



September 23, 2025

Via Electronic Mail: OCR@ed.gov

Craig Trainor  
Acting Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

**Re: Request for Investigation into Ohio Northern University Regarding Violations of Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.**

Dear Acting Assistant Secretary Trainor:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, ensure due process and equal protection for all Americans, and to combat invidious discrimination on the basis of race, color, national origin, and sex in America’s schools.

The Department of Education Office for Civil Rights (“OCR”) enforces Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., which together prohibit discrimination on the basis of race, color, sex, and national origin in educational programs and activities operated by entities receiving federal financial assistance from the Department of Education. Ohio Northern University (“ONU” or the “University”), located in Ada, Ohio, is a recipient of federal financial assistance and is therefore subject to Title VI and Title IX. Ohio Northern University—in particular, the Claude W. Pettit College of Law—appears to have engaged in significant discrimination under the guise of diversity, equity, and inclusion (“DEI”). It continues to operate such practices under new names designed to hide its actions and evade the clear requirements of Title VI and Title IX and Department of Education regulations.

Accordingly, and for the reasons set forth more fully below, AFL respectfully requests that the Department of Education open an investigation of Ohio Northern University using its regulatory authority set forth in 34 C.F.R. § 100.7(c) and 34 C.F.R. § 106.81.

## OCR's Authority

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., prohibits discrimination on the basis of race, color, and national origin in educational programs and activities operated by entities receiving federal financial assistance from the Department of Education.<sup>1</sup> Likewise, Title IX prohibits discrimination based on sex in higher education.<sup>2</sup>

Title VI of the Civil Rights Act of 1964, which states, “[n]o 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.”<sup>3</sup> In *Students for Fair Admission, Incorporated v. President and Fellows of Harvard College*, the Supreme Court explained that where federal law prohibits race discrimination, “[e]liminating racial discrimination means eliminating all of it.”<sup>4</sup>

Further, on January 21, 2025, President Trump signed Executive Order 14173, entitled “Ending Illegal Discrimination and Restoring Merit-Based Opportunities.”<sup>5</sup> In that Executive Order, President Trump specifically authorized the Attorney General and the Secretary of Education to issue guidance requiring all universities that receive federal funds to comply with *Students for Fair Admission*.<sup>6</sup>

To clarify the Department’s stance and to assist colleges and universities in complying with federal law, the Department of Education released its “Dear Colleague” letter on February 14, 2025.<sup>7</sup>

Because Ohio Northern University receives federal financial assistance, it is subject to Title VI and Title IX.

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<sup>1</sup> See, e.g., 42 U.S.C. § 2000d-1; 34 C.F.R. §§ 100.7, 100.8; see also U.S. Dept. of Education, *Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and SFFA v. Harvard* (Apr. 3, 2025), <https://perma.cc/43RB-6LB6>.

<sup>2</sup> 20 U.S.C. § 1681(a).

<sup>3</sup> 42 U.S.C. § 2000d.

<sup>4</sup> 600 U.S. 181, 206 (2023) (interpreting Equal Protection Clause and Title VI of the Civil Rights Act).

<sup>5</sup> Exec. Order No. 14,173, 90 Fed. Reg. 8,633 (Jan. 31, 2025).

<sup>6</sup> *Students for Fair Admission, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181, 206 (2023).

<sup>7</sup> Craig Trainor, Acting Assistant Sec’y for C.R., DEPT OF EDUC., *Dear Colleague Letter* (Feb. 14, 2025), <https://perma.cc/7SSA-TM9S>.

## OHIO NORTHERN UNIVERSITY'S DEI POLICIES VIOLATE FEDERAL LAW

Ohio Northern University—particularly its law school—has engaged in significant discriminatory DEI practices over recent years. These DEI efforts have included the law school's consideration of race, sex, and ethnicity during the hiring process, done under pressure from the American Bar Association (ABA). This is well-documented.

For instance, on March 22, 2022, the ABA sent a letter, the “Follow-Up Inspection Report on Ohio Northern University Claude W. Pettit College of Law,” to the University's law school dean and then-president.<sup>8</sup> In this disturbing letter, per ABA “Standard 206(b),” the ABA required the University to “[d]escribe the Law School's concrete actions that demonstrate the Law School's commitment to having a full-time faculty that is diverse with respect to gender, race, and ethnicity.”<sup>9</sup> In response to this demand, the University expressed that “[i]n its recruiting procedures *and its hiring decisions*, the Law School is committed to recruiting a faculty that is diverse with respect to gender, race and ethnicity.”<sup>10</sup> The University then continued to describe its hiring approach for the 2020–21 Academic Year in unmistakably discriminatory terms:

The Law School is seeking to fill two, full-time, tenure track positions on its faculty during the current academic year. The Law School invited 32 candidates from the AALS Faculty Appointment Register to interview remotely for these positions. Twenty-two were women and ten were men. Twelve of these candidates identified as White, ten as Black or African-American, five as Hispanic or Latino and five as Asian.

Twenty-five of these candidates accepted the Law School's invitation for a remote screening interview. Seventeen of the candidates interviewed were women. Eight were men. Ten of the candidates identified as White, nine as Black or African-American, four as Hispanic or Latino and two as Asian.

Six of these candidates accepted the Law School's invitation for a full day of interviews with the University and Law School administration, the law faculty, staff and students. These candidates also presented a

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<sup>8</sup> Letter from William E. Adams, Jr., Managing Dir., Am. Bar Ass'n, to Daniel A. DiBlasio, President, Ohio N. Univ. & Charles H. Rose III, Dean, Claude W. Pettit Coll. of Law (March 22, 2022) (attached as Exhibit 1, at 1), located at <https://www.hardincourts.com/recordSearch.php> (enter “20231107” in the field labeled “Case Number,” then click on the button labeled “Begin Search,” then click the button labeled “Docket” next to the first entry, then scroll to the entry labeled “Exhibit 13 to Deposition of Dallan Flake (Part 1 of 4)...” filed on November 13, 2024), pages 1-2.

<sup>9</sup> *Id.* at 44.

<sup>10</sup> *Id.* (emphasis added).

job talk. The candidates were given the option of visiting campus to participate in these interviews and give their job talk. Four of the candidates did so. The other two chose to participate in these activities remotely. *All six of the final candidates were women. Three identified as Black or African American, two as White and one as Hispanic.* Four of the final six candidates received the support of two-thirds of the faculty which the Law Schools [sic] bylaws require for tenure-track appointments. Two of these candidates identified as Black or African-American and two as White.

The Law School extended offers of appointment to the tenure track faculty to four of these candidates. All declined the offer. We anticipate hiring visiting faculty for 2021-2022 and continuing to search for permanent hires.<sup>11</sup>

The University's response with respect to adjunct—as opposed to full-time—faculty was similar. It had stated: “In filling adjunct faculty positions that do arise, the associate dean has *sought to recruit a faculty that is diverse with respect to gender, race and ethnicity.*”<sup>12</sup>

Nine days later, on March 31, 2022, the University responded to the ABA by letter (the “March Letter”).<sup>13</sup> In the March Letter, which both the dean and then-president signed, the University expressly admitted to race-conscious hiring.<sup>14</sup> At the same time, the University described the heavily White nature of the hiring pool as “unfortunate[]”<sup>15</sup>:

As noted by the site team, the size and location of the College of Law creates challenges in hiring diverse adjunct faculty. *Unfortunately, the local bar in the 4 surrounding counties is overwhelmingly Caucasian* and cannot serve as a reliable pipeline for diversity adjunct hires. The current makeup of our adjunct faculty for the 2021-2022 academic year is a total of 5 adjuncts, 4 male, 1 female. All identify as Caucasian.

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<sup>11</sup> *Id.* (emphasis added).

<sup>12</sup> *Id.* at 46 (emphasis added).

<sup>13</sup> Letter from Daniel A. DiBlasio, President, Ohio N. Univ. & Charles H. Rose III, Dean, Claude W. Pettit Coll. of Law, to William E. Adams, Jr., Managing Dir., Am. Bar Ass'n (March 31, 2022) (attached as Exhibit 2), located at <https://www.hardincourts.com/recordSearch.php> (enter “20231107” in the field labeled “Case Number,” then click on the button labeled “Begin Search,” then click the button labeled “Docket” next to the first entry, then scroll to the entry labeled “Dr. Gerber’s Response in Opposition to Defendants’ Motion in Limine to Exclude Evidence of Retaliation...” filed on February 12, 2025), pages 13-22.

<sup>14</sup> *Id.* at 20-22.

<sup>15</sup> *Id.* at 20.

The College of Law has taken concrete steps to develop a diverse adjunct faculty going forward by targeting qualified individuals within the broader community. We extended an offer to the university general counsel, *who happens to be black*, to teach Higher Education Law as an adjunct. He has agreed to do so, but cannot commit to a semester where we will offer his class until the legal issues surrounding Covid [*sic*] have subsided. We have also brought in diverse faculty from the Office of Student Administration to serve as our faculty advisor for the Civil Rights Law Journal. Finally, we are in discussions with an ONU Law alum who serves as mayor of Lima to potentially provide a course in the spring of 2023. *Each of these individuals happen to be Black* and will assist us in diversifying our adjunct faculty.

While we have taken steps to identify and invite available and qualified diverse attorneys to teach as adjunct faculty, we realize that more is possible. We will continue to monitor our processes to ensure that our pool of qualified potential diverse adjuncts expands. As the College of Law brings on more online courses over the next two years, *we expect to expand the number of diverse adjunct faculty* who teach because we will not be confined to our current geographic area with its limited demographics when seeking adjuncts.<sup>16</sup>

This letter makes clear that ONU understood diversity to mean diverse as to race, sex, and ethnicity. Further, this letter seems to contradict ONU Law Dean Rose's testimony. He testified that the law school does not consider race in the hiring process but rather strives to make its potential hiring pool as large as possible so that people of all races, sexes, and ethnicities are able to apply.<sup>17</sup> Later that same year, in a follow-up letter to ABA, the dean stated that the University "remain[s] committed to DEI in all of its aspects."<sup>18</sup>

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<sup>16</sup> *Id.* at 20-21 (emphasis added).

<sup>17</sup> Rose Dep. at 39 ("We also advertised on additional platforms ... in an attempt to spread our net as broad as possible for qualified candidates."), *Id.* at 58 ("Q: Does Ohio Northern University consider race in hiring? A: No. Q: Does it consider sex? A: No. Q: Does it consider ethnicity? A: No.") (attached as Exhibit 3), located at <https://www.hardincourts.com/recordSearch.php> (enter "20231107" in the field labeled "Case Number," then click on the button labeled "Begin Search," then click the button labeled "Docket" next to the first entry, then scroll to the entry labeled "Deposition of Charles Rose..." filed on June 15, 2024), page 39, 58.

<sup>18</sup> Letter from Charles H. Rose III, Dean, Claude W. Pettit Coll. of Law, to Stephanie Giggetts, Deputy Managing Dir., Am. Bar Ass'n 3 (May 31, 2022) (attached as Exhibit 4), located at <https://www.hardincourts.com/recordSearch.php> (enter "20231107" in the field labeled "Case Number," then click on the button labeled "Begin Search," then click the button labeled "Docket" next to the first entry, then scroll to the entry labeled "Notice of Submission of Affidavit of Julie E. Byrne in Opposition to the Defendants' Motions for Summary Judgment" filed on July 15, 2024), pages 27-29.

Additionally, the President of ONU, Dr. Melissa Baumann, testified that if a professor believed a department was judging applicants based on their skin color, she is unsure if that professor should speak up. Worse, she testified she does not know what she would do if she learned a dean of a major department at ONU categorically barred women or blacks from becoming faculty members.<sup>19</sup> This demonstrates a serious lack of understanding of civil rights laws at the highest levels of ONU's administration.

Turning to how ONU treats students, in that same letter, it admitted to engaging in race-based discrimination with respect to its student body, stating that it monitor[s] scholarships ... and set[s] aside additional dollars when requested by diverse applicants" it has "accepted."<sup>20</sup> A prior letter from ONU to the ABA brags that the school has maintained a "gender balance."<sup>21</sup> ONU explained that "[f]ifty percent of the 2019 entering class were women and 50% were men. The 2018 class was 49% women and 51% men. The 2017 class was 50% each, and the 2016 class was 51% women and 49% men."<sup>22</sup> During 2020, that "gender balance" was disrupted, but "the faculty and administration expect to restore a gender balance in the class entering the Law School in 2021."<sup>23</sup> The pattern of near 50/50 seated classes is statistically impossible absent discrimination, but by promising to restore "gender balance," ONU makes clear it is no accident, but rather the result of deliberate and invidious sex discrimination.

Finally, in October 2023, the University's Board of Trustees approved its "Belonging, Inclusion, and Diversity Plan."<sup>24</sup> This "BID" plan is the result of the University's 2021

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<sup>19</sup> Baumann, Dep. at 123-124, located at <https://www.hardincourts.com/recordSearch.php> (enter "20231107" in the field labeled "Case Number," then click on the button labeled "Begin Search," then click the button labeled "Docket" next to the first entry, then scroll to the entry labeled "Deposition of Dr. Melissa Baumann..." filed on June 11, 2024), page 123-124.

<sup>20</sup> Letter from Charles H. Rose III, Dean, Claude W. Pettit Coll. of Law, to Stephanie Giggetts, Deputy Managing Dir., of the Am. Bar Ass'n 3 (May 31, 2022) (attached as Exhibit 4), located at <https://www.hardincourts.com/recordSearch.php> (enter "20231107" in the field labeled "Case Number," then click on the button labeled "Begin Search," then click the button labeled "Docket" next to the first entry, then scroll to the entry labeled "Notice of Submission of Affidavit of Julie E. Byrne in Opposition to the Defendants' Motions for Summary Judgment" filed on July 15, 2024), page 28.

<sup>21</sup> Letter from William E. Adams, Jr., Managing Dir., of the Am. Bar Ass'n, to Daniel A. DiBlasio, President, Ohio N. Univ. & Charles H. Rose III, Dean, Claude W. Pettit Coll. of Law (March 22, 2022) (attached as Exhibit 1, at 40), page 40.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Ohio Northern University, *Belong Together* at 1 (2023) (attached as Exhibit 5), located at <https://www.hardincourts.com/recordSearch.php> (enter "20231107" in the field labeled "Case Number," then click on the button labeled "Begin Search," then click the button labeled "Docket" next to the first entry, then scroll to the entry labeled "Dr. Gerber's First Motion to Compel..." filed on May 3, 2024), pages 79-90.

DEI report.<sup>25</sup> In that report, a University Commission recommended plainly illegal race-based measures, such as “integrat[ing] DEI into faculty and staff evaluation metrics”<sup>26</sup> and “allow[ing] for diversity to be included in rubrics and hiring decisions to get a department/group/division closer to proportional representation of the qualified workforce.”<sup>27</sup> The BID report calls for race-conscious measures, including “[d]iversify[ing] the nomination of representatives within University Council, Administrative Staff Committee, Support Staff Committee, and other standing committees on campus.”<sup>28</sup> It also calls for “[e]valuat[ing] and address[ing] the needs of considering BID components in faculty evaluation and promotion.”<sup>29</sup> The plan generally calls for integrating “BID”—which is just DEI by another name—across the entire ONU campus.<sup>30</sup> It appears ONU is simply trying to rename DEI to BID and implement this “new” DEI strategy through its administration. The same administration that seems to fundamentally misunderstand its obligation to comply with America’s civil rights laws.

The programs and policies enacted by Ohio Northern University, and particularly its law school, demonstrate that the University has incorporated DEI across the University and discriminates on the basis of race, color, sex, and national origin in violation of Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.

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<sup>25</sup> Commission on the Status of Diversity, Equity, and Inclusion at Ohio Northern University, *Report and Recommendations* (2021) (attached as Exhibit 6), located at <https://www.hardincourts.com/recordSearch.php> (enter “20231107” in the field labeled “Case Number,” then click on the button labeled “Begin Search,” then click the button labeled “Docket” next to the first entry, then scroll to the entry labeled “Exhibits 12-18 to Flowers Affidavit Filed CC Emailed to Judge Hein” filed on June 17, 2024), pages 80-141.

<sup>26</sup> *Id.* at 85.

<sup>27</sup> *Id.* at 94.

<sup>28</sup> Ohio Northern University, *Belong Together* at 1 (2023), (attached as Exhibit 5), located at <https://www.hardincourts.com/recordSearch.php> (enter “20231107” in the field labeled “Case Number,” then click on the button labeled “Begin Search,” then click the button labeled “Docket” next to the first entry, then scroll to the entry labeled “Dr. Gerber’s First Motion to Compel...” filed on May 3, 2024), pages 79-90.

<sup>29</sup> *Id.* at 83.

<sup>30</sup> *Id.* at 79-90.

## **REQUEST FOR INVESTIGATION**

Accordingly, we ask that OCR promptly open a directed investigation into the allegations in this complaint, take all actions necessary to remedy the unlawful practices and procedures, and order all appropriate relief.

Thank you for your attention to this crucial matter, and do not hesitate to contact us for further information.

Sincerely,

/s/ Nicholas R. Barry

America First Legal Foundation

Senior Counsel

CC: Candice Jackson, Deputy General Counsel, Office of the General Counsel