



UNITED STATES DEPARTMENT OF EDUCATION
BOSTON OFFICE
JOHN W. MCCORMACK POST OFFICE AND COURTHOUSE, ROOM 222
POST OFFICE SQUARE
BOSTON, MASSACHUSETTS 02109

OFFICE FOR
CIVIL RIGHTS

MAY 04 2001

Dr. Harry J. Courmiotes, President
American International College
1000 State Street
Springfield, Massachusetts 01109

Re: Complaint No. 01-00-2056

Dear Dr. Courmiotes:

This letter is to inform you that the Office for Civil Rights (OCR) has completed its investigation of the complaint against the American International College (College). The Complainant, ^{(b)(7)(C)} [redacted] alleged that the College discriminated against her on the basis of race, sex, and age. Based on a full and thorough investigation, OCR has determined that there is insufficient evidence to support the allegations.

As you are aware, the Complainant filed her complaint with our office on April 5, 2000 alleging that the College engaged in discriminatory actions when: (a) students and staff at the College repeatedly harassed her on campus and in the College's dormitory, and the College failed to take appropriate action; (b) the College treated her differently in disciplinary matters, suspended her and denied her procedural safeguards; and, (c) the College treated her differently in providing housing. The Complainant also alleged that, on the basis of race, sex, and age, (a) the College treated her differently in providing financial aid; and (b) on the basis of race and age, the College treated her differently in grading her academic work.

OCR is responsible for enforcing, among other civil rights statutes, Title VI of the Civil Rights Act of 1964 and its implementing regulations at 34 C.F.R. Part 100 (Title VI), Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106 (Title IX), and the Age Discrimination Act of 1975 (AD), which prohibit recipients of Federal financial assistance from the U.S. Department of Education (Department) from discriminating on the basis of race, sex and age respectively in education programs and activities. Because the College is a recipient of Federal financial assistance from the Department, it is obligated to comply with the requirements of Title VI, Title IX and the AD.

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

Legal Standards:

Title VI:

The Title VI regulation, at 34 C.F.R. § 100.3(a) and (b)(1)(ii) and (iv), provides in part that a recipient, such as the College, may not, on the basis of race or color, deny a person the benefits of its program or otherwise subject a person to different treatment or discrimination under its program or restrict an individual in the enjoyment of an advantage or privilege that is enjoyed by others. Under this standard, a student is entitled to participate in the College's programs, without being subjected to different treatment on the basis of her race or color and in an environment free of racial animus or hostility.

A recipient violates its duty to provide a nondiscriminatory educational environment under Title VI when, on the basis of race, color or national origin, a student is subjected to different treatment. A recipient's policies and procedures must be nondiscriminatory as written. They must also be implemented in a nondiscriminatory manner. If a student is treated differently under any policy, procedure, or practice, a recipient must be able to show a legitimate, nondiscriminatory reason for such different treatment.

A violation also occurs when a racially hostile environment is created, accepted, tolerated, encouraged, or left uncorrected after the recipient has notice that it exists. A racially hostile environment exists when pervasive and persistent incidents of racial harassment occur, or when the incidents are of such a severity that the harassment adversely affects the student's enjoyment of or benefit from the educational program. If OCR determines that a hostile environment exists, we proceed to determine whether the recipient had actual or constructive notice of the racially hostile environment, and OCR examines the timeliness and effectiveness of the recipient's response. Although recipients are not required to adopt complaint procedures under Title VI, a recipient's nondiscrimination policies and procedures must be neutral on their face and must be implemented in a nondiscriminatory manner. A recipient has a responsibility to investigate a claim of racial harassment and take sufficiently prompt action to correct the racially hostile environment and to remedy its effects.

Title IX:

Recipients of Federal funding cannot discriminate against a person on the basis of sex in their programs and activities. A recipient will be found to have violated Title IX if it subjects a student to different treatment or otherwise discriminates against a student based on sex. The legal standard for different treatment under Title IX is similar to the standard under Title VI.

Under Title IX, a recipient, such as the College, has an affirmative obligation to respond to notice of possible sexual harassment. It can violate Title IX if it subjects a student to a sexually hostile environment involving conduct of a sexual nature that is sufficiently severe, persistent or pervasive, such that it interferes with or limits a student's ability to participate in or benefit from the recipient's programs and activities. Information of

possible sexual harassment need not be in the form of a written complaint. If the recipient knows or has reason to believe that harassment has occurred, or if in the exercise of due care, it should have known of such harassment, it has a duty to promptly take appropriate corrective action aimed at eliminating the harassment and remedying its effects. The recipient must tailor its responses to address the incident(s) alleged. The recipient will be considered to have adequately responded to a situation of student-to-student harassment if it conducts a thorough and objective investigation, takes immediate steps to fully remedy any harm that occurred, and takes steps reasonably calculated to prevent sexual harassment from occurring in the future.

The AD:

With few exceptions not relevant here, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A recipient may not use age distinctions or take any other actions that have the effect, on the basis of age, of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

Findings and Analysis:

While conducting our investigation, we learned that the Complainant had previously filed a complaint with the Massachusetts Commission Against Discrimination (MCAD) on January 19, 2000 asserting the same allegations. On January 10, 2001, MCAD issued a Dismissal and Notification of Rights stating that it lacked jurisdiction to review the matter.

During the course of the investigation, we obtained copies of all documents and affidavits filed by the parties with MCAD. In addition, we requested and reviewed documents from both parties. The Complainant was interviewed by telephone and in person. OCR also interviewed several persons, including the Complainant's former attorney and the investigator assigned to review the matter at the Commonwealth's Attorney General's Office. The College's Dean of Students was interviewed and was asked to respond to the specific allegations and assertions lodged by the Complainant. Based on a thorough review of all evidence and relevant information, OCR found insufficient evidence to support the Complainant's claim of a violation of Title VI, Title IX or the AD.

Title VI:

OCR examined the facts to determine whether the Complainant was subjected to different treatment or to harassment on the basis of her race or color in a manner that created an intimidating, hostile or offensive educational environment. We reviewed the College's policies and procedures and found them nondiscriminatory on their face.

Among the documents we examined were several complaints against the Complainant from staff, faculty and students. There was no mention of the Complainant's race or color in any of the complaints. The College's Dean of Students (Dean) informed OCR that while he was meeting with the Complainant to discuss her various concerns, he was also receiving complaints and reports from faculty, staff and students against her. On several occasions during the fall 1999 semester, he met with the Complainant to discuss the complaints against her. He stated that, over time, her responses, accompanied by physical gestures, gave cause for concern for the safety of other students. In addition, as was his practice and policy, he encouraged faculty and deans who brought concerns about students to him to meet with the Complainant to address complaints and concerns that were raised in the academic context. The deans and at least one faculty member met with the Complainant with little improvement. Documents indicated that a meeting was organized and held in the office of one of the deans. The Dean informed OCR that at this time, although they were concerned about the reported escalating and "bizarre" behaviors of the Complainant, no single event warranted discipline. The administrators decided to monitor the situation. As the semester continued, the Dean increasingly received reports from staff and at least one administrator about their interaction with the Complainant and questions about their sense of safety around her. Finally, after several complaints implicating the personal safety of students, the Dean issued and hand-delivered a letter of suspension to the Complainant.

The Dean informed OCR that his primary responsibility is the retention of students and student discipline. Students are introduced to the Dean at orientation and are informed of his duties. Students are informed of the student disciplinary process. In addition, students and parents are provided with a copy of the student handbook that describes the student discipline process and makes reference to the judicial process. OCR learned that when students are charged with an offense against another student, the Dean meets with the alleged perpetrator and witnesses to discuss the offense and any discipline that may be warranted. In the Complainant's case, the Dean had several meetings with her and talked about the complaints lodged against her. It was during one of these meetings that the Complainant allegedly made a threat that implicated student safety. Consistent with the statements in the student handbook, after seeking input from other administrators and staff, the Dean suspended the Complainant. OCR determined that, the College's policy and procedure and its practice regarding student discipline and as defined in the student handbook, were nondiscriminatory and neutral on their face. OCR found no evidence that the Dean's practice departed from the stated policy and procedure when he suspended the Complainant. His meetings with the Complainant informing her of the complaint against her were held in accordance with established practice at the College.

The Dean informed OCR that, accompanied by the Director of Campus Security, he hand-delivered the Complainant's notice of suspension to her dormitory. There, the Complainant read the letter, was given an opportunity to ask him questions, declined, gathered her possessions and left the campus the same day. He further explained that this extra step was taken because, in the totality of the circumstances, he feared for the safety of other students in the dormitory were the Complainant to exhibit what had been noted as "bizarre" behaviors and perhaps carry out threats she had made earlier in the semester.

He had made a determination, based on all the reports against and from the Complainant, that her emotional state made it nearly impossible for her to continue living in the residence hall. Moreover, given that some of the complaints came from faculty and staff who stated that they feared for their safety, the Dean determined that her continued presence on the campus was disruptive to the College's environment. The Complainant did not appeal to the Appellate Court to seek a review of the Dean's decision to suspend her.

OCR learned that during the 1999-2000 academic year, three students, including the Complainant, were suspended. The other two students, because of previous offenses, were placed on probation, and when they were engaged in a physical altercation with a staff member, were suspended from the College for at least one full academic semester. However, consistent with the procedures in the student handbook, both students appealed the Dean's decision to the Faculty Student Appellate Court. Ultimately, with severe stipulations and probation, the students were allowed to return to the College but resided in off-campus housing. The Dean also stated that a student who is suspended might, after one full academic semester, seek to return to the College. He often grants the request upon a showing that the student has remedied the behaviors and activities that gave rise to the suspension. To date, the Complainant has not requested an opportunity to return to the College. OCR determined that the College's stated standards, policies and procedures were not applied to the Complainant in a discriminatory manner.

Title IX:

As part of our investigation of this complaint, OCR requested and reviewed the College's Title IX policies and procedures and found that, on their face, they comport with the requirements of Title IX. Specifically, the student handbook, which is disseminated to students and parents, contains information about the compliance officer who is designated to respond to complaints implicating Title IX, among other issues. In addition, the handbook provides information about other places and persons, including the Dean of Students, who is available to assist with such issues. In this case, the Complainant brought her concerns to the Dean of Students, who in addition to responding to her concerns, referred her to the College's compliance officer.

As to the allegation that the College discriminated against the Complainant based on her sex, OCR found no evidence to support the claim. Although the Complainant alleged discrimination on the basis of sex, a broad reading of the complaint did not provide any specific facts tending to support the allegation. Indeed, the Complainant offered no evidence to support her assertions other than the fact that she is female. Nonetheless, during our investigation OCR requested information on this issue. We found that the dormitory in which the Complainant occupied a single room was co-ed and inhabited by roughly equal numbers of males and females. The Complainant stated that she was "harassed" by both male and female students. She alleged that students knocked on her door and left written advertisements and the like in front of her door, knocked on her door and ran away, and on at least one occasion, entered her room leaving a "foreign hair" and rearranged items -- although no possessions were removed. The Complainant

also complained that she received "crank" calls. She sought to terminate her meal plan, fearing poisoning from cafeteria staff. The Complainant brought these concerns to the Dean of Students, who, in addition to referring her to the Title IX compliance officer, instructed staff in Residence Life to investigate and address the matters. The College did not dispute that these events may have occurred. The Director of Residence Life met with the Complainant on several occasions. During one meeting he heard knocking on the Complainant's door and when he went to open the door the person had left. He documented the incident. During dormitory meetings, students were informed that they were not to knock on the Complainant's door and not to leave any materials by her door. Regarding the unauthorized entry into the Complainant's room and the meal plan, the Dean of Students authorized her withdrawal from the plan and also authorized maintenance to change the locks on her door. The Dean also informed OCR that he suggested to the Complainant that she occasionally leave her phone off the hook and if the crank calls continued he would have her phone number changed. He did not have the phone number changed, as the matter resolved itself.

It is OCR's understanding that the Complainant did not file a complaint with the College's compliance officer. Though not reported as "harassment" based on gender, the College investigated the matter and took steps to remedy the actions of other students in the dormitory. We did not find evidence of sexual conduct. Furthermore, OCR found no evidence that the "harassment" complained of was based on the Complainant's gender. Despite not having notice of sexual harassment or having reason to believe that the Complainant's experience of harassment was based on gender, the College took steps to remedy students' conduct toward the Complainant. The College's response to the Complainant's concerns about student behaviors in the dormitory was consistent with its policies and procedures. Based on our investigation, OCR found insufficient evidence to find discrimination or different treatment based on sex or the existence of a hostile environment in violation of Title IX. In addition, we did not find evidence that the Complainant's subsequent suspension from the College was motivated by discrimination in violation of Title IX.

Age Discrimination:

The Complainant further alleged that the College discriminated against her because of her age in that she was an older nontraditional student living and attending classes with students significantly younger than she was. Based on the data provided by the parties, we found no evidence that would indicate that the Complainant's suspension was based on age. During the Complainant's interview, no concrete evidence was offered to support a prima facie case of age discrimination. However, during our investigation, OCR sought information on the issue. The Dean informed OCR that approximately 20% of the College's undergraduate population could be considered "nontraditional" students, that is, outside the 18-22 age group of a traditional college population. Of the 20%, for various reasons, approximately 3-5% resides in the College's dormitories. The Dean stated that the discipline of nontraditional students is extremely rare.

Where, as in this case, the Complainant lacked direct evidence and OCR found no evidence that the College treated her differently because of her age, we were unable to establish a prime facie case. Therefore, we made no further inquiry. Based on our review, OCR found insufficient evidence of a violation of the AD.

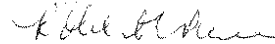
As for the claim that the College treated the Complainant differently on the basis of race, sex and age in providing financial aid, OCR found no evidence to support that allegation. OCR obtained and reviewed the Complainant's financial aid file and her college work-study records and compared both to the College's policies and practices as stated in the financial aid handbook. The procedures were applied to the Complainant in a non-discriminatory manner. There was nothing in the files that would tend to support her claim or warrant further inquiry by OCR.

Finally, as to the claim that the College treated the Complainant differently, on the basis of race and age, in grading her academic work, again there was no evidence to support that claim. When the Dean discussed with the Complainant the concerns about the Complainant's behaviors in classrooms, she reportedly raised the issue of different treatment by faculty. The Dean informed OCR that she provided no specific information or facts supporting her claim, but he nonetheless addressed the issue with the specific faculty members and the academic deans responsible for the courses. Although he found no evidence of different treatment in grading, he encouraged the Complainant to address the matter with the faculty members and their respective deans and, if necessary, the Provost. Documents in the file indicated, and the Dean confirmed, that the Complainant was an academically sound student and was very serious and dedicated to her work. OCR found no independent evidence to support the claim that the Complainant was treated differently, based on race or age, in the grading of her work.

We have informed the Complainant that pursuant to §110.39 of the AD, she may file a civil action seeking further relief in the U.S. District Court, District of Massachusetts, Federal Building and Courthouse, 1550 Main Street, Springfield, MA 01103.

Based on our review, OCR found insufficient evidence to support the Complainant's allegations. Accordingly, we are closing this complaint effective the date of this letter. Thank you for your cooperation in addressing this matter. If you have any questions about this complaint, please contact Cynthia Noon, Equal Opportunity Specialist, at (617) 223-9671, Donna L. Russell, Team Leader/Civil Rights Attorney, at (617) 223-9701, or me at (617) 223-9699.

Sincerely,



Robert L. Pierce
Program Manager