



Report on the May 2024 Encampment and the Existence of a Hostile Environment at the University of Denver

I. Introduction

On May 28, 2024, the University of Denver (“University”), through its Office of Equal Opportunity and Title IX (“EOIX”), engaged [Lim Riley](#)¹ to conduct an Inquiry, pursuant to the University’s [Comprehensive Discrimination and Harassment Procedures](#), into reports of discrimination and harassment stemming from a 20-day pro-Palestinian encampment on Carnegie Green.² The reports received by EOIX described potential discrimination and harassment occurring at the encampment on Carnegie Green, as well as in the University’s classrooms, housing facilities, academic offices, common areas, and online.³

Pursuant to the Inquiry, Lim Riley was asked to conduct a comprehensive and systematic review of each report and to gather the reasonably available facts and evidence necessary for EOIX to conduct initial assessments of the reports to determine if other actions or remedial steps under the

¹Lim Riley is a law firm specializing in evaluating, assessing, and investigating protected class misconduct.

²The [Procedures](#) define an “Inquiry” as follows: “The Associate Vice Chancellor has the discretion and authority to determine that a report can be resolved through an inquiry process at the earliest stage after receiving a report. The Associate Vice Chancellor may initiate an inquiry to gather information and attempt to resolve the report. The Associate Vice Chancellor may also initiate an administrative review as part of the inquiry. Upon initiation of an administrative review, the Associate Vice Chancellor will notify the head of the unit of the commencement and scope of the review. Following the inquiry, the Associate Vice Chancellor may refer the matter to the appropriate administrator and may suggest remedial action. The Associate Vice Chancellor also has the discretion to initiate a formal investigation where the inquiry cannot resolve the concern or when the information gathered indicates that a formal investigation is necessary. When the Associate Vice Chancellor initiates an inquiry, a Deputy Coordinator or Investigator may interview any Parties and/or Witnesses and gather evidence to determine the appropriate resolution necessary to prevent and correct any Prohibited Conduct under these Procedures. When the Associate Vice Chancellor determines that a concern will be handled through the inquiry process, the University will provide Complainant and Respondent, if known, with notice of the scope of the inquiry and a written resolution of the inquiry that includes a summary of the rationale for such resolution and any recommendations made. Unlike in a formal investigation, the Complainant and Respondent do not have the right to review all information gathered through the course of an inquiry. The Associate Vice Chancellor has the discretion to redact, remove, or summarize, including, but not limited to, personally identifiable information, personnel records, witness statements, and other evidence that the Associate Vice Chancellor determines would negatively impact the operation or mission of the University if disclosed to either Party.” Procedures p. 20.

³Where reports to EOIX did not include sufficient information to identify an impacted person (referred to as a “Complainant”) or a reporter, EOIX was unable to conduct an initial assessment to determine the appropriate resolution pathway. However, in every instance where the reporter or Complainant was identified in a report, staff from EOIX sent outreach to those individuals offering them supportive measures and inviting them to meet with a representative from Lim Riley to discuss their experience(s) and resolution options.

Policy were warranted. Lim Riley was also tasked with determining whether the reports, standing alone or taken together, described a hostile environment based on a Protected Status that impacted the educational or workplace environment of any particular individuals or groups within the University community.

This summary report provides a high-level overview of the information received and an analysis of whether that information established the existence of a hostile environment on campus during the 20-day period of the encampment.⁴ As described in this report, there is sufficient evidence, by a preponderance of the evidence, that hostile environments on the basis of national origin (shared Jewish ancestry), sexual orientation, and gender identity existed. Consistent with these findings, this summary report includes a list of recommendations to redress the effects of the hostile environments on the University community.

II. Background

During spring 2024, pro-Palestinian overnight encampments were erected at more than 75 colleges and universities nationwide.⁵ On May 9, 2024, an Instagram account titled, “DU [University of Denver] for Palestine,” announced a “Gaza solidarity encampment” on Carnegie Green at the center of the University’s campus.⁶ In conjunction with that social media post, individuals erected an overnight encampment to support Palestine, protest Israel’s response to the Hamas attack on October 7, 2023, and persuade the University to divest from Israel. The encampment remained on Carnegie Green until May 28, 2024. During that time, EOIX received over 60 reports of discrimination and harassment related specifically to the encampment, and EOIX and the Department of Campus Safety received 15 reports of pro-Palestinian and perceived antisemitic graffiti occurring on or near campus.

From May 9 to May 21, 2024, the University sent numerous campus-wide emails reinforcing its commitment to free expression and peaceful protest, as well as its stance against discrimination and harassment. In those emails, the University expressly stated that it would permit the encampment.⁷ Due to increasing concerns about campus safety, the University’s Chancellor, Dr. Jeremy Haefner, issued a campus-wide email on May 21, 2024, communicating his expectation that the encampment would voluntarily disband later that same night. That evening, a large group of individuals, which included both affiliates and non-affiliates of the University, assembled around the encampment to watch the protestors leave. Despite the efforts of a volunteer and self-organized group of faculty and staff (referred to as “marshals”) and a contingent of Campus Safety Officers, the convergence of this group around the encampment resulted in verbal and physical

⁴In the limited instances where specific individuals were identified as engaging in conduct that could violate the Policy, the matter was referred to EOIX for resolution consistent with the Policy. To safeguard privacy interests, the identities of those individuals, and the status or outcomes of those matters, are not addressed in this report.

⁵<https://www.campusafetymagazine.com/news/which-universities-are-experiencing-pro-palestine-protests/134553/>.

⁶DU For Palestine (@du_4palestine) • Instagram photos and videos.

⁷<https://www.du.edu/news/weekend-demonstration-information>

altercations that included pushing, throwing water bottles, yelling, and one person punching another.⁸ The encampment ultimately disbanded on May 28, 2024.

III. The Scope of the Inquiry

As described above, the University engaged Lim Riley on May 28, 2024, to conduct an Inquiry pursuant to the Procedures in response to reports of protected class discrimination and harassment occurring in and around the encampment on Carnegie Green in May 2024.

On May 30, 2024, Marti McCaleb, Associate Vice Chancellor for Equal Opportunity and Title IX, issued a Notice of the Inquiry to Dr. Jeremy Haefner, Chancellor, and Mary Clark, Provost and Executive Vice Chancellor, in which she explained the reason for the Inquiry, identified its purpose and scope, and described immediate next steps. The Notice of the Inquiry read, in relevant part:

Since April 30, 2024, EOIX has received more than sixty (60) reports of possible discrimination and harassment from students, faculty, staff, and community members stemming from recent protests and the encampment on Carnegie Green . . . These reports describe conduct occurring in classrooms, University housing, academic offices, Carnegie Green, other campus common areas, and online. However, the vast majority of these reports do not include sufficient information to identify the involved parties or to conduct an initial assessment to determine whether informal resolution or formal investigation under the Procedures is warranted or even possible.

The Procedures set forth the resolution options when the University receives a report of potential discrimination or harassment. These options include inquiry, informal resolution, and formal investigation. The Procedures grant the Associate Vice Chancellor the discretion to determine the appropriate form of resolution. In order to fulfill the University's obligations to take prompt, appropriate action to enforce the Policy, I have determined to address these reports through the prescribed inquiry process. Unlike informal resolution or formal investigation, which require both a named complainant and respondent, an inquiry will allow EOIX to conduct a comprehensive and systematic review of all these reports and to gather the facts and evidence necessary to make initial assessments of the reports to determine if other action under the Policy is warranted. Reports that are initially included within the Inquiry may transition into another resolution process, if necessary or appropriate.

Between May 30, 2024, and September 5, 2024, Associate Vice Chancellor McCaleb sent outreach to every individual (55 in total) who either submitted a report or was identified within a report as having information about potential discrimination and/or harassment. Included in each outreach was an explanation of the Inquiry and an invitation to schedule an intake meeting with a

⁸The marshals were not organized at the request of the University.

representative of Lim Riley.⁹ Of the 55 individuals who were sent outreach, 17 agreed to meet with Lim Riley, two replied that they did not want to participate, and 36 did not reply.¹⁰ In addition to meeting with the 17 individuals, Lim Riley met with 15 Campus Safety Officers who had monitored the encampment. Lim Riley also reviewed all of the documentary evidence they received and obtained, which included relevant incident reports submitted to Campus Safety and EOIX, social media posts, video and photographic evidence, as well as emails, text messages, and other relevant written communications from interviewees. The University fully cooperated with the Inquiry and provided Lim Riley with unfettered access to witnesses, documents, and any other information determined by Lim Riley to be relevant.

IV. Standard of Review

A. Legal Standard

The University is subject to federal law prohibiting discrimination and harassment in its education programs and activities. The implementing regulation of Title VI of the Civil Rights Act of 1964 (“Title VI”) provides that “No person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies.”¹¹ Title VI’s protection from national origin discrimination extends to students who experience discrimination, including harassment, based on their actual or perceived shared ancestry or ethnic characteristics, such as students of Jewish, Palestinian, Muslim, Arab, and/or South Asian descent, or citizenship or residency in a country with a dominant religion or distinct religious identity, or their association with this national origin/shared ancestry.¹²

The Department of Education’s Office for Civil Rights interprets Title VI to mean that the following type of harassment based on national origin creates a hostile environment: “unwelcome conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from a recipient’s education program or activity.”¹³ Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment may also be based on association with others of a different national origin (e.g., the harassment might be referencing the shared ancestry of a sibling or parent, for example, that is

⁹The University did not issue a University-wide call for interviews. Outreach was limited to individuals who made reports to EOIX and individuals identified in those reports as having information about potential discrimination or harassment.

¹⁰In June and July, EOIX sent a second outreach to individuals who did not respond to the initial outreach.

¹¹34 C.F.R. § 100.3.

¹²See *T.E. v. Pine Bush Cent. Sch. Dist.*, 58 F. Supp. 3d 332, 353-55 (S.D.N.Y. 2014) (giving deference to U.S. Department of Education’s interpretation of its Title VI regulation and holding that discrimination based on shared ancestry and ethnic characteristics is prohibited by Title VI); see also 42 U.S.C. § 2000d; 34 C.F.R. § 100.3(b)(1)(iv) and (vi), and OCR Dear Colleague Letter (November 7, 2023), [“Dear Colleague” Letter on Shared Ancestry \(PDF\)](#)

¹³OCR Dear Colleague Letter (November 7, 2023) at 2, [“Dear Colleague” Letter on Shared Ancestry \(PDF\)](#)

different from the national origin of the person being harassed whose access to the school's program is limited or denied).¹⁴

Title IX of the Education Amendments Act of 1972 ("Title IX") prohibits discrimination on the basis of sex in any education program that receives federal financial assistance. Title IX provides that, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."¹⁵ OCR interprets sex discrimination to include discrimination, including harassment, on the basis of sexual orientation and gender identity.¹⁶

B. The University's Policy

The University enforces Title VI and Title IX's prohibitions against discrimination and harassment through its Discrimination and Harassment Policy. Harassment in the 2023-24 Discrimination and Harassment Policy was defined as follows:

Harassment on the basis of a protected status is a form of discrimination based, in whole or in part, upon the person's race, color, national origin, ancestry, age, religion, creed, disability, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, genetic information, military enlistment, or veteran status, and includes the following:

- a. Quid Pro Quo Harassment – Unwelcome, unwanted conduct when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a University program or activity; or
- b. Hostile Environment Harassment – Unwelcome, unwanted conduct that is sufficiently severe or pervasive to interfere with a person's work, academic performance, or participation in a University education program or activity, such that a reasonable person (as defined above) would consider the environment intimidating, hostile, or abusive.¹⁷

V. Summary of Allegations and Evidence Gathered

A. Reports Related to Conduct on the Basis of Perceived Shared Ancestry¹⁸

¹⁴OCR Dear Colleague Letter (May 7, 2024) at 5, [Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics](#)

¹⁵34 C.F.R. § 106.

¹⁶86 Fed. Reg. 32,637 (June 22, 2021).

¹⁷2023-24 Discrimination and Harassment Policy, at 8.

¹⁸The University received an anonymous report that a person inside the encampment reported being "mocked for their black skin" by an individual outside of the encampment who made monkey noises, hopped like a monkey, and shook his head. Because the report was anonymous, the University did not know the identity of the reporter and could not invite the reporter to meet with Lim Riley. No witness interviewed by Lim Riley reported an experience similar to the one described in the anonymous report.

The University received reports that individuals experienced discriminatory and harassing conduct toward the Jewish community during and after the encampment.¹⁹ During the Inquiry, students, staff, and faculty reported experiencing or witnessing the following instances of perceived discriminatory and harassing conduct from individuals participating in or observing the encampment:

- Statements directed at Jewish students, including,
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- Physical violence toward Jewish students, including an instance in which a student carrying an Israeli flag and chanting, “Proud Jew,” was “body checked,” and a different instance in which a student who had a Star of David on their face was hit in the face and called a “[REDACTED].”
- A video posted on du_4palestine’s Instagram account that showed a professor referring to Jewish students as “two-bit frat boys” of a fraternity called “Sigma Heil” while performing the Nazi salute, and calling a Jewish student “a f***ing monster ... who felt completely entitled to be the SS on Kristallnacht.” A second video showed individuals referring to a Jewish woman as a “Jewish Karen,” and saying, “the wig is giving orthodox Karen.”²⁰
- Repeated chants and chalk drawings of “From the river to the sea, Palestine will be free,” “Globalize the Intifada,” “Honor the martyrs,” and “Jewish yes, Zionists no.”
- Israeli flags placed around the encampment were removed and stepped on.²¹
- The University’s Chabad Rabbi and a group of Jewish students were asked to leave a picnic table outside of the library and next to the encampment citing “complaints” that their presence was disruptive.

¹⁹A pro-Palestinian Jewish student reported feeling unsupported by the University before the encampment, a period of time that falls outside of the scope of this review. This student described feeling disappointed that the University’s Chancellor issued statements condemning the October 7, 2023 attack on Israel by Hamas, but has not issued any subsequent statements condemning Israel’s military actions that have killed Palestinian, Lebanese, and Syrian civilians. The student reported feeling targeted by some members of the University community as a pro-Palestinian Jewish student following the attack on October 7, 2023, and before the encampment.

²⁰The term “Karen” is generally known as a derogatory term used to mock white women who are perceived as entitled or demanding.

²¹Video evidence of three different incidents was submitted.

- Statements made to Jewish encampment members that they were “self-hating Jews,” and “retarded terrorist[s].” A student offered that “many” individuals in the encampment were Jewish, supported Palestine, and denounced Hamas, and there was an incorrect assumption in the University that the pro-Palestinian encampment was only a protest against Jewish students and employees.

Students also reported instances of discrimination and harassment inside the classroom while the encampment existed:

- A Jewish student reported that a professor said to their class that counter protestors were homophobic, liars, and fascists; questioned whether the term “baby killer” is, in fact, antisemitic; and asserted that the Chancellor had made a “false claim” when he commented on “rising antisemitism.”
- Another Jewish student reported feeling unsafe in class during “an uncontrolled classroom debate,” in which students defended Hamas and yelled at the Jewish student and slammed their computers shut when the Jewish student added their perspective to the conversation.
- Both Jewish and non-Jewish students who did not support the encampment reported not wanting to go to class because members of the encampment were in their class.

During the time period of the encampment and in the week that followed, there were 15 separate instances of vandalism reported to Campus Safety that occurred in different locations on campus. The 15 reports are described in the below chart.

#	Date	Location	Reported Vandalism
1	May 15	Sturm Hall	“Free Palestine,” “Peace 2 Gaza,” and a hangman drawing with four unfilled spaces (presumably, “J-E-W-S”) written in black marker in a bathroom.
2	May 15	Craig Hall	Patriot Front stickers placed on the sidewalk outside the building. ²²
3	May 19	Engineering Building	“Fuck Lockheed Martin” written in black spray paint; red paint splattered on the outside of the building.
4	May 22	Daniels College of Business	“At least My Bombing Doesn’t Kill Kid’s” [<i>sic</i>] in spray paint.
5	May 24	Craig Hall	“From the River to the Sea,” “Free Palestine 40K dead! Ceasefire,” “All eyes on Rafah,” “Free Palestine,” “Free PM,” “What Side of History Will you be on?,” “Free Palestine, 40,000 Dead Silence is Complicit,” “Free Palestian [<i>sic</i>] People” written in permanent marker and spray paint throughout the building.
6	May 27	Driscoll South	“NO PEACE ON STOLEN LAND” and “FREE PALESTINE” written in black permanent marker.

²²Patriot Front is a white supremacist group.

#	Date	Location	Reported Vandalism
7	May 27	Driscoll Center South	“FREE PALESTINE” written in permanent marker.
8	May 29	Deans’ Homes	Two deans’ off-campus homes vandalized with Pro-Palestinian/anti-Israel comments.
9	May 29	Community Commons	“DEFUND GENOCIDE” written on a door with permanent marker.
10	June 3	Knudson Hall	Rocks painted with the Palestine flag and “Free Palestine” thrown through windows.
11	June 3	Cable Center	Rocks painted with the Palestine flag and “divest now” thrown through windows at the main entrance.
12	June 3	Ritchie Wellness Center and Knudson Hall	“Free Palestine” stickers placed throughout the two buildings.
13	June 4	Sturm Hall	11 stickers and at least 20 messages written in marker re: pro-Palestine protest.
14	June 5	Hilltop Hall	Pro Palestine stickers observed inside and outside of the building.
15	June 6	Sturm Hall	“Free Gaza” written in permanent marker, stickers with “Free Palestine,” and Palestinian-related posters with QR codes observed in 31 different locations throughout the building.

In addition to the above reports of vandalism received by Campus Safety, a swastika was reportedly written in chalk on the pathway by Carnegie Green that was later removed by members of the encampment. This incident was not reported to Campus Safety.

Students, staff, and faculty—and in particular, Jewish students, staff, and faculty—reported feeling distracted, threatened, and unsafe on campus as a result of the incidents described above. Parents of students also reported experiences to the University that their children had shared with them. Those reports included the following:

- Multiple students reported walking an alternate route to and from class to avoid the encampment.
- A parent reported that their child disclosed feeling targeted for being Jewish, and was called out by name by members of the encampment to ensure everyone knew the student was Jewish.
- A Jewish student said, “I was publicly shamed for being a Jew.”
- Jewish and non-Jewish students who opposed the encampment reported feeling “infuriated,” “distracted,” “saddened,” and “scared” when on campus. They said, “I could not study in the library because the chanting on megaphones was so distracting. ‘Free Palestine’ and ‘From the River to the Sea’ could be heard everywhere I went.”

- A Jewish student requested a room change because the student’s roommate was participating in the encampment.
- Another Jewish student reported, “We would be in class trying to pretend we couldn’t hear the chants. It was like a constant elephant in the room.”
- Students reported hearing the chants at night in their dorm rooms.
- Jewish students outside of the encampment reported feeling under attack by marshals, who they knew were faculty and staff of the University, because the marshals did not appear neutral and instead appeared to be there to protect the encampment. Marshals were described as surveilling Jewish students who were outside of the encampment to record them on their phone, saying they were there to protect the encampment from campus safety officers, and instructing protestors not to talk to campus safety officers.²³

B. Reports Related to Conduct on the Basis of Perceived Gender Identity and Sexual Orientation

Members of the encampment reported experiencing discrimination and harassment on the basis of their perceived gender identity and sexual orientation by individuals outside the encampment. Those reports included the following:

- Counter protestors reportedly yelled homophobic slurs up to 10 times a day to members of the encampment that included:
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - d. [REDACTED]
 - e. [REDACTED]
 - f. [REDACTED]
 - g. [REDACTED]
 - h. [REDACTED]
 - i. [REDACTED]

These reporters also shared that they had not experienced such conduct at the University prior to their participation in the encampment. Some reporters described fearing retaliation and physical

²³One marshal reported their role as follows, “We are a group that defined our own role and our role was to protect the students in the encampment from injury and their right to speak; to advocate for their right to speak.”

harm while on campus or in class. One reporter shared they were considering transferring as a result of their experience; another student did not return to school for the 2024-25 academic year.

It was also reported that Campus Safety Officers who provided 24-hour monitoring of the encampment, were in a position to hear the words exchanged between protestors and counter-protestors. One Campus Safety Officer reportedly heard a group of individuals yell "[REDACTED]" toward the encampment; one of the individuals was apprehended by Campus Safety, instructed to stop yelling homophobic slurs, and was released with no further repercussions. No other Campus Safety Officer reported hearing slurs. EOIX did not receive any reports of harassment on the basis of gender identity or sexual orientation from Campus Safety.

C. Reports of Violence Unrelated to a Protected Class

The University also received reports of physical violence that occurred in and around the encampment. These reports, which were not reported to have been on the basis of a protected class, included the following:

- A marshal reported that an unknown older male swung an umbrella at students inside the encampment and then at the marshal. While swinging the umbrella inches from her face, the older male said, "Are you afraid? You should be afraid. I pay your salary and you should be doing what I want you to do."
- A marshal reported that as they biked away from the encampment, male students yelled, "Get on your bike, bitch, and ride away."
- An unknown male pushed and shoved members inside the encampment, tried to take down tents, and stole water bottles.
- An unknown male stole poles from a tent.
- A marshal was shoved by a counter protestor who said, "Get the f*ck out of my way," and "f*ck you."
- [REDACTED]
- Counter protestors threw eggs into the encampment.

VI. Analysis of Hostile Environment

As noted above, under University Policy, a hostile environment exists when there is sufficient evidence, by a preponderance of the evidence, of:

Unwelcome, unwanted conduct that is sufficiently severe or pervasive to interfere with a person's work, academic performance, or participation in a University education program or activity, such that a reasonable person (as defined above) would consider the environment intimidating, hostile, or abusive.²⁴

²⁴2023-24 Discrimination and Harassment Policy, at 8.

The volume and consistency of the reports described above, which in some instances were corroborated by video evidence, sufficiently establishes that the reported conduct, as a whole, occurred as described. Where corroborating video or photographic evidence was not submitted, the consistency of the reported conduct by witnesses who had varying degrees of involvement and interest in the protest, sufficiently establish that the reported conduct more likely than not occurred.

The reporters credibly described hurtful and hateful comments towards individuals of Jewish ancestry, individuals who support Palestine, individuals who are queer, individuals who are transgender, and individuals who are gay. The reported conduct, on its face, was unwelcome and subjectively and objectively offensive. Most reporters expressed shock about the content of the comments and conduct directed towards their fellow community members who identify as Jewish, pro-Palestinian, queer, transgender, or gay.²⁵

In some instances, the reported conduct was severe. Associating death and sexual violence with someone's identity (Jewish, queer, or gay) is severe; being publicly called out by name for being Jewish at a pro-Palestine rally is severe; and telling people to get off campus because of their identity is severe.

In addition, as evidenced by the numerous examples described above, the conduct was also pervasive. The encampment was present in a central campus location for 20 days, and related widespread conduct—including bull-horned chants that were consistently heard in classrooms, in the library, and in dorm rooms, and vandalism on buildings throughout campus—served as a constant and ongoing reminder for the University's Jewish community. Likewise, the repeated homophobic slurs and derogatory comments made to and about members of the University's queer, transgender, and gay population—including those who participated in the encampment—on a daily basis, up to ten times per day, was ongoing and widespread.

Lastly, the reporters described an impact that limited and, in some instances, denied their participation in and benefit from the University's education program or activity. Jewish and non-Jewish students reported missing class because they were not comfortable being in class with encampment participants. A Jewish student requested a room change because their roommate was a member of the encampment. There were countless reports from students and parents about campus safety during the protests that were captured in voicemails where the fear was palpable. Likewise, LGBTQ+ students reportedly missed class and one expressed a desire to transfer to another institution as a result of targeted harassment. One student did not return to the University.

²⁵The Office for Civil Rights has instructed that the finding of a hostile environment can exist, even though the speech that created the hostile environment is protected by the First Amendment. In the May 2024 Dear Colleague Letter, titled, "Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics," OCR wrote, "Nothing in Title VI or regulations implementing it requires or authorizes a school to restrict any rights otherwise protected by the First Amendment to the U.S. Constitution. OCR enforces the laws within our jurisdiction consistent with the First Amendment. The fact that harassment may involve conduct that includes speech in a public setting or speech that is also motivated by political or religious beliefs, however, does not relieve a school of its obligation to respond under Title VI as described below, if the harassment creates a hostile environment in school for a student or students." DCL at 3,

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>.

Given these reported subjective impacts and objective offensiveness, there is sufficient evidence that a reasonable person would consider the environment intimidating, hostile, or abusive.

VII. Conclusion and Recommendations

For the reasons outlined above, there is sufficient evidence that during the period of the encampment, there existed on campus hostile environments on the basis of shared ancestry, gender identity, and sexual orientation. It is important to note that this finding will not result in individual discipline of every protestor or counter protestor, because the conduct attributed to an individual in some cases was insufficient to sustain a finding of Harassment because it was not sufficiently severe or pervasive, was otherwise protected speech, or was engaged in by an unidentified individual. Limitations on individual discipline are not binding on the University's responsibility to address the existence of the hostile environments, as found above, through tools outlined by OCR that include:

Communicat[ing] its opposition to stereotypical, derogatory opinions; provide counseling and support for students affected by harassment; or tak[ing] steps to establish a welcoming and respectful school campus, which could include making clear that the school values, and is determined to fully include in the campus community, students of all races, colors, and national origins.²⁶

The below list of recommendations is informed by OCR's long-standing guidance on Title VI that instructs schools on notice of a hostile environment to take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment and its effects, and prevent the harassment from recurring. It is important to note the measures already undertaken by the University, including, terminating the encampment, prohibiting future camping for protest purposes on campus,²⁷ and the multiple community messages from the Chancellor acknowledging the division on campus. On August 1, 2024, EOIX issued an updated Discrimination and Harassment Policy that aligns with recently issued guidance by OCR on Title VI considerations. EOIX remains responsive to reports of discrimination and harassment, and continues to provide supportive measures to impacted campus constituents to address the effects of the hostile environments. In light of these stated measures, which are reasonably tailored to ending the

²⁶In the May 2024 Dear Colleague Letter, titled, "Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics," OCR wrote, "Schools have a number of tools for responding to a hostile environment—including tools that do not restrict any rights protected by the First Amendment. To meet its obligation, a university can, among other steps, communicate its opposition to stereotypical, derogatory opinions; provide counseling and support for students affected by harassment; or take steps to establish a welcoming and respectful school campus, which could include making clear that the school values, and is determined to fully include in the campus community, students of all races, colors, and national origins. OCR does not interpret Title VI to require any recipient to abridge any rights protected under the First Amendment. For instance, if students at a public university engage in offensive speech about members of a particular ethnic group and that speech contributes to a hostile environment within an education program about which the university knows or should know, the university has a legal obligation to address that hostile environment for students in school. The university may, however, be constrained or limited in how it responds if speech is involved." DCL at 3,

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>.

²⁷August 16, 2024 message from the Chancellor titled, "[Update on Protest Policy](#)"

harassment, eliminating the hostile environment and its effects, and preventing the harassment from recurring, the University should consider the following additional recommended actions:

1. In light of the above finding, issue a campus-wide statement acknowledging the hostile environments, reinforcing the University's opposition to discrimination and harassment, and communicating the University's commitment to restoring a sense of safety and belonging on campus.
2. To the extent not already underway, launch an informational campaign on how to report incidents of perceived discrimination and bias to EOIX.
3. In addition to the comprehensive annual training program required under Title IX, develop a comprehensive annual training program on discrimination and harassment based on race, color, and national origin, including shared ancestry, and provide training to students and employees. The training should include an overview of the Discrimination and Harassment Policy and the type of harassing conduct and behavior that is covered by the University's Discrimination and Harassment Policy.
4. The University's training program should ensure that employees are educated regarding the University's obligations under Title VI to respond to alleged discrimination based on race, color, and national origin, including discrimination based on a student's actual or perceived shared ancestry or ethnic characteristics, and the intersection of free speech.
5. Create and deliver targeted educational programs to students and employees to help facilitate respectful dialogue inside and outside of the classroom around interfaith issues on campus, and to develop improved skills in communicating and collaborating across differences.
6. Create and deliver training to the Department of Campus Safety on how to identify discrimination, harassment, and sex-based misconduct, as well as their duty to promptly report suspected violations of the Discrimination and Harassment Policy directly to EOIX.²⁸ This training should include examples of discrimination, instructions on how to report discrimination, and a description of the University's response to such reports.
7. Consider avenues to generate community input in remediating the hostile environments, that may include listening sessions, focus groups, and/or a digital portal for sharing insights and recommendations.

²⁸ See Policy on Reporting by University Employees of Disclosures Relating to the University's Discrimination and Harassment Policy.