



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

October 7, 1999

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

Dr. Robert Dynes
Chancellor
University of California, San Diego
9500 Gilman Drive
La Jolla, California 92093

(In reply, please refer to Docket Number 09-97-2049.)

Dear Chancellor Dynes:

This letter is to notify you of the resolution of the above-referenced complaint, filed with the U.S. Department of Education (hereinafter Department), San Francisco Office for Civil Rights (OCR), by June Terpstra against the University of California, San Diego (hereinafter University), alleging discrimination on the basis of sex in violation of Title IX of the Education Amendments of 1972. Specifically, the complaint alleged that the University failed to respond effectively to complaints of sexual harassment, and failed to implement grievance procedures that ensure the prompt and equitable resolution of sexual harassment complaints. The complainant also alleged that the University retaliated against her for raising these concerns.

OCR enforces Title IX and the Department's implementing regulations, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in education programs and activities operated by recipients of Federal financial assistance. The University receives funds from the Department and is subject to Title IX and the regulation.

After this complaint was opened, OCR received a letter from the complainant informing us that she and the University had reached a mutually-agreeable settlement regarding her complaint. Based on this letter, OCR administratively closed the individual retaliation allegations pertaining to the complainant. However, OCR notified the complainant and the University that OCR would proceed to investigate the allegations of systemic discrimination based on information indicating deficiencies in the University's sexual harassment complaint procedures. As described below, the complaint allegations were successfully resolved through a voluntary agreement between OCR and the University.

The Title IX regulations, at 34 C.F.R. § 106.31(a), provide 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 education program or activity operated by a recipient of federal financial assistance. Sexual harassment can be a form of unlawful discrimination under Title IX and the regulations. Under Title IX, in order to ensure a nondiscriminatory educational environment, the University must investigate reports of sexual harassment promptly, take appropriate steps to stop the harassment and correct its effects, and prevent the harassment from recurring.

The Department's Title IX regulations at 34 C.F.R. § 106.9 require recipients to have well-publicized policies against discrimination based on sex, including sexual harassment discrimination. In addition, recipients must designate at least one employee to coordinate and carry out its Title IX responsibilities, and implement grievance procedures that provide for the prompt and equitable resolution of complaints that allege sex discrimination (34 C.F.R. § 106.8).

In assessing whether a recipient's procedures are prompt and equitable, OCR examines a number of factors including whether the procedures provide for: (1) notice to students and employees of the procedure itself including where complaints may be filed; (2) adequate, reliable and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; (3) designated and reasonably prompt time frames for the major stages of the complaint process; (4) notice to the parties of the outcome of the complaint; and (5) an assurance that the recipient will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

To conduct its investigation of this case, OCR reviewed data received from the complainant and the University. OCR also made onsite visits to the University and interviewed University administrators, faculty and staff. Additionally, OCR reviewed in detail the University's records of its handling of sexual harassment complaints. OCR noted several significant problems in the University's system for processing sexual harassment complaints. The information from the investigation raised questions about whether the University's procedures had been sufficient to ensure a prompt and equitable means of resolution of sexual harassment discrimination complaints, and whether the University's response had been adequate in all cases to ensure that the harassment did not recur. The primary concerns included the following:

- Because of the number of different University policies that affected the handling of sexual harassment complaints, the complaint process was not clear to students and employees and was not implemented consistently. The role and authority of the Office of Sexual Harassment Prevention and Policy (OSHPP) was not clear to the campus community;

- Although a Director of OSHPP had been appointed, there was no designated employee responsible for coordinating the University's overall Title IX responsibilities;
- Records of some complaint investigations were unclear as to what procedure was followed in reaching a resolution, and whether the grievant was informed of the differences between informal and formal resolution and of the right to request a formal investigation;
- Complaint files did not consistently show the outcome of the investigation, what the resolution was or who approved the resolution; they also lacked documentation to show that the sanctions or penalties imposed on individuals found to have engaged in harassment were enforced; and
- The information from some files also revealed a lack of notice to the grievant of the outcome of the investigations and lack of consideration of academic or personal remedies to address the effects of the harassment on the grievant.

OCR met with University administrators and legal counsel, as well as the new Director of the OSHPP to discuss the concerns identified during the investigation. Many of the same issues had been raised by an internal management review of the OSHPP that had been requested by the Chancellor. A work group had been formed to respond to the recommendations of the management review team.

University representatives were very responsive to the matters raised by OCR and agreed to address them in a voluntary resolution agreement. OCR and the Director of the OSHPP worked closely to develop the terms of the agreement to ensure that the agreement both addressed OCR's compliance concerns and would effectively serve the needs of the University. The resolution agreement called for revisions of the University's sexual harassment policy and complaint procedure, publication and dissemination of the policy and procedure on campus, new reporting and record-keeping measures, and a campus wide training and education program. A copy of the agreement, signed by the Chancellor on August 31, 1999, is enclosed. The new sexual harassment policy, which incorporated input from OCR, was formally implemented as of August 13, 1999.

Based on the University's commitment to resolve the compliance concerns raised during the OCR investigation of this complaint, OCR is closing the investigative phase of this case. OCR will monitor implementation of the resolution plan in accordance with the provisions of the plan.

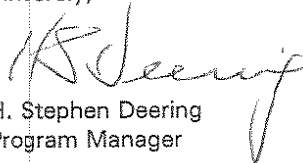
Under the Freedom of Information Act, it may be necessary to release this document and related records on request. If OCR receives such a request, it will seek to

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protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

OCR would like to thank the University for its cooperation and assistance in resolving this matter. We would particularly like to recognize the assistance of Lori Chamberlain, Director OSHPP, whose knowledge and dedication were invaluable in the successful resolution of this case. If you have any questions, please contact OCR staff attorney Gayle Sakowski, at (415) 556-4160, or Team Leader David Rolandelli, at (415) 556-4152.

Sincerely,



H. Stephen Deering
Program Manager

Enclosures

cc: Lori Chamberlain, Director of Sexual Harassment
Policy and Prevention
Linda Williams, Assistant Chancellor
Ann Parode, Campus Counsel



OFFICE OF THE CHANCELLOR

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August 31, 1999

University of California, San Diego
Docket Number 09-97-2049
Voluntary Resolution Plan

In order to voluntarily resolve the issues raised in the above complaint filed with the Office for Civil Rights (OCR) under Title IX of the Education Amendments of 1972 and to effect compliance with Title IX pursuant to the voluntary request for technical assistance by the University of California, San Diego (UCSD), UCSD agrees to take the following actions:

Title IX Coordinator

1. Designate at least one employee to coordinate its efforts to comply with its Title IX responsibilities. Responsibilities of the coordinator will include investigation of complaints alleging any action (other than sexual harassment) that would constitute a violation of Title IX or its implementing regulations.
2. Notify all students and employees of the name or title, office address and telephone number of the person(s) appointed to be the Title IX coordinator(s), through publication of this information in catalogs and class schedules beginning with Fall 1999. Copies of the revised pages from the Fall 1999 catalog and schedule will be provided to OCR.

Revisions to Sexual Harassment Complaint Resolution Procedure

3. Revise its existing complaint resolution procedure for the handling of student complaints of sexual harassment to ensure that the procedure complies with the requirements of the Title IX regulations and provides a prompt and equitable means of resolving such complaints. The revisions will address the following:
 - a. Description of the resources available on campus to students who are seeking information about sexual harassment and/or the University's procedures, including clarification of the roles and responsibilities of the sexual harassment information officers.

- b. Clear identification of the person(s) to whom sexual harassment complaints may be reported.
- c. Statement that there are campus discipline policies for faculty, staff and students that are separate from the sexual harassment policy and procedures, and that such discipline policies may or may not be initiated as a result of a sexual harassment complaint proceeding.
- d. Identification of the person(s) responsible for investigating complaints of sexual harassment.
- e. Explanation of the differences between informal and formal resolution procedures, including the right of the complainant to request a formal investigation at any time.
- f. Provisions for the interim protection of complainants and witnesses pending investigation of cases of sexual harassment, including a statement that violation of interim protections will subject the respondent to additional sanctions.
- g. Time lines for each stage of the complaint process.
- h. Provision for offering appropriate individual personal and academic remedies to the complainant (for example, counseling, class or housing changes, changes in advisor), if sexual harassment is found to have occurred.
- i. Where a formal inquiry has been requested, and subject to privacy restrictions and UCSD policy and regulation, written notice to the complainant of:
 - (1) the conclusion drawn by the investigator whether there is reasonable cause to believe that a violation of UCSD's sexual harassment policy has occurred;
 - (2) any sanctions against the offender of which the complainant needs to be aware in order for the sanctions to be fully effective (for example, restrictions on contact or distance);
 - (3) the individual remedies, if any, that are being offered to the complainant;
 - (4) whether the University has filed disciplinary charges against the respondent and notice regarding the outcome of such proceedings; and
 - (5) a general notice that UCSD has taken other actions with respect to the

respondent to ensure that the harassment will not reoccur.

- j. Notification to the complainant of the procedures available if she or he is not satisfied with the outcome of the formal investigation.
 - k. Subject to privacy restrictions and University of California policies, a provision for notice to the complainant during the development of informal resolution agreements.
 - l. Documentation in the case file of informal resolutions and their implementation.
 - m. A provision prohibiting retaliation or intimidation against any person who files a sexual harassment complaint or who participates in a complaint proceeding.
 - n. A provision describing the extent to which the University can and cannot provide confidentiality to complainants.
 - o. A provision ensuring that the individuals investigating a sexual harassment complaint will have access to complete information on any prior complaints of sexual harassment that have been lodged against the same respondent and that such complaints will be taken into account in determining sanctions.
4. UCSD has already sent OCR a draft of the revised procedures, and OCR has provided comments. A new draft was posted for comment by the campus, and it was sent to OCR on June 8, 1999. The procedure will be finalized, with a copy to OCR, no later than December 31, 1999.

Publication and Dissemination

- 5. UCSD will continue to review and revise any existing campus materials that reference sexual harassment to ensure that the materials are consistent with the new policy and procedures and that the complaint process is clear and understandable.
- 6. Within 30 days after final approval of the revised sexual harassment policy and procedure, provide notice and information about where copies can be obtained, and disseminate the policy and procedure through campus e-mail posting and a website for the Office of Sexual Harassment Prevention and Policy. Brochures explaining the policy and procedure will be printed and disseminated on campus, with a copy to OCR, no later than December 31, 1999.
- 7. Thereafter annually disseminate the policy to all students by publishing a summary in the schedule of classes. Any publications containing a summary of the policy will identify where the full policy can be obtained.
- 8. Provide campus-wide training on the revised policy and procedure on an on-going basis to

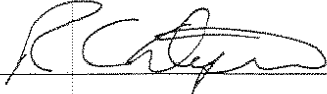
students, administrators, faculty and staff. The training will include information on the responsibility of administrators, faculty and staff to familiarize themselves with the UCSD policy and complaint procedure, and their duty to report sexual harassment which they observe or of which they otherwise have knowledge.

9. Annually require and provide training for all Sexual Harassment Information Advisors. The training will provide an understanding of and familiarity with the UCSD sexual harassment complaint procedures and the scope of each individual's responsibilities in processing complaints and in communicating with the Sexual Harassment Officer.
10. At the end of each academic year, the Sexual Harassment Officer will prepare a report for the campus on the outcomes of the training programs during that year. A copy of the report will be provided to OCR at the end of the 1999-2000 academic year.

Monitoring Reports of Harassment

11. Through the office of the Title IX coordinator, maintain a central and confidential record of all sexual harassment complaints filed with the Coordinator and of the resolution outcomes where complainants have elected a different process (e.g., grievance procedures, departmental action, assistance from Deans, etc.). The purposes of this central record-keeping are (1) compiling anonymous statistical information regarding incidents of sexual harassment on campus, (2) identifying campus units that would benefit from additional training, and (3) identifying individuals who exhibit a pattern of repeated sexual harassment.
12. For convenience, a list of the submissions and/or completion dates for each of the requirements set forth above is contained in Appendix A.

Date: _____



APPENDIX A

September 1999	Inclusion of new information on Title IX Coordinator in catalog and class schedule. Copies to OCR.
On or before December 31, 1999	Final approval of revised sexual harassment policy and procedure. Copy to OCR.
30 days after final policy	Notice of policy, information about where to obtain copies, posting through campus email and OSHPP website
June 30, 2000	Report on outcomes of campus training and Information Advisor training. Copy to OCR.