



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, D.C.

September 17, 2014

Dr. Brenda S. Kays
President
Stanly Community College
141 College Drive
Albemarle, NC 28001

Re: OCR Complaint No. 11-14-2180
Letter of Findings

Dear Dr. Kays:

This letter is to inform you of the determination on the above-referenced complaint that was filed on January 20, 2014, with the District of Columbia Office for Civil Rights (OCR) within the U.S. Department of Education (the Department) against Stanly Community College (the College). The complaint was filed by a student (the Complainant) on his own behalf. The specific allegation that OCR investigated follows:

Allegation Investigated

Allegation: During the 2013-2014 academic year, the College discriminated against the Complainant based on race (*African-American*) and sex (*male*), when XXXX.

During its investigation of the complaint, OCR considered information that the Complainant provided on February 20, 2014 in response to an OCR request for information, and information provided by e-mail and telephone. OCR also considered information that was provided by the College in response to a request for information dated March 25, 2014; documentation provided by fax; and information obtained during interviews with the President of the College, the Assistant Dean of Students and Career Placement (the Dean) and other College staff. As discussed below, the College expressed interest in voluntarily resolving the Complainant's allegation that XXXX. OCR found *insufficient* evidence of sex discrimination and as to Complainant's allegation that he was denied a meaningful opportunity to appeal. Below is information on OCR's responsibilities and OCR's complaint determination.

OCR's Responsibilities

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color, or national origin in any program or activity receiving federal financial assistance from the Department. OCR also enforces Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation, at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving federal financial assistance from the Department. Because the College receives federal financial assistance from the Department, OCR had jurisdiction over it pursuant to Title VI and Title IX.

OCR's Determination on the Complaint

The Complainant alleged that the College discriminated against him by treating him differently based on race (African-American) and sex (male) than similarly-situated students of a different race and/or sex.

As noted above, Title VI and Title IX, and the regulations implementing these laws, prohibit discrimination based on race and sex, respectively, in any program or activity that receives or benefits from federal financial assistance from the Department. The Title VI implementing regulation, at 34 C.F.R. § 100.3(a), provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program that receives federal financial assistance from the Department. The Title VI implementing regulation also provides, at 34 C.F.R. §§ 100.3(b)(1)(i)-(ii), that a recipient may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin, deny an individual any aid, benefit or service under its program, or provide any aid, benefit or service to an individual which is different or is provided in a different manner from that provided to others under the program.

Similarly, the regulation implementing Title IX, at 34 C.F.R. § 106.31(a), states that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any education program or activity which receives federal financial assistance from the Department. The Title IX regulation also provides, at 34 C.F.R. § 106.31(a) & (b)(1)-(4), that a recipient may not, on the basis of sex, treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of any aid, benefit or service; provide an aid, benefit or service that is different or is provided in a different manner; or deny any person such aid, benefit or service; or subject any person to separate or different rules of behavior, sanctions, or other treatment.

The issue raised in the complaint is whether the College treated the Complainant differently or less favorably based on race or sex than similarly-situated students of another race and/or sex.

When investigating an allegation of different treatment based on race and/or sex, OCR reviews the investigative information to determine if the student (here the Complainant) has been treated differently or less favorably than similarly-situated students of a different race and/or sex. If evidence of any difference in treatment is found, this establishes a *prima facie* or initial case of discrimination. Then, OCR provides the recipient (here the College) an opportunity to provide a rationale or justification for the difference in treatment. OCR then examines the recipient's rationale/justification for evidence of pretext, or an excuse for discrimination.

With regard to the Complainant's allegation of discrimination based on race XXXX, during its investigation of the complaint, the College expressed a willingness to resolve this aspect of the complaint. Pursuant to Section 302 of OCR's Case Processing Manual (CPM), OCR discussed resolution options with the College. On September 9, 2014, the College signed the enclosed agreement (the Agreement) which, when fully implemented, will resolve the concerns identified by OCR during its investigation of the Complainant's race discrimination claim. The provisions of the Agreement are aligned with the issues raised by the complaint and information obtained during the course of OCR's investigation and are consistent with the applicable regulations. OCR will monitor implementation of the Agreement.

<XXXX THREE PARAGRAPHS REDACTED XXXX>

Based on the evidence, OCR cannot find that the College discriminated against the Complainant based on sex, XXXX.

The Complainant also alleged that the College discriminated against him based on race and sex, by not affording him a meaningful opportunity to appeal the decision XXXX.

While not expressly required by the regulation implementing Title VI, OCR policy and the regulation implementing Title IX, at 34 C.F.R. § 106.8(b), require that recipients of Federal financial assistance from the Department adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by the regulation.

<XXXX TWO PARAGRAPHS REDACTED XXXX>

Based on the investigative information obtained, OCR finds that the evidence is insufficient to conclude that the College discriminated against the Complainant based on race or sex, as to the Complainant's allegation that he was denied a meaningful opportunity to appeal.

Conclusion

This concludes OCR's investigation of the complaint. 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. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Retaliation Prohibition and FOIA Notice

We are required to inform the College that no person is permitted to intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces. If any individual is harassed or intimidated because of filing a complaint with or participating in any aspect of OCR case resolution, the individual may file a complaint alleging such treatment.

Also, under the Freedom of Information Act, it may be necessary to release this document and other related correspondence and records upon request. In the event we receive 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.

If you have any questions or concerns regarding OCR's complaint determination, you may contact Lorraine Chatman, the attorney assigned to the complaint, at 202-453-5904 or lorraine.chatman@ed.gov.

Sincerely,

/s/

Alessandro Terenzoni
Team Leader, Team II
District of Columbia Office
Office for Civil Rights

Enclosure