



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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BOSTON, MA 02109-3921

REGION I

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September 30, 2022

Deborah Jackson  
President  
Cambridge College  
By email: Deborah.jackson@cambridgecollege.edu

Re: Complaint No. 01-22-2166  
Cambridge College

Dear President Jackson:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education, Office for Civil Rights (OCR) received against Cambridge College (College). The Complainant alleged that the College retaliated against her when a professor gave her a lower grade because the Complainant had previously filed a complaint of racial discrimination against her. As explained further below, before OCR completed its investigation, the College expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance from the U.S. Department of Education. The laws enforced by OCR prohibit retaliation against any individual who asserts rights or privileges under these laws or their implementing regulations, or who files a complaint, testifies, assists, or participates in a proceeding under these laws. Because the College receives federal financial assistance from the U.S. Department of Education, OCR has jurisdiction over it pursuant to Title VI.

OCR opened the following allegation for investigation:

- Whether the College retaliated against the Complainant for filing a race discrimination complaint by lowering the Complainant's grade, in violation of 34 C.F.R. Section 100.7(e).

**Legal Standard**

The Title VI regulation, at 34 C.F.R. § 100.7(e), prohibits retaliation against any individual who asserts rights or privileges under Title VI or who files a complaint, testifies, assists, or participates in a proceeding under Title VI.

In analyzing an individual's claim of retaliation against a recipient, OCR analyzes whether: (1) the individual engaged in a protected activity;<sup>1</sup> (2) the individual experienced an adverse action caused by the recipient;<sup>2</sup> and (3) there is some evidence of a causal connection between the adverse action and the protected activity. If all these elements are present, this establishes an initial, or *prima facie*, case of retaliation. If all these elements are present, this establishes an initial, or *prima facie*, case of retaliation. OCR then determines whether the recipient has identified a legitimate, non-retaliatory reason for taking the adverse action. OCR next examines this reason to determine whether it is a pretext for retaliation. If OCR finds that the reason was pretextual, then OCR will make a finding of retaliation; conversely, if OCR finds that the recipient proffered a legitimate, non-retaliatory reason for the action at issue and that the reason was not pretextual, then OCR will find insufficient evidence of a violation.

### **Findings of Fact**

During the investigation, OCR reviewed documents provided by the Complainant and the College; and interviewed the Complainant.

The Complainant is a student in the XXXXXX XX XXXXXXXXXXXX at Cambridge College. During the XXXXX of XXXX, the Complainant took the course XXXXX XXXXXXXXXXXX. The Complainant alleged that after she filed a Title VI complaint against her professor with the College, the professor retaliated against her by giving her a low final grade in the course.

According to the Complainant, during an online class on XXXXXXXXXXXX X XXXX the professor called out the Complainant by name in front of the class to XXX XXX XX XXX XX.<sup>3</sup> By contrast, the professor told her supervisor later that day that she told the entire class XX XXX XX XXX XXXXXXXX, and did not call the Complainant out by name. After the class ended, the Complainant emailed the professor that she believed she was being singled out and discriminated against based on her race. The professor subsequently forwarded this email to the Dean of the program.

The College conducted an investigation into the Complainant's allegation. On XXXXXXXXXXXX X XXXX, the XXXXXXXXXXXXXXXX emailed the Complainant requesting a meeting. The XXXXXXXXXXXXXXXX and the Complainant met on XXXXXXXXXXXX XX XXXX. The XXXXXXXXXXXXXXXX then spoke with two students from the class about the incident.

On XXXXXXXXXXXX XX XXXX, the professor emailed the XXXXXXXXXXXXXXXX stating:

X---paragraph redacted---X

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<sup>1</sup> A "protected activity" is the exercise of a right that is protected under OCR's non-discrimination laws.

<sup>2</sup> An adverse action is something that could deter a reasonable person from engaging in further protected activity.

<sup>3</sup> The College has a policy that students should be XXXXXX XXXXXXXXXXXX in virtual classes. The Complainant alleged that she was "XXXXXXXX XXXX" XX XXX XXXXX XXXXXXXXXXX XXXX XXXX XXX. According to the professor, several students, including the Complainant, were XXXXXX XXXX.

The XXXXXXXXXXXXX responded by providing the College's policies explaining the process when complaints are received and asked the professor to XXXXXXXXXXXXX and allow the process to be completed. The professor replied:

X---paragraph redacted---X

On XXXXXXXXXXXX X, XXXX, the XXXXXXXXXXXXX provided her report to the Complainant and the professor. The report found that, based on all the evidence including interviews with the Complainant, the professor, and two students, there was insufficient evidence to find discrimination due to race. The report concluded that the student's initial concern about the exchange did not include being targeted due to race, the professor had apologized, there had been no other complaints about the professor, and "XXXXX XXXXXXXXXXXX XXXXXXXX XXXX XXXXXXXX XXXXX."

In a follow up conversation with the professor, the XXXXXXXXXXXXX also noted that there was some evidence that the professor had used the Complainant's name. The professor was reminded that all statements in the classroom should be general, with no mention of any student's name. The professor was also asked to apologize to the Complainant. On XXXXXXXXXXXX XX XXXX, the professor emailed the XXXXXXXXXXXXX and others refusing to apologize to the Complainant a second time.

In a follow up conversation with the Complainant, the XXXXXXXXXXXXX noted that there was some evidence that the professor had used the Complainant's name. In addition, the Complainant was reminded that students are to remain professional in the classroom at all times based on the student code of conduct.

In XXXXXXXXXXXX XXXX, the Complainant received her final grade in the course, a "B+." On XXXXXXXXXXXX XX XXXX, the Complainant emailed the professor stating that the Complainant believed the grade was in retaliation for filing the complaint, and asking for a description of how the professor calculated this grade.

On XXXXXXXXXXXX XX XXXX, the professor emailed her supervisors requesting guidance on how to handle the Complainant's email, and stating that the Complainant's grade was affected by having an unexcused absence and her participation being "XXX XXXXXXXXXXXXXXXX XX XX XXXXXXXX. XXX XXX XXXX XXXXXXX XXXXXXXXXXXXXXXXXXXX XXX XXXXXXXXXXXXXXXXXXXX XXXX XXXXXXXXXXXX XX XXXX XXX XXXXXXXX XX XXXXXXXXXXXX XXXXX XXXXXXX XXXXXXX XX XXX XXXX XXXX XXXXXXXXXXXX XX... XXX XXXX XXXXXXXXXXXXXXXX XX XXXXX XXXXX." Finally, the professor said the Complainant did not complete the XXXXX as required and stated, "X XXXX XXX XX XX XXX XXX XXXXX XXX XXXXXXXXXXXXXXXX XX XXXXXXXXXXXX. X XXX XXX XXXX XXX XXX XX XXXXX X XXXXXXX XXXX."

On XXXXXXXXXXXX X XXXX, the professor emailed the Complainant, copying the Dean and her supervisor, stating that she calculated the Complainant's grade as follows:

1. Your In-Class participation grade = 85 at 30% of your grade
2. Your XXXX XXXXXXXXXXXXXXXX grade = 95 at 30% of your grade

4. XXXXX: I gave you an 80 on this as you did not do the assignment as assigned. This was 20% of your grade.”

The Complainant replied, copying all these recipients, contesting the professor's calculations, reiterating that the professor retaliated, and requesting a further review.

According to the syllabus for the course, “Grading and Assessment” states that “XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX XXXX XXXXXX XXX XXXX XXXXXXX XXXXXXX.” Under “XXXXXX XXXXXXXXXXX,” it states “XXXXXXXX XXXXXXXXXXX XX XXXXXXXXXXX XXXX XXXXXXX XXX XXXX XXXXXXX XXXXXXX.” The professor did not claim that the Complainant had not XXXXXXXXXXX. According to the College’s “Attendance” policy available on the College website and referenced in the course syllabus, “Instructors may adjust course grades due to unexcused absences or failure to participate, provided this is clearly stated in the course syllabus.”

On XXXXXXXXXX X XXXX, the professor emailed the Dean and her supervisor about the Complainant's XXXXXXXXXX X email. The professor stated, "X XXX XXXXXXXXXXXX XXX XXX XXX XXXXXX XX XXXXXXXXXXXX. XXX XXXXXXXXXXXX XX XXXX XXXX XXX X XXX XXX XXXX XXXX XXXXXXXXXXXXXXXX XXX XX XXXXXXXXXXXX XXX XX XXXXXXXXXXXX XXX XX XXXXXXXXXXXX. X XXX XXX XX XXXX XXXXXXXXXXXX XXXXXXXXXXXX XXXX XXXXXX XXX XXXXXXXXXXXX XXX XXXXXXXXXXXX XXX XXXXXXXXXXXX XXX XXXXXXXXXXXX XXXX X XXX XXX XXXX XXXXXXXXXXXX XXXXXXXXXXXX. X XXX XXXX XXX XXXX XXX XXX XXX XXXXXXXXXXXX XXX XXXX XXXX XX XXXXXXXXXXXX. X XXXX XXXX XXX XX XXXX X XXXXXXXXXXXX XXX XXXXXXX XXXXXXXXXXXXXXXXXXXX; XXX XXXX XX XXX XXX XXXX X XXXXX XXX. XXX XXX XXX XXXXXXXXXXX XXXXXXXXXXXX XX XX XXXX XXX XXXXXXX X XXXXX XXX XXXXXXX XXX... XXX XX X XXXXX XXX XX XXXXX XXX XX XXXXXXX XX XXXXXXX XX XXXXXXXXXXXXXXXX..."

The same day, the Complainant filed a grade appeal through the College’s grievance procedures. The College assigned two faculty members to review the professor’s grading. One of the faculty members expressed concerns to the Dean of the program because it is “XXXXXXXX XXXX XXX XXXXXXXXXXXX XXXXXX XX XX XXXXXXXXXXXX XXXXXXXX XXX XXXXXXXXXXXXXXXX XXXX XXXX XXX...” and requested the professor “XX XXXXXXXX XX XXX XXXXXXXXXXXXXXXX XX XXX XXXXXXX XXX XXXXX XX XXX XXXXXXXXXXX...XX XXXXX X XXX XX XXX XXXXX XXXXXX.”

An XXXXXXXXXXXX X XXXX email from the professor states, “XXX XXXXX XX XXXXXX XXXXX XX XXXXX, XX XXXXXXXXXXXX XX X XXXXX, XXXX XXX XXXXXXXXXXXXXXXX XXXX XXX XXXX XXXXXXXXXXXXXXXX XXX XXXXXXXXXXXXXXXX XX X XXXXX XXXX XXXXXXXX XX XXX XXX XXXX. X XXXXXXXXXXX XXXX XX XXXX XX X XXXX XX XXXX XX XXXXX...” The professor goes on to list several items that the class agreed on, and states that the other students followed these instructions. The Complainant

disputed that these were the instructions given.<sup>4</sup> During the appeal process, the College decided to allow the Complainant to redo the XXXXX to be graded by the faculty member, rather than the professor. The Complainant did not redo the assignment, and instead filed the current complaint with OCR. The College represented that the appeal process is still pending.

### **Analysis**

OCR's review of the information provided to date raises some concerns with the professor's grading of the Complainant. The Complainant engaged in a protected activity by filing a Title VI complaint against the professor, who knew of the complaint as she participated in the investigation. OCR notes some preliminary concerns with the professor's emails during that investigation, which are notable for the professor's expressed difficulty in interacting with the Complainant while the Complainant's allegations were being investigated. OCR also notes, with regard to the assignment that contributed to the Complainant's grade being lower than she anticipated, that there was no documentation created prior to the assignment that described what the assignment required. In addition, it is not clear at this point in the investigation if the professor's consideration of the Complainant's unexcused absence was consistent with the College's policy, which required that course syllabi clearly state whether course grades would be adjusted due to unexcused absences.

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the College expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the College resulted in the College signing the enclosed Agreement which, when fully implemented, will address all of the allegations raised in the complaint.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the College must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to

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<sup>4</sup> The Complainant alleged that there were no instructions with regard to page length, and that the assignments were not handed in to the professor, but only presented. The Complainant alleged that "many" of the students completed the assignment with multiple pages. Given that the College requested to voluntarily resolve this complaint, OCR did not request the XXXXX assignments from the other students in the course.

protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

Sincerely,

/s  
Michelle Kalka  
Compliance Team Leader

Enclosure

cc: XXXXXXXX XXXXXXXXXX, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX