



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

September 23, 2015

Tod A. Burnett, Ed.D.
President
Saddleback College
28000 Marguerite Parkway
Mission Viejo, California 92692

(In reply, please refer to case no. 09-15-2270.)

Dear President Burnett:

On March 2, 2015, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against Saddleback College (Recipient). OCR investigated whether the Recipient discriminated against the Complainant, a pregnant student, on the basis of sex.¹ Specifically, OCR investigated whether the Recipient failed to treat Complainant the same as similarly situated students with medical conditions when a clinical instructor in the School of Nursing allegedly gave Complainant a failing grade and told her to re-take the class when she was no longer pregnant.

OCR investigated this complaint under the authority of Title IX of the Education Amendments of 1972 and its implementing regulation. Title IX prohibits discrimination on the basis of sex in education programs and activities operated by recipients of Federal financial assistance. The Recipient receives funds from the Department and is subject to the above law and its regulation as enforced by OCR.

Under Article III, Section 302 of OCR's Case Processing Manual (CPM), a complaint may be resolved at any time when, before the conclusion of an investigation, a recipient expresses interest in resolving the complaint. Prior to the conclusion of OCR's investigation, the Recipient expressed interest in resolving the allegations through a voluntary resolution agreement (Agreement). This letter summarizes the applicable legal standards and how the complaint was resolved.

I. Legal Standards

Under the Title IX regulations at 34 C.F.R. §106.31(a) and (b), except as provided in the regulations, a university may not treat individuals differently on the basis of sex with regard to any aspect of services, benefits, or opportunities it provides. Section 106.31(b)(6) provides that a university may not aid or perpetuate discrimination against any person by providing significant assistance to an agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to

¹ OCR informed the Recipient of the Complainant's identity in our letter notifying you of the complaint. We are withholding her name to protect her privacy.

students. Under this section, if a university provides significant assistance to an outside entity and the entity is shown to have discriminated on the basis of sex, the university must take steps to obtain compliance from the organization or terminate its assistance.

The regulations, at 34 C.F.R. §106.40(a), state that recipients may not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. 34 C.F.R. §106.40(b) states that, generally, recipients may not discriminate against any student or exclude any student from its education program or activity on the basis of the student's pregnancy or childbirth.

II. Resolution

The Recipient, without admitting any violation of federal law, voluntarily agreed to enter into the attached Agreement with OCR to resolve the complaint. The Agreement requires the Recipient to draft written guidance and conduct training on the Recipient's nondiscrimination policies and regulations and with respect to its responsibilities for investigating complaints of discrimination, complete a formal investigation of the Complainant's sex discrimination complaint, and to reenroll the Complainant in the Recipient's nursing program.

OCR has determined that, once implemented, the Agreement will resolve the issues in this complaint. Therefore, OCR is closing this complaint as of the date of this letter. OCR will monitor the implementation of the enclosed Agreement and may reopen the investigation if the Recipient does not comply with the Agreement. OCR is notifying the Complainant of the closure of this complaint concurrently.

This concludes OCR's investigation of the complaint and should not be interpreted to address the Recipient's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and 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 Recipient 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, this document and related records may be released upon request. If OCR receives such a request, it will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR thanks the Recipient for its cooperation in resolving this complaint. If you have any questions regarding this letter, please contact Abony Alexander, Civil Rights Attorney, at (415) 486-5590, Abony.Alexander@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure

cc: David Urban, Recipient Counsel (by email only)