



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

9TH FLOOR, 5 POST OFFICE SQUARE
BOSTON, MA 02109-3921

REGION I

CONNECTICUT
MAINE
MASSACHUSETTS
NEW HAMPSHIRE
RHODE ISLAND
VERMONT

July 8, 2024

President Christina Paxson
Brown University
By email: president@brown.edu

**Re: Complaint No. 01-24-2116
Brown University**

Dear President Paxson:

This letter is to advise you of the outcome of the U.S. Department of Education, Office for Civil Rights (OCR) investigation of a complaint that alleged that Brown University (the University) discriminated against students on the basis of their national origin (shared Jewish ancestry) when it failed to respond appropriately to incidents of harassment during October and November 2023.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin, including shared ancestry or ethnic characteristics, under any program or activity that receives Federal financial assistance from the Department. As a recipient of Federal financial assistance from the U.S. Department of Education, the University is subject to these laws and regulations.

On January 9, 2024, OCR opened an investigation into whether the University failed to respond to alleged harassment of students based on national origin (shared Jewish ancestry) in a manner consistent with the requirements of Title VI. OCR reviewed records and information provided by the Complainant, the University, and publicly available information. These materials also reflected incidents of alleged harassment of students based on national origin on other bases, specifically shared Palestinian, Arab and/or Muslim ancestry. OCR also reviewed publicly available information about the University's response to student protests leading to arrests.

After providing OCR with information and records responsive to OCR's data request, the University requested to resolve this complaint with a Resolution Agreement (Agreement) prior to OCR completing its investigation. The University represented that doing so would build upon comprehensive reforms the University has taken to comport with and enhance its Title VI compliance. Specifically, the University represented that it has developed and begun implementing changes to its Title VI organizational structures, reporting processes, and resources, to support the following "key priorities":

- (1) protecting the safety of its community, in particular supporting the needs and safety of its students, faculty, and staff who are Israeli, Palestinian, Muslim, Jewish, have ties to the region, and are feeling impacted by current events;
- (2) fostering welcoming, open, and respectful learning and living environments free of discrimination and harassment;

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

(3) providing care and empathy to affected members of the Brown community; and (4) taking the strongest possible stance against any form of discrimination and harassment including, but not limited to, antisemitism, Islamophobia, or other unlawful discrimination based on actual or perceived shared ancestry or ethnic characteristics or citizenship or residency in a country with a dominant religion or distinct religious identity.

Based on OCR's review of publicly available information and the University's responses to OCR's data requests to date, OCR recognizes important Title VI compliance steps the University has taken during the course of this investigation and in addition has identified Title VI compliance concerns that warrant resolution of this investigation through the resolution agreement the University signed, consistent with Section 302 of OCR's Complaint Processing Manual.

LEGAL STANDARDS

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies.

Title VI's protection from national origin discrimination extends to students who experience discrimination, including harassment, based on their actual or perceived shared ancestry or ethnic characteristics, such as students of Jewish, Palestinian, Muslim, Arab, and/or South Asian descent, or citizenship or residency in a country with a dominant religion or distinct religious identity, or their association with this national origin/ancestry. The existence of a hostile environment based on national origin that is created, encouraged, accepted, tolerated, or left uncorrected by a recipient constitutes discrimination on the basis of national origin in violation of Title VI.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on race, color, or national origin existed; (2) the recipient had actual or constructive notice of the hostile environment; and (3) the recipient failed to take prompt and effective action to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a recipient's education program or activity. Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment may also be based on association with others of a different race (the harassment might be referencing the race of a sibling or parent, for example, that is different from the race of the person being harassed whose access to the school's program is limited or denied).

The harassment must in most cases consist of more than casual or isolated incidents based on national origin to establish a Title VI violation. Whether harassing conduct creates a hostile

environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the harassment, as well as the identity, number, and relationships of the persons involved. If OCR determines that the harassment was sufficiently severe or pervasive that it would have limited the ability of a reasonable person, of the same age and national origin as the victim, under the same circumstances, from participating in or benefitting from some aspect of the recipient's education program or activity, OCR will find that a hostile environment existed.

A recipient may be found to have violated Title VI if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a hostile environment based on national origin harassment of which it has actual or constructive notice. A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

A recipient violates Title VI if one of its agents, acting within the scope of their official duties, has treated an individual differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to deny or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient. If the alleged harasser is an agent or employee of a recipient, acting within the scope of their official duties, then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment.

Once a recipient has actual or constructive notice of a 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. The appropriate response to a hostile environment based on national origin must be tailored to redress fully the specific problems experienced as a result of the harassment.

SUMMARY OF INFORMATION

Policies and Procedures

Unless noted otherwise, the following discussion reflects the content of the University's policies and procedures at all times relevant to this investigation.

Nondiscrimination and Anti-Harassment Policy

The University's Nondiscrimination and Anti-Harassment Policy (Policy) states that the University "prohibits Discrimination, Harassment, or Retaliation against individuals who report Discrimination or Harassment." It covers acts committed by or against Covered Persons (i.e., students, employees, applicants, visitors, guests, third parties contractually obligated to perform services for the University, and appointees in the University's Division of Biology and Medicine) when those acts occur on University premises, in the context of a "University employment, education, or research program or activity," or outside that context if the conduct

“has an adverse effect on any Brown University employment, education, or research program or activity.”

The Policy defines “Discrimination” as “unequal treatment of someone because of their Protected Class category. . . . when it results in an adverse action or negatively impacts the terms and conditions of an individual’s employment, education, or denies or limits participation in programs, services, or activities.” It defines “Harassment” as “conduct that is based upon an individual’s Protected Class” that “is sufficiently severe or pervasive to create a working/educational/living environment that a reasonable person would consider intimidating, hostile, abusive or offensive,” which “may include, but is not limited to, offensive jokes, slurs, epithets, physical assault or threats, intimidation, ridicule or mockery, offensive objects or images, or interference with work performance.” The Policy defines “Protected Class” to include “race, color, [or] . . . national or ethnic origin,” amongst other protected classes.

On November 29, 2023, the University revised the Policy to clarify that “national or ethnic origin” “include[es] actual or perceived shared ancestry or ethnic characteristics or citizenship or residency in a country with a dominant religion or distinct religious identity (including, but not limited to, individuals who are or are perceived to be Jewish, Muslim, Sikh, Hindu, Christian, Buddhist, Israeli, Arab, or Palestinian, or who come from or are perceived to come from other regions of the world or are members of another religious group).”

The Policy specifies that “[a]ll employees designated as managers or supervisors in a management position, Vice Presidents, Deans, and Department Chairs and professional staff working in the Office of Student Conduct and Community Standards [OSCCS] and University Human Resources [HR] have a duty to promptly report incidents or knowledge of Discrimination or Harassment to” the University’s Office of Equity Compliance and Reporting (OECR); all other members of the campus community are encouraged to do so. The Policy prohibits retaliation against individuals who report Discrimination or Harassment, but this prohibition does not extend to individuals who participate in proceedings related to such a report.

At all relevant times, the Policy stated that “[a]ll individuals to whom this policy applies are responsible for becoming familiar with and following this [P]olicy and the Discrimination and Harassment Complaint Resolution Standard Operating Procedures.”

Discrimination and Harassment Complaint Resolution Standard Operating Procedures

Prior to December 7, 2023, the University’s Discrimination and Harassment Complaint Resolution Standard Operating Procedures (Procedures) stated that alleged violations of the Policy by students would be evaluated by OSCCS pursuant to procedures outlined in the Code of Student Conduct, whereas alleged violations by faculty or staff would be evaluated by the University’s Office of Institutional Equity and Diversity (OIED) pursuant to a process outlined in the Procedures. On December 7, 2023, the University revised the Procedures to state that OIED would evaluate all alleged violations of the Policy by students, faculty, or staff pursuant to the Procedures. On February 2, 2024, the University revised the Procedures again to state that the newly created OECR, housed within the Division of Campus Life, would conduct activities previously handled by OIED pursuant to the Procedures. The procedures specify an email

address and telephone number to contact OECR, but the current OECR website and Division of Campus Life organizational chart indicates that a director of OECR has not yet been designated.

The Procedures state that all individuals seeking to report an alleged violation of the Policy must complete a Bias, Discrimination and Harassment Incident Reporting Form (Form). However, the Form states that “[i]f you prefer to immediately submit a formal complaint of discrimination or harassment,” you may do so by contacting OECR by telephone or email, implying that submission of the Form is not mandatory. Both the Procedures and Form state that the Form aids in the preliminary review of the allegation but does not constitute a “formal complaint.” The Form, which is linked in the Procedures and which in turn links to the Policy but not the Procedures, requires users to specify certain information, including the date and location of the incident, any Protected Classes that were the basis for the incident (as defined in the Policy, with the opportunity to select any of the particular shared ancestry designations identified in the Policy since its revision on November 29, 2023), a description of the incident, and a desired outcome. The Form states that additional information, including the reporter’s identity and contact information, are not required, but not providing such information “may limit the University’s ability to address your concern.” Both the Form and Procedures state that “the reporting party can expect an outreach of support from the appropriate office if contact information is included,” and the Procedures note that OECR will likewise offer resources, support options, and the option to meet with OECR to the allegedly harmed individual identified in the Form.

The Procedures provide that, upon receipt of the Form, OECR will initially determine if the Form concerns a “faculty matter[]” that “involves a question of academic freedom,” in which case “the relevant dean will be notified and will guide the initial assessment.” The Procedures do not provide further information regarding how the dean will guide this assessment. In all other cases, OECR will determine (1) whether the respondent is a Covered Person under the Policy and (2) whether the allegations, if substantiated, would violate the Policy. If OECR determines that the answer to either question is “no,” OECR will refer the Form to other specified University employees or entities depending on whether the allegedly harmed individual is a member of faculty, staff, or a student. The Procedures do not specify what, if any, action the University will take if the allegations, if substantiated, would violate the Policy, but the respondent is not a Covered Person, i.e., an individual not subject to the University’s disciplinary authority.

The Procedures state that, “if the Complainant decides to proceed with the informal resolution or formal investigation process, the Complainant may use [the] Form as their formal complaint or submit a separate written formal complaint.” The Procedures were revised on February 2, 2024 to clarify that the only individuals who may serve as the complainant for a formal complaint are “the person to whom the alleged Discrimination, Harassment, or Retaliation was directed” or, if this individual does not wish to file a formal complaint and the University has actual or constructive notice of a potential hostile environment or potential discriminatory conduct in violation of the Policy,” OECR itself. The Procedures state that the University “may” proceed as the complainant in this circumstance, but they do not otherwise specify the factors that OECR will consider in making this determination.

Upon the filing of a formal complaint, the Procedures specify the steps that OECR will take to resolve the complaint, either through an investigation or an informal resolution, if both parties

and OECR agree that an informal resolution is appropriate. The Procedures do not specify how OECR will determine whether an informal resolution is appropriate. The Procedures note the availability of supportive measures and the steps that will be taken as part of an investigation (including, but not limited to, the investigator’s ability to “conduct interviews with and request relevant documents, emails, text messages, or other records from the Complainant, Respondent, witnesses, or any other individuals or office”).

At the conclusion of the investigation, the Procedures specify that OECR will issue a letter to the Respondent – as well as OSCCS for students, the relevant senior officer for staff, and the relevant dean for faculty – specifying OECR’s determination regarding whether the Respondent violated the Policy and, if so, a recommended range of discipline for OSCCS, the senior officer, or the dean to consider in consultation with OECR. The Procedures do not specify how the respondent is notified of the final discipline determination. While the Procedures state that the Complainant “will receive written notice of actions taken in response to their formal complaint, including consequences imposed on a Respondent,” it does not state whether the Complainant will be notified of whether the University determined that the allegations were substantiated or that the Policy had been violated.

While the Procedures specify timeframes for major stages of the formal complaint resolution process from filing of the complaint through acknowledgement of the University’s receipt of an appeal, with a stated goal of completing the formal investigation process within an average of sixty days, the University’s policies and procedures do not include timeframes for the University’s actions (1) from notice of a potential Policy violation to the filing of a formal complaint, (2) from OSCCS’s, the relevant senior officer’s, or the relevant dean’s receipt of OECR’s discipline recommendation to the issuance of sanctions, or (3) following the University’s acknowledgement of receipt of an appeal. Lastly, in contrast to the Policy, the Procedures do not include a prohibition on retaliation, and they do not state that, upon a finding of discrimination, the University will take all necessary steps to prevent recurrence and remedy discriminatory effects.

Code of Student Conduct and Related Procedures

As noted above, the Procedures stated that the Code of Student Conduct (Code) governed violations of the Policy prior to December 7, 2023. The Code, in effect prior to December 7, 2023 and after that date, does not reference the Policy, Procedures, or discrimination generally. It does prohibit “harassment,” which it defines as “[s]ubjecting another person or group to uninvited or unwelcome behaviors that are abusive, threatening, intimidating, or humiliating,” including when it is “based on race, color, . . . [or] national or ethnic origin,” amongst other protected classes. The Code states that “[w]hether the alleged conduct constitutes harassment depends on the totality of the particular circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved.” The Code further states that the process for investigating and resolving alleged violations of the Code is outlined in the University’s Student Conduct Procedures and Student Conduct Procedures for Student Groups.

Other Relevant Policies and Guidance

On December 6, 2023, the University created a “Managing Online and Social Media Harassment” website to provide members of the University community guidance on how to respond to online harassment, including but not limited to “trolling, cyberbullying or doxing,” and how the University can support individuals who are subjected to such treatment.

On March 19, 2024, the University created a website entitled “Reporting hateful or harassing content in Sidechat” to provide members of the University community guidance on how to respond to “abusive, hateful and harassing content posted anonymously to th[at] social media platform,” and how the University can support individuals who are subjected to such treatment, including through the provision of “counseling and support resources for students, faculty and staff.” The website notes that “online behaviors continue to be subject to the [Code] and can be reported through Brown’s regular mechanisms for reporting incidents that violate community standards of behavior,” though it does not expressly reference the Policy or Procedures.

The University adopted a Protest and Demonstration Policy on April 2, 2024, which outlines time, place, and manner regulations for protests and demonstrations at the University. The policy states that “[f]ailure to comply with this and related policies is subject to disciplinary action, up to and including suspension without pay, or termination of employment or association with the University, in accordance with applicable (e.g., staff, faculty, student) disciplinary procedures.”

University’s Response(s) to Reports of Discrimination and Student Protests

The record reflects that on October 10, 2023, the University President issued a statement condemning the October 7, 2023 “horrific and devastating terrorist attacks by Hamas on Israel and the tragic loss of life that has ensued — including and especially the impact on civilians in both Israel and Gaza.” The President also stated that “the conflict will bring to the forefront deeply held and often conflicting views about the best ways forward,” and her hope that the University community engage “in a way that reflects Brown’s values and our academic mission — with empathy, compassion, and a commitment to advancing knowledge and understanding.” The President closed the message by encouraging University members to join together in “community, reflection, and prayer” at various events planned, including an event hosted by Brown RISD [Rhode Island School of Design] Hillel and Rohr Chabad.

The subsequent weeks and months marked what the University has characterized as a time of “anxiety, tension, debate, and fear prompted by the devastating events in the Middle East,” during which University stakeholders reported dozens of allegations of shared ancestry discrimination; and the University twice called police to arrest students who staged a sit-in protest at a University building, once in November 2023 and again in December 2023.

Below are summaries and examples of incidents that occurred at the University since October 2023, the University’s responses to those specific incidents, and actions taken by the University to address the concerns it identified following these incidents.

Reports of Shared Ancestry Discrimination

The University provided OCR with a tracking chart of all reports from October 2023 through late March 2024 alleging national origin discrimination as to shared Jewish ancestry and shared Palestinian, Arab, and/or Muslim ancestry, which indicates a broad range of alleged discriminatory conduct, including verbal harassment, different treatment, physical assault, and threats of serious physical harm and outright murder. This tracking chart identified around 75 reports, nearly all of which were submitted through the Form but also included reports made via email or referred through DPS or other means.

Of these reports, 45 were raised by undergraduate students, four by graduate students, eight by staff, 12 by third parties (e.g., parents, alumni) or anonymously, and four were raised by the Department for Public Safety (DPS) or the University’s administrator on call. The remainder consisted of mass emails by students and others. Through January 2024, these reports were processed by various University entities or affiliates, including: OIED, OSCCS, Student Affairs Office (SAO), Brown Center for Students of Color (BCSC), HR, DPS, and the Providence Police Department. As noted above, effective February 1, 2024, all compliance, reporting, support services, and investigative functions relating to discrimination and harassment under Title VI were centralized in the newly created OECR.

The University represented to OCR that whenever OIED and OECR outreached to reporting parties (whether student or employee), they sent standard information, copies of which were provided to OCR, that acknowledges receipt of a report of harassment or discrimination, provides contact information for various support services (including confidential resources), and requests a meeting to discuss further.

Listed below are illustrative examples of these reports.

Allegations of Discrimination by Peers

- In [redacted content] 2023, a Jewish student reported that a classmate [redacted content] pushed the Jewish student [redacted content]. OSCCS investigated the allegation but determined that there was insufficient evidence it occurred and did not charge the other student.
- In [redacted content] 2023, a Jewish student [redacted content] several students shouting “Free Palestine” and “From the river to the sea.” OSCCS discussed response options with the reporting student, [redacted content]. OSCCS appears to have honored and taken these steps within one week.
- In [redacted content] 2023, a student alleged that they were [redacted content] because of their identity as a Muslim, Arab, or Palestinian student. BCSC outreached to the reporting student, without response; however, the University reported that it worked with [redacted content]. The reporting student [redacted content] reported feeling supported.

- There were two incidents where Jewish students agreed to meet with OIED upon reporting generalized concerns, and then “shared their experiences on campus,” without further information about whether additional allegations of potential discrimination were raised or the University’s response. Both students noted that they had found other supports and resources.
- In [redacted content] 2023, a Jewish student reported that when engaging with students at a [redacted content] started yelling at [redacted content] (“From the river to the sea,” “Zionist pig Jew”). OIED contacted the reporting student, who did not wish to initiate a resolution process at the time because they wished to remain anonymous. Two months later, OIED again contacted the reporting student offering options to file a formal complaint, or if they wished to remain anonymous, to allow OIED to share a broad overview of allegations with [redacted content]. The reporting party did not respond. The University noted that [redacted content] confirmed the [redacted content] at the time of the alleged incident. There is no information indicating how the University reconciled this information with the allegation, such as assessing whether the reporting party simply made a mistake as to the date or time; whether [redacted content] were responsible for the harassment; or whether the allegation was fabricated.
- In [redacted content] 2023, a Jewish University student reported that members of a student group [redacted content] selectively blocked the reporting student from accessing a rally [redacted content]. OIED reached out to the reporting student twice, but they did not respond, and it is unclear if further action was taken.
- In [redacted content] 2023, a Palestinian University student [redacted content] alleged that they were aggressively accosted [redacted content]. The University noted that OIED reached out to the reporting student twice, but that they did not respond, and it is unclear if further action was taken.
- In [redacted content] 2024, a Jewish University student raised multiple allegations, including that another classmate had engaged in multiple instances of antisemitic and anti-Israel incidents on campus, including but not limited to [redacted content]. OIED contacted the student, who responded that they did not need to meet, and it is unclear if further action was taken.
- In [redacted content] 2024, a student alleged that [redacted content] berated [redacted content] for [redacted content] Palestinian-American identity, [redacted content]. The reporting student also discussed how other students made [redacted content] comments towards [redacted content]. The University noted that OIED reached out to the reporting student twice, and that the student eventually responded that they had found other resources on campus.
- Nine alleged incidents of harassment on the Sidechat platform were reported between November 2023 and February 2024, including a November incident where a student alleged that unknown person(s) on Sidechat “wished death upon a pro-Israel student” and another student alleged that unknown person(s) [redacted content]. In most

incidents, the reporting students did not respond to OIED’s outreach. The University noted that it subsequently created and circulated guidelines on harassment on social media (December 2023) and specifically Sidechat (March 2024), as discussed above.

- A number of reports were referred to and/or processed by SAO about a student group [redacted content] for the contents of chalking/graffiti (one of which was “from the river to the sea, not in our names, Free Palestine”); screening a movie and inviting a speaker that were allegedly antisemitic; and stating in a poster that it held Israel and its allies “unequivocally responsible for all suffering and loss of life, both Israeli and Palestinian.” SAO responded by meeting with the student group to discuss chalking guidelines and sharing the reporting students’ concerns. The University reported that SAO also offered the reporting students supportive resources.

Allegations of Discrimination by Staff or Faculty

- In [redacted content] 2023, a staff member reported to OIED that [redacted content] threatened [redacted content] for advocating for Palestinian human rights [redacted content]. The University noted that HR [redacted content] addressed these allegations with the reporting staff member.
- In [redacted content] 2024, a Jewish student alleged that [redacted content] professor helped [redacted content] due to disagreements [redacted content] relating to the Middle East conflict, but then [redacted content] gave [redacted content] a low grade. OECR outreached to the student, [redacted content]. OECR referred the matter to the relevant dean. The University did not provide additional information about what happened following that referral.
- In [redacted content] 2023 and [redacted] 2024, [redacted content] students [redacted content] alleged that a professor created an openly hostile, antisemitic classroom environment. OECR opened a discrimination and harassment investigation [redacted comment].

Allegations of Discrimination by Third Parties or Unknown Parties

- In [redacted content] 2023, there were multiple reports that a swastika was carved into a bathroom stall. The University reports that it promptly removed it and that OIED within one day reached out to the individuals who made the reports to acknowledge receipt and offer to meet with them.
- In [redacted content] 2023, a University student reported that a speaker [redacted content], threatened [redacted content] the reporting student. Information provided to OCR by the University suggests that this threat may have been made against the student based on their perceived association with Palestinian students. The University reported that OSCCS, OIED, and others met with the reporting party and offered support and safety resources. The University told the reporting student that [redacted content]. The University reported [redacted content] and offered to connect the

reporting student to law enforcement, and a University administrator spoke to [redacted content] about the speaker’s behavior and impact on the reporting party.

- That week, multiple students (nearly 100 via email) raised concerns with this speaking event and how [redacted content] the speaker made Palestinian University students and those who support them feel unsafe.
- In February 2024, an unidentified person emailed violent threats to Brown-RISD Hillel leaders. According to public information, the University President and RISD President sent an email to University students and RISD students the next morning referencing the incident and expressing their “hope... that... each of us in the Brown and RISD communities renews our commitment to eschew all forms of hatred and work toward mutual understanding.” The matter was being addressed by the Providence Police Department.

Student Protests and Arrests

According to publicly available information, University students engaged in multiple protests, including protests demanding that the University divest from “any company that profits from the Israeli occupation of Palestinian land.” These protests included sit-ins in November 2023 and December 2023 at University Hall, which houses the University’s senior administration.

The November 8, 2023, sit-in, organized by “Jews for Ceasefire Now,” led to 20 arrests. DPS arrested these University students for trespassing after the building’s closing time. A University spokesperson stated: “After offering students every opportunity for a different outcome, Brown issued multiple trespass warnings and ultimately moved forward in arresting approximately 20 (students) who refused to leave a campus building where their presence after operating hours posed security concerns.” On November 27, following the shootings of three Palestinian men in Vermont, one of whom is an undergraduate University student, the University asked the City of Providence to drop all charges against the 20 students. In a message to the University, the University President stated that doing so may “bring our community together and try to set aside issues that are exacerbating tensions and division on our campus.” The City granted the University’s request and dropped charges against all students.

The December 11, 2023 sit-in, organized by “Brown Divest Coalition,” led to 41 arrests. DPS and the Providence Police Department arrested these students for trespassing after the building’s closing time, as well. A University spokesperson stated: “The disruption to secure buildings is not acceptable, and the University is prepared to escalate the level of criminal charges for future incidents of students occupying secure buildings.” On April 23, 2024, the University’s Undergraduate Council of Students released a statement demanding that the University request the City of Providence to drop charges against these 41 students, “who mirrored the actions of the first [group arrested in November] in practically every way.” The University rejected as “disingenuous” allegations that it had not sought to dismiss charges against these 41 students because they were more racially diverse than the November protesters.

Additional Actions Taken by the University Since the Opening of the OCR Complaint

In addition to what has been discussed above, the University represented that it has developed a variety of resources and initiatives since Fall 2023 to secure the safety and well-being of the University community, which it centralized on a website titled “Strengthening Our Community Amid Conflict” in February 2024. The website includes the following:

- “Leadership Communications,” which lists over one dozen communications from University leadership regarding support, resources, and guidance, many of which directly address Title VI and climate issues.
- “Enhancing Title VI Response,” which lists initiatives to support University efforts to create an environment that is free of discrimination and harassment, including FAQs and other explanations about changes to the University’s discrimination and harassment reporting forms and response systems.
- “Building Understanding of Bias,” which lists OIED publications about antisemitism, Islamophobia, and anti-Arab, anti-Palestinian, and anti-Israeli harassment and discrimination, and also lists campuswide events on these topics (some of which are discussed further below).
- “Promoting Dialogue and Freedom of Expression,” which lists several lectures and workshops on having difficult conversations online and in the classroom.
- “Student Engagement Experience,” which lists various programs to promote dialogue and build understanding on issues relevant to campus climate, ranging from small group settings in residential buildings to larger campus events.
- “Long Established Commitment,” which lists several initiatives to discuss activism, academic freedom, and diversity of viewpoints.
- “Events,” which lists other upcoming events addressing the Middle East conflict.

The University has also provided various trainings on Title VI compliance through late March 2024. In December 2023, outside counsel and the Office for General Counsel provided a Title VI training to the President’s Cabinet, and the President’s Executive Committee, on an overview of Title VI and the legal framework for preventing and combating antisemitism and Islamophobia on campus. The University’s Office for General Counsel subsequently provided a two-day training to compliance investigators on conducting effective Title VI investigations, including with respect to shared ancestry, in mid- and late-January 2024; a Title VI training to the Student Activities Offices, in February 2024; and a Title VI training, including with respect to shared ancestry, to HR in March 2024. In February 2024, OIED presented workshops on “Combating Antisemitism,” with one session for staff and a second session for students; and followed this format in March 2024 for workshops on “Combating Islamophobia and Anti-Arab Racism.” The University also represented that it was planning additional Title VI training to other offices on campus, “including non-investigatory offices that may receive reports of discrimination or harassment,” as well as employee trainings.

Finally, the University represented that it has conducted a climate survey in spring 2024, which it modified from past climate surveys to expressly address the experience of Jewish, Muslim, Israeli and Palestinian students, the results of which the University will provide to OCR pursuant to the Agreement.

ANALYSIS

OCR recognizes that the University has taken many steps to address incidents that may have created or perpetuated a potentially hostile environment based on national origin on campus, as summarized in this letter, including through generation of updated and revised policies governing the University's response to notice of alleged discrimination. These revised policies appear to be designed to respond to the campus climate that the University characterized as marked by anxiety, tension, and fear and to the volume of reported incidents at the University of discrimination based on shared Jewish ancestry and shared Palestinian, Arab, and/or Muslim ancestry.

OCR's investigation to date has identified concerns, summarized below, regarding the effectiveness of the University's policies, including as updated, and regarding the effectiveness of the University's responses to notice of alleged discrimination that could contribute to or create a hostile environment for students based on shared ancestry. The University requested to resolve this investigation pursuant to Section 302 of OCR's Complaint Processing Manual, and OCR determined that such resolution is warranted given the existence of Title VI compliance concerns and the University's willingness to take steps necessary to address these concerns through the resolution agreement the University signed on DATE.

Concerns Regarding Fall 2023 Reports of Discrimination

OCR is concerned whether the University complied with Title VI in fall 2023 when reporting parties made serious reports of antisemitic and other shared ancestry discrimination, including death threats, but did not reply to the University's outreach email. Dozens of responding parties declined to respond to the University's outreach in Fall 2023, and multiple students appeared to have declined University resources in favor of supports they were receiving from other entities, including entities unaffiliated with the University (such as Hillel). In many of these cases, the University appears to have taken no or little further action for the reporting party. OCR recognizes that the University's outreach email included a variety of support resources, and that individual reports of discrimination helped inform the University's many campuswide measures to enhance climate and to revise Title VI reporting structures. However, OCR is concerned that the University may have conditioned a fuller Title VI response on replying to the University's outreach emails, rather than on assessing if the reports constituted notice of a hostile environment requiring additional steps to redress the specific problems raised and whether they individually or cumulatively raised possible hostile environments based on shared ancestry requiring redress.

Relatedly, OCR notes that a half-dozen University entities responded to reports of antisemitic or other shared ancestry discrimination in fall 2023, and in some instances the responses notably varied. For example, as just noted, OIED routinely ended its response when a reporting party did not reply to an outreach email. Conversely, in one case, BCSC appears to have facilitated an

informal resolution even when a reporting party did not respond to BCSC’s outreach. OCR also notes that in cases primarily involving staff and faculty, the response is referred to HR and/or directly to a dean or supervisor/manager for resolution. At the time of resolution, the University did not provide information regarding the fulfillment of Title VI obligations through the HR or dean or supervisor/manager responses, and whether the entities who ultimately resolve these complaints are doing so in compliance with Title VI, in light of this variance.

Finally, OCR is concerned whether the University ensured that there was no Title VI disparate treatment in its response to student sit-ins at University Hall, specifically by requesting that the City of Providence drop charges against the November 2023 protesters but not the December 2023 protesters. The evidence produced to date does not include information regarding training or policies governing the nondiscrimination obligations of DPS or steps the University takes to ensure nondiscrimination related to involvement of DPS or the Providence Police Department.

Concerns Regarding the University’s Revised Processes

The University’s corrective actions in February 2024 appear designed to address some of OCR’s concerns above. By modifying the Procedures to allow the University to file a formal complaint and proceed as the complainant, the University does not condition a fuller response on a reporting party’s reply to outreach email(s). In addition, OCR acknowledges the University’s representation that as of spring 2024, it is developing additional Title VI training to more University offices that may receive and/or process reports of antisemitic or shared ancestry discrimination.

OCR is concerned whether these changes to the University’s policies and procedures enable the University to identify and respond to all antisemitic and other shared ancestry discrimination that require a response under Title VI, even when perpetrated by third parties or “unaffiliated/independent” entities. While the Procedures state that OECR will refer discrimination allegations against individuals who are not Covered Persons to certain University entities, it is not clear what, if any, action the procedures allow the University to take to resolve these allegations and remedy any hostile environment. Relatedly, as noted earlier, the Procedures state that the University “may” proceed when it has actual or constructive notice of a potential hostile environment or potential discriminatory conduct, without further explanation. The University has an obligation to act on information about which it knows or should have known to address a Title VI hostile environment. This obligation exists whether or not the University seeks or is able to invoke a formal grievance or disciplinary process, including as against unknown or third parties. Finally, it is also unclear if the University reassessed whether certain fall 2023 reports of antisemitic and other shared ancestry discrimination predating the February 2024 modifications require additional response to comport with Title VI.

Lastly, while OCR credits the University’s significant work to improve its Title VI compliance processes in recent months, OCR identified a number of additional facial concerns with the University’s Policies and Procedures, as referenced in the ***Policies and Procedures*** section of this letter, above. These concerns will be remedied through the provisions of the attached Agreement.

RESOLUTION AGREEMENT

To resolve the concerns OCR identified in this investigation, the University entered into the attached Agreement, which will require the University to:

- Further revise its policies and procedures to ensure all University offices consistently and effectively comply with Title VI, including with respect to protests and demonstrations;
- Conduct annual training on nondiscrimination and harassment for all students and employees;
- Maintain records related to complaints or reports of discrimination under Title VI;
- Conduct a review of the University's response to complaints and reports of antisemitic and other shared ancestry discrimination during the 2023-2024 and 2024-2025 academic years, and taking remedial actions if required; and
- Analyze the results of, and creating an action plan in response to, climate survey(s) and/or other review(s) focused on shared ancestry discrimination.

CONCLUSION

This concludes OCR's investigation of the complaint. 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 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, assists, or participates in a proceeding under a law enforced by OCR. 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.

Sincerely,

WP /s

Paul Easton
Program Manager/Supervisory General Attorney

Enclosure

cc: Senior Associate General Counsel Michael Grabo (Michael_Grabo@brown.edu)