

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

Midwestern Division

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DEC - 6 2002

John C. Vatterott, Sr., President
Vatterott College
3925 Industrial Drive
St. Ann, Missouri 63074

Ref: 07022043

Dear Mr. Vatterott:

On April 16, 2002, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a letter of complaint in which the complainant alleged that Vatterott College (College), St. Ann, Missouri, discriminates against female students on the basis of sex. Specifically, the complainant alleged that the Springfield campus of the College discriminates against females by: 1) failing to establish a grievance procedure in accordance with Title IX of the Education Amendments of 1972 (Title IX); and 2) failing to take appropriate action in response to female students' allegations that male students and College professors engaged in sexual harassment, which has resulted in the females being subjected to a sexually hostile environment.

OCR is responsible for enforcing, among other civil rights statutes, Title IX, 20 United States Code § 1681 *et seq.*, and its implementing regulation at 34 Code of Federal Regulations, Part 106, which prohibit recipients of Federal financial assistance (FFA) from the Department from discriminating on the basis of sex in educational programs or activities. Since the College is a recipient of FFA from the Department, it is responsible for complying with the Title IX regulations.

With respect to allegation number one that the College failed to establish a grievance procedure in accordance with Title IX, the College signed a Commitment, which resolves this allegation. Enclosed is a copy of the Commitment. OCR will monitor the College's implementation of the Commitment. If the College should fail to implement the Commitment, OCR will immediately reopen the investigation of this allegation.

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation through the vigorous enforcement of civil rights.

With respect to allegation number two, the complainant alleged that the College failed to take appropriate action in response to allegations that male students and College professors engaged in sexual harassment. The complainant discussed a number of incidents that she believed to be sexual harassment. The complainant stated that these incidents occurred between December 28, 2000 and July 1, 2001.

The complainant stated that between March 20, 2000 and May 25, 2000 she was counted absent from a class she attended. The complainant recalled that she looked at the grade book during a break and pointed out to the teacher that he had incorrectly counted her absent that day. The teacher looked at the book, apologized for the error, and corrected the record immediately. The complainant indicated that some time during this same period, a male student missed at least eleven days of class in connection with the birth of his son. She noted that the attendance record showed that he missed only three days. She complained to the school director who said that record keeping was subject to teacher discretion. The complainant provided no factual basis that the teacher's actions toward the complainant were based on her sex. Further, the teacher corrected the complainant's record immediately. In addition, as discussed below, these allegations were filed untimely.

The complainant alleged that between December 28, 2000 and March 1, 2001 a male student viewed pornographic websites during class. The complainant explained that the male student would also ask a female student sitting next to him how her anatomy compared with that displayed on the screen. The complainant stated that the female student complained to the instructor about the misconduct and asked to be moved to another seat. The complainant stated that the teacher declined to admonish the student for his misconduct and denied the student's request to move. The complainant further stated that during the same time period a second male student formed a balloon into a part of male anatomy. The first male student grabbed the balloon, placed it between his legs, and started poking the complainant. She hit him and told him to get away from her, which he did, and the other male students laughed. The complainant stated that the instructor again did nothing. The complainant also stated that near the end of the ten-week session, the College removed the first male student, the one who viewed the pornographic websites, from the class. As discussed below, these allegations were filed untimely.

OCR procedures require that complaints be filed within 180 days of the alleged discrimination. The alleged discrimination above occurred between March 20, 2000 and May 25, 2000 and between December 28, 2000 and March 1, 2001. The OCR complaint was filed April 16, 2002, which is more than 180 days after the alleged discrimination occurred. When asked why she filed untimely, the complainant said that she had filed a similar complaint with the Missouri Commission on Human Rights (MCHR) on October 11, 2001. On April 3, 2002, MCHR notified the complainant that it was preparing to make its determination in the complainant's case and offered the complainant the choice of a Right to Sue or to receive the MCHR determination. The MCHR Right to Sue letter was issued on April 17, 2002.

OCR procedures allow for waiving OCR time frames if the complaint is filed with another civil rights enforcement agency within the 180-day time frame. The MCHR complaint was not filed within 180 days of the alleged discrimination. Therefore, OCR is not waiving the time frame and these allegations are closed effective the date of this letter.

The complainant alleged that between May 17, 2001 and July 1, 2001 a teacher yelled at her when she asked the teacher for further explanation of a point that was being discussed in class. She said he yelled at her saying something to the effect that if she had been paying attention, she would know the answer. The complainant provided no factual basis that the teacher's actions toward the complainant were based on her sex. Therefore, these allegations and the complaint are closed effective the date of this letter.

The regulations OCR enforces protect individuals who file a complaint with OCR or participate in an OCR complaint investigation or compliance review. Recipients may not retaliate or take any adverse actions against individuals based upon their having filed a complaint or provided assistance to OCR. Individuals who believe they have been subjected to retaliation or other adverse action because of their participation in any OCR compliance activity may file a complaint with OCR.

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

If you have any questions about this matter, please contact David Reid, Equal Opportunity Specialist, at (816) 880-4274 (voice) or (816) 891-0582 (telecommunication device for the deaf).

Sincerely,



Michael B. Hamilton
Associate Director

Enclosure:

CC: (b)(7)(C)



COMMITMENT

Vatterott College
Docket No. 07022043

Vatterott College (College), Springfield, Missouri, submits the following Commitment to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve Complaint No. 07022043.

The complaint alleged that the College discriminated against a student on the basis of sex by failing to establish a grievance procedure in accordance with Title IX of the Education Amendments of 1972 (Title IX). The College denies that there was any such violation. Further, the College on its own initiative previously took several voluntary actions to appropriately resolve any such concerns, to-wit:

1. The College revised its grievance procedure to include specific time frames for investigating and making determinations of complaints based on sex.
2. The College also designated the name and position of employees responsible for accepting and managing complaints of discrimination including how to contact the designated employee.
3. The College has included these grievance procedures in its Student Handbook and Catalog.
4. Copies of the revised Student Handbook and Catalog have been submitted to the OCR and found to be in accordance with Title IX statute and regulations.
5. The College assures that it will take appropriate and timely action to process all complaints received under the revised grievance procedure.
6. By June 1, 2003, the College will provide OCR copies of all sexual harassment complaints filed against Vatterott College, Springfield, Missouri, since the date of this Commitment and the College's resolution of these complaints.

The OCR procedures allow for the closing of complaints when it has been determined that the allegations raised by the complaint have been resolved. As noted herein, the College took several voluntary actions to appropriately resolve the allegations of the complaint. When a school takes these steps, it has avoided violating Title IX. Thus, the College has carried out its responsibility under the Title IX regulations and the OCR is closing this complaint effective the date below.



John C. Vatterott, President
Vatterott College

11/7/02

Date