



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

December 10, 2019

Morton A. Klein  
Susan B. Tuchman, Esq.  
Zionist Organization of America  
633 Third Avenue, Suite 31-B  
New York, New York 10017

RE: OCR Complaint No. 11-19-2214  
Resolution Letter

Dear Mr. Klein and Ms. Tuchman:

This letter is to advise you of the outcome of the complaint that the Zionist Organization of America (ZOA) submitted to the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) on April 17, 2019, against Duke University (the University).<sup>1</sup> The Complainant alleged that the University discriminated against students of Jewish descent on the basis of national origin in connection with a conference held on March 22-24, 2019, titled "Conflict over Gaza: People, Politics, and Possibilities" (the Conference). The Conference was organized and presented by the Duke-UNC Consortium for Middle East Studies (the Consortium), a collaboration between the Duke University Middle East Studies Center and the Center for Middle East and Islamic Studies at the University of North Carolina. The complaint alleged that the Conference included an offensive and anti-Semitic performance by a performer.

OCR enforces 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 in any program or activity receiving Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title VI. Title VI prohibits discrimination on the basis of national origin, which includes shared ancestry. Harassment that creates a hostile environment for individuals with a shared ancestry, such as students of Jewish descent, is a form of national origin discrimination. A college or university's failure to address such harassment that creates a hostile environment can violate Title VI. This is especially true in the context of this Conference, where the University itself, through its Consortium, sponsored, organized, and invited the Conference participants, including the individual whose performance, in part, gave rise to the instant complaint.

On June 25, 2019, OCR notified the University that, in response to the complaint, OCR would investigate whether a hostile environment existed in connection with the Conference, and if so, whether the University appropriately responded. During the investigation to date, OCR reviewed information provided by the Complainant and the University, as well as information from third

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<sup>1</sup> Hereinafter, ZOA will be referred to as the "Complainant."

parties who contacted OCR regarding the complaint and publicly available information. OCR also reviewed documentation produced by the University relevant to the complaint allegations. Before OCR completed its investigation by conducting interviews and taking further investigative steps, the University expressed a willingness to resolve the allegation pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the University expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them through a resolution agreement.

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The University does not dispute that the performer made offensive, anti-Semitic comments during his performance at the Conference. Although according to the University, no official recording of the Conference exists, OCR reviewed video excerpts of the performance, including the alleged anti-Semitic comments, shared on social media and in news reports by a filmmaker unaffiliated with the University. The University provided to OCR numerous letters and emails that it received after the filmmaker publicly disseminated the video. The correspondence, primarily from alumni and parents of current students, expressed alarm and disappointment that such events occurred at an event co-sponsored by a component of the University, as well as concern for the safety and well-being of students of Jewish descent at the University.

OCR found in its review of the University's documentation that the University promptly took a number of steps to respond to the performance and the numerous complaints received after the Conference. Following the dissemination of the video of the Conference performance, the University President, Provost, and the Duke-UNC Consortium for Middle East Studies, the joint collaboration that hosted the Conference, issued statements condemning anti-Semitism and the performance. The University also provided OCR with information about its efforts during the time period relevant to OCR's investigation to encourage a campus climate supportive of Jewish students, including, for example, a March 31, 2019 training organized by the University's Freeman Center for Jewish Life and conducted by the Anti-Defamation League called "Words to Action," focusing on strategies to combat anti-Semitism, anti-Zionism, and anti-Israeli bias.

To further resolve the issues giving rise to the complaint, the University agreed to take additional steps outlined in the enclosed Resolution Agreement and signed by the University on December 3, 2019. When fully implemented, the Agreement, in conjunction with the steps the University already has taken, will fully resolve the issues giving rise to the complaint. The provisions of the Agreement are aligned with the allegations and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. The Agreement requires the University to:

- Issue a statement to its community that the University does not tolerate acts of prohibited harassment, including but not limited to on the basis of national origin. The statement will specifically say that the University does not tolerate anti-Semitic harassment and encourage members of the community to report any such incidents to the University;
- Ensure that its written policies continue to address incidents of harassment on the basis of race or national origin and that, under the policies, the University continues to respond to

incidents of anti-Semitic harassment or discrimination. The policies also must provide a description of the forms of anti-Semitism that can manifest in the University environment;

- For the next two academic years, the University must include in each training/orientation offered to the University community regarding the policies a component on prohibited harassment, including anti-Semitic harassment; and
- For each of the next two academic years, host at least one meeting providing students, faculty, and staff the opportunity to discuss with University administrators any concerns they have about incidents of prohibited harassment.

Please review the enclosed Agreement for further details. OCR will monitor the University's implementation of the Agreement until the University has fulfilled the terms of the Agreement.


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 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 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.

If you have any questions, please contact me at 202-401-1443 or [Ralph.Suris@ed.gov](mailto:Ralph.Suris@ed.gov).

Sincerely,



Ralph A. Suris  
Chief Regional Attorney  
District of Columbia Office  
Office for Civil Rights

Enclosure