



DEPARTMENT OF HEALTH & HUMAN SERVICES

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OFFICE OF THE SECRETARY

Office for Civil Rights, Region II  
Jacob Javits Federal Building  
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New York, NY 10278

AUG 20 2018

Allen M. Spiegel, M.D.  
Dean  
Albert Einstein College of Medicine  
1300 Morris Park Avenue  
Bronx, New York 10461

HHS OCR Transaction Number: 17-272697

Dear Dr. Spiegel:

This letter is to inform you that the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) has completed its compliance review of the Albert Einstein College of Medicine (Einstein).

BACKGROUND AND LEGAL AUTHORITY

Einstein is a recipient of federal financial assistance from the HHS National Institutes of Health (NIH). HHS OCR periodically reviews HHS grantees for compliance with Title IX of the Education Amendments of 1972 (Title IX). Title IX prohibits discrimination on the basis of sex in any educational program or activity that receives federal financial assistance.<sup>1</sup> HHS OCR, which enforces Title IX for HHS, ensures compliance by investigating complaints of discrimination filed against recipients of HHS funds and through a program of proactive and preventive activities, including periodic reviews of institutions which receive grants or other forms of financial assistance from HHS.<sup>2</sup> HHS' Title IX implementing regulation at 45 C.F.R. Part 86 requires each recipient of financial assistance to adopt and publish procedures for the prompt and equitable resolution of student and employee Title IX complaints. The regulation, among other things, also requires a recipient to designate at least one employee to coordinate its Title IX compliance efforts and to carry out its Title IX responsibilities, including the investigation of complaints or allegations of noncompliance with Title IX.

1. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. Section 1681, et seq., and its implementing regulation, 45 C.F.R. Part 86 (collectively Title IX).

2. The Department's Title IX regulations provide that "the procedural provisions applicable to title IV of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR 80-6 through 80-11 and 45 CFR Part 81." 45 C.F.R. § 86.71; see also 20 U.S.C. § 1682 (which tracks the enforcement language of Title VI.) Title VI of the Civil Rights Act of 1964 states that OCR will "from time to time review the practices of recipients to determine whether they are complying with this part." 45 C.F.R. §80.7(a).

## FINDINGS

HHS OCR evaluated Einstein’s nondiscrimination policies and procedures, including its anti-harassment and Title IX complaint grievance procedures to assess the extent to which Einstein is implementing its Title IX compliance program.<sup>3</sup> The review, which included interviews with the Title IX Coordinator and Admissions Deans for the College’s graduate programs also assessed whether Einstein complies with Title IX notification and dissemination requirements and examined Einstein’s outreach and recruitment efforts.<sup>4</sup>

OCR found that all of Einstein’s academic programs relate to research or education in the fields of science, technology, engineering or mathematics (STEM). The STEM programs that OCR reviewed are Einstein’s School of Medicine, Einstein’s Graduate Program in the Biomedical Sciences, the Clinical Research Training Program, the Graduate Program and the Medical Science Training Program.

### *Non-Discrimination Policy*

Einstein’s non-discrimination policy and procedures entitled “Yeshiva University Non-Discrimination and Anti-Harassment Policy and Complaint Procedures”<sup>5</sup> promote College-wide Title IX compliance. The policy and procedures cover students and employees, as well as contracted service providers, volunteers and visitors to the College. Einstein’s non-discrimination policy prohibits discriminatory practices, harassment and sexual misconduct of any kind and in any form and an individual who feels they have been discriminated against may file a complaint with the College. The policy indicates that discrimination and harassment can take many forms and that prohibited conduct includes, but is not limited to, behaviors commonly recognized as sexual harassment, sexual abuse/assault, physical violence, threatening behavior and stalking. The policy also indicates that sexual abuse/assault is a form of sex discrimination prohibited by Title IX and other laws. Further, the policy indicates that the informal resolution of a complaint involves a direct discussion between the complainant and the respondent in the presence of the Title IX Coordinator or a panel member of the College.

### *Grievance Procedures and Enforcement*

Einstein’s Title IX grievance procedure states that the Title IX Coordinator will commence an investigation upon receipt of a complaint or upon receipt of information which the College determines warrants an investigation. While there is no time limit on when a complaint can be made to the College, the policy does indicate that the College’s ability to investigate and respond to a complaint may be affected by a time delay. The Title IX Coordinator is responsible for identifying and addressing patterns of systemic problems that are found as a result of

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3. 45 C.F.R. § 86.8; 45 C.F.R. § 86.9

4. 45 C.F.R. § 86.23; 45 C.F.R. § 86.53; 45 C.F.R. § 86.9

5. The title also includes: “(including Sexual Harassment, Sexual Abuse/Assault, Stalking, Domestic Violence, and Dating Violence)”

investigating complaints. Following a determination by the Title IX Coordinator to pursue an investigation of a complaint that involves sex/sex-based discrimination, sexual harassment, sexual abuse/assault, stalking, domestic violence and/or dating violence, the Title IX Coordinator will provide all parties with a copy of the policy. The policy provides timeframes for submitting complaint information to the Title IX coordinator, concluding the investigation and for informing all the parties of the determination in writing. If the College determines that an individual has engaged in any act of discrimination or sexual assault, sanctions may be imposed, including suspension or expulsion for the student or termination of employment. The College may also offer additional training and awareness programs to students and staff. During 2014 – 2017, there were no formal or informal Title IX complaints filed by either students or faculty of the College. HHS OCR evaluated Einstein's grievance and enforcement policies and activities. The review found no indication of unfairness in their procedural mechanisms.

### Notification

Einstein posts links to its non-discrimination and complaint policy and procedures on the College's "Policies" webpage, under the student section, and the "Human Resources" webpage to provide both students and faculty with information on Title IX, the College's grievance procedures and the right of an individual to file a Title IX complaint. Einstein's Title IX policy is posted throughout the campus and is disseminated to staff in September of each school year. Einstein has also developed information cards and magnets on sexual assault and abusive relationships, which are distributed in student housing lobbies and in the College's Security Office. Einstein lists resources for sexual assault and rape, domestic violence, and sexual harassment on the "Helplines and Hotlines" page of the Office of "Academic Support and Counseling" webpage. During Einstein's School of Medicine orientation, the Title IX Coordinator distributes a memorandum to students regarding the required Title IX training they must complete. The memorandum indicates that students are required to complete the Yeshiva University's "Lasting Choices: Sexual Assault" e-learning workshop and provides instructions on how to access the online training. Einstein's Bioethics Program provides information about harassment and equal opportunity protections in an online handbook, which all students and new faculty are directed to review at the beginning of the academic school year. The Clinical Research Training Program's "Academic Policies, Procedures and Guidelines" and its catalog both identify Einstein's policy on equal opportunity and non-discrimination. The Graduate Division's policy on conduct has a webpage hyperlink to the non-discrimination policy and procedure.

### Training

Einstein provides periodic training to its faculty and staff regarding Einstein's Non-Discrimination and Anti-Harassment Policy and Complaint Procedures. The most recent training session was held in November 2016, and was attended by members of Einstein's Security Department, the Office of Student Affairs, and the Housing Department. Einstein's onboarding process for all new hires (faculty, staff, students and volunteers) requires completion of training relating to Einstein's Code

of Conduct policy, Preventing Workplace Harassment policy, and Health and Safety policy, as well as signed policy acknowledgment forms for the Code of Conduct and Employee Handbook. During the School of Medicine's orientation, all students receive a half hour session, conducted by Einstein's Chief of Security that discusses sexual misconduct and harassment and the Title IX Coordinator distributes a memorandum with instructions to an e-learning workshop regarding the required Title IX training they must complete.

### Recruitment and Admissions

Einstein provided HHS OCR with a list of its recruitment efforts, which included school fairs, webpage links, flyers, and other recruitment materials they provide to prospective students. From 2014 – 2017, Einstein attended annually, on average, 17 schools and fairs nationwide - beginning in July and concluding in February of the following year. Einstein uses E-mail blasts, E-screen advertising, flyers, posters, online promotional materials and announcements of a poster exhibit to alert prospective Clinical Research Training Program students. Einstein's outreach and recruitment efforts also include the department Chairs encouraging and promoting the Clinical Research Training Program within their departments. The Bioethics Program creates flyers, both electronically and paper, to promote various courses within the Bioethics Program. These flyers are circulated through mailing lists and at conferences where Einstein faculty members are presenting. Einstein's application process includes an application review period, interview of prospective students by Einstein staff and a presentation of the student's qualifications to a 15 person selection committee that ultimately decides whether to accept a student. OCR reviewed data for the period 2014 – 2017.

### Area of Concern and Technical Assistance

Einstein's non-discrimination policy and procedures refer individuals wishing to file a sex discrimination complaint to the U.S. Department of Education's OCR, Einstein's Title IX Coordinator, law enforcement and several other offices and departments within the College. OCR found that the policy may not provide sufficient clarity to Einstein's students, employees and applicants wishing to file a complaint with HHS OCR. Under 45 C.F.R § 86.9(a)(1), individuals may also submit inquiries to HHS OCR concerning the application of Title IX.

Therefore, we recommend that Einstein include the following information about HHS OCR<sup>6</sup> in its Non-Discrimination and Anti-Harassment Policy & Complaint Procedures and other Title IX materials for students, applicants, faculty and staff at Einstein:

U.S. Department of Health and Human Services  
Office for Civil Rights  
200 Independence Avenue, SW

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6. For a brochure on HHS OCR, visit: [www.hhs.gov/sites/default/files/ocr\\_civilrightsprivacybrochure.pdf](http://www.hhs.gov/sites/default/files/ocr_civilrightsprivacybrochure.pdf)

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## CONCLUSION

HHS OCR did not find evidence that Einstein violated Title IX. As a result, HHS OCR has closed this compliance review as of the date of this letter. HHS OCR's determination applies only to the matters addressed in the review. It does not cover any issues or authorities not specifically addressed herein. Nor does the determination preclude future compliance determinations based on subsequent investigations.

## ADVISEMENTS

Individuals may not be intimidated, threatened, coerced, discriminated or retaliated against because the individual has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing held in connection with the statutes or regulations enforced by HHS OCR. Individuals who believe that they are being subjected to such discriminatory or retaliatory conduct based on a complaint filing with HHS OCR or participation in an investigation may file a complaint with OCR.

Thank you and your staff for your cooperation throughout the compliance review process. Feel free to contact us or visit our website at [www.hhs.gov/ocr](http://www.hhs.gov/ocr) if you have questions or need technical assistance.

Sincerely,

/s/

Linda C. Colón  
Regional Manager  
Office for Civil Rights

cc: Renee Coker  
Title IX Coordinator &  
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