



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

July 1, 2014

(b)(6); (b)(7)(C)

Re: OCR Docket # 07142199

Dear (b)(6); (b)(7)(C)

On April 17, 2014, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received your complaint against the Washburn University (University), Topeka, Kansas, alleging discrimination on the basis of sex. We have completed our evaluation of your complaint and determined we have the authority to investigate the complaint. We will address your allegations consistent with our complaint procedures and applicable law.

You clarified your complaint allegations during a telephone discussion with an OCR staff member on May 5, 2014. Specifically, you alleged that the University failed to timely and adequately investigate the rape you reported to University officials, failed to adequately discipline the student who raped you, and failed to enforce a Protection of Stalking order.

Based on your complaint allegations and current OCR policy regarding its investigation of complaints involving sexual violence at the postsecondary level, OCR is going to investigate the following legal issue:

Whether the University failed to promptly and equitably respond to complaints, reports, and/or incidents of sexual harassment and sexual violence of which it had notice, including your report about being sexually assaulted by a male University student, and as a result, students, including you, were subjected to a sexually hostile environment.

OCR's investigation will entail an examination of the University's handling of complaints of sexual violence and sexual harassment under its various procedures to determine if the University has responded immediately and appropriately, with particular emphasis on complaints of sexual assault. This will include an examination of the University's relationships with local police and rape crisis centers.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 United States Code (U.S.C.) § 1681, and its implementing regulation, 34 Code of Federal

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Regulations (C.F.R.) Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance (FFA).

As a recipient of FFA from the Department, the University is subject to Title IX.

Because OCR has determined that it has jurisdiction and that your complaint was filed in a timely manner, it is opening your 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 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 its investigation is legally sufficient and is dispositive of the complaint allegation, in accordance with the provisions of Article III of OCR's *Case Processing Manual*.¹

OCR offers, when appropriate, an Early Complaint Resolution (ECR) process to facilitate the voluntary resolution of complaints by providing an early opportunity for the parties involved to resolve the allegations. The OCR document entitled *OCR Complaint Processing Procedures* was referenced in the electronic confirmation you received on April 17, 2014, when you filed your complaint. For your convenience, a copy is enclosed with this letter.

In addition, when appropriate, a complaint may be resolved before the conclusion of an investigation after the recipient asks OCR to resolve the complaint. In such cases, a resolution agreement signed by the recipient and submitted to OCR must be aligned with the complaint allegations or the information obtained during the investigation and must be consistent with applicable regulations. Information about this resolution process is also explained in the enclosed document.

If not resolved through ECR or resolution before the conclusion of the investigation, OCR investigates the complaint allegations and makes a compliance determination. If OCR determines a recipient has not complied with a regulation enforced by OCR, OCR will attempt to negotiate a written agreement with the recipient in which the recipient commits to take specific steps to bring it into compliance with the applicable laws and regulations.

We will communicate with you periodically regarding the status of your complaint. As we notified you in our letter acknowledging receipt of your complaint, if you have additional information related to your complaint that you would like OCR to consider, you may submit the information to the staff person referenced below. Your submission may be in hard copy form (e.g., photocopies of documents), or you may scan the information into an electronic format (e.g., a PDF format). For instance, if you copy data or documents onto removable

¹ The *Case Processing Manual* is available on OCR's website at <http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

media, such as USB drives or CD/DVD disks, this data may be submitted to OCR as an alternative to reproducing the information in a hard copy format.

If you have any questions, please contact Wenda Taylor, Attorney, at (816) 268-0591 (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at Wenda.Taylor@ed.gov.

Sincerely,

(b)(6)

Kelli Douglas
Supervisory Attorney

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

July 1, 2014

Dr. Jerry B. Farley, President
Washburn University
Morgan Hall, Room 202
1700 SW College Avenue
Topeka, Kansas 66621

Re: OCR Docket # 07142199

Dear Dr. Farley:

On April 17, 2014, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination on the basis of sex by the Washburn University (University), Topeka, Kansas. We have determined that we have the authority to investigate this complaint consistent with our complaint procedures and applicable law.

Based on the specific allegations raised by the Complainant and current OCR policy regarding its investigation of complaints involving sexual violence at the postsecondary level, OCR is going to investigate the following legal issue:

Whether the University failed to promptly and equitably respond to complaints, reports, and/or incidents of sexual harassment and sexual violence of which it had notice, including the Complainant's report about being sexually assaulted by a male University student, and as a result, students, including the Complainant, were subjected to a sexually hostile environment.

OCR's investigation will entail an examination of the University's handling of complaints of sexual violence and sexual harassment under its various procedures to determine if the University has responded immediately and appropriately, with particular emphasis on complaints of sexual assault. This will include an examination of the University's relationships with local police and rape crisis centers.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 United States Code (U.S.C.) § 1681, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance (FFA).

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As a recipient of FFA from the Department, the University is subject to Title IX. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Because OCR has determined that it has jurisdiction and that this complaint was filed in a timely manner, it is opening the allegation set out above for investigation. Please note that opening the 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 its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of OCR's *Case Processing Manual*.¹

Please read the enclosed document entitled *OCR Complaint Processing Procedures*, which includes information about:

- OCR's complaint evaluation and resolution procedures;
- 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 offers, when appropriate, an Early Complaint Resolution (ECR) process to facilitate the voluntary resolution of complaints by providing an early opportunity for the parties involved to resolve the allegations. The enclosed document includes information about the ECR process.

In addition, when appropriate, a complaint may be resolved before the conclusion of an investigation after the recipient asks OCR to resolve the complaint. In such cases, a resolution agreement signed by the recipient and submitted to OCR must be aligned with the complaint allegations or the information obtained during the investigation and must be consistent with applicable regulations. Information about this resolution process is also explained in the enclosed document.

If not resolved through ECR or resolution before the conclusion of the investigation, OCR investigates the complaint allegations and makes a compliance determination. If OCR determines a recipient has not complied with a regulation enforced by OCR, OCR will attempt to negotiate a written agreement with the recipient in which the recipient commits to take specific steps to bring it into compliance with the applicable laws and regulations.

¹ The *Case Processing Manual* is available on OCR's website at <http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

OCR intends to 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. § 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.

To expedite our investigation, we request that you provide the following information to OCR within 30 calendar days of the date of this letter (by July 31, 2014). A member of my staff will contact you within five days to provide you the names of the Complainant and Student 2 referenced below.

(b)(7)(A)



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(b)(7)(A)



(b)(7)(A)



30. A copy of all complaints and other written statements the Complainant submitted to the University about being sexually assaulted in or around October 2013 by a University student (Student 2).
31. A copy of Student 2's student file(s). (The University does not need to provide Student 2's financial aid file(s).)
32. State whether the University investigated the alleged sexual assault of the Complainant by Student 2 that occurred in or around October 2013. If so, specify who conducted the investigation, when the investigation began, what witnesses were interviewed during the investigation, and provide a copy of the University's investigative findings, including student statements, notes, and other documents collected or prepared during the investigation. In addition, if applicable, identify what disciplinary action was taken against Student 2 and provide a copy of all documentation regarding the disciplinary action.
33. State whether the University believes, or has determined, that Student 2 sexually assaulted the Complainant in or around October 2013. If so, describe what actions, if any, the University has taken to address the sexual assault.
34. From October 1, 2013, to the present, a copy of all correspondence, including but not limited to emails, between the Complainant and University personnel regarding the alleged sexual assault of the Complainant by Student 2.
35. If applicable, state the current status of the complaint(s) or report (s) the Complainant filed with the University about being sexually assaulted by Student 2.
36. The University's response to the allegation in this complaint, and any additional information the University would like OCR to consider.

The University may provide OCR the information requested above in a scanned (PDF) electronic format or, if the most current documentation is available online, by providing OCR a reference in its data response to the website address or a link where OCR may access the information. For instance, if the University prefers, it may provide OCR links to online information that OCR can access or may scan information to a CD or DVD instead of reproducing the information in a hard copy format. If the University has previously submitted a current version of a requested document to OCR in another complaint investigation, please inform us of the docket number of the OCR complaint, and OCR will determine if the information is responsive to our data request.

Thank you for your cooperation in this matter. In addition to the information requested above, OCR may need to request additional information and interview pertinent personnel. If OCR determines an on-site visit is necessary, we will contact you to schedule a mutually convenient time for the visit.

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.

OCR is committed to prompt and effective service. If you have any questions, please contact Wenda Taylor, Attorney, at (816) 268-0591 (voice) or (877) 521-2172 (telecommunications device for the deaf), or via email at Wenda.Taylor@ed.gov.

Sincerely,

(b)(6)

Kell Douglas
Supervisory Attorney

Enclosure