



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION IX
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, California 94102

June 27, 2002

Dr. Albert Carnesale
Chancellor
University of California, Los Angeles
405 Hilgard Avenue
Los Angeles, California 90095

(In reply, please refer to Docket Number 09-02-2075.)

Dear Chancellor Carnesale:

On March 25, 2002, the U.S. Department of Education (Department), San Francisco Office for Civil Rights (OCR) received a complaint filed by (b)(7)(C) (complainant) against the University of California, Los Angeles (University). The complainant alleged that the University discriminated against her on the basis of sex. Specifically, the complainant alleged that another student sexually harassed her and that the University failed to take effective actions to discipline that student or eliminate the hostile environment he created.

OCR enforces Title IX as amended, 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 and in activities operated by recipients of Federal financial assistance. The University receives funds from the Department and is subject to Title IX and its implementing regulations; therefore, OCR has jurisdiction to resolve this complaint pursuant to Title IX.

In investigating this complaint, OCR reviewed documents provided by the complainant and the University, conducted telephone interviews with the complainant and the University and found the University to be in compliance with Title IX with respect to the issues raised in this case.

The regulation implementing Title IX, at 34 C.F.R. § 106.31, states that no person shall, on the basis of sex, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination by a recipient of Federal financial assistance in any of its programs or activities.

Sexual harassment is unwelcome conduct of a sexual nature. It can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

Sexual harassment of one student by another student, which creates a hostile environment, is a form of sex discrimination prohibited under Title IX. Hostile environment sexual harassment can be created when conduct of a sexual nature, which can include unwelcome sexual advances and other verbal, nonverbal, or physical conduct of a sexual nature, are sufficiently severe, pervasive or persistent enough to interfere with a student's ability to participate in or benefit from an education program or activity or to create a hostile or abusive educational environment.

Once recipients have notice of possible sexual harassment of students - whether carried out by employees, other students or third parties - they must take immediate and appropriate steps to investigate or otherwise determine what occurred, and take steps reasonably calculated to end any harassment, eliminate a discriminatory educational environment if one has been created, and prevent harassment from occurring again. These steps are the recipient's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action. In appropriate circumstances, the institution will also be responsible for taking steps to remedy the effects of the harassment on the individual student who was harassed.

In addition, the Title IX regulation, at 34 C.F.R. §§ 106.8 and 106.9, requires recipients to have well publicized policies against sex discrimination, including sexual harassment discrimination, and to adopt and implement grievance procedures that provide for the prompt and equitable resolution of complaints alleging sex discrimination. Recipients must also designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance. 34 C.F.R. § 106.8(a). Regardless of whether harassment occurred, an education institution violates the Title IX regulation if it does not have those procedures and policy, and a coordinator, in place.

The complainant alleged that the University failed to take immediate and appropriate steps toward corrective action after she reported that another student had sexually harassed her on January 7, 2002. The complainant also alleged that the University's failure to take any corrective action against the accused student (S2) allowed a sexually hostile environment to exist on the campus.

During its investigation of this complaint, OCR learned that the University had taken steps to resolve the complaint it received alleging that the complainant had been subjected to sexual harassment. In a telephone interview on May 13, 2002, the

Dean of Students (Dean) informed OCR that, in accordance with the University's published policies and procedures, she corresponded with the complainant about the alleged sexual harassment incident and then met with her on February 14, 2002. The Dean interviewed the complainant, the accused student and the witnesses to the alleged verbal exchange. The Dean informed the complainant that, based on conflicting reports from the complainant, S2 and their witnesses, there was insufficient evidence to substantiate the allegation of sexual harassment.

The Dean informed OCR that she referred the complaint to the Student Conduct Committee (Committee) in May 2002, as soon as reasonably possible after efforts were made to determine whether the complainant was willing to appear before the Committee. The hearing is pending. With respect to the complainant's expressed concerns about appearing before the Committee, the Dean assured OCR that the University prohibits bias and harassment in its proceedings. She also stated that she had informed the complainant that the Committee has received procedural and sensitivity training recently, specifically in the area of sexual misconduct cases.

OCR reviewed the University's Student Conduct Code (Code), which includes guidelines for resolution of complaints alleging discrimination on the basis of sex, including sexual harassment. OCR noted that the Code includes guidelines for hearing procedures and standards, Committee orientation and student notification of decisions and appeal procedures. The University provides Code booklets to students and it appears to have followed its published guidelines in the investigation of this case.

OCR has determined that the University responded promptly to the allegation of sexual harassment. The University conducted an investigation and scheduled a hearing. Therefore, OCR finds that there is insufficient evidence to support a finding that the University allowed the sexual harassment of the student or permitted the existence of a sexually hostile environment in violation of Title IX. OCR is closing this complaint as of the date of this letter.

Federal regulations prohibit intimidation, harassment or retaliation by recipients of Federal funds and public educational entities against those filing complaints with OCR and those participating in the complaint resolution process. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related records on request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

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Thank you for your cooperation. If you have any questions, please contact Cheryll Crane, Equal Opportunity Specialist, at (415) 556-4232, or me, at (415) 556-4275.

Sincerely,



David R. Rolandelli
Team Leader

cc: (b)(7)(C)