

Addressing President Garimella's 9/15/22 Statement to the UVM Community

"... the President's initial letter to the UVM community in response to OCR's investigation may have perpetuated a hostile environment."

-Office of Civil Rights, U.S. Department of Education

In response to the initiation of the U.S. Department of Education Office of Civil Rights investigation, on September 15, 2022, President Garimella sent an email to the entire UVM community. Using hostile language, President Garimella accused the whistleblowers of making false allegations and inflicting harm on the UVM community. Moreover, the email contains serious inaccuracies that mischaracterize the reported incidents and UVM's handling of those reports. President Garimella's September statement was widely condemned, including by 20 Jewish organizations. The recent release of the conclusions of the OCR investigation contradict the information disseminated in that statement. They specifically call out President's September statement for contributing to a hostile environment for the Jewish community at UVM.

Below, the President's initial statement to the UVM community is annotated to highlight concerning statements and correct the record, using the OCR investigation as the standard. **Yellow highlighted text** indicates hostile or accusatory language. **Red text** indicates inaccurate, misleading, or incomplete statements of fact. **Blue text** is editorial, providing corrective context taken from the OCR report.

To provide additional context, following the annotated letter, direct quotes from three Jewish UVM students relate both their experiences of antisemitism at UVM and their frustrations with the lack of inclusive leadership from the administration. Also included is an excerpt from the [OCR letter](#) to President Garimella focusing on the overall analysis of the investigation.

Dear Members of the UVM Community,

This week's media coverage of an investigation by the U.S. Department of Education's Office for Civil Rights (OCR) into an anonymous third party's allegations that the university failed to adequately respond to complaints of anti-Jewish, biased behavior at UVM **has painted our community in a patently false light.**

While common wisdom dictates remaining patiently silent as we cooperate diligently with an agency's investigation, I simply cannot do so. These public allegations and our community's deeply held values call for a strong and immediate response.

UVM is a community with a long, proud history of inclusiveness. We denounce hateful actions and respond briskly and decisively whenever those responsible are identified. UVM is home to a strong and vibrant Jewish community and is recognized as a place where—year after year—many Jewish students, faculty, and staff choose to study, teach, conduct research, practice medicine, and work. As a community, we adhere to Our Common Ground values of respect, integrity, innovation, openness, justice, and responsibility.

The uninformed narrative published this week has been harmful to UVM. Equally importantly, it is harmful to our Jewish students, faculty, staff, and alumni. There is no doubt that antisemitism exists in the world and, despite our best efforts, in our community. Exploitation of fear and divisiveness by advancing false claims that UVM failed to respond to complaints of antisemitic behavior creates confusion and a sense of insecurity for the entire community.

I therefore would like to set the record straight regarding the OCR complaint by sharing the core elements of UVM's forthcoming response.

- An OCR investigation is not triggered by any finding that a complaint has merit or that UVM has done something wrong. Rather, it signals that the person or entity that filed the complaint has alleged a civil rights violation against a college or university within the Department of Education's jurisdiction.
- Once opened, the OCR investigation gives the university the opportunity to respond to the allegations. UVM vigorously denies the false allegation of an insufficient response to complaints of threats and discrimination, as will be demonstrated in our response to OCR.
- The complaint alleges UVM failed to adequately respond to three specific incidents:

Allegation 1. The complaint alleges that the university did not adequately respond to student reports of antisemitism by a teaching assistant. **University response to the incident:** A university community member reported on September 6, 2021, that an undergraduate teaching assistant made antisemitic remarks and threatened to lower the grades of Jewish students on their personal social media accounts prior to serving as a TA. The university took prompt action to ensure that the objectionable statements did not adversely impact students in the classroom and further, to perform a thorough review to ensure all grades were awarded on a non-discriminatory basis. No student reported to the university that this teaching assistant harassed or discriminated against them. The university's response to the report was completed by September 30, 2021."

CORRECTING THE RECORD:

- Multiple students reported feeling threatened by the behavior of the Teaching Assistant and those reports were passed to the University through official channels. Three reports about antisemitic social media posts by a UVM teaching assistant were filed with UVM's Affirmative Action & Equal Opportunity Office (AAEO) on May 17, 2021, not on September 6 as previously stated.
- No action was taken in response to these reports until they were brought up again in a letter to President Garimella; with four months of silence before any investigative action was taken, the university's action cannot be considered "prompt" by any reasonable standard.
- In direct contrast to the President's claim that the University "took prompt action to ensure that the objectionable statements did not adversely impact students in the classroom," the AAEO did not interview any students to determine if the teaching assistant's behavior adversely impacted them. In the end, it was left up to the professor she was working with in Fall 2021 to decide whether to take any action regarding the teaching assistant. That professor fired the teaching assistant and regraded all of the work she had done in the Fall 2021 semester. However, it is unclear whether the teaching assistant was a TA in Spring 2021 as claimed in her social media posts, or in previous semesters. The university did not examine grades prior to Fall 2021 for potential bias.
- Ultimately, the AAEO declined to pursue a formal investigation.

Allegation 2. A group of university students threw rocks at the Hillel building. **University's response to the incident:** On September 24, 2021, UVM Police responded to a report regarding students throwing small rocks at the Hillel building. The incident was reported to the university administration as an incident of hate and bias the following day. The investigation was immediate, and it was quickly determined that the students who threw the small rocks at a window of the Hillel building were doing so to get the attention of a friend who was convalescing in the building while recovering from an illness, that the throwing stopped after they got a student's attention, and that there was no reported damage to the building. There was no evidence of any threatening behavior or that the conduct was motivated by antisemitic bias. The university's review and response to the police and administrative reports was completed by September 28, 2021.

CORRECTING THE RECORD:

- Two witness statements were obtained regarding the incident. One student reported that the men asked her if she was Jewish and then threw rocks at her window, while another student said that the men were his friends and threw rocks at his window to get him to come outside. The student who knew those who threw the rocks did not feel comfortable sharing their names and was not pressed to report this information.

- While there were contrasting narratives in the witness statements, it is not accurate to say that there was no evidence of antisemitic bias. President Garimella’s statement related the story of only one witness statement while ignoring the witness statement that indicated this was an antisemitic incident.

Allegation 3. Two UVM student organizations excluded students who “expressed support for Zionism” from membership in their organizations. **University’s response to the incident:** On September 30, 2021, students reported this conduct to university administration. The university investigated the report quickly and thoroughly and determined that the groups who apparently made these statements were not recognized UVM student organizations. The unrecognized organizations received no university support and were not bound by UVM’s policies governing student organizations. To ensure an inclusive environment within recognized UVM student organizations, student leaders were reminded of university policies prohibiting discrimination on the basis of religion, national origin, or any other protected category.

CORRECTING THE RECORD:

- Multiple reports were filed in May 2021 about anti-Zionist comments and exclusion by @ShareYourStoryUVM. However, the AAEO did not investigate these reports and did not document the reason for its decision not to do so. Instead, the matter was referred to the Bias Response Team.
- During a meeting with the Provost, students identified the Revolutionary Socialist Union (RSU) as excluding Jewish/Zionist students. The RSU's draft constitution requires every member to pledge "no" to Zionism. The university administration concluded that since the RSU was not a registered student organization, the university had no jurisdiction over it.
- Unrecognized student organizations are not subject to UVM's policies governing student organizations, however, the University ignored the violations of the Discrimination Policy, which applies to students' off-campus conduct.

It is important that our community know the truth about what happened, and how the university responded. Although the allegations were investigated and addressed, we recognize we can and should do more to support the success of our students. University leaders have reached out on several occasions to our Jewish students over the last year to understand their experiences on our campus, to provide them with the tools they need to respond to incidents of bias and discrimination, and to work with them to better understand the climate in which they are living and learning.

Our work in understanding and eliminating antisemitism will never be complete. Over the past year, university leaders have reviewed, updated, and consolidated our bias reporting processes to

make them more accessible to those who need them. A few weeks ago, I joined other university leaders, government officials, and civic leaders for Project Interchange, a hands-on immersive learning opportunity hosted in Israel by the American Jewish Committee (AJC). Our provost and senior vice president, Patty Prelock, actively participated in a Summit to Combat Campus Antisemitism with more than 40 higher education leaders in New York. We will continue to learn and support UVM's Jewish community to ensure that any future incidents that might occur will be addressed with immediacy and sensitivity to what they are experiencing.

If you have concerns or want to report an incident of antisemitism, please know that you can do so at any time at uvm.edu/report. The university's response will be supportive, thorough, and timely.

Sincerely,

Suresh V. Garimella
President

Analysis from the OCR Letter to President Garimella

While the [OCR letter](#) is worth reading in full, the following excerpt is their final analysis of the complaint and includes a specific and pointed discussion of President Garimella's initial statement:

“OCR has concerns that the University's failure to investigate, consistent with Title VI, allegations of antisemitic harassment that it received from the [redacted content] may reflect University officials, acting within the scope of their official duties, treating individuals differently on the basis of national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason, resulting in interference with or limitation of the ability of the individuals to participate in or benefit from the University's educational program. Likewise, OCR is concerned that the failure to investigate allegations of harassment of which the University had notice may have allowed a hostile environment for some Jewish students to persist at the University.

While the University's policies and procedures do not require an identified victim in order for AAEO to investigate, the University declined to investigate the Teaching Assistant's conduct. That decision was made without interviewing the Teaching Assistant, whom they could have

identified based on the social media handle names associated with her actual name and two accompanying photographs, students in her course, or staff in the writing center. Additionally, the University only considered a small subset of the allegedly discriminatory social media posts (including those sent from a different account but which the University may have connected to the Teaching Assistant upon a reasonably diligent inquiry) when reaching this determination.

While the University ultimately responded to the Teaching Assistant's conduct, it was done outside of the Discrimination Policy and not until four months after the [redacted content]'s complaints were filed.¹³ Further, while the Teaching Assistant wrote that she was a teaching assistant during the spring 2021 semester, it is not clear that the University fully investigated whether she had served as a teaching assistant prior to the fall of 2021. There is also no indication that the University informed any of the students who were affected by the Teaching Assistant's harassing statements that the University had taken steps to ameliorate any hostile environment and to ensure that the students' equal access to education would not be affected, including because the course professor independently evaluated the students' grades.

With respect to the Hillel incident, it is not clear that the University's police or other staff responding to the incident were applying the Discrimination Policy or Operating Procedure to the allegations. For example, it appears that the Bias Response Team, rather than AAEO, concluded that the group's allegedly antisemitic actions were not discriminatory. Further, while the Code prohibits students from impeding or obstructing a University investigation, it does not appear that the University considered whether there was a need to compel the [redacted content] to disclose the identities of his friends so that the University could interview them, as may have been required to determine whether their conduct violated the Discrimination Policy. In this instance again, there is no indication that the University took steps to ameliorate any hostile environment for affected students who had experienced or learned about rocks thrown at windows with the associated question whether the residents were Jewish and to ensure that the students' equal access to education would not be affected.

With respect to the allegations concerning @ShareYourStoryUVM and RSU, it is similarly not clear that the University applied the Discrimination Policy or Operating Procedure to the allegations. First, it does not appear that AAEO was involved in the University's response to allegedly discriminatory conduct by University students. While the University appears to have determined that it lacked jurisdiction over the conduct because it occurred in the context of organizations that were not affiliated with the University, it does not appear that the University considered that the members of these organizations were allegedly University students engaging in off-campus conduct, to which the Discrimination Policy applies, or that it consulted with its IT department or University police to attempt to identify these students.

It does not appear that the University determined whether the cumulative effects of these incidents created a hostile environment based on students' shared ancestry (Jewish)¹⁴ or took action regarding the cumulative effects of the incidents until after the commencement of OCR's investigation of this matter.

OCR is also concerned that the President's initial letter to the UVM community in response to OCR's investigation may have perpetuated a hostile environment. As previously noted, the President "vigorously denied" what he characterized as "false allegation[s] of an insufficient response" to antisemitic incidents at the University shortly before OCR requested to interview the students who had complained about or were witnesses to the harassing incidents. OCR is concerned that the President's statements may have discouraged these students from speaking with OCR about their experiences. Likewise, OCR is concerned that the President's letter, including its explanatory statement that "No student reported to the university" any discrimination claims, may have discouraged both the students who in fact had reported to the Provost their concerns as well as University employees from further raising concerns either to OCR or to the University."