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May 13, 2002

Reference: 06012089

Dr. Priscilla Slade, President
Texas Southern University
3100 Cleburne
Houston, Texas 77004

Dear Dr. Slade:

This letter is to inform you that the Office for Civil Rights (OCR) has reached a determination regarding the above-referenced complaint that was filed against Texas Southern University (TSU). The complaint was filed pursuant to Title IX of the Education Amendments of 1972 (Title IX), 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.

The complaint against TSU was filed with OCR on September 24, 2001. The complainant alleges that TSU discriminated against her on the basis of sex by failing to take prompt and effective action after receiving notice that she was subjected to sexual harassment.

In investigating complaints of sexual harassment, OCR considers whether: (1) the recipient has a disseminated policy prohibiting sex discrimination under Title IX and grievance procedures; (2) the recipient appropriately investigated or otherwise responded to allegations of sexual harassment; and (3) the recipient has taken immediate and effective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.

In reaching our determination in this complaint, OCR reviewed documentation submitted by TSU and the complainant. Based upon our investigation, OCR has determined that the evidence is insufficient to support a finding of a violation with regard to the complaint allegation. The bases for our determination are summarized below.

OCR's investigation revealed that TSU has developed and disseminated policies and procedures prohibiting discrimination based on sex and procedures for the investigation of allegations of sexual harassment. TSU submitted its Ethics Policy, which outlines *inter alia* TSU's policies on principles of ethical conduct and sexual harassment. TSU submitted its *Student Handbook and Code of Conduct*, which outlines TSU's Title IX grievance procedures and policy prohibiting sexual harassment. TSU identifies its Compliance Manager in Human Resources as the individual designated to coordinate its efforts to comply with Title IX. Students are provided with the location and telephone number of the Compliance Manager in Human Resources and informed that they may file a "claim" or grievance with the Compliance Manager in Human Resources if they believe they have been discriminated against on the basis of sex and that they may obtain assistance from the Compliance Manager. Students are also informed that they may contact the General Counsel Office if they want to discuss their rights under Title IX, obtain a copy of the full Title IX grievance procedures, or obtain help in filing a grievance.

The documentation revealed that the complainant raised an allegation of sexual harassment with TSU and that TSU conducted an investigation. OCR reviewed TSU's summary of its sexual harassment investigation, including records of meetings and interviews regarding the allegation. The evidence indicates that TSU initiated an internal investigation in a timely manner after the complainant provided notice of the alleged sexual harassment by a professor in the School of Business. On March 21, 2001, the complainant contacted the Dean of the School of Business to inform him that a professor in the School of Business [hereafter, "the professor"] sexually harassed her by massaging her shoulder and touching her breast. The complainant, and the professor were alone when the incident occurred. The complainant informed TSU's Employee Compliance Manager (ECM) of the alleged sexual harassment on March 23, 2001. The ECM and the Assistant General Counsel (AGC) initiated an investigation of the complaint on March 26, 2001. TSU made it possible for the complainant to complete her courses without attending the two classes taught by the professor by providing her with a personal tutor and videotapes of the professor's class lectures. Between April 3, 2001 and April 12, 2001, the ECM and AGC interviewed witnesses who might have had personal knowledge of the alleged incident. Persons interviewed were the complainant, the professor, two of the professor's colleagues in the School of Business, three students, and the Dean of the School of Business.

In a memorandum dated April 17, 2001, the ECM and AGC informed TSU's Vice President for Academic Affairs/Provost that there was insufficient evidence to draw a conclusion regarding the specific charge that the professor touched the complainant's breast. The memorandum further stated that:

... there is sufficient evidence that [the professor] did touch [the complainant's] neck and shoulder. The touching by [the professor] was unwelcome and made [the complainant] feel uncomfortable. Thus, such conduct was inappropriate and warrants remedial and disciplinary action.

The ECM and AGC concluded that the professor's behavior was in violation of the university's Sexual Harassment Policy. The findings were made available to the complainant. The April 17, 2001 memorandum also stated that there would be mandatory university-wide training on sexual harassment within the next six months. This training was held on August 23-24, 2001. The training was conducted by the Texas Commission on Human Rights.

OCR determined that the complainant had notice of TSU's internal grievance procedures and used the procedures to have her allegation addressed by TSU. The evidence reveals that TSU took immediate and appropriate steps to investigate the allegation and determined that the professor's conduct was in violation of the university's Sexual Harassment Policy. The evidence indicates that TSU took immediate and effective action responsive to any sexual harassment that may have occurred. TSU made arrangements for the complainant to complete her coursework without having to attend classes taught by the professor, and also subsequently held training on sexual harassment. Based upon our analysis of the documentation, we have determined that there is insufficient evidence to support a finding of violation with respect to the complainant's allegation.

Notwithstanding our determination with regard to the complainant's allegation, during the course of the investigation, OCR identified concerns with the TSU grievance procedures related to its designation of a Title IX coordinator and the development and dissemination of a comprehensive Title IX grievance procedure. On May 7, 2002, TSU submitted the attached written commitment signed by the TSU President on May 2, 2002. The commitment appropriately addresses the concerns identified by OCR. Implementation of the agreement will be monitored by this office. Failure to implement the agreement may result in the finding of a violation.

This letter is not intended nor should it be construed to cover any other matters regarding compliance with applicable statutes that may exist and are not specifically discussed herein. 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, personally identifiable information which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for the cooperation extended by you and your staff. If you have any questions regarding this or other civil rights-related matters, you may contact me at (214) 880-2461.

Sincerely,

Sandra W. Stephens
Team Leader
Southern Division

Enclosure

COMMITMENT TO RESOLVE
Texas Southern University
(06012089)

Texas Southern University (TSU) voluntarily makes the following commitments to the Office for Civil Rights (OCR) to resolve procedural concerns identified by OCR relative to TSU's student grievance procedures in the above referenced complaint. TSU assures OCR that it will implement the commitments specified below.

1. By June 1, 2002, TSU will designate a responsible employee to coordinate its efforts to comply with Title IX responsibilities, including investigation of complaints alleging noncompliance or alleging actions that would be prohibited by the regulations implementing Title IX.
2. TSU will publish the name and location of the individual designated as the Title IX coordinator in its catalogs and handbook at their next printing. This information will be provided in the annual schedule for 2002-03 and in subsequent catalogs and student handbook at TSU. Fliers containing this information will be distributed throughout the campus. TSU will post this information at central locations throughout the campus by June 1, 2002.
3. TSU will adopt, publish and implement student grievance procedure that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Title IX by June 1, 2002.

The grievance procedures will include:

- (a) Provisions regarding the definition of a student grievance and the scope of the procedures. The provisions will include, but are not necessarily limited to who may file, issues that may be covered, and terms used throughout the grievance procedure
- (b) If the procedure includes a voluntary informal review process prior to the student filing a written grievance, the written student grievance procedures will contain information such as:
 - ❖ the process to be used
 - ❖ the basis upon which decisions are to be made and the decision maker authorized to afford a remedy
 - ❖ the time within which a student can expect a response

(c) With regard to a formal, written grievance, the procedures will address:

- ❖ the timeframe for filing, and designated and reasonably prompt
- ❖ timeframes for each major stage in the process
- ❖ the time within which the student or employee can expect a response
- ❖ the form in which the grievance is to be filed
- ❖ what is to be contained in a grievance
- ❖ application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties
- ❖ a description of the investigative process and the identification of the university personnel responsible for investigating the grievance
- ❖ the bases upon which decisions are to be made and the decision maker authorized to afford a remedy
- ❖ the process to ensure the impartiality of the investigation
- ❖ the presentation of evidence
- ❖ the right to appeal and the appeal process, with timeframes
- ❖ prohibition of retaliation

TSU will provide OCR a draft of the revised procedures for final review by May 15, 2002 in order for OCR to approve and return the revised procedures by May 20, 2002.

4. Students will be provided copies of the grievance procedure as a separate flier made available during 2002 summer and fall registrations. The grievance procedure will be published in all subsequent annual schedules, catalogs and handbooks including the undergraduate and graduate catalogs which will be issued before December 20, 2002.

5. By December 20, 2002, TSU will provide OCR a progress report indicating that the above actions have been implemented and copies of supporting documentation. The report will include a copy of the flier disseminated to students during the summer and fall sessions 2002, indicating the identity and location of the Title IX coordinator, a copy of the posted notice (if different); a listing of locations where posted, and date posted. The report will include copies of the catalogs and handbooks containing the identity and location of the Title IX coordinator and the new student grievance procedure.


Dr. Priscilla Slade, President

5/2/02
Date