

RECONSIDERATION DENIAL RESPONSES - OFCCP CASE LOO20283I

1. OFCCP does not answer my comment. Compliance Officer violated FCCM § 200M.b by omitting from the case file reasons why certain interviews were not conducted. No distinction is made in the FCCM at this point between management or non-management employees, the witness implied by OFCCP response was not time barred, and the threat of reprisal that witness made was ignored by OFCCP.
2. OFCCP's response is demonstrably false - the Compliance Officer *is* required to record the name and title of any representation present at interviews: FCCM § 200M.e states compliance officer "*will* note [legal] representative's name and title on the documentation of the interview." FCCM § 6G03.f states the compliance officer "*should* note the [legal representative's] name and title on the interview documentation."
 - OFCCP is correct that it does not introduce new information pertaining to the case, but it *is* evidence that I did not receive full and fair consideration of my case which fully supports my request for reconsideration as a "continuing violation" per FCCM § 7B00.
3. OFCCP did not seek to ascertain instances in which legal representation spoke for or influenced interviewees, and the burden of review or investigation is not upon the complainant, it is the responsibility of OFCCP. However, for your convenience, I have documented at least three incidents in the interviews which I was provided under FOIA that illustrate violations the compliance officer should have identified; <https://dukevets.org/2017/11/01/2016-ofccp-interview-representation/>
4. OFCCP's response is demonstrably false - Robins' interview notes indicate she was interviewed on February 23, 2017. She states that her employment as Registrar ceased on "June 30, 2016." Robins therefore did NOT hold the title she claimed at the time she was interviewed.
5. OFCCP's response not only forces the burden of proof upon the complainant, it is also demonstrably false. On October 25, 2017, I did in fact provide the specific case in question, Elmendorf v. Duke, on the first page of my request, under heading A.3. This is particularly troubling because the case is embedded in the language OFCCP used in replying to my request, suggesting OFCCP has failed to read my request in full.
6. OFCCP response ignores facts and does not reply to my comment. This supports my request for a "Continuing Violation" investigation because the discrimination was ongoing and not reducible to one event. Even if the OFCCP reply were valid, that the timeframe was amended along with the complaint on March 14, the 60-day limit is still enforceable. The limit was reached on May 13.
7. OFCCP is clearly mistaken. A simple reading of the email and attachments will show that new evidence was in fact provided. Further, I clearly and explicitly outlined evidence which OFCCP had in their possession and failed to act upon, including testimony by interviewees that there was in fact a persistent violation.
8. OFCCP does not respond to my comment, which clearly lays out that OFCCP itself identified its actions as a "compliance review" and not as an investigation.
9. OFCCP ignores my comment, which makes clear that no individual with any incentive to conduct a legally sound investigation was ever involved at any time in the compliance review.

RECONSIDERATION DENIAL RESPONSES - OFCCP CASE LOO20283I

10. OFCCP's response is false. The questions did not focus on the period ending September 13, 2016, when I filed my complaint with them. The questions were in present tense and therefore not reflective of a time period which had passed.
11. OFCCP's response indicates they have not considered clear evidence of a violation, including witness testimony demonstrating clearly that EEO training was never conducted or attended by managerial employees.
12. OFCCP fails to respond to my request, and ignores the very evidence they ask for, which names specific instances involving Maberry, Robins, and Clinton.
13. OFCCP ignores my request and repeats its mistaken assumption that I ever related "intimidation" allegations to the name change. Further, the Dean intervened for female professor Anthea Portier-Young when she complained of a hostile environment in March 2017 but refused to intervene when I did the same in November 2016. This is clearly discriminatory because it provides the benefit of intervention to one group (women) and denies it to another (disabled veterans).
14. OFCCP does not respond to my comment and it stands without challenge - conclusions drawn from silence are subjective and therefore have no place in a compliance review.
15. Granted no students were coerced into attending an evening session, that was not my claim. My claim was that the University did in fact have control to assign sections, to give students unfavorable assignments.
16. OFCCP continues to ignore a threat of reprisal, calling it "a request."
17. OFCCP ignores that I did in fact provide the name of the individual who made the comment. I further allege that they have not adequately considered all the facts and have allowed the hostile environment to persist.
18. OFCCP falsely assumes that because another veteran has not been aware of discrimination or bias against them that therefore my allegations are insufficient. They have not weighed the case on its own merits.
19. OFCCP ignores the fact that an event being isolated heightens the requirement to prove it is not pretext. Had it been a typographical error, my name would not have already been spelled correctly the prior semester. No other employee was required to provide a social security card to establish their name.
20. OFCCP has abdicated its statutory obligation by refusing to admit direct evidence it is actively considering in other reviews.
21. OFCCP has entirely and totally failed to uphold its statutory requirement in ignoring direct evidence of noncompliance and allowing the university to conceal its wrong doing. While it is true I was protected federally, I was in fact not protected by the contractor's own grievance procedures, which OFCCP asked about in its interviews and from which it accepted false statements by the contractor.