



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

DEC •4 2006

Kenneth L. Marcus  
Staff Director  
United States Commission on Civil Rights  
Washington, DC. 20425

Dear Mr. Marcus:

Thank you for writing to the Department of Education regarding the United States Commission on Civil Rights' forthcoming campaign on "Ending Campus Anti- Semitism." I am responding on behalf of Secretary Margaret Spellings. We share the Commission's concern regarding incidents of anti-Semitic harassment on college campuses, and appreciate the opportunity to comment.

Under Title VI of the Civil Rights Act of 1964 (Title VI), the Office for Civil Rights (OCR) has jurisdiction to investigate discrimination "on the ground **of race, color,** or national origin." OCR's statutory framework under Title VI does not provide a basis upon which to exercise jurisdiction over **claims** solely alleging discrimination on the basis of religion. The proposed web pages that the Commission forwarded to OCR on November 30, 2006 do not make this distinction, and *instead* cite examples of anti- Semitic acts that do not implicate "race, color, or national origin" yet still refer alleged victims to OCR for redress.

As OCR **stated** in a September 13, 2004 "Dear Colleague" letter, "[w]hile OCR lacks jurisdiction to prohibit discrimination against students based on religion per se, OCR will aggressively prosecute harassment of religious students who are targeted on the basis of race or gender, as well as racial or gender harassment of students who are targeted on the basis of religion." OCR has jurisdiction to investigate complaints raising allegations of religious discrimination or anti-Semitic harassment if the allegations also include discrimination over which OCR has subject matter jurisdiction, such as, race or national origin (including discrimination based on a person's ancestry or ethnic characteristics).

The distinctions affecting the Title VI jurisdictional determination in this context are case-specific and fact-specific, and cannot be summarized categorically. OCR's position is that it will carefully study the facts as presented and will proceed with an investigation of a complaint involving a claim or issue of racial or national origin discrimination, even if the complaint also has characteristics of religious discrimination.

400 Maryland Avenue., SW Washington, DC 20202-1100  
[www.ed.gov](http://www.ed.gov)

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OCR recommends that you amend the Commission's proposed web pages to clarify the limits of OCR's Title VI jurisdiction. In addition, page 11 of the Commission's proposed web pages provides a link to an October 22, 2004 letter from OCR to the Institute for Jewish and Community Research. OCR has removed this letter from its website because the letter does not constitute an official OCR policy statement, and because it suggests that OCR has unlimited jurisdiction, under Title VI, to investigate allegations of anti-Semitism, regardless of the race or national origin of the student-complainant. For these reasons, we would appreciate it if you would modify the Commission's proposed web pages to delete any reference to this particular letter.

We hope this information is helpful to the Commission. I look forward to reviewing the future drafts of these web pages,

Sincerely

A handwritten signature in black ink, reading "Stephanie Monroe". The signature is written in a cursive style. To the right of the signature is a vertical red line.

Stephanie Monroe  
Assistant Secretary for Civil Rights