

conclusion that the Complainant was retaliated against as alleged. The bases for OCR’s determination are summarized below.

Allegation 1 – Hostile Environment

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a voluntary resolution agreement. The provisions of the agreement must be aligned with the information obtained during the investigation and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR’s procedures, the District requested to resolve Allegation 1, through a voluntary resolution agreement (the Agreement), which was executed on November 19, 2013. Accordingly, OCR is concluding its investigation of this allegation. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the District’s implementation of the Agreement.

Allegation 2 -Retaliation

The regulation implementing Title VI, at 34 C.F.R. § 100.7(e) provides that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing. The prohibition against retaliation is incorporated by reference in the Title IX regulation at 34 C.F.R. § 106.71.

When investigating a retaliation claim, OCR examines whether: (1) the individual engaged in a protected activity; (2) the recipient had notice of the individual’s protected activity; (3) the individual was subjected to an adverse action; and (4) there was a causal connection between the protected activity and the adverse action. If any of those elements cannot be established, then OCR cannot find evidence of a retaliation violation. If all of these elements are established, then OCR considers whether the recipient has identified a legitimate, non-retaliatory reason for taking the adverse action, and whether the reason asserted is a pretext for retaliation.

Factual Background

X---paragraph redacted---X

Legal Analysis

OCR applied the above referenced legal standard to this allegation. The evidence establishes that the Complainant engaged in a protected activity when XXX XXXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX XXXXXXXXXXX. However, OCR cannot determine that she suffered the adverse action alleged in the complaint. The evidence fails to establish XXXXXXXXXXX XXXXXXXXXXX XXX XX X XXXXXXXXXXX XXXX X. The Complainant acknowledged this during XXX OCR interview. XXXXXXXX XXXXXXXX X XXXXXXXXXXX XXXXXXXX XX XXXXXXX, the Complainant was not entitled to a response. As such, the facts do not establish that XXX suffered the adverse action XXX alleged. Therefore, OCR was not able to establish that the Complainant was retaliated against.

For this reason, OCR has concluded that there is insufficient evidence to suggest that the District retaliated against the Complainant in violation of Title IX with regard to this issue.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

This letter is a letter of findings issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact Linda Thomas, of our staff, at (215) 656-8553, or by email at linda.thomas@ed.gov.

Sincerely,

/s/

Joseph P. Mahoney
Program Manager
Philadelphia Office

Enclosure