



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS – DISTRICT OF COLUMBIA OFFICE

September 30, 2011

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

Re: OCR Complaint No. 11-11-2031
Resolution Letter

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

This letter is to inform you of the disposition of the complaint that you filed with the District of Columbia Office of the Office for Civil Rights (OCR), within the U.S. Department of Education (the Department), on December 3, 2010, against Virginia Commonwealth University (the University). You filed the complaint on behalf of a student at the University (the Student). The complaint alleged that the University's sexual misconduct policies and procedures are discriminatory on the basis of sex.

OCR initiated an investigation of the complaint under its authority to enforce Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation, at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving federal financial assistance. The University receives federal financial assistance from the Department and therefore is subject to the provisions of Title IX and its implementing regulation. Our investigation reviewed the University's sexual misconduct and sexual harassment policies and procedures to determine if they comply with Title IX, both as written and in their application to complaints of sexual assault and harassment that occurred on the University's campus, at a location owned by the University, or at a program or activity sponsored by the University. However, as we informed you in our notification letter dated February 9, 2011, OCR did not have jurisdiction to review the hearing decision in the Student's case because the alleged sexual assault occurred off campus and was not connected to a University program or activity.

Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature. If sexual harassment of a student is sufficiently serious (severe, persistent or pervasive) that it interferes with or limits a student's ability to participate in or benefit from the university's program, it creates a hostile environment and may be prohibited by Title IX. If a school knows or reasonably should know about student-on-student sexual harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. Schools are required to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination

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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, including complaints of sexual harassment, and to disseminate a policy against sex discrimination.

During OCR's investigation of this complaint, the University expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's Case Processing Manual, OCR discussed resolution options with the University. On September 29, 2011, the University signed the enclosed agreement which, when fully implemented, will resolve the concerns identified regarding this complaint. The provisions of the agreement are aligned with the issues raised in your complaint and information obtained during the course of OCR's investigation, and are consistent with the applicable regulations. OCR will monitor implementation of the agreement.

We recognize the proactive initiatives the University had already taken prior to the complaint to address and prevent sexual violence. For example, the University includes sexual assault awareness in its new student orientation programs and resident assistant training, and surveys students annually using a health assessment that includes questions about sexual assault. In addition, the University's Wellness Resource Center employs a coordinator for sexual assault issues and offers a variety of education programs, as well as counseling and referral services for survivors. We have encouraged the University to continue these efforts.

OCR has reminded the University that it may not harass, coerce, intimidate, or discriminate against any individual because that individual filed a complaint or participated in the complaint resolution process. If this happens, an individual may file another complaint alleging such treatment. Also, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

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 or the Student may have the right to file a private suit in federal court whether or not OCR finds a violation.

If you have any questions regarding the outcome of this complaint, please feel free to contact Sarah Morgan at (202) 453-5922 or sarah.morgan@ed.gov, or Deborah Kelly at (202) 453-5919 or deborah.kelly@ed.gov.

Sincerely,

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

Sheralyn Goldbecker
Team Leader

Enclosure

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