



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

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July 11, 2022

IN RESPONSE, PLEASE REFER TO OCR DOCKET #03212167

Via e-mail only (president@umd.edu)

Dr. Darryll J. Pines
President
University of Maryland, College Park
1101 Main Administration Building
7901 Regents Drive
College Park, MD 20742-5025

Re: OCR Complaint No.: 03-21-2167

Dear Dr. Pines:

This is to inform you of the resolution of this complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) against the University of Maryland, which this letter will refer to as the University. The Complainant, XXXXXXXXXXXXX, alleged that the University discriminated against her based on her race and retaliated against her for her prior complaints of discrimination filed internally with the University and with OCR.

Specifically, the Complainant alleged that the University:

1. Retaliated against her for filing a discrimination complaint in 2020 with the University's Office of Civil Rights and Sexual Misconduct against the XXXXXXXXXXXXX and with OCR in February 2021 by:
 - a. denying her request to have XXXXXXXX from another school rated as equivalent to XXXXXXXX at the University;
 - b. failing to rate XXXXXXXX from another school as acceptable as a XXXXXXXXXXXX elective at the University;
 - c. requiring her to submit additional information and documents regarding XXXXXXXXXXXX XXX with no intention of rating the courses acceptability;
 - d. declining to approve XXXXXXXXXXXX at the University XXXXXX for her to transfer, but stating it could be approved for other students;
 - e. taunting her by continuing to offer her opportunities to take XXXXXXXX at the University, but giving no additional consideration to the transfer credit evaluations she submitted; and
 - f. failing to disburse financial aid for her summer courses, including XXXXXXXX, taken at another school, even after the necessary documents and enrollment verification were submitted.
2. Discriminated on the basis of race by:
 - a. failing to give her transfer-credit request equal consideration as her white counterparts when it comes to consideration/decisions regarding transfer credit evaluation; and

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that she may have inferred that the Complainant wanted to get equivalent credit because the other course, XXXXXXXX, the Complainant requested was already rated as an elective.

The Complainant informed OCR that she had to drop XXXXXXXX because the University would not rate it to transfer for any reason, which affected her ability to get financial aid. Thereafter, on XXXXXXXX, the Complainant submitted another PTE form for two courses at XXXXXXXXXXXXXXXX XXXXXXXX. The Complainant explained that in order to get financial aid to take a course at XXXX, she needed to enroll in another class to have half time status, which is six (6) credits. The Complainant asserted to OCR that the University failed to disburse financial aid for these summer courses, even after the necessary documents and enrollment verification were submitted. The University denies this assertion and provided documentation to OCR showing that XXXXXXXX financial aid was posted to the Complainant's account on XXXXXXXXXXXXXXXX. The University, however, acknowledged that there was a delay in providing the financial aid, due to a clerical error. Specifically, the Financial Aid Counselor explained that the paperwork did not list the full name of the institution, and thus she selected the wrong school. Once the mistake was discovered, the Financial Aid Counselor corrected the error on XXXXXXXX, and the funds were released for that institution shortly thereafter.

The University provided OCR with comparative documentation and data including information regarding several other University students who sought permission to transfer XXX credits to the University from other universities and colleges around the country and world. This includes students who were denied full transfer credit but were given elective credit for the non-University XXX course. It is believed these students followed the same or similar process as did the Complainant. OCR notes that there was no documentation demonstrating that the students specifically requested consideration for the elective credit in order to receive lower-level elective (L1) credit. In fact, the documentation shows that students were granted lower-level elective (L1) credit without specifically requesting it.

For example, in XXXXXXXXXXXX, another student (Student 2) contacted Transfer Credit to inquire why he had not received credit for XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX at XXXX. The documentation reflects that Student 2 did not follow the PTE process. Student 2 also did not ask for XXXXXXXX from XXXX to be rated or evaluated for elective credit. Transfer Credit service informed Student 2 that the XXXXXXXXXXXXXXXX evaluated XXXXXXXX and approved it to transfer as lower-level elective (L1) credit and noted that it was missing about 30% of the content needed for it to transfer as XXXXXXXX credit. (*Emphasis added*).

The Advisor explained that the University rated XXXXXXXX as an acceptable lower-level (L1) XXX elective at the University for Student 2, even after it did not rate it as an elective for Complainant, because the course was already on Student 2's records. When asked why Student 2 was able to receive elective credit when he did not follow the PTE process, the University responded that its policy instructing students to seek permission to enroll using a PTE form prior to taking a course at another institution is not required and explained that Complainant could have taken XXXXXXXX and submitted the course for transfer after taking it like Student 2 and receive the same outcome of Student 2.

The University also provided a detailed list of students who had transfer courses evaluated. The list included a breakdown of each course evaluated, the need for additional information, the outcome of the evaluation, and the race of the student requesting the evaluation. The University's documentation shows that white, Asian, foreign, Hispanic, and Black students, who were not the Complainant, were asked to provide additional information during the transfer course evaluation process related to XXXXXXXX. The University's documentation also shows that white, Hispanic, and foreign students were asked to provide additional information during the transfer course evaluation process related to XXXXXXXX.

The University's documentation further shows that Black, white, Hispanic, Asian, and foreign students submitted courses from other institutions that were evaluated as being equivalent to XXXXXX, and at least one other Black student submitted a transfer credit request for XXXXXX and received lower-level (L1) elective credit for the course.

LEGAL ANALYSIS – ALLEGATIONS 1(a), (c), (e) and (f), and 2(a) and 2(b)

There is no dispute that the Complainant engaged in a prior protected activity when she filed her first complaint with OCR, and that the University had notice of the protected activity. As each of the adverse actions named in Allegations 1(a)-(f) occurred subsequent to her first OCR complaint, a causal connection between the protected activity and adverse action can be inferred. Thus, because a *prima facie* case of retaliation has been established for Allegations 1(a)-(f), OCR's legal analysis will focus on whether the University articulated a legitimate, non-retaliatory rationale for each adverse action, and whether the articulated rationale appears to be a pretext for retaliation.

Allegation 1(a): The University retaliated against the Complainant by denying her request to have XXXXXXXX from XXXX rated as equivalent to XXXXXXXX at the University

The University's evaluation that rated XXXXXXXX as equivalent to XXXXXXXX expired in XXX. Therefore, according to University policy, the Complainant was required to resubmit XXXXXX XXXXXXXX and the accompanying course documents for the course reevaluation. The Advisor's evaluation of UNCC's XXXXXXXX revealed that XXXXXXXX would not be equivalent to the University's XXXXXXXX based on the information the Complainant provided, because it lacked 25% of the content of the XXXXXXXX. OCR has no evidence that the Advisor's evaluation and subsequent determination that XXXXXXXX XXXXXX was not the equivalent to XXXXXXXX was inconsistent with transfer course evaluations completed for other University students. Therefore, we find that the University had a legitimate, non-retaliatory reason for its determination that XXXXXXXX was not equivalent to the University's XXXXXXXX course. We also find no evidence of pretext. For these reasons, OCR finds there is insufficient evidence that the University retaliated against the Complainant, as alleged.

Allegation 1(c): The University retaliated against the Complainant by requiring her to submit additional information and documents regarding XXXXXXXXXXXXXXXX with no intention of rating the courses acceptability.

The Complainant asserts that, in providing the Advisor with syllabi, course outline, and a course textbook for XXXXXXXX, she presented University with more than enough material for a transfer credit evaluation. The Complainant makes the same allegation as to XXXXXXXX. The Complainant argues that even though she provided ample information as to both courses, the Advisor requested more for the purpose of retaliating against her for her protected activity of filing discrimination complaints.

At the time of Complainant's request to rate XXXXXXXX and XXXXXXXX for acceptability on XXXX, XXX, the course evaluations that rated XXXXXXXXXXXXXXXXXXXX as equivalent to certain University courses had been expired since XXX and were no longer valid. Thus, according to the University policy, the Complainant was required to request the courses be reevaluated and submit a detailed syllabus from the semester/term when the course was to be taken. The Complainant did not submit a syllabus for XXXXXXXX but provided one for XXXXXXXXXXXXXXXXXXXX. The syllabus for XXXXXXXX did not list detail about the subjects covered, but the Complainant provided a course topical outline/weekly schedule listing the topics for each week of the course. In response, the Advisor reviewed the information Complainant provided and requested additional information from Complainant.

XXXXXXXXXXXXXXXXXX

OCR finds the Advisor's request that the Complainant provide the syllabus and outline of topics/ weekly schedule from the professor teaching the course in XXXXXXXXX was consistent with the University's policy as to transfer course evaluation requests. Furthermore, the University's documentation shows that other students were also asked to provide additional information during the transfer course evaluation process related to both XXXXXXX and XXXXXXX. We, therefore, find the University provided a legitimate, non-retaliatory rational for requesting the documentation it did from the Complainant. Furthermore, we found no evidence of pretext. For these reasons, OCR concludes that the evidence is insufficient to conclude that the University retaliated against the Complainant, as alleged.

Allegation 1(e): The University retaliated against the Complainant by taunting her by continuing to offer her opportunities to take XXXXXXX at the University but giving no additional consideration to the transfer credit evaluations she submitted.

The Complainant asserts she believed that XXXXXXX was acceptable for equivalent transfer credit for the University's XXXXXXX. However, the evidence indicates that this status expired in XXXXXXX. In fact, XXXXXXXXXXXX was reevaluated by the University and approved as a general education credit, meaning it was found not to be the equivalent to XXXXXXX.

The University asserts that the Complainant was awarded the same opportunities to enroll in XXXXXXX as other students. The University noted that the Complainant had the option to either enroll in XXXXXXX at the University or complete an approved equivalent course at another college or university and then transfer the credits back to the University. The University further asserts that the XXXXXXX course evaluation the Complainant submitted was reviewed but XXXXXXX was not deemed equivalent to University's XXXXXXX course. The University cited its comprehensive Database of approved transfer courses and noted that the Complainant also had the opportunity to select a course from any number of institutions that were already approved to transfer as XXXXXXX.

OCR's also finds the University followed its policy when it did not rate XXXXXXX as direct equivalent to XXXXXXX and, thus, provided a legitimate, non-retaliatory reason for its action. We also find no evidence of pretext. For these reasons, OCR concludes that the evidence is insufficient to conclude that the University retaliated against the Complainant, as alleged.

Allegation 1(f): The University retaliated against the Complainant by failing to disburse financial aid for her summer courses, including XXXXXXX, taken at another school, even after the necessary documents and enrollment verification were submitted.

OCR finds that the University disbursed XXXXXXX financial aid to Complainant's account on XXXXXXXXXXXX. OCR's investigation reflects that the University had a legitimate, non-retaliatory reason for delaying disbursement of Complainant's XXXXXXX financial aid. The University made an error in processing the financial aid that it corrected as soon as the error was discovered. OCR's investigation revealed no evidence of pretext. For these reasons, OCR concludes that the evidence is insufficient to conclude that the University retaliated against the Complainant, as alleged.

Allegation 2(a): The University discriminated against the Complainant based on race by failing to give her transfer-credit request equal consideration as her white counterparts when it comes to consideration/decisions regarding transfer credit evaluation.

The email documentation provided by the University shows that the Advisor engaged in a discussion with the Complainant about the table of contents, the organization of the chapters of the textbook, and debated whether the topics of the textbook matched with the course outline/weekly schedule the Complainant

XXXXXXXXXXXXXXXXXX

submitted in her evaluation request for XXXXXXXX. The University’s documentation shows that the Advisor asked the Complainant and her white counterparts to provide additional information to evaluate the courses. The documentation also shows that Black, white, Hispanic, Asian, and foreign students submitted courses from other institutions that were evaluated as being equivalent to XXXXXXXX, and at least one other Black student submitted a transfer-credit request for XXXXXXXX and received lower-level elective credit for the course. Thus, OCR did not find that the preponderance of the evidence supported the Complainant’s assertion the University failed to give her transfer-credit request equal consideration as her white counterparts. Based on the foregoing, OCR finds insufficient evidence to substantiate Allegation 2(a).

Allegation 2(b): The University discriminated against the Complainant based on race by failing to rate XXXXXXXX from another school as acceptable as a lower-level XXX elective at the University.

Although the Complainant’s request that XXXXXXXX be rated for “acceptability” meant the Advisor should have also determined whether the Complainant could receive elective credit for XXXXXXXX, OCR found no evidence that the Advisor’s decision not to rate XXXXXXXX as a lower-level (L1) elective was based on the Complainant’s race. In fact, documentation shows that at least one other Black student received lower-level (L1) elective credit after the Complainant submitted a transfer credit request for a course to be considered as equivalent to the University’s XXXXXXXX. Based on the foregoing, OCR finds insufficient evidence to substantiate that the University discriminated against the Complainant based on her race pursuant to Allegation 2(b).

FACTUAL SUMMARY – ALLEGATION 1(d)

Allegation 1(d): The University retaliated against the Complainant by declining to approve XXXXXXXXXXXX at the University XXXXX for her to transfer

On XXXXXXXX, the Complainant submitted a transfer credit course evaluation request for XXXXXXXXXXXX at the University XXXXXXXXXXXX. The Complainant asserts she was supposed to XXXXXXXXXXXXXXXXXXXX, so she had classes evaluated by someone in the Registrar’s office who handles XXXXXXXX class transfers. She noted that when she submitted a proposal to take XXXXXXXXXXXX at the University XXXXX, the class was forwarded to the University’s XXXXXXXXXXXX and the request for transfer was placed under her name.

The University did not rate XXXXXXXXXXXX for transfer to the University. The Complainant asserts that the University did not rate XXXXXXXXXXXX for transferability in retaliation for the discrimination complaint she made internally with the University and her previous OCR complaint (XXXXXXXXXXXX). The Complainant further asserts that the Advisor received her request for XXXXXXXXXXXX at the University XXXXX before the Advisor made a decision on Complainant’s request for XXXXXXXX. The Complainant believes the Advisor retaliated against her when she did not rate XXXXXXXX knowing it would impact the Complainant’s ability to take XXXXXXXXXXXX at the University XXXXX.

According to the University, there are two steps to an evaluation of a course requested to be taken at a foreign university like the University XXXXX. The first step is to evaluate the syllabus for the course at the host university, and the second step is to evaluate the requesting student’s academic record to determine if it is appropriate for the student to take the requested course. The University stated that the course evaluations for XXXXXXXX classes may sometimes be approved conditionally to ensure that a student has met all the prerequisites necessary to be academically successful in the course if the student XXXXXXXX. The University concluded that the XXXXXXXXXXXX course at the University XXXXX is X

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX, at least at the level of XXXXXXXX the University, a theoretical upper-level XXXX XXXX course that requires advanced XXXXXXXX, which requires a C- or higher in prerequisites including XXXXXXXX XXXXXXXX or similar courses **and** XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

The University noted that, in the Complainant's case, although the XXXXXXXXXXXX course at the University XXXXX was approved generally for transfer to the University, it could not be approved for the Complainant because she lacked the adequate preparation and prerequisite coursework, including XXXXXXXX, to enroll in the course. The University denies that this determination was based on the Complainant's prior OCR complaint. The University pointed out that the only XXX course that the Complainant completed at the University was XXXXXXXXXXXXXXXXXXXXXXXX, which the University described as a XXXXXXXXXXXXXXXXXXXX course designed for XXXXXXXX students that would not prepare the Complainant to take XXXXXXXX. The Advisor, therefore, stated that it is not reasonable to expect that the Complainant would succeed in XXXXXXXXXXXX at the University XXXXX, and therefore, denied her request to take the course at XXXX for credits to be transferred back to University.

The Advisor also noted that, for students desiring to XXXXXXXX she considers the probability of a student's success when determining the course's transferability. As such, the Advisor stated she contacted a faculty member in the XXXXXXXX office regarding the Complainant's request, who told the Advisor that the University XXXXX's XXXXXXXXXXXX also contained elements that could be considered to be within the realm of statistics, which underscored that XXXXXXXXXXXX was an advanced XXXXXXXX.

LEGAL ANALYSIS – ALLEGATION 1(d)

The University explained that it did not approve the Complainant's request to take XXXXXXXXXXXX at the University XXXXX, because the Complainant's only XXXXXXXX from the University was XXXXXXXXXXXXXXXXXXXXXXXX which the University described as a XXXXXXXXXXXXXXXXXXXXXXXX designed for XXXXXXXX students that would not prepare Complainant to take XXXXXXXX, the University's equivalent of XXXXXXXXXXXX at University XXXXX. Based on this, the University determined it was not reasonable to expect that the Complainant would succeed in XXXXXXXXXXXX at the University XXXXX, and therefore, denied her request to take the course at XXXX for credits to be transferred back to the University.

There is no factual support for the Complainant's argument that the Advisor denied the transfer of XXXXXXXX in an effort to undermine the Complainants request regarding XXXXXXXXXXXX. The information OCR received from the parties demonstrates that the Advisor denied the transfer of XXXXXXXXXXXXXXXXXXXXXXXX, which was two weeks before XXXXXXXX, when Transfer Credit forwarded the Complainant's request related to XXXXXXXXXXXX to the Advisor. Accordingly, the information presented to OCR does not support the Complainant's argument regarding XXXXXXXX.

For the reasons stated above, OCR finds that the University made an academic determination and followed its policy for evaluating study abroad courses. We, therefore, find the University provided a legitimate, non-retaliatory rational for denying the Complainant's request to receive transfer credits for XXXXXXXXXXXX at the University XXXXX, and because OCR found no inconsistency in the University's exercise of its policy in handling similar requests from other students, we find no evidence of pretext. For these reasons, OCR concludes that the evidence is insufficient to conclude that the University retaliated against the Complainant, as alleged.

SUMMARY OF CONCERNS – Allegation 1(b)

XXXXXXXXXXXXXXXXXX

Regarding Allegation 1(b), OCR has concerns with the University's handling of the Complainant's request to rate XXXXXXXX for acceptability after the Complainant engaged in the protected activity of filing complaints against the University's XXXXXXXXXXXX based on race and disability. Specifically, the Advisor from the XXXXXXXXXXXX failed to rate XXXXXXXXXXXXXX as acceptable as a lower-level XXXXXXXX at the University but did so for other students. While the University asserts that the Advisor did not rate XXXXXXXX as a lower level elective for the Complainant because the Complainant did not request it to be rated as an elective, the documentation shows that when the Advisor evaluated a course and determined it was not the full equivalent to a University XXXXXXXX, the Advisor indicated to other students that the course could receive some other credit, including lower-level elective (L1) credit. The Advisor did not do the same with Complainant's request. Instead, the Advisor rated XXXXX XXXXXXXX for equivalency to the University's XXXXXXXX and failed to determine if Complainant could receive elective credit. In addition, the University approved XXXXX XXXXXXXX for lower-level elective credit for another student even though this student failed to follow the PTE process and did not request XXXXXXXX be rated or evaluated for lower-level elective (L1) credit. Given that the University gave other students, who had not engaged in prior protected activity, lower-level (L1) XXX elective credit even though these students did not specifically request "elective" credit, OCR is concerned that the University handled Complainant's transfer credit request for XXXXXXXX differently than it handled the requests of other students who did not engage in a protected activity.

To resolve the compliance concerns outlined above, the University entered into the attached Resolution Agreement, signed on July 8, 2022. The Resolution Agreement aligns with OCR's compliance concerns by requiring that the University distribute a memorandum to all faculty, staff and administrators in the XXX Department, reminding them of the prohibition against retaliation, train all staff in the XXX Department regarding the requirements of Title VI and its prohibition against retaliation, offer to the Complainant the opportunity to choose and take one (1) math course at another university at no cost, and ensure the Complainant's request for financial aid for up to three (3) additional math courses at NC State is processed in a timely manner. As is our usual practice, OCR will monitor the University's implementation of the Agreement.

CONCLUSION

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the University'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 the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University 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, or participates in an OCR proceeding. 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 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.

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If you have any questions regarding this letter, please contact Tashell Jenkins, Team Attorney, at 215-656-6021 or tashell.jenkins@ed.gov, or Randle Haley, Team Attorney, at 215-656-8532 or randle.haley@ed.gov.

Sincerely,

/s/

Craig D. Ginsburg
Supervisory Attorney
Philadelphia Office
Office for Civil Rights