



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION, DALLAS OFFICE

OCT 26 2005

Re: 06052099

Dr. Eddie Hadlock, President
North Central Texas College
1525 West California
Gainesville, Texas 76240-4699

Dear Dr. Hadlock:

The U.S. Department of Education, Dallas Office for Civil Rights (OCR), has completed its investigation of the above referenced complaint filed against North Central Texas College (NCTC), Corinth Campus, alleging discrimination on the basis of sex. The complainant alleged that NCTC failed to take effective action after she filed a complaint alleging that she was subjected to sexual harassment during the 2004-2005 school year.

This office is responsible for the enforcement of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, which states, in part:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. .

OCR determined that NCTC is a recipient of Federal financial assistance from the U. S. Department of Education. Therefore, OCR had jurisdictional authority to investigate this complaint under Title IX.

The regulation implementing Title IX, at 34 C.F.R. §§ 106.31 (a), (b)(4), (7), prohibits discrimination based on sex. The Title IX regulation, at 34 C.F.R. § 106.9 requires that a recipient must provide notice that it does not discriminate on the basis of sex. In addition, the regulation, at 34 C.F.R. § 106.8 (b), mandates recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging discrimination based on sex. Sexual harassment is a form of prohibited sex discrimination.

In investigating an allegation that a recipient failed to take effective action after it received notice that sexual harassment had occurred, OCR considers: (1) whether the recipient has adopted, published and disseminated grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment; (2) whether the recipient has disseminated a policy against sex discrimination; (3) whether the recipient had notice of the alleged sexual harassment; and, if so, (4) whether the recipient took

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immediate and appropriate steps to investigate or otherwise determine what occurred, and took prompt and effective steps reasonably calculated to end any harassment and prevent its recurrence.

OCR investigated the following issue: Whether NCTC failed to take effective action after the complainant provided notice that she was subjected to sexual harassment during the 2004-2005 school year.

OCR reviewed data provided by the complainant and recipient, interviewed the complainant and relevant NCTC staff and analyzed records and documents obtained during the investigation. OCR's investigation determined that there is insufficient evidence to support a conclusion of non-compliance with Title IX with respect to the complainant's allegation. The basis for our determination is summarized below:

FINDINGS

NCTC provided documentation to OCR which demonstrates that its notice of nondiscrimination based on sex, is included in numerous publications including but not limited to college catalogs, official bulletins, schedule of classes, the college website and student/faculty handbooks. OCR's review of the faculty handbook reveals that it contains a "Faculty Code of Professional Ethics" which states, in part: "The Professional Educator shall not engage in sexual harassment of students or colleagues . . ." NCTC designated its Dean of Student Services to coordinate its efforts under Title IX and published the Coordinator's name, title, location and telephone number in the NCTC 2004-2005 catalog as well as on-line via the webpage.

NCTC also provided OCR a copy of its policies prohibiting sexual harassment as well as grievance procedures stipulating that complaints of sexual harassment shall be referred to the Title IX Coordinator for investigation. The grievance procedures give individuals the right to file a complaint, to representation as well as appellate rights. According to the grievance procedures at Level One: "A student who has a complaint alleging sexual harassment may request a conference with the appropriate administrator, designee, or the Title IX coordinator for students" and may be accompanied by an advisor throughout the complaint process. In the Notice of Student Rights, sexual harassment is defined as:

"Sexual harassment of a student by an employee includes any unwelcome sexual advances, requests for sexual favors, and other verbal (oral or written), physical or visual conduct of a sexual nature. It also includes such activities as engaging in sexually oriented conversations for purposes of personal sexual gratification, telephoning a student at home or elsewhere to solicit inappropriate social relationships, physical contact that would be reasonably construed as sexual in nature, and enticing or

threatening a student to engage in sexual behavior in exchange for grades or other school related benefit."

All of the referenced documents are available to interested persons via the NCTC website.

The complainant alleged that NCTC failed to take appropriate action after she reported that she had been subjected to sexual harassment during the 2004-2005 school year. NCTC informed OCR that the complainant filed a complaint, which was investigated, and appropriate action was taken

NCTC informed OCR that the complainant made a verbal complaint to the NCTC Provost (Provost) on May 3, 2005, alleging that she had been subjected to sexual harassment during the Fall 2004 and Spring 2005 semesters and provided copies of notes prepared by the Provost documenting the meeting. According to the notes, the complainant, accompanied by another individual, came to the Provost's office on May 3, 2005, reported that an instructor had sexually harassed the complainant and cited two specific incidents that allegedly occurred during the Fall 2004 and Spring 2005 semesters. The notes indicate that the complainant told the Provost that during the Fall 2004 semester, the instructor invited her to have coffee at a local coffee shop and even though she did not want to go, she felt that she had to go. Another student observed the instructor and complainant at the coffee shop. The Provost's notes indicated that the complainant stated the instructor told her "he was not getting laid at home" and asked if she was interested, during the coffee encounter.

The complainant also told the Provost that during the Spring 2005 semester, the instructor called her into the hallway in May, and asked "Are you interested in getting an A for sexual favors." In addition, the complainant said the instructor had called her at home; she asked him not to, but he continued to do so. She stated she had "caller ID" and would not answer if she knew it was the instructor calling. Further, the complainant stated the instructor had made sexual comments in the classroom, i.e., "Every other word is "F" in class and students were afraid of him." The complainant told the Provost she reported the Fall incident to the instructor's supervisor (Supervisor) during a one-on-one conversation to which there were no witnesses. Allegedly, the Supervisor laughed at her, told her the instructor "doesn't mean it that way," "my husband likes it when I talk like that," and took no further action.

NCTC informed OCR that the complainant requested that the college delay any investigation until after grades were posted on May 16, 2005. The college provided a copy of a document signed by the complainant and the Provost on May 3, 2005 which states, in effect, that NCTC's policy regarding sexual harassment requires an investigation to be completed within 7 days of receipt or the student shall be informed if extenuating circumstances delay the investigation. In the document, the complainant and Provost agreed that the investigation of the

complaint would not begin until Monday May 16, 2004, or until after all grades were submitted.

Documentation submitted to OCR revealed that NCTC initiated an investigation on May 17, 2005. NCTC provided OCR a copy of a transcript of a meeting held May 17, 2005 between the NCTC Vice President (VP), Provost, Assistant to the Provost (who recorded the meeting), the Instructor's Supervisor and the Instructor, who was an adjunct teacher on a year-to-year contract. OCR's review of the transcript revealed that the Provost chaired the meeting and informed the Instructor of the allegations against him. The record also revealed that there was a thorough discussion of all of the matters raised by the complainant. The Provost and the VP jointly conducted the interrogation and questioned the Instructor regarding the allegations, including but not limited to, taking the complainant to coffee, calling the complainant at home, using the "F" word in the classroom, the Instructor's interaction with the complainant and other students in the classroom, the Instructor's friendship/relationship with the complainant and Supervisor; and, statements allegedly made by the Instructor to the complainant.

According to the transcript, the instructor acknowledged that he invited the complainant to coffee during the Fall 2004 semester but denied that he asked for sexual favors. He also denied that he called the complainant at home, but admitted that he occasionally used the "F" word in the classroom.

The transcript revealed that the Instructor admitted that he said, "Are you interested in giving sexual favors," to the complainant "in a joking manner" during the Spring 2005 semester. He said it was the "wrong thing to say," but he felt he and the complainant had previously established a playful rapport. The Instructor stated that he and the complainant bantered back and forth in the classroom all the time and the complainant had been the instigator of the bantering. However, the Instructor expressed remorse, indicated that his comment was irresponsible and stated that he would not say it again.

The transcript revealed that the Supervisor was questioned regarding the complainant's allegation that sexual harassment was reported to the Supervisor during the Fall 2004 and nothing was done. The Supervisor adamantly denied the complainant's allegation and indicated she never had a conversation with the student regarding sexual harassment. The record revealed that NCTC did not substantiate the complainant's allegation that she reported sexual harassment to the Supervisor and that nothing was done by the Supervisor in response to her complaint.

NCTC reported to OCR that its investigation revealed that the Instructor "had made at least one sexual statement that he acknowledged." However, the investigation concluded that the complainant's allegation that the Supervisor failed to respond to a complaint of sexual harassment in the Fall 2004 could not be verified.

NCTC informed OCR that after the NCTC President reviewed the matter, he advised the VP that he did not want the Instructor teaching for NCTC again and

instructed the VP to inform the Instructor of that decision. NCTC submitted a copy of a memorandum from the VP to the NCTC Human Resources Department (HRD) dated July 13, 2005, informing the HRD that the Instructor would no longer be employed at any of the of NCTC campuses. The memorandum instructed the HRD to place the memorandum in the Instructor's personnel file "to ensure that he is never employed in any position at NCTC."

NCTC also submitted a copy of a memorandum which was placed in the Supervisor's personnel file. In a memorandum dated July 13, 2005, the VP informed the HRD of the charges made against the Supervisor and indicated that the Supervisor denied the student's accusation. The memorandum indicated that the NCTC investigation did not substantiate the allegation; however, the Supervisor was reminded of the serious nature of the complaint and it was noted that the Supervisor was fully aware of the NCTC policy regarding sexual harassment. The VP instructed the HRD to place the memorandum in the Supervisor's personnel file to document the incident and the Supervisor's response.

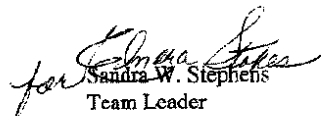
NCTC informed OCR that the topic "Sexual Harassment" was added to the schedule for the August 18, 2005 In-Service, which would be attended by all NCTC employees, and that Sexual Harassment posters were ordered to be placed around the NCTC campuses at various locations.

Based on documentation provided by the complainant and recipient and interviews with relevant witnesses, OCR has concluded that there is insufficient evidence to support a conclusion of non-compliance with Title IX with respect to the issue raised by the complainant's allegation. Therefore, we are closing this complaint as of the date of this letter.

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 your cooperation during the investigation of this complaint. If we may assist you with other civil rights-related questions or concerns, please call Elnora Stokes, Senior Equal Opportunity Specialist at 214 661-9653.

Sincerely,


Sandra W. Stephens
Team Leader