



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
ATLANTA OFFICE, SOUTHERN DIVISION
61 FORSYTH STREET, SW
SUITE 19T70
ATLANTA, GEORGIA 30303

January 21, 2000

Dr. Gwendolyn W. Stephenson
President
Hillsborough Community College
P O. Box 31127
Tampa, Florida 33631

Dear Dr. Stephenson:

Re: Complaint Number 04-99-2299

This letter is to notify you of the determination of the United States Department of Education (Department), Office for Civil Rights (OCR), regarding the resolution of the above-referenced complaint. The complainant, [REDACTED] (Student) alleged that the Hillsborough Community College (College) failed to have Title IX grievance procedures and subjected her to a sexually hostile environment when it failed to adequately address her complaint of sexual harassment.

OCR is responsible for enforcing 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 by recipients of Federal financial assistance. The College receives Federal financial assistance from the Department. Therefore, it is subject to the requirements of Title IX.

Section 106.8(a) and (b) of the regulation implementing Title IX requires recipients to designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities, including the investigation of any complaint alleging its noncompliance with Title IX or alleging any actions which would be prohibited by Title IX. It also requires the recipient to notify all of its students and employees of the name, office address, and telephone number of the appointed employee and to adopt and publish grievance procedures for the prompt and equitable resolution of complaints alleging prohibited actions. Section 106.9(a) requires recipients to disseminate information about its nondiscrimination policy on the basis of sex and protections against such discrimination that are assured by Title IX.

34 C.F.R. Section 106.31(a) and (b) of the regulation implementing Title IX generally prohibits recipients from excluding persons from participation in, denying persons the benefits of, or discriminating against any person on the basis of sex under any program operated by the recipient. These subsections prohibit recipients from taking any of the following actions on the basis of sex: treating persons differently in the provision of any aid, service, or benefit; subjecting persons to separate or different rules of behavior, sanctions, or other treatment; discriminating against persons in the application of rules of appearance; or otherwise limiting any individual in the enjoyment of any right, privilege,

advantage, or opportunity. Allegations of discrimination based on a sexually hostile environment are evaluated under these provisions.

A sexually hostile environment exists when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by another student, a school employee, or a third party are sufficiently severe, persistent, and objectively offensive to limit a student's ability to participate in or benefit from an educational program or activity or to create a hostile or abusive educational environment. If OCR finds: (1) a sexually hostile environment, (2) of which a recipient has actual notice, and (3) where the recipient has reacted with deliberate indifference and has not taken action reasonably calculated to redress this hostile environment, OCR will determine that the institution is in violation of Title IX.

OCR's investigation of the allegations included an analysis of records and documents pertinent to the issues of the complaint, interviews, and statements by the Student and College officials. Our findings regarding the allegations are as follows:

Regarding the allegation that the College failed to have Title IX grievance procedures, OCR found the following:

- The Student maintains that she has never been given a copy of the Title IX sexual harassment grievance policy and procedures. However, College officials provided evidence that the sexual harassment policy and procedures are disseminated through the college catalog upon registration. In addition, a pamphlet which addresses sexual harassment is given to all attendees during orientation.
- The sexual harassment policy is discussed in the Student Services section of the College catalog. It states that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment. It indicates that all forms of sexual harassment in the workplace and educational setting are prohibited and any employee or student of the College who is found to have sexually harassed another employee or student will be subjected to disciplinary action. It also states that the Assistant to the President for Equity and Special Projects is the appropriate person to whom students and/or employees should direct all sexual harassment complaints. The telephone number and address are provided.
- The Methods for Processing Sexual Harassment Allegations, dated November 9, 1993, provides guidelines for filing complaints containing sexual harassment allegations. According to College officials, these procedures can be obtained upon request from all Department heads within the College.

Based on the above information, OCR has determined that the College did adopt, publish, and disseminate grievance procedures for resolving complaints alleging sexual harassment. Therefore, there is insufficient evidence to support a violation of Title IX regarding this allegation.

Regarding the allegation that the College subjected the Student to a sexually hostile environment, OCR made the following findings.

- The Student stated that in August 1998, during her horticulture class, she signed in on a sheet of paper, providing her name and telephone number, as requested by the instructor. On September 12, 1998, she began receiving obscene telephone calls at her home. She believed that the caller was a particular male student in her class after hearing his voice and also determining that he worked in the areas where many of the calls were made. However, during the College's investigation, the male student insisted that he had been wrongfully accused of committing the alleged sexual harassment.
- The calls continued, and on November 6, 1998, the Student notified the College Security Department and reported the incidents. According to the Student, she witnessed the male student at various locations, i.e., Wal-Mart, and the City Tennis Courts. She believed that he was stalking her. She called the Hillsborough County Sheriff's Department and filed a report. On November 20, 1998, she filed a formal complaint against the male student and a restraining order was issued. On November 23, 1998, the Student filed a request for prosecution.
- During OCR's investigation, the Student confirmed that none of the incidents occurred on campus. College officials agreed that although there was the suspicion that the sexual harassment may have been precipitated by the male student obtaining the Student's telephone number from the class sign-in sheet, there was no concrete proof, and none of the calls occurred while the Student was on campus or on any College educational site.
- College officials maintained that there was not enough evidence to prove that the male student committed the alleged sexual harassment in order for them to institute disciplinary actions against him. However, on November 20, 1998, a hold was placed on the male student's file, prohibiting him from registering for any courses at any location until approval was received due to the pending disciplinary investigation. The male student was prohibited from attending classes and from going near the Student. Arrangements were made to have him complete his class assignments independently. College officials maintained that the male student did not take classes during the spring term and that he has not registered for any horticulture classes since fall term 1998.
- Arrangements were made to have the Student complete an independent studies course during the spring term 1999. However, the Student did not take the independent studies course nor any other courses during the spring or summer terms.
- Security to and from facilities and the Student's vehicle was to be provided by the Tampa Parks Department for all courses at the Lowry Park facility and by College security for all other campus based courses. The Student insists that she was not provided security at the Lowry Park facility. College officials stated that security was arranged for the Student and security officers were present at the Student's first class held at Lowry Park during the 1999 fall term.
- The College provided evidence that beginning November 29, 1998, a disciplinary investigation was conducted, that a determination was made and that steps were taken to provide both students a safe and equitable learning environment while

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attending classes or while engaged in educational activities at a College campus or approved learning site until the criminal investigation was completed. Security was to be provided to and from the facilities and the Student's automobile.

OCR was unable to conclude that a sexually hostile environment was created as a result of the obscene telephone calls to the Student's home. We, nonetheless, determined that the College's actions in response to the complaint were appropriate and timely in substance. In addition, the College met the needs of the Student by making alternative arrangements for her to complete her required courses. OCR found that there is insufficient evidence to establish a violation of Title IX.

OCR is closing its investigation of this complaint as of the date of this letter. We appreciate the cooperation extended to OCR staff during the investigation of this complaint. If you have any questions, please call Ms. Mignon Mapp, Equal Opportunity Specialist, at (404) 562-6410.

Sincerely,


Vickie A. Barrows
Team Leader
Team E