



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

June 29, 2015

Dr. Joe DiPietro
Office of the President
University of Tennessee
831 Andy Holt Tower
Knoxville, TN 37996-0180

Re: Complaint # 04-15-2364

Dear Dr. DiPietro:

On May 15, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint filed by [REDACTED] (Complainant) and [REDACTED] attorney alleging that the University of Tennessee at Knoxville (University) engaged in discrimination on the basis of sex by failing to promptly and adequately respond to [REDACTED] report of a sexual violence incident involving [REDACTED] in [REDACTED], resulting in an ongoing hostile environment. The Complainant also alleges [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance (FFA) from the Department. The University receives FFA from the Department and is therefore subject to Title IX and the regulation. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/oct>.

Because OCR has determined that it has jurisdiction and that the complaint was filed timely, it is opening this complaint for investigation. Please note that opening the complaint for investigation in no way implies that OCR has made a determination with regard to its merit. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of the *Case Processing Manual*.

Accordingly, OCR will investigate the following legal issues:

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

1. Whether the University failed to provide prompt and equitable responses to sexual harassment or violence complaints, reports and/or incidents of which it had notice, in noncompliance with the Title IX implementing regulation at 34 C.F.R. §§ 106.8, 106.31.
2. Whether failures by the University to provide a prompt and equitable response to any complaints, reports or incidents of sexual harassment or violence allowed the Complainant or any other students to be subjected to a sexually hostile environment, in noncompliance with the Title IX implementing regulation at 34 C.F.R. §§ 106.8, 106.31.
3. Whether the University failed to take appropriate action in response to [REDACTED]

Please read the enclosed information about OCR's complaint processing, which includes information about the regulatory prohibitions against retaliation, intimidation and harassment of persons who file complaints with OCR or participate in an OCR investigation; and application of the Freedom of Information Act and the Privacy Act to OCR investigations.

OCR will conduct a prompt investigation of this complaint. The regulation implementing Title VI, at 34 C.F.R. § 100.6(b) and (c), requires that a recipient of FFA make available to OCR information that may be pertinent to reach a compliance determination. This requirement is incorporated by reference in the Title IX regulation at 34 C.F.R. Section 106.71. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii), of the regulation implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

Accordingly, OCR is requesting that you forward the following information, including unredacted copies of the specified documents, to us **by July 14, 2015**. Unless otherwise stated, please provide this information and documents from August 1, 2012 forward through the date of this data compilation. Include all information and documents related to allegations by students at all academic levels (i.e., undergraduate, graduate, etc.) regarding alleged sexual harassment/violence¹ by other students, faculty, instructors, and staff.

1. A complete copy of any documents related to reports of the [REDACTED] sexual assault/violence of the Complainant, including all documents provided by Complainant or her attorney; [REDACTED] reports/documents; meeting notes; a list of witnesses interviewed, the dates of each interview and interview notes/documentation; memos to the file; internal and external email staff correspondences; other information generated or gathered by the University during the course of the University's investigation; and the University's response, including any interim measures, remedial actions on behalf of the alleged victim,

¹ Please note that as used in this document, "sexual harassment or sexual harassment/violence" includes allegations of the following conduct: sexual assault; rape; sexual battery; sexual coercion; rape or other sexual acts occurring without consent; domestic violence; dating violence; stalking; unwelcome sexual advances; requests for sexual favors; and other sexual misconduct; and other verbal, nonverbal or physical conduct of a sexual nature.

and/or disciplinary or other remedial actions for the alleged subjects of the complaint. Please provide a copy of any findings or analysis of the facts whether internal or external as well as any determination provided to any students. If transcripts or audio or video recordings exist of interviews, student conduct hearings, or other investigatory or adjudicative events, provide a copy of such recordings and transcripts.

2. A complete copy of documents related to verbal or written reports of the physical assaults of [REDACTED]. Include all documents provided by the Complainant or her attorney [REDACTED]; meeting notes; a list of any witnesses interviewed, the date of each interview and all interview notes/documentation; memos to the file; internal and external email correspondences; other information generated or gathered by the University during the course of the University's investigation; and the University's response, including any interim measures, remedial actions on behalf of the alleged victim, and/or disciplinary or other remedial actions for the alleged subjects of the complaint. Please provide a copy of any findings or analysis of the facts whether internal or external as well as any determination provided to any students. If audio or video recordings exist of interviews, student conduct hearings, or other investigatory or adjudicative events, provide a copy of such recordings.
3. The name and direct contact information for [REDACTED] during the 2012-13, 2013-14 and 2014-15 school years. For each, please indicate the time period they were [REDACTED].
4. Documentation describing the role, function, and interaction of all University offices and staff (e.g., Title IX Coordinator/s, Office of Student Conduct, Response Teams, Campus Safety, Counseling and Psychological Services, Student Health, etc.) who play a role in receiving, identifying, investigating, and/or responding to reports of sexual harassment, as well as those responsible for determining consequences for any finding of a sexual harassment violation.
5. Identify the following individuals by name, job title, direct contact information and the dates that the individual has held the position:
 - a. Title IX coordinator(s);
 - b. Staff at the Office of Ombuds Services;
 - c. University Police Department officers with specific responsibility of responding to reports of sexual assault;
 - d. Staff at the Office of Student Conduct responsible for the investigation and response to complaints/reports of sexual harassment;
 - e. Staff at the Office of Equity and Diversity who are responsible for the investigation and response to complaint/s reports of sexual harassment;
 - f. Members of the Student Conduct Committee;
 - g. Hearing Coordinator; and
 - h. Hearing Administrator.
6. Copies or web links to:

- a. University policies and procedures regarding sexual harassment;
 - b. University grievance or complaint procedures that students can use to file a complaint of sexual harassment/violence;
 - c. The student code of conduct and disciplinary measures applicable to sexual harassment/violence; and
 - d. University's policies and procedures on imposing sanctions upon and/or taking corrective action against students and employees for committing acts of sexual harassment/violence.
7. An explanation of how the University's policies and procedures, including grievance or complaint procedures, for sexual harassment were distributed and publicized to University students, administrators, faculty and staff. Please include supporting documentation, including but not limited to brochures, distributed flyers, newspaper or web articles, and orientation materials.
8. All University policies and procedures that relate to the obligation of faculty, staff and other employees to report possible sexual harassment or sexual violence of which they are aware.
9. An Excel spreadsheet that includes all informal or formal student complaints or reports of sexual harassment, whether written, verbal or an anonymous tip. Please provide an electronic copy of the spreadsheet. For each complaint/ report identified, please provide the information below:
- a. The name, or unique identifier, sex and academic status (e.g., undergraduate, graduate student, etc.) of the student who was allegedly harassed.
 - b. The name or unique identifier, sex and academic status or position (e.g., student, faculty, staff) of the individual against whom the complaint/report was filed.
 - c. Whether the complaint/report was written or verbal.
 - d. The title of the University office and name of University staff member where the complaint/report was made (campus safety, student services, academic dean, counselor, etc.).
 - e. A brief description of the allegation(s) made in the complaint/report including whether it alleged sexual assault/violence.
 - f. The date the complaint/report was made; if the complaint/report was investigated:
 - i. the date the investigation was started, the date the investigation was completed, the date any hearing was convened, date the final decision was issued, and a description and date of any other step in the process.
 - ii. the name and title of the University official or staff member who investigated the complaint/report.

- g. If the complaint was not investigated, indicate why not.
- h. If the complaint was resolved informally, the date the resolution was completed, the nature of the resolution, and the name and position(s) of the University official or staff member who conducted the resolution.
- i. Whether the incident(s) described in the complaint/report occurred on or off campus. If on campus, specify the location (e.g., dormitory, office, etc.). If off campus, indicate the location, whether the location was owned or leased by the University, and whether the incident(s) occurred at an event sponsored by or affiliated with the University (e.g., apartments, off-campus event sponsored by a University-sanctioned club, etc.).
- j. Indicate whether the complaint/report was referred to local law enforcement. If yes, indicate the law enforcement agency and any follow-up by the University with the law enforcement agency, including the name and title of the University official or staff member who conducted follow-up actions, the purpose of the actions, and the dates of any such actions. If the complaint/report was not referred to local law enforcement, indicate why not.
- k. Indicate whether interim remedial measures were taken with respect to the complainant and/or the alleged subject. If yes, specify the measures taken and their duration. In addition, indicate the date(s) that the complainant, alleged subject, and any other individuals with a need to know of the measures in place (e.g., campus police, specific staff, residential office, etc.) were notified of the measures and how they were notified (e.g., by telephone, by email, by letter, etc.). Also, provide a copy of all relevant documentation of such notification(s).
- l. If the complaint/report was investigated, provide a complete copy of the investigative file, including but not limited to all investigative reports, internal/external communication and emails, list of witnesses, interview notes, findings or other documents that describe the outcome and resolution, including a description of all the restorative measures for the complainant/alleged victim, remedies, and sanctions resulting from the decision. In addition, indicate the date(s) that the complainant, alleged subject, and any other individuals with a need to know were notified of the outcome and resolution, and how they were notified (e.g., by telephone, by email, by letter, etc.), whether the University found that the complainant and/or other students were sexually harassed or assaulted, what policies if any were violated, along with a description of the University's findings and analysis for rendering its determination, and the disciplinary measures or other sanction (if any) that were imposed as well as the reasons why disciplinary actions/sanctions were or were not taken. Also, provide OCR with a copy of any documentation of the outcome (if any), and who received documentation of the outcome.
- m. If the complaint/report was resolved informally, provide a copy of all notes, memoranda, correspondence or other documents reflecting the University's communications with the parties, the steps in the resolution and its outcome, as well as

a description of all the restorative measures for the complainant/alleged victim, remedies, and sanctions resulting from the resolution. In addition, indicate the date(s) that the complainant, alleged subject, and any other individuals with a need to know were notified of the outcome and resolution, and how they were notified (e.g., by telephone, by email, by letter, etc.). Also provide a copy of all relevant documentation of such notification(s).

- n. Indicate whether a hearing was conducted in connection with the complaint/report. If a hearing was conducted, indicate which process was used, the date(s) of the hearing, the names and titles of all persons who participated in the hearing process and decision making, and whether an audio recording and/or transcript of the hearing was made; provide a copy of the hearing decision, report or other documents describing the hearing decision, including all documents describing the restorative measures for the complainant/alleged victim, remedies, and sanctions resulting from the decision. In addition, indicate the date(s) that the complainant, alleged subject, and any other individuals with a need to know of the hearing decision (e.g., campus police, specific staff, residential office, etc.) were notified of the outcome and resolution, and how they were notified (e.g., by telephone, by email, by letter, etc.). Also, provide a copy of all relevant documentation of such notification(s).
- o. Indicate whether an appeal was filed and by whom. If yes, provide a copy of the appeal procedure, identify the staff person responsible for deciding the appeal, a copy of the appeal decision or outcome, and the dates of when the appeal was filed and decided. In addition, indicate the date(s) that the complainant, alleged subject, and any other individuals with a need to know of the hearing decision were notified of the outcome and resolution, and how they were notified (e.g., by telephone, by email, by letter, etc.). Also, provide a copy of all relevant documentation of such notification(s).
- p. If any investigations or appeal decisions exceeded the University's timelines by more than 10 days, provide a brief description of the reason(s) for the delay. Include documentation of any notifications to the complainant and alleged subject requesting or notifying them of an extension.

10. A List of all training sessions given to following employees regarding sexual harassment/violence and/or the University's procedures thereon. For each session, provide the date/s of the training, the name and qualifications of the individuals who provided the training sessions, the specific topics of the training sessions, a copy of the PowerPoint or training materials provided and a list of individuals who attended the training sessions.

- a. [REDACTED]
- b. Title IX/ Deputy Title IX coordinator(s) as well as staff in the Office of Equity and Diversity
- c. Title IX/ Deputy Title IX coordinator(s) as well as staff in the Office of Student Conduct
- d. Sexual Assault Response Team
- e. Student Counseling Center staff

- f. University Medical Center Emergency Room staff
 - g. Student Health Center staff
 - h. Women's Health Clinic staff
 - i. Commission for Women
 - j. Office of Housing staff including student Resident Advisors
 - k. University Public Safety/Police Officers
 - l. Disciplinary Hearing Board or Panel, or Disciplinary Board members
 - m. Student Disciplinary Board/Student Tribunal/Student Life Council
 - n. Administrators (President, Chancellor and other administrators, including but not limited to Vice Presidents, Deans, Department Chairs, Vice Chancellor for Student Life, Office of General Counsel and Staff members
11. A list of training sessions given to students on sexual harassment/violence and any training on the University's sexual harassment/violence policies and procedures. For each session, provide the date/s the training sessions were held, the name and qualifications of the individuals who provided the training sessions, the specific topics of the training sessions, a copy of the PowerPoint or training materials provided, and a list of students who attended the training sessions (if available).
12. A description of all other measures taken by the University to address and prohibit sexual harassment and sexual violence, including all outreach and educational efforts. Please include information on any task force created by the University to address these issues or to review the University's policies and procedures concerning sexual harassment. Include the names, titles and direct contact information of all individuals involved in the task force, the specific issues the task force was created to address, the date the task force was created, the efforts made to date by the task force and provide copies of any recommendations or reports, internal or external, produced by the committee/taskforce.
13. All measures taken by the University to address the health and safety of victims of sexual harassment and sexual violence.
14. The University's procedures for referring criminal matters involving sexual violence to law enforcement authorities.
- a. Please identify by name, title and direct contact information, the University employee responsible for coordinating responses to incidents of sexual violence with University and local police, including a description of the process for communications with the local prosecutor and/or local police about the status of any criminal investigation and decisions to proceed with or decline prosecution.
 - b. A description of the University police's role and jurisdiction for reporting and investigation of complaints/reports of sexual harassment, including receiving reports, responding, investigating, tracking, and prosecution.
 - c. Please describe, and provide copies of all procedures for how the University police interact with the city or county police in cases of alleged sexual assault/violence during the pendency of a local police investigation or criminal proceedings, including reporting, responding, investigating, tracking, and prosecution.

- d. Copies of any memoranda of understanding with campus and local law enforcement or related protocols, written or unwritten, regarding the handling of sexual harassment/violence matters.
15. An explanation of the University's system for tracking and maintaining information on incidents of sexual harassment/violence. Please include the name, title and direct contact information of the person who maintains complaints, investigative materials, and findings regarding these incidents.
16. All student and employee surveys regarding incidents of sexual harassment/violence and/or whether a hostile environment on the basis of sex exists on campus conducted since August 1, 2012. Please provide the results of those surveys and documentation of any efforts taken to address findings or concerns from the survey results.
17. The names of all student groups at the University. Please include the mission of each organization, the name, title and direct contact information of the faculty-staff advisor and President of each of the student groups.
18. An explanation of how requests for confidentiality are handled for sexual harassment/violence, including all documents related to confidentiality in the University's Title IX investigation process.
19. The University's Clery Act reports for all sexual offenses for the years 2012-2013, 2013-2014 and 2014-2015.
20. Any and additional information the University would like OCR to consider relevant to this investigation.

Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the University expresses an interest in resolving the complaint. Please contact the assigned investigator if the University wishes to discuss a Section 302 voluntary resolution.

In addition to the information requested above, OCR may need to request additional information and interview pertinent personnel. During the course of this investigation, we will conduct one or more on-site visits. You will be contacted to schedule a mutually convenient time for those visits.

Please notify OCR of the name, address, and daytime telephone number of the person who will serve as the University's contact person during this investigation. We would like to talk with this person as soon as possible regarding the information requested in this letter.

The individuals at OCR who have been assigned to lead this investigation are Ms. Angela Collins and Mr. Brian Gndt, OCR Attorneys.

Compliant #04-15-2364

Page 9

If you have any questions or concerns, please do not hesitate to contact Ms. Collins at (404) 974-9346, Mr. Gndt at (404) 974-9238, or me at (404) 974-9356.

Sincerely,



W Wendy Gatlin
Compliance Team Leader