

Insights, News & Events

# RACIAL TENSIONS ON CAMPUS: SIX PRACTICAL SOLUTIONS FOR EDUCATIONAL INSTITUTIONS

Publication  
Jan 4, 2016

Almost five years ago, the Department of Education issued its “Dear Colleague” letter on Title IX and sexual violence. The letter was a not-so-subtle reminder that Title IX requires federally funded educational institutions to prevent sexual harassment and violence. After that, the day-to-day work of many higher education attorneys and student affairs professionals has never been the same.

Are similar changes on the horizon with respect to considerations of race on campus? There are several signs suggesting the answer very well may be “yes,” making now an opportune time to evaluate how your campus is handling these issues.

## **An Increase In Campus Activism On Issues Of Race**

Last month, both the president of the University of Missouri system and the chancellor of the university were forced to resign amid a controversy over the university’s purported anemic response to complaints of race discrimination on campus. Similar demands for leadership changes have been made at other colleges.

For instance, at Ithaca College in New York, students have been pushing for the removal of Thomas Rochon as president. The protestors have cited to what they consider to be his failure to adequately respond to

## **Industry Focus**

Higher Education

several racially charged incidents, and an unwillingness to address an environment where students of color purportedly feel unwelcome. Faculty and students at Ithaca have walked out of class and have submitted no-confidence votes to Ithaca's Board of Trustees.

Protests at other universities have become common. Indeed, students at 74 schools nationwide have gone as far as submitting detailed lists of demands to their respective universities primarily centered on campus racial issues.

### **The Federal Government Weighs In, And A Supreme Court Decision Awaits...**

The U.S. Department of Education is closely following these developments. In a November 20, 2015 op-ed in the St. Louis Post-Dispatch, outgoing Education Secretary Arne Duncan noted that the Department's Office for Civil Rights has received more than 1,000 complaints of racial harassment at colleges and universities during his tenure. He also noted that the Department had recently "convened campus leaders from around the country...to tackle the issue of racial harassment on campuses and to lay out solutions to foster supportive educational environments."

Of course, lurking in the background is the Supreme Court's consideration of affirmative action in the *Fisher v. University of Texas* case. Oral arguments in that case took place in December 2015, and several signs suggest a sea change may be on the horizon with respect to whether race can be used as a factor in university admissions. A decision in that case is expected by June 2016.

Put simply, all indications suggest that the issue of race on college campuses will continue to have a high profile over the next several years. In addition, significant changes with respect to institutional obligations may be in the offing depending on how the Supreme Court rules in the *Fisher* case and whether the Department of Education decides to definitively weigh in on the matter of race.

## **What To Do Now?**

For schools looking to be proactive in this area, here are six practical suggestions:

**It's Time To Review Institutional Policy.** Over the past five years, schools have spent considerable time drafting, reviewing, and revising their sexual misconduct policies. Now is the time to do a similar review of institutional race discrimination policies. Is your institution clear about what conduct is prohibited, how to report race discrimination, who will handle complaints, etc.? Is your institution comfortable that your current policy and process are consistent with best practices in handling discrimination complaints?

**Messaging To The University Community.** Again, similar to what institutions have done with respect to sexual misconduct, now seems to be an ideal time to make clear to the campus community what sort of race-related conduct is prohibited and how people who believe they have been victims of race discrimination can complain.

A number of interesting free speech issues have popped up throughout the country about how far institutions should and can go in describing what the school prohibits. Campus communications regarding race discrimination should at least be informed by the national conversation over legitimate free speech concerns.

**Are There Enough Of The Right People?** An increase in awareness and attention can lead to an avalanche of complaints. It is essential for schools to be in the best position to handle race discrimination complaints in a prompt, thorough, and equitable manner.

It is equally important that institutions have a high degree of confidence in the skills of its frontline personnel who will serve as the face of the institution in handling these often emotionally charged cases. Put in stark terms, one high-profile incident handled poorly by someone who is overwhelmed or not up to the job can result in catastrophic consequences for your school.

**Sense Of Urgency.** Institutions have learned in recent years that complaints of sexual misconduct have to be given priority over other less-pressing matters. You should put issues involving race in the same category. As more students complain that their concerns of race discrimination have not been treated seriously, it is clear that the same sense of urgency which has become second nature in dealing with complaints of sexual misconduct needs to also apply to complaints of race discrimination.

**Checking Climate.** Most schools are doing climate surveys to assess sex discrimination on campus. It may make considerable sense to piggyback on those efforts and gauge the campus climate on race. How do students of color feel about conditions on campus? Are there recommendations to improve climate? Are students aware of institutional policies and how to express concerns? Having a sense of the current racial climate can go a long way in helping a college or university target prevention efforts and prioritize resources.

**Emotional Intelligence And Understanding The Unique Nature Of Higher Education.** Finally, it bears noting that the calls for resignations at the University of Missouri and Ithaca College were not based solely on concerns about inadequate response to race discrimination. Rather, there were a number of other issues in play, including the sense that senior leadership was very "top-down" in how they governed, and that school leaders did not have an interest in traditional shared-governance models.

Whether that criticism is fair or not, it goes without saying that the management of universities is unique. The sort of top-down approach that may work in traditional business settings may only needlessly complicate already nettlesome areas in higher education. Put simply, institutional constituencies affected by a problem appreciate being consulted with and working on important institutional initiatives and solutions to that problem.

Considerations of race on campus clearly fits the bill. An approach to addressing racial concerns that involves only senior management at a school will likely be poorly received and may actually escalate problems. Rather, schools looking to tackle racial problems would be well advised to identify those groups on campus who are interested in the issue and, at the very least, solicit their opinions about how things are and how things can be improved.

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*For more information, contact the author at [SSchneider@fisherphillips.com](mailto:SSchneider@fisherphillips.com) or 504.312.4429.*