

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

March 3, 2020

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 2972

In Reply Refer to:

EPA File No: 03R-20-R4

Melanie Velez, Regional Director
Office for Civil Rights, Atlanta Office
U.S. Department of Education
61 Forsyth Street S.W.
Suite 19T10
Atlanta, GA 30303-8927

Re: Referral of Administrative Complaint

Dear Ms. Velez:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is referring a complaint received February 11, 2020. The Complainant, filing on behalf of his son (Student), a student at Kennesaw State University (KSU), alleges that KSU discriminated against the Student on the basis of race and color through the actions of a KSU professor, in violation of Title VI of the Civil Rights Act of 1964 (Title VI). After careful consideration, ECRCO is rejecting this complaint and referring it to your office for appropriate action.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

In general, ECRCO will accept, reject, or refer a complaint after considering the jurisdictional requirements described above. However, if ECRCO obtains information leading ECRCO to conclude that an investigation is unjustified for prudential reasons, ECRCO may reject a

complaint allegation. For example, ECRCO may reject a complaint allegation if the same complaint allegation has been filed or is currently pending with another Federal, State or local agency, and it is anticipated that the agency will provide the complainant with a comparable resolution process.¹ It is our understanding that you are also in receipt of and reviewing this complaint.

In light of the above, we are closing this complaint with ECRCO as of the date of this letter and referring it to your office.² As stated in ECRCO's Case Resolution Manual, a complaint may be re-filed with ECRCO within 30 days of the completion of that agency's final action.³ If the complaint is re-filed, ECRCO will then proceed with its preliminary review to determine acceptance, rejection, or referral.

We have notified the Complainant that the complaint is being referred to your office. A copy of our rejection and referral letter to the Complainant as well as the original complaint are enclosed.

If you have questions about this letter, please contact Jonathan Stein, by phone at (202) 564-2088, by email at stein.jonathan@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosures

cc: Angelia Talbert Duarte
Acting Associate General Counsel
Civil Rights & Finance Law Office

Beverly Banister
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 4

¹ See Case Resolution Manual, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf

² Additionally, the Department of Education is generally designated the lead Federal agency in relation to Title VI matters concerning higher education. See https://www.justice.gov/sites/default/files/crt/legacy/2013/04/24/ED_Lead_Title_VI_45_fr_54793.pdf.

³ See fn 1.

Ms. Melanie Velez

Page 3

Leif Palmer
Regional Counsel
US EPA Region 4



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WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

March 3, 2020

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 2958

In Reply Refer To:

EPA Complaint No. 03R-20-R4

Lt. Col. Philip D. Forsberg
4352 White Surrey Drive, NW
Kennesaw, GA 30144-5133

Re: Rejection and Referral of Administrative Complaint

Dear Lt. Col. Forsberg:

This letter is to notify you that the Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is rejecting your complaint filed against Kennesaw State University (KSU) received by ECRCO on February 11, 2020. The complaint alleges that KSU discriminated against your son, a KSU student, on the basis of race and color through the actions of a KSU professor, in violation of Title VI of the Civil Rights Act of 1964 (Title VI). After careful consideration, ECRCO is rejecting and referring your complaint to the U.S. Department of Education, Office for Civil Rights, Atlanta Regional Office, for appropriate action.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

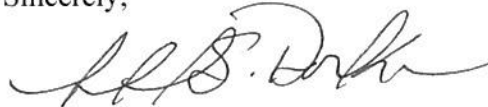
In general, ECRCO will accept, reject, or refer a complaint after considering the jurisdictional requirements described above. However, if ECRCO obtains information leading ECRCO to conclude that an investigation is unjustified for prudential reasons, ECRCO may reject a complaint allegation. For example, ECRCO may reject a complaint allegation if the same complaint allegation has been filed or is currently pending with another Federal, State or local agency, and it is anticipated that the agency will provide the complainant with a comparable

resolution process.¹ It is our understanding that the U.S. Department of Education, Office for Civil Rights' Atlanta Regional Office, is also in receipt of your complaint and it is under review with that office.²

In light of the above, we are closing your complaint with ECRCO as of the date of this letter and referring it to the U.S. Department of Education, Office for Civil Rights' Atlanta Regional Office. As stated in the Case Resolution Manual, a complaint may be re-filed with ECRCO within 30 days of the completion of that agency's final action.³ If the complaint is re-filed, ECRCO will then proceed with its preliminary review to determine acceptance, rejection, or referral. We have enclosed a copy of our letter to the Department of Education, Office for Civil Rights, Atlanta Regional Office, referring your complaint, for your information.

If you have questions about this letter, please contact Jonathan Stein, by phone at (202) 564-2088, by email at stein.jonathan@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorca, Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

cc: Angelia Talbert Duarte
Acting Associate General Counsel
Civil Rights & Finance Law Office

Beverly Banister
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 4

Leif Palmer
Regional Counsel
US EPA Region 4

¹ See Case Resolution Manual, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf

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³ See fn 1.

3 February 2020
4352 White Surrey Drive NW
Kennesaw, GA 30144-5133

Administrator Andrew R. Wheeler
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460



Dear Sir,

Under Title VI of the Civil Rights Act of 1964, I wish to file an administrative complaint with the U.S. Environmental Protection Agency that provides federal funds to Kennesaw State University.

I am filing this complaint on behalf of my minor son who is a student at Kennesaw State University, and who experienced intentional discrimination based upon race and color at the hands of a lecturer employed by Kennesaw State University.

Although I have petitioned the president of Kennesaw State University to correct the violation of the Civil Rights Act of 1964, the university has declined to do so, and the offender is still employed by Kennesaw State University and actively teaching classes. My correspondence with the university is enclosed for your consideration.

I have also informed the Chancellor of the University System of Georgia, as well as the Governor of Georgia, neither of whom have responded to my complaint. Thank you for safeguarding the civil rights of all Americans. Your attention to this matter is greatly appreciated.

Sincerely,

Philip D. Forsberg
Lieutenant Colonel
US Army (Retired)

1 Enclosure

In addition, I would like assurance that this lecturer has been dismissed and barred from teaching classes within the University System of Georgia. Anyone who has taught a course in, "Black Psychology" is obviously pushing an extreme agenda and not seriously interested in true knowledge and education, but rather indoctrination, no doubt similar to her own. I can only imagine the nonsense that spilled from her mouth throughout the semester.

I have three daughters and two sons. My oldest daughter was the Coles School of Business student of the year in 2019. My next oldest daughter earned her BS in chemistry at KSU on the Zell Miller and other scholarships and is currently studying nursing in KSU's Accelerated Nursing Program. My youngest daughter is studying information systems at KSU on Hope and other scholarships. My older son is studying computer engineering at KSU on the Zell Miller and other scholarships. My youngest son is a high school senior and plans to study engineering at KSU. He has the Zell Miller and other scholarships and; thanks to the dual enrollment program, he will have more than fifty college credits by the time he graduates from high school.

My youngest son achieved a grade of 'A' in the course taught by Virginia Wood, and I have delayed my correspondence to you on this matter in the interest of his grade point average, knowing the types of reprisals that are common among those that are driving this extreme agenda. I would like to point out that I am a "White Person", as identified by Virginia Wood. For my entire military and civilian careers, I have been pushed to the back of the line for opportunities and promotions in favor of "Persons of Color", as identified by Virginia Wood. You might be interested to know that four of my five children are "Persons of Color", as identified by Virginia Wood, and were adopted into my family. Throughout their young lives, I taught them that skin color is no determination of character; and that all people deserve to be treated as individuals, whose value is established by the God in whose image they were created. I have encouraged them to judge individuals by their merit and not by some favored race or other accident of birth. To do otherwise is simply the soft racism of low expectation.

The following was posted for students of PSYCH 1101 on the D2L platform by Virginia Wood in August 2019:

To keep our classroom the kind of space where we can discuss the material equally and freely, we will, as a group, be setting some ground rules for discussion during our first week together. Over and above whatever guidelines we decide upon, however, I would like to ask you all to think carefully before you speak this semester. Ask yourself: Is what I am about to say true (correct, factual)? Is it compassionate? Is it gentle? Is it beneficial (does it advance the convo)? And if it's not, please consider not saying it and instead focus on being fully present in your listening. Please recognize that when a student who is a member of a minority speaks up about gender, sexuality, race, disability, or any similar issue, they are coming from a painful history of discrimination and abuse. Consider your response extra carefully—in fact, consider just listening and saying "thank you." Appreciate their vulnerability and their generosity, but realize they owe you nothing if you are not a member of that group and do not expect them to go further if they don't want to.

In general, it is my policy to issue trigger warnings about specific content in the text and/or anything that might be on the horizon in terms of classroom lectures, exercises, or demonstrations. However, I can't always predict the direction discussions or Q&A might take. So in the event that something comes up that you do find triggering, I want you to do what you need to do to take care of yourself. You are welcome to leave class if you need to. Come back when you're ready. You are also welcome to contact me afterwards if that would be helpful to you.

Because I teach Black psychology alongside the "standard" Eurocentric version, and because it is impossible anyway to discuss anything in this country without reference to race, I cannot, practically speaking, issue trigger warnings every time it is going to come up. And yet race in America is probably one of the most difficult conversations any of us can ever have. I do not want these conversations to be re-traumatizing for people of color (henceforth "PoC") and so there are two principles that I want us to try to go by here:

1. We should make every effort to state our intentions going into the discussion so that PoC can decide whether this is a conversation they wish to enter into—or not. No student of color should ever feel pressured to engage but should be always welcomed to by the rest of us and listened to respectfully (by which I mean, among other things, discounting the lived experience of PoC will not be allowed). PoC are invited to, as described above, do whatever you need to do to take care of yourselves: Absent yourselves that day if you wish, take a break during the class, whatever it takes. These conversations may generate thoughts and feelings in you that you would rather share anonymously: I encourage you to do so in the Suggestion Box or in the relevant discussion thread on D2L. Most discussion folders are not set to accept anonymous posts or comments but should we get into sensitive areas I will re-set them to do so. If I forget, leave me a note in the Suggestion Box, which is specifically intended to receive anonymous posts and comments (so you won't have to blow your cover).
2. White people, including me, are expected to exert extra care not to make the conversation about us (e.g., tone-policing) and rather than become defensive (e.g., arguing whether

