



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS—REGION VII

AUG - 4 2006
AUG 4 2006

John Mucci, President
Wright Business School
8951 Metcalf Avenue
Overland Park, Kansas 66212

Re: OCR Docket # 07062036

Dear Mr. Mucci:

On February 6, 2006, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging retaliation and discrimination on the bases of sex and race/color by Wright Business School (School), Overland Park, Kansas. This is to inform you we have completed the investigation of this complaint.

Specifically, the complainant alleged:

1. an instructor sexually harassed the complainant;
2. the extern coordinator and director retaliated against the complainant by removing her from an extern site after the complainant filed, with the director, a complaint of sexual harassment against an instructor;
3. an instructor discriminated against the complainant on the bases of race and color by making negative comments about the complainant's race; and
4. the director retaliated against the complainant by expelling her from the School's surgical technician program after the complainant filed a sexual harassment complaint against an instructor with the director.

OCR is responsible for enforcing:

- Title VI of the Civil Rights Act of 1964 (Title VI), 42 United States Code (U.S.C.) § 2000d, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 100. Title VI prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance (FFA), including retaliation and intimidation.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of FFA. The regulation implementing Title IX at 34 C.F.R. § 106.71 incorporates by reference the Title VI provision that prohibits retaliation.

As a recipient of FFA from the Department, the School is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Allegation 1

The complainant alleged an instructor sexually harassed her. The complainant stated she received a telephone call from an instructor of the School on the morning of August 20, 2005. The instructor gave the phone to her male cousin, who told the complainant the instructor said she was cute. Around noon the same day, the instructor's cousin called back. The complainant's boyfriend answered the complainant's cell phone, and the cousin asked the boyfriend if he would like "his girl" to have A's or C's. The boyfriend replied the complainant's grades were A's anyway, but the cousin said he wanted to have fun, that he was willing to do anything, and kept pressing the issue of whether the boyfriend wanted the complainant to have A's or C's. The complainant, who was present, asked her boyfriend to ask the cousin if the instructor was there at the time. The cousin confirmed the instructor was present, and added that they were having drinks at the director's house. The cousin said the director was "a bitch, but she was hot," and they were trying to have some fun. The cousin again asked the boyfriend if he wanted the complainant to have A's or C's, and whether the boyfriend would be willing to let the complainant be involved in sexual pleasures to make this happen. During this call, the complainant could hear the director talking in the background, and believed the director had to be aware of the sexual comments being made. The complainant said the instructor called again the next morning, August 21st, left a message apologizing for the phone call, and asked the complainant to return the call. The complainant did not return the call. At a meeting on or about August 29, 2005, the complainant and her boyfriend met with the School's director, the director of education, and the School president and described the phone calls. The complainant said the following day she provided the director a copy of her typed statement regarding the phone calls.

In its response to OCR's data request, the School submitted information to show the instructor made the calls after her employment ended with the School, and stating she was not acting on behalf of or with the consent of the School when making the calls. The School provided OCR a copy of the instructor's resignation letter dated August 17, 2005, claiming exceptional stress in her job. The letter stated her resignation from her position as extern coordinator would be effective September 15, 2005. The School accepted her resignation,

but was unaware of her behavior regarding any phone calls she placed the weekend of August 19-21, 2005, after she was relieved of all duties as an employee.

The School claimed in its written response to OCR that during the period from her resignation on August 17 to September 7, 2005, the instructor sent e-mails and made phone calls to various staff members claiming wrongful termination after an illness, but never admitted any wrongdoing. At the time, the School was not aware of the sexual harassment complaint filed by the complainant, but had become aware of a similar sexual harassment complaint filed by another student with OCR. On September 8, 2005, that student provided the School a copy of a tape containing the instructor's voice messages to her. The tape clearly indicated what the School considered to be inappropriate behavior. On September 8, 2005, prior to receiving the complainant's complaint, the School delivered a cease and desist letter to the instructor regarding her contact with School faculty, staff, and students. The School prepared an agreement of separation for the instructor. The School president/vice chairman met with the instructor on September 15, 2005, and executed the agreement of separation, the effective date of which was August 15, 2005.

The director informed OCR that on or about September 19, 2005, the director, School president, the complainant, and her boyfriend had a meeting to discuss the instructor's phone calls to the complainant. The director and president informed OCR that neither the complainant nor her boyfriend characterized the instructor's phone calls as sexual in nature, although they both clearly felt the calls were inappropriate. The School claimed the complainant said the phone calls from the instructor were "no big deal." Her boyfriend stated the complainant told him that she was propositioned by the instructor for a friend of hers, but he did not hear the instructor say this. The director said the School was investigating the claim and asked the complainant to provide the School a written statement of the events, which the complainant did not provide. The complainant stated at the meeting she just wanted the instructor to stop calling her, and confirmed she had received no further calls from the instructor. The director informed the complainant the instructor had resigned from the School. The director confirmed the instructor visited her home on the day the instructor called the complainant, but only for about 10 to 15 minutes. The director denied knowing the instructor made a phone call to the complainant while visiting the director's home.

Analysis

The regulation implementing Title IX at 34 C.F.R. § 106.31(a) states that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic or other education program or activity operated by a recipient which receives Federal financial assistance. The regulation implementing Title IX at

34 C.F.R. § 106.31(b)(3) states that in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex, deny any person any such aid, benefit, or service.

Title IX protects students from being subjected to a sexually hostile environment. To establish a violation of Title IX under the hostile environment theory, OCR must find that: (1) a sexually hostile environment existed; (2) the School had actual or constructive notice of the sexually hostile environment; and (3) the School failed to respond adequately to redress the sexually hostile environment. To determine whether a sexually hostile environment exists, OCR must establish that the harassing conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the School. OCR examines the context, nature, scope, frequency, duration, and location of sexual incidents, as well as the identity, number, and relationship of the persons involved. The harassment must, in most cases, consist of more than casual or isolated incidents to establish a Title IX violation.

OCR's investigation revealed the following: The instructor tendered her resignation on August 17, 2005, to be effective September 15, 2005. On August 20, 2005, the complainant received two telephone calls that the complainant considered to be harassing in nature. The complainant brought the incident to the School's attention at the end of August or in September 2005. The evidence presented by the complainant and the School is conflicting and OCR was unable to verify the specific date the School was actually notified. Another student made similar accusations and following a review of tape-recorded information provided by the other student, the School sent the instructor a "cease and desist" letter on September 8, 2005.

OCR first examined whether a sexually hostile environment existed. While the harassing conduct was not persistent or pervasive, because it only happened once, OCR has determined it was severe in that the complainant was told the grade she would receive was dependant upon her agreement to engage in sexual activity in a phone call initiated by a member of the School's faculty. OCR finds this harassing conduct interfered with the complainant's ability to participate in the School's educational program because the caller was associated with the instructor and suggested the complainant's grade could be influenced by her willingness to participate in sexual activity. Because the harassing conduct was sufficiently severe so as to interfere with or limit the ability of the complainant to participate in or benefit from the School's program, OCR finds a sexually hostile environment existed.

OCR next determined whether the School had notice of the sexually hostile environment. OCR's investigation found the School became aware of the incident at the end of August or early in September 2005.

Finally, OCR examined whether the School responded adequately to redress the sexually hostile environment. The OCR investigation found that when the School was made aware of the harassing conduct of the instructor, the School sent a "cease and desist" letter to the instructor and developed a separation agreement that was signed by the instructor on September 15, 2005. The complainant did not receive any additional harassing contact from the instructor or the instructor's cousin.

Based on the evidence OCR reviewed in this case, OCR has determined the School's responses to the complainant's report of sexual harassment by the instructor is consistent with the requirements of the regulation implementing Title IX at 34 C.F.R. § 106.31(a) and (b)(3), and resolves this allegation of the complaint. As a result, OCR is closing allegation 1 of the complaint as of the date of this letter and will take no further action with respect to allegation 1.

Allegation 2

The complainant alleged the extern coordinator and director retaliated against her by removing her from an extern site after the complainant filed a complaint of sexual harassment against an instructor with the School's director.

The complainant explained that as part of the coursework for the surgical technician program at the School, students work clinical hours to get on-the-job training at sites located away from campus, which the School refers to as "extern" sites. The complainant said she met with the director, an administrative staff member, the director of education, and the School president on or about August 29, 2005, to discuss the sexual harassment complaint. The day after this meeting, the complainant said she filed her written complaint with the director describing the sexual harassment.

The complainant continued her training at Baptist Lutheran Medical Center, the extern site. At approximately 7:30 a.m. on September 16, 2005, the head nurse in the surgery ward informed the complainant she believed the complainant had been expelled from School and advised her to contact the extern coordinator. The complainant learned on her third call to the extern coordinator that he was out of state. The complainant called the director in early October 2005 to ask about the extern site, and the director advised the complainant to contact the extern coordinator. The complainant said between September 16, 2005, and early October 2005, she made approximately 30 calls to the director and extern coordinator to ask about her extern sites and the reason she was removed from Baptist Lutheran Medical Center. Neither the director nor the extern coordinator returned her calls. The complainant last attended training at the extern site on September 16, 2005.

In its response to OCR's data request, the School denies the extern coordinator and director retaliated against the complainant by removing her from an extern site after she filed a complaint of sexual harassment against the instructor. The School claimed that during the complainant's assignments at extern sites, the School never removed her from a site. The decision to remove the complainant from the extern sites was made by the site supervisor at three successive extern sites. The site supervisors are employed by the medical facilities, not the School. The School terminated the complainant from the School's surgical technician program as a result of her termination from three successive extern sites.

The School president and director gave OCR an overview of the School's surgical technician program. Students prepare by studying relevant material in the classroom for 30 weeks. At the end of the 30 weeks, students are prepared to work at extern sites. Students complete 15 weeks of training at various extern sites to provide them with the hands-on experience necessary to qualify them for positions after they graduate. Students sign a contract with the extern site they are assigned to. In the contract, students commit to a dress code as well as behavioral, academic, and attendance requirements. Students have no choice in the extern site they are assigned to. The School's extern coordinator assigns extern sites as they become available. Students are rotated every three weeks between extern sites to allow them to gain experience in instrumentation, specialties, plastics, labor/delivery, and prep/scrub. Students are supervised at each extern site by a preceptor or supervisor employed by that facility. The extern coordinator is the School's contact for the on-site supervisor at each extern site for the students. There is no specific policy regarding the removal of School students from an extern site, but behavior and attendance can result in removal. The director looks at each instance on an individual basis and makes the decision. Exceptions can be made depending on the circumstances.

The current extern coordinator believed he learned from the director that the complainant filed a sex discrimination complaint against the School. As background, the School's extern coordinator explained in a document dated October 11, 2005, that the complainant was previously terminated from the surgical technician program because of her poor attendance.

OCR interviewed representatives from extern sites and reviewed documents related to the complainant's externships. The complainant's first externship, at Colorectal Surgery Associates, began on March 22, 2005. Her externship there ended after three weeks. She worked 6 hours the first week, 15 hours the second week, and 14.5 hours the third week. The on-site coordinator at Colorectal Surgery Associates informed OCR she asked the School not to return the complainant there for training due to her poor attendance record, but could not remember the School staff member with whom she spoke. The School readmitted the complainant to the surgical technician program with an agreement the complainant signed on May 26, 2005, agreeing she would have 100 percent attendance with

no exceptions. The agreement also states, "If any terms are not met, termination will be the result."

The current extern coordinator's conference records indicated the complainant's externship at the sterile processing unit at the Medical Center at Kansas University (MCKU) ended after three weeks, and she was again asked not to return because of attendance problems. The conference records do not indicate the dates the complainant's training began and ended at MCKU. The manager of the sterile processing unit informed OCR he called the complainant and advised her to contact the School to explain that she had overused her excused absences, but denied that he terminated her training. Based upon the report from the MCKU manager, the School's director went to MCKU and met with the manager to discuss the complainant's circumstances. The manager informed the director that the School does not monitor its students well and that, as a result, the sterile processing unit would no longer accept School students for training. The manager had no documentation to confirm the dates of his interaction with the complainant or the School. The day supervisor at the sterile processing unit informed OCR that he supervised the School's students, but remembered the complainant vaguely and could not provide specific information regarding her training. The day supervisor completed the weekly evaluation reports for the School's students, which he gave to the students to return to the School. He maintained no documentation for the School's students, but stated he does make decisions regarding termination of students. He informed OCR that if the School's extern coordinator's notes reflected that he asked the School not to return the complainant to the sterile processing unit for training, those notes were probably accurate.

The complainant's externship at Baptist Lutheran Medical Center began on August 1, 2005, and ended on September 16, 2005. A Note to the File dated September 21, 2005, initiated by the on-site coordinator at Baptist Lutheran Medical Center, indicated the complainant failed to complete assignments; disappeared when surgical staff needed her to help clean the operating room, did not help decontaminate rooms; and did not follow instructions well or with a positive attitude. The School claimed this extern site asked that the complainant not return for training. The individual who served as the on-site coordinator for Baptist Lutheran Medical Center is no longer employed there. The School provided OCR a contact number to speak with this person; however, she refused to be interviewed by OCR.

Analysis

The complainant alleged the extern coordinator and director retaliated against her by removing her from an extern site after the complainant filed, with the director, a complaint of sexual harassment against an instructor.

The regulation implementing Title VI at 34 C.F.R. § 100.7(e) states that a recipient may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing. The regulation implementing Title IX at 34 C.F.R. § 106.71 contains a similar prohibition against retaliation.

To determine whether retaliation has occurred, OCR must establish that 1) an individual engaged in a protected activity; 2) the recipient had notice of the protected activity; 3) the recipient took adverse action against the individual subsequent to the protected activity; and 4) there is an inferable causal connection between the protected activity and the adverse action. An individual engages in a protected activity by filing a complaint of discrimination, participating in a complaint alleging discrimination, or opposing actions reasonably believed to be discriminatory. If OCR establishes these elements, then OCR determines whether the recipient had a legitimate, non-discriminatory reason for the adverse action that is not pretextual.

OCR determined the complainant engaged in a protected activity by making a complaint of sexual harassment some time at the end of August or early in September 2005, and the School had notice of her protected activity. OCR also finds the complainant's expulsion from the School is an adverse action against the complainant. OCR also finds the timing of the adverse action and the complainant's participation in a protected activity creates an inference of a causal relationship between the protected activity and the adverse action. Therefore, OCR concludes the first four elements of the retaliation analytical framework had been established.

Having concluded that the first four elements of the retaliation analysis had been established, OCR analyzed the School's reasons for expelling the complainant to determine if they provided a legitimate non-discriminatory reason for its action that was not a pretext for discriminatory conduct. The School presented evidence that the complainant had attendance problems prior to her expulsion. The complainant was expelled from the School and was reinstated in May 2005. An agreement between the School and the complainant required her to have perfect attendance; if the complainant failed to have perfect attendance, she would be terminated. OCR reviewed documents and interviewed representatives from the complainant's extern sites and found that at two sites the complainant was terminated for poor attendance. OCR attempted to contact the coordinator for the third site, but was unable to speak with the individual in charge of the extern program.

Based on the above information, OCR has determined there is insufficient evidence to establish that the director or extern coordinator retaliated against the complainant by removing her from an extern site after she filed a complaint of sexual harassment. The OCR investigation found the School had a legitimate, non-discriminatory reason for the adverse

action that is not pretextual. The evidence revealed the extern sites and School removed the complainant from the extern sites because of poor attendance and other documented performance problems and not because she had filed a sexual harassment complaint. OCR is closing allegation 2 of the complaint as of the date of this letter and will take no further action with respect to allegation 2.

Allegation 3:

The complainant alleged an instructor discriminated against her on the bases of race and color by making negative racial comments. The complainant believed that she and two other students, who received sexually harassing phone calls on August 20, 2005, because they are all black women with light complexions, were discriminated against based on race. The complainant alleged she started attending the School in June 2004, and the instructor whom she alleged made sexually harassing phone calls to her always called on white students and never let black students, male or female, answer any questions in class. When a black student was late to class, the instructor would ask, "What do you call a person who's late?" and then she would answered her own question by saying, "a monkey just hanging on the wall." The instructor informed the class that she had only a few black friends because her family was not fond of black people. During the first part of August 2005, and in front of the director, the instructor said to the complainant and two other black students, "you people can be really intelligent when you want to." The instructor was referring to the complainant and two other black students, all of whom later filed complaints with OCR. The complainant filed no complaints with School staff alleging discrimination on the basis of race or color.

In its response to OCR's data request, the School stated it has no knowledge of any instructor discriminating against the complainant on the bases of race and color because the complainant never reported the incidents to any School employee, and no other students reported the alleged racial discrimination. OCR interviewed the director who said she did not recall the instructor making the comment, and if she had, the instructor would have been terminated for making that type of comment.

Analysis

The regulation implementing Title VI at 34 C.F.R. § 100.3(a) states that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program. The regulation implementing Title VI at 34 C.F.R. § 100.3(b)(1)(ii) states that a recipient may not, directly or through contractual or other arrangements, on ground of race, color, national origin, provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program.

Because this allegation involves alleged negative racial comments an instructor made to students in class, OCR used the racially hostile environment analysis to examine the School's compliance with Title VI. Title VI protects students from being subjected to a racially hostile environment. To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a racially hostile environment existed; (2) the School had actual or constructive notice of the racially hostile environment; and (3) the School failed to respond adequately to redress the racially hostile environment. To determine whether a racially hostile environment exists, OCR must establish that the harassing conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the School. OCR examines the context, nature, scope, frequency, duration, and location of sexual incidents, as well as the identity, number, and relationship of the persons involved. The harassment must, in most cases, consist of more than casual or isolated incidents to establish a Title VI violation.

Based on the information OCR reviewed, there is insufficient evidence that the School did not take action to correct a racially hostile environment of which it was aware. The complainant stated the instructor made comments concerning black students and treated black students less favorably than white students in class. Assuming for purposes of this analysis that the instructor made the alleged comments and they are sufficiently severe, pervasive, or persistent to interfere with the ability of students to participate in class, there is no evidence the School administration with the authority to address this had notice of the racially hostile environment. The OCR investigation found the complainant never reported the comments to anyone at the School. The director said she did not recall any statements to that effect, and the two other students the complainant referred to also did not report allegations of race discrimination to anyone at the School. Moreover, in an OCR interview, the director said if she had received notice of the instructor making racially derogatory comments and those comments were verified, she would have terminated the instructor for making that type of comment.

Based on the above information, OCR has determined there is insufficient evidence to establish the instructor made racially discriminatory comments, and there is no evidence the complainant made School administrators aware of any such alleged comments. Accordingly, there is insufficient evidence to find the School allowed a racially hostile environment to exist without taking effective corrective action. Therefore, OCR is closing allegation 3 of the complaint as of the date of this letter and will take no further action with respect to allegation 3.

Allegation 4

The complainant alleged the director retaliated against her by expelling her from the School's surgical technician program after the complainant filed a complaint of sexual harassment against an instructor with the director. The complainant stated she and her boyfriend met with the director, an administrative staff member, the director of education, and the School president on August 29, 2005, to discuss the complaint. The next day, the complainant said she filed a written complaint with the director describing the sexual harassment. On September 16, 2005, at the extern site, the head nurse in the surgery ward informed the complainant that she believed the complainant had been expelled. The complainant called the director in early October 2005 to ask the status of her sexual harassment complaint. The director advised the complainant to "go after" the instructor, but to refrain from suing the School because the School was not responsible. The complainant also asked the director for "termination papers," and the director replied that she would have to discuss that with the school's lawyer and then contact the complainant. The School's policy requires the School to provide students a written reason for expulsion, but the complainant did not receive any documentation from the School regarding the expulsion. The complainant stated that no School staff member informed her that she had been terminated from the School's surgical technician program. The complainant stopped attending school on September 16, 2005, based on her interpretation of what the head nurse told her.

In its response to OCR's data request, the School denied the director retaliated against the complainant by expelling her from the School's surgical technician program after she filed a complaint of sexual harassment against the instructor. Representatives of the School stated they terminated the complainant from the School's surgical technician program because the independent on-site coordinator at each of three successive extern sites made the decision to end the complainant's internship at the sites.

OCR's review of the data and interviews found that the complainant's first externship at Colorectal Surgery Associates began on March 22, 2005, and ended after three weeks because of the complainant's attendance problems. The on-site coordinator at Colorectal Surgery Associates confirmed she terminated the complainant's training at that location due to the complainant's poor attendance. The School readmitted the complainant to the surgical technician program with an agreement the complainant signed on May 26, 2005, agreeing she would have 100 percent attendance with no exceptions. The agreement also stated, "If any terms are not met, termination will be the result."

The complainant again experienced attendance problems during her externship at the sterile processing unit at the Medical Center at Kansas University. The manager at the sterile processing unit confirmed the complainant had attendance problems during her training there and he advised the complainant to contact the School to report that she had overused

her excused absences, although he denied he terminated her training. The day supervisor at the sterile processing unit informed OCR he supervised the School's students, but remembered the complainant vaguely and could not provide specific information regarding her training. The day supervisor completed the weekly evaluation reports for the School's students, which he gave to the students to return to the School. He maintained no documentation for the School's students, but stated he does make decisions regarding termination of students. He informed OCR that if the School's extern coordinator's notes reflected that he asked the School not to return the complainant to the sterile processing unit for training, those notes were probably accurate.

OCR reviewed documents from the complainant's externship at Baptist Lutheran Medical Center, which began on August 1, 2005, ended on September 16, 2005. Documents OCR reviewed indicated the complainant failed to complete assignments, disappeared without explanation when surgical staff needed her to help clean the operating room, and did not follow instructions well or with a positive attitude. This extern site also asked that she not return.

Analysis

The regulation implementing Title VI at 34 C.F.R. § 100.7(e) states that a recipient may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing. The regulation implementing Title IX at 34 C.F.R. § 106.71 contains a similar prohibition against retaliation.

To determine whether retaliation has occurred, OCR must establish that 1) an individual engaged in a protected activity; 2) the recipient had notice of the protected activity; 3) the recipient took adverse action against the individual subsequent to the protected activity; and 4) there is an inferable causal connection between the protected activity and the adverse action. An individual engages in a protected activity by filing a complaint of discrimination, participating in a complaint alleging discrimination, or opposing actions reasonably believed to be discriminatory. If OCR establishes these elements, then OCR determines whether the recipient had a legitimate, non-discriminatory reason for the adverse action that is not pretextual.

OCR finds the complainant met with the director in late August or early September 2005, to discuss her sexual harassment complaint.

OCR has determined the complainant participated in a protected activity by filing a complaint of sex discrimination on or about August 30, 2005, and the director was aware of the complaint. OCR has also determined the director took adverse action against the

complainant by terminating her from the School's surgical technician program after she filed a sexual harassment complaint with the director. Further, OCR concludes there is an inferable causal connection between the protected activity and the adverse action due to the close proximity in time between the filing of the complaint and the adverse action. Next, OCR considered the School's offered nondiscriminatory reason for terminating the complainant from its surgical technician program. The School's reason for terminating the complainant was based on the fact that each of the on-site coordinators from Colorectal Surgery Associates, the Medical Center at Kansas University, and Baptist Lutheran Medical Center terminated the complainant's placement. To determine if the School's stated reason is pretextual, OCR considered the complainant's performance and attendance at these three extern sites. Interviews and the School's documentation indicated the on-site coordinator at Colorectal Surgery Associates terminated the complainant after three weeks because of attendance problems. The manager for the sterile processing unit at the Medical Center at Kansas University confirmed the complainant had attendance problems during her training there, but denied that he terminated her training. Documentation initiated by the on-site coordinator at Baptist Lutheran Medical Center indicated the complainant experienced performance problems at that placement, including failing to complete assignments, disappearing without explanation when surgical staff needed her to help clean the operating room, and not following instructions well or with a positive attitude. The School claimed the on-site coordinator asked that the complainant not return for training. The individual who served as the on-site coordinator for Baptist Lutheran Medical Center is no longer employed there and when OCR contacted her, she refused to be interviewed.

Based on the above information, OCR has concluded that the School's reason for expelling the complainant from the School's surgical technician program is not pretextual. As a result, there is insufficient evidence to establish that the School's director retaliated against the complainant by terminating her from the surgical technician program after the complainant filed a complaint of sex discrimination with the director. As a result, OCR is closing allegation 4 of the complaint as of the date of this letter and will take no further action with respect to allegation 4.

Procedural Concerns

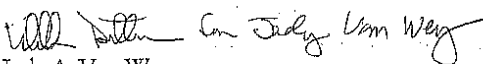
OCR determined the School's sexual harassment policy does not include contact information for the individual(s) designated as the School's Title IX coordinator. The School did not include its sexual harassment policy in the School's 2005 Catalog. OCR also determined the School's grievance procedure is incomplete in that it does not include provisions for timely, thorough investigation of allegations of sexual harassment, does not include timelines for filing complaints and the appeal process, does not provide students effective notice of the procedure, and does not provide the name, office address, and telephone number of the individual designated as the School's Title IX coordinator.

On August 4, 2006, the School submitted to OCR the enclosed signed Resolution Agreement (Agreement) that, when implemented, will fully resolve the procedural concerns identified for this complaint. Therefore, OCR considers this case resolved effective the date of this letter.

OCR will monitor the School's implementation of the Agreement. Continued compliance with the regulation implementing Title IX is contingent upon OCR's receipt of documentation showing completion of the actions planned by the School. Failure to implement the Agreement as scheduled will result in OCR immediately resuming the investigation.

In any future correspondence with OCR, please refer to the number referenced above. This will enable OCR staff to immediately route your correspondence to the individual assigned to this complaint. If you have any questions regarding this matter or if you need technical assistance in the completion of the activities required in the Agreement, please contact Janet Chapin, Equal Opportunity Specialist, at (816) 268-0556 (voice) or (877) 521-2172 (telecommunication device for the deaf), or by email at janet.chapin@ed.gov.

Sincerely,


Jody A. Van Wey
Supervisory Equal Opportunity Specialist

Enclosure

**RESOLUTION AGREEMENT
WRIGHT BUSINESS SCHOOL
DOCKET NUMBER 07062029, 07062036, 07062039**

Wright Business School (School), Overland Park, Kansas, submits the following Resolution Agreement (Agreement) to the U. S. Department of Education, Office for Civil Rights (OCR), to resolve procedural issues of the above-referenced complaints pertaining to its sexual harassment policy and a grievance procedure. These complaints were 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.

This Agreement addresses the School's responsibility to develop and implement a policy prohibiting sexual harassment and to develop and implement an appropriate grievance procedure applicable to complaints of discrimination on the basis sex, including complaints of sexual harassment. Neither the execution of this Agreement nor the actions taken by the School to comply with this Agreement shall constitute, nor be construed or represented as, an admission by the School, or any affiliated entity, of any liability or of any breach of contract or violation of any statute, common law duty, constitution, or administrative rule or regulation. The School expressly denies any such liability or violation.

Specifically, the School agrees to take the following actions:

1. By October 4, 2006, the School will develop and implement a policy prohibiting sexual harassment that is consistent with OCR's March 13, 1997 Notice regarding sexual harassment published in the Federal Register [62 Federal Register 12035]. (A copy of this notice is enclosed.) The School's sexual harassment policy will include, at a minimum, the following provisions:
 - a. A provision that specifically addresses methods to identify and remedy a sexually hostile environment;
 - b. Examples of staff-on-student and student-on-student sexual harassment;
 - c. A statement of the possible disciplinary consequences for violation of the policy;
 - d. A provision that if an employee (administrator, teacher, or non-certified staff) receives a report of sexual harassment, the School will immediately investigate the matter to take disciplinary action where appropriate;
 - e. Identification, by name or position title, office address and telephone number of the individual designated to investigate reports and complaints involving sexual harassment.

Reporting Provision

By October 4, 2006, the School will provide to OCR a copy of its revised sexual harassment policy that complies with the guidelines set forth above in items a through e of this portion of the Agreement.

2. By October 4, 2006, the School will implement a revised grievance procedure applicable to complaints of discrimination on the basis of sex, including complaints of sexual harassment by students or employees. The grievance procedure must include, at a minimum, the following:
 - a. A statement that the grievance procedure is applicable to complaints alleging discrimination on the basis of sex, including allegations of sexual harassment by students or employees;
 - b. A requirement that all complaints will be promptly addressed, within specified time frames provided by the School, and thoroughly investigated;
 - c. Provisions for maintaining the confidentiality of the person who files a complaint and notice that retaliation against a person who files a complaint of sex discrimination, including sexual harassment, or persons who participate in related proceedings, is prohibited;
 - d. Provisions that are consistent with OCR's March 13, 1997 Notice regarding sexual harassment that is referenced above; and
 - e. Notice that complaints of discrimination on the basis of sex, including complaints of sexual harassment, may be filed with the U. S. Department of Education, Office for Civil Rights, 8930 Ward Parkway, Suite 2037, Kansas City, Missouri 64114-3302, (816) 268-0550.

Reporting Provision

By October 4, 2006, the School will submit to OCR a copy of its revised grievance procedure applicable to complaints of discrimination on the basis of sex, including complaints of sexual harassment by students or employees.

3. By October 11, 2006, the School will disseminate its revised sexual harassment policy (Item 1 of the Agreement) and revised grievance procedure (Item 2 of the Agreement) to all students and employees by:
 - a. Publishing the sexual harassment policy and grievance procedure in the school catalog;
 - b. Posting the sexual harassment policy in prominent locations in the School's buildings;
 - c. Disseminating the sexual harassment policy and grievance procedure to all current students and employees by providing each a copy of the sexual harassment policy and grievance procedure; and
 - d. Continuing to disseminate the sexual harassment policy and grievance procedure to all incoming students at the time of student orientation where such information will be explained to the students and providing all new employees a copy of the sexual harassment policy and grievance procedure.
4. The School will conduct annual training sessions with its employees regarding the School's sexual harassment policy and grievance procedure.

Reporting Provisions

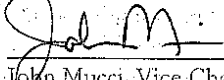
By October 4, 2006, the School will submit to OCR a copy of each published sexual harassment policy and grievance procedure to students and employees. [Any written policies being submitted in response to Item 2 above do not need to be duplicated for this reporting requirement.]

By October 4, 2006, the School will provide pictures showing the sexual harassment policy is posted in prominent location in the School's buildings.

Reporting Provision

By October 11, 2006, the School will submit assurance to OCR that the School has executed all provisions of Item 3 of this Agreement.

Enclosure



John Mucci, Vice Chairman
Wright Business School
Overland Park, Kansas

August 4, 2006

Date