



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

July 18, 2023

William E. Trachman, General Counsel
Mountain States Legal Foundation
2596 South Lewis Way
Lakewood, CO 80027

By email only to: wtrachman@mslegal.org

Re: University of California, Berkeley
OCR Case No. 09-23-2397

Dear William Trachman:

On June 20, 2023, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received your complaint against the University of California, Berkeley (University). Your complaint alleges discrimination on the basis of race, color, or national origin. OCR currently understands your allegation to be:

The University discriminates on the basis of race, color, or national origin by organizing the University's 2023 Black Graduation, which excludes or limits participation for graduating students who do not identify as Black, African, or African American.

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

OCR is opening the allegation/legal issue described above for investigation because OCR has determined that it has jurisdiction, that the allegation was timely filed, and that it is appropriate for investigation under the laws and regulations enforced by OCR.

Please note that opening the allegation for investigation in no way implies that OCR has made a determination with regard to its 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 allegation, in accordance with the provisions of Article III of OCR's *Case*

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

Processing Manual (CPM)¹. Additionally, a copy of OCR’s Case Processing Procedures is available at <https://www2.ed.gov/about/offices/list/ocr/docs/complaints-how.pdf>.

OCR is committed to resolving complaints as promptly as possible. OCR will contact you or your designated representative, as needed, to discuss the allegation 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.

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. If this happens, the individual may file a separate retaliation complaint with 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.

If you have any questions about this letter, please contact me at (415) 486-5404 or at Anamaria.Loya@ed.gov.

Sincerely,



Anamaria Loya
Chief Regional Attorney
San Francisco Enforcement Office

Cc: Claire Walker, Legal Fellow, cwalker@mslegal.org

¹ *Case Processing Manual* (Jul. 18, 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.