



DEPARTMENT OF EDUCATION

REGION VIII

FEDERAL OFFICE BUILDING  
1244 SPEER BLVD., SUITE #310  
DENVER, COLORADO 80204-3582

OFFICE OF THE REGIONAL DIRECTOR  
OFFICE FOR CIVIL RIGHTS

Mr. Norman Cohen  
President  
Utah College of Massage Therapy  
25 South 300 East  
Salt Lake City, Utah 84111

RE: **Utah College of Massage Therapy**  
**Case Number 08012022-B**

Dear President Cohen:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of case number 08012022-B, which we received on February 27, 2001. The complainant alleged that the Utah College of Massage Therapy (College or UCMT) discriminated against her on the bases of sex, race, national origin, and disability.

Specifically, the complainant alleged that the College discriminated against her on the basis of sex in failing to respond to her complaints of sexual harassment. The complainant also alleged that race, national origin, and disability were factors in the College's failure to respond to her complaints of sexual harassment.

In a July 18, 2000 telephone conversation, the complainant admitted that the College had informed her they had looked into her allegations and found no violations. She further confirmed that she did not agree with the outcome of the College's investigation and clarified her allegation that the District took no action against the alleged harasser because of his sex and race.

OCR investigated the complaint pursuant Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education program and activities; Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the bases of race, color, or national origin; and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability. The College receives Federal financial assistance from our Department and is subject to these laws.

In reaching a compliance determination regarding the allegations, OCR reviewed documents submitted by the complainant and the College. OCR also conducted interviews with the complainant, the complainant's vocational rehabilitation counselor, and College staff.

Using established investigative approaches to determine whether discrimination occurred, OCR found that the College did not discriminate on the basis of sex, race, national origin, or disability. However, OCR determined the College's existing grievance procedures were not in technical compliance with the federal regulations enforced by OCR. The findings of our investigation and legal analysis follow.

### **Grievance Procedures**

OCR enforces five civil rights laws: Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), and the Age Discrimination Act of 1975. These laws prohibit discrimination based on race, color, national origin, sex, disability, and age. The College receives Federal financial assistance from the Department and is subject to the provisions of Title VI, Title IX, Section 504, and the Age Discrimination Act and their respective implementing regulations. The College is a private post-secondary institution and is not subject to the provisions of Title II. The regulations enforcing these laws require the College to follow certain procedural requirements.

The requirements of each Act, except Title VI, include designating at least one person to coordinate the College's efforts to comply with each of the applicable laws. In the interest of providing complete notice, the College agreed to publish and make available to students and employees the identity, telephone number, and address of the coordinator(s) for each law.

Additionally, the District must adopt and publish a grievance procedure that provides for the prompt and fair resolution of all complaints alleging any action in violation of any of the applicable laws. Students and employees must have easy access to the grievance procedures, such as the College's handbooks. OCR has interpreted best practices to include grievance procedures that address Title VI matters, therefore, the College agreed to adopt and publish grievance procedures covering Title VI complaints consistent with the other Acts and regulations cited above, and the designation of a responsible employee to handle any such grievance or complaint than an employee, student, or any member of the public may wish to file related to race, color, or national origin.

A review of the College's student handbook found it contained a sexual harassment grievance procedure (Title IX), however, there is no reference to Title VI or Section 504. The handbook indicates that sexual harassment complaints are currently handled through an established informal and formal procedure. However, there is no explanation or criteria of when the complaint evolves from an informal to a formal status. In addition, students are instructed to report sexual harassment matters to the Director of Education or

Director of UCMT. The handbook does not include the address and telephone number of the employee designated to accept complaints.

The College also agreed to continually notify all beneficiaries, including students and employees, that it does not discriminate in admission, employment, access to, or treatment in its programs and activities based on race, color, national origin, sex, disability, or age. This notification must be included in its general publications, such as the College's handbooks. OCR found that the College's handbooks, a primary means of providing information to students and employees, do not currently meet the legal requirements provided above.

We find that the College responded to the complainant's complaint of sexual harassment in a prompt and effective manner. We requested and received from the College its files from previous investigations of sexual harassment. The College in the past has promptly and thoroughly investigated the previous allegations of sexual harassment. It has dismissed students and teachers who were found to be guilty of such harassment. However, the College acknowledges that the former grievance procedures were not adequate and has agreed to adopt and publish grievance procedures in accordance with the enclosed Commitment to Resolve (Commitment), which will be monitored by OCR to ensure completion.

#### **Background Information**

1. The complainant, a white female, was enrolled in a 50-week, Professional Massage Therapy Program at the Layton campus of UCMT, specifically Class CL09. The evening program had a January 2, 2000 start date and a December 21, 2000 completion date.
2. The complainant alleged that a black male student (BMS) sexually harassed her during a February 8, 2000 in-class massage session as follows:
  - a. He draped her inappropriately exposing her backside and used "different" massage strokes on her body;
  - b. After the session, he commented that, like his girlfriend, the complainant was also a large woman, and the complainant's bone structure was only "this big" and used his hands to show the width of her hips.
3. On July 31, 2000, the complainant was again paired up with the BMS for a Shiatsu class. Although fully clothed, the complainant stated she "felt very anxious, very tense, my breathing was very difficult" during the time the BMS worked on her.
4. Based on the February 8 and July 31, 2000 incidents, the complainant informed UCMT that she would not return to school unless they transferred the BMS to another campus location. The complainant's last day of attendance at UCMT was August 3, 2000.

5. In a letter dated August 25, 2000, the College advised the complainant that, in accordance with College policies, she was officially withdrawn from the program for failure to attend class for 21 consecutive days.

#### **Results of the Investigation**

OCR conducted 15 interviews with the complainant, the vocational rehabilitation counselor, and College staff, including the permanent teacher assistant (PTA), and a former administrator. We also reviewed documentation submitted by the complainant and the College. Our investigation revealed the following:

##### February 8, 2000

- The complainant claimed that during an in-class massage, the BMS inappropriately draped her, exposing her backside. During the feedback session, the complainant commented that the draping was “not right.” In a written statement, the BMS confirmed that he partnered with the complainant for the massage session, noting that he draped her so that he could properly work “the gluteal attachments and the sacroiliac joint.” The BMS also acknowledged that he was nervous and uncomfortable with his draping, noting that it “could have been a little tighter.”
- With respect to the massage strokes, the complainant acknowledged that each student is encouraged to develop his/her own style of massage. However, she found the strokes employed by the BMS to be “different” and sexually stimulating. As a result, she felt “uncomfortable, insulted, humiliated, and violated.” The BMS did not mention the issue of massage strokes in his written statement.
- The complainant also stated that the BMS talked about the size of her body, specifically the actual size of her hip span between the bones and demonstrated the width with his hands and arms. In addition, he compared her body size to that of his girlfriend. The BMS did not address the issue of body size comparison in his written statement.
- The PTA stated that the students had just started classes in January 2000. As such, they were still learning and were not very experienced in massage or draping. She further stated that during the February 8, 2000 class, there were three staff members present, roaming, and circulating in the room – the instructor, the instructor’s assistant and herself. The PTA indicated she did not see anything inappropriate occurring during the massage portion of the class, nor did the instructor report anything improper.

##### April 4, 2000

- The complainant reported that two days after a March 2000 in-class massage, she informed the PTA that she felt uncomfortable working with the BMS because of his

actions. However, OCR confirmed that the massage session occurred on February 8, 2000 and that the complainant spoke with the PTA on April 4, 2000.

- The PTA acknowledged that the complainant spoke with her about the BMS's draping technique. During their meeting, the PTA asked the complainant if the BMS had touched her inappropriately and the complainant responded, "No, it wasn't the touch – I just felt the draping was a little loose." The complainant further noted that the BMS had acknowledged his draping had been a little loose. The complainant did not recall the PTA's inquiry.
- According to the PTA, the complainant did not mention the issues of "different" massage strokes or the comparison of her body to the BMS's girlfriend during their meeting.
- The PTA counseled the complainant as follows:
  - (1) She was going to observe the BMS.
  - (2) The complainant did not have to pair or partner with the BMS if she didn't want to or if he made her feel uncomfortable.
  - (3) She was going to document their conversation and the complainant's concern.
  - (4) She would coach the BMS on his draping.
  - (5) The complainant could always leave her underwear on during future massage sessions.
  - (6) The complainant did not have to work with anyone who made her uncomfortable or who went beyond her personal boundaries.
- The PTA's notes indicate that the complainant's description of the draping was "exactly how the instructor teaches and demonstrates." In a statement dated September 9, 2000, the instructor confirmed that Class CL09 discussed draping techniques and the boundaries associated with proper draping. The instructor further stated that no individual approached her "claiming to have been touched in a manner that violated his/her personal boundaries...[or College policies]."

April 2000 (exact date unknown)

- The complainant stated she spoke with the [former] Layton campus director to confirm that the PTA had related her concerns about the February 8, 2000 massage incident. According to the complainant, the director acknowledged that the PTA had reported the conversation and assured the complainant they "would keep an eye on [the BMS]."
- The former director stated during a telephone interview that she did not recall speaking directly with the complainant regarding the February 8, 2000 massage incident.

July 31, 2000

- The complainant was paired with the BMS for a Shiatsu class. The object of the class is to perform different finger and hand movements above, below, and around the navel area.
- The complainant stated that, as the BMS approached her, she asked him, "Are you going to be nice?" Although she did not hear his entire response, the complainant alleged the BMS said something to the effect "...you need to worry." Based on the February 8, 2000 massage session she felt "frightened and somewhat threatened." Even though she was fully clothed for the Shiatsu session, the complainant stated she "felt very anxious, very tense, my breathing was very difficult" during the time the BMS worked on her.
- The BMS confirmed that he partnered with the complainant. He further acknowledged the complainant said something to the effect, "Now don't be bad" with "a little chuckle and some lightness." The BMS stated he replied, "Ha Ha. When I'm bad, I'm really good."

August 1, 2000

- During the morning hours, the complainant's family called the paramedics to the home. The paramedics found no physical cause for the complainant's anxiety symptoms and suggested the physical condition could be stress related.
- The complainant called the Shiatsu instructor about the February 8, 2000 incident with the BMS and the resulting anxiety attack that she experienced during and following the July 31, 2000 Shiatsu session.
- In a written statement (undated), the Shiatsu instructor confirmed she spoke with the complainant and they discussed the issues associated with the massage class. She reported the complainant stated the BMS had never actually done anything that could be construed as inappropriate – "it was just a feeling she had when she worked with him." The complainant could not recall making that statement.
- The complainant called the PTA and reported that the BMS had "traumatized her" during the Shiatsu class. As a result, she would not be able to attend that evening's class.
- The PTA confirmed she spoke with the complainant. She further reported that the complainant admitted the BMS did not do anything inappropriate.
- The PTA spoke with the BMS and explained the complainant's trauma. The PTA suggested that the BMS let the complainant be the first to communicate with him and counseled him not to work with her in class.

- The BMS confirmed the PTA spoke with him regarding the complainant's feelings and asked him to give the complainant "some space" and not to partner with her in the future.

August 3, 2000

- The PTA advised her supervisor, the Layton campus director, of the complainant's August 1, 2000 verbal account that she had been traumatized. The PTA also informed the campus director there had been no other complaints filed against the BMS. The campus director asked the PTA to submit a full report of the incident.
- The complainant called the campus director regarding her discussions with the PTA and the former campus director. The campus director advised the complainant that he would immediately investigate the complaint. He asked the complainant to file a formal grievance report.

August 7, 2000

- The education coordinator/campus director began his internal investigation. When he spoke with the PTA she reported that she had not observed anything inappropriate during the Shiatsu class.
- In response to the complainant's allegation that another female student had similar issues with the BMS, the PTA contacted her. The student submitted an August 9, 2000 written statement confirming that at the beginning of the school year, the BMS had asked her for a date. However, after she informed him that she was not interested, and that she had a son and boyfriend, the BMS left her alone. She reported she had no other problems with the BMS.

August 8, 2000

- The campus director met with the BMS, informed him of the allegations, and asked if they were justified. The BMS denied acting in an inappropriate manner. The campus director asked the BMS to provide a written statement.
- The campus director spoke with the above referenced female student. She informed him that she had no knowledge of any inappropriate behavior by the BMS either inside or outside the classroom.
- During the evening, the complainant and her husband hand-delivered a written grievance to the campus director. The complainant asked that the College remove the BMS from the Layton campus as a condition of her return to class. The campus director informed the complainant they had not, as yet, found any evidence that the BMS had acted inappropriately. As such, they could not remove the BMS, as requested.

August 9, 2000

The following individuals submitted written statements pertaining to the complainant's allegations:

1. The female student
2. BMS
3. Shiatsu Instructor

The campus director also contacted his predecessor and, after discussing the matter, asked that she provide documentation regarding the February 8, 2000 draping incident. In addition, he called the corporate office in Salt Lake City, Utah and spoke with the corporate director of education.

August 2000

- The campus director met with the corporate director (exact date unknown) to discuss the complainant's allegations. They reviewed all the statements and documents and determined that the evidence against the BMS was not sufficient to warrant his dismissal from the program. The corporate director asked the campus director to arrange a meeting with the complainant in order to try to resolve the issues.

August 25, 2000

- The campus director contacted the complainant and arranged a meeting for August 25, 2000. Because the corporate director had a previous engagement, they had to reschedule the meeting. During their telephone conversation, the campus director informed the complainant that she was nearing the limit for class absences, which would result in her dismissal as a "21-day drop." The complainant refused to return to class as long as the BMS remained in the class.
- The College's Dismissal Policy states: "UCMT reserves the right to dismiss any student prior to completion of the program, as determined by the Education Department for the following reasons...(specifically)

Unsatisfactory attendance due to missing all classes and failing to contact the school within any period of 21 calendar days while actively enrolled in one of the three evening programs or within any period of 15 calendar days while actively enrolled in one of the four day programs."

AUGUST 25, 2000

The College advised the complainant that she was officially withdrawn from the program for failure to attend class for 21 consecutive days.

August 29, 2000

- The complainant attended a meeting with the campus director and corporate director. Other attendees included the complainant's husband and a Utah State Vocational Rehabilitation counselor, whose agency provided partial funding for the complainant's attendance at the College.
- During their meeting, the corporate director gave the complainant an opportunity to restate her allegations against the BMS. The corporate director referenced the student handbook and read the list of items mentioned as examples of sexual harassment. After each example, the corporate director asked the complainant if the BMS had exhibited behavior consistent with the described action. After each item, the complainant confirmed she answered in the negative.
- The College offered the complainant two options in order to resolve the situation. The first allowed the complainant to return to her current class and complete the program, even though she had passed the deadline for withdrawal for non-attendance. The second option provided that the complainant transfer to a different class and finish the program. The complainant rejected both offers. She again asked that the College transfer the BMS to a different class and that it allow her to return to her original class. The campus director agreed to ask the BMS if he was willing to transfer.
- The BMS subsequently declined the request to transfer to another location and the College advised the complainant of his decision.

#### Analysis

Allegation #1: The College discriminated against the complainant on the basis of sex in failing to respond to a complaint of sexual harassment.

When investigating incidents of sexual harassment, OCR will consider whether: (1) the school has a disseminated policy prohibiting sex discrimination under Title IX and effective grievance procedures; (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment; and (3) the school has taken immediate and effective corrective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.

The College has an existing policy against sexual harassment that is disseminated to students and staff. It has agreed to adopt and publish formal grievance procedures and appoint a coordinator to meet the requirements of the Title IX regulation, as well as other regulations enforced by OCR through the Commitment.

The College asserts that it promptly investigated the complainant's allegation of sexual harassment and did not find that harassment occurred. The complainant agreed that the College did perform an investigation, but she did not believe the investigative process was fair or adequate. Since the College did not have formal procedures in place for

investigating allegations of sexual harassment, we determined it was appropriate to examine whether the College nevertheless provided the complainant with a prompt and equitable resolution process. OCR compared the College's investigation to the compliance standards that OCR applies in investigations and administrative enforcement of Title IX regarding sexual harassment.

The type of harassment alleged by the complainant is generally referred to as hostile environment harassment. This type of harassing conduct requires a further assessment of whether or not the conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program based on sex. OCR considers a variety of related factors to determine if a hostile environment has been created, *i.e.*, if sexually harassing conduct by a peer is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both a subjective and objective perspective, *i.e.*, subjective is when it is perceived as sexual harassment by the victim and objective is from the perspective of a reasonable person in the victim's position considering all the circumstances. In evaluating the severity and pervasiveness of the conduct, OCR considers all relevant circumstances, *i.e.*, "the constellation of surrounding circumstances, expectations, and relationships." (*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 at 651 (1999)). The College should also use these factors to evaluate conduct in order to draw commonsense distinctions between conduct that constitutes sexual harassment and conduct that does not rise to that level. Relevant factors include the following:

- The degree to which the conduct affected one or more student's education. The complainant withdrew from the College eight months after the first alleged incident of harassment. She complained at that time of physical and mental distress. Prior to her withdrawal, the College advised and encouraged the complainant not to work with the BMS and advised her they would observe him in all classes for improper conduct. The next question is whether a reasonable student of the same age and in similar circumstances as the complainant would be so adversely affected by the alleged harassment that it warranted dropping out of school. OCR finds that the complainant's response to a one-time draping incident in a novice instruction class and uncomfortable feelings the complainant got from a fully-clothed massage treatment was not the action of a reasonable person in the circumstances disclosed by the investigation.
- The type, frequency, and duration of the conduct. The College interviewed all parties that could have had knowledge of the alleged incidents, including the alleged harasser, and determined that there was no pattern or practice of harassment by the BMS. The College found the alleged conduct was not repeated and was decidedly not severe. Conduct that is not severe will not create a hostile environment.
- The identity of and relationship between the alleged harasser and the subject of the harassment. The complainant and the alleged harasser were classmates in a massage class that was to last for over 11 months. The BMS did not have any power over the complainant. The first incident involved perceived improper draping of the

complainant. As a fellow student, the complainant could have immediately told the BMS to rearrange the sheet or stop the massage practice. There is no evidence in the investigation of the BMS acting in a demanding or forceful way to either the complainant or others.

- The number of individuals involved. The College interviewed all persons who might have had any knowledge of the alleged incidents. No other students or faculty observed that the BMS had, in any manner, harassed or offended them.
- The age and sex of the alleged harasser and the subject or subjects of the harassment. Both the complainant and the BMS are adults in their forties, the complainant being the elder of the two.
- The size of the school, location of the incidents, and context in which they occurred. The alleged incidents occurred during class time and in the presence of other students, teachers, and a teacher assistant. The complainant waited for about two months before advising the staff that she had been uncomfortable during the first massage practice with the BMS. None of the witnesses interviewed by the College or OCR testified that the BMS acted inappropriately in their presence. A reasonable student enrolled in a college of body massage would expect that physical touching by other students would be involved. The College's existing policies make it clear that inappropriate touch will not be tolerated. In fact, students and employees have been dismissed for such conduct. It is important to recognize that Title IX's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct.
- Other incidents at the school. There have been no other reported incidents of sexual harassment at UCMT involving the BMS.

The College determined that no sexual harassment had occurred. Nonetheless, representatives of the College advised the complainant she did not have to participate in practice sessions with the BMS and advised the BMS to avoid contact with the complainant. The College ultimately offered the complainant alternatives to allow her to continue her education, with no financial or educational penalties, in ways that avoided any contact with the BMS.

Therefore, OCR's review of the College's investigation of the alleged sexual harassment by the BMS against the complainant finds that the College acted promptly and effectively in response to the complainant's allegation. The responsible officials considered the totality of the circumstances in which the alleged behavior occurred and applied common sense and reasonable judgement in determining that no sexually hostile environment existed, based on the alleged actions of the BMS against the complainant.

Allegation #2: The complainant also alleges that the sex, race, and national origin of the alleged harasser, and her disability were also factors in the College's failure to respond to her complaint of sexual harassment.

The complainant has offered no evidence of discrimination based on the sex, race, or national origin other than to identify her alleged harasser as a black man from Jamaica. No other evidence was offered or discovered that indicates the sex, race, or national origin of the alleged harasser played any part in the investigation or decision-making process of the College. We find the College did not discriminate against the complainant on the basis of sex, race, or national origin in violation of Title VI.

Based on her allegations of sexual harassment, the complainant informed the College she would not return to class until they transferred the BMS out of the Layton campus. The complainant's position was that, because of a lumbar back disability, she could not travel the required distance to the College's other campus in Salt Lake City, but the BMS could.

On August 8, 2000, the complainant and her husband hand-delivered a written grievance to the campus director. The complainant asked that the College remove the BMS from the Layton campus as a condition of her return to class. The campus director informed the complainant they had not, as yet, found any evidence that the BMS had acted inappropriately. As such, they could not remove the BMS, as she requested. This was the first notice of this disability to the College and the College did not treat it as a request for academic adjustment documentation, but rather another demand based on her sexual harassment complaint. Since the College did not determine sexual harassment occurred, the request was not deemed appropriate. We agree.

The campus director advised the complainant during an August 23, 2000 telephone conversation that she was nearing the limit for class absences, which would result in her dismissal as a "21-day drop." The complainant again refused to return to class as long as the BMS remained in the class.

The College's Dismissal Policy states: "UCMT reserves the right to dismiss any student prior to completion of the program, as determined by the Education Department for the following reasons...(specifically)

Unsatisfactory attendance due to missing all classes and failing to contact the school within any period of 21 calendar days while actively enrolled in one of the three evening programs or within any period of 15 calendar days while actively enrolled in one of the four day programs."

On August 25, 2000, the College advised the complainant that she was officially withdrawn from the program for failure to attend class for 21 consecutive days, in accordance with its policy.

The complainant attended a meeting with the campus director and corporate director on August 29, 2000. Other attendees included the complainant's husband and a Utah State Vocational Rehabilitation counselor, who provide partial funding for the complainant's attendance at the College.

The College offered the complainant two options in order to resolve the situation. These options may be viewed as reasonable accommodations to her disability that prevented her from commuting to another campus operated by the College. The first allowed the complainant to return to her current class and complete the program, even though she had passed the deadline for withdrawal for non-attendance. The second option provided that the complainant transfer to a different class and finish the program. The complainant rejected both offers. She again asked that the College transfer the BMS to a different class and that it allow her to return to her original class. The campus director agreed to ask the BMS if he was willing to transfer. The BMS subsequently declined the request to transfer to another location and the College advised the complainant of his decision.

Thus the College promptly investigated the allegation of sexual harassment. The College's investigation did not reveal that the complainant was subjected to sexual harassment, as alleged.

#### Conclusion

OCR finds insufficient evidence to conclude that the College discriminated against the complainant by failing to respond to her complaint of sexual harassment. OCR is closing this case as of the date of this letter. This letter addresses only the issues discussed above and should not be interpreted as a determination of the College's compliance or noncompliance with Title VI, Title IX, or Section 504 in any other respect.

Individuals filing a complaint or participating in an investigation are protected under Federal law against harassment, retaliation, or intimidation. Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR received such a request, we will protect personal information to the extent provided by law.

Thank you for the courtesy and cooperation that you and your staff, especially Mr. Bob Smith, extended to OCR staff during the investigation of this case. If you have any questions regarding this matter, please call me at (303) 844-4524, or Betty Roybal, Equal Opportunity Specialist, at (303) 844-4537.

Sincerely,

Linda Howard-Kurent  
Supervisory Team Leader

Enclosure: Commitment to Resolve

cc: Bob Smith  
Campus Director

The College offered the complainant two options in order to resolve the situation. These options may be viewed as reasonable accommodations to her disability that prevented her from commuting to another campus operated by the College. The first allowed the complainant to return to her current class and complete the program, even though she had passed the deadline for withdrawal for non-attendance. The second option provided that the complainant transfer to a different class and finish the program. The complainant rejected both offers. She again asked that the College transfer the BMS to a different class and that it allow her to return to her original class. The campus director agreed to ask the BMS if he was willing to transfer. The BMS subsequently declined the request to transfer to another location and the College advised the complainant of his decision.

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Sincerely,

Linda Howard-Kurent  
Supervisory Team Leader

Enclosure: Commitment to Resolve


cc: Bob Smith  
Campus Director



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- (b) application of the procedure to complaints alleging discrimination carried out by employees, other students, or third parties;
  - (c) adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
  - (d) designated and reasonable prompt timeframes for the major stages of the complaint process; and
  - (e) notice to the parties of the outcome of the complaint.
- (3) Additionally, the College agrees to adopt and publish a Notice of Nondiscrimination meeting the standards contained in each of the Acts' regulations referenced above. The notice will be provided through College publications and the College will post the notice provision throughout College facilities. In addition, because retaliation is prohibited by these Acts and regulations, the College should include a provision in its notice prohibiting retaliation against any individual who files a complaint or participates in a harassment inquiry.
- (4) By October 15, 2001, the College will provide OCR with a copy of its revised policies and procedures as described above; information concerning the College's designated Title VI, Title IX, ADA and 504 Coordinator; and copies of published notices pursuant to the above paragraphs and where they can, and will, be found in College publications.

OCR may request \_\_\_\_\_ reports and reasonable documentation until the College demonstrates full compliance with this Commitment.

  
\_\_\_\_\_  
Dawnette Birch  
Corporate Director of Education

8.7.01  
\_\_\_\_\_  
Date