



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

TIMOTHY C. J. BLANCHARD
DIRECTOR
NEW YORK OFFICE

October 26, 2011

Morton A. Klein
President
Zionist Organization of America
4 East 34th Street, Third Floor
New York, New York 10016

Re: Case No. 02-11-2157
Rutgers University

Dear Mr. Klein:

On July 21, 2011, the U.S. Department of Education, New York Office for Civil Rights (OCR) received the above-referenced complaint you filed against Rutgers University. You alleged that the University failed to respond appropriately to a complaint you filed on April 6, 2011, alleging that students were subjected to harassment and different treatment because of their national origin (Jewish ancestry/ethnicity), in the following manner: (a) the Outreach Coordinator for the University's Center for Middle East Studies harassed a student (Student 1) because of his national origin by physically threatening him in November 2009, and posting anti-Semitic comments about him on Facebook on December 9, 2010; (b) other students harassed Student 1 because of his national origin by posting threatening comments on his Facebook page on or around January 31, 2011; (c) a student group called "Belief Awareness Knowledge and Action" (BAKA) created a hostile environment for Jewish students by holding anti-Israel events and forums; and (d) BAKA treated Jewish students differently, on the basis of their national origin, by charging an admission fee for an event only to Jewish and pro-Israel students on or around January 29, 2011 (Allegation 1). You further alleged that Jewish students are subjected to a hostile environment in Middle East studies courses at the University (Allegation 2); and that Jewish students are generally subjected to a hostile, anti-Semitic environment on campus (Allegation 3).

Based on information you provided in your complaint and supporting documentation, and during a telephone interview with OCR staff on August 30, 2011, OCR determined that Allegations 1(a), (b) and (d) are appropriate for investigation; however, OCR determined that Allegations 1(c), 2 and 3 are not appropriate for investigation for the reasons set forth below.

With respect to Allegation 1(c), you alleged that the University failed to respond appropriately to a complaint you filed on April 6, 2011, alleging that BAKA created a hostile environment for Jewish students, on the basis of their national origin, by holding anti-Israel events and forums. In support of this allegation, you provided a copy of the complaint you filed with the University

on April 6, 2011, in which you described these BAKA events and forums; you also described these in your complaint filed with OCR on July 21, 2011. In these letters, you indicate your disagreement with the opinions expressed in speeches and films shown at these events and with information you believe was a distortion of the facts as presented in these speeches and films; however, as described in these letters, the content of these speeches and films expressed disagreement with the politics and policies of Israel with regard to the Palestinian territories. None of the information you provided regarding these events and forums (other than the allegation of different treatment, Allegation 1(d), which OCR will investigate) supported an allegation that BAKA subjected Jewish students to a hostile environment on the basis of their national origin, which may or may not be Israeli, because of the disagreement with the politics and policies of Israel as depicted in the speeches and films at these events and forums. You provided no names of students who complained to the University that BAKA subjected them to a hostile environment on the basis of their national origin by holding these events and forums. Your disagreement with the opinions expressed in these speeches and films is not sufficient to support an allegation of national origin discrimination. Accordingly, OCR will take no further action regarding Allegation 1(c); however, as stated above, OCR will investigate Allegations 1(a), (b) and (d), including the allegation regarding the University's failure to appropriately respond to your allegation of different treatment on the basis of national origin by BAKA at the event on January 29, 2011.

With respect to Allegation 2, you alleged that Jewish students are subjected to a hostile environment in Middle East studies courses at the University. Although you alleged generally that Jewish students felt too uncomfortable or intimidated to enroll in these courses because they are "so unfairly biased against Israel", and that when they did enroll, the anti-Israel bias in the classroom made students reluctant and intimidated to speak up and say they support Israel, you only provided OCR with one example of a student who was allegedly subjected to this harassment (Student 2); however, you did not provide OCR with the name of Student 2 or the dates on which the alleged harassing conduct occurred. Accordingly, OCR determined that your allegation that Jewish students were subjected to a hostile environment in Middle East studies courses at the University is unsupported. Therefore, OCR will take no further action regarding Allegation 2.

With respect to Allegation 3, you alleged that Jewish students are generally subjected to a hostile, anti-Semitic environment on campus. In support of your allegation, you provided examples of several students who felt afraid or unsafe; however, other than Student 1, whose allegations we will investigate as described above in Allegations 1(a) and (b), you did not provide the names of any students you described or the dates of any alleged incidents. Accordingly, OCR determined that your allegation that Jewish students are generally subjected to a hostile, anti-Semitic environment on campus is unsupported. Therefore, OCR will take no further action regarding Allegation 3; however, OCR will investigate the University's response to your allegations of harassment involving Student 1 as described in Allegations 1(a) and (b).

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d et seq., and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin in educational programs and activities receiving financial assistance from the United States Department of Education (the Department).

The University is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title VI.

Because OCR has determined that it has jurisdiction and that the complaint was filed in a timely manner, it is opening Allegations 1(a), (b) and (d) for investigation. Please note that opening these allegations 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 allegations, in accordance with the provisions of Article III of OCR's Case Processing Manual.

OCR's goal is the prompt and appropriate resolution of the allegations contained in a complaint. OCR offers, when appropriate, an Early Complaint Resolution (ECR) process, similar to mediation, to facilitate the voluntary resolution of complaints by providing an early opportunity for the parties involved to resolve the allegation(s). Some information about the ECR process is contained in the publication entitled, "OCR Complaint Processing Procedures," which was enclosed with OCR's previous letter to you acknowledging your complaint. This information is also on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html#II>.

Also, when appropriate, a complaint may be resolved before the conclusion of an investigation after the recipient expresses an interest to OCR to resolve the complaint. In such cases, OCR obtains a resolution agreement signed by the recipient. This agreement must be aligned with the complaint allegations or the information obtained during the investigation, and it must be consistent with applicable regulations. Additional information about this voluntary resolution process may be found in the publication "OCR Complaint Processing Procedures," which was enclosed with OCR's previous letter to you acknowledging your complaint. This information is also on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html#III>.

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 the right to file a private suit in federal court whether or not OCR finds a violation.

It is unlawful to harass or intimidate an individual who has filed a complaint or participated in actions to secure protected rights. If this should occur, you may file a separate complaint with OCR alleging such harassment or intimidation.

Under the Freedom of Information Act, 5 U.S.C. § 552, it may be necessary to release this letter and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of personal privacy.

OCR staff will communicate with you periodically regarding the status of your complaint. If you are interesting in resolving your complaint through OCR's ECR process or have any questions, please contact Diane Castro, Compliance Team Investigator, at (646) 428-3808 or

diane.castro@ed.gov; or Emma Kim, Compliance Team Attorney, at (646) 428-3824 or emma.kim@ed.gov.

Sincerely,



Emily Frangos
Compliance Team Leader

cc: Susan Tuchman, Esq.

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