



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS - REGION V
111 NORTH CANAL STREET - 10TH FLOOR
CHICAGO, ILLINOIS 60606

OFFICE OF THE
DIRECTOR

AUG 30 2001

Ms. Joan Tomczak
Registrar
Worsham College of
Mortuary Science
495 Northgate Parkway
Wheeling, Illinois 60090

Re: 05012084

Dear Ms. Tomczak:

This is to advise you of the disposition of the above-referenced complaint that was filed with the U.S. Department of Education, Office for Civil Rights (OCR), on June 12, 2001, against the Worsham College of Mortuary Science (College). The Complainant alleges that the College has a pattern and practice of discriminating against students on the basis of race and sex. This discrimination includes, but is not limited to:

1. Dismissal of students under pretextual reasons;
2. Causing, accepting, and/or tolerating harassment based on sex and race, and failing to correct a hostile environment based on race and sex after being notified.

As a recipient of Federal financial assistance from the U.S. Department of Education, the College is subject to the provisions of Title IX and Title VI, which prohibit discrimination based upon sex and race/national origin. Accordingly, OCR has jurisdiction over this complaint.

In making its determination on this complaint, OCR reviewed relevant policies and procedures, documentation submitted by both the Complainant and the College and interviewed the Complainant. On the basis of an analysis of the information, OCR has determined there is insufficient information to show that the College has violated Title IX and Title VI with regard to the allegations made in this complaint. Specifically, OCR has made the following determinations.

Our Mission is to Ensure Equal Access to Education and Promote Educational Excellence Throughout the Nation.

Regulations

The Title VI regulation at 34 C.F.R. 100.3 provides "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 to which this part applies.

The Title IX regulation at 34 C.F.R. 106.31 states "except as provided elsewhere in this part, 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 or benefits from Federal financial assistance."

Analysis

Regarding allegation #1, the Complainant's allegation is that the College dismissed students under pretextual reasons on the basis of race and sex. The Complainant informed OCR that she had witnesses to support her allegations. On two different occasions the Complainant was requested to submit the names of witnesses to OCR and she failed to do so.

The Complainant was enrolled in the College from March 12, 2001, to April 26, 2001, when she was dismissed from the College. OCR examined documentation that showed that in the last three years seven students, including the Complainant, were dismissed from the College. The documentation showed that six of the seven students were dismissed because of excessive absences. The only student that was not dismissed for excessive absences was the Complainant. Four of the students were male and three were female. Three were white and four were minority. OCR examined documentation that showed the Complainant was dismissed from the College because of behavior unbecoming a professional student and for giving false information on her application, i.e. the Complainant did not give information about being convicted of a criminal offense. The documentation showed that no student was dismissed for pretextual reasons or that there was any disparity in the race and sex of the students dismissed. OCR has determined that the evidence is insufficient to support the complain-

ant's allegation. Therefore, OCR will not proceed further with complaint resolution for this allegation.

Regarding allegation #2 the Complainant's allegation is that the College was causing, accepting, and/or tolerating harassment based on sex and race, and failing to correct a hostile environment based on race and sex after being notified. As noted above the Complainant was requested to provide OCR with the name of witnesses, but she failed to do so.

The College maintains that there have been no allegations of harassment based on race or sex in the last three years. The College further maintains that if an alleged act of racial or sexual harassment did occur, the College, consistent with the College's policy, which was previously reviewed by OCR, would have kept a record of the allegation for three years. According to the College, there is no record of any such incident. The College further maintains that the Complainant never alleged verbally or in writing any incident of racial or sexual harassment. Based on the foregoing there is insufficient evidence to support the Complainant's allegation.

In addition, the Complainant stated, as an example of racial harassment, that there was a white instructor that referred to African Americans as "pesky blacks". The College responded to this by providing OCR with a copy of a facsimile the Complainant sent to the Program Director. The Complainant asked for an explanation of the instructor's theory of "pesky black people". The Program Director investigated the incident and determined that the instructor's explanation for using the term "pesky black people" was done during a discussion of the Civil Rights Amendment to show that students may encounter the antiquated theory that the Civil Rights Amendment originated from "some pesky black people" who felt the need to safeguard certain rights. The Program Director was satisfied with the explanation. The Program Director brought the matter to the attention of the College attorney and the attorney assured the Program Director that the Complainant was not making an allegation. The Program Director took no further action. OCR reviewed the matter and found that it was not sufficiently severe, pervasive, or persistent to rise to the level of harassment. Based on the foregoing OCR will not proceed further with complaint resolution for allegation #2.

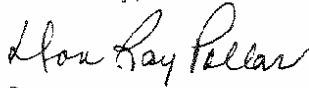
Conclusion

There is insufficient information to show that the College violated Title VI or Title IX with respect to the allegations made in this complaint. Based on the foregoing, we are closing this complaint effective the date of this letter.

We appreciate the courtesy and cooperation that you and your staff extended to the staff of OCR as we worked to achieve a resolution of this case. We would like to give special thanks to ^{(b)(7)(C)} [redacted], Program Director, for working with OCR cooperatively in order to achieve a resolution of this case.

If you have any questions about this letter or OCR procedures, please contact me at (312) 886-8419.

Sincerely,



Don Ray Pollar
Director
Compliance Unit