the Conference created a hostile environment based on the discovery of swastikas drawn on the University campus and anti-Semitic flyers in a University library after the Conference.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d et seq., 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. Because the University receives Federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title VI. Title VI prohibits discrimination on the basis of national origin, which includes shared ancestry. Harassment that creates a hostile environment for individuals with a shared ancestry, such as students of Jewish descent, is a form of national origin discrimination. A college or university's failure to address such harassment that creates a hostile environment can violate Title VI.

On June 25, 2019, OCR notified the University that, in response to the complaint, OCR would investigate whether a hostile environment existed in connection with the Conference, and if so, whether the University appropriately responded. During the investigation to date, OCR reviewed information provided by the Complainant and the University, as well as information from third parties who contacted OCR regarding the complaint and publicly available information. OCR also reviewed documentation produced by the University relevant to the complaint allegations. Before OCR completed its investigation by conducting interviews and taking further investigative steps,

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by fostering educational excellence and ensuring equal access.*

the University expressed a willingness to resolve the allegation pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the University expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them through a resolution agreement.

* * * *

The University does not dispute that the artist identified in the complaint made offensive, anti-Semitic comments during his performance at the Conference. Although, according to the University no official recording of the Conference exists, OCR reviewed video excerpts of the artist's performance, including the alleged anti-Semitic comments, shared on social media and in news reports by a filmmaker unaffiliated with the University. The University provided to OCR numerous letters and emails that it received after the filmmaker publicly disseminated the video. The correspondence, primarily from alumni and parents of current students, expressed alarm and disappointment that such events occurred on the University's campus, as well as concern for the safety and well-being of students of Jewish descent at the University.

The University likewise does not dispute that anti-Semitic flyers were discovered on campus approximately two weeks after the Conference. The University provided OCR with documentation reflecting that University Police received reports from staff and campus security officers that anti-Semitic flyers were found at the undergraduate library on April 8, 2019 and, subsequently, on two floors of an academic building. The flyers referred to an "evil Jewish plot to enslave and kill you" because "their religion condones and teaches evil." Additional flyers discovered in the library on April 10, 2019 contained a similar anti-Semitic message, referring to "the Jews, illuminati (Jews and their helpers), and the free masons (infiltrated by Jews)," and stated, "Do everything you can to fight the silent covert Jewish plot to enslave and kill good Americans." The University also informed OCR that on, April 11, 2019, its Equal Opportunity and Compliance Office separately received an anonymous report stating that "5-6 books detailing education among Nazis, including a book with a swastika on the cover," were left on a table in the library.

OCR found in its review that the University took steps to respond to the performance, the flyers, the report described above concerning a swastika, and the numerous complaints received from the University community after the Conference. Following the dissemination of the video of the Conference performance, the Interim Chancellor and several University departments, including the Duke-UNC Consortium for Middle East Studies, the joint collaboration that hosted the Conference, issued statements condemning the performance. Additionally, contemporaneous documentation indicates that University Police immediately notified the Equal Opportunity and Compliance Office about the anti-Semitic flyers and coordinated with external law enforcement after identifying the individual believed to be responsible for their distribution. The Interim Chancellor issued a campus-wide message condemning the content of the flyers and referring individuals to the Equal Opportunity and Compliance Office to report an incident of prohibited discrimination and harassment.

The University also asserts that it regularly sponsors events on campus concerning Judaism, anti-Semitism, and Israeli-Palestinian relations, and that its Equal Opportunity and Compliance Office

offers ongoing training on Religious/Race Discrimination Harassment and Prevention and regularly monitors reports of discrimination, including national origin and religion, to determine whether further steps are warranted.

To further resolve the issues giving rise to the complaint, the University agreed to take the steps outlined in the enclosed Resolution Agreement and signed by the University on October 14, 2019. When fully implemented, the Agreement, in conjunction with the steps the University already has taken, will fully resolve the issues giving rise to the complaint. The provisions of the Agreement are aligned with the allegations and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. The Agreement requires the University to continue to take all steps reasonably designed to ensure that students enrolled in the University are not subjected to a hostile environment, including responding to and investigating all reports of anti-Semitism and taking all appropriate action following the investigation, including discipline. Additionally:

- The University must issue a statement to its community that the University does not tolerate acts of prohibited harassment, including but not limited to anti-Semitic harassment, and encouraging members of the community to report any such incidents to the University;
- In its written policies, the University must reiterate its commitment to having an environment free from prohibited harassment, including but not limited to anti-Semitic harassment. The University must include in its written policies a statement that the harassment of students on the basis of their actual or perceived shared ancestry or ethnic characteristics, including but not limited to anti-Semitic harassment, may constitute discrimination on the basis of national origin in violation of Title VI. The policies may provide a clear definition of anti-Semitism and must provide a description of the forms of anti-Semitism that can manifest in the University environment;
- For the next three academic years, the University must include in each training/orientation offered to the University community regarding the policies a component on prohibited harassment, including anti-Semitic harassment, subject to OCR's review and approval; and
- For each of the next two academic years, host at least one meeting providing students, faculty, and staff the opportunity to discuss with University administrators any concerns they have about incidents of prohibited harassment.

Please review the enclosed Agreement signed on October 14, 2019 for further details. OCR will monitor the University's implementation of the Agreement until the University has fulfilled the terms of the Agreement.

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, assists, or participates in a proceeding under a law enforced by OCR. 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, please contact me at 202-401-1443 or Ralph.Suris@ed.gov.

Sincerely,

Ralph A. Suris
Chief Regional Attorney
District of Columbia Office
Office for Civil Rights

Enclosure

cc: Kara E. Simmons, Esq. (via email)
Mary H. Crosby, Esq. (via email)