

HIGHER EDUCATION INFORMATION MEMO

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OCR Resolves Title VI Complaints Against Two High-Profile Universities

Recent resolution agreements between the U.S. Department of Education's Office for Civil Rights (OCR) and the University of Michigan (U-M) and the City University of New York (CUNY) offer valuable lessons for colleges and universities nationwide. These agreements, addressing complaints of discrimination based on shared Jewish, Israeli, Palestinian, Arab, Muslim, and/or South Asian ancestry and/or the association with these national origins/ancestries, reflect OCR's evolving standards for compliance with Title VI of the Civil Rights Act of 1964. Higher education institutions should heed these lessons to avoid and/or neutralize regulatory scrutiny.

OCR's investigations into U-M and CUNY revealed purported deficiencies in how these institutions handled discrimination complaints. According to OCR, both universities failed to conduct adequate investigations and assess whether incidents created hostile environments for students.

In response, U-M and CUNY entered into resolution agreements that require them to develop comprehensive investigation protocols, establish clear procedures for handling discrimination complaints and ensure thorough investigations and documentation. Regular staff training on discrimination cases and Title VI obligations is also required.

A significant issue identified by OCR was the premature classification of certain incidents as free speech rather than harassment. At U-M, some complaints involving antisemitic remarks were dismissed as protected speech. OCR's response underscores the need for clear policies distinguishing between protected speech and harassment. Institutions must also assess the context and impact of provocative speech, as even otherwise protected speech can create a hostile environment if it targets individuals based on race, ethnicity, or national origin.

OCR also endorsed proactive campus climate assessments. Under the resolution agreements, U-M and CUNY are required to evaluate the prevalence of discrimination and harassment on their campuses. The goal is to use survey data to inform policies and interventions, then share the results with the campus community in an effort to foster transparency and trust.

Training and awareness programs for employees, including campus security, are also emphasized in the resolution agreements. Mandatory training sessions on Title VI obligations and specialized training for those investigating complaints can ensure a more informed response. Continuous education on diversity, equity and inclusion is aimed at supporting a positive campus environment.

Consistency and transparency in procedures are critical. OCR criticized U-M and CUNY for inconsistent application of policies, leading to differential treatment of students. Transparency in handling complaints, including clear timelines and communication with complainants, should be employed in an effort to build trust and accountability.

These resolution agreements highlight the need for many higher education institutions to enhance Title VI compliance. By adopting robust complaint handling mechanisms, distinguishing free speech from harassment, conducting proactive campus climate assessments, implementing comprehensive training programs and ensuring consistent and transparent procedures, institutions can foster a non-discriminatory environment and create bulwarks against OCR scrutiny.

Despite a storm of other compliance obligations, institutions must not lose sight of Title VI, which should be integrated into the overall focus on clear and responsive reporting, investigation and response mechanisms, similar to what is required by recent Title IX regulations. Bond is ready to help clients navigate these significant challenges.

If you have any questions about this information memo please contact [Seth F. Gilbertson](#), any attorney in our [higher education practice](#) group, or the attorney at the firm with whom you are regularly in contact.

