



UNITED STATES DEPARTMENT OF EDUCATION  
REGION I  
JOHN W. MCCORMACK POST OFFICE AND COURTHOUSE BUILDING  
POST OFFICE SQUARE  
BOSTON, MASSACHUSETTS 02109

OFFICE FOR  
CIVIL RIGHTS

APR 11 2001

Dr. Kalyan K. Ghosh  
President  
Worcester State College  
Worcester, Massachusetts 01602

Re: Complaint No. 01-01-2001

Dear President Ghosh:

The Office for Civil Rights (OCR) has completed its investigation of the above referenced complaint filed against the Worcester State College (College), alleging discrimination on the basis of sex. Specifically, the Complainant alleged that the College failed to appropriately respond to a complaint she filed against a Professor (Professor), alleging that he had sexually harassed her on numerous occasions.

After reviewing information from both the Complainant and the University, speaking with the Complainant's attorney, and College staff, and after reviewing the College policies and procedures regarding its sexual harassment policies and procedures, OCR has concluded that there is insufficient evidence to support the Complainant's allegation that the College failed to appropriately respond to her complaint.

OCR has accepted this complaint for resolution because the allegations fall under the jurisdiction of Title IX of the Education Amendments of 1972 and its implementing regulation, 34 C.F.R. Part 106, which prohibits discrimination on the basis of sex. The College is subject to the requirement of Title IX, because it receives Federal financial assistance from the U.S. Department of Education.

Background

The Complainant is presently enrolled as a student in the College and is majoring in finance. In her complaint to OCR, the Complainant indicated that she was enrolled in a Managerial Accounting class taught by the Professor during the spring 2000 semester. The Complainant reported to the College that the Professor made inappropriate statements and engaged in conduct that was overtly sexual and clearly inappropriate.

The Complainant indicated that the College's investigation supported her allegation that the professor sexually harassed her. However, the Complainant alleged that the College failed to respond to her complaint responsibly and appropriately. Also, she has requested a copy of the letter of reprimand that the College administrators stated would be placed in

the Professor's personnel file. The College has not provided her with a copy of the Professor's reprimand letter.

Finding of Facts:

1. The College in responding to OCR's data request reported that on or about June 8, 2000, the Complainant filed a complaint with the College against the professor of her managerial accounting class. The Complainant alleged in her complaint that the Professor sexually harassed her. The College immediately initiated an investigation by the head of the Diversity Office. The head of the Diversity Office is responsible for conducting investigations of sexual harassment complaints filed with the College. The head of the Diversity Office met with the Professor and informed him that the Complainant had filed a sexual harassment complaint against him. The Professor was also advised not to do anything that could be construed as retaliation.
2. During the interview the Professor admitted that he had invited the class to join him for drinks but was not sure of the date. He confirmed that the group went to Cactus Pete's. When asked about the conversation that ensued, he stated that he had been drinking, and he did not remember. When the head of the Diversity Office repeated the allegations made by the Complainant, he replied that there was a lot of sexual bantering, back and forth, and he may have said something, but that it was not one-on-one. He also stated that he never touched anyone. When she asked about the incident in the parking lot, he said he might have shown the students some pictures. He stated that he was just ending a relationship, and he was depressed, and he normally did not drink. He admitted to showing the students some photos of his girlfriend but told them not to go past the first two because the rest were explicit.
3. The Professor stated that he asked the Complainant to take him to a hotel. After getting into the Complainant's car, the Professor asked the Complainant to drop him off at Cactus Pete's stating he would sleep in his car. When the Complainant suggested that he get a hotel room, he stated that he asked her if she would come up for a nightcap and said nothing more.
4. The Complainant alleged that the Professor called her house on the following day and made sexually explicit remarks to her sister, including offering the Complainant money if she would agree to go out with him. The head of the Diversity Office asked the Professor if he had ever called the Complainant's house. He admitted that he might have called but did not remember exactly what he had said. He denied ever offering the Complainant money for anything. The Professor was very upset and said he would do anything to correct the situation, a public apology, or anything the Complainant wanted. It appeared to the head of the Diversity Office that the Professor realized that

his conduct was unprofessional, and he recognized that it never should have happened.

5. The Professor, in a subsequent conversation with the head of the Diversity Office, admitted that he might have been talking inappropriately. He also said that alcohol played a role in his actions.
6. On June 9, 2000, the head of the Diversity Office called the six students listed on the class roster. Student A did not return any of her calls, and the others either claimed they heard nothing out of the ordinary, or refused to talk, when asked about details. Student B heard that the Professor invited the class to go out but elected not to participate. Student C left class early on that day. Student D went to Cactus Pete's and left early but stated she had not heard anything out of line while she was present. Student E was present but did not hear any sexual remarks. When Student E was asked about the parking lot she said, this was not appropriate and refused to answer any additional questions. Student F first said she heard the Professor invited the class for drinks. However, she later stated she forgot that she was in Hawaii on that day.
7. Based on the above, the head of the Diversity Office recommended that the College take immediate disciplinary action against the Professor.
8. On August 31, 2000, the College issued a letter of reprimand to the Professor. The letter instructed the Professor to adhere to the following conditions:
  - 1) He was directed to avoid all contact, direct or indirect, with the Complainant. He was prohibited from speaking to her under any circumstances, and from speaking to other faculty members or other students about her.
  - 2) He was directed to participate in a College approved treatment program, which would periodically inform the Director of Human Resources of his progress, continued participation, and ultimately, his successful completion of the program.
  - 3) He was prohibited from teaching courses under the auspices of the Division of Graduate Continuing Education (DCGE) for a period of one year.
  - 4) In all of his classes, and with all of his students, he was directed to avoid comments and conversations about topics of sexual nature.
9. The Professor was also informed that if he failed to adhere to the above four listed conditions, the College would reopen the complaint and consider harsher penalties. The letter also stated that if the College received any other complaints of sexual harassment against him it would result in severe disciplinary measures taken against him.

10. The Complainant indicated that the College investigation supported her allegation that the Professor sexually harassed her. However, the College failed to respond to her complaint responsibly and appropriately. Also, she has requested a copy of the letter of reprimand that the College administrators stated that would be placed in the Professor's personnel file, but the College has not provided her with a copy of the Professor's reprimand letter.

Based on the information provided by the parties and the witnesses, OCR has determined that there is insufficient evidence to support a violation of Title IX by the College. The basis for our conclusion is presented below.

#### Analysis and Conclusions

Pursuant to 34 C.F.R. 106.8(b) a recipient is required to "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited." OCR obtained a copy of the College's sexual harassment policy and procedures as printed in the College's Student Handbook, 1999/2000. OCR also obtained a copy of procedures contained in the College's Affirmative Action/Equal Opportunity/Diversity Plan, Revised 1999. The procedures include timelines for investigation and avenues for appeal. The College Handbook is disseminated to all students annually and the Affirmative Action/Equal Opportunity/Diversity Plan is also disseminated. These policies are also disseminated annually to all administrators, faculty and employees.. The published policies and procedures are consistent with the requirement of 34 C.F.R. 106.8(b).

Furthermore, under Title IX, unwelcome verbal conduct of a sexual nature constitutes sexual harassment when it is sufficiently severe, persistent or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile environment. A recipient violates Title IX if it knows of sexual harassment that results in a sexually hostile environment within its educational program but fails to take adequate and appropriate steps to remedy it. In the present case, it is undisputed that the College responded promptly.


With respect to the Complainant's allegation that the College failed to respond adequately and appropriately, OCR finds that there is insufficient evidence to support this allegation. The evidence shows that the College, upon receiving the complaint, initiated an investigation immediately. The head of the Diversity Office immediately informed the Professor of the complaint and expressly instructed him that he was not to participate in any behavior that could be construed as retaliatory. The evidence further supports that the College promptly completed their investigation within a three-week period. Furthermore, the College, after completing their investigation, informed the Complainant of the results and subsequently scheduled a meeting. As a remedy the College issued a letter of reprimand against the Professor detailing conditions the Professor had to follow. OCR finds that there is insufficient evidence to conclude that College's formal reprimand was inadequate or inappropriate. OCR also finds there is insufficient evidence to support that the four conditions established by the College for the Professor to follow failed to remedy the harm and failed to ensure that there would be no recurrence.

The evidence indicates that the College promptly responded to the Complainant by investigating the claim and upon substantiating the allegations in her complaint, and taking appropriate measures to prevent a recurrence. The overall evidence does not support a finding that the College failed to respond appropriately, therefore OCR is unable to conclude that the College discriminated against the Complainant on the basis of sex. OCR concludes that the College is in compliance with Title IX with respect to this issue investigated.

This letter is not intended, nor should it be construed to cover any other issues regarding compliance with Title IX that may exist and that are not discussed herein.

OCR thanks you and your staff for the cooperation extended to this office regarding this civil rights matter. If you have any questions, please call Olga Benjamin at (617) 223-9677, Ralph D'Amico, Team Leader at (617) 223-9700, or me at (617) 223-4146.

Sincerely,



J. Michael Burns  
Program/Legal Coordinator