

To: Marti McCaleb, Associate Vice Chancellor for Equal Opportunity and Title IX
From: Grand River Solutions
Date: September 6, 2024
Re: Review of the University of Denver's Response to Reports and Incidents of Antisemitism

Introduction

Thank you for the opportunity to conduct a review of the University of Denver's response to antisemitic conduct reported to the institution, including to Equal Opportunity and Title IX (EOIX). This report also includes a summary of available information from the federal government on complying with Title VI of the Civil Rights Act, which prohibits discrimination on the basis of race, color, and national origin, including shared ancestry. Recommendations in this report are grounded in the best practices described in government guidance and enforcement actions, and ideas from around academia are shared as examples. Links to referenced messages, documents, or regulations are embedded in this document.

This review found that DU's responses to reports relating to alleged antisemitic conduct were in compliance with established best practices and with DU's published policies and procedures. GRS did not find evidence to support that the Jewish community overall experienced a hostile environment at the University. GRS found that the University responded promptly with options for resolution and potential remedies when members of the Jewish community reported concerns. Some solutions were security related, such as additional cameras, security escorts, and dialogue between parents and the head of Campus Safety. Other supportive solutions were also consistently made available to impacted individuals, including academic support.

History and Scope of this Review

In January 2024, DU engaged Grand River Solutions (GRS) to review past complaints or reports of antisemitic conduct, including reports of harassment based on shared ancestry (Jewish) to EOIX dating from academic year 2022-23 and 2023-24, as well as any evidence provided as part of those reports. GRS then sought to interview those who had made reports as well as those who may have witnessed any of the reported incidents, and any other individuals who wanted to share their concerns or opinions about, or their perceptions of campus antisemitism. GRS sought to gather information

relating to the factual underpinnings of such concerns or opinions to get an understanding of Jewish students' experience and perceptions of the climate at DU. DU continued to receive reports and concerns from its community as the review was ongoing. In order to allow GRS to conclude this review and provide feedback to the University, DU stopped sending GRS reports in mid-April. From that time forward DU continued to receive and address reports but did not share them with GRS for inclusion in this review. GRS understands that the University continued to engage with the campus community through April and beyond, including through the initiation of the encampment in May 2024.

Information Gathering

Existing case files were shared via a secure file-sharing platform from EOIX to GRS for review. After review, if GRS had any clarifying questions about particular matters or materials, GRS sought clarification from EOIX. Information about newly-reported concerns was shared in real time from EOIX to GRS for review. GRS reviewed 32 matters that were reported between January 2023 and April 2024. GRS also met with EOIX to learn more about its case management and recordkeeping protocols.

GRS set up an email address, inquiryDU@grandriversolutions.com, to field outreach by members of the community who were interested in participating in the review by sharing their experiences and perceptions. GRS engaged in targeted outreach to community members who had previously shared information about concerns regarding antisemitism. GRS also met and communicated with leadership from DU's Chabad House (Rabbi Yossi Serebryanski) and Hillel (Director Lily Gross) and, in those conversations, asked for their support in connecting GRS with students who would be interested in participating by sharing their experiences and perceptions. Chabad Rabbi Yossi Serebryanski sent a message to a number of recipients on March 11 sharing information about the review and its purpose, and directed people to the InquiryDU email address.

In March and April 2024, the University shared information about the inquiry more broadly in a series of email newsletters and bulletins. EOIX partnered with marketing and communications colleagues to ensure proper placement of the inquiry announcement in multiple campus messages and also to assure that the open rate for the emails was consistent with previous messaging. The information about the inquiry ran in consecutive months in multiple messages to ensure that a high number of

students had access to the information about the inquiry and would understand how to participate. Four individuals reached out directly to the InquiryDU email address to share information.

In addition to meeting with Rabbi Serebryanski and Lily Gross, GRS conducted interviews with seven employees, two students and one parent.

GRS sent targeted outreach to more than 20 individuals who either did not respond after multiple follow-up attempts or specifically declined to participate.

Review of DU's Responses to Reports of Antisemitism

In the 32¹ matters GRS reviewed, DU's response to reports relating to alleged antisemitic conduct was timely and compliant; the response was in accordance with DU policies and procedures and established best practices based on relevant government guidance. DU responses included, as needed, making referrals to EOIX for intake and assessment and support, and referring matters for threat assessment as needed.

Specifically, when matters were reported or referred to EOIX, the office promptly sent outreach to impacted or reporting parties to schedule a time to meet and discuss further.

EOIX conducted intake interviews, offered and provided supportive measures, and offered resolution options, including informal resolutions and investigations to determine whether there were violations of University policy. The University provided notices of outcome to the parties involved and documented the case status, including the reason for case closures or referrals to other offices.

In at least 5 cases reported or referred to EOIX, impacted students did not to respond to EOIX outreach. EOIX documented multiple attempts to reach potential complainants or individuals who may have information about a report. EOIX professionals also documented if they knew that a student who did not respond to EOIX outreach connected to resources or support through another campus official.

¹ Please note that the numbers relating to various case dispositions will not add up to this total case number because some cases meet multiple criteria, For example, a complainant may not have been responsive to EOIX outreach *and* there was no identified or identifiable respondent.

For 10 reports, there were no potential respondents identified. These matters were mostly related to vandalism and unauthorized posting; in each, the University sought to identify individuals via camera footage where possible, and in at least one instance, the University was successful in identifying involved parties with camera footage.

EOIX determined that 5 reports were outside the scope of the office and referred the matter to another office if applicable and notifying the reporting party. Four matters were referred to the inquiry process under the [Comprehensive Discrimination & Harassment Procedures](#). Four potential complainants told EOIX they did not want to initiate or continue with investigations, and four matters were resolved with informal resolution. Consistent with EOIX policy, a complainant may express preferences about whether and how to resolve a particular concern, or may choose to decline to participate, including by declining to respond. EOIX procedures outline how the University will weigh risk factors to determine whether the University can follow the complainant's resolution preferences.

Specifically, according to the procedures, the Associate Vice Chancellor will consider the following factors when considering whether a complainant's resolution preferences can be honored:

1. The totality of the known circumstances,
2. The presence of any risk factors such as:
 - a. Whether Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior,
 - b. Whether the Respondent has a history of failing to comply with any University No Contact Order, other University protective measures, and/or any judicial protective order,
 - c. Whether Respondent has threatened to commit violence or any form of Prohibited Conduct,
 - d. Whether the Prohibited Conduct involved multiple Respondents,
 - e. Whether the Prohibited Conduct involved physical violence. Physical violence means exerting control over another person through the use of physical force. Examples of physical violence including hitting, punching, slapping, kicking, restraining, strangling, and brandishing or using any weapon,

- f. Whether the report reveals a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location),
 - g. Whether the Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or intoxicants,
 - h. Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18), and
 - i. Whether any other aggravating circumstances or signs of predatory behavior are present.
3. The potential impact of such action(s) on the Complainant,
 4. Any evidence showing Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct,
 5. The existence of any independent information or evidence regarding the Prohibited Conduct, and
 6. Any other available and relevant information.

In matters where the complainant declined to participate or requested that EOIX not investigate a matter, EOIX conducted an assessment consistent with the procedures as described above to determine whether, based on those six factors and the risk factors, the University had to move forward with an investigation “in order to adequately fulfill the University’s obligations to promote a safe and non-discriminatory environment.” In the matters reviewed, EOIX’s assessments appropriately determined that the office could honor the complainants’ requests not to investigate. EOIX offered and provided supportive measures to complainants regardless of whether the complainants sought to participate or seek a resolution through investigation.

DU was also responsive to concerns on social media, including taking action where it had control over a post. For example, when concerning comments were left on a University social media post, the University turned off commenting for the post and left its own message about how to report discrimination and harassment to EOIX.

EOIX and DU also engaged in strategic messaging to its community or segments of its community (such as students, interested parents, and alumni) to address concerns and provide resources for support. For example, concerned parents and alumni were invited to meet with the head of Campus Safety. These and other community messages are discussed further below.

Before October 7, 2023

In academic year 2022-23, the University received 7 reports of suspected antisemitic conduct, including vandalism and property destruction. The University's responses were prompt and appropriate. Matters reported to EOIX were reviewed and processed in accordance with EOIX procedures as described above, including matters where:

- there was no identified respondent;
- complainants did not respond to EOIX outreach;
- a complainant did not want to proceed with resolution;
- complainants sought informal resolutions; and
- EOIX closed the matter as out of its scope.

Specifically, EOIX conducted outreach to known impacted people, conducted intake interviews, offered resources and available supportive measures, and notified complainants about available options. If a complainant was nonresponsive to EOIX or said that they did not want to move forward with an investigation or informal resolution, EOIX used the factors from its procedures, outlined above, to determine whether the office would move forward with an investigation despite the wishes or participation of the impacted person. After assessment, EOIX did not move forward with investigations in cases where the complainant declined or was not responsive to outreach. In response to a complainant's message specifically declining an investigation, EOIX notified the complainant that they could contact EOIX at any time to follow up on any concerns of discrimination or harassment. Matters that were closed because they were out of scope were referred to other offices or processes for handling if appropriate, such as to the Bias Incident Report Team. EOIX notified complainants in writing if their matters were referred to other processes or offices. In at least one reported vandalism matter, the initial perception was that the conduct may implicate antisemitism, and accordingly EOIX found the matter to be in scope of EOIX policy and proceeded with the investigation process. Ultimately, as more information became available, the parties and the University understood the matter was not related to antisemitism. The parties agreed to resolve through informal resolution.

In another vandalism/property destruction matter, the University provided supportive measures and additional security measures; no suspects were identified.

In response to reports during the 2022-23 academic year, University leadership communicated as appropriate with the campus community, consistent with policy and applicable privacy laws. While the University could not share specific details of reported matters, these communications acknowledged incidents and concerns and provided another opportunity to denounce antisemitism and antisemitic conduct. These messages also were an avenue for information on how to report concerns and how to seek support.

For example, Vice Chancellor Todd Adams wrote to students in [February 2023](#) to acknowledge recent report of antisemitic vandalism, denounce antisemitism and antisemitic conduct, and assure the community that these reports were being investigated. He also requested that anyone with more information be in touch with EOIX to participate in the investigation. His message connected students to available supportive resources. The message was forwarded on to the larger community by Provost Mary Clark, Vice Chancellor for Human Resources Jeff Banks, and Vice Chancellor for Diversity, Equity, and Inclusion Chris Whitt, and also posted to a public-facing website hosting University news.

In [March 2023](#), Chancellor Jeremy Haefner and Provost Clark sent a message denouncing antisemitism and antisemitic incidents and described University efforts to raise awareness and understanding on bias prevention and response. They shared information about upcoming events and opportunities for discussion and learning and emphasized the importance and dedication to eradicating hate on campus. The message acknowledged that generally the University cannot share the details of its investigations or resolutions with the community but assured that matters were addressed and taken seriously.

After October 7, 2023

Like many institutions nationwide, after October 7, 2023, DU received increasing reports of concerns about antisemitism, including regarding vandalism, unauthorized chalkings or postings, and public displays. Reports also related to speech, including social media posts and comments, in-person comments between individuals (like colleagues, classmates), and public speeches, talks, or published letters. The University continued to respond consistent with its policies, documenting intakes and assessments, offering and providing supportive measures and resources to students,

and memorializing steps toward resolving matters. The University provided GRS with information about 22 matters reported between October and April. These matters were addressed or resolved as follows:

- 1 matter was resolved informally;
- 3 complainants declined investigations or resolution processes;
- EOIX determined 4 matters were outside the office's scope. Two of those matters were referred to appropriate offices (such as Campus Safety, Human Resources) with notice to the complainants about the referral;
- 4 matters were referred for a separate resolution through inquiry under the Comprehensive Discrimination & Harassment Procedures;
- 5 matters lacked identified/identifiable respondents (unauthorized posting, graffiti, other vandalism); and
- 5 potential complainants did not respond to outreach. All of the matters were provided to GRS for the purposes of this inquiry into the overall climate for the Jewish community through mid-April 2024.

Case records reflect that EOIX offered supportive measures and resources to known impacted people, including when complainants declined investigation or other further engagement with or action by EOIX. In matters where there were not specifically identified impacted parties, such as vandalism in open or public spaces, the University sent community messages acknowledging these incidents, denouncing the conduct, identifying how people could report information they may have, and also sharing how the community could access support and resources. For example, on March 4 Campus Safety sent a message to the community seeking information about vandalism that occurred and provided information about supportive resources and also how to report any known information about the incident.

Through the year University leadership also continued to engage with its community through messaging by email and website updates. These messages demonstrated University values and reiterated how members of the community could raise concerns and seek support. The messages summarized below were sent in October and November 2023 and January and May 2024. The below does not include the messages to students from EOIX that were sent in March and April.

Provost Mary Clark, Vice Chancellor of Diversity, Equity, and Inclusion Christopher Whitt, Vice Chancellor of Human Resources Jeff Banks, and Vice Chancellor of Student

Affairs Todd Adams sent a [joint message](#) to the DU community on October 9. The message acknowledged the tragic events unfolding in Israel and Gaza and provided information about and links to DU community support for students, faculty, and staff. The information included whether the resource was confidential and whether there was a cost to use the resource.

Chancellor Haefner's comprehensive [October 17, 2023](#) message was grounded in a focus for health and safety of the community first, including the assistance provided by the University to community members who were in Israel. The message unequivocally denounced hate, including antisemitism and Islamophobia, and offered opportunities to engage in opportunities to hear from others at a community talk, attend an expert talk with the school of international studies, and read an article by DU's director of the Center for Middle East Studies. The letter then shared resources for support, following up on a message from Provost Clark the previous week.

In November, the Chancellor received an open letter from alumni and the parents of current students, and sent a response to address their stated concerns and specifically respond to any pressing safety concerns. He provided information about an upcoming online talk and meeting with the Campus Safety chief that the recipients were invited to attend to share their concerns and hear directly from Campus Safety and EOIX. The Chancellor also shared that the University was continuing to check in with student groups to address their safety concerns.

In [January 2024](#) the Chancellor welcomed students back for the winter term and acknowledged the ongoing grief from human suffering during the war in the Middle East. The letter announced a number of relevant events, including panel discussions, expert talks, a monthly teach-in, and smaller community dialogue opportunities. These interdisciplinary opportunities offered students the option to engage in different ways on the issues that matter to them, whether they seek to focus on international affairs or on social emotional learning and wellness. The letter included links to relevant policies, including nondiscrimination, freedom of expression, and the honor code.

The Chancellor's [May 2024](#) letter to the community acknowledged news and social media coverage of activist activities across the country, including at the University. The message reiterated a commitment to free expression and zero tolerance for antisemitism and calls for genocide and/or violence. The Chancellor reiterated the

applicable policies and resources regarding prohibited conduct, including the Policy on Discrimination and Harassment's prohibition of discrimination and harassment on the basis of shared ancestry, including antisemitism and Islamophobia, and the Student Honor Code, which generally prohibits harassment, bullying, intimidation, and retaliation.

Additional messaging related to events occurring in late April and May is out of scope of this review. The University continues to communicate with students, faculty, and staff to respond to concerns in a way that is meaningful, consistent, and efficient.

Community Reflections and Accompanying Recommendations

GRS spoke with a limited number of students, asked other non-student interviewees about their understanding of student perceptions and experiences, and reviewed communications from students in existing case files or that were otherwise shared with GRS. Overall some students involved in raising concerns of antisemitism indicated that they felt supported by DU and satisfied with DU's response, while other students were either unsatisfied or hesitant to report. Two themes that emerged were lack of trust and frustration about transparency.

Trust

Indicators from documents reviewed and interviews suggest that some members of the community lack trust in University processes to address discrimination and harassment. Students either sought other resources, such as support from their community within Hillel or Chabad, or when they did seek to utilize a campus process, they felt their needs were not being met, only further exacerbating their experience and making them less likely to participate in such processes.

GRS learned that potential employee participants were resistant to participate in this review, noting concerns about retaliation and doubting the utility of the review. EOIX should continue its efforts toward building trust and community. The office has new leadership, which presents an opportunity to reintroduce EOIX to the campus community.

In continued efforts to build trust and awareness, EOIX could partner with existing task forces or committees to continue to ensure that University obligations such as

prohibiting Title VI discrimination are incorporated into existing DEI strategies. Identify stakeholders who can assist the office in continuing to understand the community's perceptions, possibly requesting such support from students and employees who are already engaged in campus leadership opportunities. The University can continue to embrace a shared governance approach by activating student leaders to be part of informing the institution's solutions to student concerns.

GRS found that a number of University administrators made concerted efforts to meet with key leaders in the Jewish community and attended events and dinners to forge connections and show support. This includes engaging with Rabbi Serebryanski from Chabad and Lily Gross from Hillel. For example, the rabbi shared that the University Provost regularly attends Shabbat dinners throughout the year. The University also appointed Sarah Pessin to be the Director of Spiritual Life in Student Affairs and Inclusive Excellence. The University should continue to build on this important foundation of connection and understanding as part of building trust.

The University should continue to develop cohesive resources on inclusivity and religious accommodations to build awareness and familiarize students and employees with existing and new resources. For example, the University's module on [Spiritual and Religious Diversity](#) includes teaching tools, educational resources and videos, and information on the interfaith calendar. Student Affairs' website on [Spiritual Life](#) has a number of resources, including information for students seeking religious accommodations, a sample syllabus statement, and links to faculty resources. Employees and groups can request inclusivity training and access an [inclusivity calendar](#) with best practices. Student Affairs hosts the [Statement and Procedures on Religious Accommodations for Students](#). The University can build upon these resources and regularly review and update them as needed.

The University should also consider offering religious observance calendars in a more easily accessible way. For example, here are some peer and neighboring institutions' religious observance calendars found on more general interest pages (calendar, provost office, registrar):

- [Drexel's calendar](#) is part of the Provost's webpage and notes that in some religions the holiday begins the evening before the designated date.
- [Colorado State's religious calendar](#) is part of [a list of school calendars](#), and includes a brief description of the holidays.

- [Saint Louis University's calendar](#) is part of the registrar's site and, like some others, includes the holidays, dates, and whether there are work restrictions.

Available resources should be highlighted in particular to employees who are likely to receive requests about religious accommodations or other needs, such as absences during holidays (faculty, academic advisors), meal plan exemptions or accommodations, and other residential needs.

Transparency

Several employees shared frustration with the timeliness of campus processes and their lack of transparency. Institutions of higher education must balance requests for transparency with the duty to maintain confidentiality of student records consistent with federal privacy law. Transparency for parties engaging in a process is encouraged and is baked into the University's procedures, including written notices to the parties through the process.

GRS learned that campus community members and groups may expect more information about the status and resolution of reported incidents if there was widespread awareness of the issue from conversations on campus or campus and local press coverage. Although the University is limited on what can be shared generally to people who are not involved in the matter, the University may consider continuing sending follow-up messaging to reiterate its values, including a commitment to upholding its nondiscrimination policies and behavioral expectations, acknowledging that people may be aware of recent reported incidents, and providing assurance that the university addressed those concerns to resolution in accordance with its policies and procedure. This is consistent with the type of messaging published in February 2023 about reported incidents of antisemitic vandalism on campus.

Such messaging could be campus-wide, or could be a communication posted on the website for anyone to read, with the link be shared specifically with those who make inquiries, including leaders of interested groups or organizations. The University is already well positioned to engage in such communication strategies based on its approach in other contexts.

To take an example from outside the discrimination context, if there were a potential hazing incident reported at an institution, rumors might fly across campus and be

published in the press, picked up also by the social media pages meant for the parents of that college's students. Where the campus responds appropriately, promptly investigating and determining, for instance, there was not hazing but a different violation of the student conduct code, the campus is limited from sharing student records (and the information in them) without a student's consent, with some exceptions. Yet campus officials want to provide assurance to the community that it is aware of the concerns being discussed around campus and has followed its process. They can develop a communication strategy to get those points across without improperly disclosing student information, and in messages they can remind the campus community about the kind of conduct that is prohibited on campus, how to report it, and what the campus response will be, including providing supportive resources and information about the impacted person's rights and options. This type of messaging is consistent with what the University has provided in the past, and future communication strategies should consider the effectiveness of those past messages.

Recommendations

The University should continue to assess its policies and approaches and ensure that the University is aligned not only with legal requirements but also with best practices. This section will list and summarize some of the available resources and information about a school's obligations under Title VI and best practices synthesized from recent government publications and enforcement actions.

The University should also assess any of its chosen approaches for effectiveness; for example, if the University undertakes certain strategies to increase awareness about EOIX, then EOIX would likely experience an uptick in outreach from the campus community. If the University updates its employee training to ensure understanding of the University's policies against discrimination and harassment, including discrimination on the basis of shared ancestry, the University may seek to assess the effectiveness of that training to determine whether the intended message is being received, for example, with a follow-up survey sampling employees about their understanding of the concepts in the training.

Understanding and Implementing Best Practices from Government Guidance

The University, along with all other recipients of federal financial assistance, is continuing to receive supportive guidance and resources from the Office for Civil Rights (OCR), the Department of Education office that enforces Title VI.

The University should continue to monitor ongoing guidance from OCR and also continue to use that guidance to inform its student training, employee training, policies, and policy implementation.

OCR has issued a number of Title VI resources since January 2023 to support schools and postsecondary institutions understand their obligations and OCR's expectations. These resources also educate students and families about their rights. OCR published relevant resources prior to January 2023, but as the need for continued guidance has expanded, so has the Department's response to meet this need and clarify schools' obligations. Note that previous guidance was issued more sporadically – 1994, 2003, 2004, and 2010 for example. Starting in 2023 the guidance became increasingly frequent, and institutions (and K-12 schools) can take care to continue to monitor and understand these documents. Below is a brief review of the materials issued in 2023 and 2024 to date.

January 2023

The [January 2023](#) fact sheet is a two-page document that explains how Title VI protects students from discrimination based on shared ancestry or ethnic characteristics. This document focuses on how this applies to students who are perceived to be Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, or of another religious group. It includes examples of prohibited discrimination, including discrimination involving slurs, style of dress, and foreign accents. This fact sheet refers back to a [2017 publication](#) that explains how "Title VI does not protect students from religious discrimination" but does prohibit discrimination involving, among other things, racial, ethnic, or ancestral slurs.

May 2023

A few months later OCR issued a brief Dear Colleague Letter in [May 2023](#) on antisemitism. It reiterated that the agency may investigate complaints regarding "ethnic or ancestral slurs; harassed for how they look, dress, or speak in ways linked to ethnicity or ancestry (e.g., skin color, religious attire, language spoken); or stereotyped based on perceived shared ancestral or ethnic characteristics." The letter directed

readers toward additional resources at an [OCR website on shared ancestry](#), and reiterated the standard for schools to meet their obligation under Title VI. If a school knows (or should have known) of a hostile environment, the school must take “prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent harassment from recurring.”

November 2024

In the aftermath of October 7, 2023, the Department issued another Dear Colleague Letter, and three more would follow between March and July 2024. The [November 7](#) letter acknowledged a nationwide rise in hate crimes, and reiterated a recipient’s obligation under Title VI, including “to address prohibited discrimination against students and others on your campus—including those who are or are perceived to be Jewish, Israeli, Muslim, Arab, or Palestinian—in the ways described in [the] letter.” The letter also said that “[h]arassing conduct can be verbal or physical and need not be directed at a particular individual.” The hostile environment standard cited in the November 7, 2023 is similar to the hostile environment standard in the 2024 Title IX regulations: “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 the recipient’s education program or activity.”

The letter included the following to address concerns about freedom of speech or expression: “OCR interprets its regulations consistent with the requirements of the First Amendment to the U.S. Constitution, and all actions taken by OCR must comport with First Amendment principles. No OCR regulation should be interpreted to impinge upon rights protected under the First Amendment or to require recipients to enact or enforce codes that punish the exercise of such rights.”

March 2024

On [March 14, 2024](#), the Department issued a four-page letter acknowledging that OCR received an increase in complaints from students based on shared ancestry discrimination, including discrimination against Muslim, Arab, Sikh, South Asian, Hindu, and Palestinian students. This letter largely reiterated the November 7, 2023, letter, including stating that harassment could be physical or verbal, and that it need not be directed at a particular individual in order to create a hostile environment. The letter also reiterated the hostile environment standard that was in the November letter.

May 2024

On [May 7, 2024](#), the Department issued another Dear Colleague Letter, but this document was identified as “significant guidance” and totaled twenty pages. The guidance stated that Title VI protections extend to students or school community members who are or are perceived to be “Jewish, Israeli, Muslim, Arab, Sikh, South Asian, Hindu, Palestinian, or any other faith or ancestry,” and acknowledged an influx in OCR complaints and public complaints about shared ancestry discrimination and harassment on these bases.

The guidance first addressed free speech, acknowledging that a school can take steps to address a hostile environment that do not stifle speech, including that a school could “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.” The letter stated that a university may be “be constrained or limited in how it responds if speech is involved.” The letter reiterated the hostile environment standard consistent with previous letters, and stated that “[t]he offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a hostile environment under Title VI.”

OCR provided eight examples regarding hostile environment based on shared ancestry, describing circumstances where OCR would open an investigation if the school took no further action after learning of these concerns. These examples include reports from students experiencing targeted antisemitic vandalism; epithets and other abhorrent speech paired with violence and intimidation; ripping off a student’s hijab and stomping on it while calling the student epithets and slurs; a faculty member stating that people from a certain country “don’t even deserve to live,” and more. These nuanced examples demonstrate how the pervasiveness of harassing conduct (even if perpetuated by different people or groups) can create a hostile environment.

Next the guidance explained the analysis for assessing whether there was different treatment based on shared ancestry, including asking the following questions:

- Were students of a particular race, color, or national origin treated differently from similarly situated students of another race, color or national origin?

- If yes, was there a legitimate, nondiscriminatory reason for the different treatment?
- If yes, is that explanation pretext for discrimination?

The guidance, like previous letters, stressed how critical it is for schools to consider the totality of the circumstances. The guidance urged schools to consider the following non-exhaustive list of factors: “the context, nature, scope, frequency, duration, and location of the harassment based on race, color, or national origin, as well as the identity, number, age, and relationships of the persons involved.”

July 2024

On [July 2, 2024](#), OCR issued a nine page fact sheet on Title VI. The fact sheet began with questions and answers about the conduct covered (type of conduct, location), how a school would know a student was experiencing a hostile environment, how a school must address the hostile environment, and that retaliation is prohibited. The fact sheet included eight examples where OCR would open an investigation; these examples are distinct from the examples in the May 2024 significant guidance and cover race, color, and national origin, rather than focusing on shared ancestry specifically.

Three examples focused on shared ancestry--two involving hostile environment and one involving different treatment. The first hostile environment example involves students sending the student organizers of a pro-Israel demonstration antisemitic slurs and death threats through social media and text messages. The next is about a group of protestors from a neighboring school uses ethnic and racial slurs against a group of students, including Muslim and Arab students, participating in a peace vigil organized by an interfaith organization on campus. The protestors chant “you’re siding with terrorists” and say to Muslim and Arab students that “You don’t deserve to be in America; you’re all Arab terrorists anyway. Get out of here!”

In both hostile environment examples, OCR provided information to show how the targeted students were impacted—they missed class, sought mental health support, requested to finish the semester remotely, and/or did not feel safe on campus. This information was provided to show that the school had gathered information indicating that students are limited or denied the ability to benefit from or participate in their education program or activity.

The different treatment example involves an employee at a clinical placement site treating a Lebanese student less favorably and referring to them as “an ignorant Arab,” and telling another employee there were “too many Muslims in this country.”

Adopting Best Practices from Government Enforcement

OCR has published a number of resolution letters and agreements with institutions regarding Title VI complaints. These agreements are only binding on the institution that engages in the agreement with OCR. OCR’s findings, if any, and requirements for a school per an agreement are based on the particular facts and circumstances that were part of OCR’s investigation. Readers of these resolution letters and agreements are not privy to the details beyond what are in those documents, and so do not have the full context for the requirements in the resolution. Still, these documents are useful for institutions to understand expectations and best practices. OCR has published five letters and agreements in 2024 as of this writing.

Below is a non-exhaustive list of common themes of these letters and agreements. The University’s current policies and practices already reflect many of these best practices, and University officials should consider the below when making further revisions to policies, practices, and training.

Policy Updates

Institutions should regularly review and update their policies to ensure they are compliant and clear.

Who, what, where, when: Policies on nondiscrimination and antiharassment should include information about what sort of conduct is covered by the policy (including retaliation), to whom the policy applies, and when and where the policy applies. This information is particularly helpful in scenarios where community members may be unsure about whether or how to report conduct that occurred off-campus or online, or where the person who engaged in the conduct is unknown or is not a member of the campus community. Policies should explain how the institution would respond in such cases. And all policies should state that they will be applied in a nondiscriminatory manner that complies with Title VI and other applicable laws.

These policies should include examples of shared ancestry discrimination so that the community understands what it is, and those examples can be pulled from OCR guidance and existing trainings, including the significant guidance issued in May 2024.

How to report, and how the school will respond: Policies should include information on how to report conduct that could violate University policy, including the contact information for the employee responsible for receiving and investigating those reports. Then include information that answers the following questions: what does the initial assessment process look like? How will the school determine when a concern relates to academic freedom? What factors does the school consider to determine whether to investigate a report without the consent of the reporting party? When is informal resolution available, and who gets to decide? What supportive measures or resources are available? When will parties receive notices about status and outcome, and what information will be included? These are just some of the questions that the community will want answers to in determining whether to report and whether to participate in a resolution process or request an investigation.

How long this might take: The policy should include the timeframes for major stages of the resolution process. Here OCR is aligning with the [2024 Title IX regulations](#), which codified longstanding Title IX guidance ([dating at least to 1997](#)) that grievance procedures include “reasonably prompt timeframes for the major stages” of the process, such as intake and assessment, the investigation, the determination, and any appeals process(es).

Training for All Employees

In its agreements with individual schools, OCR requires a training landscape that looks similar to the 2024 Title IX regulations but is more extensive, because the training is required not only for all employees but also for students. By contrast, Title IX has no training requirements for students who are not student-employees.

The Title VI training must explain the institutions’ obligations under Title VI to prohibit and properly respond to discrimination and harassment on the basis of race, color, and national origin, including shared ancestry or ethnic characteristics. The training should include relevant examples about antisemitism when based on national origin and include information on campus policies, appropriate contacts for making a complaint or seeking further information and reference the policy and procedures that apply.

Training for Employees Administering the Nondiscrimination Policies

OCR's agreements require annual training for employees responsible for investigating complaints. This is aligned with the requirements from the Violence Against Women Act's amendments to the [Clery Act](#), which says that individuals implementing policies that address sexual and interpersonal violence receive annual training on certain topics as well. The new [Title IX regulations](#) also require annual training for the people involved in the administration of the policy and procedures.

Topics to cover for investigators must include:

- How to conduct a thorough and impartial investigation, including identifying relevant witnesses and how to conduct interviews for hostile environment allegations;
- The University's obligations under Title VI to respond to alleged discrimination and harassment based on national origin, including shared ancestry or ethnic characteristics;
- University policies and procedures that apply to concerns about discrimination and harassment based on national origin including shared ancestry;
- That the reporting person must be notified about the steps taken in response to their report. Include information about how and when employees should provide this notification; and
- Steps the University will take in respond to alleged discrimination, including supportive measures and remedies.

Unlike Denver, some institutions have different offices or departments administering separate policies about nondiscrimination and antiharassment—sometimes Title IX has its own office and a policy addressing sex discrimination, but nondiscrimination and antiharassment related to other protected categories besides sex are addressed by one separate entity, or employee-related matters go to Human Resources while student-related matters are addressed by a student affairs office. However the work is assigned, each policy that applies must meet the required standards and all employees involved in administering the policy must be trained.

Climate Surveys

Schools should analyze their existing data from climate surveys to determine the conclusions about their climate; future climate surveys could include such demographic

data in order to ensure the results are available to analyze (anonymous, aggregated) responses from students who identify as Jewish, Israeli, Muslim, and Palestinian students. The results of climate surveys can show an institution who from their community is most (or least) likely to report, to have awareness about policies and procedures, and to have trust in institutional systems and structures. These results can inform messaging plans as well as training and prevention strategies.

Recordkeeping and Case Management

Careful recordkeeping can create available data to inform institutional efforts and strategies. Keep track of all reports, including narrative summaries of oral reports. Report files should include the evaluation of a report, whether or not it falls under the policy and why. Similarly, memorialize a decision to move forward with an investigation (or not) without the consent of the impacted party. Describe the actions taken in response to any reports, including information on supportive or remedial services offered to the parties, disciplinary sanctions issued, or any other related information.

Create an internal standard operating procedures document for offices that administer nondiscrimination policies to document the tasks associated with meeting the office's obligations, and then assign those tasks appropriately. This exercise can also reveal when additional staff support may be needed.

Encouraging Dialogue: Examples from Around Academia

The University should continue to engage with its community to explore new ideas that may be successful. What works at one school may not work at another. Still, it's useful to consider approaches developed at other institutions when considering what type of model might be workable for DU.

Consider expanding opportunities for dialogue that exist separate and apart from the complaint and investigation process. Offices or areas that include this function can be a hub for training and consultations to support the informal management of disagreement and interpersonal conflict in the classroom, student groups, between colleagues, and more. These functions do not replace a complaint and investigation process, nor do they ameliorate the obligation of an institution to promptly and appropriately respond to discrimination and harassment, including to remedy the effects. These functions provide a venue for concerns or questions that may otherwise go unaddressed or unasked. The University has existing resources in the Freedom of

Expression Committee and DEI units that can continue to be part of encouraging learning and understanding.

Below is some information from other institutions about these offices:

- Some institutions house their restorative practices function within the office that oversees student conduct and accountability, like at [James Madison University](#). At Amherst, the [Center for Restorative Practices](#) is within the Office of Diversity, Equity and Inclusion.
- [Restorative Practices @ Penn](#) is part of the Office of Community Standards and Accountability. The group facilitates Restorative Circles, provides training and workshops, and can support groups or departments who are seeking to implement a restorative approach to a concern they are facing. RP@P does broad-based training to get community members engaged in restorative practices, understanding their purpose and potential.
- Launched in 2024, [Dialogue Project at Dartmouth](#) is an initiative that includes courses, workshops, and guest speakers. The first special topic series is [Middle East Dialogues](#), grounded in the Jewish Studies and Middle Eastern Studies Departments, intended to “foster learning and an open exchange of ideas to bridge what can appear to be an impenetrable divide.” Their website identifies companion courses for this topic over the next academic year, as well as webinars and public events.
- Yale’s [Restorative Practices](#) is housed within Equity and Accessibility, part of University Life. Their website describes the Director of Restorative Practices as leading “efforts to develop and support informal resolution and restorative practices within the University’s programs and activities.”

Closing Remarks

GRS conducted this review to gain an understanding of the climate for the Jewish community at the University of Denver through mid-April of 2024. GRS reviewed the case files of reported incidents from academic years 2022-23 and 2023-24 and found that the University responded promptly and appropriately to reported or known

incidents, including by conducting intakes, investigating, and providing supportive resources to impacted people. GRS did not find evidence to suggest that a hostile environment existed overall for the University's Jewish community. The University's responses were aligned with applicable law, best practices, and existing University policies. GRS also reviewed relevant University messages during that time period, which were timely and responsive to campus concerns. In these messages the University denounced antisemitism and all hateful acts and shared important information with the campus community, such as how to access supportive resources and how to report discrimination and harassment.

Thank you for the opportunity to review campus materials and files, meet with campus community members and understand their perspectives, and provide this information in response to your request.