

September 27, 2019

RE: National Resource Center funding for Duke-UNC CMES

Dear Secretary DeVos:

The American Civil Liberties Union (ACLU) writes to express our deep concerns with respect to the Department of Education's review of Title VI funding for the Duke-UNC Consortium for Middle East Studies (Duke-UNC CMES or Consortium). Last week, the Department sent a letter that threatens to end the Consortium's federal funding unless the Consortium submits plans to remake the Middle East studies program to the Department's satisfaction.¹



National Political
Advocacy Department
915 15th St. NW, 6th FL
Washington, D.C. 20005
aclu.org

Susan Herman
President

Anthony Romero
Executive Director

Ronald Newman
*National Political
Director*

The letter identifies a number of ways in which the Department claims the Middle East studies program is inadequate for purposes of Title VI funding. Based on the Consortium's response to the Department's letter, however, it appears that all or most of these concerns are misguided or simply wrong. For example, the Department's letter takes issue with two cultural programs that, as the Consortium explains, were not supported with Title VI funds.²

The apparent misinformation and inaccuracies in the Department's letter are especially troubling because they strongly suggest that the Department's action here is, in part at least, merely a pretext to retaliate against the Consortium after a federal legislator complained that he did not like a particular viewpoint, which he perceived as being anti-Israel, expressed at a conference held by the program.

Moreover, the letter's concern that the Consortium is purportedly portraying the "positive aspects of Islam" and "advancing ideological priorities" likewise strongly suggests that the Department's investigation is motivated by its displeasure with the messages conveyed by the program's curriculum. It also raises concerns that the Department is injecting the current presidential administration's long pattern of anti-Muslim bigotry and discrimination into the Title VI funding process.

The Department's letter threatens to revoke the Consortium's funding if the purported deficiencies are not corrected. To be sure, the government may condition federal funds on the satisfaction of statutory and constitutional conditions relevant to the government

¹ Notice of a Letter Regarding the Duke-UNC Consortium for Middle East Studies, 84 Fed. Reg. 4819 (Sept. 17, 2019), <https://www.federalregister.gov/documents/2019/09/17/2019-20067/notice-of-a-letter-regarding-the-duke-unc-consortium-for-middle-east-studies>.

² Letter from Terry Magnuson, PhD, Vice Chancellor for Research, UNC Research, to Robert King, Assistant Sec'y, Dep't of Educ. (Sept. 20, 2019), https://www.scribd.com/document/427116660/Duke-UNC-response-to-Dept-of-Education-letter#fullscreen&from_embed.

program, including, for example, requirements established under Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments Act of 1972, as well as the Equal Protection Clause and the Establishment Clause. Nothing in the statutes or regulations governing the Title VI program at issue, however, requires funding recipients to de-emphasize the “positive aspects of Islam” to the Department’s satisfaction.

We are deeply troubled by this inquiry’s potential impact on curricula at other institutions receiving Title VI funds. They are now on notice that, to continue their relationship with the federal government, they must espouse a particular viewpoint regarding Israel to the satisfaction of the government and must tread lightly when it comes to any curricular content that could somehow be perceived as portraying Islam and Muslims in a positive light.

Again, the governing statute and regulations do not permit the Department to require institutions to espouse its favored viewpoint or further this administration’s anti-Muslim agenda. Although the Department accuses the Consortium of inappropriately advancing ideological priorities, the Department’s true objection seems to be that Consortium has failed to conform its programming to the Administration’s own ideological standards.

The Title VI program at issue requires grantees to dedicate their program to certain academic purposes, including, among others, developing foreign language skills and offering instruction necessary to provide a full understanding of the region in which the foreign language is used.³ Each applicant for funds must provide “an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs.”⁴ The Consortium’s program evidently complies with this statutory directive, as spelled out in detail by the program’s response to the Department’s letter.⁵ Nothing more should be required.

The ACLU strongly urges the Department to respond to this letter confirming that the Department has ended its investigation of the Consortium’s programming and will refrain from launching future investigations of Title VI funding recipients motivated not by any governing statute but rather by the Administration’s own ideological standards.

Respectfully,



Ronald Newman
National Political Director
National Political Advocacy Department



Karen Anderson
Executive Director
ACLU of North Carolina

³ 34 C.F.R. § 656.3 (2009).

⁴ 20 U.S.C. § 1122(e)(1) (2008).

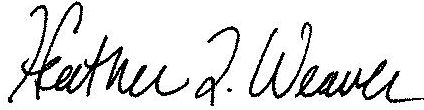
⁵ Letter from Terry Magnuson to Robert King, *supra* note 2.



Kate Ruane
Senior Legislative Counsel
National Political Advocacy Department



Daniel Mach
Director
Program on Freedom of Religion and Belief



Heather L. Weaver
Senior Staff Attorney
Program on Freedom of Religion and Belief

cc: The Honorable Lamar Alexander
The Honorable Patty Murray
The Honorable Bobby Scott
The Honorable Virginia Foxx
The Honorable G.K. Butterfield
The Honorable David Price