



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS  
32 OLD SLIP, 26<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10005

TIMOTHY C. J. BLANCHARD  
DIRECTOR  
NEW YORK OFFICE

January 11, 2012

Debora L. Spar  
President  
Barnard College  
3009 Broadway  
New York, New York 10027

Re: Case No. 02-11-2193  
Barnard College

Dear President Spar:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR) with respect to the above-referenced complaint filed against Barnard College. The complainant alleged that the former Chair of the College's Department of Asian and Middle Eastern Cultures (AMEC) (the Chair)<sup>1</sup> discriminated against a student (the Student), on the basis of her national origin (Jewish ancestry/ethnicity), by discouraging her from enrolling in the course "Arabs and the Arab World" (the Course), offered at Columbia University in January 2011.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C § 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 programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The College is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title VI.

In its investigation, OCR reviewed information the complainant and the College submitted. OCR also interviewed the complainant, the Student, the Chair, and a witness the complainant identified. OCR made the following determinations.

The complainant stated that in or around January 2011, the Student approached the Chair seeking advice about whether to enroll in the Course for the spring 2011 semester.<sup>2</sup> The complainant stated that the Student is "recognizably Orthodox Jewish"; and, alleged that because of her

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<sup>1</sup> The faculty member who served as Chair during the relevant period ended her tenure as Chair in July 2011.

<sup>2</sup> Based on a partnership between the College and Columbia University, students at each institution may take courses at the other. Students at the College generally have open access to courses at Columbia University, with the exception of those with limited enrollment, or courses requiring prerequisites or special permission.

appearance, the Chair discouraged her from taking the Course and instead urged her to enroll in a course on the history of ancient Israel. The Student stated that the Chair assumed she was pro-Israel because of her dress,<sup>3</sup> and alleged that the Chair told her that the professor of the Course (the Professor) is very “anti-Israel,” “very vocal with his anti-Israel remarks,” “will shoot down any pro-Israel beliefs,” and that the Student “would not be comfortable” in his class. The complainant alleged that the Chair’s conduct was based on the Student’s “overt Jewishness,” and that the Student did not enroll in the Course because of the Chair’s comments.<sup>4</sup>

OCR determined that during academic year 2010-2011, the Student was a freshman at the College. The Chair informed OCR that she met with the Student in or around the first two weeks of January 2011, when the Student visited during her office hours.<sup>5</sup> The Chair denied making any comments to indicate that the Student would not be comfortable in the Course, or stating that the Professor was “anti-Israel,” “very vocal with his anti-Israel remarks,” or “will shoot down any pro Israel beliefs.” Rather, the Chair stated that it was the Student who opened the meeting by stating that she was concerned about feeling uncomfortable in the Professor’s class, and asked for the Chair’s opinion of her potentially taking a course with the Professor. The Chair stated that she did not recall if a specific course was discussed, or whether the Student provided the name of the course she was considering taking. The College informed OCR that the Course was a senior seminar. The Chair stated that had she been aware of this at the time, she would have advised the Student that she was not eligible to take the Course as a first-year student. The Chair stated that during the meeting, she advised the Student that if the Student was worried about feeling uncomfortable in one of the Professor’s courses, then perhaps she should take an alternative class. The Chair further stated that the advice she provided to the Student was not based on the Student being Jewish, and she had no personal knowledge or opinion of the Professor’s method or delivery of instruction. The Chair stated that she routinely provides similar advice to students who express concerns about being uncomfortable in particular courses for reasons unrelated to the students’ race or national origin. The Chair stated that at the conclusion of the meeting, the Student appeared to have decided that she preferred to take the alternative class, and seemed comfortable with her decision.<sup>6</sup>

The complainant provided OCR with email correspondence between the Student and the Chair, dated May 6 and 7, 2011, which he asserted memorialized the contents of the Student’s conversation with the Chair, and “tacitly confirm[ed] the Student’s portrayal of the situation.” OCR determined that on May 6, 2011, the Student sent the Chair an email stating that she had met with the Chair when she was considering taking the Course, and “you had advised me that

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<sup>3</sup> The Student stated that she “dress[es] like an Orthodox Jew with a skirt to my knee and my elbows covered.”

<sup>4</sup> Although the complainant alleged that the Student did not take the Course because of the Chair’s comments, the Student advised OCR that after talking to the Chair in January 2011, she also consulted a friend who had previously taken a course with the Professor, and that the friend had discouraged her from taking the Course in her freshman year. The Student informed OCR that the friend told her that she “should not put [herself] in that position as a freshman,” and needed “to be much more prepared with facts about Israel before taking the course.”

<sup>5</sup> The Chair informed OCR that she first met with the Student during her office hours in fall 2010, when the Student visited to express her interest in pursuing an AMEC major. The Chair stated that she and the Student discussed the requirements for the major. The Chair acknowledged that she believed the Student to be Jewish.

<sup>6</sup> The Chair informed OCR that she met with the Student on one additional occasion, in April 2011, after the Student decided to pursue an AMEC major. Pursuant to College procedure, the Chair approved the Student’s selection of the AMEC Program as her major, notified her of her advisor, and encouraged her to meet with her advisor.

he was very anti-Israel and I may not be comfortable in the class.”<sup>7</sup> The Student further stated that the Chair suggested the Student take an alternate course, “Judaism at the Time of Jesus,” which she “ended up taking and loving,” and she thanked the Chair for her advice. OCR determined that the Chair responded by email, dated May 7, 2011, in which she stated “[w]hat a nice message to receive,” thanked the Student for taking the time to write, and stated that she looked forward to seeing the Student again. OCR determined that the Chair did not confirm in her response that she made the comments described in the Student’s email of May 6, 2011. The Chair informed OCR that the Student’s account of the meeting in the email was not accurate, since she did not discourage the Student from taking the Professor’s class. The Chair stated that she did not dispute the Student’s account of the meeting in response to the email, because she wrote her response quickly in the morning when she was attending a seminar, and she was focused on affirming the Student’s enthusiasm for the subject and her future. The Chair stated that had she known that “this seemingly innocent interaction would result in an OCR investigation, I would have tried to be less affirming and thankful of her note and more involved in ‘setting the record straight.’” The complainant and Student were unable to identify any individuals who witnessed the meeting in January 2011, or provide any information confirming that the Chair made the alleged comments.<sup>8</sup>

Based on the foregoing, OCR determined that there were conflicting versions regarding what transpired at the meeting between the Chair and the Student in January 2011. Neither the complainant nor the Student provided, and OCR did not find, any evidence other than the Student’s assertions to contradict the Chair’s statements. Further, neither the complainant nor the Student provided, and OCR did not find, any other evidence to indicate that the Chair advised any other students of Jewish ancestry/ethnicity not to take a course with the Professor. Additionally, the Student was not eligible to take the course in question because she was a first-year student. Therefore, because of the conflicting version of events and no other evidence to support the complainant’s allegation, OCR determined that there was insufficient evidence to substantiate the complainant’s allegation that the Chair discriminated against the Student, on the basis of her national origin, by discouraging her from enrolling in the Course. Accordingly, OCR will take no further action with respect to this allegation, and has closed this complaint as of the date of 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.

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<sup>7</sup> The Student further wrote that “many of [her] friends” told her that it “would not be a wise class to take as a freshman.”

<sup>8</sup> The complainant requested that OCR interview a student at Columbia University (Student 2). Student 2 informed OCR that she was not present during the meeting between the Chair and the Student in January 2011. Student 2 stated that the Student told her that the Chair discouraged the Student from taking a course with the Professor because he was “anti-Israel”, and that the Chair stated that the Professor would know the Student is Jewish because of how she looks and she would be uncomfortable in his class; however, Student 2 advised OCR that she did not have first-hand knowledge of what actually transpired between the Student and the Chair.

It is unlawful to harass or intimidate an individual who has filed a complaint or participated in actions to secure protected rights.

Under the Freedom of Information Act, 5 U.S.C. § 552, it may be necessary to release this letter and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that if released, could constitute an unwarranted invasion of personal privacy.

If you have any questions regarding OCR's determination, please contact Diane Castro, Compliance Team Investigator, at 646-428-3808 or [diane.castro@ed.gov](mailto:diane.castro@ed.gov), Emma Kim, Senior Compliance Team Attorney, at 646-428-3824 or [emma.kim@ed.gov](mailto:emma.kim@ed.gov); or me, at 646-428-3831 or [emily.frangos@ed.gov](mailto:emily.frangos@ed.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Frangos". The signature is fluid and cursive, with a large, stylized initial "E".

Emily Frangos  
Compliance Team Leader