



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

September 16, 2020

Christopher L. Eisgruber, President
Princeton University
Princeton, NJ 08544

Via electronic mail

Re: Princeton University's Admissions of Racism/Potential Violations of Prohibitions Against Substantial Misrepresentation Arising from Nondiscrimination and Equal Opportunity Assurances

Dear President Eisgruber:

Since you became President in 2013, and in exchange for well over \$75 million in federal Title IV taxpayer funds alone, Princeton University ("Princeton") has repeatedly represented and warranted to the U.S. Department of Education ("Department") Princeton's compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* Title VI provides no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Also, Princeton has made many material nondiscrimination and equal opportunity representations to students, parents, and consumers in the market for education certificates during this time.

On September 2, 2020, you admitted Princeton's educational program is and for decades has been racist. Among other things, you said "[r]acism and the damage it does to people of color persist at Princeton ..." and "[r]acist assumptions...remain embedded in structures of the University itself." Princeton Univ. Office of Commc'ns, *Letter from President Eisgruber on the University's efforts to combat systemic racism* (Sept. 2, 2020) <https://www.princeton.edu/news/2020/09/02/letter-president-eisgruber-universitys-efforts-combat-systemic-racism> (the "President's Letter"). You also said that Princeton is "exploring the possibility of a new credit- or degree-granting program that would extend Princeton's teaching to a new range of students from communities disproportionately affected by systemic racism and related forms of disadvantage..." *Id.* Because of racism, you announced race-based "diversity" measures for hiring, procurement, teaching, fellowship, and research funding. *Princeton Univ. Office of Commc'ns, An update and overview of Princeton University's ongoing efforts to combat*

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systemic racism (Sept. 2, 2020) <https://www.princeton.edu/news/2020/09/02/update-and-overview-princeton-universitys-ongoing-efforts-combat-systemic-racism> (the “Diversity Measures”).

Based on its admitted racism, the U.S. Department of Education (“Department”) is concerned Princeton’s nondiscrimination and equal opportunity assurances in its Program Participation Agreements from at least 2013 to the present may have been false. The Department is further concerned Princeton perhaps knew, or should have known, these assurances were false at the time they were made. Finally, the Department is further concerned Princeton’s many nondiscrimination and equal opportunity claims to students, parents, and consumers in the market for education certificates may have been false, misleading, and actionable substantial misrepresentations in violation of 20 U.S.C. § 1094(c)(3)(B) and 34 CFR 668.71(c). Therefore, the Department’s Office of Postsecondary Education, in consultation with the Department’s Office of the General Counsel, is opening this investigation.

Princeton should provide requested records, make available the identified Princeton personnel for transcribed interviews under oath, and answer the specified questions in accordance with the deadlines specified below. *See* 20 U.S.C. § 1094(a)(17); 20 U.S.C. § 1097a; *U.S. v. Morton Salt*, 338 U.S. 632, 642–63 (1952); *U.S. v. Powell*, 379 U.S. 48, 57 (1964); *Oklahoma Press Pub. Co. v. Walling*, 327 U.S. 186, 216 (1946). Please be advised the Department considers your answers to these requests to be matters within the jurisdiction of the executive branch of the Government of the United States for the purposes of 18 U.S.C. § 1001. Accordingly, Princeton should make every effort to answer our requests fully and completely.

Based on the facts, the Secretary of Education may consider measures against Princeton for false Program Participation Agreement nondiscrimination assurances, including an action to recover funds. Also, she may consider measures against Princeton for making substantial misrepresentations about the nature of its educational program, including a fine proceeding. The Department is aware of the challenges posed by COVID-19 to institutions of higher education. However, the serious, even shocking nature of Princeton’s admissions compel the Department to move with all appropriate speed.

I. Records Production

Please produce the following records within twenty-one (21) calendar days:

- A. Please produce each record that you identified, referred to, described, relied upon, reviewed, or used in any way in preparing your written response. Please also identify and describe in detail each such record.
- B. All records concerning, relating to, or referencing the President’s Letter. The time frame for this request is April 1, 2020 to the present.

- C. All records concerning, relating to, or referencing the Diversity Measures. The time frame for this request is April 1, 2020 to the present.
- D. All records concerning, relating to, or referencing Princeton's "systemic" and/or "embedded" racism, as those terms are used in the President's Letter. The time frame for this request is January 1, 2013 to the present.
- E. A spreadsheet identifying each person who has, on the ground of race, color, or national origin, been excluded from participation in, been denied the benefits of, or been subjected to discrimination under any program or activity receiving Federal financial assistance as a result of the Princeton racism or "damage" referenced in the President's Letter. This spreadsheet should (1) identify each such person; (2) provide his or her last known address and contact information; and (3) specify his or her damage, if known. The time frame for this request is January 1, 2015 to the present.
- F. All records concerning or relating to Princeton's nondiscrimination and equal opportunity representations to the Department, to other federal government departments, agencies, or instrumentalities, or to the public. This request includes but is not limited to records concerning or relating to the factual, statistical, and/or policy grounds or bases for these representations. The time frame for this request is January 1, 2015 to the present.
- G. All records concerning, relating to, or referencing Princeton's promise in its Program Participation Agreements with the Department of compliance with Title VI of the Civil Rights Act of 1964, as amended, and the implementing regulations, 34 C.F.R. Parts 100 and 101, barring discrimination on the basis of race, color, or national origin. The time frame for this request is January 1, 2015 to the present.
- H. All records Princeton relied on in making its assurances of compliance with Title VI of the Civil Rights Act of 1964, as amended, and relevant implementing regulations, barring discrimination on the basis of race, color, or national origin. The time frame for this request is January 1, 2015 to the present.
- I. A spreadsheet of all Princeton employees and outside advisers or consultants (including but not limited to legal counsel) who were consulted regarding or who participated in collecting information for and drafting the President's Letter and/or the Diversity Measures. The spreadsheet should contain: (1) the name and job title of each such person; (2) current contact information for each such person; and (3) a detailed narrative description of each such person's role and activities.

"Records" mean all recorded information, regardless of form or characteristics, made or received, and including metadata, such as email and other electronic communication, draft and final word processing documents, social media (e.g. Facebook and Twitter) posts, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases,

calendars, telephone logs, contact manager information, Internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term “recorded information” as used above also includes all traditional forms of records, regardless of physical form or characteristics.

Production should occur as follows:

- Searches for records in electronic form should include searches of all relevant mobile devices, hard drives, network drives, offline electronic folders, thumb drives, removable drives, records stored in the cloud, and archive files, including, but not limited to, backup tapes. Do not time stamp or modify the content, the create date, or the last date modified of any record and do not scrub any metadata. Electronic records should be produced in native format. For e-mails, please place responses in one .pst file per employee. For .pdf files, please provide searchable file format and not image file format.
- All email and social media searches should be conducted by the agency’s information technology department, or its equivalent, and not by the individuals whose records are being searched. Please provide the name and contact information of the individual(s) who conducted the search, as well as an explanation of how the search was conducted.
- To the extent practicable, please produce all records in a searchable electronic format and not hardcopies. Should you have any questions about the method or format of production please contact the undersigned to coordinate.
- The only applicable privilege is attorney-client privilege. A log of all such records, describing in detail the contents of the record and the grounds for the claimed privilege.

II. Transcribed Interviews

Please produce the following individuals for transcribed interviews, under oath, within twenty-eight (28) calendar days:

- A. President Eisgruber.
- B. A designated corporate representative with knowledge regarding the bases and accuracy of Princeton’s assurances to the Department, including but not limited to its assurances regarding compliance with Title VI of the Civil Rights Act of 1964, as amended, and all implementing regulations between January 1, 2015 and the present.

III. Written Questions

Please answer these written questions within twenty-one (21) calendar days:

- A. The President's Letter admits "Racism and the damage it does to people of color ...persist(s) at Princeton" and racist assumptions "remain embedded in structures of the University itself." Do these admissions mean Princeton's nondiscrimination and equal opportunity assurances and representations to the Department and/or to students, parents, and consumers in the market for education certificates have been false and misleading? If not, why not?
- B. How many individuals were, on the ground of race, color, or national origin, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance by Princeton between January 1, 2015 and the present? Is this number evidence of systemic or embedded racism?
- C. How many public nondiscrimination and equal opportunity representations has Princeton made, measured by website page visits, between January 1, 2015 and the present?

This investigation will be conducted by the Department's Office of the General Counsel with support from the Office of Postsecondary Education. Your counsel will be contacted by Paul R. Moore, the Department's Chief Investigative Counsel, to schedule the transcribed interviews, and by the Office of the General Counsel's electronic discovery attorney, Kevin D. Slupe, to arrange for records transmission. Finally, by copy of this letter we are referring Princeton to the Civil Rights Division, U.S. Department of Justice, and to the Department's Office for Civil Rights, for any additional action they deem appropriate.

Thank you in advance for your cooperation.

Sincerely yours,

X

Robert King

Robert King, Assistant Secretary
Office of Postsecondary Education

Enclosure (Exhibit A)

Christopher L. Eisgruber, President
Princeton University
September 16, 2020
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Cc: John B. Daukas
Principal Deputy Assistant Attorney General
Civil Rights Division, U.S. Department of Justice

Kimberly M. Richey
Acting Assistant Secretary, Office for Civil Rights
U.S. Department of Education

Reed D. Rubinstein
Principal Deputy General Counsel delegated the
Authority and Duties of the General Counsel
U.S. Department of Education

Paul R. Moore, Chief Investigative Counsel
Office of the General Counsel
U.S. Department of Education

Kevin D. Slupe, Special Counsel
Office of the General Counsel
U.S. Department of Education