



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

July 22, 2016

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

Also by email to: (b)(6); (b)(7)(C)

Re: Northwest College
OCR Case Number: 08-16-2101

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

On January 25, 2016, we received your complaint alleging that Northwest College (College) discriminated on the basis of sex. We have determined that we have the authority to investigate this complaint consistent with our complaint procedures and applicable law.

Specifically, you allege that the College discriminates on the basis of sex by not appropriately responding to complaints of sexual violence.

We are responsible for enforcing Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the U.S. Department of Education.

As a recipient of Federal financial assistance from the Department, the College is subject to this law and regulation. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Because we have jurisdiction and the complaint was filed timely, we are opening this allegation for investigation. Please note that opening the allegation for investigation in no way implies that we have 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*.

We intend to conduct a prompt investigation of this complaint. If our investigation establishes that there has been a violation of law, we will attempt to negotiate a remedy. If we are unable to secure appropriate remedial action, we must initiate formal enforcement action by commencing administrative proceedings seeking the termination of Federal funds to the College or a referral

to the Department of Justice. These enforcement procedures will be initiated only if a violation is found and then only if we are unable to negotiate voluntary remedial action.

In your complaint, you also brought forth an individual allegation. Specifically, you alleged that the College failed to properly respond to your own report to the College that (b)(6); (b)(7)(C) sexually assaulted you in (b)(6); (b)(7)(C). In your complaint and in a May 3, 2016 interview with an OCR attorney, you explained that you reported the sexual assault to the College on (b)(6); (b)(7)(C), and the College issued its findings on (b)(6); (b)(7)(C). You explained that in (b)(6); (b)(7)(C), you made, and the College responded to, a request for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C). You provided copies of the College's (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) (b)(6); (b)(7)(C).

Pursuant to our *Case Processing Manual*, OCR will take action only with respect those complaint allegations that have been filed within 180 calendar days of the last act of alleged discrimination or retaliation unless the complainant requests a waiver and it is granted.

We note that the alleged assault and the College's final response to your report of the alleged assault occurred more than 180 days from the date you filed a complaint with OCR. We also note that, although the College responded to your (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C), the College's last act in response to your report of the alleged assault was (b)(6); (b)(7)(C). Your (b)(6); (b)(7)(C) regarding the alleged assault is not part of the College's response to your report.

During your interview with an OCR attorney on May 3, 2016, the attorney explained the requirement to file within 180 days and requested for your justification for not filing your complaint earlier. You explained that you were aware that your complaint might not have been filed in time, and that you had not filed sooner because you were still scared to talk about the assault, were not sure anything would come of the complaint, and did not want to have to go through the assault again just for nothing to happen.

Unfortunately, your reasons do not provide sufficiently good cause for granting a waiver. Therefore, we are dismissing your individual allegation effective the date of this letter, pursuant to Section 108 of our *Case Processing Manual*.

In your complaint, you also alleged that the (b)(6); (b)(7)(C) was (b)(6); (b)(7)(C) (b)(6); (b)(7)(C), and the two improperly spoke about your personal confidential information. With respect to this allegation, OCR does not have jurisdiction over FERPA complaints. We are therefore dismissing this allegation as of the date of this letter. If you wish to file a FERPA complaint, you may contact the Family Policy Compliance Office at:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920
(202) 260-3887
1-800-USA-LEARN (1-800-872-5327)

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. You may have the right to file a private suit in federal court whether or not OCR finds a violation.

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

Under the Freedom of Information Act, 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, personal information, which if released, could constitute an unwarranted invasion of privacy.

We are committed to prompt and effective service. If you have any questions, please contact Sarah Morris, the attorney assigned to this case at (303) 844-3682 or by email at Sarah.Morris@ed.gov, or me at (303) 844-5927 or by email at tom.rock@ed.gov.

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

Thomas M. Rock
Supervisory General Attorney
Denver Enforcement Office

Data Request

Office for Civil Rights case number:

08-16-2101

Recipient:

Northwest College

Complainant:

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

(b)(7)(A)

[Redacted content]

(b)(7)(A)

(b)(7)(A)



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July 22, 2016

Dr. Stefani Hicswa, President
Northwest College
231 West 6th Street
Powell, WY 82435

Re: Northwest College
OCR Case Number: 08-16-2101

Dear Dr. Hicswa:

On January 25, 2016, we received a complaint alleging that Northwest College (College) discriminated on the basis of sex. We have determined that we have the authority to investigate this complaint consistent with our complaint procedures and applicable law.

Specifically, the Complainant alleges that the College discriminates on the basis of sex by not appropriately responding to complaints of sexual violence.

We are responsible for enforcing Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the U.S. Department of Education.

As a recipient of Federal financial assistance from the Department, the College is subject to this law and regulation. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Because we have jurisdiction and the complaint was filed timely, we are opening this allegation for investigation. Please note that opening the allegation for investigation in no way implies that we have 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 the *Case Processing Manual*.

Please read the enclosed document entitled "OCR Complaint Processing Procedures" which includes information about

- OCR's complaint evaluation and resolution procedures, including the availability of Early Complaint Resolution (ECR);

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

- 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.

We intend 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 Federal financial assistance 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 § 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 (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

In order to reach an efficient and timely resolution to this matter, we are providing you an opportunity to present the College's response to these allegations and to submit supporting documentation. We have also determined that the information itemized in the enclosed "Data Request" is necessary to initiate resolution. We request that this information reach our office as soon as possible but no later than **August 8, 2016**. If any of the required items are available to the public on the Internet, you may provide the website address. You may also send documents to us by email to Sarah.Morris@ed.gov or by fax to (303) 844-4303. Because email is not reliably secure, please do not email any document that contains personally identifiable or private information.

If our investigation establishes that there has been a violation of law, we will attempt to negotiate a remedy. If we are unable to secure appropriate remedial action, we must initiate formal enforcement action by commencing administrative proceedings seeking the termination of Federal funds to the College or a referral to the Department of Justice. These enforcement procedures will be initiated only if a violation is found and then only if we are unable to negotiate voluntary remedial action.

Thank you for your cooperation in this matter. In addition to the information requested above, we 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.

Please notify us of the name, address, and telephone number of the person who will serve as the College's contact person during the resolution of this complaint. We would like to talk with this person as soon as possible regarding this matter. We will continue to address letters to your attention with a courtesy copy to the College's designated contact.

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

Under the Freedom of Information Act, 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, personal information, which if released, could constitute an unwarranted invasion of privacy.

We are committed to prompt and effective service. If you have any questions, please contact Sarah Morris, the attorney assigned to this case, at (303) 844-3682 or by email at Sarah.Morris@ed.gov, or me at (303) 844-5927 or by email at tom.rock@ed.gov.

Sincerely,

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

Thomas M. Rock
Supervisory General Attorney
Denver Enforcement Office

Enclosures – Data Request and “OCR Complaint Processing Procedures”