



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

April 21, 2016

Ref: OCR Case Nos.: 06152349
06152416
06152417

Dr. Joseph E. Steinmetz, Chancellor
The University of Arkansas-Fayetteville
1 University of Arkansas
Fayetteville, AR 72701

Dear Dr. Steinmetz:

On June 15, and August 3, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaints against the University of Arkansas-Fayetteville, Fayetteville, Arkansas (the University or UOA). In OCR Case No. 06152349, the complainant alleged that the University discriminated against him on the basis of sex by failing to promptly and equitably respond to: 1) his complaint that he was sexually harassed from [b6; b7A; b7C] and 2) the sexual harassment complaint filed against him by a female student on or about [b6; b7A; b7C]. In OCR Case No. 06152416, the complainant alleged that the University discriminated against her on the basis of sex by failing to promptly and equitably respond to her complaint made in [b6; b7A; b7C] that she was sexually assaulted. In OCR Case No. 06152417, the complainant alleged that the University discriminated against her on the basis of sex by failing to promptly and equitably respond to the complaint she made in [b6; b7A; b7C] that she was sexually assaulted.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, 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. Title IX also prohibits retaliation. The University is a recipient of Federal financial assistance from the Department. Therefore, OCR has jurisdiction to investigate these complaints under Title IX.

Because OCR has determined that it has jurisdiction and that the complaints were filed timely, it is opening the following issues for investigation:

1. Whether the University provided prompt and equitable responses to complaints, reports, and/or incidents of sexual harassment or sexual violence, of which it had notice (knew about or should have known about),

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as required by the Title IX implementing regulation at 34 C.F.R. §§106.8, 106.9 and 106.31.

2. Whether any failure by the University to provide a prompt and equitable response allowed any students to be subjected to a sexually hostile environment that denied or limited the students' ability to participate in or benefit from the University's programs, in violation of the Title IX implementing regulation at 34 C.F.R. §§ 106.8 and 106.31.

Please note that opening these allegations for investigation in no way implies that OCR has made a determination with regard to their 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 allegations, in accordance with the provisions of Article III of the *Case Processing Manual*.

Section 100.6(c) of Title 34 of the Code of Federal Regulations stipulates that each recipient of Federal financial assistance shall permit access to pertinent sources of information to responsible Department officials or designees. 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 (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality. Below is an initial data request, which is required in assisting our efforts to ascertain compliance with the regulations enforced by OCR. Please provide the requested information to OCR within 15 calendar days of the date of this letter. This request may be supplemented through interviews with University personnel or any witnesses who may have knowledge of the issue, and if necessary, additional data requests for the University as the complaint investigation progresses. After reviewing this information or any additional information, OCR will determine whether an on-site investigation is warranted. If so, you will be contacted to arrange a mutually convenient date.

Complaints may be resolved before the conclusion of an investigation if the institution that is the subject of the complaint (recipient) expresses an interest in resolving the complaint. This process is voluntary and must be requested by the recipient. The Office Director or designee must determine that it is appropriate to resolve the complaint during the course of an investigation. If the voluntary resolution process has been determined appropriate, OCR will immediately notify the complainant of the recipient's interest in resolving the complaint and will keep the complainant informed throughout all stages of this resolution process. The resolution agreement is negotiated between OCR and the recipient. The provisions of the resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation, and will be consistent with applicable regulations, and a copy of the signed resolution agreement will be included with the resolution letter. OCR will then monitor the implementation of the resolution agreement.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, you may file another complaint alleging such treatment.

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

Please notify OCR of the name, address, and telephone number of the person who will serve as the University's contact person during the resolution of this complaint. We would like to talk with this person as soon as possible regarding the information requested in this letter. In addition, OCR may need to request additional information and interview pertinent personnel. If an on-site visit is determined to be necessary, you will be contacted to schedule a mutually convenient time for the visit.

If you have any questions regarding this letter, please contact Rey de la Garza, Attorney at (214) 661-9609 or Rey.DeLaGarza@ed.gov or me at (214) 661-9600 or Terri.Gonzales@ed.gov.

Sincerely,

(b)(6)

Terri Gonzales
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

DATA REQUEST
University of Arkansas- Fayetteville (UOA)
OCR Reference Numbers: 06-15-2349, 06-15-2416, 06-15-2417

To facilitate the resolution of the above-referenced complaint, it is requested that the UOA provide OCR with the following information and/or documentation for the [redacted] [redacted] academic years within fifteen (15) calendar days of the date of the attached letter. Any additional data responsive to the numbered items below thru the end of the Spring 2016 semester can be submitted to OCR at a future date in early June, upon consultation with OCR.

Please note that in this request, the term “correspondence” includes, but is not limited to, e-mail messages, meeting notes, interviews, notes of telephone conversations, and all related memoranda. In each instance where a policy is requested but a written policy on the matter at issue does not exist, provide instead an explanation of the UOA’s usual practice.

*Although not required, it would be helpful if the data response was numbered in the lower right-hand corner (e.g., 001, 002) to ensure staff from OCR and the UOA are looking at the same page during any future discussions about this data response.

** Unless otherwise stated, this data request only covers the University of Arkansas’ Fayetteville campus and not any of the other campuses within the UOA system.

1.

[redacted]

2.

b6; b7A; b7C

3.

4.

5.

6.

7.

8.

9.

10.

b6; b7A; b7C

11.

12.

13.

14.

b6; b7A; b7C

15.

16.

17.

b6; b7A; b7C

18.

19.

20.

21.

22.

23.

b6; b7A; b7C

24.

25. Any other information the UOA believes would be helpful in resolving this matter.



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April 21, 2016

Ref: 06152416

b6; b7A; b7C

Dear [b6; b7A; b7C]

On [b6; b7A; b7C] the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the complaint you filed against the University of Arkansas-Fayetteville, Arkansas (the University or UOA). You alleged that the University discriminated against you on the basis of sex by failing to promptly and equitably respond to your complaint you made in [b6; b7A; b7C] that you were sexually assaulted. Hereinafter, you may be referred to as “the Student.”

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department (recipients), or an agency that has delegated investigative authority to this Department, are in compliance with Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex. The University is a recipient of Federal financial assistance from the Department. Therefore, OCR has jurisdiction to investigate this complaint under Title IX.

Because OCR has determined that it has jurisdiction and that the complaint was filed timely, it is opening the following issues for investigation:

1. Whether the University provided prompt and equitable responses to complaints, reports, and/or incidents of sexual harassment or sexual violence, of which it had notice (knew about or should have known about), as required by the Title IX implementing regulation at 34 C.F.R. §§106.8, 106.9 and 106.31.
2. Whether any failure by the University to provide a prompt and equitable response allowed the Student, or other students, to be subjected to a sexually hostile environment that denied or limited the Student or students’ ability to participate in or benefit from the University’s programs, in violation of the Title IX implementing regulation at 34 C.F.R. §§ 106.8 and 106.31.

For your information, a copy of the relevant regulation (Title 34 of the Code of Federal Regulations Part 106) is available upon request.

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If you have any questions regarding this letter, please contact Rey de la Garza, Attorney at (214) 661-9609 or at Rey.DeLaGarza@ed.gov, or me at (214) 661-9687 or Terri.Gonzales@ed.gov.

Sincerely,

[b)(6)]

Terri Gonzales
Supervisory Attorney/Team Leader
Office for Civil Rights
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April 21, 2016

Ref: 06152417

b6; b7A; b7C

Dear [b6; b7A; b7C]

On [b6; b7A; b7C] the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the complaint you filed against the University of Arkansas-Fayetteville, Arkansas (the University or UOA). You alleged that the University discriminated against you on the basis of sex by failing to promptly and equitably respond to the complaint you made in [b6; b7A; b7C] that you were sexually assaulted. Hereinafter, you may be referred to as “the Student.”

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For your information, a copy of the relevant regulation (Title 34 of the Code of Federal Regulations Part 106) is available upon request.

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Sincerely,

[b6; b7C]

Terri Gonzales
Supervisory Attorney/Team Leader
Office for Civil Rights
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