



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

September 7, 2016

Sean M. Decatur, Ph.D.  
President  
Kenyon College  
Ransom Hall  
106 College-Park Street  
Gambier, Ohio 43022-9623

Re: OCR Docket #15-16-2149

Dear President Decatur:

On May 6, 2016, the U.S. Department of Education's Office for Civil Rights (OCR) received a complaint filed against Kenyon College (the College). The complaint alleges that the College discriminated on the basis of sex. Specifically, the complaint alleges that the College discriminated on the basis of sex. Specifically, the complaint alleges that the College failed to promptly and equitably respond to complaints, reports and/or incidents of sexual violence and sexual harassment of which it had notice, including a **Nonresponsive** **Nonres** report of sexual assault and sexual harassment made by a female student (the Student), and, as a result, students, including the Student, were subjected to a sexually hostile environment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, 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 in education programs and activities operated by recipients of Federal financial assistance from the Department. As a recipient of such financial assistance, the College is subject to Title IX.

Because OCR has determined that we have jurisdiction over the allegation, we are opening the allegation for investigation. Based on the complaint allegation, we 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.*

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1. Whether the College provided prompt and equitable responses to sexual violence complaints, reports, and/or other incidents 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 and 106.31.
  - a. Whether the College complied with the requirements of the Title IX regulation at 34 C.F.R. § 106.9 regarding notice of nondiscrimination.
  - b. Whether the College complied with the requirements of the Title IX regulation at 34 C.F.R. §§ 106.8 and 106.9(a) regarding the designation and notice of a Title IX coordinator.
2. Whether any failure by the College to provide a prompt and equitable response allowed a student or students and/or the campus, generally, to continue to be subjected to a sexually hostile environment that denied or limited a student or students' ability to participate in or benefit from the College's programs, in violation of the Title IX implementing regulation at 34 C.F.R. §§ 106.8 and 106.31.

Please note that opening an allegation for investigation in no way implies that OCR has made a determination with regard to its merits. 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 the investigation is legally sufficient and is dispositive of the allegations in accordance with the provisions of Article III of OCR's Case Processing Manual.

For your reference, the enclosed document, entitled "OCR Complaint Processing Procedures," includes information about:

- OCR's complaint evaluation and resolution procedures, including the availability of Early Complaint Resolution (ECR);
- regulatory prohibitions against retaliation, intimidation and harassment of persons who file complaints with OCR or participate in an OCR investigation; and
- the application of the Freedom of Information Act and the Privacy Act to OCR investigations.

Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR intends to conduct a prompt investigation of this complaint. The Title VI regulation, at 34 C.F.R. § 100.6, requires that a recipient of Federal financial assistance make available to OCR information that may be pertinent to reaching a compliance

determination. The Title IX regulation incorporates those requirements by reference at 34 C.F.R. § 106.71. In addition, in accordance with the Title VI regulation at 34 C.F.R. § 100.6(c) and with the regulation implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, at 34 C.F.R. § 99.31(a)(3)(iii), OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

Accordingly, we are requesting that you forward the following information to us within 15 calendar days of the date stamped at the top of this letter. **Please contact OCR prior to submitting documentation electronically to ensure that submissions can be accepted.** Wherever possible, please provide the requested information Bates-labeled if you have that capability.

1. a copy of any College policies or procedures in effect during the 2013-2014, 2014-2015, and 2015-2016 school years that address discrimination and harassment based on sex, including sexual violence, involving students, employees, and third parties, including sexual violence/misconduct/harassment policies and procedures, Title IX grievance procedures, applicable disciplinary procedures and codes, appeal procedures, and nondiscrimination notices;
2. if any of the above policies or procedures changed over the applicable time period, please provide a copy of all documents that reflect each change and note the date(s) when the new policy or procedure became applicable;
3. the name(s) and title(s) of the College's Title IX coordinator(s), and any deputy or co-coordinator(s). In addition, please note when each individual assumed his or her position, and provide an explanation of how that person or persons' identity and contact information are disseminated to students, faculty, staff, and administrators;
4. the names and titles of any College personnel responsible for investigating incidents of discrimination and harassment based on sex or implementing any part of the College's Title IX grievance process;
5. a description of how the College handles criminal complaints and the effect that criminal complaints have on the College's Title IX investigation process; the names and titles of any College designated contact person for related criminal investigations; and the process used by the College in communicating with local prosecutors about the status of criminal investigations;
6. a description of law enforcement's role in the College's Title IX investigation process, including a copy of any memoranda of understanding with campus and local law enforcement or related protocols;

7. a description of how the College handles requests for confidentiality by those reporting incidents of discrimination and harassment based on sex, including sexual violence;
8. a copy of all documentation stored in any location, including electronic recordkeeping systems, concerning any formal or informal complaints or reports of sexual assault or sexual harassment made to the College by or on behalf of the Student Nonresponsive including:
  - a. a copy of any written complaints or reports, and a detailed description of any verbal complaints;
  - b. a copy of all investigative files, interview memoranda, witness statements, and related documents concerning any College investigation of these complaints or reports;
  - c. a copy of any records related to any hearings held regarding each complaint, including but not limited to hearing transcripts, video or audio recordings, notes, and copies of any documentation or other evidence presented or considered as part of the hearing;
  - d. a copy of any documents showing the steps of the investigation and the results of the College's investigation, including any correspondence, e-mails and other documents, as well as how the College notified pertinent parties of the outcome of each investigation;
  - e. a copy of any appeals filed by either party and documentation regarding the College's processing of each appeal, including but not limited to any documentation, records or other information the College relied on in making a determination regarding the appeal, including with respect to sanctions, and any notice provided to the parties regarding the outcome of the appeal;
  - f. a detailed description of any action the College took to stop any harassment or discrimination and to prevent any additional discrimination or harassment based on sex, while each complaint or report was being investigated (interim measures) or after the investigation concluded; and
  - g. a copy of any documents, including student discipline records, memoranda, e-mails, notes, or other documents, that discuss or relate to any disciplinary or other remedial action the College took in response to each complaint or report.

9. a copy of all documentation concerning any formal or informal complaints or reports of sexual harassment made to the College (including, but not limited to those received by College personnel; the Office of Campus Safety; the Dean of Students Office; the Title IX Coordinator; Office for Civil Rights; the Office of the Provost; Student Affairs Division; Housing & Residential Life; College Health Center; Human Resources; Office of the Ombudsperson; or those received elsewhere and then referred to the College) or investigated/ resolved by the College during the 2013-2014, 2014-2015, and 2015-2016 school years, including:
  - a. a copy of any written complaints or reports, and a detailed description of any verbal complaints;
  - b. a copy of all investigative files, interview memoranda, witness statements, and related documents concerning any College investigation of these complaints or reports;
  - c. a copy of any documents showing the steps of the investigation and the results of the College's investigation, including any correspondence, e-mails, and other documents, as well as how the College notified pertinent parties of the outcome of each investigation;
  - d. a detailed description of any action the College took to stop any harassment or discrimination and to prevent any additional discrimination or harassment based on sex, while each complaint or report identified in response to request #9(a) above was being investigated (interim measures) by the College or other law enforcement entities or after the investigation concluded;
  - e. for each complaint or report of alleged sexual harassment and/or violence responsive to this request, identify (1) whether the College found that the complainant and/or other students were sexually harassed/assaulted; (2) whether the College found that any complaint was part of a larger pattern of similar complaints; and (3) whether the College made any conclusion about whether the complainant and/or other students were subject to a sexually hostile environment; and
  - f. a copy of any documents, including student discipline records, memoranda, e-mails, notes, or other documents, that discuss or relate to any disciplinary or other remedial action the College took in response to each complaint or report identified in response to request #9(a) above;

10. if not included in responses above, copies of all communications, including letters, e-mails, notes, memoranda, reports, notices, or other communications sent or received by College faculty, staff, administration, and/or Trustees during the 2013-2014, 2014-2015, and 2015-2016 school years that discuss, relate, or refer to the complaints or reports identified under requests #8 and #9 above;
11. if not included in responses above, a copy of any notes, agendas, summaries, or follow-up communication related to any meetings between College staff and the Student regarding any allegations of, or remedies for, sexual assault or sexual harassment;
12. copies of any notes, agendas, summaries, or follow-up communication related to any meetings during the 2013-2014, 2014-2015, and 2015-2016 school years between College staff and the complaining student(s) regarding any allegations of, or remedies for, sexual harassment;
13. a description and copies, if applicable, of any steps the College took during the 2013-2014, 2014-2015, and 2015-2016 school years to make students, faculty, and staff at the College aware of the policies and procedures identified in response to requests #1 or #2 above, such as publications, website statements, and/or training;
14. a description of the ways in which the College communicates with students, staff, and other members of the campus community about its processes for addressing sexual harassment and violence (for example, through its web site, specific publications, specific other electronic means, etc.);
15. a description of any training regarding Title IX as it applies to sexual harassment, including sexual assault and violence, the College provided or offered to (1) College personnel; and (2) College students during 2013-2014, 2014-2015, and 2015-2016 school years. For each training, include the date of the training; the target audience (e.g., coaches, residence hall staff, etc.); copies of any related materials distributed at the trainings; and a description of the background/expertise of the individual who provided training;
16. copies of any and all brochures, pamphlets, or other materials that are disseminated to by the College to students regarding sexual harassment, the rights of complainants and accused individuals, and/or other campus resources available to assist those facing sexual harassment/violence;
17. a description of the College's collaborative efforts with any advocacy groups on and off campus to prevent sexual harassment, misconduct, and

violence and to notify students and employees of their rights under Title IX;

18. a list of campus organizations and other resources for students that address students' concerns or issues related to sexual harassment (including, but not limited to, women's or men's organizations; lesbian, gay, bisexual, transgender, or alliance organizations; and rape crisis centers, sexual assault support networks, or other similar agencies); include contact information for each organization, and how information about these organizations is disseminated to students;
19. a description of how the College has assessed the campus climate regarding sexual harassment issues, conducted self-assessments, collected data, or monitored sexual harassment, misconduct, or violence on campus, if at all, for school years 2013-2014, 2014-2015, and 2015-2016. Please provide any summaries or interim or final reports that describe the outcome of these efforts; and
20. any other information you believe relevant to the complaint allegations.

**In collating the College's responses to #9-12 above, please do so by the name of the complainant (student, employee, or third party). In other words, all information pertaining to any individual complainant, regardless of source or office, should be grouped together and clearly state the name of the complainant to which it pertains.**

Subsequent to the College's response(s) to this data request but prior to the final stages of its investigation, OCR will accept supplemental materials from the College that it believes will materially impact or alter OCR's investigation.

The College is also hereby notified that it should retain all electronically stored information and other records, in their originally created format, containing information related to the subject matter of this complaint, including e-mails, word processing documents, spreadsheets, databases, calendars, telephone logs, internet files, network access information, and other media-based information (such as personal digital assistants and digital voice mail), even after it has provided OCR with paper copies and whether or not OCR has included the information in this initial data request. Please also retain all non-electronic documents and evidence in whatever form, including personal or desk files, calendars, notes, correspondence, drafts, policies, manuals, or other things relevant to the case.

Thank you for your cooperation in this matter. We also may need to interview individuals at the College with knowledge of the facts of this case. If we determine that an onsite visit is necessary, we will contact you to schedule a mutually convenient time for our visit.

Upon receipt of this letter, please notify OCR of the name, address, and telephone number of the person who will serve as the College's contact person during OCR's investigation. If you have any questions, please contact Ms. Gayle Horwitz at (216) 522-2681 or by e-mail at [Gayle.Horwitz@ed.gov](mailto:Gayle.Horwitz@ed.gov); or Ms. Aleks Chojnacki at (216) 522-4944 or by email at [Aleksandra.Chojnacki@ed.gov](mailto:Aleksandra.Chojnacki@ed.gov).

Sincerely,

Lisa M. Lane  
Supervisory Attorney/Team Leader

Enclosure





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September 7, 2016

Nonresponsive

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Nonresponsive
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OCR works to resolve allegations of discrimination promptly and appropriately. We will communicate with you periodically during our investigation. When contacting our office about your case, please refer to OCR Docket Number 15-16-2149.

If you have any questions, please contact Ms. Gayle Horwitz at (216) 522-2681 or by e-mail at [Gayle.Horwitz@ed.gov](mailto:Gayle.Horwitz@ed.gov); or Ms. Aleks Chojnacki at (216) 522-4944 or by email at [Aleksandra.Chojnacki@ed.gov](mailto:Aleksandra.Chojnacki@ed.gov).

Sincerely,



Lisa M. Lane  
Supervisory Attorney/Team Leader