

Resolution on the University's Response to the U.S. Department of Education Office for Civil Rights Investigation

Whereas Our Common Ground states that the University aspires to be a community that values Respect, Integrity, Innovation, Openness, Justice, and Responsibility;

Whereas these values are foundational to our commitment to Diversity, Equity, and Inclusion, where all people deserve the right to criticize the policies and actions of states, nations, and leaders but not the right to exclude, threaten, or harass a person because of their shared ancestry, cultural identity, or religion;

Whereas Jewish students, staff, and faculty of UVM have been the targets of numerous acts of antisemitism and exclusion based on their cultural or religious identity, and the University ignored, downplayed, or mishandled those reports, leading to an investigation by the U.S. Department of Education's Office of Civil Rights (OCR);

Whereas the OCR concluded that "the President's initial letter to the UVM community in response to OCR's investigation may have perpetuated a hostile environment,"¹ a concern validated by the experiences of Jewish students, faculty, and staff whose sense of safety, trust, and belonging at UVM was harmed by President Garimella's accusing the complainants of making "false claims," downplaying the incidents, and misrepresenting the delays and failures to investigate reports of antisemitism;²

Whereas the OCR investigation summarized in the letter to the President contradicts key claims made by the President to the UVM community, yet those inaccuracies have not been corrected, nor has the OCR letter been linked in subsequent communications to the UVM community or made publicly accessible on the UVM website;

Whereas the OCR is providing oversight, but these problems suggest that deeper institutional changes and broader institutional engagement are needed to prevent their recurrence, especially after the OCR ends its probationary period of oversight;

And Whereas the Board of Trustees has empowered the University of Vermont Faculty Senate with the authority to "review, to recommend, and to participate in the formulation of policy with regard to... administrative procedures" (CBL 1.2e) and to "consider all

¹Pg. 14, OCR letter to President Garimella

<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/01222002-a.pdf>

² President Garimella's September 15, 2022 public statement and email to the UVM community.

<https://www.uvm.edu/news/president/ocr-investigation>

areas of student affairs and their effect on the educational process and academic achievement, and to make and review recommendations regarding them” (CBL 1.5);

Therefore, be it resolved that the Faculty Senate will play a more active role in safeguarding the ability of all students to participate in UVM’s academic and extracurricular community without fear of bias, harassment, and discrimination. As part of that role, the Faculty Senate will:

- Delegate to the Student Affairs Committee, which has the “responsibility for matters relating to student affairs, their effect on the educational process, and the academic climate of the University” (CBL 7.1.5.3) the task of working with the administration to review and improve the policies related to the ongoing response of the University to the OCR Resolution Agreement,³ under the authority of the Faculty Senate to “review, recommend, and participate in the formulation of policy with regard to institutional priorities (CBL 1.2.a); and
- Remain informed about and regularly engaged with the process of the changes made in response to the OCR Resolution Agreement by inviting the President and/or Provost to discuss issues related to Diversity, Equity, and Inclusion, including updates on the campus climate, the bias reporting and response process, and new and ongoing measures related to promoting an inclusive environment. This discussion will take place no less than once per academic year.

Be it further resolved that The Faculty Senate calls on the University administration to openly and transparently implement the Office of Civil Rights Resolution Agreement in collaboration with the Faculty Senate; more specifically, we call for the following actions from the President and the University administration:

1. Make the April 3, 2023 OCR Letter to the President and the OCR Resolution Agreement to the UVM community available and accessible on UVM’s website.
2. Include one or more faculty members, designated by the Student Affairs Committee, in the review and revision of the Equal Opportunity and Anti-Harassment Policies and Procedures and Protocol (OCR Resolution Action Item I) and the review and reporting of the 2022 Campus Climate Survey (OCR Resolution Action Item III).
3. Present the revised Equal Opportunity and Anti-harassment Policies and Procedures and Protocols, the 2022 Campus Climate summary report, and

³ Resolution Agreement, OCR Complaint No. 01-22-2002
<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/01222002-b.pdf>

proposed responsive actions at the August 28, 2023 Faculty Senate meeting for public discussion.

4. Provide the Faculty Senate Executive Council and Student Affairs Committee with digital copies of the reports sent to the OCR that fulfill reporting requirements specified in the OCR Resolution Action Items I⁴, III⁵, IV⁶, and V⁷ within 10 days of their submission to the OCR. Redacted reports may be used to protect the confidentiality of individuals involved.
5. Provide the Student Affairs Committee each year with a summary of annual nondiscrimination training for students and employees, as referenced in Action Item IV.A., with specific details on how the training addresses antisemitism, and respond to feedback from the Committee on how to improve existing training materials and practices.
6. Actively work with the Student Affairs Committee to establish clearer guidelines pertaining to off-campus and/or social media activity by UVM students or employees that adheres to UVM's Discrimination Policy while respecting the right to freedom of expression for all members of the UVM community.⁸

⁴ "Within 60 calendar days of the signing of this Agreement, the University will submit to OCR, for review and approval, copies of the Equal Opportunity and Antiharassment Policies and Procedures and Protocol, drafted and/or revised in accordance with Action Items I.A and I.B, above." (pg. 3, Resolution Agreement, OCR Complaint No. 01-22-2002)

⁵ "By August 31, 2023, the University will provide OCR a summary of the results of the 2022 Campus Climate Survey and proposed actions in response to the survey results, for OCR's review and approval." (pg. 4, Resolution Agreement, OCR Complaint No. 01-22-2002)

⁶ "By June 30, 2024, and June 30, 2025, the University will provide documentation to OCR demonstrating that training was provided for academic years 2023-2024 and 2024-2025, respectively, consistent with Action Item IV.A. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including any handouts, guides, or other materials; and a description of the group(s) or attendees... Within 30 calendar days of OCR's approval of the revised Equal Opportunity and Antiharassment Policies and Procedures and the Protocols, the University will provide documentation to OCR demonstrating that the University provided training in accordance with Action Items IV.B and IV.C above, including the date(s) of the training; the name and credentials of the trainer; copies of any training materials distributed; the agenda and/or a short summary of the material covered; and, a list of attendees, by name and title."

⁷ "On June 30, 2023, June 30, 2024, and June 30, 2025, the University shall provide an electronic copy of the complete case file corresponding with each resolved or pending complaint alleging antisemitism that was filed with the University during the preceding academic year." (pg. 5, Resolution Agreement, OCR Complaint No. 01-22-2002)

⁸ "Off-campus conduct that does not occur in connection with a University sponsored or affiliated program or activity is subject to this policy where it is determined that the conduct may: (1) reflect adversely on the Respondent's fitness to remain enrolled in an academic program or employed in his/her position; (2) pose an imminent or continuing threat of harm to the safety of UVM community members; or (3) create or contribute to a hostile environment on campus." (pg. 2, Discrimination, Harassment, and Sexual Misconduct Policy, <https://www.uvm.edu/sites/default/files/UVM-Policies/policies/sexharass.pdf>)

7. In the event of an alleged breach of the OCR Resolution Agreement, provide notice to the Faculty Senate Executive Council and Student Affairs Committee within 10 days of receiving a written notice of an alleged breach from the OCR and provide the Student Affairs Committee the opportunity to review and make recommendations on the University's responses to the OCR in order to fully address the alleged breach.

Sponsor: Jane Knodell

Signatories: Susan Comerford

Jacques Bailly

Bridget Swanson

Nicole Phelps

David Feurzeig

Louis deRosset

Keith Burt

Trisha Shrum

Julian Barnett

Kate Cowles

Maureen Neumann

Tony Julianelle

Ken Allen

Colby Kervick

Jane Knodell

Jennifer Prue

Meaghan Emery