



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

600 SUPERIOR AVE. EAST, SUITE 750  
CLEVELAND, OH 44114-2611

REGION XV  
MICHIGAN  
OHIO

FEB 07 2012

Kristen M. Myers, Esq.  
Beckman Weil Shepardson LLC  
The American Book Building  
300 Pike Street, Suite 400  
Cincinnati, Ohio 45202-4244

Re: OCR Docket #15-12-2048, #15-11-2117, and  
#15-12-2018

Dear Ms. Myers:

On January 25, 2012, the U.S. Department of Education (the Department), Office for Civil Rights (OCR), received the above-referenced complaint filed against Xavier University (the University), alleging that the University discriminated against a student (Student A) on the basis of sex. Specifically, the complaint alleges that the University failed to respond appropriately when the Student reported that she was sexually assaulted and then stalked by a male student during the (b)(6), (b)(7) academic year, did not follow through with the sanctions it imposed on the male student for his conduct code violation, and did not take reasonable steps to prevent and eliminate sexual harassment of which it was on notice, thus allowing a sexually hostile environment against women to continue at the University. In addition, the complaint alleges that the University, as a practice, does not follow its own written procedures or the procedural requirements of Title IX in addressing allegations of sexual harassment or sexual assault. This complaint has been assigned OCR Docket #15-12-2048.

OCR is already investigating two complaints, designated as OCR Docket #15-11-2117 and OCR Docket #15-12-2018. The allegations of the instant complaint are substantially similar to the allegations raised in those complaints. OCR has therefore determined that it would be more appropriate to investigate the allegations in all three complaints as a single complaint. Accordingly, OCR is closing OCR Docket ## 15-11-2117 and 15-12-2018 as of the date of this letter and will investigate the allegations of all three

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

complaints under a single docket number, 15-12-2048. The merged complaint alleges that the University has failed to promptly and appropriately respond to alleged sexual harassment, thus allowing a sexually hostile environment against female students to continue at the University, and that the University does not have Title IX grievance procedures.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the Department. As a recipient of such financial assistance, the University is subject to the requirements of Title IX.

Based on the allegations of the merged complaint, we are investigating the following issues:

- whether the University fails to promptly and appropriately respond to alleged sexual harassment, resulting in students, on the basis of sex, being excluded from participation in, being denied the benefits of, or being subjected to discrimination in University education programs or activities in violation of the Title IX implementing regulation at 34 C.F.R. § 106.31; and
- whether the University has adopted and published grievance procedures providing for the prompt and equitable resolution of student complaints of discrimination on the basis of sex as required by the Title IX implementing regulation at 34 C.F.R. § 106.8(b).

Please note that opening an allegation 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 allegations in accordance with the provisions of Article III of OCR's *Case Processing Manual*.

The Title IX regulation, at 34 C.F.R. § 106.71, incorporates by reference the procedural requirements of the regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6, which require that a recipient of Federal financial assistance make available to OCR information that may be pertinent to reaching a compliance determination. In addition, in accordance with the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, at 34 C.F.R. § 99.31(a)(3)(iii), and the Title VI regulation at 34 C.F.R. § 100.6(c), 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 fifteen calendar days of the date stamped at the top of this letter. Wherever possible, please provide the requested information on a CD (and bates-labeled if you have that

capability); otherwise please provide the information via hard copy. *Please provide only those documents that the University has not previously produced to OCR.* The documents the University previously submitted to OCR in response to OCR Docket ## 15-11-2117 and 15-12-2018 will be reviewed and included in OCR's files for the merged complaint.

1. a copy of any documents or records from [REDACTED] to the present that discuss or relate to violations or complaints of alleged violations of University-imposed sanctions resulting from complaints of sexual assault, sexual harassment, harassment, and stalking, including, but not limited to, correspondence, e-mails, memoranda, meeting minutes, notes, videos or voice recordings, student records, investigative files and reports, police reports, interview memos, transcripts, hearing transcripts or notes, discipline records, and any other documents or records that discuss or relate to violations or alleged violations of sanctions, and any action the University took to address such allegations and violations;
2. a copy of any documents or records that discuss or relate to a complaint or report of sexual assault, sexual harassment, harassment, and stalking filed with the University (including complaints filed with University police) by Student A [REDACTED] or on her behalf, including, but not limited to, correspondence, e-mails, memoranda, meeting minutes, notes, videos or voice recordings, student records, investigative files and reports, police reports, interview memos, transcripts, hearing transcripts or notes, discipline records, and any other documents or records that discuss or relate to the complaint, the University's investigation of the complaint, the disposition of that complaint, and any action the University took, including interim and disciplinary measures, to address the complaint;
3. the name and title of each individual, including University police, administrators, and members of any adjudicative body or hearing committee, involved in investigating or otherwise addressing the complaint(s) referenced in #2 above. To the extent that any of these individuals are not University employees, please also provide phone numbers, addresses, and e-mail addresses for these individuals;
4. a list of any meetings or telephone calls held with Student A to discuss her sexual assault, sexual harassment, harassment, or stalking allegations; for each such meeting, please provide:
  - a. the date the meeting, or call occurred;
  - b. the purpose of the meeting or call;
  - c. the names and titles of the individuals participating in the meeting or call; and

- d. any documentation related to the meeting or call, including e-mails, notes, memoranda, meeting minutes, correspondence, phone logs, or other related documents; and
5. any additional information that the University believes will assist OCR in investigating this complaint.

In addition to the information requested above, OCR may need to request other documentation, and we may also need to interview persons at the University. If we determine that an on-site visit is necessary, we will contact you to schedule a mutually convenient time for the visit.

If you have any questions, please contact Mr. Vincent Cheverine, one of the attorneys assigned to investigate this complaint, by telephone at (216) 522-2676 or by e-mail at [Vincent.Cheverine@ed.gov](mailto:Vincent.Cheverine@ed.gov).

Sincerely,

(b)(6),(b)(7)(C)

Karla K. Ussery  
Team Leader

Enclosure:  
OCR Complaint Processing Procedures