



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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November 30, 2018

Roger Clegg
General Counsel
Center for Equal Opportunity
7700 Leesburg Pike, Suite 231
Falls Church, Virginia 22043

Re: Texas Tech University
OCR Case Number: 06-05-2022

Dear Mr. Clegg:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, is dismissing the above-referenced complaint, which was filed against Texas Tech University (TTU or the University), Lubbock, Texas. The complaint alleged that the University's decision to change its prior race-neutral criteria, by considering race and ethnicity as admissions factors in 2005, violated the strict scrutiny requirements of Title VI of the Civil Rights Act of 1964. In effect, you alleged that the University's use of race and ethnicity as one factor in its undergraduate admissions beginning with the entering freshman class of 2005 was impermissible because the University's prior more narrowly tailored race-neutral admissions system was a workable alternative in obtaining the educational benefits that flow from a diverse student body.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin by recipients of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to Title VI and its implementing regulation.

OCR conducted interviews with you and University administrators and staff. Additionally, OCR considered documentation and information provided by you and the University (*e.g.*, admissions data from 2005-2017, enrollment demographics, internal memorandums, narrative responses from the University, admissions-related policies and procedures, and application review forms). Based on our review and analysis of the information obtained during this investigation, OCR has determined it will dismiss this complaint pursuant to Section 108(r) of OCR's Case Processing Manual. The basis for this determination is outlined below.

Overview of Texas Tech University

Texas Tech University is a large, public university located in Lubbock, Texas, that offers more than 150 undergraduate degrees, 100 graduate degrees and 50 doctoral degrees. OCR's review of the University's website found that the overall enrollment for TTU has increased every year for the ten year period from 2007 to 2017. Specifically, TTU has grown from an enrollment in the fall of 2007 of approximately 28,250 students to an enrollment of approximately 37,010 students in the fall of 2017, which is an increase in overall enrollment of approximately 25%. For the fall 2017 class of freshmen, 30,759 were undergraduate students with the remainder being graduate students. For the University's fall 2017 incoming class of freshmen, there were approximately 20,500 admitted students.¹

Current Admissions Process (fall 2014 class to the present)

Regarding the University's current admissions policies and processes, OCR's investigation revealed that applicants are admitted through the assured admission process, denied through the automatic denial process, or considered for admission/denial through the holistic review process. All three of the above-listed processes are described in detail below.

i. Assured admission process

Applicants to the University may automatically be granted admission through the assured admission process. The University's computer system automatically checks each applicant's high school class rank and test score without the need for human review to determine if that individual meets the criteria for assured admission listed in the table below. Specifically, applicants who graduate from an accredited high school with the following combination of high school class rank and minimum score on the ACT or SAT test listed below are assured admission to the University with no other information (such as essays) required for those students to be admitted.²

- Applicants who graduate in the Top 10% of their high school class are automatically accepted based on class rank alone and do not need to have a certain minimum ACT or SAT score to be assured admission to the University.
- Applicants who graduate in the top 25% of their high school class (but not in the top 10%) must have either an ACT score of 24 or an SAT score of 1180 to be assured admission.

¹ See <http://www.ttu.edu/about/>.

² These requirements became effective starting with the fall 2017 incoming class of freshmen. For earlier classes of freshmen, the minimum combination of class rank and ACT/SAT scores was slightly different, but the basic concept was the same that students who met certain minimum combinations of class rank and ACT/SAT scores were assured admission to the University.

- Applicants who graduate between the top 25% and the top 50% of their high school class must have either an ACT score of 26 or an SAT score of 1260 to be assured admission.
- Applicants who graduate between the top 50% and the top 75% of their high school class must have either an ACT score of 27 or an SAT score of 1290 to be assured admission.
- Applicants who graduate in the bottom 25% of their high school class cannot be admitted through the University’s assured admission process and must, instead, be admitted through the holistic process.

High School Class Rank	Minimum ACT Score For Assured Admission	Minimum SAT Score for Assured Admission
Top 10%	No minimum -assured admission based solely on class rank	No minimum -assured admission based solely on class rank
Top 25% (other than 10%)	24	1180
Top 50%	26	1260
Top 75%	27	1290
Bottom 25%	N/A -cannot be assured admission	N/A -cannot be assured admission

ii. Automatic denial process

Similar to the assured admission program, the University’s computer system also automatically checks each applicant’s high school class rank and test score without the need for human review to determine if that individual fails to meet certain combinations of class rank and test score, resulting in automatic denial. Denied students can request a re-evaluation of an admission decision if they provide new information, such as a new test score and/or class rank. Denied students also can seek admission through one of the University’s alternative pathways.³

iii. Holistic process

Those applicants who do not meet the criteria for assured admission, but are above the minimum combination of class rank and ACT/SAT scores to avoid automatic denial are considered for admission through the holistic process. While the assured admission process and automatic denial process are mechanical and involve the University’s computer system comparing each applicant’s high school class rank and test score versus a set combination of class rank/test scores, the holistic process is intended to evaluate an applicant beyond such quantitative measures. While the holistic process involves

³ One example of an alternative program is the Tech Transfer Acceleration Program, which is a partnership between Texas Tech and South Plains College. Participants co-enroll at Texas Tech University and South Plains College for their first semester and take classes at South Plains College while living on the TTU campus. Upon completion of the program, students are then automatically transferred into Texas Tech University. (<https://www.depts.ttu.edu/ttap/index.php>)

examining an applicant's class rank and college entrance exam test scores, it also considers other factors "used to evaluate a student's potential for success" including: Extracurricular activities, Leadership experiences, Civic or other service activities, Socioeconomic background, Family educational background, Special talents or awards, and Diversity of experiences and background.

The holistic review is a two-step process. The first step in the holistic process is for each completed online application to be initially reviewed by two different professional employees in the admissions office who review each applicant's file and then give an initial recommendation of Admit, Deny or Provisionally Admit to the administrative review committee. The second step of the holistic process is for the administrative review committee to conduct its holistic assessment of a given candidate, which involves reviewing the recommendations from the initial reviewers along with each applicant's transcript, college entrance test scores, and all other materials submitted by the applicant. The administrative review committee makes the final decision whether to admit or deny an applicant considered through the holistic process.

In December of 2013, the University officially changed the definition of "Diversity of experiences" for its admissions process. Although race previously had been expressly mentioned as a factor in the definition, consideration of race was formally removed, as noted in the revised language below:

"Diversity of experiences may include, but will not be limited to, study abroad, knowledge of other cultures, proficiency in other languages, and experience with college preparatory programs."

In interviews with OCR, the Dean of Undergraduate Admissions, the Associate Dean of Undergraduate Admissions, and the Senior Associate Vice-President for Enrollment Management (collectively, the "Deans") confirmed that race was explicitly removed as a factor from the admissions process starting with the fall 2014 class. As explained by the Deans, those applicants who undergo holistic review have their applications and supporting materials reviewed by two separate admissions staff, each of whom completes a review form. According to the Deans, since the time that the University revised its undergraduate admissions policy to remove race/ethnicity as one factor to be considered under "Diversity of experiences," the applicant review form collects only the applicant's test scores, GPA, and other supporting documentation (*e.g.*, letters of recommendation, extracurricular activities, rigorous coursework, etc.).

In an interview with OCR, the Dean of Undergraduate Admissions explained that the reason for the change in policy in 2013 was that the University felt that it could remove race/ethnicity as an express consideration in its undergraduate policy without changing the way that it admitted students. According to the Dean of Undergraduate Admissions, the University had moved from considering race/ethnicity as a component in its admissions process to instead focus its efforts on increasing the number of applications received by the University overall. In other words, the University was (and is) concentrating on overall enrollment growth. The Associate Dean of Undergraduate

Admissions further confirmed that the race/ethnicity of a particular applicant is not included on the application review form, and the members of administrative review committee, who are the individuals making the final determination, do not use race as a factor in determining whether to admit or deny a student.

Finally, the Senior Associate Vice-President reported to OCR that the reason for the change in policy in 2013 was that the University found that it was not “actually” using race or ethnicity to make admissions decisions. The Senior Associate Vice-President stated to OCR that the University felt that it had been successful in increasing diversity through its recruitment efforts. Thus, although the University was not satisfied with its diversity numbers overall, it was satisfied that it was moving toward where it “wanted to be” through recruiting, and did not need to consider race or ethnicity in admissions.

OCR conducted interviews with two members of the admissions committee who participate in the holistic review process and both individuals confirmed that they have never considered an applicant’s race in the admissions process. Both individuals also confirmed to OCR that the entire admissions staff participates in week long training every August and that they have never received any training regarding considering an applicant’s race during the admissions process.

Further, OCR reviewed applicant file review forms provided to members of the admissions committee and determined that the forms used after 2013 (*i.e.*, applicant file review forms from 2014 to 2017) do not list an applicant’s race as a possible factor for consideration.

Previous Admissions Process (fall 2005 through the fall of 2013)

From the fall of 2005 through the fall of 2014, an applicant’s race was one of many diversity factors that could be considered in the University’s admissions process. The University’s prior race-conscious admissions process mirrored the process described above with the exception that an applicant’s race was explicitly listed as a factor that could be considered under “Diversity of experiences” in the holistic review process. Applicants who otherwise met the criteria for assured admission or automatic denial were automatically admitted or denied, respectively, by the University’s computer system with no further human review.⁴ However, as stated above, the Dean of Undergraduate Admissions explained that the University moved away from considering race/ethnicity as a component in its admissions process to instead focus its efforts on increasing the overall number of applications received by the University.

⁴ OCR is not making a finding as to whether TTU’s consideration of race from 2005 (when TTU changed its operating policy so that an applicant’s race was explicitly listed as a factor which could be considered during the admissions process) through the fall of 2013 (when TTU changed its operating policy to remove an applicant’s race as a factor in the admissions process) met the then-applicable legal standards as set forth by the U.S. Supreme Court.

Determination

OCR's investigation shows that, from the fall of 2005 through the fall of 2013, an applicant's race was listed as a factor that could be considered by the University in its admissions process. However, in December of 2013, the University's operating policy governing the admissions process was revised so that an applicant's race was formally removed as a factor for consideration during the holistic review process. The University provided OCR with copies of the operating policy in effect from the fall of 2005 through the fall of 2013, as well as the policy in effect from the fall of 2014 to the present. OCR was able to confirm that, from the fall 2014 class to the present, the University's operating policy does not list an applicant's race as a factor for consideration during the admissions process.

OCR interviewed individuals involved in the admissions process who confirmed that the admissions committee members have not considered an applicant's race as a factor during the holistic review process from the fall of 2014 to the present. OCR also reviewed copies of the applicant file review forms given to the members of the admissions committee and none of the forms created after 2013 list an applicant's race as a factor to be considered.

OCR has confirmed that since the fall of 2014, the University does not consider an applicant's race as a factor in its admissions process. Thus, the University's underlying decision to add race as a criteria for admissions, which led to the filing of this complaint, has been rescinded. Accordingly, OCR is dismissing this complaint as moot.

This concludes OCR's investigation of the complaint and should not be interpreted to address the Recipient's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. You may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, you may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and other related correspondence and records upon request. In the event we receive such a request, we will seek to protect, to the extent provided by law, personally identifiable information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

If you have any questions about this letter, please feel free to contact the attorney-investigator, Richard Cho, by telephone at (214) 661-9631 or by e-mail at: Richard.Cho@ed.gov. You may also contact me by telephone at (214) 661-9678 or by e-mail at: Adriane.Martin@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Adriane P. Martin". The signature is fluid and cursive, with the first name being the most prominent.

Adriane P. Martin
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office