



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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TIMOTHY C. J. BLANCHARD
DIRECTOR
NEW YORK OFFICE

September 25, 2020

Sent by email only to andrew.hamilton@nyu.edu

Andrew D. Hamilton, Ph.D.
President
New York University
70 Washington Square South
New York, New York 10012

Re: Case No. 02-19-2174
New York University

Dear President Hamilton:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), regarding the above-referenced complaint filed against New York University (the University). The Complainant alleged that the University discriminated against students of Jewish descent, on the basis of their national origin, by failing to respond appropriately to incidents that created a hostile environment for Jewish students at the University.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 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 programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The University is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title VI.

A violation of Title VI may be found if a recipient has created or is otherwise responsible for a hostile environment due to national origin-based harassment; *i.e.*, harassing conduct (*e.g.*, physical, verbal, or graphic conduct) that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the recipient. A recipient has subjected an individual to discrimination based on national origin if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a hostile environment of which it has notice.

Once a recipient has notice of a racially hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely, and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances; however, in all cases, the recipient

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must conduct a prompt, thorough, and impartial inquiry designed to reliably determine what occurred. If harassment is found, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation. The response must be designed to stop the harassment, eliminate the hostile environment, and remedy the effects of the harassment on the individual who was harassed. The recipient must also take steps to prevent the harassment from recurring, including disciplining the harasser where appropriate.

The Complainant informed OCR of multiple incidents of alleged harassment of students based on their shared Jewish ancestry, from academic year 2017-2018 through academic year 2018-2019. These incidents included, for example, grabbing a microphone away from a student, wounding the student, during the “Rave in the Park” event hosted by a University student group, Realize Israel, on April 27, 2018; and a student tweeting that he wanted “all Zionists to die,” on or about December 12, 2018, which led to the closure of the University’s Bronfman Center for approximately 48 hours. The University informed OCR of additional reports and complaints concerning incidents of alleged discrimination and/or harassment of students based on shared Jewish ancestry, from academic year 2017-2018 through academic year 2019-2020.

In its investigation to date, OCR conducted interviews with administrators from the University’s Offices of Student Affairs; Student Conduct and Community Standards; Global Inclusion, Diversity, and Strategic Innovation; and the Department of Public Safety. During those interviews, OCR sought clarification in areas where it lacked sufficient information to make a compliance determination, such as whether the University investigated concerns that were raised; communicated its findings to persons who filed complaints or made reports alleging anti-Semitism; offered interim and remedial measures where appropriate; properly considered disciplinary action for respondents; and, more generally, whether any incidents created a hostile environment for Jewish students at the University.

Prior to the completion of OCR’s investigation, the University expressed an interest in resolving the allegation and OCR determined resolution was appropriate. Accordingly, pursuant to Section 302 of OCR’s *Case Processing Manual*, on September 15, 2020, the University signed the enclosed resolution agreement (Agreement) to voluntarily resolve the Complainant’s allegation without further investigation. OCR will monitor the implementation of the Agreement.

The Agreement requires the University to, among other things, revise its *Non-Discrimination and Anti-Harassment Policy* to include a statement that the University prohibits discrimination on the bases of shared ancestry and ethnic characteristics, including anti-Semitism (as defined in Section 2(a)(i) of the *Executive Order on Combating Anti-Semitism* (Exec. Order No. 13899)); take appropriate action to address and ameliorate discrimination and harassment based on shared ancestry and ethnic characteristics, including anti-Semitism that involves student clubs; issue a statement by the President of the University that the University does not tolerate acts of discrimination or harassment on the bases of shared ancestry and ethnic characteristics, including anti-Semitism; and conduct outreach to the University community in order to inform students, faculty, staff, and the Complainant of the University’s commitment to take all necessary actions, including pursuant to its student discipline process where appropriate, to address and ameliorate discrimination and harassment based on shared ancestry or ethnic characteristics, including anti-Semitism. The University will invite participants at these outreach activities to share any concerns

that they may have about incidents of discrimination and harassment within the educational programs and activities of the University; and if complaints about specific incidents of such harassment or discrimination are identified during the outreach activities, the University will take steps, including disciplinary action where appropriate, to address complaints and respond to the incidents. Additionally, pursuant to the Agreement, the University will conduct training regarding the revised *Non-Discrimination and Anti-Harassment Policy* for the University community and senior leadership, staff, and administrators responsible for responding to reports or complaints of anti-Semitism.

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 a right to file a private suit in federal court whether or not OCR finds a violation.

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

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, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions regarding OCR's determination, please contact David Krieger, Senior Compliance Team Attorney, at (646) 428-3893 or david.krieger@ed.gov; Sandy Araj, Compliance Team Attorney, at (646) 428-3879 or sandy.araj@ed.gov; or Andy Artz, Senior Compliance Team Attorney, at (646) 428-3901 or alexander.artz@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: Stephanie Gold, Esq.
Joel Buckman, Esq.