



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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February 4, 2014

Dr. Kwang-Wu Kim, President
Columbia College
600 S. Michigan Avenue
Chicago, Illinois 60605

Re: OCR Docket #05-13-2459

Dear Dr. Kim:

This is to advise you of the disposition of the above-referenced complaint that was filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR) against the Columbia College Chicago (College), alleging discrimination and also alleging retaliation.

Specifically the complaint alleged that:

- (1) The College discriminated against Student A on the basis of ... and also retaliated against ... for complaining of such discrimination, when, ...
(2) The College subjected Student A to a hostile environment based ...

OCR is responsible for enforcing ... As a recipient of Federal financial assistance from the Department, the College is subject to these laws.

During its investigation, OCR reviewed documentation provided by the Complainant and the College, and interviewed the Complainant and College staff. Prior to the conclusion of OCR's investigation, the College expressed an interest in resolving the portion of allegation #1 regarding the Complainant's Course A. In accordance with Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the College. The College subsequently signed the enclosed agreement, which, when fully implemented, will resolve the portion of allegation #1 regarding the alleged retaliatory of the Complainant from

Course A. OCR looks forward to receiving the College's first monitoring report, which is due on March 14, 2014.

OCR completed its investigation of the remainder of allegation #1 and allegation #2. Based on the information obtained during its investigation, OCR has determined there is insufficient evidence to conclude that the College retaliated against or discriminated against the Complainant as alleged. OCR's determinations are set forth below.

Legal Standards

The regulation implementing XXXXXXXXXXXXXXXXXXXXXXX states that no individual may be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination on XXXXXXXXXXXXXXXXXXXXXXX under any program or activity that receives Federal funds from the Department. The regulation at XXXXXXXXXXXXXXX also prohibits a recipient, XXXXXXXXXXXXXXX from providing any service or other benefit to an individual that is different, or is provided in a different manner, from that provided to other individuals.

The regulation implementing XXXXXXXXXXXXXXX states that no individual XXX, XXXXXXX, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any education program or activity operated by a recipient of Federal financial assistance. XXXXXXXXXXXXXXX also prohibits a recipient, on the basis XX XXX from providing any service or other benefit to an individual that is different, or is provided in a different manner, from that provided to others. XXXXXXXXXXXXXXX
XX
XX.

Different treatment

In determining whether a recipient subjected a student to different treatment based on XXXXX, OCR considers whether there were any apparent differences in the treatment of similarly-situated students based on XXXXXXX. If this is established, OCR assesses the recipient's reason for any differences in treatment of similarly-situated students to determine whether the reasons are legitimate, non-discriminatory and whether they are merely a pretext for unlawful discrimination. Additionally, OCR examines whether the recipient treated the student in a manner that was consistent with established policies and procedures and whether there is any other evidence of discrimination based on XXXXXXXXXXX.

Harassment

presentations accounted for 35% of the final grade, papers accounted for 45%, participation accounted for 10% and the final exam, which was a presentation, accounted for 10%. With respect to guidelines on participation, Instructor A's syllabus stated, "When you are here, be here. Make yourself known to me and the rest of the class." Students were to participate in open discussions, critiquing professional speeches, providing feedback to peers, sharing opinions and responding to questions. After a student finished a presentation, classmates would be asked to comment on what they liked and what they would change. XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX" Instructor A stated she used this format to discourage students from becoming argumentative and defensive.

The Complainant's Class Participation XXXXXXXXXXXXXXXXXXXX

Instructor A told OCR that the Complainant had a great start in the class and was talented and creative. Although the Complainant XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXX. Instructor A believed that XXX earned grades of XXXX- on XXX assignments prior to XXXXXXX.⁴ By the fifth class, Instructor A realized that the XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX. Instructor A observed that the Complainant's classmates were becoming visibly impatient.

The Complainant believed that Instructor A deliberately "XXXXXX" while allowing XXXXX- XXXXXXXXXXXXXXX peers to comment without interruption during group discussions. XXXX observed that, XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX. The Complainant acknowledged that no one in the class ever commented on XXXXX or made derogatory comments about XXXXX XXXXX, but believed that Instructor A created a hostile environment XXXXXX by encouraging and allowing XXX classmates to XXXXXXXXXXXXXXXXXXXX. The Complainant told OCR that XX was reluctant to complain about XXX discrimination because of the College's responses to XXX previous complaints of discrimination.

XXXXXXXXXXXX

On XXXXXX the Complainant gave a presentation in class, in which XXX told a story XXXX XXXXXXXXXXXXXXX that Instructor A described as "XXXXXXXXXXXXXXXXX." During XXX presentation, the Complainant repeatedly said, "XXXXXXXXXXXXXXXXX At the end of the presentation, one XXXX student commented that the Complainant had XXXXXXXXXXXX XXXXXXX. Instructor A told OCR that the Complainant became XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX that she and the Complainant's classmates provided on XXXX

⁴ The Complainant's grades have been erased from the College's grade tracking system. Instructor A did not keep copies of work that had been evaluated and returned to the Complainant.

speech. According to Instructor A, during the ensuing class discussion, the Complainant XXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX. Instructor A tried to XXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX but the Complainant refused. Finally, Instructor A told the
Complainant that XXXXXXXXXXXXXXXXXXXXXXX. According to Instructor A, the Complainant
did not speak XXXXXXXXXXXXXXX. Instructor A stated that this was the first time XXhad XXX
the Complainant short or silenced her in class. Instructor A informed OCR that after the class
ended, a XXXstudent told XXX that the Complainant had quietly told XXXXXXXXXXXXXXX
XXXXXX.” Instructor A told OCR that this was the first time XXX was made aware that the
Complainant believed that XXX had been treated differently because of XXXXXXX. Instructor A
denied ever being told or understanding from the Complainant or XXX classmates that the
Complainant had suggested XXX was subjected to XXX discrimination.

The Complainant provided a different account of the XXXXX class. XXXreported becoming
uncomfortable during class because Instructor A deliberately XXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX The Complainant said XXX felt ostracized, and that the
entire class became very hostile XXXXXXXXXXXXXXXrecalled one XXXXXXX student shouting,
“XXXXXXXXXXXXXXXXXXXXXXXXXXXX.” Another XXXXXstudent called XXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXalleged that Instructor A’s failure to discipline these students
for their behavior reinforced the hostile environment.

OCR attempted to interview each of the students enrolled in XXXXXXX. One student, Student
A, agreed to an interview and stated that the Complainant appeared personally offended by
XXXXXXXXXXXXXXXXXXXXXXXXXXXX constructive feedback XXXXXXXXXXXXXXX. According to
Student A, the feedback focused on whether the Complainant had met the assignment’s
requirements. Overall, Student A denied that Instructor A was XXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX than XXXX peers. XX also denied that XXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX, in a manner that differed from
how XXXXX responded to other students. For example, Student A reported that Instructor A
consistently XXX. Student A
further noted that the XXX
XXXXXXXXXXXX In fact, XXXX recalled that one student XXXXXXXXXXXXXXXXXXXXXXX
XX. Student A denied
ever observing his classmates XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXdenied
observing any conduct that led XXXX to believe Instructor A or XXX classmates treated the
complainant differently or harassed XXXXXXXXXXXXXXXXXXXXXXX.

That week, Instructor A consulted with the Interim Chair about the Complainant’s behavior in
class. In a follow-up XXXXemail to the Interim Chair, Instructor A thanked XXXX “providing
background information on the Complainant and good advice.” In XXXXXinterview with OCR,
Instructor A could not recall specifically what details the Interim Chair shared about the

students who did not attend class, cursed in class or disrupted class were neither punished XX
XXXXXXXXXXXXXXXXXXXX. She also referenced her XXXexperience at the College when the
Dean prohibited her XXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX [the College] is still up to this XXXXdiscrimination
against XXXXXXXXXXXXXXXstudents!”

The Complainant told OCR that XXdid not understand why XXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX had to be involved XXX posed no threat. The Complainant told
OCR that once XXleft the building, CPD officers told XXX that XXXXwas not allowed back on
campus and told X to leave campus, which XXXdid. Based on the CPD officers’ statements, the
Complainant believed XX had been expelled. XXlater clarified with the Dean’s office that XX
had not been expelled, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXwould need to meet with
the Dean XXXXXXXXXXXXXXXHere too, the College denied calling Campus security or the CPD
because of the Complainant’s XXXXXXX or in retaliation for XXXXXprotected conduct. The
College explained that security and the CPD were involved in removing the Complainant from
the classroom after XXXXdefied the Dean’s request that XXXXXXXXXXXXXXXXXXXXXXX XXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

The following day, the Complainant sent an email to the Coordinator of Student Relations
documenting XXXconcerns that XXX had been discriminated against and also retaliated against
for “XXXXXXXXXagainst discrimination. Despite being provided with the link to the College’s
non-discrimination policy in the XXXXemail, the Complainant did not file a formal complaint
with the College’s Office of Human Resources, and instead raised XXconcerns only in emails to
the Coordinator of Student Relations. Although XXemails could be construed as a complaint of
discrimination, the College explained that they did not treat the emails as such because the
Complainant refused to clarify or discuss XXconcerns with the Dean when they met in person on
XXXXXXXXXX.

XXXXXXXXXXXXXXXXXXXX

On XXXXXXXXXXXXXXXXXXXXXXX, the Complainant met with the Dean, the Coordinator of Student
Relations, the counselor and one of the Campus security officers. During the meeting the Dean
explained that Instructor A had informed the Dean’s Office that the Complainant was XXXX X
in class on XXXand defied the Instructor’s instructions to end XXX speech in a timely manner.
According to the College, the Complainant was told that XXXXcould not return XXXXXXXXXXXXXXX
XX
XX. The College
explained that it imposed these restrictions on the Complainant not because of XXXXXXX, or

Students Office's request that XXXXXXXXXXXXX. Instructor A informed OCR that XX concurred with the Interim Chair.

XXXXXXXXXXXXXXXXXX

Two days later, the Dean of Students Office sent the Complainant a letter by email from the Dean informing XXXXXXXXrequest to XXXXXXXXXXXXXfor XXXXXXXXassignments had been denied because the term ended XXXXXXXXXXXXXand assignments could not be submitted after the term ended. The Complainant was informed that XXXXXXXXXXXXXXXXXXXXXXXX XXif necessary. The letter also told XXXXXXXXbehavior on XXXXXXXXXXXXX, violated the Student Conduct Code, and that additional disruptive behavior could jeopardize XXXstatus as a student. The letter did not state that the XXXXXXXXwas a result of XXXmisconduct. That same day the Complainant was XXXXXXXXXXXXXXXXXXXXXXXX

In its narrative data response to OCR, the College stated that it XXXXXthe Complainant from XXXXXXXXbecause XXXXrefused to complete the XXXX assignments and also because the XXXXDepartment believed it was impossible to grade XXXwork under the circumstances.

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXthe Complainant submitted XXXwritten assignments via email to Instructor A and the College President prior to the original noon deadline. The President forwarded the Complainant's email to the Dean.

The assignments were never graded. Both the Interim Chair and Instructor A said that they could not grade the assignments or ask another instructor in the Department to grade the assignments because Student A had violated the Conduct Code and had broken XXXeducational contract for the class.

The College informed OCR that the Complainant was the only student in the last two years who XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXDepartment as a result XXXXXXXXXXXXXin the course. Documentation provided by the College indicates that XXXXXXXXXXXXXstudent was XXXXXXXXXXXXXXXXXXXXXXXDepartment under similar circumstances. That student, Student B, XXXbehavior in class. XXX was to complete the course as XXXXXXXXXXXXXwith a faculty member in the XXXXX Department. When Student B met with the faculty member XXXXXXXXXXXXXXXbecame belligerent and angry that XX XXXXXXXXXXXXXXX called the faculty member a "B—."

XXXXXXXXXXXXXXXXXXXX-- and XXXXrefusal to follow the directives of the Dean of Students, who requested the Complainant not to return to Course A and instead complete the course by submitting XXXXXassignments, and the instructions of Campus security, that XX leave the class when XXXarrived after being asked not to attend. The College denied restricting the Complainant's access to Course A and other resources on campus because of XXXXXXXXor for retaliatory motives. Furthermore the evidence supports the College's assertion that it restricted the Complainant's access to class and campus because XXclassmates and Instructor A felt threatened by XXXXXXXXXXXXXXXXXXXXXXXXXXXXin class. The College limited the ban to five days to allow Instructor A and XXclassmates to complete the course. The evidence does not suggest that the College's stated basis for XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXOCR found credible Instructor A's testimony that XXXXXXXstudents were afraid not only after the Complainant's XXXpresentation, but when XXarrived in class on XX XX, and XXXXXXXXXXXXXXXXXXXXXXXXXXXX Furthermore, while neither Instructor A nor any other XXXXXDepartment instructor had XXXXXa student from a class in this manner before, the College provided documentation of at least one other student, a XXXXXXXstudent, whose XXX to a course in the XXXXDepartment was XXXXXbecause of XXXXXXXXXXXXXXX, and who was XXXXXXXXXXXX from his course because of continued XXXXXXXX.

OCR considered the fact that the Complainant was referred to the Dean of Students to discuss her XXXXXXXXXXXXX by the Coordinator of Student Relations, which is consistent with the College's description of its practice for XXXXXXXXXXXXXXXXXXXXXXX. Moreover, the evidence indicates that at the time of the referral the College intended to let the Complainant complete the course. The evidence suggests that the College later XXXXXXXXXXXXXXXthe Complainant from Course A, but OCR finds no evidence that this decision was made because of the Complainant's XXXXXXX. Without similarly situated students who were treated more favorably, and without other evidence of discrimination based on XXXXXOCR is unable to substantiate the Complainant's assertion that her removal from Course A subjected XXto different treatment based on her XXXXXXXX

Lastly, other than XXX assertion, which was disputed by the College, that XXXwas prevented from registering for XXXcourses, the Complainant provided no evidence to corroborate XX claim.

In making a determination regarding compliance, OCR must often weigh conflicting evidence and determine whether the preponderance of the evidence substantiates the allegation. In this case, the preponderance of the evidence does not support the allegation that the College discriminated against the Complainant based on XXXXXXXor retaliated against XXas alleged, and has closed the remainder of allegation #1.

Allegation 2 – hostile environment based on XXXXXXXXXXXXXXX

