

December 9, 2005

President Stephen J. Kopp  
Office of the President  
Marshall University  
1 John Marshall Drive  
Huntington, West Virginia 25755

*Sent by U.S. Mail and Facsimile (304-696-6453)*

Dear President Kopp:

Thank you for your prompt response to FIRE's November 4, 2005 letter regarding the racial restrictions on enrollment in certain sections of Marshall University's University Studies 101 course. Although you have stated that all sections of UNI 101 are open to students of all races, the course listing on the Marshall University website still contains racially restrictive language, giving the impression that these sections are indeed still segregated.

The Fall 2005 course listing for UNI 101 on the Marshall University website clearly states that three of the sections are limited to "African American Students Only," and that one section is limited to "Outstanding Black High School Students Only." In your November 15 response to FIRE, you stated that "[a]lthough these sections appear to be based on race, they are in fact made up of both white and African-American students." If these sections are not actually limited according to students' race, then the racially limiting language must be removed from the course description. As long as this language remains in the course listing for sections of UNI 101, those sections will continue to exclude students of various races.

As a public university, Marshall violates the U.S. Constitution, Title VI of the Civil Rights Act of 1964, and Marshall's own Non-Discrimination Policy when it claims to exclude any student from a class on the basis of his or her race. Even if the racial restrictions are not enforced, by labeling certain sections "For African-American Students Only," Marshall imposes requirements that are facially unconstitutional. Advertising courses as being segregated leads to the effects of segregation, and is therefore unlawful.

The appearance of segregated class sections not only fails these legal tests, but also fails the students of Marshall University. As FIRE stated in its November 3 letter to Marshall,

Rather than cultivating a sense of community and encouraging inclusion, Marshall University's practice of racial restrictions risks sending the message that segregation is an acceptable and preferable solution to living in a diverse environment, whether within the university community or in the wider society.

These perils of segregated class sections are not adequately countered by Marshall's claim that it ignores the racial restrictions on class enrollment. Racially restrictive language is an artifact of discrimination, and carries with it the effect of actual discrimination. Any reasonable student who reads the course descriptions on the course listing website would assume that anyone who is not African-American is not permitted to join those sections. Students of other races are therefore deterred from enrolling. Advertising the class as "For African-American Students Only" is therefore discriminatory.

In your November 15 letter to FIRE, you claimed that Marshall "will maintain or increase the number of special-interest sections from which students may choose," and that those sections will be "indicated with a descriptive statement in [Marshall's] Schedule of Courses each semester." Marshall is free to continue to offer a variety of special-interest introductory courses to its students, but enrollment in those sections must not contain racial restrictions, nor should their descriptions be written in such a way that specific racial groups are excluded.

FIRE therefore repeats its request that Marshall University remove the language "African-American Students Only" from the description of all UNI 101 sections, and that the university reiterate its commitment to treating all students equally, regardless of race or ethnicity. FIRE is committed to using all of its resources to ensure that the civil rights of Marshall University's students are respected and preserved. We request a response on this matter by December 27, 2005.

Sincerely,



Robert L. Shibley  
Program Manager

cc:

Sarah Denman, Provost and Senior Vice President for Academic Affairs, Marshall University  
Frances Hensley, Associate Vice President for Academic Affairs, Marshall University  
Michelle Duncan, Director, University College, Marshall University