



UNITED STATES DEPARTMENT OF EDUCATION

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DEC 16 2003

Dr. Melton Palmer, Jr.
President
Central Georgia Technical College
3300 Macon Tech Drive
Macon, Georgia 31206

Dear Dr. Palmer:

Re: Complaint #04-03-2037

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against Central Georgia Technical College (College). The complaint was filed by ^{(b)(7)(C)} hereafter referred to as Complainant. The Complainant alleged that the College discriminated against her on the basis of sex, specifically because the College: (1) did not comply with the procedural requirements of Title IX; (2) subjected the Complainant to sexual harassment and failed to take appropriate action after receiving notice of the sexual harassment; (3) treated her differently, based on sex, in the Machine Tool Technology Program (MTTP); and (4) retaliated against the Complainant for filing a Title IX grievance.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. Sections 1681 et seq., and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance. The College receives Federal financial assistance from the Department and, therefore, is subject to the provisions of Title IX.

OCR's investigation of the complaint included an onsite visit on April 10, 2003, during which OCR interviewed College staff and students. OCR also interviewed the Complainant by telephone on May 8, 2003 and a witness identified by the Complainant on May 9, 2003. Additionally, OCR conducted further interviews of students identified by the Complainant.

Regarding issues (1) and (4), OCR determined that the College did not comply with the Title IX implementing regulation. On August 22, 2003, the College voluntarily provided a Resolution Agreement (Agreement) which contains measures to address the College's

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grievance procedure and to remedy the deficiency identified under the retaliation issue. Regarding issues (2) and (3), OCR determined that the evidence was insufficient to support a finding of a violation of Title IX. OCR's investigative findings and conclusions are set forth below.

Issue 1 – Title IX Procedural Requirements

Allegation (a): the College has not published notice of its Title IX policy and the identity of the Title IX Coordinator. Allegation (b): the College does not publish its grievance procedures.

Legal Standards

The regulation implementing Title IX at 34 C.F.R. Section 106.8(a) and (b) requires a recipient to designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities, including the investigation of any complaint alleging noncompliance with Title IX or alleging any actions prohibited by Title IX. The recipient is required to notify all of its students and employees of the name, office address, and telephone number of the appointed employee and to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging prohibited actions. Additionally, the regulation at 34 C.F.R. Section 106.9(a) requires recipients to disseminate information regarding its policy prohibiting discrimination on the basis of sex and the protections against such discrimination that are assured by Title IX.

Factual Findings

OCR found that the College has developed and disseminated a policy of nondiscrimination and has designated a Title IX Coordinator in accordance with the regulation. Notice of the Title IX policy is provided to all students and staff in the General Catalog and Student Handbook (Handbook). The policy states that the College does not discriminate on the basis of sex, race, color, national origin, age, or disability in admissions, employment, or in access to its educational programs or activities. The policy of nondiscrimination also contains information regarding the Title IX Coordinator, including name, address, and telephone number.

The College's Vice President of Student Services (VPSS), who is the Title IX Coordinator, stated that all students and faculty receive a copy of the Handbook, which contains notice of the policy of nondiscrimination and the Title IX Coordinator. The Complainant began classes on January 8, 2002, and stated that she received a copy of the Handbook. Notice of the College's Title IX policies and the Title IX Coordinator are also available through the College's One-Stop Service Center in the library and on the College's web site.

OCR found that the College has developed a grievance procedure that applies to any complaint alleging a violation of policy, which is referenced in the Handbook and on the

website. OCR's review of the College's grievance procedure showed, however, that it does not contain time frames providing for the prompt and equitable resolution of grievances as required by the regulation. OCR also noted that, while not required by Title IX, the grievance procedure does not contain procedural steps for the investigative process.

Conclusion

OCR's investigation established that the College has adopted and published a policy of nondiscrimination based on sex and has designated an employee to coordinate its Title IX compliance activities. OCR also found that the College has adopted a grievance procedure; however, the procedure does not meet the compliance requirements because it does not contain time frames which would ensure prompt and equitable resolution of grievances, in violation of the Title IX implementing regulation at 34 C.F.R. Section 105.8(b). The College, however, has provided documentation that it has amended its procedures to include time frames and specific procedures for conducting investigations of grievances filed with the College. The amended grievance procedures have been posted in the student commons area in the Allied Health Building, the library, the computer training center, economic development offices, auditorium, and in the One-Stop Center. OCR determined that the College has taken sufficient actions to resolve this allegation as stated in the enclosed agreement.

Issue 2 - Sexual Harassment

The Complainant alleged that she was subjected to severe, persistent and pervasive sexual harassment, and that after receiving notice, no actions were taken by the College to stop the sexual harassment and prevent its recurrence. Specifically, she alleged that:

- (a) The Instructor in the MTTP class told her in a rude and disrespectful manner to "get up and start helping with cleaning the shop." One male student told her that "sweeping was for women." The Complainant stated that she found these statements to be sexually degrading.
- (b) The Instructor and male students in the MTTP touched her inappropriately.
- (c) The Instructor told her that she would have to sleep with him in order to stay in the MTTP class.

Legal Standards

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature, that are sufficiently severe, persistent, or pervasive as to limit a student's ability to participate in or benefit from an education program or activity, or to create a hostile, intimidating, or abusive educational environment. Students, both male and female, are protected from sexual harassment by school employees, third parties, and other students. If an employee who is acting in the context of carrying out his responsibilities over students engages in sexual

harassment, the school is responsible for the discriminatory conduct regardless of whether it received notice.

There are two types of sexual harassment prohibited by Title IX: (1) "quid pro quo" harassment, where a student's entitlement to, or enjoyment of, an educational or employment benefit is explicitly conditioned upon that student's submission to sexual advances, requests for sexual favors, or other sexually based verbal or physical conduct; and (2) "hostile environment" sexual harassment, where unwelcome sexual advances, requests for sexual favors, or other sexually based conduct has the effect of interfering with the student's education or employment by creating an intimidating, hostile, or offensive educational or work environment. Both forms of sexual harassment are at issue in this case.

Factual Findings

The Complainant enrolled in the MTTP during the winter quarter and started classes on January 28, 2002. She was enrolled in the MTTP through February 19, 2002. At the time she enrolled, there were six male students and one female (the Complainant), in the MTTP. The Complainant alleged that the Instructor and one male student made sexually degrading comments to her in the MTTP. The Complainant identified one incident where comments were made that she found sexually degrading. She specifically stated that the Instructor gave directives for cleaning the shop with a "sexist attitude" and a male student told her that sweeping was for women.

The Instructor denied making any sexually degrading or inappropriate comments to the Complainant. He explained the "sweeping incident" involving the Complainant as follows: At the beginning of the quarter, he asked students in the MTTP to clean the shop. He stated that all of the students, except the Complainant, were involved in cleaning the shop area. He directed the Complainant in a stern manner to get up and assist in the cleaning. Although the Complainant may have perceived that the statement to be discriminatory, OCR confirmed that male students were also asked to clean the shop area by the Instructor.

The male student who allegedly made the comment informed OCR that he did not make the comment stated by the Complainant. Another male student, who was nearby when the comment was allegedly made, explained what he heard. This student stated that the class was cleaning the shop area and discussing working at nearby Warner Robins Air Force Base (Base). MTTP students traditionally participate in a work program at the Base. During the discussion, a comment was made that students who work at the Base need to get used to sweeping, because machines are used frequently and continuous sweeping is required. OCR determined that the context in which the statement was made does not support the allegation of sex discrimination.

The Complainant's allegation concerning the Instructor's comment that she would have to sleep with him in order to stay in the program was first raised in August 2002, 6 months after her expulsion from the College. There is no evidence, written or oral, which

shows that the Complainant had raised allegations of inappropriate touching while she was enrolled at the College. In regard to the allegation, the Instructor denied that he had ever touched the Complainant inappropriately or made any comments to her of a sexual nature. Students interviewed by OCR stated that they had not witnessed the Instructor touching the Complainant inappropriately. The students also reported that they had not heard, on any occasion, the Instructor make any sexual or degrading comments to the Complainant. The students stated further that they had not touched the Complainant inappropriately or made any degrading comments. OCR was unable to corroborate the allegation that the Instructor told the Complainant that she would have to sleep with him to remain in the program or the occurrence of any inappropriate touching of a sexual nature by students or the Instructor.

Documentation shows that the Complainant filed complaints alleging sex discrimination with the Macon Police Department, the Council on Occupational Education, Georgia Department of Technical and Adult Education, Georgia Attorney General's Office, a United States Senator, the Governor, U.S. Department of Justice, and the Family Policy Compliance Office. None of these agencies found that the Complainant was sexually harassed or discriminated against, based on sex, during her enrollment at the College.

The Complainant identified a College employee whom she had informed of the sexual harassment. This witness stated that she only remembered talking to the Complainant about course issues and does not remember the Complainant making any complaint about sexual harassment or treatment that she experienced at the College.

While OCR's investigation did not establish that comments were made by the Instructor or male students that were sexually degrading or that any conduct of a sexual nature occurred, we nevertheless investigated to determine whether the College responded appropriately to the alleged sexual harassment. OCR, therefore, made the following additional determinations.

The College has adopted a policy on sexual harassment, which is contained in the Handbook. The policy states that it is the intent of the College to provide an academic environment free of any type of sexual harassment, and defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. A sexual harassment violation will constitute grounds for disciplinary action up to and including immediate termination. The policy states that any student who feels subjected to sexual harassment should report the incident immediately to the instructor, supervisor or VPSS.

Evidence shows that the Complainant and her witness met with the VPSS on January 29, 2002, and presented her concerns in a letter to him the same day. In the letter the Complainant indicated that the Instructor gave directives for cleaning the shop with a perceived sexist attitude and a student made a sexist remark. The Complainant was given an opportunity to provide additional information to OCR concerning her allegations of sexual harassment. The only specific incident of sexual harassment stated by the

Complainant was the statement by the male student commenting that sweeping was for women.

The VPSS stated that he conducted an investigation of the Complainant's grievance by interviewing appropriate staff persons and male students in the class. The VPSS completed his investigation within 14 days from his receipt of the January 29, 2002, letter. He stated that he considered all of the information and determined that there was no basis to support the Complainant's allegations. In his findings, he reported that he was unable to find conclusive evidence to support the Complainant's claims of discrimination. OCR's investigation substantiated that, in conducting the investigation, the VPSS interviewed all relevant parties and presented a detailed summary of his findings in a letter dated February 12, 2002, which was mailed the Complainant. The VPSS found that the Instructor counseled the male student, who made the alleged remark about sweeping. The VPSS recommended, however, that the Instructor receive staff development in dealing with first-time "non-traditional" students like the Complainant.

OCR obtained a list of four female students who registered for MTTP from 1999-2003. After interviewing 3 of the 4 students, OCR learned that none of the 3 students had in fact enrolled in the MTTP because they decided to pursue other programs. The 4th student could not be located. The Complainant was the only female student who was enrolled in the MTTP class taught by the Instructor during the 4-year period.

Conclusion

OCR found that a male student and the Instructor made comments to the Complainant regarding sweeping and cleaning the shop area; however, OCR did not find that these comments constituted conduct of a sexual nature. Interviews with the VPSS, the Director of Instructional Services, 2 instructors and students enrolled in the MTTP revealed the Complainant never made allegations of sexual harassment during her 1-month enrollment at the College. The first documented allegations of a sexual nature were filed by the Complainant 6 months after expulsion from the College. Based on all available evidence, OCR concluded that the College took immediate and appropriate steps to investigate the "sweeping allegation" and our investigation did not corroborate that the Complainant was sexually harassed. Therefore, there is insufficient factual basis to support a violation of the regulation as it relates to the allegations of sexual harassment.

Issue 3 - Student Treatment Issues

The Complainant alleged that she was treated differently in the application of the Student Code of Conduct (Code). Specifically, she alleged that: (a) the College applied different rules to female and male students regarding suspension for disruptive behavior and intimidation, and application for readmission; and (b) the instructor applied different standards to males and females regarding classroom attendance.

Legal Standards

Title IX implementing regulation at 34 C.F.R. Section 106.31(a) and (b)(1)-(4) provides 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, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. In providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex, treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service; provide different aid, benefits, or services or provide aid, benefits, or services in a different manner; deny any person any such aid, benefit, or service; or subject any person to separate or different rules of behavior, sanctions, or other treatment.

Factual Findings

The Instructor informed OCR that he frequently called the VPSS and provided e-mails during the period of the Complainant's enrollment (January 8, 2002 through February 20, 2002) to inform the VPSS of the Complainant's behavior in class, which included challenging him during class lectures, constantly challenging grades received, yelling at students, leaving class without permission, and arguing issues to unreasonable lengths. Students interviewed by OCR also stated that the Complainant's behavior in the classroom was combative and disruptive. During an interview with OCR, the Complainant did not deny that she challenged grades she received and debated issues in class. She did not believe, however, that her behavior was more disruptive than that of any of the other students in class.

The VPSS convened a meeting with the Complainant on February 19, 2002. During the meeting, the Complainant received a copy of the College's investigation of her January 29, 2002 complaint. After receiving a copy of the investigation, the Complainant challenged the findings and whether the VPSS had conducted an impartial investigation. The VPSS determined that the Complainant's behavior during the meeting was out of control and belligerent to the point of disrupting normal administrative operations. Office staff reported that they heard the exchange between the VPSS and the Complainant. The VPSS suspended the Complainant for three days for disruptive behavior in accordance with the College's disciplinary suspension policy.

According to College staff, on February 20, 2002, the Complainant returned to the campus and caused a disruption during her request to see her records. The Complainant denied returning to the campus on February 20, 2002. She stated that she returned on February 22, 2002, and delivered a letter requesting an appeal of the 3-day suspension. She also denied that she was confrontational with College staff. OCR interviewed the VPSS's secretary, who confirmed that the Complainant returned to the campus on February 20, 2002 and that she heard the Complainant causing a loud commotion in the administrative office. Another College staff member corroborated the secretary's statement and said that they observed the Complainant display disruptive behavior when

she came in and demanded to see her student file. When told that a supervisor would have to approve the request, the Complainant became loud and confrontational. When asked to tone down, the Complainant continued being belligerent.

The College expelled the Complainant for a period of 1 year, beginning on February 20, 2002, for intimidation toward the Instructor and students, belligerent behavior and loud outbursts, and, walking out of class without the instructor's approval. In order to assess the Complainant's treatment compared to that of other students, OCR examined documentation regarding all students who were suspended and/or expelled from the College in the last 3 years.

Information provided by the College indicates that there were a total of 5,107 students attending the College during the winter quarter of 2002. Of the 5,107 students attending the College, 56% (2878) were female and 44% (2229) were male. The documentation showed that a total of 14 students (9 males and 5 females), have been suspended or expelled during the previous 3 years for disruptive behavior, unacceptable behavior, and excessive absences. Of the 14 students, one male student was expelled permanently for unacceptable behavior, while four students were suspended for a period up to 1 year for unacceptable behavior. OCR has determined that the College's suspension of the Complainant is consistent with past practices and that there is insufficient evidence to support the Complainant's allegation that she was suspended based solely on her sex.

The Complainant alleged that she was denied readmission based on sex. The Complainant sought readmission to the College prior to the end of the 1-year expulsion. The Handbook states that students are not eligible for readmission until the conditions of their suspension has been met. None of the students suspended or expelled for unacceptable behavior were granted readmission prior to the end of their suspension/expulsion period. The evidence shows that the Complainant was, therefore, not denied readmission based on her sex and that she was treated similarly to other students who were suspended or expelled for similar reasons.

The syllabus for the MTTP states in part that, "It is the student's responsibility to notify the instructor when tardy or when they must leave early." OCR's review of the attendance roster for the MTTP class shows that the Complainant was present in the class throughout the period of her enrollment. The Instructor stated that the Complainant would occasionally leave the class and would not notify him of the reason for her leaving. Because she did not coordinate with him prior to leaving the class, she violated the class attendance policy.

The Complainant stated that College determined that she left class without informing the instructor, while male students were allowed to leave the classroom but were not penalized. She also alleged that male students in the MTTP were given information that was not provided to her regarding work programs.

Four male students interviewed by OCR stated that students were allowed to leave the class provided that notice was given to the Instructor prior to leaving. The male students

also stated that they informed the Instructor prior to leaving the classroom. None of the students interviewed could confirm whether the Complainant gave the Instructor prior notice before departing from the class.

The Complainant's position is that she acted in the same manner as the male students. She confirmed that there were occasions when she left the class without giving prior notice of her departure to the Instructor; however, she stated that male students also left the class without informing the Instructor. There are no written records to document this allegation, and none of the male witnesses could confirm whether the Complainant gave prior notice to the Instructor. By her own admission, the Complainant confirmed to OCR that she occasionally left class. OCR could not substantiate, however, whether the Complainant acted similarly to male students with respect to providing notice to the Instructor prior to leaving the class.

Regarding the Complainant's allegation that she was not given information regarding cooperative work programs, evidence shows that students are eligible to apply for the work programs after completion of the second quarter of study. Male students interviewed stated that they obtained information about the work programs from a variety of sources, including the Veterans Affairs Office, the Base, and the College's One-Stop Service Center. None of the male students interviewed received the information from the Instructor or the VPSS. Because the Complainant had only been enrolled in the MTTP for 1 month, she was not eligible for the work program. Furthermore, there is no evidence that the Instructor provided male students information regarding work programs. OCR did not find evidence that the Complainant was treated differently from male students in this regard.

Conclusion

OCR examined the Complainant's treatment compared to that of other students regarding suspension/expulsion and readmission. OCR did not find any instances where the Complainant was treated differently based on sex. Regarding classroom attendance, OCR could not substantiate from witness statements that the Complainant was treated differently. The evidence did not substantiate that the Complainant was denied information regarding work programs on the basis of sex. OCR, therefore, concludes that the evidence is insufficient to support a finding of a violation of the Title IX regulation as it relates to the allegations mentioned above.

Issue 4 - Retaliation

The Complainant alleges that the College retaliated against her for reporting charges of sexual harassment.

Legal Standard

The regulation implementing Title IX at 34 C.F.R. Section 106.71, which incorporates by reference the procedural provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C.

Sections 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Section 100.7(c), prohibits retaliation by recipients. Specifically, the Title VI regulation specifically provides that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation or other matter in connection with a complaint.

In order to determine if unlawful retaliation occurred, OCR must determine: (1) whether the complainant engaged in a protected activity; (2) whether the recipient was aware of the protected activity; (3) whether the recipient took adverse action against the complainant; (4) whether there was a causal connection between the adverse action and the protected activity; and, if so, (5) whether the recipient can show legitimate nondiscriminatory reasons for its actions.

(1) Protected Activity

The Complainant engaged in a protected activity when she filed a complaint with the College's VPSS on January 29, 2002, alleging discrimination on the basis of sex.

(2) College's Knowledge of Protected Activity

The College became aware of the complaint on January 29, 2002, when the Complainant hand-delivered her letter of complaint to the VPSS.

(3) Adverse Actions Against the Complainant

The Complainant specifically alleged that the following adverse actions were taken against her in retaliation for filing a complaint of sex discrimination against the College on January 29, 2002: (1) College staff told her that it could not provide her with the expected level of training as a pretext for denying her readmission; (2) she was suspended from the College for 3 days on February 19, 2002, after she would not agree to drop charges of sexual harassment and was subsequently suspended from the College for 1 year; and (3) the College and its board of directors refused to grant her an unbiased hearing and appeal, and the College failed to readmit her. OCR found that the College did inform the Complainant that it could not provide her with the expected level of training; that she was suspended; and that she was denied a timely appeal hearing. OCR determined that these actions constituted adverse actions against the Complainant and proceeded with its analysis.

(4) Causal Connection

Having determined that the Complainant engaged in a protected activity, that the College had knowledge of the protected activity, and that the College took adverse actions against the complainant, OCR then assessed the evidence to determine whether there was a causal connection between the adverse actions and the protected activity.

The Complainant filed a complaint with the VPSS on January 29, 2002, alleging that she was treated differently in the MTTP based on sex. The Complainant was suspended for 3 days beginning February 19, 2002, for disruptive behavior. On February 20, 2002, the Complainant was sent a letter indicating that the College could not provide her with the expected level of training and expelling her from the MTTP for a minimum of one year. In regard to the denial of readmission and failure to grant an unbiased hearing and appeal, these actions occurred in April and May of 2002, in close proximity to the date of the protected activity.

We, therefore, determined that a causal connection is established based on the close proximity in time between the date of the protected activity and the adverse actions; however, this conclusion does not prove retaliation.

(5) Nondiscriminatory Reasons for the College's Decision

Regarding the alleged adverse action that College staff told the Complainant that it could not provide her with the level of training that she expected, interviews with the VPSS, the Director and the Instructor revealed that the Complainant repeatedly made the following comments during her short enrollment at the College: the Instructor was incompetent; the Instructor was not qualified to check her work; the curriculum was wrong and needed to be changed; there was not enough new technology in the class to teach the class appropriately; and, the grading method in the class should be changed to Pass/Fail only.

The VPSS stated that the statement was in response to the Complainant's statements about the MTTP. Documentation provided by the Complainant showed that she had raised similar concerns regarding the MTTP with College staff. OCR determined that the College's statement that it could not provide the Complainant with her expected level of training was, therefore, not a pretext for denial of readmission. Furthermore, the Complainant was informed that she could apply for readmission to the College at any time, since the expulsion period ended on February 20, 2003.

Regarding the 3-day suspension and 1-year expulsion, as discussed above, OCR found that the College suspended and expelled the Complainant, along with other male and female students, without regard to sex, for disruptive and unacceptable behavior. OCR, therefore, concludes that the Complainant's suspension/expulsion was based on legitimate, nondiscriminatory reasons that are not pretextual.

Regarding the allegation of the College's denial of an unbiased hearing and appeal of the suspension and expulsion, the Student Recourse Procedure (SRP) states that a student may appeal or request a review of action taken under College rules. Specifically, the SRP, which is not limited to grievances regarding sex discrimination and sexual harassment, states that: (1) a student may appeal in writing to the VPSS within 10 days after notification of the decision about which he/she complains; (2) within 10 days, the VPSS will respond to the complaint; (3) if the matter is not resolved, the student has 10 days to request an administrative hearing; (4) within 10 days, the VPSS will convene the

Administrative Action Committee (AAC); (5) if the student still feels that the matter is unresolved, the student has 10 days to file an appeal to the President; (6) if the student still feels that the matter is unresolved, the student has 10 days to file a final written appeal with the Board of Directors; and (7) if the student continues to believe the matter is unresolved, the student may file with the Council of Occupational Education.

On February 22, 2002, the Complainant appealed the 3-day suspension to the VPSS. Because she did not receive a response to her letter of February 22, 2002, she wrote a letter dated March 11, 2002, requesting an appeal hearing for the 3-day suspension, the 1-year expulsion, and to review her file. In a letter dated April 11, 2002, the College advised the Complainant that her request for an appeal had been received and that she would be notified of a date for a hearing.

In a letter dated April 23, 2002, two months after receiving her request for an appeal, the College notified the Complainant that the AAC had deliberated and decided to grant her a hearing on May 8, 2002. The Complainant, however, chose not to attend the AAC hearing since she felt that the proper steps had not been followed in the SRP. The Chairperson of the AAC stated that the committee met on May 8, 2002, and considered the information provided by the VPSS. The AAC wrote a response to the Complainant on May 9, 2002, affirming the College's decision.

The SRP states that a student is entitled to an appeal hearing within 10 days after the request is made to the VPSS. In regard to the Complainant's request, the College denied the Complainant a timely hearing. College staff informed OCR that the delay occurred because this was their first request for such a hearing and the Title IX Coordinator was unfamiliar with the SRP process. OCR found that the College did not provide legitimate, nondiscriminatory reasons for the delay in providing an appeal hearing to the Complainant.

Conclusion

Regarding the College's statement that it could not provide the Complainant with her expected level of training, OCR determined that this was based on legitimate reasons and that it was not a pretext for denial of readmission. Further, the Complainant was advised that she could reapply for readmission in February 2003. Regarding the 3-day suspension and 1-year expulsion, OCR found that the College suspended and expelled the Complainant, along with other male and female students, without regard to sex, for disruptive and unacceptable behavior; therefore, we concluded that the Complainant's suspension/expulsion was based on legitimate, nondiscriminatory reasons that are not pretextual.

Regarding the failure to provide the Complainant a timely appeal hearing, the evidence shows that the College deliberated as to whether it would grant the Complainant an appeal hearing, although the hearing was required under the SRP to be held within 10 days of the request. When the College finally notified the Complainant that she would be granted a hearing, the hearing was not scheduled until May 8, 2002, approximately 2

Dr. Melton Palmer
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months after the request was made. We determined that the reasons provided for delaying the hearing were not legitimate and nondiscriminatory. OCR, therefore, concluded that the College retaliated against the Complainant contrary to the regulation implementing Title IX at 34 C.F.R. Section 106.71.


The College has agreed voluntarily to correct this issue by ensuring that any future requests for hearings under the SRP will be acted upon promptly in accordance with the SRP procedure.

* * * *

This concludes OCR's consideration of this complaint. OCR will, however, monitor implementation of the actions agreed to by the College in the enclosed Agreement. As stated in the Agreement, the first monitoring report is due to OCR by March 30, 2004.

Thank you for your cooperation with OCR during the investigation of this complaint. If you have any questions regarding this letter, please contact Arinita Ballard, Team Leader at (404) 562-6377 or me at (404) 562-6350.

Sincerely,


Gary S. Walker, Director
Atlanta Office
Southern Division

Enclosure

Cc: (b)(7)(C)



Melton Palmer, Jr., Ed.D.
PRESIDENT

CENTRAL GEORGIA TECHNICAL COLLEGE
Complaint #04-03-2037
Resolution Agreement

In order to resolve the allegations in the above-referenced complaint, Central Georgia Technical College (College) has voluntarily agreed to implement the actions stated below in its Commitment to Resolve (CTR). The complaint concerned the procedural requirements of Title IX and student treatment issues. The Agreement reflects voluntary actions to be taken by the College to address OCR's investigative findings pursuant to Title IX of the Education Amendments of 1972, (Title IX), as amended, 20 U.S.C. Sections 1681, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance.

Corrective Action


1. The College will disseminate effective grievance procedures to include timeframes and procedures providing for the prompt and equitable resolution of Title IX grievance. The College will post notices in the buildings notifying students, and employees of the grievance procedures for Title IX.
2. The College will ensure that all persons who request an administrative hearing are granted such a hearing in accordance with the Student Recourse Procedures (SRP).

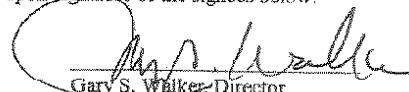
Monitoring Requirements

By March 30, 2004, the College will provide the following:

1. A copy of its grievance procedures showing timeframes and the investigative procedures providing for prompt and equitable resolution of Title IX grievances. Provide the date and location where notices are posted.
2. The College agrees to provide documentation of any appeal hearings that occur by February 28, 2004, under the SRP. Please provide the date the hearing was requested and the date the hearing was held.

This Agreement will become effective immediately upon signature of the signees below:


Dr. Melton Palmer
President
Central Georgia Technical College


Gary S. Walker, Director
Atlanta Office, Southern Division
Office for Civil Rights

8-20-03
Date

Date