



**U.S. DEPARTMENT OF EDUCATION**  
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**OFFICE FOR CIVIL RIGHTS**  
**SOUTHERN DIVISION**

**DISTRICT OF COLUMBIA OFFICE**  
*District of Columbia, Virginia, North Carolina*

Dr. Phail Wynn, Jr.  
President  
Durham Technical Community College  
1637 Lawson Street  
Durham, NC 27703

NOV 20 2003

Re: Complaint No. 11-03-2044

Dear Dr. Wynn:

On April 17, 2003, the District of Columbia Office, Office for Civil Rights (OCR), within the U.S. Department of Education (Department), notified you that we received the above-referenced complaint of discrimination filed against Durham Technical Community College (the College). The complainant alleged that the College discriminated against her on the basis of sex with respect to her grade in a course on basic math skills because male students with lower test scores received passing grades.

OCR has the responsibility for enforcing Title IX of the Education Amendments Act of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity receiving or benefiting from Federal financial assistance from the Department. The College is a recipient of Federal financial assistance from the Department. The regulation implementing Title IX at 34 C.F.R. §106.31(b)(2) specifically prohibits a recipient from providing a student different aid, benefits, or services or providing aid, benefits, or services in a different manner on the basis of sex.

To investigate this case, OCR interviewed the complainant, persons identified by the complainant as witnesses, and College staff, and reviewed College policies and procedures, as well as relevant records and documents. We have determined that there is insufficient evidence to support a finding of a violation of Title IX relative to the complainant's allegations. Our conclusions are explained below.

### **Legal Standard**

To determine whether the College discriminated against the complainant, OCR must find that the complainant was treated differently because of her gender. OCR must determine that: (1) the complainant is a member of a protected class; (2) the complainant was subject to adverse treatment (did not receive a passing grade); (3) that similarly situated male students received passing grades; and (4) that there was no legitimate, nondiscriminatory reason for the disparate treatment.

### **Facts and analysis**

In the fall of 2002, the complainant enrolled in Math 050. The course focused on fundamental concepts of mathematics including reading and writing whole numbers; adding, subtracting, multiplying and dividing whole numbers; solving word problems and making estimates with whole numbers, using exponents; reducing fractions to their lowest term; and reading and writing decimal numbers, and so forth. The complainant received a grade of IP. The College explained that IP grade as a mark that denotes “in progress” which is a special grade assigned in some developmental studies courses when a student has not mastered all the course competencies. The College further explained that the IP grade is not a withdrawal grade and is not included in the calculation of a student’s grade point average. As a result, the IP grade could not lower a student’s average.

Initially, 26 students enrolled in Math 050, but one student never attended. Of the 25 students that were enrolled for the entire semester, 20 were female. Fourteen students received passing grades of “A” or “B.” Eleven of the 14 were female. Nine students, eight females and one male, received the “IP” grade. Two other students, one female and one male, received an “F2” grade.

According to the course syllabus, a student’s final grade was to be computed using a formula as follows: 10% on assignments; 5% on attendance; 5% on classroom work; 10% on the mid-term exam; 40% on four chapter tests and 30% on the final proficiency exam. The numerical score was to be converted to letter grades as follows: 90 – 100 points = A; 80 – 89 points = B; 70 – 79 points = IP (In Progress); and 69 points or below = F. Students who failed to attend sufficient course sessions were assigned a grade of F2. Instead of applying this formula, the College provided a grading sheet that calculated student grades based upon the cumulative test scores from the 4 chapter tests, the midterm and the final. The same calculations were used for all students in the class, irrespective of sex.

The complainant’s final numerical score was 133.6. According to the method for computing letter grades, this entitled her to a grade of IP. The male student who also received an IP grade, had a cumulative test score of 127.6, which is six points lower than complainant. Another male student failed to attend sufficient class sessions and his course grade was not calculated and he received a grade of F2. The other three remaining male students received, respectively, an A and two Bs. Their cumulative test

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scores were 172.9, 158.8 and 141.4. All three scores were higher than the numerical score of the complainant.

OCR concludes that there is insufficient evidence to show that the complainant's Math 050 grade was discriminatory based upon her sex. We are closing the case as of the date of this letter.

The complainant raised other incidents that took place in the classroom, including statements that she contends constitute evidence of bias against women. OCR reviewed two e-mail messages in which the complainant took the instructor to task for unorthodox teaching methods, but neither of these raised any issues of different treatment of women in the classroom. The instructor denied that he treated the complainant differently than any other student in the math class. He did acknowledge that he and the complainant did not get along, but that their differences had to do with substantive issues and overall progress of the coursework. OCR also interviewed a student identified by the complainant as a witness. She was unable to confirm that the instructor was biased or disrespectful to female students in the class.

No person or persons may intimidate, threaten, coerce, or otherwise discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because one has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws enforced by OCR. If anyone is harassed or intimidated because of filing a complaint with or participating in an OCR investigation, the individual may file a complaint with OCR alleging such harassment or intimidation.

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.

If you have questions regarding this matter, please contact Mr. Walter Patterson, Equal Opportunity Specialist, at (202) 208-7725.

Sincerely,



Karen Hakel  
Team Leader