

Dear Mr. Williams:

I write in response to your email purporting to advise on several matters arising in part under federal labor law and school policies. As you acknowledge, nothing in federal labor law or in the student code of conduct prohibits graduate student workers from making demands on the university to increase their compensation to adequate levels given the unbearable expenses associated with living in the vicinity of their workplaces. As you also acknowledge, neither this school's rules nor federal law prohibits the university and graduate students from discussing the terms and conditions of their employment, either with each other or with the university. Graduate student workers' protest activities receive the full protection of both the California and Federal Constitutions, including robust protections for petitioning and associational activity, regardless of any contrary provision of labor law or university policy.

This is an employment dispute. Any remedies conceivably available to the University are limited to those normally available to an employer under employment and contract law. Conversely, graduate student workers have at their disposal the panoply of employment remedies under state and federal employment law. These include prohibitions against discrimination, harassment, intimidation, and the deterrence of constitutionally protected activity. The remedies potentially available to graduate student workers include not only employment remedies for wrongful termination such as reinstatement with backpay and the potential for punitive damage awards, but also damages actions against individual University officials for unconstitutional action pursuant to the federal civil rights statutes. These claims may be brought either individually or as a class action on behalf of all graduate students wrongfully injured by illegal retaliatory action.

Your email alludes to "potential" violations of federal law, which you do not specify, associated with graduate student workers' protest activities, including withholding grades. I am unaware of any law, let alone a federal statute, that applies to the timing and conditions under which graduate student employees of state public higher education institutions grade student work. In order to dispel the impression that you are actively seeking to intimidate students, you should identify to me immediately any provisions of federal law that you contend impose penalties for the failure to timely submit grades above and beyond typical employment remedies. Failure on your part to identify any such provisions of federal law will be understood as confirming that your statement was intended to threaten or harass students.

Very truly yours,

Matthew A. Smith, Esq.
Ph.D. Student, History of Consciousness
University of California, Santa Cruz

Matthew A. Smith, J.D., L.L.M.