



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
MIDWESTERN DIVISION, CHICAGO OFFICE
111 NORTH CANAL STREET, SUITE 1053
CHICAGO, ILLINOIS 60606 - 7204

SEP 09 2004

TEL: 312-886-8434
TDD: 312-353-2540
FAX: 312-353-4888

Dr. Beverly S. Simone
President
Madison Area Technical College
3550 Anderson St.
Madison, Wisconsin 53704

Re: 05-04-2060

Dear Dr. Simone:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its complaint resolution activities with respect to the above-referenced complaint filed against the Madison Area Technical College (MATC). The Complainant alleged that, after he filed an internal complaint of discrimination on the bases of national origin and sex against the instructor of Nursing 163 (instructor), the instructor retaliated against him. The Complainant stated that the instructor filed an internal complaint accusing him of misconduct. As a recipient of Federal financial assistance from the Department, MATC is subject to the provisions of Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 that prohibit discrimination based on national origin and sex, respectively, and prohibit retaliation against persons for asserting rights protected under those statutes.

The Complainant is an Hispanic male. In the second semester of the 2003-04 academic year, the Complainant was enrolled in Nursing 163. The Complainant's supervising instructor for the first five weeks of the clinical was a non-minority female. The Complainant participated in the clinical under the supervision of the instructor from January through February 23, 2004.

On February 17, 2004, the instructor and the Associate Dean of the nursing program met with the Complainant and advised him that female students in the clinical had expressed concerns about the Complainant's conduct. The female students viewed the Complainant's conduct as sexual harassment. The following day, on February 18, 2004, the instructor filed a written complaint of misconduct against the Complainant with MATC's Conflict Management Services (CMS). The written complaint recounted the conduct discussed with the Complainant on February 17, 2004.

Our mission is to ensure equal access to education and promote educational excellence throughout the nation.

On February 19, 2004, in a letter to the Associate Dean of nursing, the Complainant denied having sexually harassed female students. In the letter, he also accused the instructor of being biased against him based on his ethnicity and sex. In the letter, the Complainant alleged that the instructor had made a derogatory reference to Mexicans in class and had a "latent agenda against men."

Under the regulations implementing Title VI and Title IX, a prima facie case of retaliation is made by showing that: 1) the complainant engaged in an activity protected under the implementing regulations; 2) the recipient was aware of the protected activity; 3) the recipient subjected the complainant to adverse action; and 4) there is an indication of a causal relationship between the complainant's participation in the protected activity and the adverse action.

In this instance, the complainant engaged in an activity protected by Title VI and Title IX when he filed an internal discrimination complaint against the instructor on February 19, 2004. MATC had notice of that complaint. However, the instructor filed the complaint of misconduct against the Complainant on February 18, 2004, before the Complainant filed the discrimination complaint against the instructor on February 19, 2004. Consequently, the Complainant has not established a prima facie case of retaliation.

Based on the foregoing, OCR has determined that there is insufficient evidence to support the allegation of retaliation made in the complaint. Therefore, OCR is closing this complaint effective the date of this letter. If you have any questions regarding this letter, or seek further information, please contact Thomas Adams, Investigator, at (312) 886-8420.

Sincerely,



Madonna T. Lechner
Team Leader

cc: Mr. Jon Anderson
Attorney
LaFollette Godfrey & Kahn