

March 18, 2021

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

STUDENT TITLE IX COMPLAINT

Abraham Lincoln University (ALU) discriminated against my religion and unfairly prejudiced my course grade by disallowing the administration of my (b)(6); (b)(7)(A); (b)(7)(C) course's final exam.

BACKGROUND

On (b)(6); (b)(7)(A); (b)(7)(C) I emailed ALU's Student Services a (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) Student Services confirmed receipt. On (b)(6); (b)(7)(A); (b)(7)(C) I submitted an (b)(6); (b)(7)(A); (b)(7)(C) proctor request for my (b)(6); (b)(7)(A); (b)(7)(C)

On (b)(6); (b)(7)(A); (b)(7)(C) ALU's Proctor Team confirmed approval of my proctor request. I successfully took an (b)(6); (b)(7)(A); (b)(7)(C) proctored exam for (b)(6); (b)(7)(A); (b)(7)(C) I took (b)(6); (b)(7)(A); (b)(7)(C) whose final exam was scheduled for (b)(6); (b)(7)(A); (b)(7)(C). On (b)(6); (b)(7)(A); (b)(7)(C) I emailed a (b)(6); (b)(7)(A); (b)(7)(C) request to the ALU Proctor Team directly through the eLearn portal, which is a website used for students to access learning resources and participate in courses.

On (b)(6); (b)(7)(A); (b)(7)(C) I emailed the Proctor Team through my student email account, requesting to (b)(6); (b)(7)(A); (b)(7)(C) instead of the (b)(6); (b)(7)(A); (b)(7)(C) The

Proctor Team replied that all final exams must be proctored by ProctorU, stating the only exception is if I go through the “Request for Reasonable Accommodations” process.

On [REDACTED] I emailed the ALU Reasonable Accommodations team, requesting [REDACTED] for my final exam. Student Services replied that “Students who are unable to schedule their exam(s) with ProctorU and require additional accommodations must submit a Reasonable Accommodations Form” to the Reasonable Accommodations team. They attached the form.

On [REDACTED] I emailed the accommodations department, attaching the request form. On [REDACTED] the ALU Chief Academic Officer Robert Abel (CAO) emailed a response, asking that I update the form identifying a disability and supporting documentation. On

[REDACTED] I emailed the CAO stating that [REDACTED]

[REDACTED] I referred to my [REDACTED]

[REDACTED] and [REDACTED] for my [REDACTED]

Additionally, I informed the CAO that my computer’s operating system is incompatible with ProctorU’s software. I attached documents of my former proctor approval and my [REDACTED]. [REDACTED] The CAO replied stating he attempted to call me to discuss this matter, but could not reach me. He wanted to arrange a telephone appointment, stating he could not make a decision without documentation to support my request.

He needed it to “determine if it falls under an ADA accommodation.” On [REDACTED]

[REDACTED] I sent an email to the CAO, Student Services, and the Proctor Team, stating my compliance with the [REDACTED] communication per my request for a [REDACTED]. I attached the same documents as my [REDACTED] email and additional documents including a completed proctor request form.

On [REDACTED] the CAO replied restating his attempts to contact by phone and email and alleged my lack of response. He stated that the school's past policy permitted [REDACTED] but the policy changed on [REDACTED]. He claimed ALU sent me notification on [REDACTED]. He further stated that there was not communication from me about alternative options, except for an email on [REDACTED] which was after the policy change.

The CAO stated that my [REDACTED] did not apply to academic-related activities. He requested I respond to his email within 24 hours to arrange a time to discuss over the phone. I replied that I requested more time to contact him due to my studies. The CAO agreed and asked that I provide two dates for a prospective phone appointment.

On [REDACTED] I emailed the Chief Academic Officer, describing my dates of availability as [REDACTED] and [REDACTED]. On [REDACTED] the CAO agreed to an appointment on [REDACTED]. I confirmed. On [REDACTED] I emailed the CAO that my instructor was having a live session to go over key materials and requested the appointment be scheduled for [REDACTED]. The CAO agreed to the change.

On [REDACTED] I attended a telephone appointment with the CAO. I restated my position about ProctorU [REDACTED] and described that across the country students were petitioning against the privacy violations associated with online proctoring software. The CAO asserted that ProctorU did not invade student's privacy and professed its fitness. He stated that he would provide an exception if I provided documentation from a [REDACTED] stating ProctorU and the like [REDACTED].

He asked if I could provide a letter [REDACTED] by the end of the day or if he should make an extension request for me to take the exam later. I said if I could obtain the letter that day, I would email him. If not, I would let him know. After the phone call, I contacted my

(b)(6); (b)(7)(A); (b)(7)(C) Shortly, the CAO emailed stating that ProctorU does not put students at risk and that (b)(6); (b)(7)(A); (b)(7)(C) could be an issue later in my (b)(6); (b)(7)(A); (b)(7)(C).

He asserted that he formerly requested documentation to support my request to use a (b)(6); (b)(7)(A); (b)(7)(C). (b)(6); (b)(7)(A); (b)(7)(C) The CAO stipulated that if I did not provide the documentation that same day, I would be required to take my exam online through ProctorU. By email, I replied to the CAO that I contacted a (b)(6); (b)(7)(A); (b)(7)(C). The CAO replied stating that I would be required to take the exam through ProctorU until they receive documentation and make an exception.

On (b)(6); (b)(7)(A); (b)(7)(C) I attempted to take the final exam through ProctorU, but was barred access due to incompatible system requirements with my computer hardware. I emailed Chairman and Founder Hyung Park, asking for help to take my (b)(6); (b)(7)(A); (b)(7)(C)

(b)(6); (b)(7)(A); (b)(7)(C) final exam and attaching relevant documents of my attempts. On (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) I called Chairman Park and left a voicemail.

On (b)(6); (b)(7)(A); (b)(7)(C) I forwarded my email to Chairman Park to the Proctor Team, who forwarded it to the CAO and the current President of ALU Leslie Gargiulo. On the same day, Chairman Park called and I discussed my concerns with respect to being bullied and discriminated against by ALU staff. Chairman Park stated he retired and had no authority to intervene, but said he would contact the Chief Academic Officer and the current President Gargiulo for any possible resolution.

Later, I received an email from President Gargiulo informing me of her decision not to allow me to take my (b)(6); (b)(7)(A); (b)(7)(C) final exam. She had five key reasons:

- (1) My ADA accommodations request lack documentation to support it and was thus denied;
- (2) The CAO requested documentation to support my (b)(6); (b)(7)(A); (b)(7)(C) request due to my (b)(6); (b)(7)(A); (b)(7)(C) on three emails dated (b)(6); (b)(7)(A); (b)(7)(C)
- (3) The CAO offered to allow me to take a late exam, but I indicated I would provide documentation by the end of the day. He said I would be expected to take the exam via ProctorU and I did not respond to his statement;
- (4) Students are required to meet minimum technology requirements per the ALU catalog; and
- (5) Students using federal student aid are encouraged to use the funds to support their education, including securing needed technology.

GRIEVANCE COMPLAINT

There are four key issues in this Title IX grievance complaint:

1. Abraham Lincoln University's policy (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) Since (b)(6); (b)(7)(A); (b)(7)(C) ALU was put on notice that (b)(6); (b)(7)(A); (b)(7)(C) However, they made no further comment. ALU waited until I was in the middle of my (b)(6); (b)(7)(A); (b)(7)(C) academic year to change their testing policies. I was already enrolled in (b)(6); (b)(7)(A); (b)(7)(C) by the time of their alleged (b)(6); (b)(7)(A); (b)(7)(C) notice. ALU's (b)(6); (b)(7)(A); (b)(7)(C) program is (b)(6); (b)(7)(A); (b)(7)(C) meaning that (b)(6); (b)(7)(A); (b)(7)(C) Students do not (b)(6); (b)(7)(A); (b)(7)(C) the next year. ALU's notice was meaningless and threatening. If students didn't agree, they'd have to withdraw from their entire educational program. Knowing my religious

beliefs in advance, ALU had the opportunity to appreciate the impact their new policy would have on me.

2. Until (b)(6); (b)(7)(A); (b)(7)(C) Chief Academic Officer Robert Abel never explicitly told me I could provide documentation supporting my assertion that (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) All his email correspondences were vague and only referred to the American Disability Act (ADA) accommodation procedures. Religion does not fall within the scope of the American Disabilities Act.
3. Until (b)(6); (b)(7)(A); (b)(7)(C) Chief Academic Officer Robert Abel never offered me a late exam administration. During the (b)(6); (b)(7)(A); (b)(7)(C) telephone appointment, I never rejected his offer for a late exam. I said would try to obtain the supporting documentation by the end of the day, but if I could not, I would inform him. I did inform him that I contacted a (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) but I did not obtain the required documentation as of yet. As far as I knew, the Chief Academic Officer was going to permit me to take a late exam.
4. It cannot be assumed that students with financial aid can afford to purchase up-to-date computer hardware after living expenses. Currently, the entire global economy is struggling. President Leslie's narrow analysis was an abuse of discretion to justify ALU's discrimination against my religion.

As a student who (b)(6); (b)(7)(A); (b)(7)(C) at Abraham Lincoln University and as a graduate student who already dutifully earned her bachelor's degree at an accredited college, President Leslie Gargiulo and other authorized ALU staff had the opportunity to allow a student to take her exam, but they didn't.

DEMAND FOR RELIEF

I request to take my (b)(6); (b)(7)(A); (b)(7)(C) final exam without violating my right to freely exercise my religion.

Sincerely,

(b)(6); (b)(7)(A); (b)(7)(C)



Is UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION IX
CALIFORNIA

50 UNITED NATIONS PLAZA
MAIL BOX 1200, ROOM 1545
SAN FRANCISCO, CA 94102

January 22, 2024

President Leslie Gargiulo
Chairman Yung Park
Abraham Lincoln University
3000 South Robertson Boulevard
Los Angeles, CA 90034

By email only to: lgargiulo@alu.edu and hpark@alu.edu

Re: Abraham Lincoln University – OCR Case Number 09-21-2159

Dear President Gargiulo and Chairman Park:

On March 19, 2021, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Abraham Lincoln University (the University). The Complainant, (b)(6); (b)(7)(A); (b)(7)(C) alleges discrimination on the basis of race, color, and national origin/shared ancestry.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d-2000d-7, and its implementing regulations, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin under any program or activity receiving Federal financial assistance. The University receives funds from the Department and is therefore subject to Title VI and its implementing regulations.

OCR is opening the following legal issues for investigation:

1. Whether the University's use of the (b)(6); (b)(7)(A); (b)(7)(C) discriminates on the bases of national origin (including (b)(6); (b)(7)(A); (b)(7)(C)), race, and color in violation of Title VI because this (b)(6); (b)(7)(A); (b)(7)(C) (b)(6); (b)(7)(A); (b)(7)(C) and
2. Whether the University discriminated against the Complainant based on national origin (b)(6); (b)(7)(A); (b)(7)(C) race, and color in violation of Title VI by grading the Complainant more harshly and refusing to allow a professor to write the Complainant a

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

letter of recommendation after the Complainant (b)(6); (b)(7)(A); (b)(7)(C)
(b)(6); (b)(7)(A); (b)(7)(C)

Please note that opening these issues for investigation in no way implies that OCR has made a determination with regard to their merits. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the issues, in accordance with the provisions of Article III of OCR's Case Processing Manual (CPM) (July 18, 2022).

OCR is committed to resolving complaints as promptly as possible. OCR will contact you or your designated representative soon to discuss the allegations and the complaint resolution process. Complaint allegations may be resolved in a variety of ways, including through mediation under CPM subsection 201(b). Under that provision, if both parties are interested and if OCR determines that the individual allegations are appropriate for mediation, the parties may voluntarily resolve these complaint allegations through mediation that OCR will facilitate. Note that in such a case OCR does not monitor or enforce the agreement reached between the parties. Please inform OCR if you are interested in resolving this complaint through mediation.

OCR may close this complaint prior to making formal findings of compliance or non-compliance, provided that the circumstances or information gathered establishes an administrative or other basis for resolution in accordance with the CPM. OCR also would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

The regulations implementing Title VI, at 34 C.F.R. §§ 100.6(b) and (c), require that a recipient of federal financial assistance make available to OCR information that may be pertinent to reaching a compliance determination. This requirement is incorporated by reference in the Title IX regulations at 34 C.F.R. § 106.81. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii), of the regulations implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

To reach an efficient and timely resolution of this matter, OCR is providing you an opportunity to present the University's response to these allegations and to submit supporting documentation. OCR has also determined that the information itemized in the attached data request is necessary to investigate the allegation. Please provide the information described in the enclosed data request by February 15, 2024.

On receipt of this letter notifying the University that OCR has opened an investigation of the above-referenced allegations, please contact OCR senior attorney, Gloria Guinto, at gloria.guinto@ed.gov with the name, title, email, and telephone number of the person you designate to be OCR's primary point of contact for the investigation of this complaint.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against any 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.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

Your cooperation is appreciated. If you have any questions, please contact Ms. Guinto.

Sincerely,

(b)(6); (b)(7)(A); (b)(7)(C)

Sara Berman
Team Leader

Enclosures

U.S. Department of Education - Office for Civil Rights, San Francisco
Initial Data Request
Abraham Lincoln University
OCR Case No. 09-21-2159

OCR requests that this information reach our office by February 15, 2024. If any of the required items are available to the public on the Internet, you may provide the website address. While OCR prefers electronic submissions, you may send documents by any of the following means:

- SharePoint: OCR may create an external sharing site through a browser-based portal in which the requested documents and information may be uploaded. Please contact gloria.guinto@ed.gov to receive online portal information to upload data.
- Email: gloria.guinto@ed.gov
- Mail: U.S. Department of Education, Office for Civil Rights
50 United Nations Plaza
Mail Box 1200; Room 1545
San Francisco, CA 94102
- Fax: (415) 486-5570

Please do not provide the information via an electronic cloud format such as Google Docs. Please also do not include student social security numbers with any submission.

Because email is not reliably secure, please do not email any document that contains personally identifiable or private information without first encrypting this information. You may upload this information using the SharePoint option described above.

For purposes of this data request and all subsequent data requests, “document” means a piece of written, printed, photographic, electronic, videotaped, audiotaped, or other matter.

Please also note that this data request is of an ongoing nature, such that if documents relevant to this request are discovered or become available at a later time, we request that the recipient promptly provide such documents to OCR. OCR also requests that you provide any and all documents that are relevant to OCR’s review of this matter, regardless of whether OCR has specifically requested such documents.

Preservation of requested and relevant data and documents: To ensure that OCR can assess the recipient’s compliance with the statutory and regulatory obligations at issue in this investigation, please ensure that recipient employees preserve the data and documents requested below for the time-frame specified in these requests and going forward until OCR closes this complaint. Please also ensure that recipient employees preserve other data and documents that are relevant to the allegation(s) under investigation until OCR closes this complaint. The regulation implementing Title VI, at 34 C.F.R. §§ 100.6(b) and (c), requires that a recipient of federal financial assistance make available to OCR information that may be pertinent to reach a compliance determination.

Please provide the following information for the 2019-2020 and 2020-2021 academic years unless otherwise indicated:

1. A narrative response to the legal issues OCR is investigating.
2. A narrative description of the following:
 - a. Information and documents that applicants to the University's law school were required to submit as part of their application in the 2019-2020 and 2020-2021 academic years.
 - b. The law school's online platform for course instruction in those academic years, including a description of whether professors could see their students in class or otherwise had access to images of their students (e.g., through application materials and/or photos taken for University ID cards). Please also describe how professors interacted with students and students interacted with each other on the platform.
 - c. The law school's online platform in those academic years, including its name, if the law school still uses the platform, and the names of any other University programs that use it.
3. Explain why the law school stopped allowing students to use a live proctoring alternative to online-proctored exams in February 2021, how long that alternative had been in place, and whether the University has reinstated the alternative, and if so, when and on what grounds. If the University has not reinstated the live proctoring alternative, please explain the current practices that the law school uses to administer exams online to law school students, including any other alternatives and how students may request them and on what grounds.
4. Please report the number of law school students in each of the two academic years who a) requested a live proctoring alternative, b) received a live proctoring alternative, and c) were denied a live proctoring alternative. For each student who requested the alternative, please provide: 1) the name, 2) the race/color if known, 3) national origin (including shared ancestry) if known, 4) whether the student requested the alternative as an accommodation, and 5) if so, the University's basis for granting the accommodation (e.g., disability or religion).
5. The name, job title, phone number, and email address for the following:
 - a. The University employee or representative designated to be OCR's primary point of contact for the investigation and resolution of this complaint.
 - b. All staff involved in law school admissions and disenrollment decisions.
 - c. All staff who have access to an admitted student's application file, including any images.
 - d. The Complainant's professors/instructors from the 2020-2021 school year.
 - e. The University staff and or administrators involved in procuring the facial-recognition software the University used to proctor the law school's online exams in 2019-2020, 2020-2021, and the current academic year if the University still uses the software.
 - f. The names of the individuals who responded to requests for technical assistance from law school professors and students who had issues using the facial-recognition software.
6. A copy of the University's policies and procedures regarding:

- a. Discrimination on the basis of race, color, and national origin.
 - b. Proctoring law school exams.
 - c. The use of online exam proctoring and live exam proctoring alternatives. Please also include administrative, faculty and student guidance.
 - d. Law school professors writing letters of recommendation for their students.
7. A copy of the University's current and past contract(s) with the online facial recognition software.
8. A copy of the Complainant's application and any supplemental information, photographs or documents submitted by the Complainant as part of her application.
9. A copy of the Complainant's transcript for her time enrolled in the law school.
10. A copy of all correspondence among University or law school staff, including professors, regarding the Complainant and between University or law school staff and the Complainant relevant to the allegations in this complaint, including but not limited to correspondence related to the Complainant's requests to use a live proctor alternative, the Complainant's requests for a letter of recommendation, the Complainant's grades, or the Complainant's status in the law school. Please include a copy of any supplemental information the Complainant provided such as photographs, videos, or other records.
11. A copy of documents related to any formal or informal complaint the University has received regarding the facial recognition software from the 2019-2020 school year to the present.
12. Any additional information that that the University believes will assist OCR in the investigation and resolution of this complaint.