



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115 1812

REGION XV
MICHIGAN
OHIO

April 25, 2022

Via E-mail Only to: president@cmich.edu

Robert O. Davies, Ph.D.
President
Central Michigan University
Warriner Hall 106
Mount Pleasant, Michigan 48859

Re: OCR Docket No. 15-22-2008

Dear Dr. Davies:

On October 18, 2021, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against Central Michigan University. The complaint alleges that the University discriminated against students on the basis of race. Specifically, the complaint alleges that the University discriminated against African American students based on race when it eliminated the varsity men's track and field team and replaced it with a varsity men's golf team.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 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 by recipients of federal financial assistance. As a recipient of federal financial assistance from the Department of Education, the University is subject to this law.

Based on the complaint allegation, OCR will investigate the following issues to determine whether the University discriminated against students on the basis of race:

- whether the University, on the ground of race, denied students any service or benefit provided under its program; provided students services or benefits that were different from or provided in a different manner from services or benefits provided to other students; restricted students in the enjoyment of any privilege or advantage enjoyed by others; and/or treated students differently from others in determining whether they satisfied any requirement or condition which individuals must meet in order to be provided any service or other benefit under the program, in violation of the Title VI implementing regulation at 34 C.F.R. § 100.3(b)(1)(i), (ii), (iv), and/or (v); and
- whether the University, in determining the types of services, facilities or other benefits to be provided, or the situations in which such services or benefits will be provided, directly or through contractual or other arrangements, utilizes criteria or methods of administration which have the effect of subjecting individuals to discrimination because

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

of their race, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, in violation of the Title VI implementing regulation at 34 C.F.R. § 100.3(b)(2).

Please understand that opening an allegation for investigation does not mean that OCR has made a decision about the complaint. During the investigation, OCR is neutral; OCR will collect and analyze the evidence it needs in order to make a decision about the complaint. OCR will ensure that its investigation is legally sufficient and addresses the allegation(s), in accordance with OCR's *Case Processing Manual*. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please read the enclosed document entitled "OCR Complaint Processing Procedures," which includes information about:

- OCR's complaint evaluation and resolution procedures, including the availability of Facilitated Resolution Between the Parties (FRBP);
- regulatory prohibitions against retaliation, intimidation, and harassment of persons who file complaints with OCR or participate in an OCR investigation; and
- application of the Freedom of Information Act and the Privacy Act to OCR investigations.

Additional information about the laws OCR enforces is available on OCR's website at <http://www.ed.gov/ocr>.

The regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6, requires that a recipient of federal financial assistance make available to OCR information that may be pertinent to reach a compliance determination.

In addition, in accordance with the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, at 34 C.F.R. § 99.31(a)(3)(iii), and the Title VI regulation at 34 C.F.R. § 100.6(c), OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

Accordingly, OCR is requesting that you forward the information below to OCR within **fifteen calendar days** of the date at the top of this letter.

Please do **not** provide any Social Security numbers in your data response. If any responsive documents contain Social Security numbers, please redact the Social Security numbers before producing the responsive documents to OCR. OCR asks that you provide the requested information via e-mail, thumb drive, file share link, or non-adhesive labeled CD(s). When producing the requested data to OCR, please ensure that all files are in Adobe .pdf format and are Bates-labeled, if you have that capacity. Spreadsheets and other data that cannot be rendered with fidelity in .pdf format should be produced in Windows-compatible Microsoft Office formats (e.g., Microsoft Excel). If you wish to compress data into a single Zip file before producing it to OCR, please note that OCR will only accept WinZip encoded Zip files. In addition, OCR cannot accept electronic data with file names exceeding 255 characters, inclusive of folder names. You may contact OCR if you need any assistance in providing the requested information.

1. Please provide a narrative description of the reasons the University discontinued the men's track and field team after the 2019-2020 academic year.
2. Please provide a narrative description of the reasons the University added the men's golf team starting with the 2022-2023 academic year.
3. Please provide records of all internal deliberations into the University's decision-making process concerning the decisions described in Requests #1 and #2, above. This response should include any documentation, including correspondence, e-mail messages, voicemail messages, memoranda, etc., of conversations, discussions, or consideration of the decisions among University personnel.
4. A copy of the policies and procedures in place during the 2019-2020 through 2021-2022 academic years relevant to the decision to add or to eliminate varsity teams in the University's athletics program.
5. A list of all members of each University men's intercollegiate athletic team during the 2018-2019 and 2019-2020 academic years, by team. For each student identified, please include the race of the student, whether the student received an athletic scholarship and, if so, the amount of the scholarship.
6. A list of all members of the men's golf team, scheduled to begin competition during the 2022-2023 academic year. For each student identified, please include the race of the student, whether the student receives an athletic scholarship and, if so, the amount of the scholarship.
7. Any other documentation or narrative explanation the University would like OCR to consider in its investigation, including the identification of relevant witnesses. For each individual identified, please provide a name, title, and current contact information.

Thank you for your cooperation in this matter. OCR also may need to interview individuals at the university with knowledge of the facts of this case. If OCR determines that interviews are necessary, OCR will contact you to schedule a mutually convenient time and method (e.g., telephone call, conference line, Microsoft Teams, WebEx) for interviews.

The University is also hereby notified that it should retain all electronically stored information and other records, in their originally created format, containing information related to the subject matter of this complaint, including e-mails, word processing documents, spreadsheets, databases, calendars, telephone logs, internet files, network access information, and other media-based information (such as personal digital assistants and digital voice mail), even after it has provided OCR with copies and whether or not OCR has included the information in this initial data request. Please also retain all non-electronic documents and evidence in whatever form, including personal or desk files, calendars, notes, correspondence, drafts, policies, manuals, or other things relevant to the case.

Please note that the complaint may be appropriate for Facilitated Resolution Between the Parties (FRBP), a process similar to mediation that OCR offers to facilitate the resolution of complaints by providing an opportunity for the parties involved to voluntarily resolve the complaint allegations. The enclosed document includes additional information regarding the FRBP process. If OCR believes that this complaint is appropriate for FRBP, OCR will contact you to discuss this option.

Also, when appropriate, a complaint may be resolved before the conclusion of an investigation when a university expresses an interest to OCR to resolve the complaint and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. In such cases, OCR obtains a resolution agreement signed by the university. This agreement must be tied to the allegations and the evidence obtained, and it must be consistent with applicable regulations. Additional information about this voluntary resolution process may be found in the enclosed document and on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>.

Pursuant to the routine use exception of the Privacy Act, for the purpose of assisting OCR in resolving the civil rights complaint or in obtaining additional information relevant to OCR's investigation, a redacted copy of the complaint is enclosed.

When contacting OCR about this complaint, please include in the subject line of any e-mail correspondence and in any other communication a reference to OCR Docket #15-22-2008.

Upon receipt of this letter, please notify OCR of the name, address, e-mail address, and telephone number of the person who will serve as the University's contact person during OCR's investigation of this complaint. If you have any questions, please contact Vincent Cheverine, the OCR attorney who has been assigned to investigate this complaint. Mr. Cheverine can be reached by telephone at (216) 522-2676 or by e-mail at Vincent.Cheverine@ed.gov.

Sincerely,

Nathaniel J. McDonald
Supervisory Attorney/Team Leader

Enclosures