



August 17, 2026

Sent via electronic mail

The Honorable Chuck Grassley, Chairman
The Honorable Richard Durbin, Ranking
Member
Committee on the Judiciary
United States Senate

The Honorable Jim Jordan, Chairman
The Honorable Jamie Raskin, Ranking
Member
Committee on the Judiciary
U.S. House of Representatives

The Honorable Bill Cassidy, M.D., Chairman
The Honorable Bernie Sanders, Ranking
Member
Committee on Health, Education, Labor, and
Pensions
United States Senate

The Honorable Tim Walberg, Chairman
The Honorable Robert C. “Bobby” Scott,
Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives

**Re: Whistleblower Disclosure Concerning Title VI Enforcement, Investigative Integrity,
and the Administration of Federal Civil Rights Laws**

Dear Chairmen and Ranking Members,

We write on behalf of Ms. Haley Van Erem, a former career attorney of nearly a decade in the U.S. Department of Justice (DOJ) Civil Rights Division (CRT) to submit the attached whistleblower disclosure. The disclosure presents information she reasonably believes evidences violations of law, rule, or regulation; gross mismanagement; gross waste of funds; and abuse of authority in connection with DOJ and U.S. Department of Health and Human Services (HHS) leadership’s handling of Title VI investigations concerning alleged antisemitic discrimination and harassment at Columbia, Brown, and Harvard Universities. In addition to Ms. Van Erem, Government Accountability Project represents additional former DOJ attorney whistleblowers who can corroborate Ms. Van Erem’s disclosures to Congress and who have made their own disclosures along with Ms. Van Erem to the Office of Special Counsel (OSC) and the Department of Justice and Department of Health and Human Services (HHS) Offices of Inspector General. The federal Whistleblower Protection Act, 5 U.S.C. § 2302, protects these disclosures.¹

On February 3, 2025, DOJ announced the formation of a Task Force to Combat Anti-

¹ All of our clients’ disclosures have been reviewed by counsel and legal ethics experts to ensure compliance with their rights under the Whistleblower Protection Act as well as applicable legal ethics requirements. The attached disclosure is a redacted version of what has been submitted to the OSC and to the DHS and HHS OIGs on behalf of all of the whistleblowers but that only contains information attributable to Ms. Van Erem’s direct knowledge and evidence. In addition to typical blackout redactions, information in brackets serves as functional redactions where greater clarity is required.

Semitism, with the stated priority of “root[ing] out anti-Semitic harassment in schools and on college campuses,” following reports of antisemitic incidents around the country.² The Task Force included HHS and the Department of Education and was coordinated through DOJ CRT. Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. Career DOJ attorneys, including Ms. Van Erem, were subsequently involuntarily assigned to HHS to work on Title VI investigations of alleged antisemitism at universities.

According to the disclosure, senior officials at DOJ and HHS departed from longstanding investigative practices designed to ensure due process, accuracy and legal compliance. Ms. Van Erem and her colleagues encountered compressed timelines to conduct investigations that compromised the ability to ensure that findings were justified and accurate. For at least some of the investigations, there was little to no factual predicate justifying opening them. When they asked questions, raised legal concerns, or sought to document their objections, they were sometimes admonished and their concerns were often disregarded. Taken together, these circumstances led the attorneys reasonably to believe that certain enforcement outcomes had been determined before the relevant evidence was collected and evaluated.

The disclosure describes different concerns in the three university matters. At Brown, the investigative team conducted extensive witness interviews and document review and concluded that the evidence did not support a Title VI violation because the university had responded promptly and effectively to the few incidents identified; nevertheless, leadership refused to permit a notice of no violation and instead sought some form of settlement or resolution despite acknowledging the absence of a legal basis for doing so. In the context of the Columbia investigation, Ms. Van Erem and her colleagues observed findings of discrimination and related funding actions advancing on an accelerated timetable before adequate factual development and legal review were completed, including reliance on allegations that were unsupported, based on news reports or litigation filings, or that implicated protected First Amendment activity. Regarding Harvard, DOJ attorneys raised concerns that extraordinary funding freezes and sweeping proposed settlement terms—including provisions affecting curriculum, governance, endowment funds, and other matters—were being pursued before any completed investigation had established Title VI violations and without a demonstrated connection between the proposed remedies and substantiated findings of unlawful discrimination.

Importantly, the disclosure does not question the seriousness of antisemitism or the federal government’s obligation to investigate and remedy unlawful discrimination under Title VI. To the contrary, it comes from experienced career civil rights attorneys who believe that robust and credible enforcement depends on impartial, evidence-based investigations, adherence to statutory and regulatory procedures, and respect for constitutional safeguards. These protections strengthen, rather than weaken, the federal government’s ability to enforce civil rights laws.

These allegations warrant prompt congressional scrutiny because, if substantiated, they

² U.S. Department of Justice, Office of Public Affairs, “Justice Department Announces Formation of Task Force to Combat Anti-Semitism,” press release, February 3, 2025, <https://www.justice.gov/opa/pr/justice-department-announces-formation-task-force-combat-anti-semitism>.

would bear directly on the integrity of federal civil rights enforcement. We respectfully request that the Committees review the attached disclosure and consider appropriate oversight actions, including requests for the preservation and production of relevant records, briefings from DOJ and HHS, and testimony concerning the investigations and related funding and enforcement actions. We would welcome a confidential briefing and can facilitate communications with Ms. Van Erem and additional witnesses, subject to appropriate confidentiality and anti-retaliation safeguards.

Respectfully submitted,

/s/

Dana L. Gold
Andrea Meza
Jasmine Yunus
Government Accountability Project
1612 K Street, NW, Suite 808
Washington, D.C. 20006
(202) 926-3306

Attorneys for Ms. Van Erem



August 17, 2026

Sent via electronic mail

Charles Baldis
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, D.C. 20036

T. March Bell
Inspector General
U.S. Department of Health and Human
Services
330 Independence Avenue, SW
Washington, D.C. 20201

Don R. Berthiaume
Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C., 20530

**Re: Protected Whistleblower Disclosure of Haley Van Erem, [REDACTED]
[REDACTED] Regarding Violations of Law, Gross Mismanagement, Gross Waste, and Abuse
of Authority in HHS Title VI Enforcement Activities by the Task Force to Combat
Anti-Semitism**

To whom it may concern:

Government Accountability Project represents Haley Van Erem, [REDACTED]
[REDACTED] career Department of Justice (DOJ) civil rights attorneys temporarily assigned in
March 2025 to the Department of Health and Human Services (HHS) Office for Civil Rights
(OCR) to work on Title VI investigations undertaken by the DOJ-created interagency Task Force
to Combat Anti-Semitism. Pursuant to 5 U.S.C. §§ 1213 and 2302(b)(8), they submit
whistleblower disclosures of information they reasonably believe evidence violations of law and
regulation, gross mismanagement, gross waste of funds, and abuse of authority.

I. INTRODUCTION & EXECUTIVE SUMMARY

Ms. Van Erem, [REDACTED] raise significant concerns about actions by HHS
leadership regarding knowing deviation from investigative procedures, statutory noncompliance,
and potential constitutional violations in Title VI investigations into antisemitism at Columbia,
Brown, and Harvard Universities. Specifically, [Ms. Van Erem and her colleagues] believe based
on HHS officials' actions that the outcomes of the investigations were predetermined, without
regard to the evidence. Hundreds of millions of dollars were suspended from these universities
prior to the completion of Title VI investigations and the investigative team's conclusions were
frequently disregarded.

Further, the scope of the investigations and requested settlement terms included protected

First Amendment activity despite [REDACTED] consistent objections. When [Ms. Van Erem and others] raised issues with the lack of a factual basis to establish Title VI liability and the likely infringement on speech protected by the First Amendment, their disagreements were sidelined or they faced reprimands.

[Ms. Van Erem alleges in this disclosure] that the Task Force’s Title VI investigations, legal analysis, and findings were subordinate to political priorities rather than the enforcement of civil rights and were implemented at the expense of regular decision-making and enforcement processes that exist to protect against constitutional and statutory violations and unwarranted, arbitrary and capricious agency actions in violation of the Administrative Procedure Act (APA). These developments warrant urgent and fulsome oversight and investigation.

II. BACKGROUND

On February 3, 2025, the Department of Justice formed a multi-agency Task Force to Combat Anti-Semitism, with the stated priority to “root out anti-Semitic harassment in schools and on college campuses,” following reports of antisemitic incidents in the midst of First Amendment protected protest activity on campuses around the country.¹ This development occurred in the wake of deadly attacks that took place in Israel on October 7, 2023 and amidst a broader response to concerns of a rise in antisemitic incidents in the United States. The Task Force included DOJ, HHS, and the Department of Education (DOE), among other agencies, all coordinated through DOJ’s Civil Rights Division (CRT). Also on February 3, HHS announced the “initiation of compliance reviews for four medical schools following reports of antisemitic incidents during their 2024 commencement ceremonies,” as part of the Task Force.²

Just over a month later, on March 7, 2025, the Task Force agencies along with the General Services Administration cancelled approximately \$400 million in federal grants and contracts to Columbia University because of the school’s alleged “continued inaction in the face of persistent harassment of Jewish students.”³ The Trump Administration did not publicly identify evidence of the harassment in announcing the cancellation of the grants, nor did it specify which grants or contracts it was cancelling.⁴ On March 10, the Department of Education sent letters to sixty universities, including Columbia, Harvard, and Brown, stating they were being investigated for Title VI violations regarding their handling of alleged antisemitic discrimination.⁵ DOJ repurposed

¹ U.S. Department of Justice, “Justice Department Announces Formation of Task Force to Combat Anti-Semitism,” *Office of Public Affairs*, February 3, 2025, <https://www.justice.gov/opa/pr/justice-department-announces-formation-task-force-combat-anti-semitism>.

² U.S. Department of Health and Human Services, “HHS’ Civil Rights Office Acts Swiftly to Combat Anti-Semitism,” *Press Release*, February 3, 2025, <https://www.hhs.gov/press-room/combating-anti-semitism.html>.

³ U.S. General Services Administration, “DOJ, HHS, ED, and GSA Announce Initial Cancellation of Grants and Contracts to Columbia University Worth \$400 Million,” *U.S. General Services Administration*, March 7, 2025, <https://www.gsa.gov/about-us/newsroom/news-releases/doj-hhs-ed-and-gsa-announce-initial-cancellation-of-grants-and-contracts-03072025>.

⁴ *Ibid.*; Jonathan Allen, “U.S. Cancels \$400 Million in Grants, Contracts to Columbia University over Antisemitism Allegations,” *Reuters*, March 7, 2025, <https://www.reuters.com/world/us/us-cancels-400-million-grants-contracts-columbia-university-over-antisemitism-2025-03-07/>.

⁵ U.S. Department of Education, “U.S. Department of Education’s Office for Civil Rights Sends Letters to 60 Universities Under Investigation for Antisemitic Discrimination and Harassment,” *Press Release*, March 10, 2025, <https://www.ed.gov/about/news/press-release/us-department-of-educations-office-civil-rights-sends-letters-60-universities-under-investigation-antisemitic-discrimination-and-harassment>.

many career attorneys from the Civil Rights Division away from ongoing cases to instead work on the Task Force, including by reassigning staff to HHS to purportedly support fact-finding for Title VI investigations into the alleged discrimination at university medical schools.

III. LEGAL STANDARD FOR TITLE VI ENFORCEMENT

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs receiving federal financial assistance.⁶ This protection extends to students subjected to antisemitic harassment where the facts show discrimination based on race, color, or national origin. Institutions can be found to have a hostile environment in violation of Title VI if (1) harassing conduct is sufficiently serious to deny or limit an impacted individual's ability to participate in or benefit from the federally funded program (such as conduct that is severe, pervasive, or persistent); (2) the recipient of federal funds knew or reasonably should have known about the alleged harassment; and (3) the recipient of federal funds failed to take prompt and effective steps reasonably calculated to end the harassment and hostile environment, prevent recurrence, and address effects, as appropriate.⁷ These elements focus both on the seriousness of the conduct and on the adequacy of the institution's response.

In 1980, Executive Order 12250, codified at 28 C.F.R. pt. 41, app. A, delegated coordination of Title VI enforcement efforts of all federal agencies to the Civil Rights Division of the Department of Justice.⁸ DOJ's Title VI Legal Manual outlines guidance and directives relating to the multiple evidentiary standards sufficient to make a finding that a program has engaged in unlawful discrimination. These standards include: (a) direct evidence of discriminatory motive or express classification; (b) circumstantial evidence under the *Arlington Heights* framework, such as historical background, sequence of events, procedural or substantive deviations, and contemporaneous statements; (c) comparator or *McDonnell Douglas* evidence showing differential treatment because of race, color, or national origin; and (d) pattern-or-practice evidence demonstrating systemic disparate treatment.⁹ These and other standards in the Legal Manual should guide federal agencies in determining when credible information rises to the level of opening an investigation, seeking additional data, or making a preliminary or formal finding of noncompliance.

Title VI also dictates certain procedures to be followed during investigations and any

⁶ Title VI, 42 U.S.C. § 2000d et seq.

⁷ U.S. Department of Justice, Civil Rights Division, "Title VI Legal Manual," *U.S. Department of Justice*, January 19, 2021, 28, https://19january2021snapshot.epa.gov/sites/static/files/2021-01/documents/titlevi_legal_manual_rev._ed_1.pdf.

⁸ *Ibid.*

⁹ *Ibid.* at Section VI, Proving Intentional Discrimination (discussing direct evidence, the *Arlington Heights* circumstantial framework, comparator proof under *McDonnell Douglas*, and pattern-or-practice theories); *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977) (identifying factors to infer intent from circumstantial evidence, including historical background, sequence of events, departures from normal procedures or substantive criteria, and contemporaneous statements); *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) (establishing burden-shifting structure for proving intentional disparate treatment through comparative evidence); Cong. Rsch. Serv., *Enforcing the Antidiscrimination Mandates of Title VI and Title IX: Executive Agency Options and Procedures* (LSB11316) (summarizing agency enforcement options and investigative posture); 28 C.F.R. § 42.106 (authorizing the Department of Justice to require compliance information from recipients and conduct investigations of potential Title VI violations); and 28 C.F.R. § 50.3 (Department of Justice guidelines governing enforcement of Title VI).

resulting enforcement action such as a voluntary settlement agreement or filing a lawsuit. Consistent with implementing regulations agencies must: request and evaluate compliance information; investigate potential noncompliance by receiving complaints, conducting compliance reviews, and examining relevant records and practices; provide notice and opportunity to respond where deficiencies are identified; notify the recipient if it is determined the investigation does not warrant action; and if noncompliance appears, seek to secure voluntary compliance before initiating enforcement.¹⁰ These steps ensure both due process for the recipients of federal funding and the development of a complete factual record before any adverse action is taken.

Additionally, before an agency may terminate, refuse to grant, or suspend funds for violations of Title VI, the agency must provide formal written notice, an opportunity for hearing, and obtain approval from a designated official based on the administrative record.¹¹ These statutory and regulatory safeguards¹² — coupled with the evidentiary standards above — define the lawful process for initiating and conducting Title VI investigations and issuing noncompliance findings that satisfy Title VI and the Administrative Procedure Act’s requirement for reasoned, non-arbitrary decision making.

In practice, a DOJ Title VI investigation proceeds in a defined sequence: (1) DOJ sends the institution an opening letter noting its jurisdiction over the institution and expressly stating that no compliance conclusion has been reached; (2) DOJ sends a targeted initial data request seeking narrative responses, documents, and training materials to corroborate or refute allegations; (3) DOJ personnel conduct interviews and a site visit to clarify records and assess context; and (4) DOJ personnel conduct legal analysis applying Title VI standards, notify the institution if no violation was found, and seek resolution for any violations “to the fullest extent practicable” by informal,

¹⁰ HHS’s Title VI implementing regulations are codified at 45 C.F.R. Part 80. 45 C.F.R. §§ 80.6–80.8 (requiring agencies to request and evaluate compliance information; investigate alleged noncompliance through complaints and record review pursuant to the prescribed regulatory procedures; and seek voluntary compliance before initiating enforcement). The federal Title VI framework further includes the statute’s enforcement provision, 42 U.S.C. § 2000d-1, which requires agencies to pursue voluntary compliance before taking enforcement action and limits any fund termination order to the particular program or part thereof in which noncompliance is found, and 42 U.S.C. § 2000d-2, which guarantees judicial review of such actions. DOJ’s Title VI regulations at 28 C.F.R. pt. 42, subpart C require agencies to seek cooperation and voluntary compliance (§ 42.106(a)) and conduct investigations whenever complaints, reports, or other information indicate possible noncompliance (§ 42.107(c)), with written notice to recipients and complainants when matters close or when DOJ determines no action is warranted (§ 42.107(d)(2)) (with HHS’s parallel requirement at § 80.7(d)(2)). If noncompliance persists, agencies must follow four procedural steps before suspending, terminating, or refusing assistance—including a determination that compliance cannot be secured voluntarily, an on the record finding after opportunity for hearing, Attorney General approval, and a 30-day congressional report period—as set forth in 28 C.F.R. §§ 42.108–.111. Additional DOJ policy guidance, including 28 C.F.R. § 50.3, emphasizes that a “concerted effort” toward voluntary compliance is required before invoking Title VI’s ultimate sanctions. Executive Order 12250 further directs the Attorney General to coordinate government-wide implementation and enforcement of Title VI and related nondiscrimination statutes. *Exec. Order No. 12,250, “Leadership and Coordination of Nondiscrimination Laws,”* 45 *Fed. Reg.* 72,995 (Nov. 4, 1980).

¹¹ See, e.g., 45 C.F.R. §§ 42.106–42.108; 80.6–80.8. These provisions require that potential violations be addressed through informal resolution where possible; that recipients receive written notice of alleged noncompliance; and that suspension, termination, or refusal to grant federal financial assistance may occur only after an express finding on the record, following an opportunity for hearing, and approval by the responsible Department official, along with any required congressional notice.

¹² See *supra* note 10-11.

voluntary means, including technical assistance, training, and voluntary agreements.¹³

Only after determining that voluntary compliance cannot be secured may DOJ consider enforcement, which then triggers strict procedural safeguards such as notice, an on the record hearing, Attorney General approval, a report to Congress, and a remedy “pinpointed” to the specific noncompliant program.¹⁴ Premature, categorical funding suspensions short-circuit these statutory and regulatory protections and violate the regulations as explained above. An animating principle of Title VI is voluntary compliance, as the statute itself requires that “no such action shall be taken until the department or agency...has determined that compliance cannot be secured by voluntary means,” 42 U.S.C. § 2000d-1, and DOJ regulations obligate officials “to the fullest extent practicable” to seek recipients’ cooperation and provide assistance to help them comply voluntarily, 28 C.F.R. § 42.106(a); see also 28 C.F.R. § 50.3(I)(C).

Other agencies charged with handling Title VI complaints have similar requirements to ensure deliberate and measured investigations and remedies.¹⁵ For example, for the Office for Civil Rights (OCR) at the Department of Education Title VI investigations similarly begin with a systemic review of an institution’s compliance infrastructure including identifying those responsible for compliance and their training, reviewing policies and reporting mechanisms, and evaluating any steps the institution may have taken to address complaints, before investigating specific incidents, followed by extensive document review, interviews, and multi-year pattern analysis to determine whether Title VI violations are isolated or systemic.¹⁶ This rigor is essential both to craft narrowly tailored resolution agreements that match proven violations and to achieve durable remedies through sustained federal monitoring, often over years.

In all of these contexts, Title VI remedies operate within constitutional limits. Neither agencies nor universities may re-label speech protected by the First Amendment as “harassment” to evade constitutional protections — especially when funding conditions risk viewpoint discrimination.¹⁷ Sound enforcement must preserve the distinction between protected expression

¹³ Oral Testimony of Alyssa Lareau, “Antisemitism on America’s College and University Campuses: Current Conditions and the Federal Response,” *U.S. Commission on Civil Rights*, February 19, 2026, YouTube video, 2:05:32, <https://www.usccr.gov/meetings/2026/02-19-antisemitism-americas-college-and-university-campuses-current-conditions-and>; Written Testimony of Alyssa Lareau, “Antisemitism on America’s College and University Campuses: Current Conditions and the Federal Response,” *U.S. Commission on Civil Rights*, February 19, 2026, https://securisync.intermedia.net/us2/s/folder?public_share=8MMHlaPgJ5k4zhXUV7RvyR0011ef58&id=L0JyaWVmaW5nL1BhbmVsIDlvQWx5c3NhIExhemVhdQ%3D%3D.

¹⁴ *Ibid.* (explaining that although the Civil Rights Restoration Act broadened the definition of “program or activity” for determining the scope of prohibited discrimination, it did **not** alter the “pinpoint” limitation on the fund-termination remedy, which must be confined to the specific program or part of the recipient found to be noncompliant); see also *Board of Pub. Instruction v. Finch*, 414 F.2d 1068, 1075 (5th Cir. 1969) (noting that Congress designed the procedural limits on fund termination to prevent punitive use of the remedy and to ensure it is “pinpointed” to the discriminatory program).

¹⁵ See e.g., 34 C.F.R. §§ 100.6–100.8.

¹⁶ Oral Testimony of Beth Gellman-Beer, “Antisemitism on America’s College and University Campuses: Current Conditions and the Federal Response,” *U.S. Commission on Civil Rights*, February 19, 2026, YouTube video, 2:35:00, https://www.youtube.com/watch?v=uJ_k0v_jmZ8.

¹⁷ Written Testimony of Eugene Volokh, “Antisemitism on America’s College and University Campuses: Current Conditions and the Federal Response,” *U.S. Commission on Civil Rights*, February 19, 2026, https://securisync.intermedia.net/us2/s/folder?public_share=8MMHlaPgJ5k4zhXUV7RvyR0011ef58&id=L0JyaWVmaW5nL1BhbmVsIDEvRXVnZW5lIFZvbG9raA%3D%3D.

and actionable discriminatory conduct, and any settlement terms should be precisely tailored to proven violations.¹⁸ Requirements that compel curricular content or impose viewpoint based screening as funding conditions risk impinging on First Amendment protections.¹⁹

IV. FACTS

a. [DOJ attorneys] assigned to HHS, Office for Civil Rights

On Thursday March 20 and Friday March 21, 2025, [REDACTED] career DOJ attorneys from the Civil Rights Division — including Haley Van Erem, [REDACTED] — were assigned without notice or choice to the HHS Office for Civil Rights (OCR) on 45-day renewable terms to participate in the Task Force’s Title VI investigations into antisemitism at medical school commencement ceremonies at Brown, Columbia, Cornell, and Harvard Universities.²⁰ The attorneys, despite having ongoing matters that required their expertise and case knowledge, including cases related to compliance with the Americans with Disabilities Act, were given this directive just before the weekend and told they may have to report to HHS as soon as Monday, without additional information about the work they would be doing or the policies under which they would be operating.²¹

¹⁸ Written Testimony of Michael C. Dorf, “Antisemitism on America’s College and University Campuses: Current Conditions and the Federal Response,” *U.S. Commission on Civil Rights*, February 19, 2026, https://securisync.intermedia.net/us2/s/folder?public_share=8MMHlaPgJ5k4zhXUV7RvyR0011ef58&id=L0JyaWVmaW5nL1BhbmVsIDEvTWJjaGFibCBDLiBEb3Jm.

¹⁹ Written Testimony of Genevieve Lakier, “Antisemitism on America’s College and University Campuses: Current Conditions and the Federal Response,” *U.S. Commission on Civil Rights*, February 19, 2026, https://securisync.intermedia.net/us2/s/folder?public_share=8MMHlaPgJ5k4zhXUV7RvyR0011ef58&id=L0JyaWVmaW5nL1BhbmVsIDEvR2VuZXZpZXZlIEExha2llcg%3D%3D.

²⁰ On March 20, Ms. Van Erem was informed by the Special Litigation (SPL) Section Chief [REDACTED] on a phone call that she was being assigned to the task force. On March 21, Ms. Van Erem got an email from John Buchko saying the Division was assigning her to work with HHS “on a project in furtherance of the Joint Task Force on Combatting Antisemitism.” [REDACTED]

²¹ Exhibit 1. The abrupt reassignment removed attorneys who had developed substantial institutional knowledge through years of investigation and active litigation on complex disability rights matters. [REDACTED]

Prior to this assignment Ms. Van Erem had served nearly ten years in DOJ's Special Litigation Section. Since joining DOJ in 2015, Ms. Van Erem had served continuously and received multiple honors, including Special Commendations in 2019 and 2023, Distinguished Service Awards in 2019, 2022, and 2023, and an HHS OIG Cooperative Achievement Award in 2017 for interagency work.

[REDACTED]

[REDACTED]

On March 28, 2025, before the HHS assignment began, the assigned DOJ attorneys received a memorandum about the Title VI investigations informing them that the investigations were "based on a New York Post article that alleged anti-Semitic activities at numerous medical school commencement ceremonies."²² The article described protests that included protected expression such as students shouting "Free Palestine" and students wearing Palestinian flags or keffiyehs.²³ It was not unheard of for news reporting coupled with additional evidence to lead the DOJ to initiate further scrutiny of potential statutory violations, but opening an investigation based on a single article was highly unusual. The DOJ attorneys reasonably expected based on their years of experience that any enforcement action would follow, and ultimately be substantiated by, rigorous investigation.

[REDACTED] Ms. Van Erem was removed from work on five cases involving the Americans with Disabilities Act, including serving as lead counsel on active settlement enforcement in an ADA matter concerning services for children with mental health conditions, where institutional knowledge regarding the negotiation and implementation of the settlement was critical to ongoing compliance monitoring. Because the reassignment directive required attorneys to prepare to depart within days, they reported having limited time to transfer case knowledge, create transition plans, or brief replacement counsel. [REDACTED] the abrupt removal from multiple active cases required remaining staff to assume responsibility for significant matters with little advance preparation and, in some instances, to absorb the workload of multiple attorneys. [REDACTED]

[REDACTED]

²² Exhibit 2.

²³ Carl Campanile, "US Medical Schools Plagued by Antisemitism, Pro-Terror Antics at Graduations: Study," *New York Post*, January 27, 2025, <https://nypost.com/2025/01/27/us-news/us-medical-schools-plagued-by-antisemitism-pro-terror-antics-at-graduations-study/>, and the underlying publication referenced in the article, Steven Roth and Hedy S. Wald, "US Medical Schools' 2024 Commencements and Antisemitism: Addressing Unprofessional Behavior," *Rambam Maimonides Medical Journal*, January 2025, 16, no. 1, <https://www.rmmj.org.il/userimages/1916/1/PublishFiles/1948Article.pdf>.

b. [REDACTED] *concerns over the handling of the investigations*

When the assignees commenced work for HHS on March 31, the HHS OCR Associate Deputy Director Daniel Shieh informed them that the investigation into Columbia's medical school, which had launched on March 7, had been expanded from one medical school ceremony to the entire university.

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The next day, April 1, HHS Acting General Counsel Sean Keveney, along with OCR officials, opened a briefing with the new DOJ CRT assignees by discussing the investigations. He announced the investigations' goal was to force the schools into lawsuits that would lead to court-ordered injunctive relief requiring the schools to disgorge money received by HHS and force the universities to make up the lost grant and contract fees from their endowments. Keveney initially stated that the strategy was to include a "poison pill"—inserting an admission of liability into any settlement offer that a university would "never be able to accept," thereby forcing a given university into court.²⁶

In this meeting, the DOJ assignees asked questions about the investigation into Columbia's medical school that was spurred by the New York Post article and initiated on March 7, 2025. The [DOJ assignees] were aware that the HHS OCR staff who had initiated the investigation noted that their efforts were not bearing much fruit thus far, and HHS OCR staff acknowledged in the meeting that there may not be much evidence of Title VI liability at the med schools. The DOJ assignees learned that, rather than close the investigation, HHS had instead decided to expand it beyond the medical schools.²⁷ This was one of the first major indications to the DOJ assignees that the investigations were not grounded in law or fact.

Given the apparent lack of evidence to substantiate a Title VI violation at Columbia, the DOJ attorneys did not understand how HHS could have suspended hundreds of millions of dollars from Columbia on March 7, 2025 claiming violations of Title VI. When the DOJ attorneys

²⁴ Upon information and belief, [REDACTED] is currently the Acting Chief of the Disability Rights section of DOJ's Civil Rights Division despite having announced his retirement from federal service in April 2025.

²⁵ U.S. Department of Justice, Civil Rights Division, "Title VI Legal Manual," *U.S. Department of Justice*, January 19, 2021, available at https://cdn.atixa.org/site-media/atixa/wp-content/uploads/2025/03/11154342/titlevi_legal_manual_rev_ed_1.pdf (the original link to the DOJ Title VI Legal Manual seems to no longer be accessible on the DOJ website. See <https://www.justice.gov/crt/media/1384931/dl>, last visited July 24, 2026).

²⁶ Exhibit 3. [REDACTED] leadership ultimately reached settlements with large sums of money and unprecedented governmental intrusion into the academic affairs of the institutions, as opposed to just litigation.

²⁷ Exhibit 3.

questioned this funding suspension at the meeting, Keveney and Shieh asserted the funding suspension was separate from any Title VI violation, citing two regulatory provisions distinct from Title VI enforcement mechanisms: that contracts could be pulled for “convenience to the government” and grants rescinded for “not satisfying their purposes.” Neither of these funding termination authorities requires findings of discrimination or due process, though Shieh frequently noted that these mechanisms are not typically used and have never been tested as tools for addressing alleged civil rights violations. This theory would bypass Title VI by treating discrimination-based funding suspensions as ordinary exercises of contract or grant authority, a position later foreclosed by multiple courts—beginning with Judge Burroughs’s ruling in *President and Fellows of Harvard College v. U.S. Department of Health and Human Services* and followed by a subsequent ruling in which both hold that when the government impetus for the funding cuts is clearly tied to claims of alleged discrimination under Title VI, Title VI provides the mandatory and exclusive enforcement framework, and agencies may not evade its procedural requirements by recharacterizing civil-rights-motivated funding suspensions as ordinary exercises of contract or grant authority.²⁸ These holdings underscore the reasonableness of [REDACTED] belief that the funding cuts were, in fact, related to civil rights violations and their protected activity in raising their objections to Shieh and Keveney that there was insufficient basis to terminate funding based on Title VI investigations.²⁹

The following day, on April 2, at a Title VI investigation meeting with the DOJ assignees along with staff from OCR and the HHS Office of General Counsel (OGC), an HHS attorney expressed a concern that the suspended funding was tied to programs other than those alleged to

²⁸ In *President and Fellows of Harvard College v. U.S. Department of Health and Human Services*, the district court held that where the Government terminates or refuses to continue federal funding on the basis of alleged discrimination as part of the Government’s investigation into and enforcement response to alleged antisemitism at Harvard, Title VI provides the controlling and mandatory statutory framework, and agencies may not bypass its procedural requirements by relying on generalized contractual or regulatory authorities. Judge Burroughs emphasized that Title VI requires notice, an attempt at voluntary compliance, a hearing, express findings on the record, and congressional reporting before funding may be cut, and that it was undisputed that none of those steps occurred. The court rejected the Government’s reliance on 2 C.F.R. § 200.340(a)(4), which permits termination of a grant based on the award no longer effectuating government goals or priorities, concluding that allowing discrimination-based funding terminations under those provisions would “wholly nullify an explicit statutory scheme,” and that regulations cannot override Congress’s prescribed enforcement process; the court further noted that neither the administration’s April 14, 2025 nor the May 5, 2025 Freeze Orders even referenced 2 C.F.R. § 200.340, that the administrative record instead was replete with documents invoking Title VI or undefined “civil rights laws” as the basis for funding termination, and that settled administrative law principles forbid post-hoc rationalizations to supply a justification absent from the agency’s contemporaneous decision making. Accordingly, the court vacated the termination letters as not in accordance with law, in excess of statutory authority, and without observance of procedure required by law. *President and Fellows of Harvard College v. U.S. Department of Health & Human Services*, Memorandum and Order, Nos. 25-cv-11048-ADB, 25-cv-10910-ADB (D. Mass. Sept. 3, 2025). Consistent with this reasoning, the court in *American Association of University Professors v. Trump* likewise rejected the Government’s effort to justify sweeping university funding suspensions through termination authorities untethered from Title VI. There, the court concluded that where the record demonstrated that funding suspensions were driven by alleged civil-rights violations and contemporaneous Title VI investigations, Title VI’s procedural and substantive limits controlled notwithstanding the Government’s reliance on other funding termination authorities. The court emphasized that permitting agencies to rely on these termination authorities to accomplish what Title VI specifically regulates would impermissibly allow agencies to “regulate away” Congress’s chosen enforcement scheme and nullify the statute’s mandatory protections. *American Association of University Professors v. Trump*, Order Granting Motion for Preliminary Injunction, No. 25-cv-07864-RFL, at 1–3, 52–56 (N.D. Cal. Nov. 14, 2025).

²⁹ See *supra* note 14 (noting that fund-terminations must be confined to the specific program or part of the recipient found to be noncompliant with the Civil Rights Act).

have engaged in violations.³⁰ Shieh noted “the goal is compliance, but pulling money is the tool,” communicating that the funding suspensions were meant to be coercive irrespective of investigative findings.³¹ Again, neither Shieh nor any other leadership explained the legal justification for the funding suspension prior to an investigation or explained how this suspension was compatible with Title VI enforcement regulations.

Later that day, in a private conversation with Ms. Van Erem [REDACTED], Shieh admitted he did not think the facts surfaced through investigation to date would justify a finding of a Title VI violation at the medical schools.³² He explained that his solution was to expand the investigations to the entire universities in order to substantiate a finding. Shieh asserted that the investigation could be completed in 45 days by only reviewing and investigating the most severe of the allegations. The DOJ assignees objected to that timeline, noting that Title VI requires a comprehensive review of allegations to determine if the conduct was severe and pervasive, and also review of the university’s response to determine whether it was appropriate and effective. The attorneys further noted that 45 days was wholly insufficient to adequately review the volume of data necessary to meet the evidentiary standards to substantiate a Title VI violation.³³

By April 3, the political pressure intensified. Keveney told Ms. Van Erem that Columbia was close to settling. He also explained that the White House had ordered HHS to pull hundreds of millions of dollars from Harvard, prompting Secretary of Education Linda McMahon to call the White House to explain the negotiations were in progress.³⁴

Keveney additionally said he believed Harvard would settle because they are “over a barrel.” The proposed Harvard settlement terms, which Keveney showed Ms. Van Erem briefly on his computer screen, were extraordinary and included MOUs with police, installing a provost to oversee curriculum, ending DEI programs, placing endowment money in trusts the government could seize, and investing in programs in Israel. There was no information to indicate these sweeping enforcement terms corresponded to any specific findings of Title VI violations.

Keveney asked Ms. Van Erem for her thoughts about the proposed settlement terms. Ms. Van Erem noted that some of the provisions seemed broader than a direct tie to antisemitism; he acknowledged that and said the provisions related to the scope of federal funding. Ms. Van Erem also pointed out the potential First Amendment problems with government-controlled curriculum monitors. Keveney acknowledged the validity of this issue and suggested it could be addressed by HHS requiring the universities to install their own monitors to minimize potentially improper government action.³⁵

³⁰ Exhibit 4. For colleges and universities, Title VI’s “program or activity” covers all operations of the institution. 42 U.S.C. § 2000d-4a(2)(A). Thus, an agency may impose institution-wide termination of its own federal financial assistance only after complying with Title VI’s procedures (notice, an opportunity for hearing, and an express finding on the record) and after attempting voluntary compliance; the statute also requires a 30-day report to the relevant congressional committees before the action becomes effective. 42 U.S.C. § 2000d-1; 45 C.F.R. §§ 80.7–80.11.

³¹ Exhibit 4.

³² Exhibit 5.

³³ *Ibid*; see *supra* note 9-11.

³⁴ Exhibit 6.

³⁵ *Ibid*.

That afternoon, days after HHS expanded its investigation from Columbia's medical schools to the entire university, Shieh announced that Columbia appeared ready to settle. Shieh said that because Columbia might settle, the OCR team did not need to issue a Title VI finding. Shieh further explained that if Columbia settled, the investigation would end.³⁶ He then ordered the DOJ assignees along with several OCR attorneys and HHS OGC attorneys to focus on Brown University, including expanding the compliance review from the medical school to the entire university, following the same blueprint as with Columbia.³⁷

these directives reflected a predetermined, outcome-driven approach to enforcement rather than a fact-based investigative process. staff were encouraged to invert the standard sequence of investigation, compliance review, and legal analysis and instead work backward from desired settlement terms, including provisions not directly tied to substantiated Title VI anti-harassment or antisemitism violations, to generate proposed findings that would support those terms.

the government's authority to terminate contracts "for convenience" and "for not satisfying purpose" was inappropriately invoked or threatened to increase leverage on universities to accept settlement terms favored by the government. This conduct constitutes (1) abuse of authority, by using investigative and procurement tools to coerce acceptance of policy conditions untethered to statutory violations; (2) gross waste of federal funds, by diverting resources away from cases—some of which were near conclusion—to settlements not grounded in substantiated violations; (3) gross mismanagement, by departing from investigative sequencing and quality controls as required by regulation; and (4) potential violations of law, rule, or regulation, including a) violation of implementing regulations of Title VI, b) arbitrary decision making in violation of the Administrative Procedure Act,³⁸ and c) fraudulent inducement where proposed findings were signaled absent a factual basis.

c. [Ms. Van Erem and her colleagues] raise concerns internally about the propriety of the investigations and face harsh pushback from HHS leadership

The next morning, on Friday April 4, the team learned via news articles that the Administration had blocked over \$500 million in previously awarded federal funding from Brown overnight, reportedly in connection with antisemitism investigations.³⁹ Alarmed, Ms. Van Erem, along with other DOJ colleagues sent a joint email at 11:12 a.m. to Shieh and HHS attorney David Hyams asking, "[c]an someone explain to us the authority for pulling HHS funding prior to an OCR [finding], and how it relates or doesn't relate to our investigations?"⁴⁰ They noted they were "just starting to dig into the facts regarding Brown" following the meeting the prior afternoon when they had been told to make the Brown investigation their priority.⁴¹ They wanted to ensure that the suspension of Brown's funding would not "represented as being related

³⁶ Exhibit 7.

³⁷ *Ibid.*

³⁸ Detailed further in Section VI.

³⁹ Anemona Hartocollis, Alan Blinder, Michael C. Bender, and Vimal Patel, "Trump Administration Plans to Freeze \$510 Million in Federal Funding to Brown University," *The New York Times*, April 3, 2025, <https://www.nytimes.com/2025/04/03/us/trump-administration-brown-university-funding-pause.html>.

⁴⁰ Exhibit 8.

⁴¹ *Ibid.*

to our HHS OCR investigation, because we believe it would be inappropriate at this time to pull funding based on that investigation.”⁴² Their email continued:

It’s also my understanding that HHS is working with Harvard’s counsel to reach a settlement. We also want to clarify that the HHS OCR investigation is not being used as a basis in negotiations with Harvard, given we also have not had a chance to analyze the likelihood or extent of a violation at Harvard. If these funding decisions and settlement negotiations are based on or reference the HHS investigations, our team should be consulted about the extent and nature of violations we are seeing.⁴³

Within hours, all six attorneys received a mandatory summons by email to a 4:30 pm meeting with Keveney at HHS headquarters. The attorneys contacted Shieh and Hyams asking for permission to join remotely from their DOJ offices where they worked approximately 30 minutes away but were told to attend in person. They arrived at the meeting and Shieh and Hyams appeared very tense.

Keveney then entered the room and tersely declared, “Now you will see angry Sean.” In his state of announced anger, he said that the attorneys should come to him in person if they needed any questions answered. Adding to the chilling environment, Keveney signaled for the attorneys not to take notes during the meeting, implying that he did not want them to create a written record reflecting doubts and questions about the investigations and funding rescission. At one point, he looked at Ms. Van Erem and remarked that her notetaking was making him nervous, prompting her to drop her pen. Curiously, Keveney asserted that the DOJ attorneys’ jobs were not to provide legal advice or make legal determinations. This behavior left the attorneys feeling intimidated and confused about their assigned roles.

Keveney additionally asserted that the funding suspensions were unrelated to any Title VI violations, and that the White House Domestic Policy Council would determine the legality of funding decisions.⁴⁴ This statement again called into question the basis and legality for the funding suspensions and their use as tactics to drive settlement. Following this meeting, [Ms. Van Erem and her colleagues] understood they were expected to do as instructed and not raise legal questions.

d. Title VI Investigation at Brown Motivated by Bias Rather than Evidence

As their involuntary assignment continued, Ms. Van Erem, [REDACTED] became increasingly concerned that HHS had a political motivation to manufacture facts in the Brown investigation and that the investigation was not based on complaints grounded in documented evidence of violations. For example, at a meeting on Wednesday, April 9 with the assigned investigators including Ms. Van Erem [REDACTED], Shieh explained a plan to systematically interview Middle East studies professors, particularly Muslim faculty, noting that an interview with a professor Keveney had identified interest in earlier was not “to get information” but to see “what he will say.” [Ms. Van Erem and her colleagues] understood the distinction in Shieh’s

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

comment as insinuating that the purpose of the interview would be to elicit a viewpoint remark that HHS could label as antisemitic, risking violation of First Amendment and viewpoint neutrality principles, rather than interviewing the professor in connection with any action currently under investigation.⁴⁵ To [Ms. Van Erem's] knowledge, no complaint alleged that this professor had engaged in antisemitic activity.

The DOJ assignees repeatedly pushed back on having Middle East studies professors who were not connected to complaints of antisemitism on the witness interview list, but leadership refused to take them off. While the DOJ assignees were ultimately successful at reducing the number of those faculty members they had to interview, the assignees still felt the mandate to conduct the interviews seemed like an attempt to intimidate those professors and was rooted in Islamophobic assumptions that Middle East Studies professors would harbor antisemitic viewpoints rather than any actual evidence of complaints about antisemitism. Furthermore, [Ms. Van Erem and her colleagues] suggested opening investigations into allegations of anti-Muslim bias on certain campuses to demonstrate integrity and consistency in enforcement of Title VI violations, but these proposals were not pursued by leadership.⁴⁶

The response to [REDACTED] questions about targeted interviews of Middle East studies and Muslim professors validated [concerns]; when [Ms. Van Erem and her colleagues] asked in the meeting what, if anything, beyond the New York Post article was the basis for the investigation into Brown, an HHS OCR attorney stated they were "99% sure there were no Title VI complaints on Brown in the [agency's complaint filing] system."⁴⁷

Additionally, the DOJ assignees knew that almost immediately prior to the second Trump administration, the Department of Education (ED) had in fact received complaints of Title VI violations at Brown, that those complaints were investigated, and that the investigation resulted in a settlement known as a "voluntary resolution agreement" (VRA) with Brown. [Ms. Van Erem and her colleagues] repeatedly asked if they could examine the VRA and connect with ED to understand Brown's progress in implementing the VRA rather than conducting a purported investigation that lacked foundation in a complaint or actionable allegations of wrongdoing. However, [Ms. Van Erem and her colleagues] were never put in touch with ED staff during the course of their investigation. In fact, the HHS OCR managers said that they themselves had been unsuccessful in tracking down information from ED OCR about its recent relevant investigations and compliance monitoring because approximately half of ED OCR staff were given reduction in force notices.

Also at the April 9 meeting, Shieh explained how the agency was leveraging the universities' money, stating that "once the money is paid out, it's hard to claw back, so if you think something's going to be an issue, then you pull funding."⁴⁸ He stated that someone in the

⁴⁵ Exhibit 9.

⁴⁶ The federal government has long applied Title VI to claims involving anti-Arab and anti-Muslim bias as well as anti-Semitism. See U.S. Dep't of Educ., Office for Civil Rights, *Dear Colleague Letter: Religious Discrimination* (Sept. 13, 2004), <https://www.ed.gov/about/offices/list/ocr/religious-rights2004.html> (explaining that OCR investigates Title VI complaints involving harassment of "Arab Muslim, Sikh, and Jewish students" and that groups sharing ethnic characteristics "may not be denied the protection of our civil rights laws on the ground that they also share a common faith").

⁴⁷ *Ibid.*

⁴⁸ Exhibit 9.

government looked at the contract and realized “we could really do some damage with this.”⁴⁹

The targeting of Muslim and Middle East Studies Professors untethered from actionable complaints of Title VI violations constitutes abuse of authority, potential violation of Title VI implementing regulations, and potential First Amendment violations, among others. Directing such action rather than seeking coordinated enforcement of the already-existing VRA additionally suggests a gross waste of federal funds.

e. [REDACTED] Inadequate Time to Review Findings of Discrimination at Columbia Despite Identified Issues with Protected Speech, False Statements, and Unsupported Allegations

On Thursday, April 10, Shieh sent Ms. Van Erem a draft of HHS OCR and ED OCR joint factual findings of Title VI discrimination against Columbia for her review. The next day, the draft was sent to additional DOJ attorneys to review a different part of the written findings, and all together they were given only a few hours to examine documents that would justify suspending hundreds of millions of dollars in federal funding if they proceeded in enforcing findings of discrimination against Columbia. It was unclear [REDACTED] whether these findings were being used to justify the March 7, 2025 funding freeze⁵⁰ or new additional funding cuts.

In her first comment on the draft Ms. Van Erem noted: “I have been given limited time to review this, but I could (and think we should) look more carefully at each of these allegations if given more time. My main concern is that a lot of these paragraphs involve protected [first amendment] speech, and this document should not imply that those incidents are the basis of a Title VI violation.”⁵¹

Ms. Van Erem also identified numerous false statements, allegations of actions and protected speech that would not be considered harassing conduct under Title VI, such as participating in a protest or writing an open letter, and allegations that were framed as facts but were supported solely by publicly available litigation complaints or news articles.⁵² Such information without any investigation, corroboration, or review of the institution’s response to complaints was insufficient to form the basis of findings of Title VI violations.

Given the less than one business day turnaround, and just one hour to read the legal section, the DOJ attorneys who were asked to review the letter were not confident they had adequately assessed the merits of the alleged facts or the legal arguments and emphasized the need for more time. Shieh responded that the letter would continue to be reviewed by OGC, suggesting that the DOJ attorneys should not worry about their lack of time for thorough review.

On the morning of Monday April 14, the Acting Director of HHS OCR sent a note thanking the team that worked on drafting the findings of discrimination against Columbia, noting “OGC

⁴⁹ *Ibid.*

⁵⁰ U.S. Department of Education, “DOJ, HHS, ED, and GSA Announce Initial Cancellation of Grants and Contracts to Columbia University Worth \$400 Million,” *U.S. Department of Education*, March 7, 2025, <https://www.ed.gov/about/news/press-release/doj-hhs-ed-and-gsa-announce-initial-cancellation-of-grants-and-contracts-columbia-university-worth-400-million>.

⁵¹ Exhibit 10.

⁵² *Ibid.*

commented that the product was of such high quality that they thought clearance would be a breeze,” and acknowledging “[t]he time pressures that we are under in these and other cases are enormous, yet you are meeting the call.”⁵³ Ms. Van Erem, alarmed that the short timelines impeded the ability to do a full review of the accuracy of the letter, emailed Shieh within the hour of receiving the Acting Director’s email, reiterating her concerns about the compressed time to issue findings, stating:

...I wanted to note concerns about the timelines for the notice [letter of Factual Findings]. ... from my perspective we needed more time to review the legal standards, the facts, and the application of law to the facts...will OGC be doing this check? Again, I know you are working very hard on this, and I know these timelines are being set for us. But if there’s any way we can create some more time for Columbia or any of the other schools, that would allow us to ensure any findings we issued are justified and accurate.⁵⁴

Shieh responded that the letter would be cleared for legal sufficiency by OGC, not OCR, after additional review by OGC’s Civil Rights Division, along with the Department of Education’s OGC and possibly DOJ’s Civil Rights Division.⁵⁵

On April 15, HHS OGC provided extensive comments identifying legal issues with the draft letter issuing factual findings based on First Amendment protected speech and the need to ensure that the legal standard applied focused on Title VI’s standard of pervasive harassment and the university’s deliberate indifference.⁵⁶ Ultimately, some of the findings that were explicitly about protected speech were removed, though some discussion where OGC identified legal risk was kept in.

The rushed review of the factual findings letter constituted abuse of authority, a potential violation of Title VI regulations, and potential violation of the Administrative Procedure Act through arbitrary and capricious enforcement ungrounded in investigative factual findings.

f. Harvard Sues the Trump Administration Over Settlement Demands

On April 21, Harvard sued the Trump administration over the legality of the administration’s extreme settlement demands as both violative of the First Amendment and failing to comply with the statutorily prescribed procedures and timelines for Title VI enforcement actions.⁵⁷ These allegations in the complaint validate the [reasonable] [REDACTED] belief in potential legal violations [Ms. Van Erem and others] had observed and raised internally to date.

At a case meeting on April 25 that included [REDACTED] DOJ assignees, career HHS staff, HHS attorney David Hyams, and Shieh, Ms. Van Erem asked what HHS expected the team to do regarding Harvard going forward.⁵⁸ Shieh said they had “an understanding that Harvard

⁵³ Exhibit 11.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Document on file with Government Accountability Project; Exhibit 12.

⁵⁷ Harvard University, “Complaint for Declaratory and Injunctive Relief: Harvard Funding Freeze Order Complaint,” *Harvard University*, filed April 2025, <https://www.harvard.edu/research-funding/wp-content/uploads/sites/16/2025/04/Harvard-Funding-Freeze-Order-Complaint.pdf>.

⁵⁸ Exhibit 13.

is taking measures [to address any Title VI violations] that Columbia has not,” referring to Harvard’s voluntary resolution agreement (VRA) with the Department of Education that went into effect January 17, 2025.⁵⁹ However, when the attorneys asked what Harvard had agreed to in that VRA, Shieh said that the Department of Education did not have the VRA.⁶⁰ The best guess [of Ms. Van Erem and her colleagues] was that perhaps personnel who had worked on the VRA were no longer employed with ED following reductions in force; nevertheless, [Ms. Van Erem and her colleagues] were concerned that Shieh could not answer basic questions about the VRA.

In light of Harvard’s unwillingness to settle with the Trump administration, Shieh named a key weakness with the Task Force’s approach: “The problem the Task Force is going to have is what is the limiting principle...it can’t be right that billions of dollars can be pulled for anything.”⁶¹ While Shieh appeared to have at least a moment of pause regarding the integrity of the investigations and enforcement actions, others in leadership disagreed. Shieh said that when he raised this issue with Keveney, Keveney responded, “That’s DOJ’s problem,” reaffirming [REDACTED] concerns that the investigations were being used for the purposes of harassing and intimidating institutions, not for the purpose of legitimately responding to Title VI violations.⁶²

g. The DOJ Assignees’ Brown Investigation Finds No Title VI Violations, but Leadership’s Political Pressure Precludes Closure

On April 28, the DOJ Assignees presented the results of their investigation into Brown. They did not find facts sufficient to justify Title VI violations, which should have ended the inquiry. At this meeting, either Shieh or Hyams asked about the worst incident of antisemitism. The team of DOJ assignees and HHS OGC employees who were on site at Brown conducting the investigations could only cite two potentially relevant incidents during the period in question.

First, investigators identified a single threatening letter sent to Hillel; the perpetrator was immediately identified, fired, and Brown increased security sweeps in response. Second, Students for Justice in Palestine (SJP) members protested outside the Brown medical school during a university board meeting, following the board when it left the building.⁶³ In response, Brown

⁵⁹ U.S. Department of Education, “Voluntary Resolution Agreement between the U.S. Department of Education, Office for Civil Rights, and President and Fellows of Harvard College,” January 17, 2025, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/01152319-b.pdf>. [hereinafter “Harvard VRA”] (requiring Harvard to “take steps to ensure compliance with Title VI by addressing complaints of antisemitism, anti-Muslim bias, and other forms of discrimination,” and mandating “training for administrators, faculty, teaching fellows, and staff on the recognition of and response to antisemitic and other discriminatory harassment”); U.S. Department of Education, Office for Civil Rights, “U.S. Department of Education’s Office for Civil Rights Resolves Investigation of Harvard University,” *U.S. Department of Education*, January 17, 2025, <https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-resolves-investigation-harvard-university> (announcing resolution agreement and noting that OCR “will monitor Harvard’s implementation” of its Title VI obligations).

⁶⁰ Exhibit 13. This statement was not made in a disparaging tone about Department of Education Office for Civil Rights staff, but rather in recognition that the Department of Education had recently fired hundreds of employees and at least half of its OCR regional offices (including the office that oversaw the Harvard investigation), thus making it very difficult for the remaining agency staff to operate.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ In October 2024, Brown University temporarily suspended its chapter of Students for Justice in Palestine (SJP)

promptly banned SJP from campus.⁶⁴ While this latter response was controversial,⁶⁵ it did not meet the standard for deliberate indifference under Title VI: Brown's response to both incidents showed that it responded to allegations of antisemitism in a prompt and effective manner. Based on the facts at that time [the DOJ assignees] could not substantiate a violation. Indeed, witnesses, including a Jewish student leader, multiple rabbis, and faculty member from the medical school, described Brown's consistent, proactive responses to any allegations of antisemitism.⁶⁶ One Jewish witness even stated that the campus was a great place to be Jewish. Investigators commented that the interviewees "did not seem coached; they seemed prepared and earnest."⁶⁷

The team's conclusion was unequivocal: meeting the deliberate indifference standard required to find a Title VI violation by the institution would be extremely difficult at Brown. In fact, Hyams agreed: "This case sounds pretty difficult to establish deliberate indifference."⁶⁸ When the investigative summary was sent to the Task Force, even Keveney recognized that it looked like deliberate indifference would be difficult to establish at Brown.

A few days after the team presented their Brown findings, in a May 2 meeting with Ms. Van Erem and other DOJ assignees, Shieh reported that Harvard was not cooperating with witness interviews for the HHS investigation. The assignees pointed out that Harvard likely wouldn't cooperate with witness interviews because the federal government pulled funding before the investigation was conducted.⁶⁹ Ms. Van Erem suggested sending Brown a closure letter reflecting the team's conclusion that there were no Title VI violations at Brown, noting such action might restore credibility to the investigations. Shieh conveyed the higher ups would never accept that result because "everything is sequenced."⁷⁰ Ms. Van Erem understood this comment to again reflect that the investigations and Title VI enforcement actions were not proceeding according to standards and regulations but instead were coordinated by the "higher ups" based on political, not legal, strategy.

following a pro-divestment protest outside a meeting of the Corporation of Brown University. The protest occurred on October 18, shortly after the Corporation voted on October 8 not to divest from companies connected to Israel's military actions in Gaza. Student demonstrators marched around the Brown Medical School and displayed banners. After months of disciplinary proceedings and an external investigation, Brown found SJP responsible for "disruption of community" and emotional "harm to persons." The group was reinstated in May 2025, placed on probation through the end of the academic year, and re-recognized as a student organization. Inside Higher Ed, "Brown U Suspends Students for Justice in Palestine Chapter," October 29, 2024, <https://www.insidehighered.com/news/quick-takes/2024/10/29/brown-u-suspends-students-justice-palestine-chapter>; Sophia Wotman, "SJP Reinstated as a Student Group on Probation Following External Investigation," *The Brown Daily Herald*, September 16, 2025, <https://www.browndailyherald.com/article/2025/09/sjp-reinstated-as-a-student-group-on-probation-following-external-investigation>.

⁶⁴ Kyla Guilfoil, "Brown University suspends its chapter of pro-Palestinian student group," *NBC News*, October 28, 2024, <https://www.nbcnews.com/news/us-news/brown-university-suspends-chapter-students-justice-palestine-rcna177653>.

⁶⁵ Olivia Ebertz, "RI ACLU calls suspension of Brown student group 'chilling'," *The Public's Radio/Rhode Island PBS*, January 29, 2025, <https://thepublicsradio.org/metro-desk/ri-aclu-calls-suspension-of-brown-student-group-chilling/>.

⁶⁶ At the outset of the investigation, the [Ms. Van Erem and her colleagues] had been concerned that HHS did not identify Rabbis as potential witnesses and successfully advocated to include campus Rabbis in the investigation.

⁶⁷ Exhibit 14.

⁶⁸ *Ibid.*

⁶⁹ Exhibit 15.

⁷⁰ Exhibit 15.

Shieh explained that the initial plan was for Harvard to be the first example, but when negotiations broke down, officials tried to make Columbia the example.⁷¹ “If Columbia [doesn't settle], nobody knows what is going to happen next. Maybe Brown,” Shieh continued.⁷² When Ms. Van Erem pressed again about issuing a notice of no violation for Brown, Shieh bluntly declined, saying that no action would be cleared on investigations until the findings against Columbia were resolved.⁷³ Ms. Van Erem therefore concluded that the Administration's plans were rooted in efforts to extract settlements through example rather than address violations of Title VI.

h. [Attorneys] Begin to Leave Federal Service to Avoid Jeopardizing Their Licenses and Careers



i. Ms. Van Erem Reiterates Lack of Findings of Title VI Violations at Brown While Leadership Doubles Down

In a meeting on May 8, 2025, attended by Ms. Van Erem [REDACTED], Shieh reported that Columbia was in a holding pattern and that Keveney and the White House were hammering out a consent decree.⁷⁴ In addition, despite finding no Title VI violations, Shieh stated that Cornell and Brown would be forced to “settle with a plain VRA and no findings.”⁷⁵ Ms. Van Erem and other DOJ assignees immediately questioned what the basis was for a VRA with Brown since there was no legal violation. Another HHS OCR attorney questioned whether a Technical Assistance (TA) agreement, an enforcement action less severe than a VRA, would be a more appropriate solution. Shieh responded to the effect that we can draft it up and see what we have, but that he thought the Task Force would want “something,” and he did not think Brown would “care” if the VRA was “milquetoast.”⁷⁶

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Exhibit 15.

⁷⁴ Exhibit 16.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

The DOJ team pushed back, pointing out that Brown attorneys knew they had “very favorable cards” because of facts uncovered in the investigation.⁷⁷ Additionally, any agreement would duplicate the existing VRA between Brown and ED OCR.⁷⁸ Ms. Van Erem said, consistent with the regulations, that forcing a VRA “is not the legally correct thing to do. The legally correct thing is to send a notice of no violation. That’s what we have recommended.”⁷⁹

Shieh admitted that there was “not a Title VI violation” at Brown but said that “there’s no way we’re going to get a letter of no violation cleared.” Since Shieh stated that formalizing a finding of no violation was impossible, the team asked what remedial requirements should be in a new VRA, given that findings evidenced only two potentially relevant incidents to which Brown had taken prompt steps in response. Shieh admitted that he did not know what the scope of the VRA should be. Ms. Van Erem asked: “These questions are coming from the same place. If we can’t find a problem, how are we supposed to put [in recommendations to remedy non-existent violations]?”

Shieh acknowledged that the team had done a good job convincing the front office that they should move on from Brown, but unspecified “stakeholders” had “approached the Task Force” demanding action. As the meeting ended, Shieh also informed the team that those stakeholders also wanted to open a compliance review into Northwestern.

Ms. Van Erem left federal service shortly after this meeting [REDACTED]; her last day was May 30, 2025. [REDACTED] Ms. Van Erem was unwilling to be made vulnerable to further participation in politically motivated investigations unsupported by facts and contrary to law.

V. STATUS OF TITLE VI UNIVERSITY INVESTIGATIONS

University targets of these investigations responded differently. Some have entered into VRAs based on allegations of antisemitism, while others are still under investigation or negotiating terms. For example, in July 2025, Columbia University reached a VRA that avoided admissions of wrongdoing and required Columbia to pay over \$220 million to restore previously canceled federal research funding and settle investigations into alleged antisemitism and discrimination on campus.⁸⁰ In the settlement, Columbia agreed to implement significant changes, including adopting a new definition of antisemitism, revising student disciplinary procedures, imposing additional rules on demonstrations, reviewing its Middle East curriculum, increasing oversight of international students, maintaining specialized officers on campus, and reducing diversity, equity, and inclusion programs.⁸¹

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

⁷⁹ *Ibid.* Also see 45 CFR 80.7(d)(2) (“If an investigation does not warrant action pursuant to paragraph (d)(1) of this section the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.”)

⁸⁰ Carolyn Thompson, “Columbia University Agrees to Pay More Than \$220M in Deal with Trump to Restore Federal Funding,” *AP News*, July 23, 2025, <https://apnews.com/article/00eef5dca9f003e593d2cb151f5ccea17>.

⁸¹ Betsy Klein, “Columbia Agrees to Pay Over \$220 Million in Deal with Trump Administration to Restore Federal Funding,” *CNN*, July 23, 2025, <https://www.cnn.com/2025/07/23/politics/columbia-trump-administration->

Harvard followed a different path. In April 2025, the administration froze and moved to revoke Harvard's \$2.2 billion in federal research and \$60 million in contract funding.⁸² Harvard swiftly filed a lawsuit challenging the government's decision.⁸³ On June 30, 2025, the HHS OCR issued findings that Harvard had violated Title VI by acting with deliberate indifference to antisemitic harassment,⁸⁴ which Harvard ultimately argued was post hoc and improperly used to justify the freeze.⁸⁵

On September 3, 2025, a federal district court granted summary judgment in Harvard's favor,⁸⁶ ruling that the Trump administration's termination and freezing of over \$2 billion in research funding was unlawful. The administration publicly stated its intention to appeal the ruling and on December 18, 2025, filed a notice of appeal to the U.S. Court of Appeals for the First Circuit, where the case remains pending.⁸⁷ Although the administration and Harvard engaged in settlement discussions during 2025, including reports that administration officials were seeking a settlement exceeding Columbia's \$221 million settlement agreement and references to a potential \$500 settlement, no settlement has been publicly announced.⁸⁸ In the period following the September ruling, the DOJ sought to pause certain litigation deadlines indefinitely during the government shutdown, citing restrictions on civil litigation during funding lapses.⁸⁹ In the

[settlement-federal-funding](#); Robert Tait, "Columbia Adopts Controversial Definition of Antisemitism amid Federal Grants Freeze," *The Guardian*, July 16, 2025, <https://www.theguardian.com/us-news/2025/jul/16/columbia-antisemitism-trump-administration-funding>; Columbia University, "Our Resolution With the Federal Government," *Office of the President*, July 23, 2025, <https://president.columbia.edu/content/our-resolution-federal-government>.

⁸² Alvin Powell, "Trump Administration Freezes \$2.2 Billion in Grants to Harvard," *Harvard T.H. Chan School of Public Health News*, April 15, 2025, <https://hsph.harvard.edu/news/trump-administration-freezes-2-2-billion-in-grants-to-harvard/>.

⁸³ Michael Casey and Jocelyn Gecker, "Harvard Sues Trump Administration to Stop the Freeze of More Than \$2 Billion in Grants," *AP News*, April 14, 2025, <https://apnews.com/article/harvard-trump-lawsuit-grants-f098f55c6986b37e1227e7bcf8967a46>.

⁸⁴ U.S. Department of Health and Human Services, Office for Civil Rights, "HHS' Civil Rights Office Finds Harvard University in Violation of Federal Civil Rights Law," *U.S. Department of Health and Human Services*, June 30, 2025, <https://www.hhs.gov/press-room/hhs-finds-harvard-in-violation.html>.

⁸⁵ William C. Mao and Veronica H. Paulus, "Harvard Says HHS Findings Prove Trump Admin Should Have Used Title VI Process Before Axing Grants," *The Harvard Crimson*, July 1, 2025, <https://www.thecrimson.com/article/2025/7/1/harvard-title-vi-response/>.

⁸⁶ President and Fellows of Harvard College et al. v. United States Department of Health and Human Services et al., "Civil Action No. 1:25-cv-11048-ADB," *Memorandum and Order U.S. District Court for the District of Massachusetts*, September 3, 2025, https://www.harvard.edu/federal-lawsuits/wp-content/uploads/sites/17/2025/09/gov.uscourts.mad_283718.238.0_1.pdf; Alan Blinder et al., "Judge Rules Trump Administration Illegally Cut Harvard's Federal Funding," *The New York Times*, September 3, 2025, <https://www.nytimes.com/2025/09/03/us/harvard-trump-funding-ruling.html>.

⁸⁷ Hugo C. Chiasson and Elise A. Spenner, "Trump Administration Appeals Ruling in Harvard Funding Lawsuit," *The Harvard Crimson*, December 19, 2025, <https://www.thecrimson.com/article/2025/12/19/trump-admin-appeal-funding/>.

⁸⁸ Dhruv T. Patel and Grace E. Yoon, "Trump Presses Harvard To Pay More Than Columbia in Federal Settlement," *The Harvard Crimson*, July 27, 2025, <https://www.thecrimson.com/article/2025/7/27/harvard-trump-settlement-columbia/>; Alan Blinder, Michael C. Bender, and Michael S. Schmidt, "Harvard Nears Settlement With Trump Administration to Restore Funding," *The New York Times*, August 11, 2025, <https://www.nytimes.com/2025/08/11/us/trump-harvard-settlement-negotiations.htm>; Marina Dunbar and The Guardian News Service, "Trump Says \$500 m Deal Reached with Harvard to Settle Dispute," *The Guardian*, September 30, 2025, <https://www.theguardian.com/us-news/2025/sep/30/trump-harvard-settle-deal>.

⁸⁹ Dhruv T. Patel, "Government Shutdown Could Put Harvard's Funding on Hold," *The Harvard Crimson*, October 2, 2025, <https://www.thecrimson.com/article/2025/10/2/shutdown-pause-harvard-lawsuit/>.

meantime, Harvard began receiving partial restoration of funds, with HHS releasing roughly \$46 million tied to nearly 200 previously frozen or terminated research grants.⁹⁰ Federal agencies also initiated suspension and debarment proceedings that could bar Harvard from receiving future grants or contracts, even as settlement discussions continue.⁹¹

Separately, on March 20, 2026, the Civil Rights Division of DOJ filed a new lawsuit against Harvard, alleging violations of Title VI in Harvard's response to allegations of antisemitism.⁹² On August 13, 2026 Judge Stearns ruled in favor of Harvard's motion to dismiss the case, finding that DOJ's Amended Complaint relied almost entirely on incidents occurring during the 2023-2024 academic year and identified only three alleged incidents occurring during that period.⁹³ The court concluded that "Without diminishing any concern arising from these occurrences, the court finds them, singly and collectively, to be too isolated and episodic to support a plausible inference that any institutionalized noncompliance with Title VI persists at Harvard to this day."⁹⁴ Because the [REDACTED] investigations occurred in 2025, the court's finding that the government failed to identify sufficient post-2024 incidents aligns with [REDACTED] concerns that the investigations were driven toward predetermined conclusions despite limited contemporaneous evidence. Further, the Court validated [REDACTED] concerns about the punitive use of Title VI authority stating that the purpose of Title VI is to incentivize compliance, "not to penalize a wayward funding recipient."⁹⁵

On July 30, 2025, Brown entered into an agreement with the federal government, resolving pending compliance reviews and restoring federal research funding in a settlement. Brown agreed to provide \$50 million over ten years in grants to Rhode Island workforce development organizations, while the agreement contained no admission or finding of wrongdoing and, according to Brown, no fine or payment to the federal government.⁹⁶ Notably, the White House press release on the settlement was very different than what the [the assignees] concluded during the course of their investigation. The release stated that "Brown's failure to address anti-Semitism and ensure fair treatment for all students raised urgent concerns about student safety and equal opportunities," though [REDACTED] investigations under the Task Force did not identify such concerns.⁹⁷ Moreover, the terms of the settlement included directives that were not related to allegations of antisemitism, including an agreement to adopt the federal definition of "male" and

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² Nate Raymond and Jonathan Stempel, "U.S. Sues Harvard over Treatment of Jewish and Israeli Students, Seeks Billions of Dollars," *Reuters*, March 20, 2026, <https://www.reuters.com/legal/government/us-sues-harvard-over-treatment-jewish-israeli-students-seeks-billions-dollars-2026-03-20/>.

⁹³ Richard G. Stearns, Memorandum and Order on Defendant's Motion to Dismiss, *United States v. President and Fellows of Harvard College*, No. 26-11352-RGS, 2 (D. Mass. Aug. 13, 2026).

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ Brown University, "Agreement with Federal Government to Restore Brown Research Funding, Resolve Compliance Reviews," *Brown University News*, July 30, 2025. <https://www.brown.edu/news/2025-07-30/brown-united-states-resolution-agreement>.

⁹⁷ The White House, "Fact Sheet: President Donald J. Trump Secures Major Settlement with Brown University," *Fact Sheets*, July 30, 2025. <https://www.whitehouse.gov/fact-sheets/2025/07/fact-sheet-president-donald-j-trump-secures-major-settlement-with-brown-university/> (White House stating that "Brown's failure to address anti-Semitism and ensure fair treatment for all students raised urgent concerns about student safety and equal opportunities," though the [REDACTED] investigations under the Task Force did not identify such concerns).

“female” and to remove consideration of race from the admission process.⁹⁸

VI. [REASONABLE BELIEF] THAT THE ACTIONS BY HHS, DOJ AND THE ADMINISTRATION’S ANTISEMITISM TASK FORCE EVIDENCED VIOLATIONS OF LAW, GROSS WASTE OF FUNDS AND ABUSE OF AUTHORITY

The Task Force’s investigations into alleged antisemitism on university campuses were marked by extraordinary procedural irregularities, predetermined outcomes without factual or legal support, and disregard for Title VI’s legal requirements and the First Amendment to meet the political mission of the Task Force. Ms. Van Erem [REDACTED] and other DOJ assignees’ repeatedly warned that funding suspensions lacked legal basis and that evidence did not support findings of violations at Brown, yet HHS insisted on extracting a voluntary resolution agreement to satisfy political stakeholders. In the cases of Columbia and Harvard, no complete investigation was conducted: the Columbia investigation involved a brief review of draft findings prepared by others, and Harvard never underwent a full investigation before the university sued. HHS officials pressed forward with its politically mandated effort to disgorge enormous amounts of money from the universities under the pretext of rooting out antisemitism, including extreme settlement demands and coercive funding freezes.

When Ms. Van Erem [REDACTED] raised objections to these efforts in writing, they were swiftly summoned, admonished to stop creating a written record, and told their work was to provide “policy” rather than legal advice, blurring their professional roles and creating a chilled environment that discouraged raising objections and identifying problems. These facts reflect not only the collapse of legitimate Title VI enforcement, but also the subordination of DOJ attorneys’ independent judgment to an unlawful process designed to achieve predetermined political goals. Ms. Van Erem’s [REDACTED] protected whistleblower disclosures are rooted in verified evidence supporting their reasonable belief that HHS engaged in systematic violations of Title VI procedures and constitutional due process requirements. [Ms. Van Erem and her colleagues] witnessed and opposed a documented scheme to suspend hundreds of millions in federal funding without required findings, notices, or hearings, clear acts of wrongdoing that warrant oversight and investigation.

Title VI of the Civil Rights Act and its implementing regulations strictly prescribe the process by which federal funds may be terminated or suspended: a finding of violation, written notice, an opportunity for hearing, approval by designated officials, and a program-specific nexus to the alleged conduct.⁹⁹ Those statutory and regulatory requirements were disregarded. Instead, the agency pursued termination of funding actions without formal findings, written notice, an opportunity for hearing, approval by designated officials, or the program-specific nexus between

⁹⁸ See *supra* note 96.

⁹⁹ 42 U.S.C. § 2000d-1 (2022) (establishing the process by which federal financial assistance may be terminated or suspended for programs found to discriminate on the basis of race, color, or national origin, including requirements for a finding of violation, written notice, opportunity for a hearing, approval by designated officials, and a program-specific nexus to the alleged conduct); 45 C.F.R. pt. 80 (Department of Health and Human Services regulations implementing Title VI); 28 C.F.R. pt. 42, subpt. C, § 42.104–42.113 (Department of Justice regulations implementing Title VI, including procedures for findings of violation, notice, hearings, and termination or suspension of federal financial assistance).

violations and enforcement. DOJ leadership attempted to evade Title VI's procedural safeguards by artificially separating the funding action from the statute and later broadened the investigations university-wide in disregard of the program-specific limitations called for in regulation. HHS's admission that it suspended funding before any investigation began, and its novel theory of using contractual termination for convenience clauses to bypass due process protections, constitutes a fundamental violation of both the statute and implementing regulations. The agency's own attorneys acknowledged that they lacked complaints, findings, or evidence to justify the funding suspensions.

The Task Force leadership's reliance on "termination for convenience" and termination for "not satisfying purpose" theories to justify sweeping funding suspensions further underscores the abuse of authority at issue. While the federal government does possess contractual authority to terminate agreements for its convenience, that authority is not unfettered: it may not be used in "bad faith" or in a manner that constitutes an "abuse of discretion."¹⁰⁰ Additionally, courts have since rejected the government's attempt to rely on a "not satisfying purpose" or similar termination rationale when contemporaneous evidence showed that Title VI allegations were the actual basis for the funding suspensions.¹⁰¹ Here, [Ms. Van Erem and her colleagues] reasonably believed that HHS sought to invoke funding termination concepts not for legitimate programmatic or budgetary reasons, but as a pretext to punish the universities and some of their faculty, evade statutory due process protections, and achieve predetermined political outcomes—precisely the type of bad-faith or arbitrary use of power that courts have found impermissible. This further supports the ██████████ conclusion that the Task Force leadership's actions

¹⁰⁰ Although the federal government possesses broad authority to terminate contracts for its convenience, that authority is not unlimited. Contracting officers may invoke a termination for convenience only when doing so serves the Government's interests, and courts have long emphasized that such decisions must be made in good faith and with a rational basis. Terminations executed to punish a contractor, evade legal obligations, secure an improper advantage, or otherwise carried out with animus constitute "bad faith." Likewise, a termination without a reasonable justification or rational connection to agency interests may constitute an "abuse of discretion." These principles reflect the limits of the Government's authority and are well established in federal regulations and case law. *See* FAR 49.101(a)–(b), 48 C.F.R. § 49.101(a)–(b) (termination clauses authorize contracting officers to terminate contracts for convenience or default, but the contracting officer "shall terminate contracts, whether for default or convenience, only when it is in the Government's interest"); FAR 52.249-2(a), 48 C.F.R. § 52.249-2(a) ("The Government may terminate performance of work under this contract . . . if the Contracting Officer determines that a termination is in the Government's interest."); *JKB Sols. & Servs., LLC v. United States*, 18 F.4th 704, 709–10 (Fed. Cir. 2021) (discussing the Federal Circuit's longstanding recognition that termination-for-convenience authority is constrained by limits on bad faith and abuse of discretion and is not an "open license to dishonor contractual obligations"); *Krygoski Constr. Co. v. United States*, 94 F.3d 1537, 1541–44 (Fed. Cir. 1996) (Government's authority to terminate for convenience is broad but not unlimited; a termination tainted by bad faith or abuse of contracting discretion may constitute a breach; termination to secure a better bargain is impermissible); *Caldwell & Santmyer, Inc. v. Glickman*, 55 F.3d 1578, 1581–82 (Fed. Cir. 1995) (in the absence of bad faith or clear abuse of discretion, the contracting officer's election to terminate is conclusive; recognizing that bad faith may exist where the Government contracts without intending to honor its contractual obligations); *Maxima Corp. v. United States*, 847 F.2d 1549, 1553–54 (Fed. Cir. 1988) (termination for convenience is not an unlimited right and may not be used as an "open license to dishonor contractual obligations" or to retroactively alter obligations under a completed contract); *Am-Pro Protective Agency, Inc. v. United States*, 281 F.3d 1234, 1239–41 (Fed. Cir. 2002) (bad faith requires clear and convincing evidence—traditionally described as "well-nigh irrefragable proof"—of a specific intent to injure the plaintiff; examples include malice, conspiracy, animus, or designedly oppressive conduct); *Keco Indus., Inc. v. United States*, 492 F.2d 1200, 1204–05 (Ct. Cl. 1974) (agency action lacking a reasonable basis may constitute an abuse of discretion).

¹⁰¹ *See supra* note 28.

constituted not only violations of Title VI and the First Amendment protections, but also an unlawful abuse of discretion in the exercise of federal contracting and funding authority.

The Task Force leadership's actions also violate the Administrative Procedure Act (APA). Under 5 U.S.C. § 706(2)(A), agency action must be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."¹⁰² The Supreme Court has articulated that under § 706(2)(A), an agency must examine the "pertinent evidence" and articulate "a satisfactory explanation showing a rational connection between facts found and choices made," thereby satisfying the APA's reasoned-decision making requirements under § 706(2)(A).¹⁰³ The APA also prohibits agency action "without observance of procedure required by law" under § 706(2)(D). In recent litigation related to Harvard antisemitism investigations, the Massachusetts district court framed the dispute precisely in those terms, faulting the government for not providing a reasoned explanation tying the freeze or termination measures to the asserted goal of combating antisemitism or even having any meaningful evidence about the prevalence of antisemitism before issuing the order.¹⁰⁴

In addition, the proposed remedial terms intruded on protected First Amendment and academic-freedom rights by imposing curriculum monitors, content-based conditions, and endowment controls, while improperly relying on protected speech as a factual predicate. They also targeted Middle East Studies faculty for the content of their work and other professors for their Muslim faith. Keveney's dismissal of these constitutional issues, coupled with his statement about including "poison pills" to force litigation, demonstrates deliberate indifference to, or on occasion evasion of, constitutional limitations on government power.

Ms. Van Erem [REDACTED] do not make these disclosures lightly. In their disclosures, they have carefully exercised their rights under the Whistleblower Protection Act to report serious illegality and abuses of power, consistent with the Rules of Professional Conduct.¹⁰⁵ Ms. Van Erem, [REDACTED] remain committed to the rule of law and their oath as attorneys and as nonpartisan civil servants that they swore when they joined the Department of Justice and that they have carried out across administrations.

Ms. Van Erem, [REDACTED] are deeply concerned about all allegations of antisemitism, or any unlawful discrimination. They believe Title VI is a vital tool to ensure people are free from discrimination—including antisemitism—on college campuses. Indeed, it is because of their concern for safeguarding the legitimate enforcement of Title VI to address discrimination and their opposition to misuse of federal civil rights enforcement authority to target politically disfavored

¹⁰² 5 U.S.C. § 706(2)(A)–(E); *see also* *Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019) ("Agency action may also be arbitrary and capricious when the action is the product of bad faith and improper political influence") (citing *Tummino v. Torti*, 603 F. Supp. 2d 519 (E.D.N.Y. 2009) which held that the FDA's "bad faith render[ed] its decision arbitrary and capricious," as evidenced by, *inter alia*, "pressure emanating from the White House.").

¹⁰³ 5 U.S.C. § 706(2)(D); 45 C.F.R. §§ 80.6–80.10; *see Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 542–49 (1978) (explaining that agencies must follow procedures required by the APA and other applicable law, and that courts may not impose additional procedural requirements).

¹⁰⁴ *President & Fellows of Harvard Coll. v. U.S. Dep't of Health & Hum. Servs.*, No. 25-cv-11048-ADB, slip op. at 41–45 (D. Mass. Sept. 3, 2025) (addressing related action, *Am. Ass'n of Univ. Professors–Harvard Chapter v. U.S. Dep't of Justice*, No. 25-cv-10910-ADB).

¹⁰⁵ Ms. Van Erem, [REDACTED] secured the assistance of legal ethics experts in preparing this disclosure to ensure compliance with the applicable Rules of Professional Conduct.

universities or faculty that they feel compelled to report misconduct.¹⁰⁶

We ask the HHS Inspector General, the DOJ Inspector General, and the leadership of the Office of Special Counsel to investigate thoroughly and without fear or favor the allegations of law and abuses of authority raised by Ms. Van Erem [REDACTED].

Respectfully submitted,

/s/

Dana L. Gold
Jasmine Yunus
Andrea Meza
Government Accountability Project
1612 K Street, NW, Suite 808
Washington, D.C. 20006

Attorneys for Ms. Van Erem [REDACTED]

¹⁰⁶ Indeed, groups across institutional Jewish life have warned that using antisemitism in this way makes Jewish people less safe and undermines the broader fight against antisemitism. *See, e.g.*, Kaity Kline, “Weaponizing Antisemitism Makes Students ‘Less Safe,’ Says Drafter of Definition,” NPR, March 20, 2025, <https://www.npr.org/2025/03/20/nx-s1-5326047/kenneth-stern-antimsietim-executive-order-free-speech> (noting that Kenneth Stern — the lead drafter of the International Holocaust Remembrance Alliance’s working definition of antisemitism which was adopted by President Trump’s administration his executive orders —believes that the administration’s cancellation of university’s grants and investigations into accusations of antisemitism are making Jewish students feel less safe on campuses; Stern argues the definition is being distorted and used to silence anti-Israel critics.); Jonathan Greenblatt, “Article by ADL CEO Jonathan Greenblatt: Campus Antisemitism Demands Action, Not Overreach,” Anti-Defamation League, April 18, 2025, <https://www.adl.org/resources/article/article-adl-ceo-jonathan-greenblatt-campus-antisemitism-demands-action-not> (writing that “When Jewish students cannot safely access education, when they face discrimination and harassment in violation of Title VI, such civil rights violations demand the same level of attention and urgency as would be applied in any other scenario....However, any actions taken to address campus antisemitism—including the potential withholding of federal funding—must be grounded in clear evidence and conducted in a manner consistent with Title VI procedures and other laws. The penalty should be proportionate and reasonably calculated to address the antisemitism on these campuses and to protect the rights of Jewish students on campus. We should be able to hold institutions accountable for protecting Jewish students, faculty, and staff while maintaining a commitment to academic freedom and independent inquiry.”); American Jewish Committee, Association of American Universities, and American Council on Education, “AJC, AAU, ACE Statement on Shared Commitment to Combating Antisemitism on College Campuses,” Press Release, May 6, 2025, <https://www.ajc.org/ajc-aau-ace-statement-on-shared-commitment-to-combating-antisemitism-on-college-campuses> (noting that, while AJC, a global Jewish advocacy organization committed to combatting antisemitism and supporting Israel, endorsed “the Trump Administration’s priority of eradicating antisemitism,” that AJC, along with higher education organizations, believes that “The proper and essential role for the U.S. government in addressing antisemitism is through the nation’s powerful anti-discrimination laws, which allow for vigorous enforcement while providing due process rights that are essential to ensure fair treatment of individuals and institutions. In the name of combating antisemitism, the federal government has recently taken steps that endanger the research grants, academic freedom, and institutional autonomy of America’s higher education sector. AJC, the global advocacy organization for the Jewish people, believes that when these actions are overly broad, they imperil science and innovation, and ultimately detract from the necessary fight against antisemitism while threatening the global preeminence of America’s research universities and colleges.”).