



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION
1999 BRYAN STREET, SUITE 2600
(214) 830-2459 DALLAS, TEXAS 75201

June 29, 1998

Ref: 06982011

Ms. Cathy Douse-Harris
Acting Compliance Officer
Houston Community College System
1550 Fox Lake Drive
Houston, Texas 77084

Dear Ms. Douse-Harris:

This is to inform you of the determination of the above referenced complaint filed with the U. S. Department of Education, Office for Civil Rights (OCR), against the Houston Community College System (HCCS), Houston, Texas. The complainant alleged that the HCCS discriminated against his client in violation of Title IX of the of the Education Amendments of 1972 (Title IX), 42 U.S.C. 1681 et seq., and its implementing at 34 C.F.R. Part 106.

Specifically, the complaint alleged that during the Spring 1997 semester, a male psychology instructor at HCCS Southeast College Campus, subjected a female student to sexual harassment in the following manner:

1. The student was subjected to sexual harassment by a Psychology Instructor, whereby such actions created a hostile environment on the basis of sex. More specifically, the Psychology Instructor acted in the following manner.
 - a. made improper sexual statements and connotations in front of the class with a constant leer in the student's direction;
 - b. released his class 15 minutes early, requesting that the student remain after the class was dismissed, during which time he belittled her fiance;

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- c. constantly calling her residence or paging her, making sexual advances, asking her personal questions, asking her out to dinner and demanding to know the details about her sex life and her fiancée;
 - d. on approximately May 11, 1997, the Instructor telephoned the student and proposed to her that she would either "sleep with the teacher or get a "D" grade in his psychology class;" and
 - e. on approximately May 14, 1997, the Instructor telephoned the student and informed her that she would get a "D" if she did not "do" the teacher.
2. The complainant further alleged that on at least two occasions, the student informed HCCS officials about the sexual harassment she had experienced from her Instructor. However, HCCS officials took no action to stop the sexual harassment or against the Instructor.
 3. The complainant alleged that because of the continued sexual harassment the student experienced at the hands of the Instructor, she was forced to withdraw from two classes because she was making failing grades.
 4. As a result of HCCS officials failure to take appropriate action regarding the student's allegation of sexual harassment, she has not reenrolled in HCCS and has lost eligibility for financial aid; therefore, can no longer afford to attend school.

OCR is responsible for enforcing Title IX which prohibits discrimination on the basis of sex in education programs that receive Federal financial assistance. The HCCS is a recipient of Federal financial assistance from the U. S. Department of Education. Accordingly, OCR has jurisdiction over this complaint.

Subsequent to our initiation of the investigation, the HCCS informed OCR that it was willing to resolve allegations Nos. 3 and 4. The HCCS committed itself to a written voluntary commitment (copy enclosed) which resolves these allegation in accordance with Title IX. Therefore, based on the submission of the written commitment, OCR is suspending its investigation with respect to allegations #3 and #4 as of the date of this letter. OCR will monitor the HCCS's progress in the implementation of the enclosed written commitment. Failure to implement the written commitment, as scheduled, will result in OCR immediately resuming its investigation with respect to allegations #3 and #4.

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With respect to allegation #1 and #2, OCR investigation consisted of an on-site review of documents and interviews with HCCS personnel, the student, and her attorney.

Under the Title IX implementing regulation at 34 C.F.R. 106.31(a), a recipient may not, on the basis of sex, exclude a person from participation in, deny a person the benefits of, or otherwise subject a person to discrimination in any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance from the U. S. Department of Education. Further, under the Title IX implementing regulation at 34 C.F.R. 106.31(b)(2) and (4), a recipient, in providing any aid, benefit, or service to a student, shall not, on the basis of sex, provide different aid, benefits, or services in a different manner, or subject any person to separate or different rules of behavior, sanctions, or other treatment.

SUMMARY OF FACTS

OCR found that the HCCS has in place a policy prohibiting sexual harassment. The policy is published in the HCCS's Student Handbook, the HCCS' Employee Handbook, as well as, in the HCCS' Administrative Services "FrontLine", a newsletter that is provided monthly to HCCS employees. The Student Handbook contains a complete outline of the College' grievance procedure and a separate complaint procedure to resolve allegations of sexual harassment. The procedures provides a definition of actions which may constitute sexual harassment under Title IX. The policy states that the:

HCCS shall provide an educational, employment, and business environment free of sexual harassment. Sexual harassment is a form of sex discrimination that is not tolerated by HCCS....

Sexual harassment is defined as unwelcome advances, requests for sexual favors, other verbal or physical sexual conduct, or any other offensive unequal treatment of an employee, student, or group of employees or students that would not occur except for their sex or sexual orientation when:

- The advances, requests or conduct have the effect of interfering with performances of duties or studies or creating an intimidating, hostile, or otherwise offensive work or academic environment; or
- Submission to such advances, requests, or conduct is explicitly or implicitly a term or

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condition of an individual's employment or academic achievement or advancement; or

- Submission to or rejection of such advances, requests or conduct is used as a basis for employment or academic decisions.

Also included in the Student Handbook, is information regarding the Access & Equity Office, charged with the responsibility of monitoring compliance with Title IX issues.

OCR's review of the Student Handbook indicated that it identified the employee designated to coordinate the recipient's efforts to comply with the Title IX regulation. According to the Student Handbook, complaints are to be directed to the following HCCS' officials:

- (a) The Dean of Student if the individual alleged to have caused the grievance is another;
- (b) The Dean of Instruction and affirmative action officer, if the individual alleged to have caused the grievance of a faculty member; and,
- (c) The Dean of Student and, in case of discrimination or harassment, to the Affirmative Action Officer, if the grievance is an administrator or non-faculty employee.

In addition to above, the Newsletter also provides an explanation of the responsibilities of the Access & Equity Office, the name and title of the designated official, address, and a telephone number for this office.

The sexual harassment policy is included in the HCCS Student Handbook. It is disseminated to all students via the Handbook at the beginning of each semester, during Student Registration. The policy has also been disseminated to personnel, including instructors and administrative staff, by way of the College's Faculty Handbook included as part of the HCCS Personnel Policies and Procedures.

OCR found that the HCCS' sexual harassment policy states that a complaint may be filed formally or informally. A formal complaint must be made in writing by the complainant, addressed to the appropriate official as outlined in Item II below. The official receiving the complaint shall within two weeks initiate an investigation to determine whether there is a reasonable basis for taking action.

Within 30 days, the Affirmative Action Officer must file a report with the College President or the Chancellor, as appropriate, including in the report, a recommendation to: (1) take no further

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action because the complaint is without merit; or (2) attempt to negotiate a settlement; or (3) take formal action against the alleged offender. Either party, the complainant or the alleged offender may request a formal hearing if dissatisfied with the recommendation of the Affirmative Action Officer.

Allegation #1:

OCR's investigation disclosed that prior to receiving the current complaint, an investigation of a similar allegation was initiated by HCCS' officials, in response to a complaint brought forth by the student on or about May 15, 1997. This complaint alleged that the student's Psychology Instructor offered her a grade in exchange for sexual favors, beginning April 18, 1997 and continued through May 15, 1997, when she reported the sexual harassment to HCCS' officials. Information reviewed by OCR revealed that the student had presented the officials with a taped recorded conversation between she and the Instructor wherein he had made the proposal.

According to the HCCS's investigation, on May 20, 1997, in response to the student complaint, the Dean of Students and the Compliance Officer met with the student to take her statement and to review the taped recorded conversation between the Instructor and the student. During the telephone conversation, the Instructor offered to give the student a grade in psychology in exchange for sex.

Following the meeting with the student, the Compliance Officer provided written notification to the Chancellor that an immediate investigation would be conducted and a recommendation that the Psychology Instructor not be reassigned to any class or activity pending the outcome of the investigation. The Compliance Officer further recommended that the Instructor not be allowed to return to any of the HCCS' campuses until further notice.

OCR's investigation revealed that on May 21, 1997, the Instructor was notified of the complaint via certified mail. The letter informed him that he should have no further contact with the student and was cautioned against retaliating against her because she filed the complaint against him. In addition, the letter informed the Instructor that he was prohibited from visiting any and all HCCS campuses until further notice. This included all administrative facilities, with one exception, the Jackson Hill Service Center, where he would be providing testimony in response to the student's sexual harassment complaint.

On May 28, 1997, the Instructor was requested to report to the Jackson Hill Student Center to respond to the student's complaint. During this session, he was counselled regarding the College's sexual harassment policy. On May 29, 1997, the HCCS submitted a recommendation to the College Chief of Police restricting the

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Instructor's access to all HCCS campuses and administrative facilities. Finally, the records reveal that the Instructor resigned on May 30, 1997, from all present and future employment with the College, indicating that his resignation was based on having met with the Compliance Officer on May 28, 1997, and in an attempt aimed at the conservation of energies on the part both, the HCCS and himself.

The records further reveal that on July 30, 1997, a Grade Change Form was submitted to the Registrar's office, changing the student's grade in the psychology class from a "D" to a "B".

In interviews with HCCS' officials, they admitted that the student was not provided the results of the College's investigation. The HCCS' officials state that this was due to the College officials been given specific instructions by the student that she would contact the College for the results of the investigation, because she could not provide the College with a permanent mailing address at that time. This was disputed during a subsequent interview with the student. OCR was unable to determine what actually transpired during the conversation between HCCS' officials and the student.

Based on the above evidence, OCR has determined that the College conducted its investigation of the student's allegation of sexual harassment in accordance with its sexual harassment policy. Further, OCR determined that the HCCS took prompt and appropriate action to eliminate and remedy the sexual harassment experienced by the student, including an agreement to provide the student a written notice of the results of the College's investigation of her complaint.

Therefore, OCR has determined that the College is in compliance with the implementing regulation of Title IX at 34 C.F.R. 106.31(a).

Allegation #2:

The complainant alleges that because of the continued sexual harassment the student experienced at the hands of the Instructor, she was forced to withdraw from two classes because she was making failing grades.

OCR'S review of the student's records, reveal that she was enrolled in three (3) courses, a total of nine (9) credit hours: Fundamental Mathematics II; Composition II; and Introduction to Psychology, all taught by the Psychology Instructor who is the subject of this complaint. The records reviewed by OCR indicate that the student withdrew from Composition II on March 18, 1997, prior to the onset of the alleged sexual harassment by her Instructor. She withdrew from the Mathematics II, the second class, on April 24, 1997, seven days after the sexual harassment began. According to the reason for withdrawing from the course as communicated by the student at

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that time, she withdrew from the Mathematics class because it conflicted with her job schedule. Additionally, OCR found that at the time the student filed her complaint with the College, she did not raise the alleged sexual harassment as a reason for her withdrawal from the two (2) classes.

Based upon the above information, OCR found that immediately upon receiving the complaint of sexual harassment from the student, the College initiated an investigation or otherwise responded to the student's allegation of sexual harassment and took immediate and appropriate corrective action to address the hostile environment and responsive to quid pro quo sexual harassment alleged by the student. As a result, OCR finds that there is insufficient evidence to support a violation of Title IX. Therefore, OCR is closing this complaint as of the date of this letter.

This letter is not intended, nor should it be construed to cover any other issue regarding the HCCS's compliance or noncompliance with Title IX in any other respect.

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

We wish to thank you and your staff for the cooperation extended to OCR by the College in this matter. If you have any questions, please feel free to contact me at 214/880-2431.

Sincerely,



John Stephens
Team Leader
Southern Division - Dallas Office

Attachment

HOUSTON COMMUNITY COLLEGE SYSTEM

CONFIDENTIAL

June 17, 1998



Access and Equity Office

Ms. Dorothy R. Hubbard
Equal Opportunity Specialist
DOE/Office for Civil Rights, Southern Division
1999 Bryan Tower, Suite 2600
Dallas, Texas 75201



Re: Complaint No. 06982011

Dear Ms. Hubbard:

The Houston Community College System ("the College") agrees to take the following actions consistent with Title IX of the Education Amendments of 1972, 34 C.F.R. §106.31 (a) (Title IX).

1. By July 15, 1998, the College will advise the student, in writing, of the College's finding in the sexual harassment complaint she filed with the College on May 15, 1997.
2. By July 15, 1998, the College will advise the student, in writing that should she need psychological counseling as a result of the sexual harassment she experienced from the Psychology Instructor, that services will be made available to her upon notification from the student that such services are needed.

The notice shall include the name, title, and telephone number of a contact person(s).

3. By July 15, 1998, the College will provide to the student, a written notice informing her that the College will provide assistance to her in the procedures for reinstatement of her financial aid.

The notice shall include the name, title, and telephone number of a contact person(s).

4. The College will provide to OCR, by July 30, 1998, verification, e.g., copies of letters, memoranda, etc., that the above actions have been taken.

Houston Community College System

6/18/98
Date

JDC:ra

cc: Ruth Burgos-Sasscer
Diana Morales Taylor
Dr. Sylvia Ramos
Dr. Elaine Adams
Diana Castillo
Norma Perez

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320 Jackson Hill, P.O. Box 7849, Houston, TX 77270-7849 ♦ (713) 718-8606 FAX: (713) 718-8637