



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
61 FORSYTH STREET, SW
SUITE 19770
ATLANTA, GEORGIA 30303
TELEPHONE: (404) 562-6350

JUL 02 2002

FAX: (404) 562-6455
TDD: (404) 562-6454

Email: Atlanta_ocr@ed.gov

Dr. Oliver J. Haney
Acting President
Interdenominational Theological Center (ITC)
700 Martin Luther King, Jr., Drive, SW
Atlanta, Georgia 30314-4143

Dear Dr. Haney:

Re: Complaint #04-02-2012

On November 6, 2001, the U.S. Department of Education (Department), Office for Civil Rights (OCR) received a complaint alleging that the Interdenominational Theological Center (ITC) discriminated against [redacted] (Complainant) on the basis sex. The Complainant alleged that the ITC discriminated against her by expelling her from ITC effective May 31, 2001, in retaliation for having filed a complaint alleging sexual discrimination.

The complaint was filed pursuant to Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. Sections 1681 et seq., and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. The ITC receives Federal financial assistance and is a public entity. The ITC is, therefore, subject to the statute referenced above.

On February 1, 2002, OCR had determined that the Complainant's allegation of sexual discrimination pertaining to [redacted] was timely based upon information from the Complainant that indicated that her appeal on the sexual discrimination allegation was heard on April 11, 2001. However, during the course of OCR's investigation, OCR was provided additional information from the ITC that included a copy of the summary of the special hearing held on April 11, 2001. The April 11th hearing was convened to allow the Complainant the opportunity to appeal a recommendation that she not be allowed to register for Summer and Fall semester classes and to provide the Complainant with an opportunity to face students, faculty, and staff who had alleged that her conduct was contrary to the seminary's expectation of appropriate professional behavior. The hearing was not convened to discuss the Student's allegations of sexual discrimination as implied by the Complainant to OCR. The last known act of discrimination with respect to the Complainant's allegation of sexual discrimination occurred on January 12, 2001, when the Complainant wrote the President of ITC a formal letter alleging that [redacted] Academic Dean/Executive Vice-President, had discriminated against her.

The Complainant filed her complaint of sexual discrimination with OCR on November 6, 2001, which is more than 180 days since the last known act of discrimination occurred. Based upon the above, OCR has determined that the Complainant's allegation of sexual discrimination is untimely. Therefore, OCR did not continue to investigate this issue. OCR also determined, however, that the Complainant's allegation regarding retaliation is timely, and that allegation was investigated.

Retaliation

The Complainant alleged that [REDACTED] retaliated against her on February 23, 2001, because she filed a complaint alleging racial and sexual discrimination, by recommending that she be expelled if she did not seek and obtain appropriate medical care to substantiate her competence to continue her theological education at ITC. The Complainant views her expulsion from ITC as the retaliatory act by [REDACTED]. The Complainant received a letter dated May 9, 2001, from Dr. Robert Franklin, President of the ITC, informing her that she was expelled from ITC effective May 31, 2001.

The standards for determining ITC's compliance in regard to the retaliation allegation are set forth in the regulation implementing Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Sections 2000d *et seq.*, and its implementing regulation, 34 C.F.R. Section 100.7(e), which is incorporated by reference into the regulation implementing Title IX at 34 C.F.R. Section 106.71. The regulation states that intimidating or retaliatory acts are prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, or because she/he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this part.

In order to establish that unlawful retaliation has occurred, OCR must determine whether: (1) the individual engaged in a protected activity; (2) the recipient was aware of the protected activity; (3) the recipient took adverse actions against the individual; (4) there is a causal connection between the adverse action and the protected activity; and (5) the recipient cannot show legitimate, nondiscriminatory reasons for its actions.

Pursuant to its investigation, OCR reviewed documents pertinent to the issues of the complaint, and interviewed the Complainant, ITC students, faculty, and administrative representatives. OCR has made the following determinations of fact regarding the Complainant's allegation of retaliation:

Protected Activity

- On January 12, 2001, the Complainant wrote a letter to Dr. Robert Franklin, the ITC President, filing a formal race and sex discrimination complaint against a number of professors and deans including [REDACTED]. The Complainant alleged that various

deans and professors had give her unfair grades, had denied her services available to male seminary students, and had encouraged other students to sexually and physically harass her, on the bases of her race and sex.

ITC's Knowledge of the Protected Activity

- The ITC President indicated to OCR that he spoke to [REDACTED] about the sexual discrimination allegation at which time [REDACTED] informed him that the Student's allegations of sexual discrimination were fabricated, and he offered diagnostic background information regarding the Complainant that was based on his experience in counseling. OCR has determined that the Complainant engaged in a protected activity, and that ITC officials had knowledge of the protected activity prior to May 9, 2001, the date of the Complainant's letter of expulsion.

Adverse Action

- On April 11, 2001, a special hearing was held to provide the Complainant with the opportunity to appeal a recommendation that she not be allowed to register for Summer and Fall semester classes and to face students, faculty, and staff who had alleged that her conduct was contrary to the seminary's expectation of appropriate professional behavior.
- On May 9, 2001, the Complainant received an expulsion letter dismissing her from ITC for violating behavioral expectations set forth in the Student Handbook.

OCR has determined that the Complainant's expulsion from ITC constituted an adverse action.

Causal Connection

Having established the first three elements of a case of retaliation, OCR then looks for evidence of a causal relationship between the adverse actions and participation in the protected activities. There are several types of evidence relevant to proof of causal connection including the following: the closeness in time between the ITC's knowledge of the protected activity and the adverse actions; change in treatment of the individual after the ITC had knowledge of the protected activity; and, treatment of the individual as compared to other similarly situated persons.

Closeness in Time:

- On January 12, 2001, the Complainant filed a formal sex discrimination complaint against [REDACTED] based upon a grade she received from his wife, a faculty member at the ITC. On April 11, 2001, and May 9, 2001, adverse actions were taken against the Complainant when she received a special hearing, and was subsequently expelled from ITC.

Based on the above, OCR has determined that there was closeness in time between the ITC's knowledge of the protected activities and the adverse action. This, however, is not dispositive of the issue, and OCR looked at the second factor in determining causal connection.

Change in Treatment:

- From the time the Student enrolled in the ITC in January 2000 through March 2001, the Student wrote numerous letters of complaint to ITC officials and had repeated confrontations with students, faculty, staff and others. The incidents included harassing telephone calls to [b7(c)] about housing in January 2000, a "sit-in" in the President's office that resulted in the Atlanta Police being called in February 2000, an altercation at the Black Church Education Conference in Cleveland, Ohio in the summer of 2000, the charges of conspiracy against various persons at the ITC, and reports of outbursts by the Complainant in the computer lab. The Complainant's response to these incidents consisted of voluminous correspondence from her to ITC officials.
- On February 8th, August 16th, August 21st, August 24th, 2000, ITC administrators wrote memos and sent e-mail messages where in the Complainant's behavior and the appropriateness of her continuing her studies at ITC were discussed.
- On October 3, 2000, the Student used inappropriate language, which is contrary to the expectation of students at the ITC. Consequently she received a warning letter dated October 30, 2000, apprising her to follow ITC Student Life Policies and the Issue Resolution Process that had been set up for her. Subsequent to the warning, the Student had additional incidents and continued to write complaint letters to various ITC officials.
- On January 16, 2001, [b7(c)] wrote the Complainant a letter informing her that the nature of her repeated complaints raised concerns about her emotional stability. He further requested that she meet with him so that a committee could explore her future at ITC.
- On February 7, 2001, the Complainant met with Dr. Ann Redding, Associate Dean, Faculty Services and Academic Advisor, Rev. Valerie Green, Director, Student and Community Life, and [b7(c)]. During the meeting the volume and nature of complaints that the Complainant had presented were discussed. ITC officials at the meeting recommended that the Complainant follow-up with her physician about referral to a mental health professional and that she keep Dr. Redding informed of her progress. Additionally, the Complainant was instructed to see Dr. Amy Hartsfield, Counselor/Chaplain, on a regular basis, and attend group therapy to learn how to process feedback.

- In a letter dated February 23, 2001, Dr. Wimberly apprised the Complainant that he had received additional complaints from students and staff about her behavior. Consequently, she would not be allowed to register for Summer or Fall classes without psychiatric evidence, from credible sources, that she was ready to continue theological education at the ITC.

As stated above, prior to and after the protected activity ITC officials expressed their concerns to each other and to the Complainant about the Complainant's behavior and issued warnings to her that her behavior was not in compliance with the behavioral expectations of ITC. Therefore there was no significant change in the Complainant's treatment after she engaged in the protected activity. OCR then looked at the third factor in establishing a causal connection.

Treatment as Compared to Similarly Situated Persons:

The evidence shows there was one documented instance, where a student had been asked to leave the school to obtain psychiatric help and evaluation. The student had severe emotional problems that had to be addressed before he was allowed to proceed in his academic pursuits. He had to provide information that his psychological problems had been addressed prior to being allowed to register for classes. That student did return, provided the necessary documentation, and completed his work for the Master of Divinity degree. The ITC, therefore, did not treat the Complainant differently from other similarly situated students.

The only evidence of a causal connection between the protected activity and the adverse action experienced by the Complainant is the closeness in time. Although this element does not establish a nexus between the Complainant's expulsion and her protected activity, OCR further analyzed the Complainant's allegation of retaliation by examining the reasons proffered by the ITC regarding the expulsion of the Complainant to determine if they were nondiscriminatory.

Reasons Proffered by ITC for the Adverse Action:

- The Complainant enrolled at the ITC in January 2000 for the Spring 2000 semester. From January 2000 through May 9, 2001, the evidence shows that the Complainant wrote letters of complaint to the Board of Trustees, Deans, and the President regarding conspiracies about ITC students, faculty, staff, and others, made harassing telephone calls to several staff, and staged two sit-ins in the President's office. The sit-in staged on February 7, 2000, resulted in ITC security and police involvement. She leveled charges of conspiracy against various persons at the ITC, including (b)(7)(c) the Information Technology Administrator, and made accusations of sabotage against (b)(7)(c) and the computer lab staff throughout the 2000-2001 academic year.
- On January 11, 2000, the Complainant met with (b)(7)(c) Coordinator, Student and Community Life regarding housing arrangements. No campus housing was available for the Complainant, however, ITC made arrangements for the remainder of

the week for off campus housing for the Complainant who seemed satisfied with the arrangements. On the morning of January 12, 2000, [b(7)(c)] received four harassing telephone calls from the Complainant demanding that [b(7)(c)] give attention to her housing situation. [b(7)(c)] apprised Dr. Amy Hartsfield, Counselor/Chaplain of the telephone calls. Dr. Hartsfield informed [b(7)(c)] of her responsibility to inform Dr. Leah Gaskin Fitchue, the Academic Dean/Executive Vice-President of Student Services and Dr. Dean Perkins, the Dean of Morehouse School of Religion about the telephone calls which [b(7)(c)] did.

- On February 7, 2000, the Complainant went to the financial aid office at ITC to deliver paperwork regarding her student financial aid. She began raising her voice at the financial aid officer indicating that she needed her student refund that day to purchase her medicine. The financial aid officer explained to the Complainant that the refund would not be ready until the next day at 2:00 pm. The Complainant indicated that she was going to the President's office. Several individuals, including Dr. Hartsfield attempted to get the Complainant to leave the President's office. The Complainant was confrontational with Dr. Hartsfield when she tried to re-direct the Complainant to Dr. Fitchue's office. The Complainant refused to leave. ITC security and subsequently the police department were called for assistance. Dr. Fitchue intervened and determined that the Complainant did not have money for medicine or transportation back to her home in Riverdale, Georgia. Dr. Fitchue contacted Dr. Perkins to request assistance in returning the Complainant back to her home. The Complainant went to Dr. Perkins' office and the police left.
- On February 8, 2000, the day after the sit-in, Dr. Hartsfield wrote a memo to Dr. Fitchue indicating that the Complainant's February 7th sit-in was the second time that the Complainant had staged a sit-in in the President's office. On each occasion the Complainant stated that her rationale for her actions was her inability to receive the services she desired from ITC personnel. Dr. Hartsfield's memo also indicated that the Complainant had demonstrated inappropriate vocal tone and volume with ITC personnel. Dr. Hartsfield concluded that the Complainant's behavior was inappropriate, irrational, and presented recurring situations of uncase for herself and ITC personnel and that the Complainant had difficulty distinguishing her needs and personal responsibilities from ITC's and an inability to respect others when she perceived that her needs were not being met and an inability to follow or adhere to the guidelines of ITC. Dr. Fitchue, wrote a memo to the President of ITC that same day informing him of the sit-in. The memo also stated that based upon the Complainant's behavior, Dr. Hartsfield was recommending that ITC terminate the Complainant's matriculation.
- On February 21, 2000, the Complainant again exhibited inappropriate behavior when Dr. Fitchue's staff refused to provide her with the ITC stamp for a scholarship application and directed her to the registrar's office.

- By letter dated February 23, 2000, the Complainant complained that she felt that she was being harassed and intimidated because her professor required documentation regarding a sprained ankle that the Complainant said prevented her from being prepared to take her mid-term exam.
- By letter dated June 16, 2000, the Complainant protested her mid-term grade of "F" and her final grade of "D" that she received from this same professor. The Complainant stated that her professor was working under the treacherous plans of Dean Perkins because Dean Perkins did not want women students at ITC to complete the Master of Divinity Program. She concluded by stating that she believed that her professor conspired to give her a "D" so that upon finding another treacherous professor they could dismiss her from the program.
- By letter dated June 25, 2000, the Complainant accused students at the computer lab of staging a sit-in so that she could not use a computer for her student loan. She also accused a financial aid officer of trickery by not providing enough information for the student loan test that students had to take to qualify for a loan, in an effort to undermine the Complainant's attendance at ITC. She requested that the students be expelled because of the conspiracy and the financial aid officer be fired due to her involvement in the conspiracy.
- By letter dated July 3, 2000, the Complainant again accused Dean Perkins and her professor of engaging in a conspiracy to deny women access to the ITC program.
- During the ITC faculty retreat on August 16, 2000, the Complainant's behavior and future at ITC were discussed. On August 21st, the President sent an e-mail message to ITC administrators wherein the Complainant's student status was again discussed. The President expressed concern about allowing the Complainant to continue as a student. Although the Complainant's grades were adequate the President was concerned that her non-academic behavior constituted conduct unbecoming an ITC student.
- On August 24th, there was another e-mail message from the President to ITC administrators indicating how the Complainant's situation would be handled. The ITC's attorney would be contacted regarding the situation. (b)(7)(C) and Fitchue would convene a meeting to determine if dismissal or referral to counseling would be the appropriate action to take. The Complainant's dismissal from the seminary where she was previously enrolled would be investigated. (b)(7)(C) and/or Dr. Hartsfield would learn more about the Complainant's medical condition. With respect to ITC's investigation regarding the Complainant, the President stated that after several months of interaction with the Complainant by numerous members of the faculty, administration, students, and off-campus observers, there was concern about what appeared to be a pattern of behavior that was inappropriate according to the standards set forth in the ITC Student Handbook. The Complainant's behavior included, but was not limited to,

making unfounded charges and assertions of harassment by Deans and staff members, not using her medication consistently which resulted in loud, erratic comments, and her refusal to comply with reasonable requests to vacate offices where she had not been invited, etc. The President's concern was that the pattern of behavior appeared to be intensifying and was causing alarm to members of the ITC community.

- In a letter dated October 3, 2000, the Complainant requested additional assistance in the appeal of her grade. She stated that the professor did not believe that black people could achieve. She also requested reimbursement for copying of course work that she had to include with her appeal. She stated that the student government president had sabotaged the copier to give her incorrect copies and that he should be relieved of his duties as president and expelled from ITC for his part in helping the evil plots of her professor to effect a cover up of the treachery present at ITC.
- On October 3, 2000, the Complainant had an altercation with (b)(7)(C) work-study student when he informed her that he did not have the authority to make copies for her. She was not pleased with his response and called him a profane name. Upon her return to the office (b)(7)(C) counseled both students and wrote a memo to the Associate Dean of Student Services apprising her of the altercation and its outcome.
- By letter dated October 30, 2000, from Dr. Fitchue to the Complainant, Dr. Fitchue referenced a meeting that was held with the Complainant on October 18th, to discuss the October 3rd incident and other reports of the Complainant's inappropriate behavior that was directed at students, faculty, and administrators at ITC. The Complainant was informed of the appropriate behavior to exercise in the future, the behavior expected of an ITC student, and the responsibility of each student to monitor his or her behavior. The Complainant was advised to review the student life policies in the ITC Student Handbook. The Complainant was advised that the ITC was providing the Complainant with an Issue Resolution Process, with a contact person for each area of the Complainant's seminary life, to address any future issues that the Complainant might have. The letter concluded with a reminder to the Complainant of her responsibility to adhere to the student behavior policies and to follow the Issue Resolution Process and stated that failure to honor one or more of the expectations could result in disciplinary action or expulsion.
- Subsequent to the October 30th letter, the Complainant continued to have confrontational incidents with other students, faculty and staff, and she continued to write letters of complaint to the ITC administrators she deemed appropriate rather than the contact persons set forth in the Issue Resolution Process.
- By letter dated January 12, 2001, the Complainant filed a formal sex discrimination complaint against Dr. Wimberly, who had replaced Dr. Fitchue as Academic Dean/Executive Vice-President of Student Services, based upon a grade she received

from his wife, a faculty member at the ITC. The ITC President spoke to Dr. Wimberly about the sexual discrimination allegation at which time Dr. Wimberly informed him that the Student's allegations of sexual discrimination were fabricated, and he offered diagnostic background information regarding the Complainant that was based on his experience in counseling.

- On January 16, 2001, Dr. Wimberly wrote the Complainant a letter informing her that the nature of her repeated complaints raised concerns about her emotional stability. He further requested that she meet with him so that a committee could explore her future at ITC.
- On January 22, 2001, the Complainant asked Dr. Wimberly for time to prepare her defense, and she requested that Dr. Ann Redding, her academic advisor, be present at the meeting. On February 7, 2001, the Complainant met with Dr. Ann Redding, Associate Dean, Faculty Services and Academic Advisor, Rev. Valerie Green, Director, Student and Community Life, and Dr. Wimberly. During the meeting the volume and nature of complaints that the Complainant had presented were discussed. ITC officials at the meeting recommended that the Complainant follow-up with her physician about referral to a mental health professional and that she keep Dr. Redding informed of her progress. Additionally, the Complainant was instructed to see Dr. Amy Hartsfield, Counselor/Chaplain, on a regular basis, and attend group therapy to learn how to process feedback.
- By letter dated February 23, 2001, Dr. Wimberly informed the Complainant that he had received additional complaints from students and staff about her inappropriate behavior. The letter informed the Complainant that she would not be allowed to register for Summer or Fall classes without evidence, from credible psychiatric sources, that she was ready to continue her theological education at ITC.
- On March 12, 2001, in a memo addressed to the ITC President, Dr. Wimberly made recommendations in preparation for the Complainant's hearing since he would not be in attendance. Dr. Wimberly recommended that the Complainant not be terminated from the ITC. He recommended that she not be allowed to register for Summer and Fall 2001 classes, but that she be allowed to petition to return to the ITC after she received remedial medical/psychological help, and provided supporting documentation from a credible source to show that she was ready to resume theological education.
- In a letter dated March 29, 2001, from the President of ITC, the Complainant was informed that a special hearing would be held on April 11, 2001, to provide her with the opportunity to appeal the recommendation that she not be allowed to register for Summer and Fall classes in 2001.

- On April 4, 2001, the President of ITC wrote the Complainant's psychiatrist a letter informing him of the Complainant's hearing set for April 11, 2001, and soliciting his input or his presence at the hearing. The ITC President indicated to OCR that he did not receive a written reply from (b)(7)(C) but he did speak to him on the telephone. (b)(7)(C) indicated to the ITC President that the Complainant was under his medical care, but that she was not taking her medicine, resulting in her inappropriate behavior, visual auditory hallucinations, and schizophrenic behavior.
- On April 11, 2001, during the hearing, the purpose and the explanation of procedures were presented. The President of ITC referenced, during his opening remarks, ITC's applicable policies governing the Complainant's conduct and the procedures for the hearing, as referenced in the ITC Student Handbook under Student Life Policies, Code of Trust, Inappropriate Behavior, Judicial Procedures, and Expulsion and/or Suspension. Additionally, he advised the Complainant of her rights with respect to expulsion and/or suspension. The Complainant was given an opportunity to present her defense and to interview witnesses.
- Faculty, administrators, staff, and students were allowed to give testimony at the hearing, those who supported the Complainant and those who were responding to allegations that the Complainant had lodged against them. The Complainant gave an opening and closing statement and was allowed to question all of the witnesses. Testimony regarding the Complainant's behavior indicated that her allegations of conspiracy and sabotage were not based upon credible evidence. One of the accused witnesses indicated that she had never had any direct conversations with the Complainant and she felt that the Complainant was confusing her with someone else. When asked, the Complainant responded that it could have been another young lady who had some similarities to the accused but she was not sure.
- As a result of the evidence presented at the hearing, the Complainant received a letter from the ITC President dated May 9, 2001, stating that she was expelled from ITC effective May 31, 2001, for violations of behavioral expectations set forth in the Student Handbook. The Complainant was apprised of her right to appeal to the Board of Trustees. The Complainant did appeal to the Board of Trustees. The Board of Trustees denied the Complainant's appeal.

Based on the above, OCR has determined that the evidence shows that Dr. Edward Wimberly did not retaliate against the Complainant by recommending that she be expelled from the ITC. Dr. Wimberly recommended that she not be terminated. The Complainant was expelled, after a due process hearing, for violating behavioral expectations set forth in the Student Handbook. Further, OCR determined that ITC presented legitimate, non-retaliatory reasons for its actions. The evidence shows that the Complainant from the date of her enrollment through the date of her expulsion engaged in hostile and confrontational behavior, filed numerous complaints, and had numerous altercations with various individuals at the ITC, including sit-ins in the Presidents

Dr. Oliver J. Haney - 04-02-2012

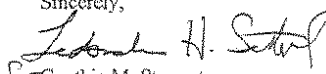
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office. Because of these actions, ITC believed that the Complainant should not be allowed to register for summer or fall 2001 classes, that she be required to leave ITC housing and not be allowed to return. The evidence did not support that her discrimination was in retaliation for the complaint she filed. OCR concludes, therefore, that the evidence is insufficient to support the Complainant's allegation of retaliation and this complaint is closed as of the date of this letter.

This letter is not intended to cover any other issues regarding compliance with the regulations that OCR enforces that may exist and are not discussed herein. OCR is available to provide technical assistance to you and your staff regarding the civil rights regulations that OCR enforces and how they apply to your institution.

We appreciate the cooperation of you and your staff throughout this investigation. If you have any questions or would like OCR to provide technical assistance, please contact Ms. Annie L. Simmons, Investigator, at (404) 562-6428, or me at (404) 562-6368.

Sincerely,


Cynthia M. Stewart
Team Leader