



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

Renaissance Tower
1201 Elm Street, Suite 1000
Dallas, TX 75270

REGION VI
LOUISIANA
MISSISSIPPI
TEXAS

December 5, 2023

VIA EMAIL ONLY

Michael S. Fitts
President
Tulane University
Gibson Hall 218 – 6823 St. Charles Avenue
New Orleans, LA 70118

Re: OCR Complaint No. 06242076

Dear President Fitts:

This letter is to notify you that the U.S. Department of Education, Office for Civil Rights (OCR), is opening for investigation the above-referenced complaint filed against Tulane University (University). The Complainant alleges that the University discriminated against students on the basis of national origin (shared Jewish ancestry) by failing to respond to incidents of harassment during the Fall 2023 semester.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color, or national origin, including shared ancestry, in any program or activity receiving federal financial assistance from the U.S. Department of Education. Because the University receives federal financial assistance from the U.S. Department of Education, OCR has jurisdiction over it pursuant to Title VI.

OCR is opening the following issue for investigation:

Whether the University failed to respond to alleged harassment of students on the basis of their national origin (shared Jewish ancestry) in a manner consistent with the requirements of Title VI.

Please note that opening an investigation in no way implies that OCR has made a determination on the merits of the complaint. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the Complainant, the University, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and fully responds to the allegation in accordance with the provisions of the *Case Processing Manual*.

Our goal is the prompt, appropriate resolution of the complaint. While we are proceeding with an investigation, there are other approaches that can achieve this goal. In particular, please note the

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

section on resolution of a complaint prior to the conclusion of an investigation. If the University expresses an interest in resolving the complaint and OCR determines that resolution of the complaint prior to the completion of the investigation is appropriate, OCR may attempt to negotiate an agreement with the University pursuant to Section 302 of the *Case Processing Manual*.

Attached is a request for data necessary to investigate this complaint. The Department's regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6(c) gives OCR the authority to request this information. Please note that OCR has the right of access to records that are necessary for OCR's investigation, even if those records contain names or other personally identifiable information. *See* 20 U.S.C. §§ 1232g(b)(1) and 1232g(b)(3) regarding the applicable provisions of the Family Educational Rights and Privacy Act; *see also* 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii).

OCR requests that the University submit this information within 21 calendar days of the date of this letter (i.e., by **December 26, 2023**). We prefer that you submit information electronically, if feasible. If any item in our request is unclear, or if you experience any difficulty complying with this request, please contact us at the telephone number(s) provided below prior to the expiration of the 21-day period. Please be aware that OCR may need to make additional requests for information in the future. If OCR needs to conduct an on-site investigation, we will notify you in advance.

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.

We look forward to your cooperation during the resolution of this complaint. If you have any questions, please contact Samire Elhouty, the assigned Lead Attorney, at samire.elhouty@ed.gov or (202) 987-1525.

Sincerely,

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

Paul Coxe
Supervisory Attorney/Team Leader

Tulane University
OCR Complaint No. 06242076
Data Request

Please submit the following information to Samire Elhouty at samire.elhouty@ed.gov within 21 calendar days of the date of this letter (i.e., by **December 26, 2023**). We prefer that you submit information electronically, if feasible. If you are sending a large electronic file, please contact OCR for directions on how to upload the file to OCR's secure file-sharing platform. Additionally, if any of the information is available online, you may provide the URL in lieu of hard copy documents. Please note that OCR is not requesting, and the University should not provide, any social security numbers in response to this data request. If any item in our request is unclear, or if you experience any difficulty complying with this request, please contact us prior to the expiration of the 21-day period. Please be aware that OCR may need to make additional requests for information in the future. If OCR needs to conduct an on-site investigation, we will notify you in advance.

Preservation of requested and relevant data and documents: OCR may request supplemental data and documents that are relevant to the allegation(s) under investigation. 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 any timeframe specified in these requests and going forward until OCR closes this case. Please also ensure that recipient employees preserve other data and documents that are relevant to the allegation(s) under investigation until OCR closes this case.

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 data by **December 26, 2023**:

1. The name, title, and contact information of the University's:
 - a. Contact person for this complaint;
 - b. Person authorized to resolve this complaint;
 - c. Person responsible for responding to Title VI complaints; and
 - d. Person responsible for handling complaints of harassment and/or discrimination on the basis of national origin, including shared Jewish ancestry, at each level of the process.

2. A copy of the University's policies and procedures and a description of the University's practices governing the investigation of complaints of harassment and/or discrimination on the basis of national origin, including shared Jewish ancestry. Include a detailed description of the complaint process, including each level of the process, the length of the process, and the types of records maintained.

3. All formal and informal reports/complaints, including records of oral reports/complaints, regarding the following during the 2023-2024 academic year:
 - a. antisemitic slogans at student rallies;
 - b. assault(s) at student rallies; and
 - c. flag burning or attempted flag burnings at student rallies.
4. All formal and informal reports/complaints, including records of oral reports/complaints, concerning alleged harassment and/or discrimination based on shared Jewish ancestry. The University's response should include information for the 2022-2023 and 2023-2024 academic years.
5. For each report/complaint in response to Items 3 and 4 provide the following:
 - a. the name(s) and title(s) of the individual(s) to whom the complaint/report was made, the date of the complaint/report, and the date of the incident;
 - b. a detailed description of the complaint processing procedures employed to resolve the report/complaint;
 - c. the length of the investigative process;
 - d. the name(s) and title(s) of the individual(s) involved in the handling of the report/complaint;
 - e. all actions the University took in response to the report/complaint;
 - f. the University's final determination regarding the report/complaint;
 - g. any corrective action taken, including discipline and/or supportive measures; and
 - h. any notice of the findings provided to the complainant.
6. All documentation related to any and/or all complaints/reports identified in response to Item 3 and 4 including but not limited to correspondence, internal and external memoranda, investigative reports, witness statements, logs, forms, meeting minutes, personnel file documents, disciplinary documents, supportive measures provided, and notes generated for each complaint.
7. For the rallies concerning Palestine and Israel that took place on October 24, 2023, please describe all advertising of the event and provide OCR with copies of the advertising and links to promotional materials online. Please state whether the University's name and logo appeared on any promotional materials, and whether the events were sponsored by any program or department at the University, identifying the specific program or department that provided sponsorship.
8. State whether any of the following student groups are affiliated with the University:
 - a. Tulane Students for Palestine;
 - b. Jewish Voices for Peace New Orleans;
 - c. Abolish Tulane University Police Department;
 - d. Cops off Campus;
 - e. Students Organizing Against Racism; and

