

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.