



## U.S. DEPARTMENT OF EDUCATION

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PHILADELPHIA, PENNSYLVANIA 19107

OFFICE FOR CIVIL RIGHTS

WENDELLA P. FOX  
DIRECTOR  
PHILADELPHIA OFFICE  
EASTERN DIVISION

JUNE 4, 2007

In response, please refer to: 03062060

Valerie I. Harrison, Esq.,  
Temple University  
University Counsel  
400 Carnell Hall  
1803 N. Broad St.  
Philadelphia, PA 19122

Dear Ms. Harrison:

This letter is to inform you of the determination by the Office for Civil Rights (OCR), U.S. Department of Education (the Department), in the above-referenced complaint filed against Temple University (the University). The Complainant alleged that she was discriminated against on the basis of sex. Specifically, the Complainant alleged that the procedures employed by the University to address her allegations of sexual assault did not meet the requirements of Title IX of the Education Amendments of 1972 (Title IX). The Complainant also alleged that the University failed to provide a prompt and equitable resolution to her complaint of sexual assault, thereby subjecting her to a sexually hostile environment.

OCR enforces Title IX, as amended, 20 U.S.C. Section 1681, *et seq.*, and its implementing regulation, at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex. The University is a recipient of federal funds from the Department and, therefore, is subject to the provisions of Title IX.

During the course of our investigation, OCR reviewed the complaint and the supplemental information provided by the Complainant and the University. We also interviewed the Complainant, the Captain of the campus police (the Police Captain), the Associate Vice President of Multicultural Affairs/Title IX Coordinator, and the Associate Dean of Students of the Division of Student Affairs. After a thorough review of the evidence, we conclude that there is sufficient evidence to establish a violation of Title IX with respect to the University's sexual harassment and sexual assault grievance procedures, as well as its failure to notify students and employees of its Title IX coordinator's identity. We also conclude that there is insufficient evidence to establish that the Complainant was subjected to a sexually hostile environment. The University has agreed to take the voluntary remedial actions set forth in the enclosed Commitments. Upon full implementation of the Commitments, the University will be in compliance with Title IX concerning the identified compliance concerns. As is our standard practice, OCR will monitor implementation of the Commitments. The findings of fact and conclusions regarding the issues investigated are set forth below.

### Findings of Fact

The Complainant was enrolled at the University as a freshman during the Fall 2005 semester. She alleges that she was raped by a member of the University's baseball team (the "accused student") during the early morning hours of October 13, 2005, at his off-campus apartment. Later that day, the baseball coach learned of the alleged rape and reported it to the campus police. Two campus police officers met the Complainant at the hospital and she gave them a statement regarding the incident. The next day, the campus police transported the Complainant to the Philadelphia Police Department to pursue criminal charges against the accused student, but the District Attorney's Office declined to proceed with the case. On October 18, 2005, the campus police referred the case to the University Disciplinary Committee (UDC) because they believed there was enough evidence to go forward with a hearing regarding whether the accused student violated the Code of Conduct. The Police Captain believes that the Complainant agreed to participate in the UDC process, but he is not sure. The Complainant does not recall agreeing to participate in the UDC process. Typically the campus police obtain a complainant's permission before they proceed with a recommendation to the UDC. In cases they believe are particularly egregious, such as this one, the campus police may go forward with a referral to the UDC with or without a complainant's agreement to participate.

The UDC hearing was scheduled for October 27, 2005, and the Complainant was informed by email that she had been called as a witness. The email notice stated that her appearance was mandatory and that failing to appear was a violation of the Code of Conduct, which carried a \$100 fine. The hearing notice provided an email address and phone number to contact if she had any questions, as well as a link to the *Code of Conduct*. The University contends that the hearing notice and the availability of the hearing procedures in the *Code of Conduct* provided the Complainant with adequate notice of the hearing procedures.

The accused student had an attorney present to advise him during the hearing. According to the Complainant, she did not have an attorney or advisor present because she did not know she could do so. The University provided the Complainant with a Sexual Assault Counseling and Education (SACE) counselor, and the Complainant brought the SACE Counselor to the hearing because the campus police told her she could do so. Both the University and the accused student presented witnesses at the hearing. The University called the Complainant, the baseball coach, the baseball player and a classmate the Complainant told about the alleged rape, a sergeant from the Campus Police Department of Special Services who provided assistance to the Complainant, and two campus police detectives. The accused student called the manager of the baseball team and his roommate. The witnesses, including the Complainant, gave statements about their knowledge of the incident and responded to questions posed by the hearing panel and the accused student. The accused student questioned the Complainant regarding her prior history of sexual abuse, depression, and an eating disorder, as well as her behavior after the alleged rape. The Complainant told OCR that she asked to have her SACE counselor testify in order to rebut the accused student's questions pertaining to those issues, but her request was denied. The hearing transcript indicates that the hearing panel determined that her testimony was not necessary, because the SACE counselor would be testifying as an expert on sexual abuse victims and not about the incident in question.

The accused student was found responsible for violating the *Code of Conduct* and the hearing panel recommended that he be expelled. The Complainant was present at the hearing when the hearing panel's decision was announced, but not when the sanction imposed on the accused student was announced. The Complainant learned about the hearing panel's recommended sanction from a campus police officer who called her after the hearing. From that point forward, the Complainant believed that the accused student had been expelled. According to the Complainant, she withdrew from the University on or about November 3, 2005, due to the effects the alleged rape had on her. On November 1, 2005, the accused student appealed the

hearing panel's decision. By letter dated December 13, 2005, the Vice President for Student Affairs informed the accused student that his appeal had been granted and that he was eligible to return to the University for the Spring 2006 semester.

On or about January 15, 2006, the Complainant returned to the University for the Spring 2006 semester. She was unaware that the accused student had appealed or that the hearing panel's decision was overturned. The Complainant moved back into the same residence hall she lived in during the Fall 2005 semester, but into a different room. During the Fall 2005 semester she lived in room 609 and during the Spring 2006 semester she lived in room 608. On her first day back on campus she saw the accused student at an off-campus house. On Tuesday, January 17, 2006, a mutual friend informed her that the accused student was back in school. The Complainant called one of the University detectives that worked on her case, and he informed her that the hearing panel's decision was overturned. The following day, the Complainant went to her first class of the semester and the accused student was seated behind her.<sup>1</sup> The Complainant immediately contacted the Associate Dean of Students to ask why she was not notified of the accused student's appeal and the subsequent reversal of the hearing panel's decision. The Associate Dean of Students told her that the Family Educational Rights and Privacy Act (FERPA) prevented the University from releasing any other information to her except for the final decision in the case, which was that the hearing panel's decision had been overturned.

The University contends that it mailed a letter to the Complainant on January 12, 2006, informing her that the UDC hearing panel's decision had been overturned. The Complainant told OCR that she never received the January 12, 2006 letter. The University explained that the Complainant did not receive the January 12, 2006 letter because it was sent to the room she occupied in the Fall 2005 semester instead of the one she occupied in the Spring 2006 semester. However, the address on the letter is the Complainant's spring 2006 semester address. The University did not provide OCR with a copy of a letter dated January 12, 2006, but it did provide a letter to the Complainant dated December 13, 2005. The University told OCR that the letter it sent to the Complainant on January 12, 2006 was actually dated December 13, 2005. According to the Associate Dean of Students, that letter was dated December 13, 2005, the same date the accused student's letter notifying him of the outcome of his appeal was dated, but that the letter was not sent to the Complainant at that time because as a matter of practice, the University does not notify the victim of the final outcome until after the accused student is notified. The University maintains that the letter notifying the accused student of the outcome of his appeal was sent to the accused student by registered mail, and that the letter was returned to the University because nobody signed the green registered mail card. The University eventually notified the accused student of the outcome of his appeal via a fax to his attorney on January 4, 2006, and subsequently notified the Complainant by the letter it sent her on January 12, 2006. The Associate Dean of Students told OCR that the address on the letter was changed to reflect the Complainant's new residence hall room assignment for the spring 2006 semester, but that the date was not changed because "it was important for the [University's] timeframes." It is the University's practice to notify accused students of the final decision in a case before it notifies a complainant because it is problematic for an individual to know information about the accused before the accused knows it himself and because FERPA states that only final outcomes may be shared. The University believes that this implies that the accused should know the outcome first. Various representatives from Student Affairs and the Office of Multicultural Affairs then met with the Complainant and her parents on multiple occasions to explain the hearing and appeal process and to help the Complainant with the problems she was experiencing.

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<sup>1</sup> The Complainant's professor allowed her to attend another section of the same course, and the accused student soon either dropped the class or withdrew from the University.

The Complainant maintains that she has suffered numerous negative effects as a result of the alleged rape, the manner in which the hearing was conducted, and re-enrolling at the University without knowing that the accused student had been reinstated. In support of her argument, the Complainant told OCR that she was not able to defend herself at the hearing regarding the accused student's introduction of her previous sexual abuse, eating disorder, or behavior after the alleged rape. The complainant also stated that she was under the belief that the accused student had been expelled and was no longer on campus when she decided to return to the University for the Spring 2006. She asserts that as a result of him being on campus, she does not socialize like she used to, has missed classes that are held later in the day because she does not feel safe going out at night, and feels like the baseball players are stalking her because they are around campus. The Complainant also told OCR that someone put graffiti on her door pertaining to the alleged rape and that she filed a complaint with the campus police and it was resolved. The Complainant met periodically with her SACE counselor following the incident and beginning in March 2006, the Vice President of Multicultural Affairs met with the Complainant periodically and attempted to secure academic and emotional support for her. The Vice President of Multicultural Affairs stated she could not help the Complainant with her concerns regarding other students on campus because the Complainant would not provide her with any specific details about baseball players she felt were stalking her or specific incidents.

Sexual assault is a form of sexual harassment. OCR examined the University's sexual harassment and sexual assault grievance procedures for compliance with Title IX. Both procedures are published in the University's *Sexual Assault/Sexual Harassment Resource & Policy Guide (SA/SH Guide)* and on the University's website. They are also referred to in the *Student Code of Conduct and Disciplinary Procedures (Code of Conduct)* publication. The sexual assault procedures and an abbreviated version of the sexual harassment procedures also appear in the *You and Campus Safety Annual Security Report (Security Report)* publication. These publications are distributed to students during freshman orientation and are available on campus. The Complainant contends that she never received copies of either policy.

The University also has informal and formal sexual harassment grievance procedures. The informal procedure instructs that complaints may be made orally or in writing to any Sexual Harassment Ombudsperson<sup>2</sup>. The ombudsperson is responsible for resolving the complaint through informal discussion, counseling, mediation, or by working with other University resources. The formal procedure contained in the *SA/SH Guide* directs complainants to file a written complaint with the Office of Affirmative Action.<sup>3</sup> The sexual harassment procedures referred to in the *Code of Conduct* differ from the policy that appears in the *SA/SH Guide* because it directs complainants to report sexual harassment to the campus police in addition to notifying the Office of Affirmative Action or a Sexual Harassment Ombudsperson. The University contends that a representative from the campus police will notify the Title IX coordinator if they receive a sexual harassment complaint, and that the *Code of Conduct* directs students to contact both the campus police and the Office of Affirmative Action in order to ensure appropriate coordination of their efforts. Pursuant to the formal policy, the Office of Affirmative Action investigates sexual harassment complaints to determine whether there is a reasonable basis for believing that the sexual harassment policy has been violated. The investigation may include interviews with the complainant, the accused, and other persons believed to have pertinent factual knowledge and will afford the accused an opportunity to examine and respond

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<sup>2</sup> The *SA/SH Guide* contains a list of Sexual Harassment Ombudspersons and states that a complete list of the Sexual Harassment Ombudspersons is available from the Office of Affirmative Action. The Office of Multicultural Affairs' website contains an extensive list of Sexual Harassment Ombudspersons.

<sup>3</sup> There is no longer an Office of Affirmative Action at the University. Since July 2005, the Office of Multicultural Affairs has performed the functions of the former Office of Affirmative Action, including the investigation of discrimination complaints. The Office of Multicultural Affairs' address is different than the one provided in the non-discrimination policy, but the phone numbers are the same.

to the allegations. It does not provide an opportunity for complainants to present evidence or contain timeframes for the investigation or resolution of complaints. The formal procedures provide for three possible outcomes: (1) a judgment that the allegations are not warranted, (2) a negotiated resolution of the complaint, or (3) a judgment that there is a reasonable basis to believe that a violation has occurred. The parties are informed promptly, in writing, about the outcome of the investigation, but the policy does not contain a right for either party to appeal the Office of Affirmative Action's finding. If the Office of Affirmative Action's investigation determines that there is a reasonable basis for believing that a student has violated the sexual harassment policy and a negotiated settlement cannot be reached, the case is referred for a UDC hearing to determine if the accused student violated the Code of Conduct.

The University also has informal and formal sexual assault grievance procedures. The informal procedure directs administrators, department heads, or faculty members who receive a report of sexual assault by a person who chooses to not file a formal complaint to immediately refer the complainant to the Sexual Assault Counseling and Education (SACE) Coordinator. If an individual reports a sexual assault to a University employee or administrator, that person is to help the complainant contact the campus police to report the incident. The formal procedure directs persons who wish to file a formal complaint to the campus police. The campus police are the only University entity responsible for investigating sexual assault complaints. The campus police will contact the Philadelphia Police at a complainant's request in order to pursue criminal complaint options. The formal grievance procedure states that sexual assault is specified as a major violation of the Code of Conduct. If based on the investigation the campus police and Student Affairs believe there is enough information to go forward with a charge of a violation of the Code of Conduct, a UDC disciplinary hearing will be held. Although the policy states that complainants will be informed about the outcome of any investigation by the campus police and any disciplinary actions against the accused, it does not contain any timeframes for the investigation of the complaint by the campus police or the right to appeal the results of their investigation. The sexual assault policy that is published in the *You and Campus Safety Annual Security Report* contains a provision that is not included in the SH/SA Guide that states "[t]he accuser and the accused are entitled to the same opportunities to be accompanied by another person during a campus disciplinary proceeding."

Sexual harassment and sexual assault are violations of the Code of Conduct and the University employs its disciplinary process to resolve sexual harassment complaints that cannot be resolved by the Office of Multicultural Affairs and complaints of sexual assault. UDC hearings are conducted pursuant to the procedures contained in the *Code of Conduct*.<sup>4</sup> The campus police or other departments that conduct investigations of disciplinary matters, such as the Office of Multicultural Affairs, refer cases to the UDC. The UDC Code Administrator reviews referrals to determine if there is sufficient evidence to bring a charge under the Code of Conduct. If the Code Administrator determines that a charge is appropriate, the student<sup>5</sup> is notified within five (5) business days. Within five (5) business days of notifying the student, a pre-hearing meeting is held with the student to discuss the incident and the charges, listen to the student's side of the story, and discuss the hearing process, procedures, and possible sanctions. The pre-hearing meeting notification informs the student that an advisor can be present at the pre-hearing meeting in a non-active role and includes written notification of the charges, a summary of the evidence that supports the charges, and a copy of the disciplinary hearing procedures and the *Code of Conduct*. Based on the pre-hearing meeting, the UDC

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<sup>4</sup> The Code of Conduct states that the Code of will be posted on the University's Policies and Procedures webpage at <http://policies.temple.edu>, will be provided to each incoming student, and will be generally available throughout the University at all times. Ignorance of the Code of Conduct provisions will not constitute a defense in any proceeding against a student.

<sup>5</sup> The Hearing Procedures refer only to the "student." However, from the context it can be inferred that "student" is used to mean the student who is charged with a violation of the Code of Conduct.

disciplinary official may decide that there is no basis for the charges against the student and withdraw the charges. If the Code Administrator determines that the case should proceed to a hearing, the hearing will be scheduled for no more than thirty (30) business days after the pre-hearing meeting.

The University has the burden to substantiate the charges, and the student is given a reasonable opportunity to prepare and conduct a defense by offering testimony, witnesses and other evidence, and questioning witnesses who testify at the hearing. Both the student charged and the student who files the initial report leading to the charges may have an attorney or advisor accompany him or her to the hearing. An attorney or advisor may advise the student or the complainant during the hearing, but may not directly question witnesses or address the UDC panel. The procedures also state that a student charged with a violation of the Code of Conduct may have a parent or spouse present at all hearings to advise the student, but not directly question witnesses or address the hearing body. The hearing body makes the findings and recommendations at the conclusion of the hearing, and in cases involving a sexual assault or a violent crime, the Code Administrator will advise the victim of the outcome. The student is given written documentation of the sanction and appeal instructions at the conclusion of the hearing or as soon as possible thereafter. There is no mention of whether the victim will be notified if the student charged appeals or how the victim will be notified of the outcome of the appeal.

The University has a non-discrimination statement that is published in its *Guide to Residence Life* and its online *Undergraduate Bulletin*. The non-discrimination policy directs individuals to contact the Associate Vice President for Affirmative Action, whose office address and phone number are provided.<sup>6</sup> The University identified the Office of Multicultural Affairs, and specifically the Vice President of Multicultural Affairs, as its Title IX coordinator. According to the University, the Title IX coordinator coordinates compliance with Title IX and the University's Sexual Harassment/Assault Policy, including the publication and dissemination of these policies; coordinating investigations of complaints, educating the University community about sexual harassment and discrimination, and providing emotional support to persons who believe that they have been victims of harassment and discrimination. The University has not published the name or contact information of a Title IX coordinator, and the Vice President of Multicultural Affairs' listing in the University's online directory does not indicate that she is the Title IX coordinator.

#### **Allegation 1- Analysis and Conclusion**

Recipients must meet specific legal obligations concerning internal grievance procedures and notification of a non-discrimination policy. Even if there is not a hostile environment, the institution may be in noncompliance with Title IX for failure to respond to complaints of sexual harassment in accordance with Section 106.8. Section 106.8(a) requires a recipient designate at least one employee to coordinate its responsibilities under Title IX, including investigation of any complaint of discrimination on the basis of gender, and notify all students of the name, office address and telephone number of the designated employee(s). Section 106.8(b) requires a recipient to adopt and publish a grievance procedure that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging violations of Title IX. Title IX permits the use of a student disciplinary procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, as long as the procedure meets the requirements of affording a complainant a prompt and equitable resolution. In determining whether a recipient's grievance procedures meet the "prompt and equitable" requirement under Section 106.8(b), OCR will look at whether the recipient has included

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<sup>6</sup> The University no longer has an Associate Vice President for Affirmative Action, and the person named in the non-discrimination policy as the Associate Vice President for Affirmative Action does not appear in the University's online directory. The University contends that the Office of Multicultural Affairs should be substituted for references in publications to the Office of Affirmative Action.

elements such as 1) notice to students and employees of the procedures and where to file complaints; 2) mechanisms for a thorough and objective investigation of complaints including an opportunity for complainants to present evidence; 3) designated time frames for the investigation and resolution of complaints; and 4) notice to complainants of disposition of complaints. Section 106.9 requires a recipient to publish a notice of non-discrimination on the basis of sex in publications made available to students or applicants for admission. The notice also must inform the reader that inquiries concerning the application of Title IX to the recipient may be referred to the person designated as the Title IX coordinator pursuant to Section 106.8(b) or to OCR.

We find that neither the sexual harassment nor the sexual assault grievance procedures provide for prompt and equitable resolution of complaints as required by Section 106.8(b). The sexual harassment procedures are published and provide the requisite notice of its availability. However, OCR's investigation raised a compliance concern regarding the location where complaints are to be filed. The *Code of Conduct* indicates that persons wishing to file a sexual harassment complaint are to contact the campus police, as well as the Office of Affirmative Action or a sexual harassment ombudsperson, while the *SH/SA Guide* makes no mention of contacting the campus police in order to ensure that the Office of Multicultural Affairs coordinates its efforts with the campus police. However, that responsibility rests with the University and not with a complainant. Additionally, the sexual harassment procedures do not provide complainants with the opportunity to present evidence during the investigation by the Office of Multicultural Affairs and it does not contain any timeframes for the investigation or resolution of complaints.

OCR also determined that the hearing procedures that are used to resolve sexual harassment complaints that are brought before the UDC if the Office of Multicultural Affairs is not able to resolve the complaint do not meet the requirements of Title IX. The procedures used by the UDC to resolve sexual harassment complaints are the same as those used to resolve sexual assault complaints. Accordingly, the discussion below regarding the application of the UDC procedures to sexual assault complaints also applies to the resolution of sexual harassment complaints.

We find that the sexual assault policy is widely published and provides the requisite notice of its availability. However, the sexual assault procedures are flawed because they fail to take into account that sexual assault is a form of sexual harassment. The University's approach to sexual assault complaints fails to recognize the distinction between a Title IX complaint of discrimination alleging sexual assault and a disciplinary hearing against a student for violating the Code of Conduct's rule against sexual assault. We also find that the pre-hearing procedures are not equitable because the student charged is given a great deal more information than the victim, including a pre-hearing meeting where the student charged is given the opportunity to present his/her side of the story and discuss the hearing procedures, notified of his/her right to a representative or counsel, provided copies of the *Code of Conduct*, hearing procedures, and a summary of the evidence. Similarly, the hearing procedures themselves fail to meet the requirements of Title IX. We found that the accused student is given an opportunity to present witnesses and evidence at the UDC hearing, but the person who filed the complaint leading to the charge is not given the same opportunity. Moreover, there are no timeframes in place for the investigation of a sexual assault complaint.

We further find that the University's policy of not providing notice that an appeal may take place is not equitable. Although the University asserts that FERPA only permits notification of the final determination of a disciplinary proceeding and that the final determination in this case was the decision on the accused student's appeal, it is undisputed that the Complainant was notified of the hearing panel's original decision because she was present at the hearing when it was announced. This fact belies the University's assertion that the only decision it was permitted to share with the Complainant was the outcome of the appeal. Moreover, the length of time

between when the accused student submitted his appeal, when that decision was rendered and when the Complainant received notice of the outcome of the appeal is also problematic. The University contends that the delay in notifying the Complainant was necessary because it was required to notify the accused student of the outcome before it notified the Complainant. However, there is no such requirement under Title IX.

We also find that the University has not complied with Section 106.8(a) because although it has designated the Office of Multicultural Affairs, and specifically the Vice President of Multicultural Affairs, as its Title IX coordinator, it has not effectively notified the University community of the current Title IX coordinator's name, office address, and telephone number.

### **Allegation 2- Analysis and Conclusion**

Section 106.31(b) prohibits recipients from denying or limiting, on the basis of sex, the benefits or services it provides to students, providing them with different benefits, services or treatment, or imposing different conditions upon the treatment, benefits or services they receive. When individuals participating in a program or activity operated by a recipient are subjected to sexual harassment, they are receiving treatment that is different from others on the basis of sex. A student who is sexually harassed is denied equal access to educational opportunity on the basis of sex. Sexual harassment in the educational setting includes unwelcome sexual advances, requests for sexual favors, or other sex-based conduct. Sexual harassment constitutes unlawful discrimination under Title IX when it has the purpose or effect of unreasonably interfering with the individual's education by creating an intimidating, hostile, or offensive environment.

When individuals who are neither employees nor agents of the recipient, such as students, carry out sexual harassment the recipient may be found in noncompliance with Title IX if the conduct was sufficiently severe and pervasive to create a hostile educational environment and it failed to respond adequately after notice of the harassment. Relevant factors looked at by OCR to determine whether alleged harassment was severe and pervasive include the degree to which the conduct affected the complainant's education, the type, frequency, and duration of the conduct, the identity of and relationship between the alleged harasser and the complainant, and the number of individuals involved. The recipient will be considered to have responded adequately to knowledge of the harassment if it has conducted a thorough and objective investigation and has taken immediate effective action to fully remedy any harm that may have occurred and to prevent sexual harassment from occurring in the future.

We find that the University's resolution of the Complainant's sexual assault complaint was carried out promptly, but for the reasons explained above, the procedures employed by the University were not equitable. However, although we find that the University's sexual assault procedures were not compliant with Title IX, our investigation did not reveal evidence to support the Complainant's contention that those procedural defects created or contributed to a sexually hostile environment. We find that the University responded adequately when it became aware of the Complainant's sexual assault allegation. Although the alleged sexual assault took place at an off-campus apartment, the University police responded to the report of the alleged sexual assault, interviewed the Complainant, transferred her to the Philadelphia Police, referred the case to the UDC, and made a SACE counselor available to her.

The University also took action to address the Complainant's concerns that may have arisen due to the faulty procedures. The Complainant's encounter with the accused student in her class was remedied by her professor's agreement to allow her to attend another section of the course and the accused student's withdrawal from the course. We find that the Complainant's feelings of uneasiness by having members of the baseball team on campus or apprehension about being on campus in the evening hours, while completely valid, were not the result of the University's faulty grievance procedures or notification practices, but rather a result of the

encounter between her and the accused student. Moreover, the University responded to the Complainant's academic and emotional concerns to the extent it could do so by meeting with her and her parents to discuss her case, as well as by providing her with a SACE counselor, providing assistance from the Office of Multicultural Affairs and taking action to address graffiti pertaining to the alleged rape that appeared on the Student's door. Accordingly, we find that there is insufficient evidence to support a finding that a sexually hostile environment existed in violation of Title IX.

The University has signed Commitments in order to remedy the issues where OCR found compliance concerns. As is our standard practice, OCR will monitor the University's implementation of the Commitments.

Federal regulations prohibit the University from intimidating, coercing, harassing, or discriminating against individuals as a result of filing a complaint or taking part in the resulting investigation. If any such actions occur, such persons may notify this office.

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.

Thank you for your cooperation. If you have any questions, please contact Amy Niedzalkoski, Team Attorney, at (215) 656-8571.

Sincerely,

Myra Coleman  
Team Leader  
Philadelphia Office

### COMMITMENTS

In order to resolve complaint number 03062060, Temple University (the University) makes the following commitments to the U.S. Department of Education, Office for Civil Rights (OCR):

1. The University recognizes its obligations under Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation, at 34 C.F.R. Section 106, regarding discrimination on the basis of sex.
2. The University will publish the title, office address, and telephone number of the individual(s) designated as the Title IX Coordinator(s) in electronic and printed University publications that provide general information to employees and students about University services and policies. Inserts may be used pending reprinting of the publications.
3. The University's sexual harassment and sexual assault grievance procedures (the Title IX Grievance Procedures) will provide for the prompt and equitable resolution of student complaints alleging actions that are prohibited by Title IX.

The Title IX Grievance Procedures will include, but are not limited to, the following:

- a) Notice that inquiries to the University concerning the application of Title IX may be referred to the individual(s) designated as the Title IX Coordinator or to OCR;
- b) Notice of the Title IX Grievance Procedures and instructions regarding how and where to file a Title IX complaint;
- c) Mechanisms for a thorough and objective investigation of complaints, including an opportunity for complainants to present evidence, rebut testimony, and present witnesses as set forth in Commitment 4 below;
- d) Designated time frames for the investigation and resolution of complaints;
- e) Consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA), notice to complainants of the final disposition of complaints; and
- f) Notice to the both parties that the results of the initial investigation or disciplinary proceeding do not become final until all internal review or appeals have been resolved.

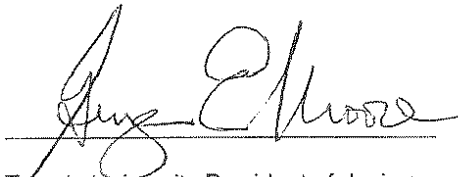
The University's disciplinary procedures may be used in place of Title IX grievance procedures provided that a complainant is afforded all of the rights and protections he or she is entitled to under Title IX.

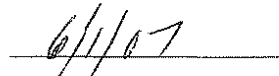
4. At the conclusion of a case of sexual harassment or sexual assault brought before the University Disciplinary Committee (UDC), regardless of the outcome of the case, the Title IX Coordinator will review all of the evidence used in the UDC case to determine whether the complainant is entitled to any remedy under Title IX that may not have been provided for under the University's disciplinary procedures.
5. The University will offer the Complainant the opportunity for one-on-one individual counseling, assistance and comfort by a member of its Sexual Assault Counseling and Education (SACE) counseling staff. SACE counselors will also offer assistance to the Complainant with coordinating health care, crisis intervention and advocacy services within the Temple University community.
6. The University will submit its draft revised Title IX Grievance Procedures to OCR for review prior to its formal adoption and implementation of them.
7. The University will implement its revised Title IX Grievance Procedures, certify that the revised procedure have been implemented and provide OCR with a copy of the final procedures.
8. The University will publish its revised Title IX Grievance Procedures on the University's web site and in all University publications in which the Title IX Grievance Procedures appear. Inserts may be used pending reprinting of the publications.

#### REPORTING REQUIREMENTS

1. By June <sup>15</sup> 2007, the University will provide OCR with documentation that it has notified the Complainant in writing of the services available to her under Commitment #5. *ROK*
2. By July 1, 2007, the University will provide OCR with a draft of its revised Title IX Grievance Procedures for OCR's review prior to its formal adoption or implementation of them, pursuant to Commitment #6.
3. Within 30 days of OCR's approval of the University's revised Title IX Grievance Procedures, the University will provide OCR with a finalized copy of the procedures and certification that they have been implemented, pursuant to commitment #7;

4. Within 90 days of OCR's approval of the University's revised Title IX Grievance Procedures, the University will provide OCR with the following:
- a) Certification that the University published the name, title, office address, and telephone number of the individual(s) designated as the Title IX Coordinator(s) on the University's website and in University publications that provide general information to employees and students about University services and policies, as well as copies of those publications. If inserts were used, the University may provide a copy of the insert, the titles of the publications in which the insert was placed, and the date(s) the University anticipates the publications will be reprinted, pursuant to Commitment #2;
  - b) Certification that the University published the revised Title IX Grievance Procedures on the University's web site and in all University publications in which the Title IX Grievance Procedures appear. If inserts were used, the University may provide a copy of the insert, the titles of the publications in which the insert was placed, and the date(s) the University anticipates the publications will be reprinted, pursuant to Commitment #8.

  
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Temple University President of designee

  
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Date