



TEXAS TECH UNIVERSITY SYSTEM

Office of General Counsel

Mr. Richard Cho
Attorney
U.S. Dept. of Education
Office for Civil Rights
1999 Bryan Street, Ste. 1620
Dallas, TX 75201-6810

February 26, 2019

Re: Resolution Agreement – OCR Complaint Number 06-05-2085

Dear Mr. Cho,

This letter is in response to the above-referenced complaint that was filed in 2004 with the U.S. Department of Education’s Office for Civil Rights (“OCR”) against the Texas Tech University Health Sciences Center (“TTUHSC”) School of Medicine (“SOM”). In the OCR complaint, the complainant who never applied for admission to the SOM or was impacted in any way by the SOM’s admissions process complained that the SOM’s expected use of race as one of many factors in the admissions process was in violation of Title VI of the Civil Rights Act of 1964 (“Title VI”).

The TTUHSC SOM strongly believes that diversity in academic medicine is not only a necessity at the SOM, but is a necessity nationally as well; therefore, we continuously strive to enhance the diversity of our student body. As provided in the TTUHSC SOM Diversity Statement, “The core foundational value of including the diverse cultures, lifestyles, personal beliefs, and ideas of all those we serve—and serve alongside—provides a positive impact on the health of our regional, national, and global societies. As we pursue excellence in health care education, research and patient care, we will be ever mindful of the strength that is gained through unity in diversity.” As a result of our efforts, TTUHSC SOM ranked #8 among Top Minority Producers of Health Degrees for the 2016-2017 year, according to the scholarly newsmagazine, *Diverse: Issues in Higher Education* (Nov. 29, 2018).

As you know, since the 2004 complaint, the U.S. Supreme Court set forth a standard in *Fisher v. University of Texas at Austin*, 136 S.Ct. 2198 (2016) that allows for race to be used as a factor in the admissions process if the review can withstand strict scrutiny. The OCR conducted interviews at TTUHSC SOM in 2016 and reviewed admissions materials, but to our knowledge, the OCR has not conducted interviews to obtain additional information since that time. Instead, TTUHSC received the proposed resolution agreement from the OCR on November 30, 2018 (“Resolution Agreement”). Although TTUHSC believes it can prove the SOM’s admission process is in compliance with the *Fisher* standard, TTUHSC is willing to sign the Resolution Agreement in an effort to resolve this matter and focus on educating future health care providers. Please find enclosed the signed Resolution Agreement.

TTUHSC SOM is committed to exploring race-neutral alternatives to enhancing diversity and fully and completely evaluating its current admissions policies and practices to ensure it is appropriately and lawfully



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considering an applicant's race and/or national origin in its admissions process. Following this extensive evaluation of our admissions policies and practices, we will determine whether race-neutral measures have achieved our diversity and educational goals. After this analysis, if a determination is made in the future that using race as a factor in admissions is necessary to achieve this compelling interest, TTUHSC will provide notice to the OCR pursuant to Item 2 of the Resolution Agreement.

Should you have any questions, please do not hesitate to contact me.

Regards,

Eric D. Bentley
Vice Chancellor and General Counsel
Texas Tech University System

RESOLUTION AGREEMENT

Texas Tech University Health Sciences Center
OCR Number: 06-05-2085

The Texas Tech University Health Sciences Center (TTUHSC or Recipient) enters into this agreement to resolve the above-referenced complaint. The U.S. Department of Education, Office for Civil Rights (OCR) initiated a complaint investigation to address the TTUHSC's alleged noncompliance with 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. OCR investigated whether TTUHSC's use of race in admissions could withstand strict scrutiny, as set forth in *Fisher v. University of Texas at Austin*, 579 U.S. ___, 136 S.Ct. 2198 (2016).

This Resolution Agreement does not constitute an admission by TTUHSC of a violation of Title VI or any other law enforced by OCR. In order to address the compliance concerns raised during OCR's investigation, TTUHSC assures OCR that it will implement the action items listed below:

ACTION ITEMS:

Item 1: TTUHSC will discontinue all consideration of an applicant's race and/or national origin in the TTUHSC School of Medicine (SOM) admissions policies or processes according to the following timeline:

- a. By **March 1, 2019**, TTUHSC will issue a memorandum to the TTUHSC School of Medicine's admissions committee, and all other relevant staff involved in the SOM admissions process, that an applicant's race and/or national origin are no longer to be considered as part of the holistic admissions process.
- b. By **September 1, 2019**, TTUHSC will revise all admissions and recruitment materials for the SOM, including, but not limited to, applications, catalogs, and its website, whether in written or electronic format, to ensure that such materials do not include race or national origin as factors to be considered in the admissions process.

Reporting Requirements:

1. By **October 15, 2019**, TTUHSC will provide OCR with documentation evincing that it has discontinued any consideration of race or national origin in admissions to the SOM. The documentation will include, but not be limited to, a copy of the memorandum issued pursuant to the above Action Item a, names/titles of the recipients or the distribution list, and an explanation or description of how the memorandum was disseminated.

2. By **October 15, 2019**, TTUHSC will provide OCR with documentation evincing that all admissions and recruitment materials for the SOM were revised to reflect that race or national origin are no longer to be considered in the admissions process.

Item 2: If SOM or any other TTUHSC school wishes to institute or re-institute consideration of an applicant's race and/or national origin in admissions policies or processes, TTUHSC will ensure, prior to any such institution or re-institution, that it provides a reasoned, principled explanation for its decision and identifies concrete and precise goals, as well as fully considers: the degree to which race-neutral measures could achieve its educational goals; how to tailor race-conscious measures, if a determination is made that such measures are necessary, to afford flexible and individualized review of applicants and ensure no undue burden is imposed on applicants of any racial group; and, by what process and on what regular schedule the need for and scope of race-conscious measures, if any, will be periodically reviewed and assessed.

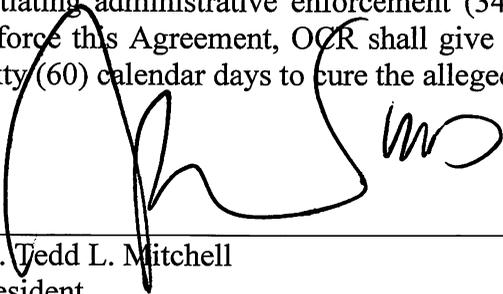
Reporting Requirements:

1. At least 60 days prior to any TTUHSC school instituting or re-instituting consideration of an applicant's race and/or national origin in admissions, TTUHSC will provide OCR with documentation evincing all the elements outlined above in Action Item 2.

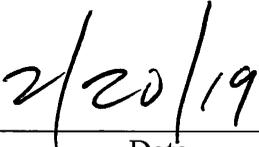
The Recipient understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Recipient understands that during the monitoring of this Agreement, if necessary, OCR may visit the Recipient, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Recipient has fulfilled the terms of the Agreement.

Upon the Recipient's satisfaction of the commitments made under the Agreement, OCR will close the case.

The Recipient understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.



Dr. Jedd L. Mitchell
President
Texas Tech University Health Sciences Center



Date